AALCO/54/BEIJING/2015/SD/S12

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REPORT ON THE WORK OF UNCITRAL AND OTHER INTERNATIONAL ORGANIZATIONS IN THE FIELD OF INTERNATIONAL TRADE LAW

Prepared by
The AALCO Secretariat
29 C, Rizal Marg,
Diplomatic Enclave, Chanakyapuri,
New Delhi – 110 021
India

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REPORT ON THE WORK OF UNCITRAL AND OTHER INTERNATIONAL ORGANIZATIONS IN THE FIELD OF INTERNATIONAL TRADE LAW♦

I. Introduction

A. Background

1. The issues concerning International Trade Law were first included in the agenda of the Asian-African Legal Consultative Organization (AALCO) at the Third (Colombo) Session in 1960, pursuant to a reference made by the Government of India. At the Fourth Session, 1961 (Tokyo), the topic "Conflict of Laws relating to Sales and Purchases in Commercial Transactions between States or their Nationals" was considered by the Member States.

2. The United Nations Commission on International Trade Law (UNCITRAL), which was constituted by the United Nations General Assembly resolution No. 2205 (XXI), held its First Session in New York in 1968 and the major items which were selected for study and consideration by the UNCITRAL included the topic of "International Sale of Goods". Its mandate is to remove legal obstacles to international trade by progressively modernizing and harmonizing trade law. It prepares legal texts in a number of key areas such as international commercial dispute settlement, electronic commerce, insolvency, international payments, sale of goods, transport law, procurement and infrastructure development. At the Second Session of the UNCITRAL in 1969, the representatives of Ghana and India suggested that the then Asian-African Legal Consultative Committee (AALCC) should revive its consideration of the subject of the International Sale of Goods so as to reflect the Asian-African view point in the work of the UNCITRAL. Upon that request, the then AALCC considered it as priority item at the Eleventh Session held in Accra (Ghana) in 1970.

3. Until 2003, the Organization considered the agenda entitled, "Progress Report concerning the Legislative Activities of the United Nations and other Organizations in the field of International Trade Law". At the Forty-Third (Bali) Session, 2004, the title had been changed to the "Report on the Work of UNCITRAL and other International Organizations in the Field of International Trade Law" so as to focus more upon the work of UNCITRAL. It is also worth mentioning here that AALCO's interest in the work of UNCITRAL has been enhanced by the success of the regional arbitration centres that it has established in places such as Tehran, Kuala Lumpur, Lagos, Nairobi and Cairo. That these regional centres too have started relying on the work of UNCITRAL is well-known. For example, the Kuala Lumpur Regional Centre for Arbitration (KLRCA) has adopted the new UNCITRAL Arbitration Rules 2010. In an effort to streamline deliberations and outcome at the Fifty-Fourth Session, this brief exclusively deals with the implications of International Investment Agreements (IIAs) on Member States. A large number of arbitrations on IIAs are held under UNCITRAL Rules.

4. In the last two decades, States across the globe have signed hundreds of International Investment Agreements in an effort to attract foreign direct investment (FDI) by creating a more stable and transparent investment environment for foreign investors. An International Investment

♦ The focus of the brief is on International Investment Agreements (IIAs) and their implications.

Agreement is a type of treaty between States that addresses issues relevant to cross-border investments, usually for the purpose of protection, promotion and liberalization of such investments. Most IIAs cover foreign direct investment (FDI) and portfolio investment, but some exclude the latter. States concluding IIAs commit themselves to adhere to specific standards on the treatment of foreign investments within their territory. IIAs further define procedures for the resolution of disputes should these commitments not be met. The most common types of IIAs are Bilateral Investment Treaties (BITs) and Preferential Trade and Investment Agreements (PTIAs). International Taxation Agreements and Double Taxation Treaties (DTTs) are also considered as IIAs, as taxation commonly has an important impact on foreign investment.[1]

5. IIAs, particularly BITs, contain two key innovations that make them a popular investment promotion device. First, they provide investors with a clear set of investment protection standards that have the status of international law. Second, they offer investors direct access to a binding, neutral form of investment dispute resolution to enforce their treaty rights. Together, these innovations operate to restrain host state governments in how they treat foreign investors and investments. There is substantial uniformity in the core content of most BITs. Virtually all BITs address four substantive areas: "the scope and definition of foreign investment; admission and establishment; national treatment in the post-establishment phase; . . . guarantees and compensation in the event of expropriation . . . and dispute settlement."[2]

