



AALCO
Asian-African Legal Consultative Organization
Fifty-Second Annual Session
9 to 12 September 2013
Headquarters, New Delhi, India

SUMMARY REPORT
OF THE FIFTY-SECOND ANNUAL SESSION
OF THE
ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

1. Introduction

- 1.1 **36** Member States of the Asian-African Legal Consultative Organization (the AALCO) participated in the Fifty-Second Annual Session (hereinafter "the Session") namely, **Arab Republic of Egypt, Bangladesh, Brunei Darussalam, People's Republic of China, Republic of Cyprus, Ghana, Republic of India, Republic of Indonesia, Islamic Republic of Iran, Japan, Kenya, Democratic People's Republic of Korea, Republic of Korea, State of Kuwait, Libya, Malaysia, Mauritius, The Republic of the Union of Myanmar, Nepal, Federal Republic of Nigeria, Sultanate of Oman, Pakistan, State of Palestine, State of Qatar, Kingdom of Saudi Arabia, Singapore, Republic of South Africa, Democratic Socialist Republic of Sri Lanka, Sudan, Syria, United Republic of Tanzania, Thailand, Turkey, Uganda, United Arab Emirates and Republic of Yemen.**
- 1.2 Representatives of the following Regional Arbitration Centres of AALCO were also present: Kuala Lumpur Regional Centre for Arbitration (KLRCA), and Regional Arbitration Centre for International Commercial Arbitration, Lagos (RCICAL).
- 1.3 In accordance with Rule 18 (1) of the Statutory Rules, the following Observers were admitted to the Session:
- (i) Representatives from the following Non-Member States: Islamic Republic of

Afghanistan, Republic of Fiji and Republic of Madagascar;

(ii) Representatives of the following International Organizations: African-Asian Rural Development Organization (AARDO); United Nations Office for Drugs and Crime (UNODC); United Nations High Commission for Refugees (UNHCR) and International Committee of the Red Cross (ICRC).

2. Inaugural Session

2.1 The Session commenced on 9 September 2013 with the Master of Ceremonies welcoming all the Delegations to New Delhi, the Headquarters of AALCO, for the Fifty-Second Annual Session.

2.2 **His Excellency Prof. Dr. Rahmat Mohamad, Secretary-General of the Asian-African Legal Consultative Organization (AALCO)** welcomed all the delegates and attendees. He further welcomed His Excellency Mr. E. Ahamed, the Minister of State for External Affairs, Government of India and thanked him for sparing his valuable time amidst his busy schedule. It was stated that his presence reassured AALCO of India's prominent role in the development and continued support for the Organization since its foundation in 1956. It was pointed out that the presence of such a large number of Ministers and Attorney Generals heading the delegations signified that AALCO was important to them and he thanked them all for their gracious presence. He then stated that the Government of India has always been a generous host of AALCO by providing it with the Permanent Headquarters in the prestigious Diplomatic Enclave in Delhi and rendering financial assistance in times of need. He then recalled that this was the fourth Headquarters Annual Session that was being conducted by the AALCO Secretariat at New Delhi and stated that the government of India has always rendered all possible assistance for the smooth conduct of these Sessions and for this he stated that the Organization owed a special thanks to the Government of India.

2.3 Prof. Dr. Mohamad then stated that the AALCO Statutes envisaged the conduct of the Headquarters Session only in the event of none of the Member States coming forth to host the same and he pointed out that this option was to be exercised only as a matter of last resort considering the huge financial burden on the Organization in addition to the strain on the logistics and manpower resources.

2.4 Prof. Dr. Mohamad pointed out that the year 2013 marked the completion of 57 years since the establishment of AALCO and recalled the important contributions made by the Organization. He asserted the continuing relevance of the Organization in the context of several of its Member States being threatened with impending attack by powerful nations without following the due process of law. He then pointed out that these situations pointed towards the basic questions concerning the nature of international law and how far states adhere to it. He then referred to the gradual growth in the membership of the Organization from seven to forty-seven over the years and the important position that the Organization occupies in the international legal community. He then highlighted the diverse functions undertaken by AALCO over the years and the role it plays in assisting

the preparation of the Asian-African Countries for the Plenipotentiaries Conferences, convened to codify and develop international law. At this juncture he recalled the contributions of the Organization towards the development of the law of Sea, Convention on Diplomatic Relations and the Rome Statute of the International Criminal Court etc. Recalling the other diverse roles played by the Organization in the codification and progressive development of international law, he pointed out the need to ensure that the Organization remains on a strong ideological foundation and enjoys firm financial support. He then briefly listed the topics earmarked for deliberations and the two half day special meetings.

- 2.5 **Hon'ble Mohammed Bello Adoke SAN, Attorney General and Minister of Justice, Federal Republic of Nigeria and President of the Fifty-First Annual Session of AALCO** welcomed all the delegates and delivered the keynote Address at the Session. On behalf of his delegation, he expressed his profound gratitude to His Excellency Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO and the AALCO Secretariat for extending a very warm welcome and hospitality and for the excellent arrangements made to ensure a successful Session. Particularly, he commended the Secretary-General and the Secretariat for the preparation of the documents relating to the Annual Session.
- 2.6 He extended his sincere gratitude to the honourable Ministers, Heads of Delegations, Distinguished Delegates and Observers and the Panelists for the two Half-Day's Special Meetings. The President gave an overview of the topics for deliberation during the Annual Session and stated that they were of immense significance for the Member States of AALCO and other developing countries. These included the agenda items like Environment and Sustainable Development, Law of the Sea, Challenges in Combating Corruption, International Law Commission, Statehood of Palestine and Extra-territorial application of national legislation.
- 2.7 It was recalled that since its inception in 1956 post-Bandung Conference, which brought together the then newly independent states of Asia and Africa on a common footing, AALCO has come a long way. AALCO had received an important position among international legal community with increased membership and for its 'insightful prism' on legal issues. In relation to the work of the International Law Commission (ILC), as a member of the pre-eminent body vested with the codification and progressive development of international law, he attested the work of ILC and its contributions particularly to the Asian and African States. He stated that ILC was a forum composing members from these States, which could articulate their views & concerns, in relation to the topics on the agenda of the ILC, and became very important in the law-making process. In that regard, he stated that the contribution of Special Rapporteurs of the ILC in channelling the views of Asian-African States in compiling the views in their Reports and draft articles, were very commendable. The AALCO having been statutorily mandated to follow the work of the ILC contributes by transmitting the views of its Member States to the Commission.
- 2.8 Emphasizing on the significant role of Secretary-General in steering the activities of AALCO, the President informed the Member States about the initiatives of the Secretary-

General in convening the Annual Meeting of the Legal Advisors of the Member States of AALCO at the UN Headquarters at New York. He also congratulated Dr. Roy Lee, Permanent Observer of AALCO to the United Nations, New York for the arrangements at the Legal Adviser's Meeting. The determination and shared commitment of AALCO Member States, during the meeting, despite the hurricane Sandy was very appreciable. He recalled the meeting with the Secretary-General at the Eleventh Session of the Assembly of States Parties to the International Criminal Court (ICC) in November 2012 at The Hague, Netherlands, where he delivered an important Statement clearly highlighting the concerns of the Asian-African states in relation to the work of the ICC.

- 2.9 The President acknowledged the increased activities of AALCO in the form of seminars/training programmes on a number of areas of critical concern to its Member States and commended the untiring efforts and commitment of the Secretary-General in conceptualizing and executing those programmes, despite the financial constraints. He referred to the Seminar on Climate Change and the Legal Experts Meeting to commemorate the 30th Anniversary of UNCLOS, which were convened by the AALCO Secretariat. As the President of the Fifty-First Annual Session of AALCO, he urged the Member States of AALCO who were in arrears to pay their assessed contributions within a reasonable period for facilitating AALCO to be on a sound financial footing. He wished the session very fruitful discussions.
- 2.10 The Chief Guest, **Hon. Shri. E. Ahamed, Minister of State for External Affairs, Government of India**, delivered the inaugural address. Mr. Ahamed welcomed the delegates and the attendees present on behalf of himself and the Government of India.
- 2.11 He stated that International Law no longer governed just the relations between States but that in the face of rapid globalization it was now encompassing territories that were once considered to be in the domain of the domestic laws. It was stated that there were no longer any domains of national interest untouched by international law. He said that international law has now evolved to address and govern non-state actors such as International Organizations and even individuals. He referred to the importance of International Institutions in facilitating cooperation and compliance with international law and stated that that it touched the lives of millions of people in diverse fields of human activity. He further pointed out that international law was still in the process of evolution and that it remained the only means to regulate the conduct of States and other actors and maintain international peace and security.
- 2.12 It was pointed out by him that the forestated developments accorded AALCO with an excellent opportunity to enhance its scope of activities, expand its work and contribute towards the study of international law with a focus on African and Asian problems. He further pointed out that AALCO was built on Afro-Asian solidarity and reminded the audience that it was the only Organization that brought together two continents for the progressive development of International law. He then recalled the important roles played and functions facilitated by AALCO in this context. He further stated that India has always remained on the forefront of promoting these objectives and the Organization and reaffirmed India's firm commitment to these. He commended the role played by

AALCO in establishing the regional arbitration centres and the publications brought out by the Centre for Research and Training on International law.

- 2.13 The Minister expressed his best wishes for the Fifty-Second Annual Session of the Organization and stated that the range of topics on the agenda of the session were of considerable significance for the international community in general and the African and Asian States in particular. He further expressed his hopes that the deliberations at this Annual Session would contribute towards the development of law in these areas and promote the interests of the Asian and African States. He then stated that he hoped that the conference would be success and thanked the audience.
- 2.14 The President of the Fiftieth Annual Session, **Hon'ble Rauff Hakeem, and Minister of Justice, Democratic Socialist Republic of Sri Lanka** stated that he was proud for having served as President of the AALCO at its historic Fiftieth Annual Session held in 2011. He said that the Annual Sessions of AALCO was a unique platform where one witnessed the essence of mutual cooperation and support extended among Member States of the Asian and African countries. Upholding the Organization's role in bringing together nations from the two prominent continents, for addressing international legal matters with serious implications in international relations and international law, was remarkable. On behalf of the Member States of AALCO, he thanked the Secretariat for hosting this Session and the Government of India for extending the financial support through voluntary contribution. He extended whole-hearted support and cooperation to the incoming President. He thanked His Excellency Mr. Mohammed Bello Adoke, the President of the Fifty-First Annual Session of AALCO for successfully conducting the previous session.
- 2.15 He extended deep appreciation to His Excellency Professor Dr. Rahmat Mohamad, the Secretary-General of AALCO, and the Secretariat officials and staff for their untiring efforts in discharging their duties and carrying out the objectives of AALCO. He urged Member States of AALCO to take necessary action to protect and promote AALCO and place AALCO on a sound financial footing in order to ensure the effective functioning of the Secretariat. As the President of the Fiftieth Annual Session of AALCO, he extended the gratitude on behalf of the Government and President of the Democratic Socialist Republic of Sri Lanka and its people, to the Organization for providing an opportunity to hold the presidency in the year 2011. He thanked the Honorable Ministers, distinguished delegates and observers for their active participation and hoped that the four-day session would produce tangible outcomes.

3. First Meeting of the Delegations of AALCO Member States

3.1 **His Excellency Mr. Mohammed Bello Adoke, SAN, Attorney-General and Minister of Justice, Federal Republic of Nigeria, called the Meeting to order.**

3.2 Agenda:

The meeting adopted the following agenda for the Fifty-Second Annual Session:

I. Organizational Matters

1. Consideration and Adoption of the Agenda
2. Election of the President and the Vice-President
3. Admission of Observers
4. Report of the Secretary-General on the Work of AALCO
6. Proposed Budget for the Year 2014
7. Report on the Work of the AALCO's Regional Arbitration Centres
8. Report of the Sub-Committee on the AALCO Secretariat's Human Resources and Financial Matters
9. Report on the AALCO's Centre for Research and Training (CRT)
10. Venue of the Fifty-Third Session

II. Matters under Article 1 (a) of the Statutes: Matters Referred to the Organization by Member States

1. Law of the Sea
2. Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949 – A Study on the “Statehood of Palestine under International Law” undertaken by the AALCO Secretariat

III. Matters under Article 1 (b) of the Statutes: Matters of Common Concern having Legal Implications

1. Environment and Sustainable Development
2. Challenges in Combating Corruption: Role of the UN Convention against Corruption

IV. Two Half-Day Special Meetings

1. Special Meeting on “Selected Items on the Agenda of the International Law Commission”
2. Special Meeting on “Extra-territorial Application of National Legislation: Sanctions Imposed against Third Parties”

V. Any Other Matter

- 3.3 ***Adoption of the Provisional Agenda and Tentative Schedule of Meetings:*** The President placed for consideration the Provisional Agenda and Tentative Schedule of meetings during the course of the Fifty-Second Annual Session of AALCO. There being no comments and observations from the participating delegations, the same were declared adopted.

- 3.4 ***Admission of Observers:*** The Admission of Observers to the Session, pursuant to Statutory Rule 18, was unanimously approved.
- 3.5 ***Election of President and Vice-President:*** The President of the Fifty-First Annual Session, His Excellency Mr. Mohammed Bello Adoke, SAN, invited the Member States to propose candidates for the posts of President and the Vice-President of the Fifty-Second Annual Session of AALCO. The **Leader of the Delegation of the Japan** proposed the name of **Her Excellency Mrs. Neeru Chadha, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, Government of India** to be the **President** of the Fifty-Second Annual Session of the AALCO. The proposal was seconded by the **Leader of the Delegation of Arab Republic of Egypt**. With regard to the position of **Vice-President**, the **Deputy Leader of the Delegation of People's Republic of China** proposed the name of **Ms. Hema Odhav, First Secretary: Political (Multilateral), Republic of South Africa**. The proposal was seconded by the **Leader of Delegation of Kenya**. The Member States unanimously elected with acclamation, **Her Excellency Dr. Neeru Chadha, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, Government of India** and **Ms. Odhav**, respectively as the **President and the Vice-President of the Fifty-Second Annual Session of AALCO**.
- 3.6 The Outgoing President, **His Excellency Mr. Mohammed Bello Adoke, SAN** in his farewell remarks thanked the Member States for the co-operation extended to him in the discharge of his duties as the President of AALCO. He also expressed gratitude to the Secretary-General of AALCO and the Secretariat staff members for faithfully observing the mandate entrusted to them by the Fifty-First Annual Session of AALCO. The outgoing President called upon the Member States to render full support to the Secretariat so as to enable it to perform the responsibilities entrusted to it in an efficient manner. Commending the electees for the posts of the President and Vice-President, the outgoing President stated that there could not have been a better choice than those elected for those positions.
- 3.7 Thereafter, the newly elected **President and the Vice-President** assumed their positions on the dais.
- 3.8 **The newly elected President of the Fifty-Second Annual Session of AALCO, Dr. (Mrs.) Neeru Chadha**, began her opening statement thanking H.E. Dr. Mohammed Bello Adoke for handing over the Presidency to her and for giving her the opportunity to preside over the work of the Fifty- Second Annual Session. She thanked him for his display of exemplary leadership on the work of AALCO and for guiding the activities of AALCO for the previous one year. She stated that with his dedication and vision, AALCO had enjoyed a successful year in achieving cooperation between Asian and African States. She stated that she was keenly looking forward to work with the Secretary - General and Secretariat of AALCO. She pointed out that AALCO was the only inter-governmental Organization that span over the two of the most populous continents of the world and that the dynamism and growing economic clout of this region gave the Organization the plenty of leverage and that this should act as an impetus for the Member States to emerge as a group in the General Assembly, International Law Commission and

in other multilateral fora. She pointed out that in the forthcoming days, deliberations on a number of current and relevant matters of topical interest on international law would be made and that through this process common understandings and positions on several identified topics could be arrived at. The president closed her address wishing the annual session all success and assured the Member States every action from her end to promote the work, ideals, objectives and interests of the Organization.

4 First General Meeting

- 4.1 The Delegations from the following Member States made General Statements during the First General Meetings: **Malaysia, Kingdom of Saudi Arabia, Japan, State of Palestine, Mauritius, State of Qatar, The Republic of the Union of Myanmar, Democratic Socialist Republic of Sri Lanka, State of Kuwait , Thailand, Democratic People’s Republic of Korea, Tanzania, Nepal, People’s Republic of China, Republic of India, Republic of Korea, Indonesia, Bangladesh, Arab Republic of Egypt, Kenya, Nigeria, Islamic Republic of Iran & Syrian Arab Republic.** The Observer delegation from the **International Committee of the Red Cross (ICRC)** also made a general statement.
- 4.2 The delegations congratulated Her Excellency Dr. Neeru Chadha, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, Government of India on her election as President of the Fifty-Second Annual Session of the AALCO. Delegations also congratulated Her Excellency Ms. Hema Odhav, on her election as the Vice-President of the Fifty-Second Annual Session of the AALCO. The delegations also thanked the Government of India, its peoples and the AALCO Secretariat for their warm hospitality and the excellent preparations for the meeting.
- 4.3 **The Leader of the Delegation of Malaysia** noted that the Special Meeting on Wednesday will focus on three important ILC topics: 1) Protection of Persons in the Event of Disaster, 2) Immunity of State Officials from Foreign Criminal jurisdiction and 3) Formation and Evidence of Customary International Law. He encouraged AALCO’s continued dedication on the topic of Environment and Sustainable Development as a matter of common concern having legal implications and mentioned that Malaysia follows with keen interest the discussions in the AALCO forum focusing on current developments in the United Nations Conference on Sustainable Development and other related Conventions such as the United Nations Framework Convention on Climate Change (UNFCCC) negotiations.
- 4.4 The Leader of the Delegation stated that Malaysia sought to steer discussions from “Environment and Sustainable Development” to the fundamentals of Environmental Protection from the legal perspective and expressed the hope that AALCO’s debate on the environment may also address practical approaches toward the enhancement of legal frameworks and law enforcement. He also noted that the Attorney General’s Chambers of Malaysia has embarked on a study focusing on the domestic enforcement of environmental crimes, primarily against wildlife, and has established a team to handle prosecution under the Malaysian Wildlife Conservation Act of 2010. The team, working

closely with Legal Advisors at the Ministerial and State levels, was studying the adequacy of penalties and the effectiveness of the provision provided in environmental laws and will make proposals on any required legislative amendments. An online database system on environmental crimes will also be developed to capture the statistics of all environmental crimes in Malaysia.

- 4.5 The Leader of the Delegation also mentioned that Malaysia was also looking at the viability of having a specific statute on environmental crimes, forging closer cooperation among the various enforcement agencies and promoting joint enforcement operations, training for enforcement officers on investigation and prosecution of environmental offences, and programs to enhance public awareness including judicial officers on the importance of conservation and sustainability of forests, protection of the wildlife and environment. Malaysia looks forward to any reactions from AALCO Member States and the AALCO Secretariat to Malaysia's proposal.
- 4.6 With regard to the topic of "Challenges in Combating Corruption: The Role of the United Nations Convention Against Corruption (UNCAC)" the Leader of the Delegation welcomed the conclusion of the Fourth Session of the UNCAC Implementation Review Group on 31 May 2013. He mentioned that Malaysia's Review process was conducted in February 2013 and that Malaysia has had a positive feedback from the reviewing experts from Kenya and the Philippines. The positive feedback relates to, among others, Malaysia's initiative in establishing various supervisory committees to oversee the implementation of the Malaysian Anti-Corruption Commission (MACC) Act of 2009. Malaysia has established the Anti-Corruption Advisory Board, the Special Committee on Corruption and several others aimed at ensuring the Malaysian Anti-Corruption Commission's transparency and integrity in carrying out its duties. The Leader of the Delegation was also happy to report that the United Nations Office on Drugs and Crimes (UNODC) has commended Malaysia's efforts in implementing UNCAC.
- 4.7 On the Palestine issue, the Leader of Delegation reiterated his suggestion from the Fifty-First Annual Session at AALCO to stop making rhetorical statements and come up with concrete plans to move the discussion forward. He expressed Malaysia's support for the Palestinian people and condemned the brutal and aggressive attack by Israel through Operation Pillar of Defence, against which no tangible action had been taken. The Malaysian Parliament had unanimously passed a motion on 20 November 2012 to urge the Security Council to compel Israel to immediately cease its military attacks on the Palestinian territory of Gaza. The Malaysian Parliament also called for the full withdrawal of Israel from the Palestinian Territory of Gaza and the West Bank. He also expressed Malaysia's emphasis on the elements of determination of the State of Palestine under the Montevideo Convention. The Leader of Delegation welcomed the Special Study on 'the Statehood of Palestine under International Law' conducted by the Secretariat, and posited that findings from such comprehensive legal research can then be advanced as AALCO's view for purposes of the ongoing discussions on Palestine at the United Nations or at the regional level.

- 4.8 On the “Formation and Evidence of Customary International Law”, Malaysia was of the view that progress and elaboration on new draft articles on this topic was perhaps long overdue. Malaysia agreed that an in-depth study should be conducted in relation to determining the formation and evidence of customary international law.
- 4.9 With regard to the topic of “Immunity of State Officials from Foreign Criminal Jurisdiction”, the leader of the delegation maintained the view that the topic should focus on the immunities accorded under international law, in particular customary international law and not under domestic law. The Leader of Delegation also stated that Malaysia looked forward to the report of the Special Rapporteur, particularly the draft articles on the issues concerning immunity *rationae materiae*.
- 4.10 The Leader of Delegation of Malaysia took note of the “Protection of Persons in the Event of Disasters”, and the provisionally adopted draft Articles 5 ter and 16 by the ILC. He further noted AALCO’s observations in paragraph 132 of the Secretary-General’s Report and proposed that the Secretariat should be focusing its report on the latest developments in the work of the Commission; in this case, the proposed Draft Articles 16 and 5 ter.
- 4.11 He recalled the significance of a Treaty on Mutual Legal Assistance as a tool for combating transnational crimes, including terrorism and stated that Malaysia and its ASEAN counterparts benefit from the cooperative framework of the Treaty on Mutual Legal Assistance in Criminal Matters (ASEAN MLAT). He reiterated Malaysia’s view that an intra-regional Asian-African legal instrument on the same matter would be beneficial as among others. Recalling resolution AALCO/RES/49 S8, he stated that Malaysia looked forward to the establishment of an open-ended Committee of Experts to conduct a study on ways to enhance mutual legal assistance in criminal matters.
- 4.12 Finally, the Leader of Delegation paid tribute to the late Ambassador Professor Chusei Yamada of Japan. On behalf of the delegation of Malaysia and on his personal behalf, he expressed condolences to the family of the late Professor Yamada and highlighted some of his inspirational achievements such as his work towards bridging the water divide between riparian aquifer nations, his work as a Special Rapporteur and helping to found the Executive Council of International Centre for Law and Legal Studies (I-CeLLS) of Malaysia.
- 4.13 **The Leader of the Delegation of Kingdom of Saudi Arabia**¹ stated that agenda item which was most important to them was the item of “deportation of Palestinians and other Israeli practices” and that the Kingdom of Saudi Arabia stands with truth and calls for the ending of violation of human rights and mass killing of Palestinian people that was in clear violation of human rights and all international treaties, international law and UN resolutions. The leader of the delegation also called for the agenda item to be deliberated every year.

¹ The Statement was delivered in Arabic. This was the official version from the Arabic Interpreter.

- 4.14 On the “law of sea” the Leader of Delegation endorsed the existing law and regional and international treaties related to it. Regarding “environment and sustainable development”, the Leader of Delegation stated that his country was following the developments of that field, and supported the execution of international treaties including 3 Rio conventions that related to climate change, biodiversity and combating desertification. He stated the Kingdom of Saudi Arabia was following with due concern the desert encroachments especially in Africa and the attempt to stop the assistance of states affected by desertification. He pointed out that the Kingdom Saudi Arabia has signed and ratified around 40 regional and international agreements and treaties and protocols in this regard. An independent body was protecting environment and other one for protection of wildlife.
- 4.15 The leader of the delegation also stated that his country tries, within and outside, to contribute to efforts towards combating corruption and considers it a problem that eats away the nation and world and demands for efforts to combat it in all forms. He also stated that national strategies had been issued to combat the corruption and that a specialized national body has been created which was directly linked to the King and presided over by a minister.
- 4.16 **The Leader of the Delegation of Japan** reiterated the role of AALCO as an important forum for dialogue among its Member States for more than half a century which has been upholding and promoting the rule of law in the two great regions of Asia and Africa. He stated that rule of law was a wisdom that the mankind had acquired in order to maintain peace and stability in human societies, domestic and international. In that regard, Japan welcomed the resolution adopted by the UN General Assembly in 2012 at the high-level meeting on the rule of law, in which the Member States agreed that the rule of law was “the foundation of friendly and equitable relations between States and the basis on which just and fair societies were built”.²
- 4.17 The Leader of Delegation mentioned their respect for the rule of law, and its establishment and promotion in the international community was the central focus of Japanese government’s policy. Therefore, Japan was committed towards resolving disputes through peaceful means in accordance with international law and had always extended their support to enable other nations to build their domestic legal systems.
- 4.18 The Leader of Delegation gave an overview of the activities of Japan in the area of promoting and strengthening the international rule of law, since the Fifty-First Annual Session of AALCO. He stated that in the area of international law-making, Japan would continue to play an active role in the development of multilateral treaties. He stated that, towards that end, signing of the Arms Trade Treaty was very significant and he recalled that Japan as one of the co-authors of the UN General Assembly Resolutions, played an active and constructive role at the negotiations. Further, he stated that entry into force of the treaty was very important, in terms of implementation, as it would be an effective

² “Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels”, A/RES/67/1, http://www.unrol.org/files/Declaration%20HLM_A%20RES%2067%201.pdf accessed 19 August 2013.

legal instrument addressing the unregulated and illicit conventional arms trade which causes human sufferings throughout the world. He also added that in October 2013, Japan would host the Diplomatic Conference for the adoption and signing of the “Minamata Convention” on international management of mercury to prevent damage to health and environmental destruction.

- 4.19 Secondly, Japan’s efforts were to accede to the existing treaties to which it was not yet a party, especially; the Hague Convention on the Civil Aspects of International Child Abduction, recognizing the rapid growth in the number of cases of Japanese men and women engaging in international marriages.
- 4.20 Thirdly, in terms of peaceful settlement of disputes through international judicial process; the first ICJ case in Japan’s history completed its oral proceedings concerning the legality of Japan’s special permit for whaling in the Antarctic. It was demonstrated that its special permit whaling was in full accordance with the International Convention for the Regulation of Whaling. Awaiting the ICJ’s decision on the case, he expressed the need for States to settle disputes through international adjudication and accept the compulsory jurisdiction of the ICJ.
- 4.21 The Leader of Delegation said that AALCO has served as an important forum for strengthening and promoting the rule of law in Asia and Africa, the two growth centers of the world. As maintenance of and respect for the rule of law was essential for ensuring sustainable development and prosperity of States and regions, AALCO could and should continue to play an important role for the future of Asia and Africa. In order to achieve that goal, it was imperative to place the Organization on a sound and sustainable financial basis. To that end, He appreciated the efforts made by the Secretary-General and the Secretariat staff to not only raise awareness among the Member States of the importance of fulfilling their financial obligations, as per the “Putrajaya Declaration, 2009”; but also to recover the arrears through flexible consultation and arrangements with the Member States and streamline their expenditure.
- 4.22 On the proposal of the Secretariat to increase AALCO’s budget by 14.19% from the year 2013 budget, the Leader of Delegation said that it would require increased contribution from the Member States. In that instance, it was essential that Member States, who have not fulfilled their financial obligations under the current scale of contributions, should fulfil their obligations at the earliest. Failing which, increased contribution from Member States would lead only to a situation wherein Member States that have been fulfilling their financial obligations have to pay more, simply to cover those unfulfilled. Hence, it was not a “sound” financial basis. The Leader of Delegation said that this subject has not received much attention and it was important to deliberate upon this issue. Japan could not agree to a budgetary framework of any international Organization whose financial base rests on an assumption that it should be supported by contributions from a limited group of Member States. The Leader of Delegation thanked the Secretary-General and the Secretariat for the preparation for the session and for preparing the extensive materials on topics significant for the Member States despite their limited resource.

- 4.23 **The Leader of Delegation of the State of Palestine** stated that Palestine was a unique and overly intricate case which makes it difficult to cover all relevant issues and to pass the message across, since in Palestine there was a clash between the darkness and oppression of the occupation with the will of struggle and the determination to accomplish the Palestinian national goals. Suffering was intertwined with hope, and so was oppression with resilience, and life was born from the womb of death and bloodshed.
- 4.24 He further stated that Israel, the occupying power completely disregarded the international public opinion, and the resolutions of the UN and its international agencies which have so far well exceeded six volumes, the most recent and important of which were: the 29th November 2012 UN General Assembly Resolution recognizing Palestine as a state on the 4th June 1967 borders. The Occupying State continues also to disrespect the peace process obligations and the Oslo Accords signed between it and the Palestine Liberation Organization in September 1993 which was supposed to reach its final stage after the end of a 3-year transitional period.
- 4.25 The Palestinian territories were still under the occupation for around forty-six years and more than four thousand Palestinian prisoners were still held in Israeli jails, including children and tens of women. The occupying state continued to deny Palestinian prisoners their right to the protection accorded under the Geneva Conventions, particularly the Fourth one. In addition, the ongoing land, aerial, and naval blockade imposed against Gaza strip which had turned into the world's largest open air prison housing around 2 million inmates. The occupation, in grave violation of all human rights principles and international conventions as well as international legitimacy decisions, continued to deny Palestinians their rights to freedom of opinion, movement and work, and carries on with the apartheid policy through the construction of the separation wall.
- 4.26 Thereafter, the Leader of Delegation listed major Israeli violations that Palestinians suffered on a daily basis including: (i) Ongoing settlement construction, settler attacks against Palestinian citizens and sabotaging and damaging their property under protection of the Israeli army; (ii) Ongoing Judaization of Jerusalem, demolition of citizens' houses, expulsion of citizens and revocation of their identities in order to drive the Palestinian population out of the city, (iii) Controlling groundwater and the amount of water allowed for Palestinians (iv) Construction of by-pass roads at the expense of Palestinian lands (v) Construction of the Apartheid wall (vi) Controlling imports and exports; (vii) House demolitions; (viii) Arrests and administrative detentions; (ix) Setting up check points at the entrances of Palestinian cities hindering the freedom of movement for Palestinians; (x) Preventing farmers from farming their lands; (xi) Isolation of Gaza strip; (xii) Killing Palestinian protestors and (xiii) Obstruction of negotiations.
- 4.27 He said that such violations were planned and systematic and reflected the Israeli inclination of not accepting the other, wherein the latest of which was the establishment of the separation wall which spanned from the north to the south of the West Bank. This construction created the conditions that would attract natural migration of the population without use of guns. He also stated that unfortunately Palestinians were destined to fight two parallel battles: the battle of liberation and the battle of building. They had bound

themselves to set off the building process and establish a Palestinian state that adhered to all sublime principles including human rights and dignity, pluralism, good governance and combating corruption. But these battles would not be won without the support and backing of the international community.

