



AALCO
Asian-African Legal Consultative Organization
Fifty-Sixth Annual Session
1 to 5 May 2017
Nairobi, Republic of Kenya

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

1. Introduction

1.1. **26** Member States of the Asian-African Legal Consultative Organization (AALCO) participated in the Fifty-Sixth Annual Session (hereinafter "the Session") namely, **Bangladesh, Cameroon, People's Republic of China, India, Republic of Indonesia, Islamic Republic of Iran, Republic of Iraq, Japan, Republic of Kenya, State of Kuwait, Malaysia, Nepal, Federal Republic of Nigeria, Sultanate of Oman, State of Qatar, Republic of Korea, Kingdom of Saudi Arabia, Democratic Socialist Republic of Sri Lanka, State of Palestine, Republic of Sudan, United Republic of Tanzania, Thailand, Republic of Turkey, Uganda, United Arab Emirates and Socialist Republic of VietNam.**

1.2. Representatives of the following Regional Arbitration Centres of AALCO were also present: **Kuala Lumpur Regional Centre for Arbitration (KLRCA), Cairo Regional Centre for International Commercial Arbitration (CRCICA), Nairobi Centre for International Arbitration (NCIA) and Tehran Regional Arbitration centre (TRAC).**

Observers were admitted to the Session:

- I. Representatives from the following Non-Member States: **Belgium, Democratic Republic of Congo, Ethiopia, Malawi, Mozambique, Rwanda, Russian Federation and Zambia,**
- II. Representatives of the following International Organization: **International Committee of Red Cross (ICRC), Board of Grievances, Saudi Arabia and Saudi Fund for Development,**

* This Summary Report reflects the few comments received from Member States till 5 June 2017.

2. Inaugural Session

2.1. The Fifty-Sixth Annual Session of AALCO commenced on 2 May 2017. **H.E. Prof. Githu Muigai, Attorney General of the Republic of Kenya**, in his opening address, emphasized the continued significance of AALCO as the only legal Organization representing nations of Africa and Asia. He recalled the stellar role played by Mr. Frank X. Njenga, the first African Secretary-General of AALCO in raising the profile of the Organization across the globe. He pointed out that this is the third time that Republic of Kenya is hosting AALCO Annual Session which goes on to signify the importance it attaches to the rule of law and Bandung spirit of friendship and cooperation among the Asian-African States. He warmly welcomed Socialist Republic of VietNam, the 47th Member State of the Organization, to the AALCO fraternity.

2.2. **H.E. Prof. Dr. Kennedy Gastorn, Secretary-General of the Asian-African Legal Consultative Organization (AALCO)** welcomed all delegations to the Session stating that their continued participation motivated AALCO to serve its Member States better. Thereafter, he thanked the host country for having made all the necessary arrangements for the Sessions, as well as for its various contributions not only for AALCO but also for the development of international law.

He also emphasized on the enhanced relevance of AALCO as well as the ‘Bandung Spirit’ in the contemporary world due to the myriad developments in the international arena. Thereafter, he went on to brief the Session about the current work programme of AALCO and about why AALCO’s work remain important in that regard. These areas included violent extremism and terrorism, status and treatment of refugees, developments relating to International Criminal Court, Cyberspace and the prolonged illegal Israeli occupation of the Palestinian territories.

2.3. **H.E. Mr. Rajesh Swamy, Deputy High Commissioner of India to Kenya**, represented **Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India** and the **President of the Fifty-Fifth Annual Session** and delivered a statement on his behalf. He expressed his profound gratitude to Republic of Kenya for hosting the Fifty-Sixth Annual Session of AALCO. He recalled the commendable contributions of Kenya to AALCO activities. He called for strengthening the role of AALCO Regional Arbitration Centres in promoting alternate dispute mechanisms across Asia and Africa.

2.4. **H.E. Hon. William Ruto, Deputy President of Republic of Kenya**, in his inaugural address, warmly welcomed all delegates to the beautiful city of Nairobi and Kenya, the cradle of humanity. He thanked the founding leaders of AALCO for their vision to strive towards ensuring an equitable world order based on International Law. He urged the Member States to strive towards strengthening solidarity and brotherhood and in ensuring that their collective voices are heard in the international community. He recalled the significant role played by AALCO in the progressive development of International Law, especially in the formulation of the Law of the Sea. He voiced his country’s support for the work of AALCO, as well as mentioned the importance of AALCO, both as a symbol and as a tool of the “Bandung Spirit” and the collective will of the people of Asia and Africa. He also noted the timely nature of the discussion of the topics at the Session, especially in light of recent global events concerning international law and international relations.