6. BITs provide foreign investors with powerful new rights to protect their investments against expropriation and other forms of discrimination and the ability to sue governments directly through an innovative form of dispute settlement known as investment treaty arbitration. In the last few years, there has been an explosion in the number of investment treaty arbitration claims filed against developing nations, challenging a wide array of sensitive government regulations and routinely seeking millions and even billions of dollars in damages.[3]

7. Given this, there are new concerns over how well-prepared developing nations are to cope with the challenge of litigating these claims. Investment treaty arbitration is a complex form of litigation that demands much in the way of resources and legal expertise. Due to financial and administrative barriers, many developing nations do not have the legal expertise within their government service to defend investment treaty claims. As a consequence, most developing nations are forced to hire one of a handful of international law firms who charge the same premium market rates that wealthy individual investors and corporations pay for their services. Meanwhile, developing nations who cannot hire outside counsel are left to contend with scattered and incomplete legal authority resources with no organized legal assistance from the international community. Developing nations' unequal access to legal authority and expertise threatens to undermine the legitimacy of the investment treaty arbitration process.

8. As major capital-exporters, developed nations sign investment treaties primarily to protect the investments abroad of their nationals and companies. Developing nations, meanwhile, sign investment treaties in an effort to promote FDI. The basic assumption behind an investment

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[1] *See* United Nations Conference on Trade and Development (UNCTAD) work programme on IIAs (http://www.unctad.org/iia), offering various databases and publications on the subject

[2] For a detailed discussion, *see* RUDOLF DOLZER & CHRISTOPH SCHREUER, PRINCIPLES OF INTERNATIONAL INVESTMENT LAW, (2008).

[3] *See* Eric Gottwald, *Leveling the Playing Field: Is it Time for a Legal Assistance Center for Developing Nations in Investment Treaty Arbitration*, 22 AM. UNIV. INT'L L. R. 237 (2007).

treaty is that the existence of a treaty with clear, enforceable rules will attract more FDI by offering a more stable investment environment. With the decline in lending from commercial banks and official aid programs during 1980s and 1990s, FDI has become the most important source of external capital for developing nations, offering a host of potential benefits, including job creation, technology transfers, and integration into global networks of production.

9. However, by signing an IIA a State assumes obligations that may be detrimental in the long-run. As capital importers, developing countries bear most of the risk of investor litigation inherent in signing an IIA. Moreover, IIA obligations can lead to a loss of "national policy space" for host states by creating legal obstacles that restrict its ability to change key economic and regulatory policies in the future.

10. Further, the investor-State dispute settlement (ISDS) mechanism was designed for depoliticizing investment disputes and creating a forum that would offer investors a fair hearing before an independent, neutral and qualified tribunal. It was seen as a mechanism for rendering final and enforceable decisions through a swift, cheap, and flexible process, over which disputing parties would have considerable control. However, the actual functioning of ISDS under investment treaties has led to concerns about systemic deficiencies in the regime. In many cases foreign investors have used ISDS claims to challenge measures adopted by States in the public interest (for example, policies to promote social equity, foster environmental protection or protect public health). Questions have been raised whether three individuals, appointed on an *ad hoc* basis, can be seen by the public at large as having sufficient legitimacy to assess the validity of States' acts, particularly if the dispute involves sensitive public policy issues.

It is this context that the implications of investment treaties to AALCO Member States are to be discussed.

B. Issues for focused deliberation at the Fifty-Fourth Annual Session of AALCO

(1) Existing framework in which in which International Investment Treaties are negotiated
(2) Huge cost of litigation and compensation and its effects on the host governments
(3) Rights of private investors and home State.
(4) Shrinking policy space for the host governments and its effects on sovereignty
(5) Suitability of investor-State dispute settlement (ISDS) mechanism stipulated in IIAs.

II. International Investment Agreements and Host States

11. As mentioned earlier, with the proliferation of IIAs, an increasing percentage of global FDI is protected by one or more investment treaty and foreign investors have more opportunities to sue governments. Prior to the advent of investment treaty arbitration, investors had very limited options for redressing violations of international law that negatively impacted their investments. Since investors had no standing under customary international law to bring a claim directly against a state, their only recourse was to pursue the matter within the host nation's courts or

attempt to persuade their own government to espouse their claim directly with the host government.