- 4.28 He further stated that the international resolution of 29th November 2012 had declared that the Palestinian territory was occupied since 1967, and it was State under occupation and it had put an end to the flawed claim that it was a disputed territory. It also urgently called for the removal of Israeli settlement in the Palestinian territories.
- 4.29 The Leader of Delegation further stated that Palestine would not be reluctant to exercise its legitimate right to accede to all international conventions, treaties and UN Organizations, including the International Criminal Court, sign the ICC Rome Statute and file lawsuits before this court against Israeli political and military leaders who had committed war crimes against Palestinian people. He hoped that all the countries would follow the footsteps of the European Union in boycotting Israeli settlements products and divest from companies that work with them.
- 4.30 The Palestinian leadership truly believed that national sovereignty could not be reached without establishing the rule of law, and there would not be national independence without the independence of judiciary. Therefore, they had taken the approach of full cooperation and integration of all the components of this sector which compromised the High Judicial Council, the Ministry of Justice, the Attorney General's Office, the Palestinian Bar Association, the Independent Commission for Human Rights, representatives of law schools and representatives of Civil Society.
- 4.31 In conclusion, he said that despite the foregoing, the Palestinians hoped that with the cooperation of friendly states they would be able to promote synergies between their counterparts in the respective justice sectors, which included exchange of expertise, training courses and exposure to new models in a manner that warranted qualitative and quantitative justice advancement in harmony with modern justice standards.
- 4.32 **The Leader of the Delegation of Mauritius** stated that the achievements of AALCO were praiseworthy, despite the limited resources available. He stated that AALCO has become a recognized platform for serious discussions and engagements on a wide spectrum of issues in international law, ranging from the Law of the Sea to Human Rights.
- 4.33 The Leader of Delegation stated that as a small island developing state, the State of Mauritius was greatly concerned about the threat of piracy to regional and international security. He pointed out that piracy in the Indian Ocean region has adversely affected the economies of countries of the region and that it has disrupted international trade. It was stated that Mauritius has taken a number of measures to fight this and that these include the signing of the Djibouti Code of Conduct, Setting up a National Steering Committee on Piracy and increased surveillance of the exclusive economic zone. He then explained the other legal measures taken to combat piracy, including the enactment of new laws

that are premised on the transnational dimensions of modern day piracy and the principle of universal jurisdiction. He further stated that the effective prosecution of the suspected pirates, captured in the course of operations was another important aspect of the fight against piracy. He then detailed some of the efforts taken by Mauritius with respect to this. He pointed out that owing to concerted international action, there has been a reduction in the number of successful attacks, but that the issue was not to be perceived as resolved and called for further reinforced regional and multilateral cooperation.

- 4.34 He further stated that Mauritius was making significant progress in establishing itself as a centre for international commercial arbitration, in particular as a centre of reference for the arbitration of disputes. He informed the gathering that Mauritius has signed a Host Country Agreement with the Permanent Court of Arbitration at The Hague, which has for the first time appointed a permanent representative to a different country. He informed the gathering that the Mauritian international arbitration centre was fully operational, with rules of arbitration and conciliation published. He stated that there have been developments, which clearly demonstrate that the leading institutions in the field have recognized the importance of an increasingly regional approach to the settlement of International Disputes and the role that Mauritius could play in the region. He stated that the International Arbitration Project of Mauritius aims at ensuring that the region has its say in the process and was aimed at ensuring that international arbitration progressively becomes a part of the legal culture of Mauritius.
- 4.35 The Leader of Delegation reiterated the commitment of Mauritius to the values and ideals of the United Nations; and condemned the grave violations of human rights and the use of chemical weapons. He also expressed their strong belief that disputes were to be resolved through all inclusive democratic and peaceful processes.
- 4.36 The Leader of Delegation concluded reiterating that AALCO played a crucial role in the progressive development of International Law and its dissemination. He further pointed out that the Organization has grown to become an invaluable platform for cooperation and exchange and for building consensus in the field of international law.
- 4.37 **The Leader of the Delegation of The State of Qatar**³ mentioned that since the establishment of AALCO in 1956, it has been harnessing all its efforts and potential to provide assistance to the Member States from Asian and African continents and has been playing a vital role in providing legal advice to the Member States. He also assured all of the satisfaction of Ministry of Justice of the role of AALCO in creating continued dialogue between Member States, between countries and international Organizations like UN and other regional Organizations.
- 4.38 The Leader of Delegation stated that the meeting coincides with tough conditions that the international community was going through, because of increasing tension and instability in a large number of countries in the region, and the continued suffering of the Palestinian people. The increasing rates of poverty and marginalization, unemployment and political

³ The Statement was delivered in Arabic. This was the official version from the Arabic Interpreter.

instability and worsening economic and social conditions and desertification, resource scarcity and climate change, were other serious problems faced by many countries of the world especially Asian and African continents. He pointed out that regarding the Arab-Israeli conflict, that the Palestinian issue was a serious problem in terms of stability and peace in the Middle East and at the global level. This makes it important to quickly find an effective solution to the Palestinian issue, based on achieving comprehensive and just peace, and to stop the illegal construction of Israeli settlements, and respect of all legal rights of Palestinian people struggling for establishment of an independent State with West Jerusalem as its capital.

- 4.39 The leader of the delegation also stressed on the importance of international and national work regarding effective enforcement of all provisions of international conventions and treaties related to human rights, in addition to the obligation to apply international standards of human rights. He referred to the initiative of the State of Qatar for the support of development of human rights system on Arab level, and the establishment of the Arab Court of Human Rights. Qatar also hosted, in July 2013, a conference under the title of the development of the human rights system of the league of Arab States.
- 4.40 The leader of the delegation noted that the spread of corruption in all its forms was the main reason for the elimination of democracy and the squandering rule of law, as well as the loss of opportunities for development which are basic obstacle in the way of progress and stability. It was therefore important to form effective international and national mechanisms to fight it. The State of Qatar initiated the establishment of the Arab Forum for recovery of looted money, which was an institution to support efforts to recover the looted funds and assets owned by the countries of the Arab Spring.
- 4.41 The leader of the delegation noticed that Doha has hosted the Doha conference for Interfaith Dialogue during the month of April in 2013. The Ministry of Justice also presented to the League of Arab States the draft of the Model Arabic Law to prevent the defamation of religions.
- 4.42 The leader of the delegation also emphasized that the successful exploitation of natural resources and human potential and proper management, was the ultimate objective of sustainable development and that The State of Qatar hosted, in 2012, the 18th conference of parties on climate change to solve environmental problems and provide effective solutions for sustainable development.
- 4.43 **The Leader of the Delegation of The Republic of the Union of Myanmar** reaffirmed Myanmar's commitment towards AALCO and the important roles of AALCO in providing international legal assistance providing fruitful knowledge and updated experience which may also be applicable for setting up of new political fashion of Myanmar. He also stated that Myanmar was now being transformed in order to achieve the democratization system and that the legal assistance provided by the work of AALCO was invaluable contribution to establishment of the rule of law and development of the judicial sector in Myanmar.
- 4.44 The Leader of the Delegation of Myanmar also recognized piracy as a major challenge and noted Myanmar's cooperation with ASEAN partners in the common endeavour to

fight piracy. He also reminded all that of Myanmar and Bangladesh consenting to institute proceedings under Part XV of the UNCLOS, before the International Tribunal for the Law of the Sea (ITLOS). He also noted that Environment and Sustainable Development and Challenges in Combating Corruption were not unfamiliar problems for Myanmar and that the three Rio Conventions of Environment and Sustainable Development have been ratified by Myanmar. Myanmar has also ratified the UN Convention against Corruption in December 2012 and has enacted Anti-Corruption Law. The leader of the delegation finally expressed his hope that the knowledge in Combating Corruption resulting from the 52nd Session would be very useful to scrutinize the Myanmar Anti-Corruption Law to be in line with the international standard.

- 4.45 **The Leader of the Delegation of Democratic Socialist Republic of Sri Lanka** stated that it was his honour to lead the delegation of his country and he expressed his profound appreciation for Professor Rahamat Mohamed, Secretary-General of the AALCO and the Secretariat for the arrangements made by them.
- 4.46 The Leader of Delegation recalled that it was Fifty-Six years earlier that Sri Lanka had joined five other States to launch the Asian Legal Consultative Committee (ALCC) New Delhi. He noted that since then, the Organization has grown into a respected multilateral institution that made credible contributions in the development of international law reflecting the views of the Asian and African continents. He further stated that with a strong membership of 47 countries, AALCO was making its collective voice heard on a vast array of subjects that are vital for peace and progress. He pointed out that the recent annual sessions of AALCO has deliberated on topics that has had a serious bearing on world peace, sustainable development, environment, and prevention of crime and the rule of law.
- 4.47 The Leader of Delegation then referred to the words of the President of Sri Lanka, Mahindra Rajapaksa at the Fiftieth Annual Session at Colombo wherein he had pointed out the need to ensure greater effectiveness with regard to regulatory mechanisms at the international level, in respect of issues which were of immediate concern to many of our countries in Asia and Africa, such as Money laundering, gun running, Human and drug trafficking etc., which were also linked to international terrorism. He reminded the audience that there was no time to lose and that the Member States must move forward with vigour and commitment to initiate meaningful actions to combat crime and uphold the rule of law. He then urged the Member States to take the lead and urge the Secretary-General of AALCO to identify specific additional issues that need to be included in the agenda for the forthcoming sessions.
- 4.48 He pointed out that the Member States had different and contentious views about most of the items on the agenda of the Organization and that AALCO was an appropriate forum to deliberate on these issues to reach common grounds and achieve consensus.
- 4.49 He also stated that the relationship between AALCO and International Law Commission (ILC) was an important one. He stated that the current topics deliberated at the Commission such as extradition and prosecution, protection of persons in the event of

disasters and immunity of state officials from foreign criminal jurisdiction were of importance to all States. He stated that International Trade Law was always an important subject to be included for discussions and that there are vast developments in International Trade and international trade practices that requires the law to be updated at the same speed of such development.

- 4.50 Referring to the United Nations Convention on Law of the Sea, the delegate pointed out that the convention was ratified by Sri Lanka in 1994 and that Sri Lanka had made its submission to the commission in 2009 based on the Statement of Understanding. He pointed out that it was imperative that the sittings of the Commission be accelerated to dispose all pending submissions expeditiously even if that required the Commission to sit throughout the year as vital economic interests are at stake.
- 4.51 The Leader of Delegation further announced that Sri Lanka was gearing up to launch an International Arbitration Centre in Colombo in early 2014. He stated that Centre would be an independent and a professionally managed entity which would provide facilities to enable international companies to resolve any commercial-related disputes. He then called on the Member States to encourage their respective Chambers of Commerce and Industry and entrepreneurs to consider Colombo as their next destination for arbitration.
- 4.52 The Leader of Delegation then reminded the audience that in two months time, Sri Lanka would be hosting the Commonwealth Heads of Government Meeting in Colombo and that this was a prestigious occasion for Sri Lanka as this was the first major event Sri Lanka would be hosting after defeating terrorism that ravaged their country for more than three decades. He requested for the participation and cooperation of all Commonwealth States represented in AALCO to make that event a grand success.
- 4.53 The Leader of Delegation concluded his statement calling on all Member States to take all measures required to ensure the vigour and viability of AALCO and further stated that it was of vital importance that Member States of AALCO are successful in enhancing the cooperative spirit of this institution and speak with one voice to promote and safeguard the interest of the Member States.
- 4.54 **The Leader of the Delegation of the State of Kuwait⁴** stated that Kuwait confirms its support for the Organization since joining in 1970, in terms of regional and international action and increasing its activities through presenting legal topics of common international concern at the present time when the world was witnessing serious challenges which required concerted international efforts and joint action to strengthen peace and security. He said that the State of Kuwait believes in the vital role of this Organization as well as affiliated Organizations under the umbrella of the UN, which reflect the unprecedented global support to the cause of Kuwait during the Iraqi invasion in 1990 and the pivotal role played by the United Nations Organization for the liberation of Kuwait.

⁴ The Statement was delivered in Arabic. This was the official version from the Arabic Interpreter.

- 4.55 The leader of delegation stated that Kuwait attached great importance these topics by acceding to the Convention on the Law of the Sea, which it had joined in 1986. He stated that Kuwait has international efforts aimed at enabling developing countries and least developed countries to achieve sustainable development by several means, including the initiatives by His Highness the Amir Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah in proposing the fund of decent life that was launched in the Arab Summit for the Economic, Social and Development held in Kuwait in 2009. He pointed out that in addition to the above, Kuwait had contributed US\$ 9 million to support development projects in member countries in the forum of Asia Cooperation Dialogue, which conducted its first summit in Kuwait in 2011, as well as loans to 102 countries of US\$ 17 billion to the fund for Arab economic development since its establishment in 1961. He pointed out that the State of Kuwait was also a member of the Economic and Social Council for period of 2013-2015.
- 4.56 The Leader of Delegation stated that there were increasingly urgent issues that required legal treatment because they represented flagrant violations of international law. These included deportation of Palestinian people and Israeli practices in all occupied territories that violated international law. In addition to this, the challenges in combating corruption and role of UN Convention Against Corruption and as well addressing maritime piracy and the fight against terrorism in all its forms were also issues that required attention. The leader of Delegation stated that the Organization should continue to give significance to these topics through providing legal advice and conducting seminars and workshops, organizing training programmes and preparing research studies.
- 4.57 He extended his sincere gratitude on outstanding role of the Organization since its establishment in 1956 till date through keeping up pace with international events and deferent topics of common concern between members of Organization, in this respect the State of Kuwait urged the Member States for cooperation and joint assistance in order to benefit from topics of international interest which were presented by the Organization.
- 4.58 **The Leader of the Delegation of the Kingdom of Thailand** stated that Thailand had always attached great importance to AALCO and that it continued to do so. He recalled Thailand's active participation in the deliberations and activities of the Organization over the past 50 years. He stated that forging Afro-Asian cooperation was one of the key foreign policies of Thailand. It was pointed out that through such cooperation and sharing of knowledge, Member Countries could benefit from learning from each other's experiences. He pointed out that the Royal Thai Government had launched the 'Thai-African Initiative' in order to strengthen partnership between Thailand and African countries. He said that Thailand believed that there were more opportunities and potential that could be tapped between the two continents to foster trade, investment and forge deeper ties between the people. He then informed that to pursue these goals, Thailand proposed to host a High Level Dialogue between Thai and African leaders at Thailand, next year.
- 4.59 He recalled that with respect to the Law of sea, Thailand has always played a productive and active role right from the time of the negotiations. It was also pointed out that Thailand had signed the convention the same year of its adoption and that it has now

become a party to the convention and was working closely to accelerate the implementation process of the UNCLOS to ensure that its implementation was undertaken in a coordinated and comprehensive manner.

- 4.60 With respect to ‘environment and sustainable development’, it was stated that Thailand has been an active participant in this field in different fora. It was also pointed out that the Millennium Development Goals (MDGs) have been an important device for bettering the livelihoods of millions of people and The Leader of Delegation stressed on the need to exert all efforts to achieve those goals as 2015 was fast approaching. It was also pointed out that it was important that everyone prepares for the post-2015 activities, in light of the successes and lessons learned on the implementation of the MDGs.
- 4.61 The Leader of Delegation recalled Thailand’s active participation in the work of the International Law Commission and stressed the importance of the deliberations scheduled to be conducted at the present annual session for the codification and development of International Law were, in line with the interests of the Asian and African States.
- 4.62 The Leader of Delegation then stated that combating corruption was a priority agenda for Thailand and that to deal with corruption, strategy, necessary laws, measures and effective legal implementation were required at the national level and collective efforts and regional cooperation at the regional and international levels. He recalled that Thailand was a party to the UN Convention Against Corruption and has ratified the same. He then referred to the efforts undertaken by Thailand at the domestic and regional levels to pursue those ends within the ASEAN framework.
- 4.63 The Leader of Delegation then outlined the efforts undertaken by Thailand for promoting the Rule of Law and Justice: He referred to the establishment of the Thailand Institute of Justice for undertaking research, providing technical assistance and other forms of knowledge management in the areas of justice in Thailand, ASEAN and beyond. He also stated that the institute collaborated with other United Nations Institutes and that by the end of this year, the institute and the Ministry of Justice of Thailand would host a conference on “Bangkok Dialogue on Rule of Law”.
- 4.64 The Leader of Delegation closed his speech assuring the Member States that Thailand would continue to be a strong partner of AALCO and that it stood ready to collaborate with AALCO member countries to achieve the objectives and aspirations of AALCO.
- 4.65 **The Leader of the Delegation of Democratic People’s Republic of Korea** stated that AALCO, which has been making a remarkable contribution to the codification of international law, remained the only intergovernmental forum where Member States exchanged ideas and their views on major international legal issues. It was pointed out that in this regard, AALCO played a positive role in strengthening exchange and cooperation among its Member States and in helping them understand and coordinate their stands on important global and regional legal issues. He went on to highlight the principled stand of DPRK Government on some of the issues raised at this session:

- 4.66 The Leader of Delegation stated that ,Firstly, AALCO and her Member States must pay due attention to the present day reality that the principles of international law are ignored and sovereign rights and interests of the developing countries were trampled down due to the unilateral acts of high-handedness and arbitrariness of some countries. While elaborating this he pointed out that the United States, in pursuit of its political objectives, was making interventions in internal affairs of the other sovereign states and was forcing its own values on other independent states by perusing double standards in interpretation and application of international law in an undisguised manner. These acts of high-handedness and arbitrariness, in his view, impeded not only the socio-economic development of target states but also the establishment of a fair international order. According to The Leader of Delegation, politically motivated military inventions and mass-killings of civilians in Iraq, Afghanistan and Pakistan committed by the US were examples of state terrorism and extension of high-handedness and domination which caused the vicious circle of terrorism. He also added that the recent interventionist attempts on the internal affairs of Syria outside of the UN system was clearly against the rule of international law and was clearly illegal and something that could be justified.
- 4.67 Secondly, he stated that the government of DPRK strongly opposed and rejected the act of imposing unfair sanctions and blockade on a third state by invoking domestic law and the acts exerting political and economic pressure brought on many Afro-Asian countries including the DPRK. He stated that these measures were grossly violative of the general principles of international law which stipulates respect for sovereignty of states, non-interference in internal affairs of the other, equality, reciprocity and the right to free development of the State.
- 4.68 Thirdly, as regards the issue of Palestine, he noted that Israeli inhumane practices including massive deportation of Palestinians and the establishment of Jewish settlements in the occupied Palestinian Territories were grave violations of international law particularly the fourth Geneva Convention of 1949 relating to the protection of civilians during time of war. He stated that the government of the Democratic People’s Republic of Korea insists that Israel must immediately stop its acts of terror against Palestinians; withdraw from all the occupied Arab territories and that the cherished desire of the Palestine people for their own independent state must be realized at an earliest date.
- 4.69 Fourthly, he stated that in the Democratic People’s Republic of Korea in the present day the Juche Idea has been thoroughly introduced in all fields of social life and rule of law highly observed. He stated that social stability and harmony were fully and legally guaranteed under the dynamic guidance of respected leader Kim Jong Un who brilliantly carries on the cause of President Kim II Sung and General Kim Jong II.
- 4.70 Finally, he stated that the people of Democratic People’s Republic of Korea were currently exerting vigorous efforts to ensure peaceful atmosphere in and around the Korean peninsula and the region and to open the hay-days for building a strong thriving State and the welfare of the people by accelerating economic construction. He stated that it was the unshakable will of our people to get a final victory by smashing any hostile forces. He stated that anti- Democratic People’s Republic of Korea forces were moving

into isolation and pressure and the people of the Democratic People's Republic of Korea were quite certain that the historic cause of building a thriving socialist nation and realizing national reunification would surely be accomplished.

- 4.71 The **Leader of the Delegation of Tanzania** stated that AALCO has always been dynamic in addressing current and pressing matters of international law and that the topics that were selected at the Fifty- First Annual Session of AALCO held last year were reflective of the same. She added that her delegation was looking forward to have continued discussions and deliberations on all the items forming part of the Fifty-Second Annual Session.
- 4.72 On the financial position of AALCO, she stated that it was very encouraging to see AALCO coming out of the financial crisis that it faced in 2008 by the collective commitment of the all Member States of AALCO to overcome it. She stated that the same spirit was also instrumental in revitalizing the Organization which went a long way in successfully conducting the Annual Session of the Organization since 2008. She furthermore added that all the Member States of AALCO, particularly those which were in arrears, must fulfill their financial obligations towards AALCO as the international community has started witnessing the end of the global financial crisis. In this regard she also expressed the opinion that those Member States of AALCO who were financially capable of contributing more must consider increasing their voluntary contributions towards AALCO.
- 4.73 On the agenda item Law of the Sea, she pointed out that the escalation of piracy continued to pose major threats to regional peace and stability as well as to international shipping and trade. She noted that everyone had witnessed the extent to which piracy continued to affect trade between Africa and Asia, particularly in the Eastern African region where the scourge had developed in recent years. She was of the view that since piracy could not be solved solely through regional co-operation; she believed that AALCO must continue to address this problem from both global and regional perspectives. She also expressed her Country's commitment to fight piracy particularly in the Indian Ocean that separated Africa and Asia.
- 4.74 On the topic 'Environment and Sustainable Development', she stated that the international community shared with one another the common threats posed by global warming and climate change. For this reason, she pointed out that everyone was collectively responsible for ensuring that economic development initiatives of the Member State's did not threaten the ability of future generations to bring about their own development. In this regard, she stated that Tanzania supported both the Kyoto Protocol and Agenda 21 of the United Nations and that it was firmly committed to educating the public on environmental conservation.
- 4.75 On the topic of corruption, she stated that corruption has been the major cause of poverty in the developing world and that adopting a challenge-oriented paradigm might be the realistic approach to combating this problem.

- 4.76 As regards rule of law and good governance, she stated that the United Republic of Tanzania was currently reviewing its Constitution of fifty years to broaden the rule of law, democracy and good governance and that a Committee for overseeing the review process has been formed and that a national system approved by the Parliament was in place to guide the participation of all Tanzanians. She stated that the first draft of the Constitution was unveiled in June and that country wide all-inclusive Constitutional forums have been established to discuss the content of the draft. She added that the new Constitution focused on building good governance by revisiting the legal and institutional framework of the Country.
- 4.77 Finally she stated that the United Republic of Tanzania remained aligned to the agenda of AALCO that provides a unique platform for the Asian-African region. She also underlined the significant contributions that AALCO has made over the years in enriching the corpus of international law in diverse topics of contemporary international law.
- 4.78 **The Leader of the Delegation of Nepal** appreciated the inaugural address by Mr E. Ahamed, Minister for State for External Affairs of the Government of India and stated that his inspiring words symbolized the historic importance attached to AALCO by its Member States. He stated that the Session must be used to assess and evaluate the work of the Organization; revisit the commitments made during last fifty-one sessions; and envisage the future course of action of the Organization, which had made significant contributions to the progressive development of international law and set norms and standards in various fields of international law.
- 4.79 The Leader of the Delegation of Nepal appreciated the selection of the topic ‘Challenges in Combating Corruption: the Role of United Nations Convention against Corruption’ as an agenda item. He stated that combating corruption required international cooperation through means such as extradition, mutual legal assistance and so on. He also stated that Nepal was actively involved in the framing of the Convention against Corruption and that it was ratified by his country in 2011, and that Nepal has adopted and implemented a comprehensive strategy and action plan on the Convention against Corruption in a systematic and coordinated manner.
- 4.80 With regard to ‘Environment and Sustainable Development’, the leader of the delegation were of the opinion that it was one of the most critical issues of the present times. He stated that devastating floods, rapidly melting snow in the mountains, barren lands in the hills, rapidly depleting sources of drinking water in the plains and rising sea levels symbolized the seriousness of the problem. He stated that poverty, climate change, food and energy crisis were interlinked with the issues of environment and development. It was stated that Nepal being a least developed, land-locked and mountainous country, was trapped with triple burden.
- 4.81 The leader of the delegation also drew the attention of the international community to their commitments to Istanbul Programme of Action addressing the issues of least

developed countries and the Almaty Programme of Action addressing the Special Needs of Landlocked Developing Countries.

- 4.82 **The Deputy Leader of Delegation of the People's Republic of China** said that the Chinese Government had always attached great importance to and supported the work of AALCO, and highly appreciated the achievements made by AALCO since its establishment. As the only inter-governmental Organization in the field of legal consultation, cooperation and exchange of views among Asian-African countries, the AALCO had devoted itself to studying international law issues of common concern and provided legal assistance to its Member States. He stated that the Organization had made important contribution to facilitating the Asian-African countries' participation in the international law practices and promoting the development and codification of international law.
- 4.83 She stated that the world was experiencing major development, transformation and readjustments and that on account of this the international system was undergoing wide, complex and profound changes. She stated that never before, were the interests of countries so interconnected, interdependent and inter-converged. According to them, the problems that called for common response were increasing, aspirations seeking win-win progress through cooperation were rising and that to promote peace, development and cooperation had become the irreversible trend of the times. She stated that during the present time, international law played an increasingly important role. She also stated that in addition to the above, issues with legal aspects in international relations were further increasing while international law was undergoing constant adjustment and evolution. According to her under such circumstances AALCO was confronted with not only more opportunities but also more challenges.
- 4.84 The Deputy Leader of Delegation appreciated the leadership of the Secretary-General and the initiatives that had been launched during his tenure including the establishment of the EPG, establishment of a database on legal experts etc. She stated that she hoped that the implementation of the above suggestions would further expand its activities.
- 4.85 Bearing in mind the challenges faced by AALCO, the Deputy Leader of Delegation made the following suggestions: (i) AALCO would continue to strengthen its capacity building and contribute further in the development of both practice and theory of international law. For this on the one hand, AALCO could closely follow major international issues and events, make in-depth analysis of the international law issues involved and facilitate exchange of views among Member States with the aim to reach consensus. On the other hand, AALCO could conduct in-depth studies on new issues, new trends and new developments in international law and conclude reports as appropriate, so as to promote its academic contribution. (ii) In order to increase its influence, AALCO could continue to strengthen close cooperation with the United Nations and its agencies by expanding forums of cooperation, improving the effectiveness thereof, and raising awareness of the views and voices of AALCO on issues of common concern to its Member States. She also expressed her hopes that AALCO would continue to improve its capacity for providing legal assistance to Member States, organize seminars and training programmes and serve as a cradle of talents on international law for the Asian and African countries.

- 4.86 She concluded her statement by stating that the People’s Republic of China would always support and participate in the work of AALCO and that it would work with other Member States to make international law more inclusive in order to reflect the interests and positions of the developing countries, to make joint efforts to uphold international fairness and justice by promoting international rule of law, the values of equality, mutual trust, inclusiveness and learning and mutually beneficial cooperation.
- 4.87 **The Leader of the Delegation of India** stated that being one of the seven founding members of AALCO, India attached highest importance to AALCO and its work. Further it was stated that India was proud to be the host country of AALCO and to provide for Permanent Headquarters premises in the prestigious diplomatic area of Chanakyapuri, New Delhi. The Leader of Delegation appreciated the list of deliberated items and the topics for the two-half day special meetings, which he pointed out, were novel and relatively challenging topics of the ILC for deliberations at the Session.
- 4.88 The Leader of Delegation appreciated and complemented Sir Michael Wood for his work on customary international law. He stated that the Note prepared by the Special Rapporteur identified the issues and laid down a very ambitious schedule of work. The delegation also complemented Ms. Concepcion Escobar Hernandez, the Special Rapporteur on the topic, “Immunity of State Officials from Foreign Criminal Jurisdiction” and agreed in principle with the substance of the draft articles as proposed with a view to expand the scope of it.
- 4.89 The Leader of Delegation complemented the AALCO Secretariat for a comprehensive summary on the Special Study on the Statehood of Palestine under International Law and subscribed to that study stating that Palestine was an unfinished and long pending task of the international community. He stated that India wishes to see Palestine as a full-fledged sovereign and independent State at the UN and other fora. The next topic addressed by him was on corruption and he stated that it was a serious threat and menace to the society at large. According to him, its manifestation frustrates the effort to bring equity to all its citizens. The Leader of Delegation informed the Member States the several steps taken by the Indian government to curb this menace and reaffirmed their commitment to bring more transparency in governance. The next topic that was emphasized was on the Law of the Sea. He stated that India with its vast geography, wide coastline and numerous islands had a traditional and abiding interest in the maritime and ocean affairs. He stated that India was a party to the Law of the Sea Convention, the Implementing Agreement, and the Fish Stocks Agreement and recalled that in collaboration with the AALCO Secretariat, the Legal and Treaties Division of Ministry of External Affairs, Government of India had organized a Legal Experts Meeting to commemorate the 30th Anniversary of the United Nations Convention on the Law of the Sea on 5th March 2013 in New Delhi. He pointed out that the meeting was successful in highlighting the achievements of UNCLOS and also identifying the challenges ahead.
- 4.90 On the topic “Environment and Sustainable Development”, it was stated that India shared the common responsibility for doing things in a fair and equitable manner, but that the massive inequitable consumption of resources by a few had created a deficit when there was hardly enough for those whose needs were yet to be met. He stated that Imperative

for equity had to be respected. He stated that despite their increasingly pro active engagement on climate change issues, India had not wavered from its position that equity concerns must underlie the International Climate Change Negotiations. Henceforth, the delegation insisted that, despite a common goal of global climate stabilisation, each country had different responsibility towards addressing the problem.