2.5. The vote of thanks was delivered by the Head of the Chinese Delegation, **Mr. Xu Hong, Director General of Department of Treaty and Law, Ministry of Foreign Affairs, People's Republic of China** on behalf of **H.E. Mr. Liu Zhenmin, Vice Foreign Minister, People's Republic of China and President of the Fifty-Fourth Annual Session of AALCO.**

3. First Meeting of the Delegations of AALCO Member States

3.1. **H.E. Mr. Rajesh Swamy, Deputy High Commissioner of India to Kenya, representing Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and the President of the Fifty-Fifth Annual Session,** called the Meeting to order. The following agenda was adopted for the Fifty-Sixth Annual Session:

3.2. Agenda

I. Organizational Matters

1. Consideration and Adoption of the Agenda
2. Election of the President and Vice-President
3. Admission of new Member States
4. Admission of Observers
5. Report of the Secretary-General on the Work of AALCO
6. Budget for the Year 2018
7. Report on the Work of the AALCO's Regional Arbitration Centres
- 8 Report of the Chairperson of Working Group on International Law in Cyberspace
9. Report by the Chairman of the EPG
10. Venue for the Fifty-Seventh Annual Session

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

1. The Status and Treatment of Refugees
2. Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine
3. Violent Extremism and Terrorism (Legal Aspects)
4. International Law in Cyberspace

III. Two Half-Day Special Meetings

1. Special Meeting on "Selected Items on the Agenda of the International Law Commission"
2. Special Meeting on "The International Criminal Court: Recent Developments"

IV. Any Other Matter

Side events:

(1) International Workshop: “Promoting Rule of Law in Asia and Africa – Japan’s Contribution”, hosted by the Government of Japan on 2 May 2017.

(2) “Combating Illegal Trade on Wild Fauna and Flora through Co-operation under International Law Framework”, co-hosted by the Government of the Republic of Kenya and the Government of People’s Republic of China on 3 May 2017.

3.3. **Admission of New Members:** The Head of the Delegation of Socialist Republic of VietNam, which was admitted to the Organization as the 47th Member State delivered a statement thanking all Member States for the support they extended in confirming its admission and pledged to abide by the Statutes of the Organization and take proactive measures towards raising the Organization to greater heights.

3.4. **Admission of Observers: Belgium, Democratic Republic of Congo, Ethiopia, Malawi, Mozambique, Rwanda, Russian Federation, Zambia, Board of Grievances, Saudi Arabia; International Committee of Red Cross and Saudi Fund for Development** were admitted as Observers to the Fifty-Sixth Annual Session.

3.5. **H.E. Mr. Rajesh Swamy, Deputy High Commissioner of India to Kenya, representing Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and the President of the Fifty-Fifth Annual Session,** invited the Member States to propose candidates for the posts of President and Vice-President of the Fifty-Sixth Annual Session of AALCO. The Indian delegation proposed the nomination of **H.E. Prof. Githu Muigai, the Attorney General of Republic of Kenya** as the President of the Fifty-Sixth Annual Session of AALCO. The nomination was seconded by the Head of the Delegation of Tanzania and he was unanimously elected. The Head of Delegation of Republic of Kenya proposed the nomination of **H.E. Mrs. Vilawan Mangklatanakul, Deputy Director-General, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, Thailand** as the Vice-President of the Fifty-Sixth Annual Session. The proposal was seconded by the Head of Delegation of Japan and she was unanimously elected. Thereafter, **Mr. Rajesh Swamy** invited the President and Vice-President of the Fifty-Sixth Annual Session to assume their positions on the dais.

3.6. The newly-elected President **H.E. Prof. Githu Muigai, the Attorney General of the Republic of Kenya,** thanked the Member States for nominating him as the President. He also congratulated the outgoing President on completion of his successful tenure as the President of Fifty-Fifth Session.

4. First General Meeting

4.1. **Release of AALCO Publications:** The following AALCO publications were released: Yearbook of the Asian-African Legal Consultative Organization (2016, Vol. XIV); AALCO Journal of International Law (2015, Vol.4, Issue 2); and Two Special Studies (i) “Legality of Prolonged Israeli Occupation of the Occupied Palestinian territory and its Colonial Practices

under International Law and International Humanitarian Law”; and (ii) International Law in Cyberspace.

