

**Asian-African Legal Consultative Organization**



**Verbatim Record of  
Discussions**

**Fifty-Fifth Annual Session**

17-20 May 2016  
New Delhi (Headquarters), India

AALCO Secretariat  
29-C, Rizal Marg  
Diplomatic Enclave, Chanakyapuri  
New Delhi – 110021  
INDIA

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## **PREFACE**

The Asian-African Legal Consultative Organization (AALCO) is the only intergovernmental organization that unites countries of Asia and Africa on matters of international legal issues of common concern. The history and the account of its activities hitherto have been the history of the needs and aspirations of post-colonial Asia and Africa. Its primary function is to advise Member States on all matters related to international law. The consultative nature of the Organization beholds transparency within the AALCO and also ensures that the voice of Asia and Africa is heard in various international fora. Its close working relationship with various other international organizations bears testimony of AALCO's contribution towards progressive development and codification of international law. The current work programme of AALCO includes many contemporary legal issues and closely tracks the items on the agenda of the International Law Commission and the Sixth Committee of the UN General Assembly.

The Fifty-Fifth Annual Session of AALCO was successfully held in New Delhi, India from 17 to 20 May 2016. The Session witnessed participation of thirty nine Member States, representatives of three Regional Arbitration Centers of AALCO, Observers from three Non-Member States and representatives from Intergovernmental/ Specialized Agencies/ Subsidiary Organs/ Inter-Regional Organizations. The Fifty-Fifth Annual Session focused on deliberations on both Organizational and Substantive matters which included: (i) Law of the Sea; (ii) Violation of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine; (iii) Violent Extremism and Terrorism (Legal Aspects); (iv) International Law in Cyberspace; and (v) WTO as a Framework Agreement and Code of Conduct for World Trade.

Other major highlights of the Fifty-Fifth Annual Session were the convening of a Half-day Special Meeting on previously mandated topic- "Selected Items on the Agenda of the International Law Commission", the first meeting of the Open-ended Working Group on International Law in Cyberspace, the election of the Secretary-General and the adoption of New Delhi Declaration on the Commemoration of the 60<sup>th</sup> anniversary of AALCO. This comprehensive Verbatim Record as mandated according to the Statutory Rules of AALCO presents to the Member States the discussions and deliberations on all the above stated items as well as on the Organizational matters in detail. On the concluding day of the Session, the Member States adopted the Summary Report, Resolutions on Organizational and Substantive Matters, including Resolutions on the half day Special Meeting along with the Message of Thanks on behalf of all the Member States to India and AALCO Secretariat.

This Verbatim Record of the Fifty-Fifth Annual Session contains mainly the text of statements of the Inaugural Session, three Meetings of Delegations of Member States; five General Meetings; a Half-day Special Meeting; the Summary Report of the Fifty-Fifth Annual Session; the Resolutions on both Organizational and Substantive matters adopted at the Session; and the list of participants who attended the Session.

I wish to thank the Ministry of External Affairs, India for their valuable assistance in convening the Annual Session of the Organization, for their cooperation and administrative arrangements, which were very helpful in conducting the proceedings of the Session successfully. I would also like to express my heartfelt appreciation and thanks to my friends and colleagues, His Excellency Prof. Dr. Rahmat Mohamad, former Secretary-General; Mr. Feng Qinghu, Ms. Yukiko Harimoto and Mr. Mohsen Baharvand, the Deputy Secretaries-

General, for their support in making the Session a success. I also wish to express my deep appreciation to Mrs. Anuradha Bakshi, Principal Legal Officer; Mr. S. Pandiaraj, Senior Legal Officer, Mr. Parthan V. and Mr. Kiran Mohan V, Legal Officers along with the other Staff of the Secretariat for their immense efforts to fulfill the mandate entrusted on the Organization. Their professionalism and sense of responsibility contributed a lot towards making the Session a success.