- 4.91 The delegation reaffirmed the position of Government of India in supporting and collaborating with AALCO to achieve the common objectives and aspiration of AALCO.
- 4.92 **The Leader of the Delegation of the Republic of Korea** began by quoting Mahatma Gandhi's words: "We must be the change we see in the world." He then touched upon three agenda items. The first was the Law of the Sea where he recalled that it was the 30th Anniversary of UNCLOS and informed all Member States of Korea holding an International Conference at the city of Yeosu to commemorate the event with the attendance of the UN Secretary General. However, the leader of the delegation stated that substantial challenges such as threats to navigation safety, degradation of the marine environment, over-exploitation of resources etc. still lay ahead. He also stated that the only way to confront these issues was to establish more dedicated internal and external practices by adhering to the words of Gandhi that he had just quoted.
- 4.93 Regarding climate change, the leader of the delegation stated that a transition from the Kyoto Protocol to an unknown quantity was under way. Once again he reiterated that it was only by being "the change we wish to see" that the countries of the world can agree and develop a new climate change regime for post-2020 and curb ever-rising temperature.
- 4.94 Thirdly, the leader of the delegation thanked the Secretariat for bringing the anti-corruption issue to the Session. He considered it a great achievement that the countries have concluded and adopted the 'UN Convention Against Corruption' which according to him was the doorway to "become the change that we wish to see".
- 4.95 Lastly, the leader of the delegation informed all Member States that he considered economic development to be the most important issue for the world particularly for developing countries and expressed the possibility of AALCO playing a more active role in this area, perhaps by formulating soft laws in the field, for instance concerning Overseas Development Assistance.
- 4.96 **The Leader of Delegation of Bangladesh** thanked the Secretary-General for comprehensive report on the work of the Organisation since the Fifty- First session and took note of the Secretary General's presentation of some promising and relevant areas of work for the next period of the next three years. The Leader of the Delegation also extended advocacy in support of enlarging the membership of the Organisation.
- 4.97 The Leader of the Delegation stated that corruption reforms such as the Anti-Corruption Commission (ACC) have been made and that Bangladesh also voluntarily underwent the UNCAC peer review process, conducted peer reviews of two other countries and adopted

a National Integrity Strategy which promoted ethical conduct, integrity, transparency and accountability. On environment and sustainable development, the leader of delegation stressed on the importance of the principles of equity and ‘common but differentiated responsibilities’ and of the three fundamental pillars of development: economic, environmental and social.

- 4.98 On social and human development, the leader of the delegation state that Bangladesh has been encouraging practical work on ‘green economy’ and underscored the need for the international legal regime to take into account the specific and differentiated needs and aspirations of countries at different stages of development. He also thanked the Secretariat for observing the 30th anniversary of UNCLOS and reaffirmed the importance of international arbitration in disputes such as the ITLOS verdict that settled the case between Bangladesh and Myanmar. The leader then reiterated Bangladesh’s concern over irregular movements at sea in the Asia Pacific region supported by transnational trafficking and smuggling networks, and called for enhanced capacity for States to comply with the international maritime.
- 4.99 On terrorism, he stated that Bangladesh maintains a zero-tolerance approach to terrorism. He pointed out that Bangladesh has taken measures such as enacting Anti-Terrorism, Anti-Money Laundering and Mutual Legal Assistance Acts. The Leader of Delegation then drew attention of the Member States to the setting up of the International Crimes Tribunals in Bangladesh and informed that the tribunals have delivered six verdicts so far. He also appreciated the Secretariat’s study on “The Statehood of Palestine under International Law” and described it as a useful contribution for addressing a critical question. Finally, The Leader of Delegation called upon Member States to make use of the services available through AALCO to build common grounds on issues that often divide the international community.
- 4.100 The **Leader of Delegation of the Arab Republic of Egypt** congratulated the President of the Fifty-Second Annual Session and pledged their full support to her mission. He further expressed their appreciation to the outgoing President of the Fifty-First Annual Session. He pointed out that since its inception, Egypt has found growing interest in the work of the Organization and its work in support of the Member States’ to meet their increasing challenges in realizing their political rights and achieving their developmental goals. He pointed out that the agenda adopted at the present session contained several items with political and developmental dimensions. He further stated that Egypt considered all the agenda items to be important ones and appreciated the efforts to follow up the work on the Law of the Sea pointing out that the Organization could provide proposals and studies to be shared amongst the Member States on efforts to combat piracy, the Jurisdiction, and extradition & territorial disputes in the International Waters, Economic Zones and beyond.
- 4.101 The Leader of Delegation expressed support for the Statement of Palestine and called on Member States to use the study by the Member States to improve their understanding of the legal dimensions of the Palestinian issue. It was pointed out that Egypt has expressed its support for the ongoing talks between Israel and Palestine to achieve the ultimate goal

of ending the Israeli Occupation and the establishment of an independent Palestinian State with East Jerusalem as its Capital. The Leader of Delegation further denounced the expansionist activities of Israel, which he termed as eroding all possibilities of a two State solution. He further denounced those recent activities of Israel with respect to the Aqsa mosque, which he pointed out, would destroy the same. In this context, the He referred to the statement of the Attorney General of Malaysia, pointing out the need to end rhetoric and extend support to those AALCO Members who has supported the Palestinian cause before the United Nations. He further appealed to the legal experts present to converse with their politicians and explain the legal dimensions of the issue to them, in order that it may be a part of the peace making process.

4.102 With respect to sustainable development, The Leader of Delegation pointed out that the developing world has been dealing with environment as one of the three pillars of Sustainable Development, along with Economic Development & Social Development, as indicated in the Rio Declaration. It was pointed out that, Egypt, along with the developing world has advocated the principle of “Common but differentiated responsibility” and called for more work from AALCO to support efforts for the ongoing preparations at the United Nations for Millennium Development Goals post 2015. It was also pointed out that special attention and consideration had to be given to Africa, considering the growing challenges faced by it, especially with respect to combating desertification, which erodes its resources and drives its people to migrate both internationally and locally, which in turn exerted further pressure on its resources. The Leader of Delegation also called for legal support from AALCO Members to the developing countries’ Geneva based missions in areas of development, where new challenges were arising with respect to the utilization of Genetic resources and utilization of Intellectual Property Rights in basic medicines for the poor. It was also pointed out that the developing countries, which included Egypt, had signed the United Nations Charter in the confidence that these bodies would work to foster international cooperation and would help to find ways and means for a better world through its different fora. The Leader of Delegation ended his speech rejecting all forms of unilateral action outside the United Nations, so as to realize Peace and understanding among nations.

4.103 **The Leader of the Delegation of the Republic of Kenya**, stated that since joining the Organization, Kenya has remained as an active participant at the annual sessions and meetings of AALCO and recalled the annual sessions that were hosted at Nairobi and that one of the previous Secretary General was a Kenyan National. She stated that AALCO provided a unique forum for the analysis of the impact of numerous contemporary legal issues and for the formulation of common positions from the standpoint of the respective countries and regions. She further emphasized on AALCO’s vital role in serving as an advisory body to its Member States in the field of International Law and ensuring the articulation of the interests of the two regions before the General Assembly of the United Nations, the International Law Commission and other International Organizations.

4.103 The leader of the delegation then outlined the efforts taken by Kenya in combating corruption and recalled that Kenya was the first country to sign and ratify the United

Nations Convention Against Corruption (UNCAC). She further stated that, in the coming year, Kenya is set to undergo a review of its implementation of the United Nations Convention Against Corruption (UNCAC) in accordance with the Implementation Review Mechanism adopted by the Conference of Parties to that convention. She stated that Kenya had already put in place laws and institutions mandated by the Convention and that they would share their experiences with respect to this in the course of the present session. It was also stated that Kenya was familiar with the review mechanism, having participated in the previous reviews. It was further stated that the outcome of the UNCAC review would go a long way towards examining the strengths and weaknesses of anti-corruption laws, systems and institutions and to benchmark the same with the international standards and best practices.

- 4.104 The leader of the delegation recalled that, at the previous Annual Session, Kenya had reported a proposal to establish a regional arbitration centre and stated that the President of Kenya has assented to the law –The Nairobi Centre for International Arbitration Act, which would establish the centre. It was further stated that the objectives of the aforesaid Act was in line with AALCO’s objectives of setting up regional centres for arbitration as an alternative to the existing institutions. The Leader of Delegation then highlighted some of the functions of the Centre, which included promotion and facilitation of the conduct of International Commercial Arbitrations; administration of domestic and international arbitrations and alternative dispute resolution mechanisms; ensuring that arbitration was the preferred dispute resolution process; development of rules encompassing conciliation and mediation processes; coordination and facilitation of arbitrations, in collaboration with other agencies; conduct, promote and coordinate research in collaboration with the private agencies; establishment of a library; provision of assistance, training and accreditation for mediators etc. It was also reported that the Act established an Arbitral Court that was governed by the UNCITRAL Rules. The Leader of Delegation then presented details concerning the administrative machinery and the membership of the Tribunal. It was further stated that in moving ahead with the process of establishing the Centre, the focus, at present was on ensuring the provision of adequate budgetary allocations, identification of suitable premises etc. It was also reported that a key function of the Centre was to enter into strategic agreements with other regional and international bodies for the purposes of securing technical assistance, to enable the centre to achieve its objectives.
- 4.105 Finally, the leader of the delegation reassured the Member States that they were on the course of realizing their undertaking to establish the Nairobi Centre for International Arbitration as a regional centre for arbitration.
- 4.106 **The Leader of the Delegation of Nigeria** reiterated Nigeria’s support for the United Nations in the maintenance of world peace and security and for AALCO’s work in the maintenance of world peace, in Environment and Sustainable Development, the fight against corruption, Law of the Sea, and Terrorism.
- 4.107 It was recalled that at the Fifty-First Annual Session in Nigeria, international terrorism was discussed with particular reference to the experiences of, and challenges faced by,

his country. It was also recalled that Nigeria enacted, in 2011, the Anti-Terrorism Act. The leader of the delegation also reiterated that the problems faced by the country were not religious, but were issues ascribed to criminal activities. He also noted that Nigeria has enacted various legislations to establish the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC) to fight corruption, and that Nigeria had submitted its 2nd Periodic Review Report in 2013 to the Geneva-based Human Rights Council. He further reported that Nigeria has also enacted a Law and established an Agency for the fight against human trafficking and a law on the rights of the child to protect the child from child labour and abuse. He stated that the Law against human trafficking was presently being reviewed by the National Assembly to expand the scope of application of the law.

- 4.108 **The Leader of the Delegation of Republic of Indonesia** thanked AALCO Member States for the support of the Government of Indonesia for membership in UNCITRAL for the period 2013-2019 at the election held at the Sixty-Seventh Session of the United Nations General Assembly. The leader of the delegation then stressed on the importance of the budget in AALCO's discussions at the Fifty-Second Session and stated that Indonesia appreciated the submission of the draft budget by AALCO and that it hoped for a resolution of the budgetary issues.
- 4.109 The leader of the delegation then informed the meeting that the Government of the Republic of Indonesia held the Consultative Meeting of Like Minded Countries and Other Interested Countries on the future work of the Intergovernmental Committee on the Protection of Genetic Resources, Traditional Knowledge and Folklore (the IGC) during 2-4 September 2013 at Bali, Indonesia. The Leader of Delegation stated that Malaysia believed that the Consultative Meeting would be able to build confidence and create a common perception between the Like-Minded and Other interested countries on the future work of the IGC.
- 4.110 The leader of the delegation then congratulated Palestine for its admission to the UN General Assembly.
- 4.111 The leader of the delegation reaffirmed Indonesia's intention to actively engage in discussions on most of the deliberated items that concern Indonesia. On the selected items of the ILC, the leader of the delegation stated that the input by Member States would be significant to the ILC and that one of their best diplomats, Ambassador Nugroho Wisnumurti was elected as ILC member in 2011. Furthermore, The Leader of Delegation stated that the selected topics were all of great importance to AALCO Member States.
- 4.112 On the topic of "Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties" The Leader of Delegation of Indonesia emphasized Indonesia's position where it was unable to agree on the extraterritorial application of national legislation. Indonesia was of the view that enforcement of the above has the potential to contradict the sovereignty of other States.

- 4.113 **The Leader of the Delegation of the Islamic Republic of Iran** stated that their country continued to attach high importance to AALCO and was ready to make every effort to further utilize its potential in strengthening the rule of international law. It was recalled that with a vision to support the role of the Organization and the Secretary-General in promoting the rule of law, The Ministry of Foreign Affairs had hosted a visit of H. E. Prof. Rahmat Mohamad at Tehran in April 2013 and that during the visit meetings were arranged with high ranking officials of the Ministry of Foreign Affairs and the Minister of Justice. It was also recalled that Tehran Arbitration Centre also received the Secretary-General and briefed him about their activities and the challenges.
- 4.114 The delegation fully supported the Secretariat in exerting its mandate. It was pointed out that despite every efforts, the AALCO Member States have not been very active in merging substantial common positions on many legal issues of international concern. It was pointed out that however, that does not mean that the Secretariat should fill the lacuna by “amusing itself with substantial exercises which falls exclusively with the Member States”.
- 4.115 The Leader of Delegation pointed out the importance of sustaining the long tradition of the Secretary-General of AALCO attending and participating in one of the meetings of the International Law Commission. It was recalled that ILC has been in-charge of the codification and progressive development of international law, and have always been interested to know about AALCO Member States’ views on certain topics on its agenda. It was pointed out that on complicated topics of international law, it was not possible for the AALCO to merge common position, nevertheless, that the Member States efforts must use this forum for promoting active participation of the Asian and African countries in the progressive development of international law, including through exchange of views and sensitizing the Member States on issues of common concern.
- 4.116 Stressing the importance of AALCO meetings during the annual sessions of the General Assembly and the Sixth Committee in New York, The Leader of Delegation said that opening such significant meetings to all members and non-members would defy the objectives of AALCO’s creation. It was pointed out that the unrelenting waves of terrorism in the region posed unprecedented threat to life and security of the people and that it was very alarming that such resorts to acts of terrorism against civilian targets have now become so pandemic in a number of countries and that innocent civilians have become the main instruments of political pressure against governments. It was recalled that these atrocities were mainly the consequence of unlawful military or other interventions by outside powers. The Leader of Delegation said that having been long standing victim of terrorism, his Government has always condemned the acts of terrorism in all its forms and manifestations, including State terrorism which unfortunately continues to spread systematic terror and violence against the targeted nations and that this was quite recently manifested when Iranian researchers fell victim to a terrorist bombing. The delegation was convinced that eliminating terrorism would hardly be achievable without sincere cooperation among States and that this would require States to avoid double standards vis-à-vis different acts of terrorism and preferential treatment to favourite terrorist groups.

- 4.117 Recalling the atrocities on innocent civilians, The Leader of Delegation observed that they were not only targeted by terrorist groups in their vicious campaign to general terror and horror, and that certain countries were routinely bombed by drones and the attackers simply justify these numerous civilian casualties as ‘collateral damage’. It was stated that such kind of inhuman justification for massacring the civilians has only banalised the most serious atrocities committed by State armies under the name of combating terrorism.
- 4.118 Expressing alarm over the alleged use of chemical weapons in Syria, The Leader of Delegation said that his country had been a main victim of chemical weapons in the post-WW II era and that he deeply sympathised with the victims of such inhuman weapons banned under international law. He narrated the indescribable sufferings of the Iranian soldiers and civilians who were atrociously attacked during Saddam Hussein’s regime. Further, he stated that their nation could not afford to forget either the appalling use of chemical weapons by Saddam Hussein or the late and loose reaction of the world powers and the Security Council. He also pointed out that the use of chemical weapons as a means of warfare was troubling as they were allegedly used by non-state actors active in the Syrian conflict, namely the terrorist groups.
- 4.119 **The Leader of Delegation of Syria**⁵ noted the growing importance of AALCO and its integral role in the international legal community, in the promotion of culture, sovereignty and respect for international law. He also stated that AALCO would contribute actively to the strengthening of the Charter of the United Nations Organization to solve all the issues faced by the world.
- 4.120 The Leader of Delegation also hoped that AALCO would enhance cooperation and coordination between countries of this Organization in international law and identify the fields of international law that are of particular interest to its Member States in order to resolve issues facing them. He also acknowledged the importance of the issues on the agenda and stated that they would require utmost cooperation and coordination from our Member States.
- 4.121 **The Observer Delegation from of The International Committee of the Red Cross (ICRC)** recalled the history of the ICRC, which was founded 150 years ago in recognition of the reality that even in armed conflict, there must be limits – which are enshrined under IHL. The Leader of Delegation stated that since Henry Dunant's account of the Battle of Solferino, the theatre of war continues to evolve but that what remains constant was ICRC's neutral, independent and impartial humanitarian approach in providing protection and assistance to victims of armed conflict and other situations of violence as seen in contexts such as Afghanistan, Colombia, Somalia and Syria.
- 4.122 The Leader of Delegation asserted that the ICRC’s mandate stems from the Geneva Conventions of 1949 to contribute towards the development, implementation and promotion of IHL. It was stated that the Conventions and their Additional Protocols

⁵The Written Statement was transmitted to the AALCO Secretariat to be included in the Verbatim Record.

aimed at protecting civilians, particularly women, children and displaced persons. He invited States to contribute to the universal ratification of all IHL treaties and to secure their full and extensive implementation at the national level, through the adoption of relevant legislation and other administrative and practical measures, as well as dissemination to the Armed Forces, to prevent the breach of IHL.

- 4.123 The Leader of Delegation focused on three topics which were high on ICRC's agenda, namely 1). The ICRC project on Strengthening Legal Protection for Victims of Armed Conflict; 2). The Healthcare in Danger Campaign of the Red Cross/ Red Crescent Movement; and, 3). Sexual Violence and Armed Conflict. With regard to the first topic, he stated that 31st International Conference of the Red Cross and the Red Crescent resulted in the adoption of the Resolution which provided the basis for strengthening IHL in two areas, namely i) The protection of people deprived of their freedom; and ii) Mechanisms to ensure compliance with IHL. It was recalled that the decision to devise proposals and options on : i) A periodic reporting system on IHL national compliance; ii) Thematic discussions on IHL issues; and iii) Modalities for fact-finding, were also taken.
- 4.124 With regard to the second topic, The Leader of Delegation informed the Member States that to assess the magnitude of the violence affecting health care, the ICRC has collected data in 23 countries. She stated that during the period from January 2012 to May 2013, the ICRC has recorded more than 1,200 incidents affecting the delivery of and access to health care, which was in violation of IHL. It was stated that the ICRC will coordinate a Healthcare in Danger Universal Expert Workshop on Legal Frameworks, which shall take place in Brussels during the first quarter of 2014.
- 4.125 With regard to the third topic, The Leader of Delegation pointed out the need for greater protection of men, women and children, through law and action, who are exposed to such violations owing to systematic use of torture, injury, degradation, threats, intimidation or punishment
- 4.126 Finally, The Leader of Delegation maintained that in the spirit of the Cooperation Agreement (2003) between the ICRC and AALCO Secretariat, the ICRC would continue to provide all legal and technical support necessary to the AALCO Secretariat and its Member States.

5 Second General Meeting

- 5.1 ***Release of AALCO Publications:*** The Secretary-General of AALCO briefly gave a background about the Yearbook, the AALCO Journal of International Law, A study on the Statehood of Palestine under International Law, An Abstract of the Special Study on "Unilateral and Secondary Sanctions: An International Law Perspective" and Verbatim Record of the Legal Experts Meeting to Commemorate the Thirtieth Anniversary of the UNCLOS, held on 5th March 2013 at the AALCO Headquarters. Thereafter, the following AALCO publications were released by H.E. Dr. Neeru Chadha, the President of the Fifty-Second Annual Session of AALCO:

1. *Yearbook of the Asian-African Legal Consultative Organization (2012)*;
2. *AALCO Journal of International Law Vol.2 Issue 1, 2013* ;
3. *NEWSLETTER of AALCO Volume 10 (No.1 January-July) 2013*;
4. *Special Study on the Statehood of Palestine under International Law*;
5. *An Abstract of the Special Study on “Unilateral and Secondary Sanctions: An International Law Perspective”*; and
6. *Verbatim Record of the Legal Experts Meeting to Commemorate the 30th Anniversary of the UNCLOS, held on 5th March 2013, at the AALCO Headquarters*

Pursuant to the release of the Study on the Statehood of Palestine under International Law, **the Leader of Delegation of the State of Palestine** congratulated the Secretary-General of AALCO for the initiative and stated that AALCO had done a tremendous service not only to the Palestinians but also to the international community who had the right to know the facts. Further, he stated that the work produced by AALCO was timely and was a commendable legal text that made a convincing case for Palestinian statehood which must be read by scholars, policy makers, jurists and all those who supported the just struggle of the Palestinians to liberate themselves from the stranglehold of brutal Israeli occupation.

Second Meeting of the Delegations of the AALCO Member States

- 5.2 ***Report of the Secretary-General on the Organizational, Administrative and Financial Matters:***
- 5.3 The Secretary-General at the outset thanked all the Member States for reposing trust and confidence in his ability to lead the Organization and for re-appointing him at the previous Annual Session. He further thanked the Member States of AALCO and his Excellency Mr. Mohammed Bello Adoke, Attorney-General and Minister of the Federal Republic of Nigeria; the President of the Fifty-First Annual Session of AALCO for his guidance in steering the work of the Organization over the past one year. He also thanked the other International Organizations and Academic Institutions that had collaborated with AALCO for organizing various events.
- 5.4 The SG then elaborated the activities undertaken by the Organization in the previous year. It was pointed out that these activities were accomplished on account of the hard work exerted by the legal staff and the optimal functioning of the Secretariat.
- 5.5 The SG then enlisted the activities undertaken and participated by the SG and the Secretariat Officials: The SG stated that immediately after the Annual Session he had visited the headquarters of the **African Union** to explore the possibilities of co-operation between the two Organizations. He then stated that he had addressed the **64th Session of the International Law Commission at Geneva** and that the verbatim record of the Special Half-Day meeting and the deliberations at the previous Annual Session of AALCO was circulated there for discussions. In addition to this, he stated that, the issues surrounding two of the important agenda items of the ILC, i.e. (i) Protection of Persons in the Event of Disasters and (ii) Immunity of State Officials from Foreign Criminal

Jurisdiction were also presented by him. The SG and the DSG, Dr. Soleimani had participated in the Special Commission meeting on the Choice of Law in International Contracts organized by the **Hague Conference on Private International Law**. Discussions concerning future cooperation and working relationship was conducted with the Secretary- General of the Hague Conference. On Behalf of the Organization, the S.G. addressed **the 11th Session of the Assembly of States Parties to the International Criminal Court** in the course of which he shared some of the concerns of the Asian – African States regarding the court and its functioning; **The Annual AALCO Meeting** convened on the sidelines of the 67th Annual Session of the United Nations General Assembly took place at the UN Headquarters in New York. As owing to bad weather, the President and the SG could not attend the meeting and the opening Remarks were made by Dr. Roy S. Lee. The meeting dealt with issues such as “Achievements of the UNCLOS on its 30th Anniversary”, “Current Issues facing the ICC Prosecution”, “Some Thoughts on the Prevention of Genocide”, “The Contribution of the ICJ to the Law of the Sea” and the “Work of the International Criminal Court; A Seminar on **“Climate Change: Post Kyoto International Climate Policy”** was held on 16th January 2013 at AALCO Headquarters, New Delhi which drew attendees from a variety of institutions. There were two important sessions namely; (i) Science and Economics of Climate Change, and (ii) Legal and Policy Response of Climate Change and the Seminar drew a good response from Member States of AALCO; To commemorate the **30th Anniversary of the United Nations Convention on the Law of the Sea (UNCLOS)**, a Legal Experts Meeting was jointly organized by the Legal and Treaties Division, Ministry of External Affairs, Government of India and the AALCO on Tuesday, 5th March 2013 at AALCO Headquarters, New Delhi in which eminent Government officials, scholars and academics and former officials of AALCO had participated. The meeting was a success with excellent participation and response from numerous persons of repute and expertise; A paper was presented by the SG at a symposium on **“Building ASEAN Identity on a Transnational Dimension”** organized by the United Nations University (UNU, Tokyo from 7 to 8 March 2013; A paper entitled “The International Criminal Court: Some Reflections” was presented at a symposium on “Role of Courts and Tribunals in the Changing Global Order” at **the Jawaharlal Nehru University**; A Public lecture on Transformation of ASEAN from a Non-Rule based to Rule based Charter and its implications” was delivered at the **South Asian University** ; Mr. Feng Qinghu, the Deputy-Secretary General presented a lecture on “International Criminal Law” for junior diplomats at the **Foreign Service Institute (FSI), Ministry of External Affairs**; The SG met with Secretary-General of **the Economic Cooperation Organization (ECO)**, in Tehran to promote co-operation between both the Organizations; The SG, accompanied by Mr. Feng Qinghu, the DSG, addressed the **65th session of the International Law Commission** wherein he briefed the Members of the Commission on items (i) immunity of state officials from foreign criminal jurisdiction; (ii) protection of persons in the event of disasters and (iii) formation and evidence of customary international law; **The Hague Centre for Law and Arbitration and Doshisha University Graduate School of Global Studies**, Japan jointly organized a Symposium on “Unilateral Sanctions and International Law in the Hague on 11 July 2013 and the SG made a presentation on the topic on “Unilateral Sanctions and International Law”.

- 5.6 The SG then referred to the publications brought out by AALCO in the previous year: Yearbook of the Asian-African Legal Consultative Organization, AALCO Journal of International Law, Newsletter: Asian-African Legal Consultative Organization which reflects on the current activities of the Organization, and Special Studies published by the Centre for Research and Training in pursuance of its mandate to conduct an in-depth research on topics of international law. In pursuance of the mandate given in the last year, the Secretariat brought out two publications: (i) A Study on the Statehood of Palestine under International Law and (ii) Unilateral and Secondary Sanctions: An International Law Perspective.
- 5.7 The SG pointed out that the website of AALCO was now at par with that of the other international Organizations and that it follows the prevailing trends in design, style and information sharing. The SG thanked the immense technical and financial support rendered by the Kuala Lumpur Regional Centre for Arbitration towards this project.
- 5.8 The SG then outlined the steps taken to revitalize and strengthen the Organization, pursuant to the adaptation of the Putrajaya Declaration in 2009, which included – a) Capacity Building Programmes, b) initiation of AALCO Lecture Series, c) AALCO Eminent Persons Group. The SG pointed out that the Secretariat played a crucial role in strengthening the work of the Organization and that despite the severe constrains of human and financial resources; the final products are at par with the quality and quantity of any important international conference anywhere in the world. The SG then proposed to recruit at least two new legal officers in 2013 -2014 for the smooth functioning of the Organization.
- 5.9 The SG pointed out that at present all the DSGs were from the Asian Region and requested the African States to second at least one senior official to the Secretariat as Deputy/Assistant Secretary General and also the Arab Member States to depute one senior official to the Secretariat to ensure a representation.
- 5.10 The SG pointed out that in order to attract the best of talent from the two regions for the professional category Staff, he proposed the offering of remuneration and other terms and conditions of services at par with other Inter-governmental Organizations and in furtherance of this proposal the SG requested the Member States to nominate legal officers from their legal ministry to provide assistance with legal research with their remuneration being borne by the sponsoring States. The SG further proposed a visiting fellowship program for senior Academics and research assistance for Post-Graduate students from the Member States.
- 5.11 On financial matters, the SG recalled the comprehensive strategy adopted at the Putrajaya Session that was held at Malaysia with respect to the ‘Revised Scale of Assessed Contribution’ of Member States. The SG stated that the financial situation of AALCO was better than what it used to be, however it was also pointed out that in order to meet its commitments and to sustain financial stability more cooperation was required from the Member States. The SG requested the Member States to make voluntary contributions to AALCO and called for adopting innovative measures for the long run. The SG further

pointed out that to avoid financial constraints in the future, a comprehensive strategy was prepared before the 2014 Budget was drafted. SG reminded the Member States that in view of the rising inflation and operational costs and the need to recruit more staff, Member States had mandated the Secretariat to explore all possibilities during framing the 2014 budget that would enable and satisfy the needs of the Member States and that the DSG, Dr. Fukahori would give a detailed report on the same in a short while.

- 5.12 The SG then gave the details of the contributions received from Member States and urged the defaulting members to make payment at the earliest. The SG also detailed the efforts taken by the Organization to collect the outstanding arrears. The SG stated that the voluntary contributions received would not be treated as a part of the regular budget and that the same would be earmarked for Special Projects. The SG further suggested that with respect to the replenishment of the reserve fund, it was ideal that the amount kept be sufficient to meet the expenses of the Organization at least for a period of six months and that due to current financial difficulties it was difficult to reserve amounts from the contributions received from the Member States. The SG expressed the limitations of the Secretariat in pursuing these matters beyond a certain point and stated that considering the technical nature of the work of the Organization, it was difficult to gather the attention of the political circles regarding these issues.
- 5.13 On the Secretariat and Welfare measures for the Secretariat staff, the SG pointed out that three Senior Officials from AALCO Member States have been deputed by People's Republic of China, Islamic Republic of Iran and Japan on secondment. The SG then gave details of the Staffing and of the promotions made. It was stated that the AALCO Secretariat closely follows the scheme followed by the Government of India with respect to Salary and retiral benefits to its employees. It was further stated that as no pension was being paid, the only substantial amount paid to the retiring employee was in the form of Gratuity and the amount paid by AALCO as gratuity was the same as that of the Government of India.
- 5.14 On the Plan of Action for the forthcoming year, the SG began with thanking for the support of the Member States. He then stated that as mandated by the Putrajaya Declaration on Revitalization of the Organization, the Secretariat was to present its blueprint on how to strengthen AALCO's Organizational and substantive matters and that in line with the declaration, at the Colombo Session he had presented the long, medium and short term projects that would be undertaken. It was also pointed out that the Secretariat has submitted detailed breakup of the planned projects that would be implemented between 2014 and 2016. He then gave the details of these projects. The SG also pointed out the need to establish collaboration with other institutions, intensify the research activities, participate in international conferences, strengthen the library etc.
- 5.15 The SG ended his speech hoping for cooperation in these endeavours and encouragement for all future activities.
- 5.16 **The Delegate of Malaysia** congratulated the Secretary-General for his comprehensive presentation on the work on Organizational, Administrative and Financial Matters of

AALCO. On the proposal of the Secretary-General to raise the contribution of Member States from 2014 onwards he said that as a matter of principle it was necessary to review the existing contributions and proposed that the Secretariat undertake a detailed study justifying the need for an increase and present it for consideration of the Member States at the Fifty-Third Annual Session, so that Member States could get a feedback from their capitals. He further mentioned that in any case Malaysia could not agree to the increase in the 2014 budget as any proposal for increase had to be approved by their parliament, if at all they could agree to an increase in the contribution in the year 2015. Having said that he agreed with the Leader of Delegation of Japan that merely increasing the contributions would not solve the problems of AALCO and stated that it would be unfair to Member States who paid their annual contributions regularly. The Leader of Delegation also stated that as in the past there was a proposal that Malaysia would host some AALCO programmes in its capital.