5. Second Meeting of Delegations of AALCO Member States

Agenda Item: Report of the Secretary-General

5. 1. The Secretary-General thanked the Member States for unanimously electing him as the sixth Secretary-General of AALCO and stated that he would work towards strengthening Asian-African solidarity in international legal affairs as well as strive for increasing the membership of AALCO. He warmly welcomed VietNam, which joined the AALCO family recently. Thereafter, he summarized the activities undertaken and mandates fulfilled since the Fifty-Fifth Annual Session and made a brief presentation on the financial and administrative matters. He also outlined his vision and plans on how he intended to revitalize and further strengthen the Organization. He also put forth his future plan of action, where he sought the cooperation of Member States to make constructive changes to some of the working modalities of the Annual Session and some other meetings, in order to ensure maximum utilization of time and expertise of the membership. He also mentioned his plans to augment the Arabic unit at the Secretariat for the benefit of the Arab Membership.

Agenda Item: Discussions on the Budget for 2018

5.2. **The Deputy Secretary-General of AALCO** briefed about the current financial situation and thanked Member States who had paid their contributions, as well as those who have started paying up their arrears. Then he presented the budget for the year 2018, which is USD 615,900, an increase of USD 45,300 from the previous year’s budget. He outlined the salient features of the budget for the year 2018, which included the draft regulations to be adopted on the Education Allowance for the SG’s dependent children, the implications of the implementation of the 7th Pay Commission Recommendations to the locally recruited staff of AALCO, and the increase in the maintenance of the headquarters and the SG’s residence. He also drew attention to the Secretariat’s continuous commitment to take measures for cost-saving and strengthening AALCO’s financial basis.

5.3. The following Member States made their comments on the Budget for the year 2018: **India, Tanzania, Republic of Korea and Japan**. All of them appreciated the statements made by the DSG and the documentation produced by the Secretariat on the subject. While welcoming the proposal of the Secretariat to implement the 7th Pay Commission for its Staffs, the Delegation of India observed that the same should be implemented with retrospective effect i.e, from 1st January 2016 and that disbursement of the arrears of the 7th Pay Commission should not be made contingent upon AALCO Secretariat receiving voluntary contribution from Member States. He also drew attention to the discrepancy in the fixation of salaries in relation to certain categories of AALCO staffs. He wanted this anomaly to be rectified.

5.4. One delegation stated that the definition of ‘school education ‘as mentioned in the draft budget resolution should be expanded to include pre-primary education for three years old and above as well. He was of the view that since the provision of education allowance is being made

specifically to the current Secretary-General who has three children, and on an exceptional basis, it would only be fair that it covered all the children. He also gave a recommendation that given the cost of education in India, the bracket placed by the Government of India to the suggested amount of US \$ 2,400 per child (in operative Para 2 of the draft resolution on the subject) be removed. Some delegations stated that they reserved their right to make further comments on the issue when the resolution on the same would be taken up in the Informal Consultation.

6. Second General Meeting

6.1 At the Fifty-Sixth Annual Session of AALCO, the following delegations made their general statements: **State of Qatar, Japan, Sultanate of Oman, People's Republic of China, United Arab Emirates, Islamic Republic of Iran, Sudan, Tanzania, State of Kuwait, Indonesia, Sri Lanka, Socialist Republic of VietNam, Kingdom of Saudi Arabia, Thailand, Republic of Korea, Republic of Kenya, Nepal and India.** The observer delegation of ICRC also presented his statement.

6.2. All delegations congratulated the President and Vice-President on their respective elections to the posts, and thanked the President of the Fifty-Fifth Annual Session for his able leadership and guidance in guiding the activities of AALCO during 2016-17. They also congratulated Secretary-General Prof. Dr. Kennedy Gastorn for his constructive efforts to expand the activities of the Organization and increase its membership since assuming office. Further, they warmly welcomed the Socialistic Republic of VietNam to the family of AALCO. They also expressed their appreciation to the AALCO Secretariat and the Government of Kenya for the arrangements made by them for the Annual Session.

6.3. Many delegations pointed out that AALCO has, since its inception in 1956, played a significant role in promoting the rule of law in Asia and Africa, which in turn contributed to the progressive development of International Law. Several delegations also emphasized the relevance of the United Nations Charter and other relevant international instruments in promoting rule of law across the globe. They reiterated their commitment to upholding the rule of law in their national and international conduct. Few delegations also stressed the need to strengthen support to States in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building. The need for discussions on the rule of law to take into account the diversity of legal systems in the world was also highlighted.