Prof. Dr. Kennedy Gastorn  
Secretary-General

## **I. AGENDA OF THE SESSION**

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### **I. Organizational Matters**

1. Consideration and Adoption of the Agenda
2. Election of the President and Vice-President
3. Admission of Observers
4. Admission of New Members
5. Election of the Next Secretary-General
6. Report of the Secretary-General on the Work of AALCO
7. Proposed Budget for the Year 2017
8. Regulations for AALCO's Secretary-General's Salary, Allowances and Entitlements
9. Report on the Work of the AALCO's Regional Arbitration Centres
10. Report by the Chairman of the EPG
11. Report by the Chairman of the Open-ended Working Group on International Law in Cyberspace
10. Venue of the Fifty-Sixth Annual Session

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

1. Law of the Sea
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. International Trade Law Matters**

WTO as a Framework Agreement and Code of Conduct for World Trade

### **IV. Half-Day Special Meetings**

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

### **V. Any Other Matter**

1. Side Event on "International Cooperation in Combating Violent Extremism and Terrorism", hosted by the Government of Japan
2. Side Event: "Photo Exhibition on China-AALCO Exchange and Research Program on International Law", hosted by the Government of China

## **II. BUREAU OF THE SESSION**

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### **PRESIDENT**

**H. E. Dr. V.D. Sharma,**  
Joint Secretary, Legal and Treaties  
Division, Ministry of External Affairs,  
India

### **VICE-PRESIDENT**

**H.E. Mr. Samuel Panyin Yelley,**  
High Commissioner of Ghana in India

### **SECRETARY-GENERAL**

**H. E. Prof. Dr. Rahmat Mohamad**

### **DEPUTY SECRETARIES-GENERAL**

**Mr. Feng Qinghu**  
**Ms. Yukiko Harimoto**  
**Mr. Mohsen Baharvand**

### **III. VERBATIM RECORD OF THE INAUGURAL SESSION**

**III. VERBATIM RECORD OF THE INAUGURAL SESSION OF THE FIFTY-FIFTH ANNUAL SESSION HELD ON TUESDAY, 17 MAY 2016 AT 09:30 AM, AT LE MERIDIAN HOTEL, NEW DELHI, INDIA**

**Master of Ceremony:** Ladies and Gentlemen, I have the honor of inviting H.E. Mr. Liu Zhenmin, President of the Fifty-Fourth Annual Session of AALCO and Vice Minister of Foreign Affairs of the People's Republic of China to make his Presidential Remarks. Thank you.

**(i) Welcome Address by H.E. Mr. Liu Zhenmin, President of the Fifty-Fourth Annual Session of AALCO and Vice Minister of Foreign Affairs of the People's Republic of China**

Good morning dear colleagues. We will now begin with the Inaugural Session.

H.E. Ms. Sujata Mehta, Secretary (West), Ministry of External Affairs, India  
H.E. Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO,  
Hon. Ministers, Attorneys-General, Heads of Delegations,  
Excellencies, Distinguished Delegates, Ladies and Gentlemen,

It gives me immense pleasure to address this august gathering. At the outset, I would like to thank our chief guest, H.E. Secretary Sujata Mehta, for taking time out of her busy schedule to grace this occasion and agreeing to inaugurate the Fifty-Fifth Session of AALCO. I would like to thank the AALCO Secretariat under the able leadership of Prof. Dr. Rahmat Mohamad for the excellent preparations for this Annual Session. I would also like to thank the Government of India and its Ministry of External Affairs for the warm hospitality extended to us and the excellent arrangements made for this Annual Session.

Excellencies, ladies and gentlemen, As the President of the Fifty-Fourth Session, I felt very honored to have been entrusted to carry the business of the Fifty-Fourth Session to this year, as we are celebrating the sixtieth anniversary of AALCO. Guided by the "Bandung Spirit" of solidarity, friendship and cooperation, AALCO has played a significant role in consolidating and advocating common positions and interests of the two continents in various fields of international law over the past sixty years.

Now in the new era, when both international law and the world order are undergoing profound changes, the relevance and value of AALCO can only become ever higher. Indeed, it is imperative for our Member States to continue their commitment and support to revitalizing and strengthening this Organization with the view to further enhancing our collective influence in the field of international law and in promoting a more just and equitable international system which would better safeguard world peace and assist our common development.

In this regard, I would like to propose that on this historical occasion of commemorating the sixtieth anniversary of the Organization, we should work out some languages in the outcome of the Fifty-Fifth Session, either in a resolution or in a declaration of this Session to send an appeal to all Asian-African countries to increase their support to the further enlargement and revitalization of the Organization through political, financial, and other means, including by becoming a new Member of the Organization.

Excellencies, ladies and gentlemen, I also felt gratified that during my Presidency, the AALCO Secretariat, despite limited financial and human resources, organized numerous programs and activities for the benefit of Member States. I am sure that the Secretary-General would later give a detailed report of the activities over the past year, but let me mention a few important events.