- 5.17 **The Delegate of Bangladesh** in response to the statement of the Secretary-General made the following observations (i) on enlargement of the membership of the Organization he suggested that it was pertinent to find out why new Members were hesitant to join AALCO despite the fact that they evinced interest in its work. He suggested that the Secretary-General could write to such Member States and seek their views on the matter; (ii) in relation to the work of AALCO he suggested that there was a need to adopt a creative approach as the present modus operandi was rather conservative and this in turn undermined the work of the Organization .He also suggested that there was a need to introduce changes in the current work programme and include topics such as cyber crimes; (iii) the Leader of Delegation agreed with the new work programme suggested by AALCO; (iv) He said that even though they valued the current work of AALCO in relation to the work done by other international Organizations, it was important that rather than giving summaries of the work it would be more useful if analytical inputs on various issues and positions taken by Member States could be reflected in its reports; (v) He also appreciated the initiative of the SG to convene a young jurist conference on the sidelines of the AALCO Session. He suggested that Member States could be requested to send in names of one or two young jurists to the Secretariat so that a database could be built up.
- 5.18 **The Delegate of the State of Qatar** agreed with the stance taken by Malaysia that the issue of increase in contributions should be considered at the next Annual Session.
- 5.19 **The Delegate of the Arab Republic of Egypt** appreciated the great role of the SG and the Secretariat, and after having heard the comprehensive report of the SG he sought some clarifications on the budget. He stated that while understanding that there were some economic conditions related to the host country it was a contemporary matter and there were requests from several Organizations to increase the budget although the Member States were suffering from the same difficulties, so there was a decision by all the Organizations to have zero growth in the budgets. In this regard he suggested that there were many procedures that could be taken to raise the capacity and respond to the requirements among them:- (a) reduce the expenditure and that the secretariat has to present objective recommendations in that regard; (b) reduce publications and use

electronic style (soft copies) as the Organization has an effective website on the internet. He also suggested that AARDO could be consulted to find mechanisms to deal with countries (Member States) that did not fulfil their financial obligations last year.

- 5.20 **The Delegate of India** agreed that one way to reduce the financial burden on AALCO was that it could send its publications in the form of e-books. He suggested that the new topic which could be introduced on the agenda of AALCO were (i) e-commerce, (ii) alternate dispute settlement; (iii) cyber crimes and (iv) IPR. According to him introduction of such new topics could attract new membership. He pointed out that the topic of cyber crimes had various facets like cyber attacks on infrastructure such as nuclear facilities and its consequences like counter attacks could be studied. According to him apart from this investment law was another area of growing interest. He said that currently many of the legal issues were being dealt with either by the European countries or the western powers; therefore it was timely that AALCO take up new initiatives. On the issue relating to finances he agreed that there was a need to come up with innovative approaches of raising funds for the Organization.
- 5.21 **The Delegate of Tanzania** appreciated the efforts of the Secretariat especially in establishing close working relationship with sister Organizations such as ILC, UNODC and ICC. She felt that the success of AALCO largely depended on its relationship with such Organizations. On the steps to revitalize the Organization listed at page 52 of the SG's report she agreed to the proposal that Member States could depute officials to the Secretariat who could assist it with the work of the Organization. On the issue of increasing the membership of the Organization she stated that she believed that the Member States had a role in this regard and they could appeal to Sister States in their regions to join AALCO. She also stated that the idea of the young jurists conference was attractive and suggested that AALCO could get in touch with the Law School of Tanzania in that regard.
- 5.22 **The Delegate of Japan** said that as stated by the Leader of Japan, in order for AALCO to continue to play an important role it was important that the Organization should be placed on a sound and sustainable financial basis. However, he pointed out, when many Member States were not fulfilling their financial obligations under the current scale of contributions, the proposal to increase the contribution would only lead to a situation where those Member States that had been fulfilling their financial obligations would have to pay more, simply to cover those who do not fulfil. In his view, that was not a sound practice. He explained that if the proposed budget for 2014 was applied, Japan's contribution for the year 2014 would increase approximately by 23% from the last years contributions allocated to Japan in US Dollars, and that the portion of Japan's contribution in the total amount of the proposed budget would reach 12%. He stated that though he did not intend to reopen the discussion on the budget, it would have to be discussed in the near future. He believed that the future of AALCO depends on the will of the Member States as was pointed out by the Leader of Delegation of Japan in 2010.
- 5.23 He further stated that Japan was not happy with the current level of attention given to the financial issue by Member States and that it was deplorable that only a very limited

number of Member States expressed their views at the Liaison Officers meetings during the last year, despite repeated requests by the Secretariat. He added that Japan could not agree to the budgetary framework of any international Organization whose financial base rested on the assumption that it should be supported from a limited group of Member States. He requested the Member States to deal this matter with urgency and urged the Secretariat to continue to take more effective measures in recovering arrears and cutting expenditure. He once again said that Japan had seriously analysed and discussed the proposal of the Secretariat on the increase of Budget, however, they could not agree with the same.

A Brief Summation of the Comprehensive Report for the Forthcoming 2014 AALCO Budget and Proposed Budget for the Year 2014

- 5.24 Dr. Fukahori began his speech thanking the President of the Session and welcomed the delegates. He stated that as the Deputy Secretary General responsible for handling the financial issues and as the Acting Chairperson of the Subcommittee on financial matters, he would highlight some of the elements of the issues at hand from the comprehensive report that has been given to the Member States. He stated that the report was prepared pursuant to mandate given at the 51st Annual Session at Abuja and that the report includes all elements that related to financial and budgetary issues. Referring to the previous speech by the Delegate of Malaysia, where it was stated that the report had to be given before the annual session, the DSG pointed out that the report was presented as far back in the December of the previous year and also that three sub-committee meetings were held at Delhi and four meetings of liaison officers were also held and the issue was discussed at all these meetings. He pointed out the needs for more specific information and instructions from the Member States on what else had to go into the report.
- 5.25 The DSG made a power point presentation to convey the content of the study and pointed out that he was covering agenda items 6 and 7 in the present speech.
- 5.26 The DSG, Dr. Fukahori, referring to his mandate, pointed out that the Member States had already taken cognizance of the loss of some of the legal officers owing to unfavorable salary conditions and the high rate of inflation in India which had affected the functioning of the Secretariat. He stated that the budget of 2014 has been prepared taking these into consideration.
- 5.27 Dr. Fukahori then demonstrated that the Consumer Price Index (CPI) in India was indicating a high rate of inflation and that projections indicated that it would touch about 8% the next year. He then presented a slide that demonstrated the implications of the same for the salary portion of the Secretariat. It was stated that the salary portion was the largest portion of the budget and that keeping this at about 60% would keep the finances of the Organization in a healthy condition. It was stated that however, it had touched about 75.3% in 2009 and that that year AALCO had touched a financial crisis. He reminded the delegates that it was then that the Member States had increased the contribution. According to Dr. Fukahori, if the Consumer Price Index in India would

touch the projected figures for the next year, AALCO would soon return to a financial crisis or bankruptcy by 2015.

- 5.28 Dr. Fukahori then presented graphs that compared the Budget of AALCO and the CPI in India and pointed out that the graphs indicated huge gaps between the salaries paid and inflation in India. He further pointed out that AALCO staff was being underpaid for the work that they did. He also pointed out the reduction of the number of local staff, especially after the financial crisis was affecting the work of the Organization. It was pointed out that the Legal Officers had left AALCO owing to inferior conditions and that the budgetary balance was managed owing to the reduction in local staff. The DSG further pointed out that in real economic terms, the budget of AALCO had shrunk to 55.4% since 2001. He stated that since 2010, with increased contributions, the financial situation of AALCO had improved a little, but that owing to inflation in India, which has remained high, the budget portion shrank to 80% in 2012 and that it was projected to be 74.5% in 2013 and 69% in the coming year.
- 5.29 Referring to the Statements of some of the Member States about the collection of arrears, Dr. Fukahori stated that efforts were underway to collect the arrears and that some arrears have already been collected. He further stated that many countries have started paying the annual contribution, despite some amounts still being in arrears. He stated that some other members have expressed detailed plans of the payment of arrears. It was pointed out that the Indian government had increased its budget by 240% over the previous seven years, however the AALCO increase in budget was only 20%, in the same period. He further pointed out that the Other UN Organizations and AARDO had increased its budget, in line with the CPI in India, however, AALCO has not done so. He pointed out that CPI in India was expected to rise by 16.64% over the next two years and in accordance with the Rules of AALCO, the salary of the staff would have to be increased in line with this.
- 5.30 UN Organizations in India has also had to increase contributions from Member Countries and has agreements with head quarters according to which budgetary allocations are raised in line with the rise in CPI. It was stated that containing the expenses of the Organization could be tried, however that to cover the natural increase of prices and the need to gather further human resources, a 14.1% increase in the budget was required.
- 5.31 Dr. Fukahori had also pointed out that some of the Member States had asked for a waiver or reduction of arrears and that the Member States were to make a decision about the same.
- 5.32 **The Delegate of the Republic of Korea** expressed their support for the previous statement of the delegate of Japan and pointed out at that a 14% increase in budget was difficult to gather support for. He further stated that that the presentation made by Dr. Fukahori did not reflect the exchange rate and pointed out that inclusion of the same would have made the presentation a clearer one. He also pointed out that a 14 % increase was not reflected in the assessed contribution of all Members. He also pointed out the need to accommodate the concerns of those Member States who were making significant

contribution to the annual budget. He further stated that a double digit increase in budget would not be readily acceptable and that spreading this over a period of 2 or three years would be more acceptable.

- 5.33 **The Delegate of Malaysia** reiterated their statements made at the deliberations that followed the Report of the Secretary General on Organizational Matters. It was pointed out that the delegation was unable to commit payment as Parliamentary approval was necessary for this, and that the budget for 2014 had already been charted out by the Parliament. It was further pointed out that the pension scheme that was sought to be implemented for the local staff would create a financial liability of about 20,000 US dollars, which was a substantial increase and that this was to be made a part of the study conducted by the Secretariat. It was also stated that though the need for strengthening the Human Resources was understandable, innovate and creative measures had to be thought of for this, such as the proposal to place staff of secondment. It was also pointed out that the request for waiver or reduction of arrears, if allowed, would affect the financial stability of the Organization and hence alternate methods had to be considered to resolve this issue. It was also stated that the amounts sought for covering miscellaneous expenses were not clearly explained and that clarifications were required with respect to this.
- 5.34 The Deputy Secretary General, Dr. Fukahori responded that the details regarding the exchange rates were tabled at the liaison's meetings and that the Secretariat Report had details concerning the same. It was also stated that the exchange rates were found to be highly fluctuating and the net impact of this was a neutral one. He also stated that the proposal for allowing pension was a new one and that a comprehensive study on the same would be made.
- 5.35 After the detailed presentation made by the Deputy Secretary-General the **Secretary-General** appealed to the Member States to reconsider the proposed increase in contributions from Member States. He said that the Secretariat was duty bound to inform Member States of the financial affairs of AALCO. In this regard Dr. Fukahori had presented a scenario where if the Organization reaches a situation when it was no longer financially sustainable, what would be the fallback position? This was important for Member States to seriously consider. He felt that the best option always was to ask for an increase in contribution, but he also sought any other proposals that states could suggest.
- 5.36 The SG wondered whether the Organization could get contributions from non-state actors or private parties. He sought concrete ideas on alternate ways of funding, because he did not want the Organization to face another acute financial crisis which would call for another extraordinary meeting.
- 5.37 The SG said that although the proposed increase in the proposed budget for 2014 was 14%, he knew that most countries were not objecting to the increase but had to go through the bureaucratic process, however if the proposed increase was not accepted the Secretariat might not be able to carry out the mandate Member States had given.

- 5.38 **The Delegate of Palestine** appreciated the efforts of AALCO Secretariat for their efforts in preparing the AALCO Budget and sympathised with it for facing financial problems. However, due to the occupation and other political problems they were unable to pay their arrears and requested a waiver.
- 5.39 **The Delegate of Sudan** said that Sudan felt proud about the role played by the Organization and the services it provided to the Member States especially regarding the agenda item relating to the situation in Palestine and the unilateral laws imposed by some countries without resorting to the resolutions of international Organizations and international law, therefore Sudan would make contributions in order to come out with positive results. In reference to comments made by Palestine, especially after Palestine has become member as observer at the UN, the delegation of Sudan supported the trend for some countries.
- 5.40 **The Delegate of Japan** thanked Dr. Fukahori for his detailed explanation on the proposed budget 2014 and the additional explanation by SG. Before coming to Delhi the Japanese delegation had a heated discussion in Tokyo with the budget authorities in the ministry. They carefully read the report of the sub-committee on the financial situation of AALCO. However at present they were not fully convinced about the proposed budget and were not convinced also by the process of the decision making on this financial matter. Dr Fukahori referred to several meetings of Liaison Officers in Delhi and understood that they received report form the Embassy that very few Member States expressed their opinion. Again, they were very concerned about the low level of attention to the financial matter by the Member States. So at that moment they were not in a position to accept this proposal. Having said that he posed a question to the Secretariat, asking it about the strategy to recover arrears and also, what was the plan in the EPG discussion on the idea that Member States or even International Organizations depute legal officers/ experts to AALCO whose salary would be paid by the Member State or International Organizations
- 5.41 **The leader of the Delegation of the State of Qatar** stated that they were in agreement with the proposal of Malaysia that that this issue could be taken up at the next session.
- 5.42 In response to the questions raised the **Secretary-General** responded that in relation to arrears the Secretariat had made it clear that there was a scheme of arrangement of negotiation with countries in arrears. The Secretariat had exhaustively explained these measures to the Member States and according to the scheme the Secretariat had done its best.
- 5.43 Turning to the second question the Secretariat had proposed if the Member States could depute their Legal Officers to the Secretariat. In this regard he once again requested Member States to send officers to the Secretariat to help it with its work.

5.44 In the absence of a consensus on whether or not to vote on the proposed budget, the budget for 2013 was adopted and the budget plan adopted under that year was presented for budget of 2104. As there were no objections, that decision was accepted.

6. Third General Meeting

6.1 Agenda Item: “Environment and Sustainable Development”

6.2 **Dr. Yasukata Fukahori (DSG)** introduced the agenda item “Environment and Sustainable Development” as contained in AALCO/52/HEADQUARTERS (NEW DELHI)/2013/SD/ S 10. Signifying the relevance of this topic, which has been dealt by the Organization for the last 40 years, the DSG said that the contemporary focus was on three topics, namely Climate Change, Biological Diversity and Sustainable Development.

6.3 The year 2012 was very significant for the negotiations on climate change since many rounds of negotiations were held. The Eighteenth Session of the Conference of Parties to the UNFCCC (COP18) and the Eighth Meeting of Parties to the Kyoto Protocol (CMP 8), were held at Doha, Qatar. The international community also met at Bangkok in August 2012 and at Bonn in June and April 2013 for further negotiations.

6.4 The DSG stated that COP 18 took place at the background of several reports from international expert bodies highlighting the growth in emissions and the catastrophic consequences it could bring forth. The Conference intended to turn its attention to ensure transparency in measurement of emissions, reporting by countries and mitigating actions. Negotiation of a work plan to meet the 2015 deadline set by the Durban platform and the adoption of a second commitment period under the Kyoto Protocol were the other important matters on the agenda. It could be said that considerable progress was achieved at Doha by agreeing to the Doha Climate Gateway which amends the Kyoto Protocol and established a second 8-year commitment period, starting from January 2013 along with implications on non compliance. At the *Ad Hoc* working group on the Durban Platform for enhanced Action, held at Bonn between April and May, efforts were directed at achieving a draft negotiating text by 2015 at COP 20.

6.5 The DSG gave an outline of the UN Climate Change Conference held at Bonn in June 2013, wherein parties discussed few of the key issues such as developed country migration, guidelines for domestically supported mitigation actions, the framework for the market and non market approaches etc. Even when negotiations had achieved results on some of the concerns, the DSG noted that issues still remain unresolved. The Adoption and Ratification of the Doha Amendment remain a challenge as most of the Annex -1 Parties have been reluctant so far to adhere to the Amendment. While the negotiations at Bonn and Bangkok had focused on the Ad Hoc Working Group on Durban Platform for Enhanced Action and an ‘instrument of legal form’ replacing the Kyoto Protocol, it was asserted that any such instrument must be based on the concepts of historical accountability, common but differentiated responsibilities, justice and equity.

- 6.6 On the topic Protection of Biological Diversity, the Eleventh Meeting of the Conference of Parties to the Convention on Biological Diversity (CBD), which was held at Hyderabad, India, achieved certain goals. The developed countries has agreed to double the funding to support the conservation efforts in the developing countries along with several measures for conservation. The DSG noted that more efforts were required to streamline and implement the initiatives in order to document the wealth of traditional knowledge among the indigenous and local communities. It was also essential to take a precautionary approach while adopting biotechnological innovations.
- 6.7 Pursuing “Sustainable Development” without focusing on legal dimension was no longer a viable option for the international community. The recent sessions of the UNEP Governing Council/Global Ministerial Environmental Forum, held at Nairobi, Kenya, the international community expressed its concerns and exchanged views. The need to articulate an environmental agenda that addressed issues such as energy, employment and poverty were deliberated. Upon a recap of the RIO+20, the DSG stated that ministers recognized the need to advance towards a participatory and effective UNEP which focused on implementation. Green Economy which involved the governmental agencies, capacity building, addressing technological and financial barriers and reforming perverse subsidies that distort price signals and efficient resource allocation were all pointed out as barriers to be crossed to achieve a transformation.
- 6.8 **The Delegate of Nepal** recalled the meeting of Heads of State and Government and high-level representatives at Rio de Janeiro, Brazil, in June 2012, with the full participation of civil society, wherein Nepal renewed their commitment to sustainable development and ensured the promotion of an economically, socially and environmentally sustainable future for the planet, for present and future generations. They recognized that poverty eradication was the greatest global challenge facing the world today and an indispensable requirement for sustainable development.
- 6.9 The delegate also reaffirmed the need to achieve sustainable development by promoting sustained, inclusive and equitable economic growth, creating greater opportunities for all, reducing inequalities, raising basic standards of living, fostering equitable social development and inclusion, and promoting the integrated and sustainable management of natural resources and ecosystems. Such measures should be able to support economic, social and human development while facilitating ecosystem conservation, regeneration and restoration and resilience in the event of new and emerging challenges. The delegate emphasized on green economy for sustainable development and poverty eradication.
- 6.10 The delegate also reaffirmed their commitment to the full implementation of the Programme of Action for the Least Developed Countries for the Decade 2011–2020 (Istanbul Programme of Action); the Almaty Programme of Action: Addressing the Special Needs of Landlocked Developing Countries within a New Global Framework for Transit Transport Cooperation for Landlocked and Transit Developing Countries, Advancing integration, implementation and coherence: assessing the progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development and addressing new and emerging challenges.

- 6.11 From the perspective of environment and sustainable development, the delegate informed that Nepal faced three special situations as a least developed country wherein poverty, geographical location of being landlocked country with no sea coast and being a mountainous country added to the disadvantages. As a result of climate change, Nepal was being affected from food and energy crises, biodiversity loss and increasing frequency and intensity of natural disasters which had added burdens of coping, particularly for vulnerable communities. There were direct links of environmental issues with poverty, climate change, loss of biodiversity and land degradation.
- 6.12 The delegate raised concern stating that the poor and mountainous countries contribute least to global warming but still were the most vulnerable to such disasters. They have least capacity to address these problems. Therefore, the global community needs to support most vulnerable and poor countries in effectively addressing the adverse impacts of climate change and for using the opportunities created by it to improve livelihoods and achieve climate-friendly development. The ability of least developed and mountainous countries were limited for addressing the financial, food and energy crisis and hence there was a need for mechanism to help these countries to improve their resilience.
- 6.13 The delegate explained how mountain systems provided ecosystem goods and services that were essential for sustaining the local, regional and global environments and the economy. About half of the global biodiversity hotspots were the mountains. However, providing these goods and services to the global community has high economic and social costs in the mountain countries. Nepal, with only 0.1 percent of the global landmass, has 2.5 percent of the global biodiversity (it has the 10th richest density of flowering plants; four percent of the global total for mammal species and 9% of the bird species) and its mountains supply water to the major Asian rivers. The opportunity costs of such natural capital had not been quantified, and the need to provide mountain people the incentives for conserving the resource has yet to enter the global debate. He enunciated that such concerns of the least developed mountain countries remain unaddressed in the green economy framework and their omission needs to be corrected by establishing global, regional, national and local mechanisms to compensate and reward mountainous communities for the services they provide.
- 6.14 Climate change being a sustainable development issue, the development of climate resilient infrastructure could provide an opportunity for mitigating the impacts of climate change, and also for promoting environmentally sound and sustainable development through the use of clean technologies. The Delegate said that Nepal has been taking various measures to meet these challenges at national level and their efforts were driven towards poverty reduction in line with Millennium Development Goals (MDGs)
- 6.15 **The Delegate of India** congratulated the DSG for his introductory remarks and thanked the AALCO Secretariat for their report on the agenda item. The delegate mentioned that one of the great achievements of Durban Conference was that the industrialized countries agreed to second “commitment period” of the Kyoto Protocol, which required them to reduce the emissions in a legally binding manner, potentially up to 2020. India was

committed to pursue its social and economic development objectives in a manner that does not exceed the average per capita GHG emissions of the developed countries. It would effectively put a cap on India's emissions, which would be lower if developed country partners chose to be more ambitious in reducing their own emissions. On the role of India at the UN Climate Change talks in Doha, the delegate reiterated its the active role in urging developed countries to commit to ambitious Carbon dioxide emission cuts and pledge money to combat the global challenge. India called on developed countries to raise their low level of ambitions under the second commitment period to a level required by science. The delegate mentioned that India shared the view of other developing countries that the Climate Change negotiations must be based on the principles of "equity" and "common but differentiated responsibility" enshrined in the UNFCCC. In terms of financing, referring to the Green Climate Fund set up after 2010 talks in Cancun, the delegate said that it was an empty shell and had no real meaningful capitalisation for fulfilling its functions of financing the needs of developing countries in order to reduce their Carbon emissions. Further, India shared the common responsibility of doing things in a fair and equitable manner but the massive inequitable consumption of resources by some has created a deficit when there was hardly enough for those whose needs were yet to be met. Imperative for equity has to be respected.

- 6.16 On the role of UNEP Governing Council, the delegate referred to the active participation of UN Members in order to ensure investment in environment and a green economy as a sound insurance policy for the future. India's country position was to form a dialogue and discussion to concrete and tangible actions to accelerate the transition to more sustainable, inclusive and enduring economies.
- 6.17 The delegate expressed the concern of their government on the need to summon the imagination to balance the costs that would be incurred in the present with the benefits that will accrue to future generations in order to achieve the targets set in the outcome document of Rio+20.
- 6.18 Among main priorities of developing countries, poverty eradication was the most prominent, which stressed on the inability of those living at the subsistence level to bear the costs of adjustment and their livelihood consideration was important in determining the scarcity of natural resources such as land, water and forest. The severe deterioration of land and water resources had already started affecting the well-being of people living on the edges of subsistence and hence, India would not take emission reduction targets because poverty eradication and social and economic development were the first and over-riding priorities.
- 6.19 For efficient use of available natural resource, India had taken national measures in energy sector which would contribute towards sustainable development. The delegate informed about the establishment of National Green Tribunal, a fully dedicated environmental court that has a wide jurisdiction to deal with not only violations of environmental laws, but also to provide for compensation, relief and restoration of the ecology in accordance with the Polluter Pays Principle and powers to enforce the Precautionary Principle.

- 6.20 The delegate mentioned about India's National Action Plan on Climate Change which shows details of investment in special initiatives. Also, despite their increasingly proactive engagement on climate issues, India has not waived from its position that equity concerns must underlie the International Climate Negotiations. The delegate insisted that despite a common goal of global climate stabilisation, each country had to have a different responsibility to address the problem.
- 6.21 **The Delegate of State of Qatar** thanked the Almighty God for having gifted continents of Asia and Africa with outstanding and huge environmental resources and components, which comprised of world's large portion of resources. The delegate stressed that State of Qatar believed that ensuring sustainable economic and social growth would not be possible in the absence of a comprehensive environmental vision which puts preservation of the environment for future generations at the topmost priorities. The delegate mentioned about the Qatar National Vision 2030 that aimed to guide Qatar towards striking a balance between development needs and the protection of natural resources. The Qatar National Vision focused on forming legal framework and effective environmental institutions to safeguard the environmental heritage of Qatar, as well as it stressed the importance of educating citizens of their role in protecting the environment of the country, in the interest of the health and safety of their children and for the future generations of Qatar. Those aspirations relating to the economy of Qatar and its society, people and environment were dealt within the Qatar National Vision 2030.
- 6.22 **The Delegate of Kenya** narrated that the government recognized that environment and natural resources were valuable national assets which must be sustainably managed for present and future generations. The delegate stated that they continued to engage in international dialogue which aimed at addressing environmental sustainability issues through participating in meetings of the Conference of Parties for the conventions to which they were a party. These conventions included the Convention on Biodiversity (CBD), UN Convention to Combat Desertification (UNCCD) and the UN Framework Convention on Climate Change (UNFCCC). The delegate mentioned that they were pleased to host the 27th session of the Governing Council /Global Ministerial Environment Forum held at UNEP Headquarters in Nairobi in February 2013.
- 6.23 The delegate mentioned about active participation of the Kenyan delegation at the Rio+20 Summit Conference on sustainable development which was held in 2012, wherein key decisions were adopted on environment and sustainable development. It was said that Kenya was in the process of implementation of Rio+20 outcomes.
- 6.24 The delegate highlighted the activities undertaken by the Government of Kenya in the field of international environmental laws (MEAs), like first, finalizing the Multilateral Environmental Agreements (MEAs) strategy which would assist Kenya to implement MEAs in a coordinated manner and to maximize impacts. Second, initiative to update and review National Biodiversity Strategy Action Plan (NBSAP) for the period 2010-2020. Third, the process of finalizing the assessment and documentation of the Natural capital.

- 6.25 She informed that Kenya had come up with programs and projects to mitigate and adapt to climate change. In that, Kenya had finalized the development of a climate change response strategy as well as a climate change action plan. The plan addressed the options for a low-carbon climate resilient development pathway as Kenya adapts to climate impacts and mitigates growing emissions. The country also had programs and projects to combat desertification, which include mainstreaming of targeted intervention areas in the key development plans to guarantee sustainability. It was stated by the delegate that Kenya has embraced sound management of chemicals as provided by the Multilateral Environmental Agreements (MEAs) dealing with chemicals and were also focusing on phasing out Ozone Depleting Substances (ODS). It was emphasised that inadequate financial and human resources remained a challenge in achieving sustainable environment development.
- 6.26 **The Delegate of the People’s Republic of China** mentioned the close relationship between the interests of all countries and sustainable development and acknowledged the past conferences and summits’ guidance. The delegate noted that climate change was one of the most prominent issues faced by the international community and that sustainable development was both the aim and the right path to an effective solution. The delegate stressed the importance of insisting the principles of equity and common but differentiated responsibilities, and also welcomed the outcomes of the Doha Conference, particularly those on the second commitment period of the Kyoto Protocol. With regard to the negotiation for a 2015 agreement for the post-2020 arrangement, the delegate suggested that all parties work together while respecting core concerns and taking into account responsibilities of developed countries and needs of developing countries.
- 6.27 The delegate also welcomed the outcomes of the UN Conference on Sustainable Development in 2012, which builds consensus to promote global sustainable development. The delegate also urged that the Rio spirit and principles be adhered to.
- 6.28 The delegate touched on measures and policies taken by China to address the issues, such as the Twelfth Five-Year Plan which will establish the concept of green and low-carbon development and accelerate establishment of resource-saving and environment-friendly patterns on both production and consumption.
- 6.29 **The Delegate of Thailand** began by stating that for decades, His Majesty **King Bhumibol Adulyadej’s** philosophy of “sufficiency economy” has been ingrained in Thailand’s national development Agenda and that the country’s vision has always included sustainability. The delegate mentioned that Thailand believed it essential to build on Rio+20’s results. Thailand has submitted the outcome of the Summit to its Cabinet and as a result the Committee on Sustainable Development has been established; chaired by the Prime Minister of Thailand and comprised of agencies such as the Ministry of Finance, Foreign Affairs and so on. Thailand was also drafting a strategy on green growth for 2014-2015 which promotes inter alia green growth; the use of legal instruments in environmental management; readies of sectors in adapting to climate change and natural disasters. The Royal Thai Government also co-hosted the Asia-Pacific

Ministerial Dialogue: from Millennium development Goals to the UN Development Agenda beyond 2015, in Bangkok.