6.4. Some delegations called the attention of the Member States of AALCO to the spread of violent extremism and terrorism in Asia and Africa and reminded them the critical role of international legal institutions and instruments in preventing and thwarting such threats. They also described their domestic and international legal efforts to effectively address this issue. One delegation brought attention to the creation of a Centre for Dialogue between Different Religions and Cultures in collaboration with the United Nations to promote cross-cultural and common understanding embedded in all of them. One delegation specifically called upon AALCO to draft a definition of terrorism. Another delegation reminded the Member States about the proposal they had floated in 2012 for the establishment of a Permanent Observer Mission of AALCO in

Nairobi. It communicated its willingness to facilitate discussions with the United Nations in this regard.

6.5. Several delegations spoke about the importance of multilateralism and international cooperation and coordination to deal with contemporary legal challenges emanating from the proliferation of the Internet and prevailing refugee crisis in many parts of the world. In this regard, they stated the significance of regional bodies like AALCO has become all the more relevant to consolidate views and build consensus to ensure global peace and equitable economic development leading to the achievement of Sustainable Development Goals. Attention was also drawn to the New Delhi Declaration adopted last year on the eve of the 60th Anniversary of AALCO in terms of charting the future trajectory of the work of AALCO. In this regard the need to strengthen the financial base of AALCO was also stressed by few States. The observer delegate *inter alia* spoke about contemporary challenges to the application of International Humanitarian Law in many countries and its close cooperation with AALCO.

7. Third General Meeting

Agenda Item: Violent Extremism and Terrorism (Legal Aspects)

7.1. **The Chairperson of the Working Group on Violent Extremism and Terrorism** introduced the agenda item by briefly outlining the work that has been done by AALCO on the topic of Violent Extremism and Terrorism over the previous years. She also recapped the proceedings at the meeting of Working Group on Violent Extremism and Terrorism that had been held immediately prior to the Annual Session. The Chairperson recalled that there appeared to be consensus among the delegates who attended the meeting with regard to the opinion that there was no pressing need to hurriedly adopt any instrument on violent extremism. To this effect, the delegates had agreed to a proposal that the draft resolution for the topic of Violent Extremism and Terrorism should acknowledge the work of the Secretariat in facilitating the work on the AALCO principles and guidelines to combat violent extremism and its manifestations. However, they also agreed that the resolution should not contain any language pertaining to the adoption of any instrument or additional document, nor should it prejudice any future work done on the topic by States.

7.2. Thereafter, the following delegations made their statements on this agenda item: **Republic of Iraq, State of Qatar, State of Kuwait, Oman, People's Republic of China, Indonesia, India, Republic of Korea, Japan, Republic of Sudan, Islamic Republic of Iran, Republic of Kenya, Turkey and Socialist Republic of VietNam.**

7.3. Several delegations noted the frequency of occurrence of terrorist attacks, and emphasized the great importance they attached to preventing and combating terrorism in all its forms and manifestations, including the growing problem of foreign terrorist fighters. They stated that international cooperation is required to deal with this problem and that a comprehensive approach is required to address the root causes of these crimes. However, combating terrorism should not become an act of terrorism in itself. They were of the view that international community should focus on the removal of breeding grounds of terrorism.

7.4. Many delegations were of the view that strengthening of cooperation at the international, regional and bilateral levels was necessary in order to counter the threats of terrorism and violent extremism. They were of the further view that international counter-terrorism actions should be guided by the principles and purposes of the UN Charter, including international human rights and humanitarian laws. Several delegations also noted that they had been victims of acts of terrorism and violent extremism, and that they are parties to various international counter terrorism conventions and protocols, and the various legislations that they have enacted to deal with all aspects of terrorism. Delegations also reiterated that terrorism and violent extremism cannot and should not be associated with any religion, nationality or civilization. As the terrorists attack the cultures of people, and subjugate them, they should be stripped from any identity of fighters for freedom. The delegations were also of the view that there should be an enhancement of information exchange, to destroy safe havens for terrorists, their financial flows and support networks.

7.5. Finally, the delegations agreed to the proposed amendments to the draft resolution on this topic.

Agenda Item: The Status and Treatment of Refugees

7.6. The **Secretary-General** outlined the important work done in the past by AALCO under the topics of “The Status and Treatment of Refugees” as well as “Legal Protection of Migrant Workers.” The mentioning of both these topics was relevant due to the *New York Declaration* which was adopted in 2016 and which related to the protection of both migrants and refugees. The SG touched on the possible importance of the Declaration to the AALCO Member States, as well as the importance of the participation of AALCO Member States in the future negotiation of the proposed Global Compacts on Migrants and Refugees and the Comprehensive Refugee Response Framework.