12. In order to address these limitations, investment treaties contain investor-state arbitration clauses which allow investors to sue states directly to enforce their treaty rights. This means that foreign investors can directly enforce treaty rights without first having to convince a government bureaucracy to espouse their claim and avoid the risk of their dispute getting consumed by the dictates of larger foreign policy considerations

13. The significance of this innovation in dispute settlement should not be overlooked. At the WTO, by way of comparison, only states have a cause of action against other states for violations of trade law. This mechanism provides investment treaties with a practical significance by allowing investors to enforce their treaty rights by initiating compulsory arbitration with a binding, enforceable award. Investors are increasingly initiating arbitration to redress alleged violations of investment treaty rights by host governments.

14. The number of investment treaty arbitration disputes filed at the World Bank Group's International Centre for Settlement of Investment Disputes (ICSID) and other arbitration fora has exploded in recent years.[4] In 2013, investors initiated at least 57 known investor-State dispute settlement (ISDS) cases pursuant to international investment agreements (IIAs). This comes close to the previous year's record high number of new claims. Of the 57 new cases, 45 were brought by investors from developed countries and the remaining by investors from developing countries. The vast majority of these arbitrations have been either administered by ICSID or held on an ad-hoc basis under the United Nations Commission for International Trade Law (UNCITRAL) Rules.[5]

15. The rise in investment treaty claims can be attributed to several factors. With the long-term rise in FDI and the increasingly dense network of BITs, there are simply more opportunities for disputes to arise that are covered by an investment treaty. Moreover, the increased frequency of larger arbitration awards will likely encourage more investors to utilize investment treaty arbitration clauses. Most investment treaties provide investors with a choice between arbitration conducted by ICSID or *ad-hoc* arbitration administered under the UNCITRAL arbitration rules." There are important differences between these two forms of arbitration with regard to the transparency and supervision of the proceedings. As an institution specifically designed to handle investor-state disputes, ICSID offers facilities to conduct the arbitration proceedings and support during the proceedings from its staff. Ad-hoc arbitration under the UNCITRAL rules, on the other hand, takes place on a de-localized and unsupervised basis. Investors sometimes prefer ad-hoc arbitration under the UNCITRAL rules because it offers more flexibility to structure the proceedings, enhanced privacy, and the possibility of interim damages. As net importers of global capital, developing nations have borne the brunt of the burden of defending the growing number of investment treaty claims.

[4] UNCTAD (2012), *Investment Policy Framework for Sustainable Development*, available at http://unctad.org/en/PublicationsLibrary/webdiaepcb2012d6_en.pdf.
[5] UNCTAD (2014), *Recent Developments in Investor State Dispute Resolution*, IIA Issue Note.

III. Cost of Litigation, Lack of Expertise and Shrinking Policy Space

16. According to U. N. Conference on Trade and Development (UNCTAD) data, nearly two-thirds of known investment treaty claims have been filed against developing nation governments.[6] Defending investment treaty arbitration claims poses a number of challenges for developing nations, including the cost of litigation, the possibility of a large adverse award, and even new limitations on its freedom to implement government policies deemed inconsistent with treaty obligations. The wave of investor lawsuits has far-reaching implications for developing nations' freedom to regulate in the public interest. Investors have turned to investment treaty arbitration to challenge a wide variety of government measures in a number of sensitive areas,-including the provision of water, electricity, waste disposal, and sanitation services to the public. In at least nine cases, foreign investors that provided water and sewage in developing countries have filed investment treaty claims to resolve their differences with state and local regulatory authorities.

17. Also, developing states are in dire need of experts in investment arbitration. Expertise in this field is generally limited to a close-knit community of lawyers and arbitrators who work for one of a handful of major international law firms with specialty practices in this area." Hiring one of these firms offers a number of significant advantages. First, lawyers in these firms litigate investment treaty arbitration cases more frequently than other parties, gaining valuable experience and professional contacts in the process. Second, the firm offers significant "institutional memory" with regard to past arbitration awards, the relevant arbitration rules, arbitrator selection, and general litigation tactics. Some partners and lawyers in the major international firms have served as arbitrators in other cases, providing unique insight into the process. It has been found that knowledge gained from participating in past arbitrations, including those that go unpublished or settle before an award, can provide extra leverage in persuading governments-particularly those with minimal experience in the arbitration process-to settle investor claims.