- 6.30 The delegate stated that as a disaster-prone country, Thailand was ready to work with the international community to protect development achievements and hoped to see developed countries raise their ambition level by the year 2014 with regard to the Kyoto Protocol. The delegate also addressed water security and water-related disasters and that Thailand and the Asia-Pacific Water Forum hosted the Second Asia-Pacific Water Summit which led to the Chiang Mai Declaration.
- 6.31 The delegate also stated that the Royal Thai Government plans to co-host the Sixth Asian Ministerial Conference on Disaster Risk Reduction in June 2014 with the UNISDR, and that this would address regional and global issues as well as sharing knowledge on how to use Science, Technology and Innovation (STI) to develop early warning systems. On biological diversity the delegate stated that Thailand was drafting a nine-year strategic plan to manage biological diversity in line with its international commitments.
- 6.32 **The Delegate of the Republic of Korea** asserted that climate change was the most serious threat to the survival of the eco-system and humanity. The delegate also asserted that the principle of common but differentiated responsibility on which the UNFCCC was framed asks for greater efforts from developing countries. The system that replaces it must be flexible enough so that every country could participate.
- 6.33 The delegate thanked all the Member States for the support to Republic of Korea in hosting the Secretariat of the Green Climate Fund in 2012. The Fund's purpose was to support developing nations' adaptation and mitigation efforts and the delegate stated that all Member States would continue to support the Fund so it can be an effective system to tackle climate change.
- 6.34 **The Delegate of Japan** stated that all possible efforts must be expended in reaching agreement on the post-2020 framework and achieve the 2015 agreement. To that end, the upcoming COP 19 meeting in Warsaw, Poland would be crucial to determine the work schedule for the next 2 years and reaching a future agreement that reflected the world's real situation of greenhouse gas emissions.
- 6.35 With regard to biodiversity, the delegate stated what the COP 11 held in Hyderabad, India was successful and included agreement on the principle on the goal of Resource Mobilization of doubling international financial flows to developing countries. He also stated that mid-term review of Aichi Targets was to be conducted by 2015 and that international coordinated cooperation had to be strengthened.
- 6.36 The delegate also stated that the Rio+20 Conference highlighted the importance of green economy and integrating sustainable development goals into 2014 development goals. He also stressed the importance of developing countries transitioning to green economy and mentioned Japan's announcement of its Green Future Initiatives on the occasion of the

- Rio+20 Conference. Japan also wished to share its innovative concepts such as “Environmental Future City Vision” and its expertise in areas such as disaster-resilience.
- 6.37 The delegate also informed the AALCO Member States regarding Japan’s high opinion of the results of the 27th Session of the UNEP Governing Council/Global Ministerial Environment Forum in February 2013 in Nairobi, Kenya.
- 6.38 **The Delegate of Malaysia** took note of the decision of COP 18 on the UN Convention on Climate change for the Ad Hoc Working Group on the Durban Platform (ADP) to streamline and complete negotiating text of a new legal instrument that would enter into force by May 2015. He underscored that the ADP was not a forum to renegotiate, rewrite or reinterpret the Convention and that the legal instrument should be entrenched in the principles of Article 3 and 4 of the Convention. He also reiterated the importance of the principles of common but differentiated responsibility and the ‘four pillars’ of sustainable development.
- 6.39 The delegate also said Malaysia welcomed the decision to establish a second commitment period of the Kyoto Protocol as it would give the opportunity to developed countries who have not adopted emissions reduction targets or ratified the Protocol to undertake to reduce emissions and not to shift the burden to developing countries. The delegate then proposed that AALCO streamline the Member States’ views on the matter to bring it forth for future UNFCCC negotiations.
- 6.40 On access and benefit sharing, the Delegate of Malaysia acknowledged the need for an effective implementation of the Nagoya Protocol and Malaysia’s enacting of national legislation to facilitate the ratification of the Protocol.
- 6.41 The delegate also mentioned the UNGA document entitled ‘The future we want’ as containing clear and practical implementation measures for sustainable development. The Delegate of Malaysia also recalled Malaysia’s belief that initiatives at the domestic level were the key to future regional and global cooperation to achieved sustained equitable economic growth and sustainable development.
- 6.42 **The Delegate of the Democratic People’s Republic of Korea** noted that the issue of climate change was a vital issue not only for the contemporary generation but also for the future of the human race as it was seriously detrimental to socio-economic development and human activities.
- 6.43 The delegate stated that under the supreme leader **Kim Jong Un**, the DPRK government strives to complete domestic laws for the protection and development of the natural environment. These include the Law on Environment Protection, the Forest Law, Law on Water Resources, Law on Protection of Useful Animals, Law on the Program of Land Development, Law on the Environment Impact Assessment, Law on Weather, and so on. He also stated that DPRK was fulfilling its obligation under relevant international treaties such as the UNFCCC, Kyoto Protocol, CBD, Vienna Convention for the Protection of the Ozone Layer and so on.

- 6.44 The delegate also mentioned the DPRK Governments focus on enhancing combustion efficiency of coal combustion facilities, purifying exhaust gas and the introduction of efficient technology and renewable energy. The delegate also noted that DPRK would continue to strengthen cooperation with all countries to build a new peaceful and prosperous world.

Agenda Item: Law of the Sea

- 6.45 **Mr. Feng Qinghu**, Deputy Secretary General, AALCO introduced the topic “The Law of the Sea”. He stated that the report of the Secretariat contained information on the Status of United Nations Convention on the Law of Sea (hereinafter” UNCLOS”) and its implementing Agreements; The thirtieth and thirty first Sessions of the Commission on the Limits of the Continental Shelf (CLCS); the Eighteenth Session of the International Seabed Authority (ISBA); the twenty Second Meeting of States Parties to the UNCLOS ;the meeting of the UN open-ended informal consultative process on oceans and law of the sea; and the consideration of the issue at the Sixty-Seventh Session of the United Nations General Assembly.
- 6.46 He pointed out that UNCLOS was quickly moving towards international participation and noted that 40 members of AALCO were already part of the treaty and that it could be hoped that the remaining Member States would also join soon. He pointed out that the Law of the Sea has been an important agenda item for AALCO and made reference to the work of the Organization on this subject. He then referred to the meeting of legal experts organized by AALCO this year in connection with the thirtieth anniversary of the opening for signature of the UNCLOS. He then outlined the topics discussed at that meeting.
- 6.47 Mr. Qinghu drew the attention of the audience to the judgment of the International Tribunal for the Law of the Sea regarding the *Dispute concerning the delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal*, delivered in 2012. He pointed out that this was the first delimitation case that was heard by the tribunal and that the decision signified the growing recognition of the tribunal. He stated that the judgment dealt with several novel questions concerning the law of the sea and that it was likely to be of major significance for many States with extended continental shelves.
- 6.48 He then referred to the developments at the CLCS such as the decisions to establish four new sub – commissions, the increasing workload of the CLCS and the need to streamline the work of the Commission. Referring to the developments at the ISBA, Mr. Qinghu recalled the re-election of Mr. Nii Odunton as the Secretary General and the adoption of Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese crusts in the Area.
- 6.49 Mr. Qinghu pointed out that the other critical issue faced by the International Community was the proliferation of piracy and armed attacks against ships and the need to improve

domestic law enforcement to curb such incidents and building institutional capacity to bring pirates to justice. He invited AALCO members to consider enacting adequate laws to criminalize such acts along with modern procedural laws.

- 6.50 He further stated that for ensuring sustainable development of the oceans it was essential to halt pollution, protect the marine environment and preserve the marine bio-diversity. He recalled the need for global action and cooperation to achieve these ends. The concerns with respect to “the Area” beyond national jurisdiction were also pointed out. He stated that Marine Protected Areas (“MPAs”) was an important ecosystem management tool for achieving these ends. However, a universal framework for the same was yet to be put in place and he drew the attention of the Member States of AALCO to consider developing such a framework.
- 6.51 **The Delegate of the Republic of Indonesia** pointed out the importance the UNCLOS as a major international law that governs maritime issues. The delegate reiterated the firm commitment of his country and assured active participation in issues relating to the Law of the Sea. The delegate then enumerated the participations of his country in various international forums that dealt with the law of the sea. The delegate stated that the International Tribunal for the Law of the Sea was an important judicial body for the resolution of disputes and stated that the ISA had an important role in the protection of the marine environment from the negative impacts caused by exploitation in the region. The delegate further expressed support for the steps taken to ensure the effective functioning of the UN Commission on the Limits of Continental Shelf. Further, the delegate informed the other members that the United Nations Division for Ocean Affairs on the law of the Sea has partially agreed to the submission of Indonesia with respect to its continental shelf. The delegate further called on all countries to explore the sea in accordance with the applicable international law and the principle of protection of the environment for the future generations.
- 6.52 **The Delegate of Thailand** stated that the issue of ocean affairs had numerous dimensions such as maritime security, exploration, exploitation of national resources, commerce, conservation and protection of the marine environment, sustainable development of marine life, scientific research and technology development and that it was his country’s priority to ensure that all activities carried out in the oceans take into account the sensitivity and delicacy of oceanic ecosystems. The delegate expressed his country’s commitment to continue working towards the implementation of the convention and to fulfill its object and purpose. The delegate then outlined some of the efforts taken by his country to that end and stated that the necessary changes to the domestic laws would be made. The delegate further underscored the need for maritime security and stated that his country constantly supported the international community with respect to this issue and outlined some of the measures taken by his government in this regard, both at the National and Regional levels. The delegate pointed out the efforts taken and the active role played by Thailand at the International Maritime Organization and sought the support of the Member States for re-election to the governing council of the IMO at the forthcoming election. Outlining some of the efforts taken by Thailand towards promoting maritime security and the those at promoting knowledge sharing, the

delegate assured the Member States his country's support to the International Community in this matter.

- 6.53 **The Delegate of The People's Republic of China** pointed out that the previous year had marked the 30th anniversary of the UNCLOS being opened for signature and that more States had become parties to the UNCLOS. She stated that these events evidenced the potent vitality and universality of the Convention. The delegate expressed hopes that more States would accept the convention and implement the same earnestly. She pointed out that despite growth in the capacity of States to understand, use and protect oceans and the resultant challenges faced in the implementation of the law, UNCLOS remains an important basis for solving these problems and facing these challenges. She pointed out that the issues concerning the sustainable development of oceans & conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction are topics that have gained sustainable attention.
- 6.54 With respect to sustainable development of oceans, the delegate pointed out the challenges posed by growing awareness and capabilities of marine use and increase in human activities. She stated that the United Nations has launched a regular process for global reporting and assessment of the state of the marine environment and expressed satisfaction over the institution of a regular process for the same as well as the work being done to bring out an integrated global report of the state of the marine environment. It was stated that the regular process may play an important role in realizing the sustainable development of oceans and seas by providing scientific references for States to formulate ocean policies. The delegate pointed out that sustainable development can be achieved only by balancing the proper protection of the ocean and its rational utilization. It was pointed out that the capacity of states with respect to these were different and that it was the capacity of developing States- in both utilization and protection – that needs to be strengthened.
- 6.55 With respect to safety and navigation of shipping, the delegate pointed out that piracy remained a major threat to the safety of navigation and that incidents of piracy have been on the rise in Asia and Africa. The delegation stated that it was the view of China that the current rules of international law, in particular the definition of piracy and the obligation of states to establish universal jurisdiction over piracy and the obligation to provide judicial and administrative assistance covered the main aspects concerning combating piracy through international cooperation. The delegation expressed the support of his country for enhancement of international cooperation, in conformity with the rules of international law for combating piracy, ensuring maritime safety and safeguarding the interests of the international community.
- 6.56 Regarding the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, the delegation welcomed the progress achieved at the 6th meeting of the Ad-Hoc Open-ended Informal Working Group on the same. The delegation noted that since the issue at hand involved the interest of the entire international community, the proper handling of issues relating to this topic was essential for maintenance of an equitable and rational maritime order. He noted that the relevant work must hence

proceed step by step and gradually, fully accommodating the legitimate needs for marine biological resources of all countries, especially that of the developing countries. He stated that capacity building of the developing countries was important in this context.

- 6.57 The delegate expressed the willingness of his country to cooperate with all parties to cope with major challenges faced by oceans, within the framework of the UNCLOS, to achieve sustainable development.
- 6.58 **The Delegate of Mauritius** referred to the dispute between Mauritius and the United Kingdom concerning the ‘marine protected area’ which the United Kingdom has purported to establish around the Chagos Archipelago. The delegate asserted that the Chagos Archipelago forms an integral part of the territory of Mauritius and that Mauritius was being prevented from exercising its sovereign rights over the Chagos Archipelago because of the unlawful control of the United Kingdom over the Archipelago. He stated that the United Kingdom had illegally excised the Chagos Archipelago from the territory of Mauritius prior to its accession to independence. The delegate informed the Member States that the Government of Mauritius had instituted arbitration proceedings under Article 287 of, and Annex VII to, UNCLOS to challenge the legality of the ‘marine protected area’ purportedly established by the United Kingdom around the Chagos Archipelago and that an Arbitral Tribunal had been set up to hear the dispute. The delegate indicated that the Tribunal had rejected the preliminary objections raised by the United Kingdom to its jurisdiction. He further stated that the case brought by Mauritius against the United Kingdom arose against the background of colonial legacy and that the Tribunal was being requested to interpret and apply UNCLOS in a way that does not perpetuate a status quo which is inconsistent with the applicable law under the Convention, including the right to self-determination and respect for the territorial integrity of a country at independence. The Delegation expressed gratitude for AALCO’s support with respect to the sovereignty of Mauritius over the Chagos Archipelago.
- 6.59 **The Delegate of the Republic of Korea** pointed out that the marine and coastal environments covered more than two-thirds of the earth’s surface and that it was an important source for ensuring sustainable development of the human society. The delegate expressed support for the “Oceans Compact” initiative announced by the Secretary General of the United Nations to set out a strategic vision for the UN system to deliver its ocean related mandates consistent with the Rio+20 outcome document “The Future We Want”. It was pointed out that the threats posed by piracy and armed robbery were serious threats and that each nation needs to step up efforts to put an end to these heinous threats. He pointed out that there was a substantial reduction in piracy related incidents off the coast of Somalia the previous year and that the global efforts to fight piracy had reached its goals. However, pointing out some of the incidents he stated that there was still a long way to go. It was stated that to uproot piracy it was essential to end pirates getting away with impunity, that piracy needs to be made less lucrative by prosecutions and punishments of those committing acts of piracy. The delegation pointed out that his government was tackling the issue by pursuing legal action under domestic and international law.

- 6.60 **The Delegate of the Islamic Republic of Iran** pointed out that incidents of piracy in Gulf of Eden, off the coast of Somalia and in the Gulf of Guinea, continued to pose increasing challenges to maritime safety and security and that these incidents have been affected the AALCO Member States. He pointed out that on some occasions Iranian vessels had also been the target of these attacks. The delegate then outlined the efforts that were taken by Iran towards combating piracy and pointed out that the same has been recognized and commended by the international community and relevant UN bodies, including the Security Council. It was further pointed out that the problem of piracy in the Gulf of Eden and off the Coast of Somalia needs to be viewed as sign of disorder in land and not an isolated problem. He referred to the internal situation in Somalia and stated that the problem of piracy could not be resolved without a comprehensive plan for peace and stability. It was pointed out that it was also important to address the root causes of piracy – the political and economic situation of the region. The delegate stated that the crime of piracy was clearly defined in international customary law and that piracy must be fought in accordance with international law. In this context, paragraph 90 of the Resolution 66/231 of the Security Council was quoted by the delegate, which affirmed the application of international law.
- 6.61 Regarding the protection of the marine environment, the delegate noted that pollution at the seas have reached alarming levels. He referred to the problems caused by land reclamation and pointed out that the General Assembly of the United Nations have already expressed its concern over this vide Preambular Paragraph 14 of A/RES/67/78 and recalled operative paragraph 164 of that resolution which called for land reclamation activities to be carried out in a responsible manner. The delegate then expressed support for the work of the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socio-economic aspects. On Marine biological diversity, the delegate stated that biological diversity beyond areas of national jurisdiction fell under the legal regime of common heritage of mankind and as such the provisions of relevant part of the UN Convention on the Law of Sea would apply to their use and conservation.
- 6.62 **The Delegate of Japan** stated that as a maritime country and from the standpoint of considering the rule of law to be essential in the international community, it valued the roles that the International Tribunal for the Law of the Sea (ITLOS) plays in the peaceful settlement of maritime disputes and the maintenance of legal order relating to the sea. The delegate noted that the number of cases being referred to the Tribunal has been on the rise, which he considered to be a reflection of the growing trust that was being placed by the International Community on the tribunal as a competent dispute settlement organ. He then referred to the judgment of the tribunal on the dispute concerning the delimitation of the maritime boundary between Bangladesh and Myanmar and the request received for an advisory opinion from a Sub-Regional Fisheries Commission of West African Countries as evidence of the same. The delegate pointed out that since the establishment of the ITLOS, Japan has been fully cooperating with it and that it was the largest provider of human resources for the same. He stated that Japan would continue cooperating with ITLOS to fulfill its activities more effectively, in accordance with the expectations of the International Community. The delegation informed that at the

forthcoming 24th meeting of States Parties of UNCLOS, Japan would be nominating a candidate for the election of judges to the Tribunal. The delegate pointed out that the UN Commission on the Limits of Continental Shelf has been continuously confronting serious “workload issue” caused by an increase in the number of submissions before it. He pointed out that for the 66 submissions made so far only 18 recommendations have been issued. He stated that a practical way to effectively reduce the workload was by lengthening the working period of the commission. He pointed out that Japan has been contributing to the Trust fund that was established for defraying the costs of participation of the members of the Commission from Developing States in the meetings of the commission.

- 6.63 He further pointed out that with respect to the International Sea Bed Authority, a Voluntary Trust Fund has been established for the purpose of defraying the cost of participation of the members of the Legal and Technical Commission and the Finance Committee from developing countries in the meetings of the Commission that was held at Jamaica. The delegate further recalled the financial commitment made by Japan at the 19th Session of the International Seabed Authority that was held at Kingston, Jamaica.
- 6.64 **The Delegate of Tanzania** pointed out that the importance of UNCLOS in the ocean affairs could not be overemphasized. It was pointed out that as legal experts, it was essential for the delegates present to take deliberate efforts to uphold the principles contained in the convention promoting ocean governance. The delegate stated that the Asian and African continents have witnessed achievements in the reduction of piracy but that in order to maintain this, concerted efforts in strengthening the legal frameworks and enacting legislation where there was none was required, along with strengthening relations and information sharing. The delegate called on AALCO Member States to continue strengthening cooperation for the same. The delegate pointed out that the workload of the Commission on the Limits of Continental Shelf was growing due to the increase in the number of submissions and called on AALCO Member States to take concerted efforts to ensure the smooth functioning of the commission.
- 6.65 **The Delegate of the Republic of Kenya** recalled that Kenya was a party to the UNCLOS and that it continued to participate in international meetings with respect to this subject. The delegate stated that Kenya had recently brought into operation a law designed to curb risks posed to health, safety and the environment caused by foreign flag ships that called at its ports. The law, she stated, allowed Kenyan officials to inspect ships and pursue such action that was necessary to ensure that they posed no hazards and to detain such ships or suspend services until the compliance standards were met.
- 6.66 The delegate further stated that the issue of piracy off the Coast of Somalia remained of grave concern and that it has affected trade and commerce in the East African Region, fishing, tourism and shipping industries. The delegate welcomed the efforts of the international community to combat piracy as these efforts have had deterrent effect on piracy and armed robbery in the region, and noted that such action has yielded results and that piracy cases in the Indian Ocean has considerably fallen. she further pointed out that there were several issues that were required to be addressed by public international

law such as the use of private armed security guards, the use of force and transferring of suspects for trial and imprisonment, collection of evidence at the high seas and submission in courts, extradition and jurisdictional issues. she pointed out that though under international law any State could prosecute piracy, only few states do so and that many suspected pirates were released without trial. she stated that Kenya has taken steps to prosecute or incarcerate pirates, in cooperation with other States. she further stated that Kenya was in the process of reviewing its law on piracy to include all crimes committed at the High Seas and that to this end they would seek to reflect on the best practices from States that are more advanced in this area.

- 6.67 **The Delegate of Malaysia** noted that the lack of capacity building could limit the ability of states to protect the oceans and their resources from maritime pollution, maritime safety and security and overexploitation. He stated that capacity building was necessary to ensure that the States possess economic, legal, navigational, scientific and technical skills for the full implementation of the obligations and responsibilities as provided under the UNCLOS and for this priority had to be given in strengthening the institutions and standards to enable the least developed countries to fully benefit from the UNCLOS. He stated that national and international financial institutions could be invited to examine innovative approaches to assist low income countries, whilst academic and research institutions could contribute towards institutional developments. He stated that in addition to this, strengthening and improving standards relating to shipping, marine safety and pollution prevention requires the involvement of government as well as private actors and all stakeholders to ensure a holistic approach. The delegation took note of the concern expressed regarding the workload of the UN Commission on the Limits of Continental Shelf and that Malaysia along with Vietnam has submitted representations before that body regarding the South China Sea and that the matter as of now stood listed to be considered only in 2016/2017. The delegation then pointed out that Malaysia has joined hands with Indonesia and Singapore to undertake the appropriate measures to reinforce the safety and security in the strait of Malacca and that the introduction of the schemes of the International Maritime Organization along with the Marine Electronic Highway has significantly improved the navigational safety in the straits of Malacca. He stated these to be landmarks achievements in building cooperation between costal States bordering a strait used for international navigation.
- 6.68 The delegation noted that the UNCLOS provides a framework and guiding principles for the development of the oceans and sustainable use of resources beyond the national jurisdiction and that in view of that the UNCLOS only provides basic principles, the provisions under Part XII of the UNCLOS emphasize the importance of cooperation between states on a global and regional basis to elaborate the rules, standards and recommend practices and procedures consistent with the UNCLOS. It was pointed out that some of the instruments formulated on this issue are the Convention on Biological Diversity, Convention on Migratory Species, United Nations Agreement for the Implementation of the provisions of United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and the 1993 FAO Agreement to Promote Compliance with International Conservation and

Management Measures by Fishing Vessels on the High Seas. He further pointed out the need to improve implementation of and compliance with existing international rules and standards and that enhancing regional ties particularly through regional institutions would enable States to effectively address international concerns and emerging challenges as regards the various activities that affect the marine biodiversity in areas beyond national jurisdiction.

- 6.69 **The Delegate of India** described UNCLOS to be the key instrument governing the ocean affairs and that it lies in the interest of the international community to extend Full Cooperation in efforts towards ensuring the proper management and sustainable use of ocean resources. He stated that the outcome document of the Rio+20 Summit, “The Future We Want” recognized oceans and seas as an integral part of the earth’s ecosystem. He stated that the oceans are facing numerous challenges such as illegal and unregulated fishing, deterioration of the marine environment, bio diversity loss, climate change and those relating to maritime safety and security, including acts of piracy.
- 6.70 The delegate expressed concern over piracy and armed robbery at sea, particularly of the coast of Somalia and described piracy to be a threat to the freedom of the seas, maritime trade and the security of maritime shipping and expressed support for the joint and concerted efforts by the international community for tackling this menace. He further stated that India was working on a comprehensive domestic legislation to provide the necessary legal framework within the country for prosecution of piracy related crimes. The delegate pointed out that while the oceans had the potential to contribute to energy needs, promote economic well being and reduce green house gas emissions, they also posed environmental and economic challenges, especially to developing countries.
- 6.71 It was also pointed out that the unhindered functioning of the institutions established under the UNCLOS was crucial in achieving the fair and equitable uses of oceans and their resources and the effective implementation of the provisions of the convention and expressed support for efforts towards the smooth functioning of the institutions. The delegate also stated that the fisheries sector occupied an important place in the socio-economic development of a great number of countries and expressed support for concerted efforts of the international community towards achieving sustainable fisheries, including the adoption of measures to prevent and combat illegal, unreported and unregulated fishing, by the effective adoption of the fish stocks agreement and the relevant instruments at the regional level and by preventing over-fishing. He also stated that the role of the Food and Agricultural Organization was crucial in the conservation of fisheries resources and the management and development of fisheries.

Fourth General Meeting

Agenda Item: Challenges in Combating Corruption: The Role of the United Nations Convention Against Corruption

- 6.72 **The Deputy Secretary-General Mr. Feng Qinghu** introduced the agenda item. At the outset he stated that the battle against corruption has not only become more urgent, it has also become more obvious as the extent of its reach was growingly apparent in different parts of the world. He was of the view that the far reaching consequences of corruption clearly indicate that the war against corruption cannot be fought at the national level alone and that it required international cooperation.
- 6.73 According to him, on the global scene, the UNCAC, which attempted to create global anticorruption standards and obligations, was the most comprehensive anti-corruption instrument available. He pointed out that the Convention provides the framework and tools for the States Parties to advance their work on Prevention, Criminalization, Asset Recovery and International Cooperation, as well as Technical Assistance. These five areas were divided into separate chapters and formed the foundational pillars of the international anti-corruption regime. With 167 States Parties, the UNCAC was truly on a road to universality, he added.
- 6.74 Dwelling on the way how this issue has been taken up, he stated that corruption has been a matter of discourse within the Asian-African Legal Consultative Organization (AALCO) since 2002 and that since then the issues embedded in UNCAC has always remained as a subject of concern and discussions to AALCO and its Member States and that hence it has been deliberated frequently in a number of Annual Sessions of AALCO. He also took reference to the two Special Studies that AALCO had prepared on the subject, namely, “*Combating Corruption: A Legal Analysis*” (2005) and “*Rights and Obligations under the United Nations Convention against Corruption*” that was released in the year 2006. In this context he also pointed out that sequel to the above-mentioned Special Studies has also been prepared by the Secretariat in 2013. Commenting on the focus of this years’ meeting he pointed out that the Report the Secretariat prepared for the present Session focused on three important meetings that took place in 2012, namely the *Third Session of the Implementation Review Group of the UNCAC* that was held at Vienna from 18 to 22 June 2012, the *Sixth Intersessional Meeting of the Open-ended Intergovernmental Working Group on Asset Recovery* that was held at Vienna from 30-31 August 2012 and the *First Session of the Open-ended Intergovernmental Expert Meeting on International Cooperation* that was held at Vienna from 22 to 23 October 2012. Finally he expressed his hope that the delegations would use the deliberations at the Session to chart out new ways and means of fighting corruption.
- 6.75 **Dr. Manoj Dwivedi, Director, Services and International Cooperation, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pension, Government of India,** began by describing India’s legal framework for fighting corruption in public services which he pointed out included several legislations such as Prevention of Corruption Act 1988 and clear and transparent policies. He also pointed out that there was also the work of Investigation and prosecution agencies in the Central Bureau of Investigation and other investigation units. They are also measures focused on the legislature and judiciary. He stated that in addition to this India had a vibrant media and society and an effective ‘ombudsman law’ to encourage voices outside the three pillars of the government.

- 6.76 Mr. Dwivedi, elaborated on fiscal regulations such as the General Financial Rules and procedures and systems and Comptrollers and Auditor Generals that oversaw the accounts of the Union and states. He stated that there was a comprehensive system of checks and balances at every level of the government. Mr. Dwivedi also mentioned that Right to Information Act 2005 marks a benchmark in transparency and accountability and that it became operational since 12 Oct 2005. He stated that the Act provided for disclosures in respect of the functioning of the Organization of the public authorities.
- 6.77 The primary challenges facing India, according to Mr. Dwivedi, were gaps in policies and deficiencies in implementation. He stated that these challenges were being addressed through a strong Public Services Delivery and Grievance Redressal system that provided efficient, accountable, and transparent and time bound delivery of Public Services. He stated that The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011” had also been introduced in Parliament to meet required standards and that many provincial/local Governments in India have already passed Public Services Delivery Guarantee Acts.
- 6.78 He stated that procurement has always been a challenging area as far as corruption was concerned and that this required streamlined guidelines and administrative measures. He stated that they were further been strengthened through by giving legal backing through legislation on Public Procurement (The Public Procurement Bill, 2012) which was presently under consideration of the Parliament. The challenges in area of Money laundering have been addressed through an amendment in the Money Laundering Act, 2002. The Prevention of Money Laundering (Amendment) Bill was introduced in the Indian Parliament on December 27, 2011 and was in line with the standards set by the Financial Action Task Force (FATF).He stated that In August 2010 the Union Cabinet of India had approved Public Interest Disclosure and Protection to Persons Making the Disclosure Bill, which afforded protection to whistleblowers. He also stated that a Bill titled Judicial Standards and Accountability Bill, 2010 was under consideration of the Parliament and that the Bill provided for measures to address issues of misconduct in Judiciary, strengthening accountability and ensuring transparency in functioning of judiciary.
- 6.79 Mr. Dwivedi noted that India had ratified the UNCAC on May 2011 and that a review would be undertaken in 2013-14. He also noted that India supported the Siemens integrity initiative and the cooperation of Dept of Personnel and Training. He stated that conflict of interest in Public service was being closely examined for suitable policy measures to restrict conflicts that hamper public service as per the UNCAC provisions. He also stated that India has supported Academic Initiatives in field of preventing corruption and that India was in agreement with the International Anti Corruption Academy (IACA) for collaborative efforts in the form of training, education and research in areas relating to anti-corruption. He pointed out that recently, an officer from India was sponsored for a course conducted by IACA and that India has also reviewed Korea under the UNCAC.

- 6.80 Mr. Dwivedi, identified that the key points for future developments in India with respect to the UNCAC included mapping of Indian legal provisions with UNCAC Articles, correlating with data and good practices relevant to various articles of UNCAC, identifying gaps and addressing them by way of fresh legislations, amendments etc., and Participating in Review Group and Working Group Meetings at various levels and leaning from experience sharing.
- 6.81 **Mr. Kenichi Kiyono, Deputy Director of United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, (UNAFEI), Tokyo** gave a very comprehensive and lucid presentation on various issues surrounding corruption and the efforts of his Organization to tackle these problems. Initially he focused his presentation on the importance of capacity building of Criminal Justice Officials and on the punishment of offenders, which according to Mr. Kiyono was the most important and expensive aspect of Anti-Corruption regimes. Mr. Kiyono made reference to the fact that Singapore spent approximate 70-80% of its budget for anti-corruption measures on punishment efforts. Mr. Kiyono also stressed on the importance of top to bottom Organizational enforcement of anti-corruption measures and that it was equally important to take action against both high-level as well as low-level officials who are guilty of corruption or embezzlement or fraud. Mr Kiyono identified the important aspects of anti-corruption action to be criminalization, investigation tools and methods, protection of witnesses and whistle blowers, asset recovery and confiscation, international and internal cooperation, and the integrity of criminal justice officials. In this regard he stated that no corruption was too big and no corruption was too small. The need to tackle all acts and forms of corruption was described by him thus.
- 6.82 Mr. Kiyono provided detailed information about UNAFEI's activities and training programs offered by UNAFEI on combating corruption. Mr. Kiyono informed the meeting that UNAFEI was an international training and research institute for criminal matters established in 1962 on agreement between the UN and Japan. UNAFEI has a faculty of 9 professors comprising of members of the legal profession as well as persons and police officers. It also offered 5-week training programs and regional programs. Some of the corruption-relevant themes included offender treatment and criminal justice. The regional programs included Good Governance Seminar for Southeast Asian Countries, Seminar on Criminal Justice for Central Asian Countries, Training Course on Treatment of Juvenile in Kenya etc.. He also discussed the three principles of UNAFEI Training Programs: Practical approach, integrated approach and Comparative approach.
- 6.83 Mr. Kiyono also pointed out the practice of having sample lectures at UNAFEI with examples. Such lectures covered the length and breadth of effective crime-prevention including best-practices in legal, enforcement, education, prevention and political spheres. Mr. Kinoyo, in particular gave the example of Visiting Expert's Lecture, by Mr. Tony Kwok Manwai, who had discussed effective deterrence through effective complaint system, quick response, zero tolerance, proactive approach, professional investigation and prosecution, effective disciplinary procedures, and publicity on successful cases. Mr. Kwok also stressed on some success factors for effective investigations, like- attracting quality complaints, interview technique, proactive investigation – entrapment,

whistleblower & witness protection, financial investigation, international cooperation, etc. The expert lecture also discussed the independence and the manner of appointment of anti-corruption agencies; and the authorities with power of prosecution in some states.