7.7. Thereafter, the delegates of **Indonesia, India, Thailand, People’s Republic of China, Republic of Korea, Japan, Republic of Sudan, Islamic Republic of Iran and the Observer Delegation of ICRC** presented their views on the agenda item.

7.8. The delegations agreed that refugee issues, including issues of irregular migrants, have become increasingly complex in recent years. The issue of refugees is transnational in nature and in many cases involved organized crime groups, which lead to the potential threat of the smuggling of people and the trafficking in persons. Enhancing bilateral, regional and international-level cooperation is an imperative to effectively deal with this complex problem. Some delegates maintained that the adequate and timely protection of people in need makes it necessary to maintain a distinction between migrants, refugees, and Internally Displaced Persons (IDPs). Some delegates also asserted that responsibility-sharing should be based on agreed principles of common but differentiated responsibilities. Some delegations also called for addressing the root causes of refugee crisis. They also stressed upon on the significance of timely rehabilitation and resettlement as the durable solution to this problem.

7.9. Some delegations welcomed the adoption of the New York Declaration for Refugees and Migrants by the UN General Assembly in September 2016. They considered it a step forward in

reaffirming States' commitments to fully respect human rights and in pledging robust support to countries affected by large movements of refugees and migrants. They also expressed their anticipation of the proposed global compacts. In this regard, one delegation urged the AALCO Secretariat to organize a capacity building programme in collaboration with the UNHCR. Delegations also recognized the contribution of AALCO towards solving refugee issues through its adoption of *Principles Concerning the Treatment of Refugees*, the *Burden Sharing Principles*, and the *Model Legislation on the Status and Treatment of Refugees*. Delegations also brought attention to their own domestic efforts to address refugee issues through the adoption of domestic measures and legislations, and reiterated their commitment to engage in cooperative international efforts.

8. Half Day Special Meeting on “Selected Items on the Agenda of the International Law Commission”

8.1. **The Secretary-General** of AALCO gave a brief account of the *nine* topics that had been deliberated at the Sixty-Eighth session of the Commission: *Protection of the atmosphere; Jus cogens; Immunity of State Officials from foreign criminal jurisdiction; Protection of persons in the event of disasters; Subsequent agreements and subsequent practices in relation to the interpretation of treaties; Protection of the environment in relation to armed conflicts; Crimes against humanity; Provisional application of treaties and Identification of customary international law*. Thereafter, he enumerated the three major topics that were to be the subject of deliberation for the day, namely: *Protection of the atmosphere; Jus cogens* and *Immunity of State Officials from foreign criminal jurisdiction*; He encouraged the delegations to present their views on other agenda items of the Commission as well.

8.2. The following delegates presented their statements on the topics under discussion: **Republic of Sudan, Republic of Korea, People’s Republic of China, India, Japan, Islamic Republic of Iran** and **Socialist Republic of VietNam**.

8.3. With respect to the topic of “Protection of Atmosphere” many delegations commended the work of Special Rapporteur, Prof. Shinya Murase and the Draft Guidelines adopted on the topic. They all acknowledged the importance of the topic as representing a compelling issue faced by the international community as a whole. Some delegations were of the view that the topic is a multifaceted one, containing political and scientific considerations. Some delegations welcomed the decision of the Special Rapporteur to study the interrelation of the law of the atmosphere with other fields of international law, as well as the discussion of differentiated obligations related to transboundary atmospheric pollution. Few delegations also underlined the need to take into account the special situation and needs of developing countries in dealing with this topic.

8.4 With respect to the topic of “Immunity of State Officials from Foreign Criminal Jurisdiction” some delegations noted and appreciated the work of its Special Rapporteur Ms. Concepcion Escobar Hernandez particularly in relation to the question of limitations and exceptions to immunity. Some delegations noted that the concept of Immunity of State Officials originated from the customary international law, namely the principle of sovereign equality, and the recognition by international law and at protecting sovereignty for ensuring peaceful international relations. Some delegations also expressed their views that the ILC should base its

work on sufficient State Practices and avoid advancing its work on the exceptions to Immunity in a hasty manner. Many delegations were of the view that more in-depth research on the relevant State practice needed to be conducted taking into account treaties, domestic laws, decisions of international and domestic bodies in taking the conceptual scope of the topic in future.