*First*, two inter-sessional meetings of legal experts were held here in New Delhi—one in January 2016, and the other just yesterday afternoon—to deliberate on AALCO Draft Principles and Guidelines to Combat Violent Extremism and its Manifestations. These discussions have enhanced our understanding of each other's concerns and contributed very much to our joint efforts to comprehensively address the multi-pronged legal questions related to the scourge of violent extremism. *Second*, the AALCO Legal Advisors Meeting was held in early November 2015, in New York, on the sidelines of the Seventieth Session of the UN General Assembly. *Third*, the Secretary-General participated in the Annual Session of the International Law Commission held in May 2015, and presented the views of Member States on items in the work program of the Commission.

These events have become regular features in AALCO's calendar. In addition, it is also pertinent to mention AALCO's legal experts meeting on the Identification of Customary International Law, held in Kuala Lumpur in August 2015. I am glad to see that the AALCO Secretariat is committed to making its own contribution in this area since the establishment of the Informal Expert Group on Customary International Law.

I am also glad to learn that the Informal Expert Group, through its Rapporteur, Prof. Sienho Yee, has conducted dialogues with Sir Michael Wood, the Special Rapporteur of the International Law Commission on this topic. The work of the Informal Expert Group was credited by Sir Michael Wood as perceptive and constructive. This represents a new contribution of our Organization to the work of the International Law Commission.

There are many more programs to add. I mentioned these events just to demonstrate AALCO's commitment to coordinating with various institutions to keep up the dialogue and consultations on contemporary issues in international law. I hope AALCO will continue to keep up such endeavours. Besides these programs, the AALCO Secretariat has also been busy engaging in special studies on two contemporary issues, that is: Marine Biological Diversity Beyond National Jurisdiction, and International Law in Cyberspace.

Excellencies, ladies and gentlemen, I am also pleased to inform this august gathering that my own Government, the People's Republic of China, has also made new contributions to the work of AALCO through the operation of the China-AALCO Exchange and Research Program on International Law. A photo exhibition of the program will be held as a side event of this Annual Session this evening and the Chinese delegation will host a reception tonight for the exhibition. All delegations are warmly welcome.

Excellencies, ladies and gentlemen, Besides the celebration of the sixtieth anniversary, this diamond jubilee, this Annual Session is important for AALCO for another reason: the election of the new Secretary-General. Before touching on the election, I would like to take this opportunity to express my deepest appreciation to the current Secretary-General, Prof. Dr. Rahmat Mohamad, for his spirited leadership, steadfast commitment, and tireless efforts

towards fulfilling the mandate entrusted to him by the Member States. His almost eight year tenure has been really remarkable and has made a difference in the development of our Organization. This time, we will have a new Secretary-General from Africa. I am certain that he or she will pick up the baton from Prof. Dr. Rahmat Mohamad and lead the Organization to great heights.

Excellencies, ladies and gentlemen, We will discuss, over the next three days, important agenda items such as “International Law in Cyberspace” and the “Draft Principles and Guidelines to Combat Violent Extremism and its Manifestations”. Facing immense challenges from these new issues in international law, the Asian-African countries, indeed the whole international community, need to come together to work constructively and creatively to find common solutions. I am sure that our Member States have the courage and wisdom to achieve more in the coming days and months. In addition, while stressing the importance of promoting the rule of law at the international level, we also need to guard against any abuse of the international legal procedures that target Asian and African countries.

Excellencies, ladies and gentlemen, to conclude, I would once again like to thank all the AALCO Members, the Vice-President of the Fifty-Fourth Annual Session, the Secretary-General, and the AALCO Secretariat, for the support and cooperation extended to me in fulfilling my duties. I also wish the incoming President and Vice-President all success and I am confident that under their able leadership and guidance, this Organization will continue to work as a platform for legal deliberations on issues of significance to Asian and African countries.

Dear colleagues, with these words I would like to invite the Chief Guest from the host Government, honorable Ms. Sujata Mehta, Secretary of the Ministry of External Affairs of India, to kindly present her inaugural address.