- 6.84 He dwelled on some international alliances to deal with this subject, like the UNCAC, International Association of Anti-corruption Authorities, OECD Convention on Foreign Bribery, APEC Anti Corruption & Transparency Expert Taskforce, ADB/OECD anti-corruption initiatives for Asia & the Pacific, The African Union Convention on Prevention & combating corruption.
- 6.85 Mr. Kwok's expert lecture, as was pointed out by Mr. Kinoyo, discussed some of the best practices and successful systems in order to examine their greater application. The topic of investigative practices- the prerequisites of an effective investigation, understanding the process of corruption, investigation techniques- was also discussed in the expert lecture. Mr. Kinoyo also discussed the Japanese Corruption Enforcement Framework and the independence of prosecutors, their typical process of investigation, etc.
- 6.86 He concluded his speech by suggesting that punishment of corrupt officials was most important, which can be achieved through strong political will and capacity building of criminal justice officials, Criminalisation, Protection of witnesses and whistleblowers, Confiscation of proceeds of crime and through international Cooperation.
- 6.87 **Mr. Nimesh Jani, Regional Anti-Corruption Advisor, United Nations Office on Drugs and Crimes (UNODC)**, at the outset stated that the Organization he represents, namely the UNODC was the guardian of the United Nations Convention against Corruption (UNCAC) and that this makes it the global leader in the fight against corruption and international crimes. He pointed out that the mandate of the UNODC was to assist the State Parties to the UNCAC to address issues relating to drugs, crimes and terrorism. In the rest of his presentation he outlined a number of challenges facing the international community in its fight against corruption.
- 6.88 The first in his view was as regards mobilizing the political will necessary to make a dent on corruption. While highlighting the difficulties existing in this area, he noted that the very fact that UNCAC has been ratified by 160 States showed the seriousness of the State Parties against corruption. However, unless effective steps were taken to implement the UNCAC domestically, this would remain merely a piece of paper, he added.
- 6.89 The second in his view was mobilizing the necessary resources to tackle the issue of corruption. Urging the Donor States to contribute generously towards the Least Development Countries in their fight against corruption, he pointed out that resources were needed in a number of areas including the resources to be allocated to judiciary, police, and other institutions engaged in fighting corruption.
- 6.90 The third challenge, in his view related to the legal framework. Explaining this he stated that legal frameworks needed to have provisions for dealing with a number of issues such as the giving and taking of bribery, bribery in the public sector, witness protection

system, public procurement and others. In his view addressing these issues are critical since gaps in legal framework could translate itself into gaps in protection.

- 6.91 The fourth challenge in his view related to systemic weaknesses. He was of the firm opinion that we need to have a clean and quick system to be able to address the problem of corruption. The elements that are part of these systems, in his view included uncorrupted police investigation, prosecutors and judiciary.
- 6.92 The fifth challenge in his opinion was technology. Explaining this, he stated that technology remains a boon in the fight against corruption in that it could facilitate in the increasing capacity of investigators to prosecute criminals. On the other hand, he pointed out that technology also could be used by the organized criminals so as to escape the clutches of the prosecutors and investigators making it difficult for States to make a significant dent on corruption.
- 6.93 The final challenge in his opinion related to international criminality. He pointed out that even as the world has become smaller; it was so for organized criminals as well. This was because criminals did not respect national boundaries and that a large quantum of money could be transferred by them in a matter of few minutes.
- 6.94 While pointing out the role of UNCAC in the fight against corruption, he mentioned that it rested on four pillars, viz., Prevention, Criminalization, International Cooperation and Asset Recovery. On the Implementation Review Mechanism, he stated that it was a peer-review mechanism that did was not intended to be a finger-pointing exercise. This mechanism, he said, would go a long way in enabling the 167 States Parties to exchange their good practices in the area of anti-corruption and this in turn could be enlightening for many State Parties to the UNCAC, he explained.
- 6.95 **Prof. Charles Samford Director, Institute for Ethics, Governance and Law, Griffith University, Australia**⁶ in his paper stated that corruption and integrity were conceptually linked and centred on the uses and abuses of power, which had to be minimised by appropriate governance and integrity measures. In his view, the corrupt are attracted to *ungoverned power*, which was used for personal gain. In his paper, he pointed out that there were two forms of abuse- the *unipolar corruption*, where the power holder uses the power directly in his interest, like- stealing entrusted money; and the *bipolar corruption* when the exercise of public power was for the benefit of another who rewards the power holder for the abuse- recognized as *bribery*.
- 6.96 According to him, human imagination and innovation have given us new forms of social organisation, from the hunting party to the sovereign state, to the global corporation, joint stock companies and international NGOs- that brought people together people, power and resources, which also generated new ways of abusing institutional power. His paper stated that the history of corruption coincided with the history of institutional innovation, starting from the ancient abuses of priestly, gubernatorial and military power to state capture. In late Republican Rome, he pointed out, provincial governorships were known

⁶ Prof. Charles Sampford was not present at the meeting. However his statement was read out.

to amass personal fortunes through corruption; in medieval times, the Church claimed the power to provide salvation and eternal life and the 17th century sovereign states created new forms of corruption for bureaucrats and generals.

- 6.97 He was of the view that all institutions concentrate power, people and resources, which could be used for harming the same people, by, for instance, securing bribes through their coercive power. His paper stated that the banks which concentrate the resources of their shareholders, depositors and others to ensure liquidity in the system could use the same resources for high-risk transactions. Hence, the solutions to governance problems such as corruption needed to recognise and integrate the insights of law, ethics, politics and economics. He was of the view that this history of institutional power and its abuse had led to the development of anti-corruption measures in the national systems and international collaboration.
- 6.98 In his paper, he pointed out that there was also a collaboration of the corrupt in national and emerging global corruption systems- institutional corruption, which had a variety of institutional solutions like- the creation of a combination of state institutions and agencies (courts, police, prosecutors, DPP), state watchdogs (ombudsman, auditor general, parliamentary committees), NGOs, etc- which has become the preferred model for governance reform within national jurisdictions. However, according to his paper, a more popular system was Pope's "national integrity system" widely promoted as TI, a term used to describe the relatively well-integrated and developed governance systems found in some Western jurisdictions, and advocated for others; and which provided "*insurance against corruption*". In his paper, it he stated that *Integrity* measures utilized money and talent, and though they made decision process slow, they ensured better decisions and avoided corrupt practices. In his view, reducing temptation and opportunity, and increasing the likelihood of being discovered would reduce the risk of abuse of power.
- 6.99 His paper pointed out that that since the 1990s, there has been considerable international collaboration to strengthen the national integrity systems such as the UNCAC, G-20 initiatives, UN Global Impact, UN Principles of Responsible Investments, the Earth Charter, Extractive Industries Transparency Initiative etc. However, it was stated that the strength of the "national corruptions system" was much more and was more organized than the national integrity systems. His paper stated that that there was a growth of power beyond nation states, with the flow of money, goods, people and ideas across borders, which gave rise to global corruption systems, and a series of problems due to globalisation. He said that much could be seen from the melting Greenland glaciers to the financial meltdown of Wall Street. For these reasons, in his paper he urged the delegates to be concerned about the forms of powers that were increasingly beyond state regulation like organized crime, transport and shipping using flags of convenience, banks and financial institutions, private military companies, surveillance by states across borders etc.
- 6.100 The remedy, the paper stated, lay in the development of global integrity systems, which was proposed by Prof Ramesh Thakur, a UN Assistant Secretary General who works with Kofi Annan on UN reforms. Unfortunately, the paper stated , governance experts were

not well-equipped to handle global problems and multi-disciplinary, multi-country, multi-cultural approach research teams were required to frame a global integrity system. In his statement he urged AALCO Member States to work with each other and study and compare national integrity and corruption systems and examine the most effective mechanisms for the same.

6. 101 **The Delegate of Japan** stated that his delegation shared the view of other States that international cooperation on combating corruption needed to be further promoted by the combined efforts of the international community as a whole and that the UNCAC remained a central and most important vehicle for undertaking such international cooperation. On the technical assistance activities undertaken by Japan, he pointed out that Japan has been carrying out Official Development Programme to the developing countries that desired such assistance either bilaterally or through appropriate international Organizations. He also added that Japan has been providing such assistance programmes for capacity building in cooperation with UNODC for the countries in Southeast Asia to help them ratify/implement the UNCAC. As regards Japan's position vis-à-vis UNCAC, he clarified that the Japanese Diet has already approved the Convention and that the necessary domestic legislation has been under consideration by the Govt for submission to the Diet.
6. 102 **The Delegate of The State of Qatar**⁷ at the outset stated corruption besides being a global issue also affects some countries more severely. Corruption he pointed out, posed serious threats to the very stability and security of our societies and countries and throws open numerous complications in successfully implementing the various regional and international anti-corruption instruments including the UNCAC, the Arab Convention on Combating Corruption and the African Convention existing in this area. He came up with a number of suggestions to tackle the problems posed by corruption.
6. 103 According to him, the first thing that was to be done was to criminalize all acts and forms of corruption by adopting appropriate national legislations regarding them. He also mentioned that to the extent the existing laws are inadequate in dealing with various forms of corruption, they needed to be reviewed so as to make them more effective. The second thing, in his view related to the need to create and develop adequate, effective and autonomous national institutions to tackle the problem of corruption. He was of the firm view that efforts to eradicate corruption would not succeed without the existence of effective domestic institutions.
6. 104 The third thing in his view was the need to adopt effective anti-corruption strategies not only domestically but also globally. He was of the view that clear and coordinated strategies have not been adopted at the global level which has affected the efforts of the international community in its fight against corruption. The fourth thing that was required to be done related to the need to prevent and eradicate the creation of safe havens for the stolen money.

⁷ The Statement was delivered in Arabic. This was an unofficial translation.

6. 105 The fifth thing that was required to make a significant dent on the problem of corruption related to international cooperation. He pointed out that there was every need for all the countries of the world to cooperate with each other in their fight against corruption. Cooperation was very much needed in relation to the prosecution of perpetrators of corruption and the judicial process. These in his view would go a long way in bringing the perpetrators of corruption to book both globally and domestically.
- 6.106 Lastly while emphasizing on the need to give the necessary technical assistance that many countries needed in their efforts to fight corruption effectively, he stressed on the need to use the Implementation Review Mechanism that was adopted at the 3rd Conference of State Parties to the UNCAC held in 2009 at Doha, with a view to optimize the benefits available under this mechanism to advance the fight against corruption.
- 6.107 **The Delegate of Thailand** stated that corruption has caused a tremendous degradation to the stability and security of his Country in several areas, and that the United Nation Convention against Corruption 2003 had been initiated, for this reason, as a tool for States Parties to protect, prevent and prosecute all forms of malfeasance. In his view, in order to eradicate corruption, which had links with other forms of crimes such as organized crime, economic crime; as well as money laundering, all state parties had to actively take part in the mechanism for the review of the implementation of UNCAC through the conference of State Parties.
- 6.108 Spelling out the position of Thailand in relation to UNCAC, he underlined the measures that Thailand had taken, which included the ratification of UNCAC on March 1, 2011, the drafting of a Draft Penal Code Amendment B.E by its Ministry of Justice, Identifying the meaning of foreign public officer and officer of public international Organization as well as offences relating to them, the appropriateness of the statute of limitation of penalty in relation to the current situation and determining the issue of asset recovery. The Delegate further added that a National Counter Corruption Commission (NCCC) has been constituted to investigate corruption offences conducted by politicians and high ranking government officials and a similar body, namely the Office of Public Sector Anti-Corruption Commission (PACC) had been created for trying lower ranking officials, under the Ministry of Justice. Besides these, the Cabinet had made a resolution that every government sector must set up Centre for Anti-corruption within its Secretariat Office, he clarified.
- 6.109 Besides these, issues like the credibility of the witness, protection of witness and victim as well as the driving force for whistle-blower protection, non-acceptance by Thai Courts of execution of civil law suit by foreign judgment relating to asset recovery, lack mechanism for compensation of damage to another state etc - were matters of concern for Thailand. The Delegate also called for the creation of close partnerships with international bodies and conferences such as the United Nations, APEC, ADB, OECD, World Bank etc. In this regard, he cited the example of Thailand's Anti-Money Laundering Office which has bilateral agreement with several countries for the exchange of financial intelligence. He also referred to the Treaty on Mutual Legal Assistance in Criminal Matters or ASEAN MLAT, 2004 and described it as an to be an important

instrument in facilitating international cooperation. He was of the view that the international community must work together and take measures in preventing, criminalizing and strengthening international law enforcement.

- 6.110 **The Delegate of People’s Republic of China** at the outset stated that UNCAC was the most authoritative and influential international legal instrument in the field of anti-corruption and that the Asian and African countries have always attached great importance to the Convention, and accordingly have taken an active part in the Mechanism for Implementation review. Recalling the adoption of review mechanism, She pointed out that for the effective implementation of UNCAC, the 3rd Conference of States parties to the Convention, 2009 had established the Mechanism for the Review of Implementation which has been in operation since 2010. She was of the view that though the Mechanisms operated well, there were still some problems:
- 6.111 Firstly, she stated that the principle of sovereign equality and non-intervention in domestic affairs should be adhered to. According to the rules of the Mechanism, a State under review has the right to take decisions on such issues as the involvement of private sectors on the self-assessment checklist, whether or not to permit a country visit and to publicise a country review report. “We should work jointly to maintain these rules which guarantee the state sovereignty”, She stated.
- 6.112 Secondly, only States could be contracting Parties, and the Mechanism was a “peer review” process. This principle has been included in the Terms of Reference through consensus. Although, NGOs and groups outside the public sector does not have a direct involvement under the Mechanism, they can help their respective countries in combating corruption, and an appropriate channel for NGOs to follow the status of the Mechanism was adopted by the 4th Conference of States.
- 6.113 According to her, asset-recovery was a unique legal framework in UNCAC, and she urged countries to overcome the obstacles arising from the difference of various legal systems, to prevent criminals from transferring proceeds of crime. She also brought to the attention of the Member States of AALCO that China was willing to enhance cooperation on extradition and mutual legal assistance with Asian-African countries, the legal basis for which has been provided under the UNCAC. In this regard, she added that China was looking forward to coordinate with the Asian-African countries at the 5th Conference of States Parties to the Convention that stands scheduled to be convened in November 2013 in Panama, to promote the implementation of the Convention and the development of the Mechanism of Implementation Review.
- 6.114 **The Delegate of Republic of South Africa** at the outset stated that corruption which was a global challenge, posed numerous challenges to the international community of states. This included the potential of corruption to undermine growth and development, its ability to divert limited resources from important development programmes, thus exacerbating poverty, inequality and under-development. In his view therefore, combating the scourge of corruption remained one of the key elements to ensuring delivery of the Millennium Development Goals, and this in turn required collective

responsibility and action as States Parties to the United Nations Convention against Corruption. The UNCAC provided Member States to develop and align their legislation with UNCAC provisions, and provide for criminal justice, security and development, he added.

- 6.115 Then he went on to list out South Africa's efforts at the international, regional and national levels in the area of anti-corruption: This included South Africa's Ratification of the UNCAC on 22 November 2004 and participation in the negotiations for the establishment of the Implementation Review Mechanism. He pointed out that South Africa has enacted the Prevention and Combating of Corrupt Activities Act, 2004; and the Criminal Procedure Act, 1977 in an effort to comply with the reporting obligations of the Convention.
- 6.116 As regards the Implementing Review Mechanism of the UNCAC, he explained that in 2011, the experts from South Africa and Slovenia participated in the review of Morocco on the implementation of the Convention, while in 2012 South Africa was reviewed by experts from Mali and Senegal. He also added that at the regional level South Africa was Party to the following anti-corruption instruments: the Southern African Development Community (SADC) Protocol against Corruption, the African Union (AU) Convention on Preventing and Combating Corruption, and the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- 6.117 Outlining the efforts that were taken at the national level, he drew attention to the launching of a multi-stakeholder National Anti-Corruption Forum (NACF) that brought the public and private sectors and the civil society for a programme of action for combating corruption. An Anti-Corruption Bureau (ACB) to deal with corruption within the public service, was also in the pipeline, he explained.
- 6.118 On the challenges facing anti-corruption efforts, he pointed out that the issue of a common definition of corruption was one of them. This in his view was important as more often than not States Parties tended to adopt a politically generalized interpretative stance. This compromised of international cooperation, criminalization of corrupt activities, as well as mutual legal assistance; and countries took the pretext of sovereignty, internal security and other considerations to block the review mechanism. In his view challenges like these could impede institutions, including Government, from tackling corruption effectively.
- 6.119 **The Delegate of the Islamic Republic of Iran** noted that corruption which was a global phenomenon which undermined the rule of law and which adversely affected the fabric of societies has left no country or territory untouched. In this context, the UN Convention Against Corruption (UNCAC) had become the milestone in our cooperation and the high number of accession by States indicate the hope and confidence the international community has made vis-a-vis the Convention.

- 6.120 The delegate stated that the Islamic Republic of Iran as a responsible party to the Convention has spared no efforts in implementing the Convention by adopting wide ranging measures including preventive, legislative, law enforcement and judicial measures as well as contributing to activities of the Conference of States Parties of the Convention, in order to review and promote its implementation. He stated that they are looking forward to the convening of the Fifth Session of the Conference of the States Parties to the Convention in November 2013 in Panama, he added.
- 6.121 The delegate noted that The UNCAC has rightly put ‘Asset Recovery’ as a fundamental principle of the Convention and has obliged states Parties to afford one another the widest measure of cooperation and assistance to recover assets derived from corruption and return them to the original owners. However, according to the delegate of Iran, the facts on the ground are rather bleak, since only a very tiny part, if anything, of the stolen assets has been returned to the States of origin after a highly cumbersome legal and administrative process. A number of legal and technical hurdles, bank secrecy being almost always at the top of them, are often cited as the reasons for lack of productive cooperation in this area, let alone the political considerations and biases which in fact are the main causes for lack of cooperation. The delegate thus stressed the need to develop genuine political will on the part of all stakeholders, especially the destination countries in this case, to extend sincere cooperation for tracking, locating and recovering the stolen assets and returning them to their owners.
- 6.122 **The Delegate of Indonesia** noted that corruption was a common problem for AALCO states and one of the development obstacles of Indonesia and stressed on the need for robust law enforcement. The delegate stressed on the importance of the recovery of stolen assets and its complex and time-consuming nature. He stated that this aspect would be made easier by the sharing of information and techniques among States, as well as cooperation to return both the criminal and stolen funds to the original country.
- 6.123 The delegate also noted that Indonesia has ratified UNCAC and the UN Convention Against Transnational Organized Crime and that it actively participated in UNCAC and IAACA related meetings such as Implementation Review Group, Working Group on Prevention of Corruption, Working Group on Asset Recovery and Conference of the State Parties. He stated that Indonesia also concluded and ratified treaties on extradition with Malaysia, Thailand, China, India and Vietnam among others as well as Mutual Legal Assistance Treaty within framework of ASEAN under ASEAN MLA and that the Attorney General’s Office has also succeeded to recover USD 840 Billion.
- 6.124 The delegate of Indonesia also stated that internationally, in 2012, Indonesia participated in Implementation Review Group, the 3rd Session of Open-ended Intergovernmental Working Group on the Prevention of Corruption, the 6th Session of Open-ended International Working Group on Asset Recovery, and the G20 Working Group on Anti-Corruption.
- 6.125 **The Delegate of Tanzania** at the outset mentioned that Tanzania was closely following up on the global processes against corruption and that it has ratified the UNCAC and

enacted a number of legislations in the area of anti-corruption. In his view, corruption hampers both- sustainable development, with a disproportionate impact on poor communities, as well as the private sector, distorting economic growth and competition.

- 6.126 Outlining the efforts of Tanzania domestically in its fight against corruption, he made reference to the Public resolve by the President of Tanzania, Jakaya Mrisho Kikwete, during the inauguration of 2005-2010 Parliament, to deal with the issue of corruption in the country; the adoption of National Anti-Corruption Strategy and Action Plan, which embarked on a number of radical reforms including privatisation and liberalisation of economy, and restructuring and improving the efficiency of the public service delivery; the enactment of anti-corruption legislations like the Leadership Code of Ethics, and a Presidential Commission of Inquiry Against Corruption. He also mentioned Tanzania's NACSAP II plan, launched on December 10, 2006 which aimed at complimenting and integrating anti-corruption measures and encouraged strategic partnership between the Anti-Corruption bodies of the National Government, the private sector, civil society and media in enhancing good governance in Tanzania.
- 6.127 **The Delegate of Malaysia** at the outset, stated that Malaysia as a Party to the UNCAC believed that its effective implementation would help the global community to combat corruption. The delegate outlined the anti-corruption measures that Malaysia has taken domestically, fulfilling its obligations under the UNCAC, primarily through the Malaysian Anti-Corruption Commission Act 2009 which established the Malaysian Anti-Corruption Commission ("MACC"). The MACC was established in order to enhance effectiveness and efficiency of its anti-corruption efforts, he added. He stated that that Malaysia remained faithful in fulfilling its obligations under the UNCAC, could be understood from its involvement in the UNCAC Implementation Review Process both as a reviewing expert, having reviewed Iraq in 2011 along with Jordan and as the State reviewed, recently in February 2013 by Kenya and the Philippines and receiving positive feedbacks from the reviewing experts who welcomed the initiative of establishing various supervisory committees to oversee the implementation of the MACC Act 2009 as a means to foster the involvement of all stakeholders in the prevention and fight against corruption, he explained.
- 6.128 With respect to reduction of secrecy and improvement of transparency, he stated that Malaysia has established the Anti-Corruption Advisory Board, the Special Committee on Corruption, the Complaints Committee, the Operations Review Panel and the Consultation and Corruption Prevention Panel- who reported to Parliament as well as to the Prime Minister on the activities and performance of the MACC on a quarterly and annual basis with their advice, commented and made recommendations as regards the further improvement of the Commission in its mission in combating and preventing corruption and about abuse of powers and other related malpractice in the public as well as the private sectors. In addition to that, he pointed out that the MACC has also taken to publishing the details of persons convicted under the MACC Act 2009 in a 'name and shame' database available on its website, he elaborated.

- 6.129 As regards the asset recovery provisions of UNCAC, the delegate noted that asset recovery formed part of one of the most important component of the UNCAC. In this regard, he pointed out , the MACC Act 2009 provided for asset recovery in domestic cases. And that the Mutual Assistance in Criminal Matters Act 2002 (MACMA) provided assistance in asset recovery where the assets have been transferred abroad.
- 6.130 On international cooperation, the delegate pointed out that Malaysia has in place Extradition Act 1992 and Mutual Legal Assistance in Criminal Matters Act 2002, through which several bilateral agreements had been entered into. He stated that as a country which has been actively implementing the UNCAC, the delegate called upon all the Member States of AALCO to consider ratifying/acceding to the UNCAC. Finally, Malaysia also supported the proposal for the Secretariat of AALCO to consider the possibility of holding training programmes/expert meetings/seminars with relevant international Organizations working in this area on the various issues of concern under the UNCAC.
- 6.131 **The Delegate of India** at the outset stated that AALCO, being perhaps the only inter-governmental Organization that embraces two most populous continents of the world Asia and Africa, gave its Member States a lot of leverage and hence should be used in a collective manner to engage as a Group in forums such as the UN General Assembly, International Law Commission and in other multilateral fora.
- 6.132 In his view, corruption, which was a complex socio-economic and cultural phenomena, has an effect particularly on the economy of a developing country, as it hampers socio-economic development, negatively impacting the basic institutions of the country and hindering investment. Furthermore, it also diverted funds for the development and hurt the poor and undermined the government’s ability to provide basic services. The fight against corruption called for innovative and localized solutions, as well as the support of the global community.
- 6.133 Outlining the efforts of the Government of India in the area of anti-corruption, he stated that it took several steps and legislative measures in the recent past to facilitate efforts to secure effective international co-operation in tackling trans-border corruption. This included: the ratification of the United Nations Convention against Corruption in May, 2011 (which entered into force in June 2011), the introduction of “The Prevention of Bribery of Foreign Public Officials and Officials of Public international Organizations Bill, 2011” in the Indian Parliament.
- 6.134 He also made reference to the initiation of necessary amendments in the Indian Penal Code, in consultation with the State Governments, as regards private sector bribery; the Lokpal and Lokayukta Bill, aimed at bringing an ombudsman type body in India to eradicate corruption among public functionaries; the introduction of the “Judicial Standards Accountability Bill, 2011”, a mechanism for enquiring into complaints against judges of higher courts and the introduction of “The Public Interest Disclosure and Protection to Persons Making Disclosure Bill” i.e., Whistle Blower’s Bill in the Parliament, to protect honest officials from undue harassment and to establish a

mechanism for receiving complaints that related to allegations of corruption against any public servant. Finally he also brought attention to the fact that India was making preparations to be reviewed as part of the peer review mechanism of the UNCAC scheduled to be held in 2014.

- 6.135 **The Delegate of Republic of Korea** stated that corruption not only served as an obstacle to robust economic growth but it also stifled rule of law and fair competition in the market economy. He was of the view that the UNCAC represented an important milestone in the battle against corruption.
- 6.136 While stating that as a party to the UNCAC, Republic of Korea has been actively cooperating and coordinating with the international community and that it has put in place a robust domestic legal system to fight corruption and to implement the provisions of the UNCAC he added in this regard, implementing the provisions of UNCAC held the key to make a significant dent on corruption. On the Implementing Review Mechanism, he pointed out that Republic of Korea was reviewed in 2012 and was a reviewer in the year 2013.
- 6.137 Finally he also informed the delegates that his Country has been running joint anti-corruption programmes with Indonesia, Thailand and Mongolia based on the MOUs concluded with these countries.
- 6.138 **The Delegate of Nepal** at the outset stated that corruption posed the most serious threat to sustaining democracy and ensuring good governance and rule of law and has affected the South Asia region, particularly, Nepal. In his view, the link between corruption and other forms of crime, in particular organized crime and economic crime, including money laundering, represented a serious concern of international community, and was a transnational phenomenon. This in turn required a multidisciplinary approach and international cooperation to prevent and control corruption effectively.
- 6.139 On the United Nations Conventions Against Corruption (UNCAC), he stated that this was only legally binding universal anti-corruption instrument covering five main areas: prevention, criminalization and law enforcement measures, international cooperation, asset recovery, and technical assistance and information exchange. He pointed out that the UNCAC also dealt with different forms of corruption, such as trading in influence, abuse of power, and various acts of corruption in the private sector; and required States to take policy, legislative, institutional and others administrative measures in the domestic spheres and extradition, mutual legal assistance, transfer of sentenced persons, asset recovery, confiscation, return and disposal of assets, and exchange of information through international cooperation.
- 6.140 Outlining the measures Nepal has taken in the area of anti-corruption, he stated that Nepal, which was actively involved in the framing of the Convention had ratified the same on 23 February 2011, and had adopted a comprehensive Strategy and Action Plan in 2012 to facilitate the implementation of the Convention. Pointing out the institutional mechanism that Nepal has established domestically, he then referred to the creation of an

impartial and autonomous *Commission on Investigation of Abuse of Authority* which functions as an independent body to prevent and prosecute corruption. He also stated that A National Vigilance Centre, under the supervision of the Office of the Prime Minister and Council of Ministers and an independent, impartial and autonomous Auditor General to control and identify financial irregularities has also been established. He also made reference to the establishment of the Public Procurement Monitoring Office.

- 6.141 As regards the legislative measures taken by Nepal, he referred to the adoption of a number of laws to tackle the menace, which included the Corruption Control Act 2002, Commission on Investigation of Abuse of Authority Act 1991, Public Procurement Act, 2007, Bank and Financial Institutions Act, 2007, Good Governance (Management and Operation) Act, 2007, Financial Procedures Act, 1999, Special Court Act, 2002, Money Laundering Act, 2008, Extradition Ordinance, 2012 and Mutual Legal Assistance Ordinance, 2012. Finally he also proposed that AALCO Secretariat develop a model instrument to combat corruption.
- 6.142 **The Delegate of Kenya** at the outset stated that the fact that being a Party to the UNCAC has encouraged Kenya to adopt the best practices in the fight against corruption and to develop the relevant policies, and legislation, and to establish appropriate Agencies. Outlining the anti-corruption efforts of her country, she pointed out that the Constitution of Kenya, promulgated in 2010, entrenches Kenya's commitment to fight against corruption and that Article 79 provided for the establishment of an Independent Ethics and Anti-corruption Commission. The delegate further added that Chapter Six of the Constitution, which was dedicated to issues of Leadership and Integrity, has created benchmarks to ensure that public officers, especially State officers, uphold the highest standards of ethics, integrity and conduct. She also made reference to the legislation that Kenyan Parliament had enacted with a view to implementing the provisions of the Constitution : the Leadership and Integrity Act, 2012, the Ethics and Anti-Corruption Commission Act, 2011, the Commission on Administrative Justice Act, 2011. She clarified that all of these legislations set out an enabling institutional and legal framework to combat corruption and promote good governance in Kenya. She also added that the establishment of the Ethics and Anti-Corruption Commission, the Commission on Administrative Justice, and the reform of a number of institutions such as the Office of the Director of Public Prosecutions, and the Judiciary were some of the other measures that was taken by Kenya to strengthen the implementation of the anti-corruption laws and policies that the Government has put in place over the past ten years. She also brought attention to the fact that the Government of Kenya was working to ensure that the following laws are reviewed to address any gaps and weaknesses and to enhance their capacity to deal with the challenges the country has been facing in the fight against corruption: the Anti-Corruption and Economic Crimes Act (Cap. 65); the Public Officer Ethics Act (Cap. 183); the Ethics and Anti-Corruption Commission Act, 2011; the Leadership and Integrity Act, 2012; the Proceeds of Crime and Anti-Money Laundering Act, 2009, and the Mutual Legal Assistance Act, 2010.

Agenda Item: Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949

A Study on the “Statehood of Palestine under International Law” undertaken by the AALCO Secretariat

- 6.143 **H.E. Prof. Dr. Rahmat Mohamad, Secretary-General, AALCO** introduced the topic. He pointed out that issue has been on the agenda of the Organization since the year 1988 and over the past twenty-five years the Organization has devoted its attention to the numerous legal issues that touch the situation in the Middle East. He then referred to the mandate that was given at the Fifty First annual session of the Organization - to make a study concerning the legal requirements and principles that would determine the status of Palestine as a “State”, taking into account the relevant international law principles and stated that in tune with that mandate the secretariat has prepared a study on the “Statehood of Palestine under International Law”. He then referred to the contents of the study.
- 6.144 Dr. Mohamad stated that the illegal military occupation of Palestinian territories and the human rights abuses perpetrated on the people of Palestine has been continuing now for more than four decades in flagrant violation of the binding resolutions of the Security Council and the General Assembly. It was pointed out that even as peace talks have resumed after a significant length of time, Israel was continuing to pursue its expansionist policies. He then point out that time and again the international community has continuously asserted the illegal nature of these acts and the other acts that are in the nature of collective punishments. He also referred to the judgment of the International Court of Justice in *The Wall case* and the documentation of the human rights abuses in the OPT by the Special Committee appointed by the United Nations.
- 6.145 Dr. Mohamad Stated pointed out the importance of pursuing legal remedies to redress this situation and that the attempts made by Palestine to pursue action at the International Criminal Court had to be viewed in this context. However that the prosecutor had refused to take action for the reason that it doubted whether Palestine was a “State” was also pointed out. He then referred to the special study conducted by the Organization on the “Statehood of Palestine” and stated that there were compelling reasons to conclude that Palestine does satisfy the international requirements for Statehood: that it had a territory (though disputed in its extent), that it had a permanent population, that it had a government and has proved the ability to enter into relations with other States. The then stated that despite these criteria, Statehood was intimately connected to recognition and that Palestine has been recognized by the vast majority of the Member States of the UN. He also referred to the right of the Palestinian People’s right to self-determination in this context. He pointed out that the study prepared by the secretariat had covered these issues. He then drew the framework for deliberations: the violations of international law, particularly international human rights law and humanitarian law committed by the Israel in the Occupied Palestinian Territory (OPT); the role of the International Criminal Court

in redressing these violations and the role of the international community to pressurize Israel to comply with its international obligations.