8.5. With regard to the topic of “*Jus Cogens*” most of the delegations appreciated the work of the Special Rapporteur, and expressed optimism that the work of the ILC on the topic would contribute to the progressive development of international law and its codification. Some delegations were of the view that since the elements of *jus cogens* concerned the major interests of all States; the deliberations on the topic should be strictly in line with the provisions of VCLT 1969. It was also suggested that the ILC clarify the implications of *jus cogens*, based on the practice of States. Many delegations were of the opinion that instead of listing the rules of *jus cogens*, it would be better to collect and study the State practices and to clarify on this basis the specific criteria of *jus cogens*. The need of Special Rapporteur to cover the consequences of breach of a *jus cogens* norm was also highlighted.

Agenda Item: International Law in Cyberspace

8.6. **The Deputy Secretary-General of AALCO** introduced the agenda item and highlighted the increasing importance of cyber-related issues in international forums. He discussed the deliberations on the topic of “International Law in Cyberspace” on AALCO forums. He then referred in brief to major developments in the area of international law in cyberspace, which have occurred over the past one year, and explained what those developments would entail for the international community. While noting the specific concerns that have been raised by Member States regarding this topic in the past, he expressed hope that the Special Study being released by the Secretariat at this Annual Session, as well as the Open-ended Working Group on International Law in Cyberspace, would go on to address most of them.

8.7. Thereafter, **Mr. Hossein Panahi Azar, the Chairperson of the Open-Ended Working Group on International Law in Cyberspace**, presented his report on the Second Working Group Meeting held on 9 and 10 February 2017 at AALCO Headquarters, New Delhi.

8.8. The following Member States presented their views on this topic: **State of Qatar, People’s Republic of China, Republic of Korea, India, Thailand, Republic of Sudan, Islamic Republic of Iran, Japan, Socialist Republic of VietNam and Indonesia.**

8.9. All delegations pointed out the significance of international cooperation to secure cyberspace for ensuring its safe use. The unique characteristics of cyberspace make it vulnerable to a multitude threats and building consensus for the formulation of substantive rules and regulations is an imperative to adequately address issues related to the regulation of cyberspace. In this regard, many delegations appreciated the work of the United Nations Group of Governmental Experts. They emphasized that the existing international law, including the UN Charter, applies to cyberspace.

8.10. Several delegations also pointed out the significance of fostering international cooperation and harmonization of national laws to effectively address proliferation in transnational

cybercrimes. Further, some Member States described their domestic efforts to combat cybercrimes. One delegation was of the opinion that Budapest Convention has potential for universal application for cybercrime investigation and prosecution. Another delegation supported the formulation of a global convention to combat cybercrimes and stated that it would complement regional instruments like Budapest Convention.

8.11. As regards governance of cyberspace, one delegation stated that the United Nations should have a predominant role on negotiating global norms in this regard. Further, one delegation reiterated its suggestion that AALCO may draft model laws on combating cybercrimes, and towards that end hold more inter-sessional meetings.

9. Half Day Special Meeting on “International Criminal Court: Recent Developments”

9.1. **The Secretary-General**, after briefly explaining the work of AALCO on this topic, pointed out that regional imbalance in prosecutions has become one of the major challenges for the International Criminal Court to address. He also briefly explained a few legal issues related to the referral and deferral powers of the United Nations Security Council under the Rome Statute. Further, he touched upon the significance of the principle of complementarity in legitimizing the functions and powers of the Court.

9.2. The **panelist, Mr. Dan Ochieng, Foreign Service Officer, Ministry of Foreign Affairs, Kenya**, began with a few general remarks before making his presentation. While stating that there exist varied opinions on the institution of ICC, he observed, however, that all 124 State Parties to the ICC agree in one voice that the implementation of the Rome Statute is critical in the fight against impunity, and that as the first permanent international criminal tribunal needed to conform to certain standards including independence, impartiality and the ability to deal with heinous crimes.

9.3. The first part of his presentation dealt with the recent developments that have taken place in relation to the ICC as regards its Assembly of State Parties (ASP) which is ICC’s principal organ. While terming these developments to be a positive one, he gave examples to substantiate his opinion. Pointing out the increased discussions that take place in the meetings of ASP in recent times, he noted that the ASP needed to address a number of legitimate issues including: how to resolve the conflict between national law and the Rome Statute; identify what kind of cooperation is expected from the State Parties; and how to enhance the participation of States with a view to achieve the principle of universality. Another positive development that he highlighted related to the development of ICC’s jurisprudence that have resulted from many decisions delivered by the Court. In this regard, he brought attention to a number of cases decided by the ICC including: *Prosecutor v. Germain Katanka*; *Prosecutor v. Bemba Gombo*; *Prosecutor v. Thomas Lubanga and Prosecutor v. Ahmad Al Faki*.