18. Notably, a firm will have the best possible access to both published and unpublished sources of legal authority via inhouse law libraries, support staff, and informal professional networks. Due to a lack of expertise and resources within their own government service, many developing nations are forced to hire outside counsel to defend investment treaty claims. These firms may demand fees matching those charged to their other clients, including private corporations, wealthy individual investors, and more prosperous governments.

19. Not all developing nations hire outside counsel, whether for financial or tactical reasons. This may mean that the task of defending an investment treaty claim falls to government attorneys without the experience or resources to mount a vigorous defense. In some cases, this can lead to shocking disparities in the quality of legal representation between investor claimants and developing nation defendants.

[6] *Supra* note 3.

IV. Transparency in Arbitration— Developments in UNCITRAL

20. Another major concern is a lack of transparency at every stage of the arbitration process. Without the consent of the parties to the arbitration-the investor and the state there is generally no public access to the pleadings, evidence, hearings, or even the tribunal award One of the major barriers to finding relevant precedent is a lack of public knowledge that an investment treaty dispute exists: of the major arbitral fora, only ICSID maintains a public registry of claims. The year 2014 witnessed significant multilateral developments geared towards increased transparency in Investor-State Dispute Settlement (ISDS). These include the coming into effect of the United Nations Commission on International Trade Law (UNCITRAL) Rules on Transparency[7] and the adoption of the Convention on Transparency in Treaty-based Investor-State Arbitration, which will be opened for signature later in 2015.

21. The Transparency Rules represent a fundamental change from the status quo of arbitrations conducted outside the public spotlight. This new rules provide a perfect balance between the public interest in an investor state arbitration, and the interest of the disputing party, in order to ensure fair and efficient resolution of the dispute. It is expected to make investment arbitration more open to public participation and scrutiny, and will hopefully bring in better transparency in the system. Indeed, confidentiality is often a valued feature of commercial arbitration. However, in investor-State disputes, the arbitration involves a State and often issues of public interest, as well as taxpayer funds. Acknowledging the fundamental role of the public as a stakeholder in investor-State disputes, UNCITRAL undertook the drafting of the Transparency Rules to provide a level of transparency and accessibility to the public of these disputes that is to date unprecedented. The Rules are also innovative in their approach to balancing the public interest in an arbitration involving a State, and the interest of the disputing parties in a fair and efficient resolution of their dispute.

22. The new rules is applicable to all investment arbitrations commenced under the UNCITRAL Arbitration Rules, which is pursuant to a treaty, providing for the protection of investments or investors provided the Treaty is concluded after April 1, 2014. It will also be available, in investor-state arbitrations, initiated under rules other than the UNCITRAL Arbitration Rules or in ad hoc proceedings, if the disputing parties agree towards \its applicability. Further, the New Rules go a step further than ICSID Arbitration Rules, and also provide for public access to key documents prepared during the course of proceedings (including parties' submissions), except in limited instances where it is paramount to protect confidential or protected information. Further, the definition of confidential or protected information has been kept wide, in order to provide adequate safeguards to this effect.

23. Given the link between the UNCITRAL Arbitration Rules and the application of the Rules on Transparency, a new version of the UNCITRAL Arbitration Rules (with new article 1, paragraph 4 as adopted in 2013) (the "UNCITRAL Arbitration Rules 2013"), also came into effect on 1 April 2014. Such a revision (namely, the inclusion of a new paragraph 4 of article 1) ensures that the Rules on Transparency are clearly incorporated into the latest version of the

[7] UNCITRAL undertook work on transparency in treaty-based investor-State arbitration as from 2010, and adopted in 2013 the Rules on Transparency in Treaty-based Investor-State Arbitration (Transparency Rules).

UNCITRAL Arbitration Rules, to provide for utmost clarity in relation to the application of the Rules on Transparency in disputes arising under future treaties and initiated under the UNCITRAL Arbitration Rules. In all other respects the UNCITRAL Arbitration Rules 2013 remain unchanged from the UNCITRAL Arbitration Rules (as revised in 2010).