- 6.146 **The Delegate of the State of Palestine** made a statement welcoming the study conducted by the Secretariat and outlined the concerns and the views of his country on this issue. He reiterated the importance of the publication, which according to him, would be a legal reference point of use at the global level and stated that all attempts would be put in to translate and publish the book in different languages. Expressing sympathy for AALCO's financial conditions, the delegation however requested for a waiver of the arrears for Palestine and stated that necessary actions would be taken on the coming years to clear of the arrears in the coming years.
- 6.147 **The Delegate of Japan** appreciated the new publication released by the Secretariat "A study on the Statehood of Palestine under International Law". He said that so far they had not had an opportunity to go through the same, however he felt it should be a useful study relevant to the agenda item Deportation of Palestinians and other Israeli practices which had been discussed by the Organization since 1989. He stated that the question was inseparably linked to the overall situation in the region. Japan he said had been supporting the efforts to seek the realization of lasting peace in the Middle East based on a two-state solution in which Israel and a future independent Palestinian State coexist in peace and for that it was necessary that direct negotiations resume between both the parties. Japan's basic position had always been that on the basis of UN Security Council resolutions 242 and 338 Israel should withdraw from the area it had occupied in 1967, Palestinian people's right to self-determination including establishment of an independent state should be recognized and that peace should be realized. On its part Japan would continue its efforts to push forward the peace process from political and economic side. He recounted the initiatives taken by Japan in that regard. In conclusion he deplored Israel's construction of further settlement activities which clearly went against the efforts of the parties involved to resume the peace process, and strongly called on Israel not to implement this plan. In conclusion he mentioned that Japan had voted in favour of the UNGA resolution granting non-member observer state status to Palestine which was adopted last year.
- 6.148 **The Delegate of the Islamic Republic of Iran** expressed the sincere appreciation of his delegation to the Secretariat for the special study on the "Statehood of Palestine under International Law". He pointed out that the question of Palestine has been one of the main challenges facing the International Community for over 60 years and that the crisis in the region was as a result of the Zionist occupation Palestine and that ignoring the legitimate right of the Palestinian people to self-determination would hinder the steps towards a just solution of the question.
- 6.149 The delegation condemned the Israeli Authorities for breach of International Human Rights and Humanitarian Law, some of which amounted to war crimes and pointed out reports by International Organizations that detailed the magnitude of these atrocities. He also referred to the recent proliferation of such incidents. The delegate stated that Iran had always approved the firm position of AALCO over the years in condemning Israel's

violations of international law in the Occupied Territories. The delegation stated that these violations must not be allowed to go unpunished and affirmed the application of the Geneva Convention in the Occupied Territories. The delegation called on the Member States to respond to this situation and ensure that all were equal before the law. The delegation further called on the Israel to comply with the judgment of the ICJ in *The Wall Case*. Affirming the right of the Palestinian people to exercise sovereignty over their occupied territory, it was pointed out that the ICJ had held that the existence of Palestinian people was no longer an issue and had affirmed their right to self-determination. Welcoming the decision of the United Nations General Assembly in 2012 to upgrade the Status of Palestine within the Organization as an “observer”, the need to further help the Palestinians remove the obstacles to the exercise of their right to Self-Determination.

- 6.150 **The Delegate of Indonesia** congratulated the Palestinian delegation for their upgraded status in the United Nations and complimented all the Member States for their effort and support to Palestine. The historic decision by the general Assembly to accord non-member Observer State status to Palestine was a strong testament to the support of the majority of UN Member States in supporting the struggle of Palestine to exercise its right to self-determination. He felt however that this support would have to continue till it got full statehood, in line with the principles outlined in relevant Security Council resolutions, the Road Map of the Quartet and the Arab Peace initiative. Indonesia ardently supported the two-state solution based on the conviction that an independent state of Palestine with rights and responsibilities would contribute to achieving a just, lasting and comprehensive peace in the Middle East.
- 6.151 **The Delegate of Mauritius** reiterated their deep commitment, consistent and unwavering support to the Palestinian people in the pursuit of their legitimate aspirations for freedom and equality as a sovereign member of the family of nations. He reaffirmed unequivocal solidarity with the Government and people of Palestine. He expressed his concern that the perennial question of Palestine remained unresolved and the Palestinians could not exercise their inalienable rights, including the right to self-determination without interference and the right to national independence sovereignty and sustainable development. In this respect he saluted the Palestinian leadership for submitting an application to the UN General Assembly, for the statehood of Palestine. Mauritius fully supported this initiative as they were convinced that full membership would correct an injustice that had lasted more than six decades and would result to a comprehensive, lasting and just resolution of the Israeli-Palestinian conflict.
- 6.152 **The Delegate of the Arab Republic of Egypt** stated that Egypt appreciates AALCO for its comprehensive study on the Palestinian issue, particularly because it provides a legal perspective to countries that have not yet decided to support the Palestinian State. He stated that Egypt supports the honorable Minister of Justice of Palestine’s statements on Israeli practices concerning human rights and the Al-Aqsa Mosque. He stated that Egypt would continue to support the Palestinian people in their aspirations towards an independent state along the borders decided in June 1967 with Jerusalem as its capital.

He denounced the Israeli settlements and the storming of the Al-Aqsa Mosque and urged AALCO Member States to continue rejecting Israel's decision to expand settlements and its punishing of the Palestinian people for their bid for international legitimacy in the United Nations.

6.153 **The Delegate of the Republic of South Africa** condemned the deportation of people by force and the disregard of international law especially with regard to the ongoing issue of the Palestinian Occupied Territories. The Government of South Africa noted with concern that since 1967 Israel had deported 1,522 Palestinian from the occupied territories. The delegate agreed that the continued illegal occupation of Palestinian territory was an obstacle to negotiations for peace and contrary to international law; this view was articulated in all interactions with the Israeli government, which regarded the area it occupied in June 1964 as "disputed territory". He stated that South Africa remained deeply concerned about Israeli settlement expansion, especially in East Jerusalem. The South African Government had called on Israel to abandon all settlement activities and shared the view that a two-state solution to the conflict was under increasing threat as Israeli settlement activity in the West Bank continues to make the separation of both people into two states increasingly difficult. Thereafter he recounted that various for a including the NAM Ministerial meeting in Sharm El Sheikh, Egypt on 10 May 2012 where South Africa had demonstrated its unwavering commitment to the call for a Palestinian State. It had also called for the lifting of the on-going Israeli blockade in Gaza as it amounted to collective punishment of the population of the enclave. He further added that South Africa did not support the Israeli practices relating to the detention of Palestinian children, the arbitrary use of administrative detention against Palestinians, the demolition of Palestinian homes, and other illegal Israeli practices. In conclusion he said that since 1994, successive governments had expressed strong support in regional and international forums for the Palestinian cause within the framework of a viable two-state solution.

6.154 **The Delegate of India** welcomed the special study conducted by the Secretariat. He stated that the issue was still to be resolved. He pointed out that the Palestine borders are well defined, that the people of Palestine have the right to Self-Determination.⁸

6.155 **The Delegate of People's Republic of China** expressed their appreciation for the special study conducted by the Secretariat and expressed firm support for the Palestinian Cause for Statehood with the 1967 borders and for membership in the United Nations and other International Organizations. Recalling that China has rendered to the Palestinian cause over the years, the delegate assured the Member States that her country would continue to play and active role in supporting the issue.

Half-Day Special Meeting on "Selected Items on the Agenda of the International Law Commission"

7.1 In conjunction with the Fifty-Second Annual Session of AALCO a Half-Day Special Meeting was held on "Selected Items on the Agenda of the International Law

⁸ The Detailed report of the Statement will be made a part of the Final Summary Report.

Commission”. The meeting deliberated upon three important topics, namely: (i) “Protection of Persons in the Event of Disasters”, and (ii) “Immunity of State Officials from Foreign Criminal Jurisdiction” and (iii) Formation and Evidence of Customary International Law”.

- 7.2 **Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO** introduced the agenda item and on behalf of the Organization, the SG paid tribute to late Ambassador Chusei Yamada and commemorated in grief, his contributions in the field of International Law as distinguished Member of the ILC from Japan and as Special Rapporteur on the topic “Shared Natural Resources”.
- 7.3 The SG reaffirmed the longstanding relationship between AALCO and the ILC. Considering the importance of the work of ILC, the AALCO had been statutorily mandated by its Member States to follow and exchange the views of its Member States on the agenda items of the ILC. It was reiterated that customarily, both the Organizations has been mutually represented at each other at their respective annual sessions. The SG mentioned that he had addressed the sixty-fifth session of ILC, on behalf of the AALCO, briefed the Commission about AALCO’s comments and observations on specific agenda items of ILC.
- 7.4 The Panelists for this special session, Sir Michael Wood, Member of the ILC and Special Rapporteur for the agenda item “Formation and Evidence of Customary International Law”; Mr. Narinder Singh, Member of the ILC from India who has served as former President of AALCO; and Dr. A. Rohan Perera, the member of the Commission from Sri Lanka and the Chairman of the Eminent Persons Group (EPG) of AALCO; were welcomed to the special half-day meeting. Briefly, he stated that the deliberations at the sixty-fifth session of the Commission focused on seven topics listed on the agenda of the ILC; namely, (i) Subsequent agreements and subsequent practice in relation to the interpretation of treaties, (ii) Provisional application of treaties, (iii) Most-Favoured Nation clause, and (iv) Obligation to Extradite or Prosecute (*aut dedere aut judicare*). However, with a view to have a focused deliberation on the work of the ILC; it was decided that the Special Meeting on “Selected Items on the Agenda of the International Law Commission” would be on three important topics of ILC: namely, (1) Protection of persons in the event of disasters; (2) Immunity of State officials from foreign criminal jurisdiction; and (3) Formation and evidence of customary international law.
- 7.5 The summary of the work of ILC on its agenda items, was pointed out. The topic “Treaties over Time” was changed to “Subsequent agreements and subsequent practice in relation to the interpretation of treaties” and the Commission considered the first report and dealt with (i) general rule and means of treaty interpretation, (ii) Subsequent agreements and subsequent practice as means of interpretation, (iii) Definition of subsequent agreement and subsequent practice as means of treaty interpretation, and (iv) Attribution of treaty-related practice to a State.
- 7.6 On “Provisional Application of Treaties”, the SG stated that the Commission considered the Memorandum of the Secretariat and the First Report of the Special Rapporteur. The

report discussed the procedural history of the “provisional application of treaties”, Raison d’être of provisional application of treaties; Shift from provisional “entry into force” to provisional “application”; legal basis for provisional application; Provisional application of part of a treaty; Conditionality, Juridical nature of provisional application Termination of provisional application. The focus of the study would be on Article 25 of the Vienna Convention on the Law of Treaties, 1969. The principal legal issues that arise in the context of the provisional application of treaties by virtue of doctrinal approaches to the topic would review the existing State practice.

- 7.7 The SG while referring to the topic “Most Favoured Nation”, stated that the Study Group on “Most-Favoured Nation clause” had working paper entitled “A BIT on Mixed Tribunals: Legal Character of Investment Dispute Settlements” by Mr. Shinya Murase. The catalogue of the provision was prepared by Mr. Donald McRea and Dr. A. Rohan Perera. The Study Group traced the contemporary practice and jurisprudence relevant to the interpretation of MFN clauses. In that connection, it had before it recent awards and dissenting and separate opinions addressing the issues under consideration by the Study Group.
- 7.8 The Report of the Working Group on “Obligation to Extradite or Prosecute (*aut dedere aut judicare*)”, consisted of detailed discussion of recent ICJ decision on Obligation to Extradite or Prosecute (2012) (Belgium v. Senegal). The decision was helpful in elucidating: Basic elements of the obligation to extradite or prosecute to be included in national legislation, Establishment of the necessary jurisdiction, Obligation to investigate, Obligation to prosecute, Obligation to extradite, and Consequences of non-compliance with the obligation to extradite or prosecute.
- 7.9 A Brief outline of the agenda items for the focused deliberation at the Special Half-Day Meeting was provided: (i) protection of persons in the event of disasters; (ii) immunity of State Officials from foreign criminal jurisdiction; and (iii) formation and evidence of customary international law. On “Protection of Persons in the Event of Disasters”, the Commission considered the sixth report of the Special Rapporteur Mr. Eduardo Valencia-Ospina. The report discussed about the historical development of concept of disaster risk reduction, prevention as a principle of international law tracing from human rights law and environmental law; international cooperation on prevention as dealt under bilateral and multilateral instruments; national policy and legislative framework on prevention, mitigation and preparedness; and proposal to include draft Article 16 on ‘duty to prevent’ and draft Article 5 *ter* on ‘Cooperation for disaster risk reduction’.
- 7.10 As regards the topic “Immunity of State officials from foreign criminal jurisdiction”, the Commission considered the second report which dealt with the Scope of the topic and the draft articles; the concepts of immunity and jurisdiction; the distinction between immunity *rationae personae* and immunity *rationae materiae*; and, the normative elements of immunity *rationae personae*. Moreover, three draft Articles 1, 3 and 4 on ‘scope of the present draft articles’, ‘persons enjoying immunity *rationae personae*’, and ‘scope of immunity *rationae personae*’, was adopted by the Commission.

- 7.11 On the topic “Formation and Evidence of Customary International Law”, he referred to two main documents which were considered by the Commission. First, the memorandum of the Secretariat on “elements in the previous work of the International Law Commission that could be particularly relevant to the topic Formation and Evidence of Customary Evidence of International Law; and second, First Report of the Special Rapporteur Mr. Michael Wood on the subject of Formation and evidence of Customary Evidence of International Law. The First report on the topic explained the scope and outcome of the topic which addresses whether to cover *jus cogens*; customary international law as source of international law under Article 38 of the Statute of the International Court of Justice. Also, reference was made to materials that would be considered during the study which focuses on (i) Approach of States and other intergovernmental actors, (ii) Case law of the International Court of Justice, (iii) Case law of other courts and tribunals, (iv) work of other bodies, and (v) Writings.
- 7.12 The SG explained the Comments of AALCO Secretariat on the focused agenda items: The concept of prevention as referred under ‘protection of persons in the event of disasters’ was a definitive concept in international law and a possible measure to reduce the disaster risk. However, he pointed out, pre-disaster preparedness even at the presence of national legislations and authorities would be very limited due to shortage of funding disaster management which remained a challenge for many of the developing countries. It would be more relevant to deal with technology transfer in terms of addressing post-disaster relief and rescue operations within the country. He stated that AALCO Secretariat was of the view that duty to offer assistance, previously discussed in the fifth report on this subject, must not be compulsory but voluntary and must respect the principle of non-intervention in the internal affairs of the state by assistance offering state.
- 7.13 With regard to applicability of *immunity rationae personae* beyond *Troika*, he stated that there was a need to identify a clear criterion in establishing such practice and also to consider the suggestion of enhancing cooperation between States in matters relating to invocation of immunity between the State exercising jurisdiction and the State of the official, in respect of the *Troika* as well as others. According to him the view of AALCO Secretariat conformed to the view of the Special Rapporteur to the extent that in the absence of compelling arguments to the contrary, the status quo with regard to the extension of protection offered by *immunity rationae personae* being limited to the “troika” be maintained.
- 7.14 He stated that the topic “Formation and Evidence of Customary International Law” was very significant to AALCO Member States and that for deriving the ‘attitude of states and international Organizations’, the Asian-African States must transmit their position on the same to the Commission. He stated that those approaches and materials would be very essential to evolve evidentiary practices on customary international law from the developing country’s perspective and such comments and country positions would contribute towards established state practices under international law. He also said that it is the strong view of the AALCO Secretariat that resolutions of International Organizations, especially AALCO, form part of customary international law and that the

statements presented at forums such as AALCO, depict the ‘state practice’ which should also be regarded as contributing to customary international law. The SG thanked the panellists for their participation and forthcoming presentations.

- 7.15 **Sir. Michael Wood, Member of the International Law Commission and Special Rapporteur to the topic “Formation and Evidence of Customary International Law”** made a presentation about the work of the International Law Commission with respect to this issue; the progress achieved ; and highlighted some of the important issues left for consideration.
- 7.16 Sir Michael Wood Thanked the Secretary-General for inviting him for the special half-day meeting on ILC. The panellist recalled the significant role played by the AALCO in the formative years of negotiations of the UNCLOS, law of state immunities and law of treaties. The panellist referred to the United Nations Convention on the Jurisdictional Immunities of States and Their Property, 2004, which one such significant contribution from the research and work of Special Rapporteurs from Asian Member State of AALCO, especially the work of Special Rapporteur Late Amb. Chusie Yamada from Japan. He briefly narrated the Draft Articles on Expulsion of aliens and the Guide to Practice on Reservations to Treaties wherein comments of Member States were pertinent and requested by the Commission.
- 7.17 The topic **Subsequent agreements and subsequent practice in relation to the interpretation of treaties** dealt with an important aspect of treaty interpretation. It covered subsequent agreements and subsequent practice both under article 31.3(a) and (b) (‘authentic interpretation’) and under article 32 VCLT (‘supplementary means of interpretation’). Five draft conclusions were adopted in 2013, with detailed commentaries. They were largely introductory but include some interesting points - For example - one issue addressed was the role of subsequent agreements and practice in relation to ‘evolutionary’ interpretation. He pointed out that On the topic there has not yet been great progress, though interesting discussion on the first report by the Special Rapporteur were held. The Commission added the topic **Protection of the environment in relation to armed conflict** to its current work programme, and appointed Ms Jacobsson as Special Rapporteur. The Commission added the topic **Protection of the atmosphere** to its current work programme, and appointed Professor Shinya Murase of Japan as Special Rapporteur.
- 7.18 On the topic **Obligation to extradite or prosecute (*aut dedere aut judicare*)**, a working group under Ambassador Kriangsak Kittichaiserie continued its consultations on where to go on this topic and that a rather detailed report was annexed to the ILC’s report, in the hope of eliciting reactions in the Sixth Committee on the future of the topic. The report described how the topic has developed, and analysed the ICJ judgment of 20 July 2012 (*Belgium v. Senegal*). He said that it does not deal with the question whether the obligation to extradite or prosecute was, already a rule of customary international law, at least in relation to certain crimes.

- 7.19 On “**Immunity of State officials from foreign criminal jurisdiction**”, stressed on the practical importance of the law on special missions, both under the 1969 New York Convention and under customary international law. He said that there have been a number of recent cases in this field, including one in the English High Court which confirmed the customary law status of the immunity of persons on special missions.⁹ This was of practical importance because it meant that senior officials may enjoy personal immunity from foreign criminal jurisdiction even if they do not fall into that narrow circle of high State officials who enjoyed immunity *ratione personae* by virtue of their office. On the Commission’s work on this topic, the endorsement in draft article 3 of the so-called ‘troika’ (Heads of State, Heads of Government and Ministers for Foreign Affairs) stated that Troika enjoyed immunity *ratione personae*. He pointed out that that was a compromise, as there remained one or two members of the Commission who thought foreign ministers should have such immunity (and that the ICJ was wrong in the *Arrest Warrant* case. Certain other members expressed concern that it should not be regarded as confined to the three (but include, for example, Defence Ministers and Ministers of Commerce and International Trade).
- 7.20 On “**Protection of Persons in the Event of Disasters**”, the Special Rapporteur, Valencia-Ospina, produced a lengthy sixth report on disaster risk reduction. It dealt with the need to take steps to avert disasters before they occur, and to make preparations so that they can be dealt with as effectively as possible if and when they do occur. The report contained a great deal of information, and drew on a wealth of texts and documents.
- 7.21 On **Formation and evidence of customary international law**, he said that there was an agreement that the outcome of the Commission’s work on that topic should be practical. He noted that “The aim [was] to provide guidance for anyone, and particularly those not expert in the field of public international law, faced with the task of determining whether or not a rule of customary international law exists.” He stated that it seemed to be widely accepted that it was not the Commission’s task to seek to resolve purely theoretical disputes about the basis of customary law and the various approaches to be found in the literature as to its formation and identification. He quoted the ILC Secretariat memorandum : “we are looking at the approach to the identification of the rules of customary international law and the process leading to their formation.”¹⁰ The Commission decided that they should not deal with *jus cogens* within the present topic.
- 7.22 Among other things the report dealt with the relationship between customary international law and other sources of international law. The relationship between customary international law and treaties was a matter of great practical importance for the topic. It was a reasonably well-understood question, on which there was a wealth of case-law and writings. Less obvious, less studied, perhaps less well understood was the relationship between customary international law and general principles of law within the meaning of Article 38.1(c) of the ICJ Statute. The report sets out at some length, with examples, the range of materials that the Commission may need to take into account in

⁹ *Khurts Bat* 2011.

¹⁰ Para. 12.

the course of our work. He stated that while illustrating their richness and diversity, it also tries to highlight the general approach to the formation and evidence of customary international law which they reveal and that it was noteworthy that virtually all of the materials stressed the need for both State practice and *opinio juris*. The International Court of Justice, in particular, “has clearly and constantly held [...] that customary international law was formed through State practice accompanied by *opinio juris*.”¹¹ . He stated that if one studied the case-law of the International Court of Justice, in particular the *North Sea, Nicaragua, and Germany v. Italy* cases, it was clear that the Court viewed the two elements, State practice and *opinio juris*, as essential for the formation of a rule of customary international law.

- 7.23 The panellist referred to the importance of AALCO Member States in framing approaches at the ILC to ensure that the voice of Asian and African States would be heard loud and clear in the progressive development and codification of international law and that an important part of this was the contribution of Commission members from AALCO Member States, and the contribution of AALCO Member States themselves to the work of the Commission. The Asian and African members of the Commission had undoubtedly made, he pointed out, and continued to make, a valuable contribution to the work of the Commission. He stated that their presence was essential if the Commission was to be truly representative.
- 7.24 **Mr. Narinder Singh, Member of the International Law Commission from India,** began by noting the importance of the ‘United Nations Convention on Jurisdictional Immunity of States and their Property’. Mr. Singh also noted that this Convention was adopted after extensive negotiation both in the ILC and the Sixth Committee of the UN and that AALCO contributed extensively in both forums. He mentioned that India had signed but not ratified the Convention, but also that India has already applied many of the provisions in practice and that Indian Courts have considered provisions of the Convention while arriving at decisions.
- 7.25 Mr. Singh stated that under the law in India any person wishing to file suit against Government officials or property needed Government permission to do so. While considering whether to grant or deny such permission, the Indian government looked at practices around the world. Courts have agreed that trends in International Law must be considered when deciding whether to grant permission and thus the Courts have examined in detail the provisions of the Convention. Mr. Singh hoped that all the AALCO states would ratify the Convention.
- 7.26 With respect to other relevant ILC topics such as reservation to treaties, draft articles to state responsibility and so on, Mr. Singh recommended that States should submit comments wherever necessary and participate actively in discussions.
- 7.27 Coming to the topics under consideration, Mr. Singh noted the politically important subject of “Immunity of state officials from foreign criminal jurisdiction”. He noted that the divergent opinions within the ILC and some members highlighted the issue of

¹¹ Report, para. 55

impunity for serious crimes and advocated restricted application of immunity to higher officials, while other members have emphasized that the basic purpose of immunity was to provide adequate independence to high officials for them to perform their functions. They also referred to historical practice to justify immunities. The ILC has agreed that the ‘troika’ enjoys full immunity (both *rationae materiae* and *personae*). Mr. Singh also noted that some have questioned personal immunity granted to Ministers for Foreign Affairs on the ground that complete immunity can only apply to the Heads of State and Heads of Government. Others have looked at classification based on function rather than post.

- 7.28 Mr. Singh then moved on to the topic of “protection of persons in the event of disasters”. He noted that in the draft articles that have been adopted, the ILC has recognized the concerns of members and Sixth Committee States. Particularly they have asserted that the State on whose territory the disaster occurred was the State which must decide on the course of action to deal with the after-effects and assistance to victims. The Articles also recognized that it was the affected State that decides whether it needs assistance from foreign States as well as the nature and extent of this assistance.
- 7.29 **Dr. Rohan Perera, Former Member, ILC, Sri Lanka**, spoke about an important agenda item of the International Law Commission, relevant to African and Asian States, namely, the ‘Immunity of State Officials from Foreign Criminal Jurisdiction’. He pointed out that the former Special Rapporteur had put in a considerable amount of work concerning the general orientation of this complex and sensitive topic. He further pointed out that the States have responded highlighting the need for a cautious approach and the need to approach the topic from a *Lex Lata* perspective and maintain the distinction between codifying the *Lex Lata* and making proposals for the progressive development of the law – *Lege Ferenda*. Referring to the work of the current Special Rapporteur, he pointed out that at present there were 6 draft Articles and it was important to clarify the scope of the topic and the draft articles. He also pointed out that the most important contribution so far was the distinction made between *Immunity Rationae Personae* and *Immunity Rationae Materiae* as a frame of reference, the efforts made to identify the normative content of the each of these kinds immunity and the establish the legal regime applicable to them. Referring to Draft Article 3, which defines these two, Dr. Perera pointed out that *Immunity Rationae Personae* applied to functionaries who represented State in its international relations and *Immunity Rationae Materiae* applied to the Acts that they performed in the discharge of their mandate, described as “Official Acts”. He stated that significant efforts were required and was being put in to identify the scope of persons who could invite personal immunity. He pointed out that based on the *Arrest Warrant Case* and *Case Concerning Certain Mutual Assistance In Criminal Matters Case* the Special Rapporteur has concluded that personal immunity applied to the *Troika*, in recognition of their functions as representing the State as this was what promotes and facilitates international relations. Dr. Perera then referred the reasons given by the Special Rapporteur in reaching this conclusion. With respect to the issue of extension of *Immunity Rationae Personae* beyond *Troika*, it was pointed out by him that the Special Rapporteur had observed that creating an exclusive list of such “other officials” was not possible and that this would be determined by the government or legal department of

each State. However, he noted that the Commission, in its previous sessions had noted that current international relations have undergone a fundamental change and now involves actions of functionaries other than the Finance Minister. He pointed out that, the commission was however, also aware of the need to avoid a large scale expansion of the eligible categories, as this would then create a zone of impunity under the cover of immunity. The commission was, according to him, moving towards identifying and defining the applicable criteria, based on which the “other categories” could be determined. The criteria for this are that the representation of State in international relations must be an indispensable part of the duties of the functionary. He also pointed out the need for further clarification of the principles of functional necessity & representative character of the official duty and exercise of powers intrinsic to the State.

- 7.30 In the ensuing deliberations the delegations from **Islamic Republic of Iran, India, Japan, Thailand, Malaysia, South Africa and People’s Republic of China** made their statements and raised questions to the panellists, which was followed by their’ answers.

Second Half-Day Special Meeting on “Extraterritorial Application of National Legislations: Sanctions Imposed against Third Parties” Jointly Organized by the Government of India and the AALCO

Abstract of the Special Study on “Unilateral and Secondary Sanctions: An International Law Perspective”

- 8.1 A Half-Day Special Meeting on “Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties” in conjunction with the Fifty-Second Annual Session of AALCO was organized by the AALCO Secretariat. The distinguished panellist for the Half-Day Special Meeting were Dr. A. Rohan Perera, Former Member of International Law Commission from Sri Lanka; Prof. Vera Gowlland-Debbas, Professor of International Law, Geneva Institute of International Studies, Geneva; Prof. M. Gandhi, Professor and Executive Director, Centre for International Legal Studies, Jindal Global Law School; and Dr. R. Rajesh Babu, Associate Professor, Indian Institute of Management-Calcutta (IIM-C).
- 8.2 **Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO (SG)** welcomed everyone to the Special Half-Day Meeting on the topic of “Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties” which was organized by the AALCO in collaboration with the Government of India. The SG formally welcomed and thanked all the panelists for taking time from their busy schedule to be a part of the discussion. He said that the agenda item entitled, “Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties” was first placed on the provisional agenda of the Thirty-Sixth Session at Tehran, 1997, following a reference made by the Government of the Islamic Republic of Iran. Thereafter, the item had been considered at the successive sessions of the Organization. At the Fifty-First Annual Session of AALCO (Abuja, Nigeria) vide resolution AALCO/RES/51/S 6, the Secretariat was mandated to undertake a Special Study on the ‘legal implications of the application of unilateral sanctions on third parties’. The SG informed that the Secretariat was proud to announce

that the Study, entitled “**Unilateral and Secondary Sanctions: An International Law Perspective**”, has been completed and would be released soon. An executive summary of the Study, as well as the contents page of the Study, have been distributed.

- 8.3 The SG stressed that the topic unilateral sanctions was of particular importance to AALCO as few of its Member States have been the targets of unilateral sanctions in the recent past. Indeed, the topic was also of great relevance to the wider community of developing nations and the community finds itself the target of such sanctions.
- 8.4 He explained that term ‘Sanction’, in international affairs meant a penalty imposed against a nation to coerce it into compliance with international law or to compel an alteration in its policies in some other respect. Legitimacy of sanctions under international law was applicable only to ‘multilateral sanctions’, which were applied as per Chapter VII of the Charter of the United Nations. The Security Council was vested with the ‘primary responsibility’ for maintenance of international peace and security under the UN Charter.
- 8.5 On the other hand, unilateral sanctions often refer to economic measures taken by one State to compel a change in policy in another State. The most widely used forms of economic pressure are trade sanctions in the form of embargoes and/or boycotts, and the interruption of financial and investment flows between sender and target countries. However, while the common conception of unilateral sanctions was as a tactic by which a State refuses to maintain trade relations with a country whose policies it disagreed with, or with whom it had a dispute, these unilateral sanctions also gave rise to secondary sanctions. These secondary sanctions were imposed against third parties, either States or non-State entities, who were outside the jurisdiction of the sanctioning State, in order to prevent them from trading with the ‘target State’. Essentially, this result in the sanctioning State enforcing its own domestically enacted legislations against entities those are outside of its territory and jurisdiction, thus resulting in a violation of some of the most basic principles of international law.
- 8.6 The SG briefly introduced the Study conducted by the AALCO Secretariat that dealt in detail with the violation of international law by Unilateral and Secondary Sanctions and these violations which could be broadly divided into 4 areas. The first chapter provides the genesis of the subject within AALCO; how sanctions have been listed under international law; and the political economy of sanctions regime. It also briefly describes the concepts like extraterritorial jurisdiction, unilateral sanctions, secondary sanctions and collective or multilateral sanctions.
- 8.7 Chapter 2 argues that Unilateral and Secondary Sanctions are impermissible under International Law. The foundational principles that regulated and governed international relations were stated in Charter of the United Nations and the 1970 Declaration of Friendly Relations and Cooperation among States. These included the principle of sovereign equality of states, principle of non-use of force, the principle of self-determination of people, the principle of non-intervention into the internal and external affairs States, the principle of peaceful settlement of international disputes, the principle

of cooperation among states, and the principle of fulfilling in good faith obligations assumed under international law.