9.4. The second part of his presentation focused on the challenges facing the ICC in the current times. In his view, the first challenge related to the divided nature of the ASP that triggered the question of how to deal with dissenting voices expressed at the ASP. The second challenge related to modalities of reparations, i.e. how the ICC could address the question as well as the context of reparation? The third challenge in his view related to sentencing, i.e., the location of

sentencing and the need to adhere to International Humanitarian Law (IHL) in that regard. The fourth one was on how to address the budgetary constraints faced by the ICC which, in his view, acts as a limiting factor.

9.5. In closing, he stated that addressing these challenges remained critical for the ICC project to succeed. He also stressed the need for a positive engagement between African States and the ICC.

9.6. Thereafter, the delegations of **Republic of Sudan, People’s Republic of China, Islamic Republic of Iran, Japan, Republic of Kenya, Republic of Korea and Malaysia** presented their views on the agenda item.

9.7. Many delegates reminded the Member States about the primacy of principle of complementarity and stated that the International Criminal Court (ICC) was established to supplement rather than substitute domestic jurisdiction. Many delegations also expressed their concern over the recent discussions regarding withdrawal of a few States from the Court. One delegation highlighted the issue related to the right of observer states to participate in informal consultations of the Assembly of State Parties. Another delegation stated that it is important for the ICC to avoid a politically-oriented approach in investigation on the crime of aggression.

9.8. As regards referral powers of the United Nations Security Council (UNSC), one delegation, who made an elaborate presentation, put forward his case against the legality of referral powers of the UNSC under Article 16 of the Rome Statute and the legitimacy of UNSC Resolution 1593. Another delegation stated that the UNSC has the legal basis to refer cases/situations to the Court as provided under the Rome Statute but whether the situations it chooses to refer to the ICC is fair and impartial is a subjective issue.

10. Fourth General Meeting

Agenda Item: Discussions on the Special Study on the “Legality of Prolonged Israeli Occupation of the Occupied Palestinian territory and its Colonial Practices under International Law and International Humanitarian Law

10.1. **The Secretary-General** noted the significance of the year 2017 to the Palestinian people as it marked a hundred years from the *Balfour Declaration* and fifty years from the Six-Day War. He also noted that the Organization had long supported the Palestinian people’s quest for freedom and autonomy and would provide to support it through the continuation of its activities such as the recently released Special Study on the *The Legality of Israel’s Prolonged Occupation of Palestinian Territory and its Colonial Practices Therein*. He then outlined the framework for possible deliberations at the Session.

10.2. Thereafter, the delegates of **State of Qatar, State of Palestine, People’s Republic of China, Islamic Republic of Iran and Japan** made their statements on the topic.

10.3. All delegations acknowledged the continuing grave violations of international law in the occupied Palestinian territories. They were of the view that the Palestine issue is now in the

centre of the cause of the Middle East peace process. Some delegations supported the Two-State Solution, while fully supporting the establishment of an independent State of Palestine with full sovereignty, with Jerusalem as its capital. All delegations voiced their objection on the issue of construction of Jewish settlements in the occupied Palestinian territories, as constituting a violation of international law. Several Member States called upon Israel to observe the UN Charter and other applicable rules of international law, and to cease its settlement activities, and recalled the Security Council Resolution 2334 that invalidated establishment of such settlements, in this regard. Some delegations also recalled the applicability of the Fourth Geneva Convention in this regard. Several delegations emphasized the need for greater international cooperation in obtaining just and lasting solution for the people of Palestine.

11. Third Meeting of the Delegations of AALCO Member States

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

11.1. **The Secretary General/Deputy Secretary-General of AALCO** presented the introductory statement on the subject that gave a brief overview of the evolution of the regional arbitration centres of AALCO. He congratulated the Government of Kenya for their efforts to establish Nairobi Centre for Regional Arbitration which was inaugurated in December 2016. He urged the Centres to strengthen coordination and cooperation among them to better cater to burgeoning demand for institutionalized ADR mechanisms in developing economies of Asia and Africa.

11.2. This was followed by presentations made by the Directors of the following arbitration centres **Kuala Lumpur Regional Centre for Arbitration (KLRCA)**, **Cairo Regional centre for International Commercial Arbitration (CRCICA)**, **Nairobi Centre for International Arbitration (NCIA)** and **Tehran Regional Arbitration centre (TRAC)**. These presentations outlined the activities undertaken by their respective Centres in the previous year.