24. Later, the United Nations General Assembly adopted the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration on 10 December 2014. The General Assembly authorized the opening for signature of the Convention at a signing ceremony to be held on 17 March 2015 in Port Louis, Mauritius, upon which the Convention would be open for signature. The Convention constitutes the efficient and flexible mechanism by which the Transparency Rules will apply to disputes arising under the existing 3,000 bilateral and multilateral investment treaties currently in force. Together with the Rules on Transparency, the Convention contributes to the enhancement of transparency in treaty-based investor-State arbitration, and to the dissemination of knowledge about peaceful dispute resolution proceedings which affect critical public sectors such as health, water and sanitation, transportation and agriculture –thereby engaging and empowering individuals and com m unities directly affected by them.

V. ISDS: Its Shortcomings and State Responses

25. The shortcomings of the ISDS system have been well documented. Concerns include: (i) an expansive use of IIAs that reaches beyond what was originally intended; (ii) contradictory interpretations of key IIA provisions by ad hoc tribunals, leading to uncertainty about their meaning; (iii) the inadequacy of ICSID's annulment or national judicial review mechanisms to correct substantive mistakes of first-level tribunals; (iv) the emergence of a "club" of individuals who serve as counsel in some cases and arbitrators in others, often obtaining repeated appointments, thereby raising concerns about potential conflicts of interest; (v) the practice of nominating arbitrators who are likely to support the position of the party appointing him/her; (vi) the secrecy of many proceedings; (vii) the high costs and considerable length of arbitration proceedings; and (viii) overall concerns about the legitimacy and equity of the system.

26. In the recent past, States have started reacting to the challenges emerging from the current ISDS system. Some countries have terminated their investment treaties and withdrawn from ISDS, or certain aspects of it – an option that raises a number of complex and novel legal questions. For example, in September 2012, South Africa informed the Belgo–Luxembourg Economic Union, through a notice of termination, that it would not renew the existing bilateral investment treaty, which was set to expire in March 2013. South Africa further stated its intent to revoke its treaties with other European partners, as most of these treaties were reaching their time-bound window for termination which, if not used, would trigger the automatic extension of these agreements for 10 years or more.[8] Others have worked to improve the treaty language that is at the origin of controversial claims or challenged ISDS awards once they have been issued.

[8] Publication by a spokesman of South Africa's Department of Trade and Industry. available at http://www.bdlive.co.za/opinion/letters/2012/10/01/letter-critical-issues-ignored.

As a further alternative, States can take a more proactive attitude when it comes to the interpretation of IIA obligations. In particular, they can foster a more predictable and coherent reading of treaty terms.

VI. Comments and Observations of the AALCO Secretariat

27. The growing engagement of policymakers, academics, businesses and civil society with ISDS issues has produced a variety of suggestions for reform:

• Reining in the growing number of ISDS cases by (i) promoting the use of mediation and conciliation instead of arbitration; (ii) implementing national dispute prevention policies (e.g. ombudsman offices); (iii) setting a time limit for bringing investor claims (e.g., three years) or (iv) more carefully circumscribing possible bases for claims.

• Fostering legitimacy and increasing the transparency of ISDS proceedings by allowing public access to relevant documents, holding public hearings, and accepting amicus curiae briefs.

• Dealing with inconsistent readings of key provisions in IIAs and poor treaty interpretation by (i) improving the applicable IIA provisions, thus leaving less room for interpretation; (ii) requiring tribunals to interpret treaties in accordance with customary international law; (iii) increasing State involvement in the interpretative process (e.g. through joint interpretation mechanisms); and (iv) establishing an appellate body to review awards.

• Improving the impartiality and quality of arbitrators by establishing a neutral, transparent appointment procedure with permanent or quasi-permanent arbitrators and abolishing the system of unilateral party appointments.

• Reducing the length and costs of proceedings by introducing mechanisms for prompt disposal of "frivolous" claims and for the consolidation of connected claims, as well as caps on arbitrator fees.

• Assisting developing countries in handling ISDS cases by establishing an advisory facility or legal assistance centre on international investment law and increasing capacity-building and technical assistance.

• Addressing overall concerns about the functioning of the system, including the lack of coherence between awards, by establishing a fully fledged international investment court with permanent judges to replace ad hoc arbitrations under multiple rules, or by requiring the exhaustion of local remedies.