- 8.8 He said that Chapter 3 attempted to highlight the adverse effects of financial sanctions that are imposed against financial institutions especially the Central Bank of an economy, which hampered the effective functioning of these institutions in developing countries. The role played by the central banks in achieving development in developing countries was very pivotal. The central bank had a crucial function towards developing the banking and financial system of the country in order for ensuring well-organised money and capital markets within the economies. The main contention was that since Central Bank had major role and function in regulating financial system of the country, they should be granted immunity and their properties shall not be attached.
- 8.9 Explaining about Chapter 4, which attempts to elaborate on the adverse effects and the illegality of unilateral and secondary sanctions in the context of the international trade agreements and freedom of trade and navigation, he highlighted the core principles which were violated. The SG stated that the violation of the core principles of international trade law vis-à-vis multilateral trade agreements and bilateral trade treaties which analyzes the impact of the secondary sanctions on third parties on a country-specific basis. The Chapter suggests possible measures for the developing countries against the imposition of unilateral and secondary sanctions; in other words, the possible legal options for the third countries to respond to the Secondary Sanctions.
- 8.10 Chapter 5 focused on the list of recognized human rights that were adversely affected by sanctions and was limited to some of the more pertinent rights, particularly in view of the fact that the targeted states were developing and third-world states. The rights discussed would include: the right to self-determination; the right to development; and, the right to life, with particular attention paid to the right to food and the right to health and medicine. While a classification of the importance of rights was obviously not possible, these particular rights were chosen for their relevance to the developing world and because of the massive problems caused by their violation.
- 8.11 Response of the international community being an important aspect, he said Chapter 6 addressed the issue. The chapter would deal with the opinions voiced by some of the international Organizations, as well as their Member States in the forum provided by the Organization through resolutions and statements of the Organizations. These include the United Nations General Assembly (UNGA), the Asian-African Legal Consultative Organization (AALCO), the Group of 77 (G-77), and the Non-Aligned Movement (NAM); which form part of in-depth analysis for evolving evidentiary customary international law.
- 8.12 By way of conclusion, the SG reiterated that the Study contends that unilateral and secondary sanctions were against international rule of law and promotes self-interest. Unilateral and secondary sanctions affect trade relations of the target country as well as its trading partners; affect the economic and banking system besides inflicting suffering and deprivation of basic human rights on innocent civilian population of the target

- countries. These sanctions disrupt international trade and navigation and were impermissible and unjustifiable under international law.
- 8.13 Further, apart from theoretical discussions in the Study regarding international law and unilateral sanctions, illustrations of the practical aspects and real-world consequences of unilateral sanctions regimes would be done through the use of the case study of certain countries who have been the targets of sanctions; primarily Iran.
- 8.14 The SG said that he has been able to highlight the salient points relating to AALCO's Special Study and that had given a brief overview of some of the pertinent issues relating the topic of "Extraterritorial Application Of National Legislation: Sanctions Imposed Against Third Parties" in an effort to set the stage for the discussion that were to follow.
- 8.15 **Dr. Rohan Perera, Former Member, International Law Commission, Sri Lanka,** made a presentation outlining some of the important concerns for Asian and African States with respect to this topic. The distinguished panelist referred to the topic of unilateral sanctions from an international law perspective. Dr. Perera said that only multilateral sanctions were permitted under international law under Chapter VII of the Charter of the UN. However, unilateral sanctions were impermissible under international law because it violated basic principles of international law that included the principle of sovereign equality of states, principle of non-use of force, the principle of self-determination of people, the principle of non-intervention into the internal and external affairs States, the principle of peaceful settlement of international disputes, the principle of cooperation among states, and the principle of fulfilling in good faith obligations assumed under international law. Moreover, the law relating to state responsibility was also very crucial for the study on this subject. Henceforth, the he appreciate the initiatives of the Secretary-General and the Secretariat for undertaking the study which he highlighted would be very significant in the field of international law.
- 8.16 **Prof. Vera Gowlland-Debbas, Professor of International Law, Geneva Institute of International Studies, Geneva**
- 8.17 The distinguished panelist made a presentation on "Sanctions and State Responsibility". The Panelist focused her presentation on individual state accountability for the imposition of economic measures in particular, though not solely, under international human rights law. She examined this in light of the relationship between unilateral measures and collective measures. The Speaker noted that unilateral measures have been regulated through prior conditioning or subsequent control by international institutions, as for example trade measures under the law of the WTO or the European Union. Also, under the general law of state responsibility as codified by the ILC in its Articles, a series of constraints have been placed on the procedural and substantive aspects of countermeasures.
- 8.18 The Speaker recalled the US's long history of the use of economic sanctions as a tool of foreign policy going back to the 19th century. Therefore most US Sanctions are not an invocation of the 1945 US United Nations Participation Act which authorizes the US's

executive to carry out Security Council sanctions adopted on the basis of a determination of a threat to the peace. US Sanctions are also far more comprehensive than sanctions mandated by the UN Security Council. For instance US sanctions mandate sanctions on Iran's energy and general financial sector, which the Security Council sanctions do not.

- 8.19 The speaker stressed that justifiable countermeasures need to meet certain conditions laid down in the ILC Articles particularly. 1) It an injured state taking proportional countermeasures (unilateral sanctions) in response to a prior internationally wrongful act; 2) it was taking action on behalf of another state in a matter where it has a legal interest in compliance; or, 3) it was enforcing obligations protecting general or collective interests.
- 8.20 Prof. Gowlland-Debbas also spoke of the development of constraints on collective measures, especially in the light of more value-oriented international law, which has seen the emergence of the concept of obligations protecting the fundamental interests of the international community and individual human rights law gaining centre stage. The speaker also mentioned that recent reform proposals emphasized links between collective security and respect for human rights and mentioned that sanctions measures should be terminated once their objectives have been achieved. Targeted sanctions also raise due process questions as, when enforced against individuals, function as penalties without any mechanism for review. Prof. Gowlland-Debbas also asserted that no sanction can violate peremptory norms of general international law. However, the shift in focus from comprehensive to targeted sanctions along with the institution of an ombudsman for individuals on black lists addresses some of these problems.
- 8.21 Finally, the panelist, addressed state responsibility in the enforcement of collective sanctions and asserted that the UN Secretariat has said that Member States are responsible for the way that they enforce sanctions. However, Prof. Gowlland-Debbas reiterated that it was important to hold Member States responsible, either individually or jointly with the UN for conduct flowing from a decision of the UN Security Council in order to provide some remedy for victims.
- 8.22 **Prof. M. Gandhi, Professor and Executive Director, Centre for International Legal Studies, Jindal Global Law School, presented a paper** entitled “**Implications of unilateral and secondary sanction on financial institutions: An international law perspective.**” He noted that since ancient times States have deployed economic sanction as a weapon of international diplomacy to bring change in the attitude of sanctioned state. He pointed out that the United States has unilateral sanctions programs relating to several countries and regions, including those in the African and Asian regions. he noted that sanctions range from embargos on trade and financial sanctions to penalizing the leadership and close associates of enemy regimes and specific measures imposed on designated terrorist, drug trafficking and weapons proliferating States and entities. While most of these sanctions are *primary* sanctions, i.e. restrictions placed on citizen companies or individuals from doing business with certain specified countries or groups, Secondary sanctions, such as secondary trade boycotts and foreign company divestment, involve additional economic restrictions designed to inhibit non-U.S. citizens and

companies abroad from doing business with a target of primary U.S. sanctions. Such sanctions, he pointed out, are broadly claimed to be illegally extraterritorial in their purpose and effects.

- 8.23 He then referred to the protests raised by EU against the sanctions imposed by the United States on Iran, Cuba and Libya, owing to their trade interests being affected and the firm commitments made by EU to ensure “free movement of capital” and reduction of trade barriers. He also referred to the *Siberian Pipelines Case*, wherein the European Union sought to resist secondary sanctions imposed by the United States, prohibiting United States Companies from financing or providing technical assistance for building a pipeline from the former Soviet Union to Western Europe. In this case, he pointed out, following protests from the European Union, and the refusal of a Dutch Court to enforce the sanctions against a Dutch subsidiary of a United States Company, the latter retracted the application of sanctions.
- 8.24 Dr. Gandhi then made a brief description of the Iran and Libya Sanctions Act and the responses of the major trading partners of the United States to the Act – that the Act was “extraterritorially” illegal. He then pointed out the larger political costs incurred by pursuing such sanctions. He stated that the political controversy about secondary sanctions was complicated by questions about their legality under international law and that the majority view was that secondary sanctions are an impermissible “extraterritorial” extension of U.S. jurisdiction that impinges on the rights of neutral states to regulate their own citizens and companies. He then outlined some of the major academic responses that regarded sanctions as illegal and as an intrusion upon the sovereignty of the neutral State. Dr. Gandhi then outlined the sanctions imposed by United States against Iran’s banks, throttling its smooth functioning. Referring to the complicated and frequently changing ambit of sanctions related measures, he pointed out that the complex U.S. framework for secondary sanctions was no longer properly understood as sanctions “against” Iran, but as U.S. sanctions against third-country companies that does business with Iran.
- 8.25 He then referred to some of the instances of judicial scrutiny of these measures by courts outside the United States. Some judgments of the General Court of the European Union annulling the entry of Iranian Banks in EU Sanctions list for the reason that there was insufficient evidence to impose sanctions and for not affording those banks an opportunity to be heard. He also noted that neither the Council nor the Commission invoked confidentiality reasons for not presenting evidence against the banks. He also discussed the proceedings of a similar nature before the Supreme Court of the United Kingdom.
- 8.26 Summing up, he stated that the law was very clear that unilateral secondary sanctions targeting financial institutions are violative of international law as it interfered with sovereignty of State and illegally extraterritorial in purpose and effect. He further pointed out that it affected the free movement of capital and that they were impermissible under International law and that the recent judgment of the Courts in the United Kingdom

and Europe pointed towards the lack of transparency in the processes by which sanctions are imposed.

- 8.27 **Dr. R. Rajesh Babu, Associate Professor, Indian Institute of Management-Calcutta (IIM-C)** delivered a presentation entitled “Unilateral Sanctions in International Trade Law”. He reiterated that the WTO was founded on the bedrock of the principle of non-discrimination. This includes the MFN status, restraint from imposing higher tariffs and so on. Therefore, any unilateral sanction was in direct conflict with the non-discrimination principle. The WTO itself can only impose sanctions after authorization by the Dispute Settlement Body (DSB). These sanctions must meet requirements of temporariness, prospectiveness and proportionality. However the WTO, under Article XX, does provide for permissible restrictions in order to protect public health, the environment, public morals or the conservation of exhaustible natural resources. The chapeau to this was that such measures cannot be arbitrarily discriminatory or a disguised restriction on international trade.
- 8.28 Dr. Rajesh Babu also discussed the two Tuna-Dolphin cases between US and Mexico, where one of the key questions was whether one country can dictate environmental regulation terms to another i.e. extraterritorial application of national laws. While the first case, which was decided in 1991, rejected extraterritorial measures completely, the second case in 1994 did not reject extraterritoriality outright but preferred to fit it into a narrow interpretation with respect to Art XX. Dr Babu also discussed the Shrimp-Turtle cases between the US and India, Malaysia, Pakistan and Thailand. In this instance, the US was found to have violated the chapeau to the exceptions under Art XX. Dr. Babu also maintained that the threshold for Article XX was high.
- 8.29 Dr. Babu also discussed Art. XXI and posited that there was no chapeau for national security exceptions. The scope of Art XXI was examined through the lens of the US-Nicaragua case of 1985 where the ICJ noted that there should be a genuine nexus between security interests and trade action taken.
- 8.30 Dr. Babu then discussed the US’s Libertad Act, which imposed sanctions against Cuba, and the Helms-Burton Act, which imposed sanctions against Iran. These legislations instituted primary and secondary sanctions wherein the Acts extended the territorial application of the embargos to apply to foreign companies trading with Cuba. And allows US nationals to bring legal action against foreign companies and forced internationally operating companies to choose between the US and the targeted country. The European Council in 1996 initiated a complaint against the US claiming *inter alia* that the secondary sanctions were violations of GATT Articles I, III, V, XI and XIII. The EC eventually suspended their complaint as long as European companies were not prosecuted under the Helms-Burton Act. Dr. Babu explained the “Blocking Statute” enacted by the European Council, which prohibited EU companies from complying with the US sanctions. Similarly UK and Mexico also passed legislations that made complying with the sanctioning acts illegal.

- 8.31 In conclusion, Dr. Babu asserted that while trade must take into account genuine national security concerns, secondary sanctions cannot be justified under the WTO. The self-judging application of the national security exception remains a formidable bar to WTO review of the merits of these unilateral sanctions. He stated that there was indeed a danger that this provision may allow governments industries merely by invoking the exception without a threshold or "reasonableness" criterion. The practice till date suggest that the Member States has been reluctant to invoke this provision, because they don't want any external body to judge 'essential security interest' which purely falls under State Sovereignty.
- 8.32 After the presentations by the Panellists, the Delegations from **Japan, India, Republic of South Africa, Democratic People's Republic of Korea, People's Republic of China, the Islamic Republic of Iran, Malaysia and Sudan** made statements, which were followed by a brief question and answer session.

Third Meeting of the Delegations of AALCO Member States

Agenda Item: Report on the Work of the AALCO's Regional Arbitration Centres

- 9.1 **Mr. Feng Qinghu, Deputy Secretary-General of AALCO** introduced the agenda item "AALCO's Regional Arbitration Centres" as contained in the Secretariat Document AALCO/52/HEADQUARTERS (NEW DELHI) /2013/ORG 3 which consists of the Reports of the Directors of Tehran, Cairo and Lagos Regional Arbitration Centres. The AALCO Secretariat would be circulating the report of the Director of the Kuala Lumpur Regional Centre for Arbitration (KLRC), which was received after the printing of the report.
- 9.2 The DSG said that AALCO's association with commercial arbitration and alternate dispute resolution dates back to 1970's when there were hardly any permanent arbitral institutions in the Asian-African region. AALCO was prompted to realize the need to develop and improve the procedure for international commercial arbitration, the necessity for institutional support, develop necessary expertise and creative environment conducive to conduct arbitration in the Asian and African regions. The DSG recalled that the AALCO Regional Arbitration Centres, were the result of the AALCO's Scheme for the Settlement of Disputes in Economic and Commercial Transactions and the decision to establish Regional Centres for International Commercial Arbitration at the Doha Session in 1978.
- 9.3 Therefore, in accordance with the scheme, the Regional Centres for Arbitration at Cairo, Arab Republic of Egypt for the African region; and at Kuala Lumpur, Malaysia for the Asian region were established in 1978 and 1979, respectively. Later two more such Centres were established in Lagos, Nigeria in 1989 and Tehran, Islamic Republic of Iran in 2003. AALCO has also concluded an agreement with the Government of the Republic of Kenya in 2007, to establish its Fifth Regional Arbitration Centre in Nairobi to cater to the needs of the Eastern and Southern parts of the African continent.

- 9.4 The DSG appreciated the role of Regional Arbitration Centres as very significant since they mark a difference in the arbitration culture within these regions. The DSG emphasized that it was an honour to have these Regional Arbitration Centres under the auspices of AALCO, as these Centres were one of the most successful ventures of the AALCO. The DSG congratulated the Directors of the Regional Arbitration Centres and thanked their respective Host Governments for hosting these Centres. He highlighted that in the year 2013, an agreement with the Government of Malaysia was signed regarding the renewal of the Kuala Lumpur Regional Centre for Arbitration (KLRCA). A ceremony was organized at the KLRCA Headquarters, where the agreement was signed between Malaysian Government and His Excellency Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO. The DSG urged Member States to continue their continued support to the Centres; and for their successful activities which would be impossible without the active support and cooperation of the Host Governments.
- 9.5 **Mr. Sundra Rajoo, Director, Kuala Lumpur Regional Centre for Arbitration (KLRCA)** made a power point presentation outlining the activities undertaken by the KLRCA the previous year. Mr. Rajoo stated in his report that the staff number of KLRC was twenty two, which according to him was the ideal number of staff required for the efficient working of the Organization. Mr. Rajoo then drew the attention of the Member States to some of the new Staff Policy guidelines that were issued in the year 2012. Mr. Rajoo then presented the details concerning the number of matters, the categories and the policies of the Organization that applied to each of these categories.
- 9.6 Mr. Rajoo then presented the details concerning the innovative products that were offered by KLRCA in the year 2012: First on the list was the KLRCA Fast Track Rules, 2nd Edition, which aimed at providing faster and better quality results at moderate costs. He then outlined some of the key features of the Rules. The second important change was the revisions made to the KLRCA Arbitration Rules, to bring them in line with the current commercial arbitration practices and collate the necessary internal administrative practices of the Centre. The Centre also launched the KLRCA i-Arbitration Rules, the world's first Islamic Arbitration Rules that adopted the United Nations Commission on International Trade Law Arbitration Rules. He then pointed out that KLRCA was in the process of introducing a new set of Rules for sports & maritime arbitrations.
- 9.7 Mr. Rajoo then outlined the efforts of the Centre with respect to Capacity Building and Knowledge Transfer on ADR among the legal fraternity. He stated that road shows were held around the country to raise awareness about the Construction Industry Payment and Adjudication Act, 2012, along with free public talks and lectures on the same. He also outlined the other measures taken for raising awareness amongst the public, government servants and persons belonging to the legal fraternity. The numerous seminars and conferences organized by the KLRCA or in which the KLRCA had participated was also enumerated.
- 9.8 Mr. Rajoo then outlined the strategic partnerships that were forged by KLRCA with academic institutions, international Organizations, chambers of commerce, Law firms and other international arbitral institutions. He also pointed out that partnerships have

been forged with the International Council of Arbitration for Sport, and outlined the activities proposed to be undertaken jointly by the two Organizations. Mr. Rajoo informed the Member States that the Malaysian Government was in negotiations with the Permanent Court of Arbitration at The Hague for KLRCA to be an alternative hearing centre for the PCA in the region. He then stated that a diploma course on international commercial arbitration was offered by the KLRCA and that it had evoked good response with participants from numerous countries. He then outlined the co-operation agreements entered into between KLRCA and other academic and professional institutions for promoting teaching and research.

- 9.9 Mr. Rajoo informed the audience that the Malaysian Government had approved the budget for the renovation works of a heritage building that was to be converted as the new premises of the KLRCA. He also presented before the audience the details regarding the progress of constructions and stated that the new premises were expected to be completed by 2014.
- 9.10 **Mrs. Eunice Oddiri, Director, Regional Centre for International Commercial Arbitration-Lagos (RCICAL), Federal Republic of Nigeria** outlined the activities and functions undertaken by the RCICAL the previous year. She stated that ten new cases, relating to banking, construction, maritime, energy/power, technology, supply and joint venture agreements were added to the existing work load of the Centre. She then referred to a litigation between one of the parties to an arbitration and the Centre, before the Nigerian Courts regarding the construction of a clause in the arbitration agreement with respect to the appointment of arbitrators and the decision of the Nigerian Court therein that the Centre was the only body that had the jurisdiction to appoint and constitute the Arbitral Tribunal. Mrs. Oddiri then outlined the progress of various matters before the tribunal.
- 9.11 Mrs. Oddiri then outlined the participation of the Centre in various Arbitration Related Events held at Dublin, Vancouver etc. She also outlined the various measures taken to improve associations with the Nigerian legal fraternity and some of the proposed Nigerian Laws which were to be of interest to the Centre. Mrs. Oddiri also outlined the various collaborative ventures entered into with professional & academic institutions, both local and international to improve the services offered by the Centre. It was also stated that the Centre was now offering Mediative-Conciliatio, a new hybrid form of ADR to potential clients.
- 9.12 Mrs. Oddiri also outlined the Promotional activities undertaken by the Centre and the proposed future activities of the Centre, such as Mock Arbitration for Practitioners, Quality Training Session on Arbitration for Law officers and Conferences on Arbitration at the regional level, to be held at different countries.
- 9.13 The Report of the Tehran Regional Arbitration Centre (TRAC) and the Cairo Regional Centre for International Commercial Arbitration (CRCIA) have been presented in AALCO/52/HEADQUARTERS SESSION (NEW DELHI)/2013/ORG 3.

Agenda Item: Report on the AALCO's Centre for Research and Training (CRT)

- 9.14 **Mr. Feng Qinghu, Deputy Secretary-General of AALCO** introduced the Organizational Agenda Item, "Report on the Centre for Research and Training of the AALCO". In his statement, he gave a brief account of the establishment of the CRT. The CRT, which has become an integral part of the Secretariat of the Asian-African Legal Consultative Organization (AALCO), evolved from the AALCO's "Data Collection Unit", which was established based on the proposal made by the Government of Republic of Korea at the Twenty-Eighth Session of AALCO held in Nairobi in 1989. The Data Collection Unit was renamed as the Centre for Research and Training in the Fortieth Annual Session of AALCO in the Year 2001. This marked, as envisaged, a new chapter in the efforts of the Member States towards undertaking research activities, as well as training programmes, within the AALCO. The mandate was further strengthened at the Abuja Session, Nigeria in the Year 2012. The Deputy Secretary-General gave a brief account on the activities undertaken by CRT in the period under review on the following heads, namely Capacity building programmes, publications, seminars and workshops. Particularly he drew attention to the "Seminar on Climate Change: Post-Kyoto International Climate Policy", (16 January 2013), Legal Experts Meeting convened in order to Commemorate the 30th Anniversary of the United Nations Convention on Law of the Sea (UNCLOS) (15 March 2013). He also drew attention to the Special Lecture on 'Working of AALCO' that delivered by H.E. Prof Dr. Rahmat Mohamad, the Secretary-General of AALCO at the AALCO Headquarters on 28th August 2013. The programme had been specially arranged for officials from the Ministry of Foreign Affairs of Malaysia, he explained.
- 9.15 While noting that the web-site of AALCO (as part of the Revitalization Plan of AALCO) has been upgraded significantly in recent months, he noted that in the period 2013-14, the AALCO Secretariat has got plans to identify new ways and means to strengthen its existing programs and to introduce new programmes into AALCO's research agenda.

Report of the Secretary -General on the recommendation of the Eminent Persons Group (EPG)

- 9.16 H.E. Dr. Rahmat Mohamad presented the report of the recommendations of the Eminent Persons Group. The 3rd Meeting of the EPG had taken place on the 8th of September and Tuesday the 10th of September. The Secretary General read out the important recommendations made by the EPG concerning the Organizational and Substantive matters of AALCO along with recommendations concerning matters such as increase in the Membership of the Organization, Strengthening the AALCO – ILC relationship and Scheduling of the Annual Sessions of AALCO.
- 9.17 One of the important recommendations made was concerning modalities to implement the decisions of the EPG. It was recommended that the Secretary General was to separately communicate the recommendations of the EPG to the Member States and seek their responses. The Secretary General informed the Member States that the

recommendations of the EPG would be communicated to them separately and called on Member States to respond to these recommendations.

Adoption of Message of Thanks to the President of India

- 9.18 The Secretary-General on behalf of the Member States of AALCO read out the Message of Thanks to the President of India. The same was unanimously adopted.

“Excellency,

On behalf of all the Delegations of the Member States and Observers attending the Fifty-Second (2013) Annual Session of the Asian-African Legal Consultative Organization (AALCO), I would like to extend the following message as a token of our heartfelt gratitude and respect to the Government and People of the Republic of India:

“We, the participants in the Fifty-Second Annual Session of the Asian-African Legal Consultative Organization, would like to seize this opportunity to convey our profound gratitude and respect to Your Excellency, and through you to your esteemed Government and the people of the Republic of India, for graciously helping and assisting to host the Fifty-Second Session of AALCO in this beautiful city of New Delhi. Excellency, I thank the Government of India on behalf of AALCO, and on my own behalf, for supporting in hosting this Session.

Your Excellency, we are aware that India attaches great importance to the Organization and has magnanimously contributed the headquarter buildings. India has always actively participated in the activities and work programme of the Organization, be it substantive, administrative or financial matters, ever since the inception of AALCO as the Asian Legal Consultative Committee (ALCC) in 1956. India has always taken a keen interest in the deliberations during the Annual Sessions and has undertaken to strengthen the agenda and the role of the Organization among the comity of nations.

Your Excellency would be pleased to know that a spirit of constructive dialogue and cooperation amongst attending delegations marked this Session, thus enabling us to take crucial decisions on the Organizational as well as substantive matters. Amongst the many factors which paved the way for the success of the Session, one of the prime ones was the excellent cooperation from the Government of India which contributed significantly towards the excellent achievements of our deliberations.

In this beautiful city of New Delhi, famous for its picturesque juxtaposition of history and modernity, we the delegates of the Fifty-Second Annual Session of AALCO would like to place on record our sincere gratitude for the full cooperation that the Government of India has extended to AALCO and its Member States for hosting the Annual Session with warmth, graciousness and ability.

Please accept, Your Excellency, the assurances of our highest respect and consideration and may the Almighty bless the endeavours of your great country.”

Thank You.”

Venue of AALCO’s Fifty-Third Annual Session

- 9.19 The President of the Session invited Member States to come forward to host the next Annual Session. However, in the absence of no Member State coming forward to host the Session, the President requested the Secretary General to confer with the liaison officers with respect to this issue and decide on the venue for the next year. The President pointed out that as per Statutory Rule 10 (2) of the AALCO Statute, the Secretariat was prohibited from hosting two consecutive Annual Sessions and hence it was necessary that one of the Member States host the next Annual Session. The President further requested the delegates to get in touch with their capitals and inform them about this issue.

Adoption of Resolutions and Summary Report of the Session

- 9.20 The following Resolutions were adopted at the Third Meeting of the Delegations of AALCO Member States on 22 June 2012:

Organizational Matters

- RES/52/ORG 1 Report of Secretary-General on Organizational, Administrative and Financial Matters
- RES/52/ORG 2 AALCO's Budget for the Year 2014
- RES/52/ORG 3 Report on the AALCO’s Regional Arbitration Centres
- RES/52/ORG 4 Report on the Centre for Research and Training of the AALCO

Substantive Matters

- RES/52/S 2 Law of the Sea (*Deliberated*)
- Suggestions and a reservation to the resolution pertaining to the “Law of the Sea” were forwarded *inter alia* by the Government of Turkey, which have been duly reflected in the text of the resolution.
- RES/52/S 3 The Status and Treatment of Refugees. (*Non Deliberated*)
- RES/52/S 4 The Deportation of Palestinians and Other Israeli Practices Among Them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949 (*Deliberated*)

RES/52/S 5	Legal Protection of Migrant Workers. (<i>Non Deliberated</i>)
RES/52/S 7	International Terrorism (<i>Non Deliberated</i>)
RES/52/S 8	Establishing Cooperation against Trafficking in Women and Children (<i>Non Deliberated</i>)
RES/52/S 9	International Criminal Court: Recent Developments (<i>Non Deliberated</i>)
RES/52/S 10	Environment and Sustainable Development (<i>Deliberated</i>)
RES/52/S 11	Challenges in Combating Corruption: The Role of the United Nations Convention against Corruption (<i>Deliberated</i>)
RES/52/S 12	Report on the Work of UNCITRAL and Other International Organizations Concerned with International Trade Law (<i>Deliberated</i>)
RES/52/S 13	WTO as a Framework Agreement and Code of Conduct for World Trade(<i>Non Deliberated</i>)
RES/52/S 14	Expressions of Folklore and its International Protection (<i>Non Deliberated</i>)
RES/52/SP 1	Resolution on the Special Meeting on “Selected Items on the Agenda of the International Law Commission” (<i>Deliberated</i>)
RES/52/SP 2	Resolution on the Special Meeting on “Extra-Territorial Application of National Legislation: Sanctions Imposed Against Third Parties” (<i>Deliberated</i>)

Consideration of the Summary Report

- 9.21 The Draft Summary Report of the Fifty-Second Annual Session of AALCO was placed for consideration of the Member States. The Member States Adopted the Summary Report. Thereafter, they were requested to send in their written comments on the same to the Secretariat within one month, after which the same would be finalised.

Fifth and Concluding Session

- 9.22 A vote of thanks was proposed by the following Member States: The Delegations from **Brunei Darussalam, The State of Palestine, Kenya, State of Qatar and Mauritius** expressed their gratitude and thanked the President, the Vice – President, The Secretary -

General and the Secretariat for the smooth conduct and efforts taken for the Organization of the Fifty-Second Annual Session.

- 9.23 **Dr. Neeru Chadha**, The President of the Fifty-Second Annual Session thanked the delegates of the Member States who had attended the Session. She expressed her happiness that the deliberations over both the substantive and Organizational matters could be completed in the most amicable manner, displaying convergence of views and interest between the Member States of Asia and Africa. She pointed out that this was achieved despite having a heavy agenda. She further congratulated the AALCO Secretariat for the able accomplishment of the mandate of the Fifty-First Session and for bringing out useful publications. She further thanked the Vice-President, Ms. Hema Odhav for her support and the Secretary General for his inputs in all pertinent matters. The President also thanked all members of the AALCO Secretariat for the meticulous work done for the preparations of all the documents adopted and for taking care of the needs of the delegates. She stated that the Secretary-General was lucky to have such efficient and hardworking officers and staff. She also thanked the Deputy Secretaries-General for their inputs. The President further thanked the EPG and the various panellists for their inputs and comments and the observers non-Member States, the International Organizations and the Regional Arbitration Centres for their participation. The President once again thanked the Member States for having entrusted her with that responsibility and assured them the best of her efforts to ensure that AALCO was revitalized and strengthened and that she would work with the Secretary General in order to accomplish that mandate. She then declared the Fifty-Second Annual Session as closed.

The Fifty-Second Annual Session was thereafter adjourned.