Agenda Item: Report of the Chairperson of Eminent Persons Group

11.3. The Seventh Meeting of AALCO Eminent Persons Group (EPG) was convened at the Kenyatta International Centre, the venue for the Fifty-Sixth Annual Session of AALCO on 1 May 2017 at 2.45 PM. A report on behalf of the Chairperson was presented by the Deputy Secretary-General, wherein he highlighted the main points that had been discussed at the meeting and the way forward.

Adoption of Message of Thanks to the President of Republic of Kenya

His Excellency Hon. Uhuru Kenyatta C.G.H.,

On behalf of all the Delegations of the Member States and Observers attending the Fifty-Sixth (2017) 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 Kenya:

“We, the participants in the Fifty-Sixth 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 Kenya, for graciously hosting the Fifty-Sixth Session of AALCO in this beautiful and vibrant city of Nairobi. Excellency, I thank the Government of Kenya on behalf of AALCO, and on my own behalf, for successfully hosting this Session and for the warm hospitality extended to all delegates.

Your Excellency, since it joined the Asian-African Legal Consultative Committee (AALCC) as it was called then in 1970, Kenya has attached great importance to the Organization and has always actively participated in the activities and work programme of the Organization, be it substantive, administrative or financial matters. Kenya 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 organizational as well as substantive matters. Indeed, the full support extended by the Host Government was crucial in the success of this Session.

Once again, we the delegates of the Fifty-Sixth Annual Session of AALCO would like to place on record our sincere gratitude to the Government of Kenya for successfully hosting the Annual Session and making it a memorable event in the cosmopolitan and dynamic capital city of Nairobi.

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

Thank you.

11.4. ***Venue of AALCO’s Fifty-Seventh Annual Session:*** The Venue of the Fifty-Seventh Annual Session has not been decided.

Side Event: International Workshop— “Promoting Rule of Law in Asia and Africa – Japan’s Contribution”

11.5. A side event on “***Promoting Rule of Law in Asia and Africa – Japan’s Contribution***” organized by the Government of Japan was held during the lunch break on 2 May 2017.

Side-Event: Combating Illegal Trade on wild Flora and Fauna through Co-operation under International Law Framework

11.6. A side event titled “***Combating Illegal Trade on wild Flora and Fauna through Co-operation under International Law Framework***” jointly organized by the Governments of Kenya and People’s Republic of China was held after the lunch on 3 May 2017.

Adoption of Resolutions

11.7. The following resolutions were adopted at the third meeting of delegations of AALCO Member States on 5 May 2017.

Organizational Matters

1. AALCO/RES/56/ORG1
Report of the Secretary General on Organizational, Administrative and Financial Matters
2. AALCO/RES/56/ORG2
AALCO's Budget for the year 2018
3. AALCO/RES/56/ORG3
Report on AALCO's Regional Centers for Arbitration

Substantive Matters

4. AALCO/RES/56/S3
The Status and Treatment of Refugees
5. AALCO/RES/56/S4
Violations of International Law in Palestine and other Occupied Territories by Israel and other International Legal Issues Related to the Question of Palestine
6. AALCO/RES/56/S8
Violent Extremism and Terrorism (Legal Aspects)
7. AALCO/RES/56/S17
International Law in Cyberspace

Special Meetings

8. AALCO/RES/56/SP1
Half-Day Special Meeting on "Selected Items on the Agenda of the ILC"
9. AALCO/RES/56/SP2
Half-Day Special Meeting on "International Criminal Court: Recent Developments"

Consideration of the Summary Report

11.8. The draft summary report of the Fifty-Sixth Annual Session was placed for the consideration of Member States. The Member States provisionally adopted the draft summary report and, thereafter, they were requested to send in their written comments on the same to the Secretariat latest by 5 June 2017, after which it would be finalized.

12. Fifth General Meeting and Concluding Session

Vote of Thanks

12.1. A vote of thanks on behalf of Asian Member States was proposed by the Head of Delegation of Socialist Republic of VietNam and a vote of thanks on behalf of the African Member States was given by the Head of Delegation of Tanzania. ICRC delivered vote of thanks on behalf of international organizations.

12.2. **H.E. Prof. Githu Muigai**, the President of the Fifty-Sixth Annual Session, delivered the concluding remarks.

The Fifty-Sixth Annual Session of AALCO was thereafter adjourned.