28. The conclusion of bilateral investment treaties peaked in the 1990s. Fifteen years later the inclination to enter into such treaties has decreased. This has brought the international investment regime to a juncture that provides a window of opportunity to undertake systemic improvement. As agreements reach their expiry date, a treaty partner can opt for automatic prolongation of the treaty or notify its wish to revoke a treaty. This would give treaty partners an opportunity to revisit their agreements, with a view to addressing inconsistencies and overlaps in the multi-

faceted and multi-layered investment treaty regime. Moreover, it presents an opportunity to strengthen the regime's development dimension.

Countries' current efforts to address challenges reveal four different paths of action:

(i) Maintaining the status quo, largely refraining from changes in the way they enter into new IIA commitments;

(ii) Disengaging from the IIA regime, unilaterally terminating existing treaties or denouncing multilateral arbitration conventions;

(iii) Implementing selective adjustments, modifying models for future treaties but leaving the treaty core and the body of existing treaties largely untouched; and

(iv) There is the path of systematic reform that aims to comprehensively address the IIA regime's challenges in a holistic manner.

29. While each of these paths has benefits and drawbacks, the Secretariat is of the opinion that systemic reform could effectively address the complexities of the IIA regime and bring it in line with the sustainable development imperative. Such a systemic reform process of the IIA regime could follow a gradual approach with carefully sequenced actions: (i) defining the areas for reform, (ii) designing a roadmap for reform, and (iii) implementing it at the national, bilateral and regional levels, with facilitation at multilateral level. Pursuing systematic reform means designing international commitments that promote sustainable development and that are in line with the investment and development paradigm shift. With policy actions at all levels of governance, this is the most comprehensive approach to reforming the current IIA regime. This path of action would entail the design of a new IIA treaty model that effectively addresses the challenges of increasing the development dimension, rebalancing rights and obligations, and managing the systemic complexity of the IIA regime, and that focuses on proactively promoting investment for sustainable development.

30. At first glance, this path of action appears daunting and challenging to the Member States on numerous fronts. It may be time and resource intensive. Comprehensive implementation of this path requires dealing with existing IIAs, which may be seen as affecting investors' "acquired rights". And amendments or renegotiation may require the cooperation of a potentially large number of treaty counterparts. Yet this path of action is the only one that can bring about comprehensive and coherent reform. It is also the one best suited for fostering a common response from the international community to today's shared challenge of promoting investment for the Sustainable Development Goals (SDGs).

31. Apart from this long-term goal, AALCO Member States may concentrate on capacity building activities to equip its legal officers to effectively deal with ISDS case with minimal external help. This is expected to substantially reduce payments to international law firms. AALCO Secretariat can be mandated to organize training workshops and legal clinics in furtherance of this aim. Further, the Regional Arbitration Centres of AALCO located at Nairobi, Lagos, Cairo, Tehran and Kuala Lumpur can facilitate Member States' governments in finding expert arbiters and provide expertise in research and drafting in pursuance of proceeding with the litigation.

VII. ANNEX

SECRETARIAT'S DRAFT
AALCO/RES/DFT/54/S 12
17 APRIL 2015

RESOLUTION ON "REPORT ON THE WORK OF UNCITRAL AND OTHER INTERNATIONAL ORGANIZATIONS IN THE FIELD OF INTERNATIONAL TRADE LAW"
(Deliberated)

The Asian-African Legal Consultative Organization at its Fifty-Fourth Session,

Having considered the Secretariat Document No. AALCO/54/BEIJING/2015/SD/S12, emphasizing on International Investment Agreements and their implications, prepared by the AALCO Secretariat,

Noting with appreciation the introductory statement of the Secretary-General,

Recognizing the significance of International Investment Agreements in promoting foreign investment and thereby catalyzing economic growth in host jurisdictions,

Acknowledging its critical role in ensuring adequate protection to foreign investors against expropriation and other forms of discrimination,

Noting with concern proliferation in the number of investment treaty arbitration claims filed against many Member States resulting in huge expenses for their governments and ensuing legal challenges,

Realizing the systemic deficiencies in Investor-State Dispute Settlement (ISDS) mechanism and the need to explore ways and means to develop alternate approaches to address these deficiencies,

1. **Encourages** Member States to seek assistance from the Secretariat and the Regional Arbitration Centres of AALCO in capacity building;

2. **Urges** the Secretariat to organize workshops for the law officers of the Member States aimed at enhancing their expertise in investment treaty arbitration;

3. **Decides** to place this item on the Provisional Agenda of the Fifty-Fifth Annual Session.