**(ii) Inaugural Address by H.E. Ms. Sujata Mehta, Secretary (West), Ministry of External Affairs, India**

Excellency, Mr. Liu, Vice Minister of Foreign Affairs, People’s Republic of China and President of the Fifty-Fourth Session of AALCO,  
Madam Vice-President,  
Excellency, Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO,  
Excellency, Mr. Hossein Panahi Azar, Director General for International Affairs, Islamic Republic of Iran,  
Hon’ble Ministers and Hon’ble Attorneys General of Member States of AALCO,  
Distinguished Delegates, Ladies and Gentlemen,

It is my privilege on behalf of the Government of India to welcome this distinguished gathering to Delhi for the Fifty-Fifth Annual Session of the Asian-African Legal Consultative Organization. May I felicitate you, Mr. President, on a very successful year in which you presided over AALCO’s meetings, and may I also felicitate you Mr. Secretary-General on the many initiatives taken and new activities undertaken as the leader of this Organization.

As a founding Member of AALCO, and having had the privilege of hosting the Organization here in India since its inception in 1956, we are particularly gratified that this important Session is being held in New Delhi.

This year's Annual Session is also significant because while this is AALCO's Fifty-Fifth Annual Session, it is the sixtieth year of the Asian Legal Consultative Committee, which preceded this Organization in its present incarnation.

India attaches great importance to AALCO and the work undertaken in this body. We have always participated in AALCO's activities with close interest as we regard AALCO as an essential platform to discuss and help crystallize the needs and interests in the field of international law for countries of the Asian and African regions. In that sense we see this Organization as playing a central role in the development of international law regionally, and beyond.

It is worth recalling how AALCO came into being. At its inception it was a tangible outcome of the historic Afro-Asian Conference in Bandung in 1955, at which seven States—Indonesia, Iraq, Japan, Myanmar, Sri Lanka, the then United Arab Republic, and India—came together to establish the Committee. Underlying the founding vision was the ambition to democratize the development and codification of international law and to broaden its base, so that it becomes more reflective of the hopes and aspirations of the Asian and later, as the original Committee grew and evolved, the African continents. The continuing relevance of the founding vision has been affirmed repeatedly since AALCO was established.

It is noteworthy in this context that this is the only intergovernmental organization which thus combines and reflects the interests of two major continents for focused and serious discussions on matters of international law. The contribution of AALCO to thus giving concrete form to the cooperation between our two continents—Africa and Asia—has been considerable.

In terms of contribution to the discipline, the role of AALCO in the development of the concept of, for example, the Exclusive Economic Zone, an important element in the field of the Law of the Sea, has been noteworthy. Similarly, there are other such documents to which AALCO has made significant contributions including the Principles concerning Extradition of Fugitive Offenders; Principles on the Status and Treatment of Refugees, and so forth.

It has become evident that over the passage of time, and as a result of the impact of technology and the effects of globalization, the distinctions between public international law and municipal law have begun to blur somewhat. As a consequence of these tendencies, the instruments of international law and the activities of international organizations are becoming more salient in both the public and personal domains. It is therefore fitting that AALCO pursues discussions and activities that relate to both public and private international law.

As international law is growing increasingly more complex, it has an increasingly deeper impact on the intricate web of rules and institutions that regulate the affairs of States, of international organizations, of individuals, and of their interactions with each other. Various institutions provide mechanisms to facilitate international cooperation in this domain and to promote compliance with both public and private international law. Just a few instances of these are laws and regulations relating to trade and business, transnational crimes, human trafficking, terrorism, intellectual property rights, human rights, and so forth—these are only a sample of the subjects that are dealt with.

In this backdrop of the ever-widening canvas of international law, AALCO's relevance for its Members is further reinforced. AALCO's close cooperation with other international organizations, including through its representation at the United Nations, has provided an additional platform for AALCO Member States to contribute to the progressive development of international law. I would like to note the constructive role of the interactive dialogues on various international law issues organized by the AALCO representation at the United Nations. AALCO's participation in the deliberations of the International Law Commission is also noteworthy.

In this light, India would be happy to see enhanced cooperation between AALCO and international organizations that deal with international law matters. We would also be happy to support AALCO contribution to current issues being discussed intensively such as marine biological diversity beyond national jurisdiction and on the legal regime for cyberspace.

AALCO's participation in the alternative dispute resolution scheme and the establishment of four regional arbitration centers in Cairo, Kuala Lumpur, Tehran and Lagos deserve to be highlighted. It is our hope that, over time, AALCO should play an even greater role in the field of alternative dispute resolution.

This Fifty-Fifth Session of AALCO has an important and serious agenda. A number of topics in international law very relevant to present day concerns will be deliberated upon, including Violent Extremism and Terrorism, WTO Issues, Items on the Agenda of the ILC, and the Law of the Sea. I believe that the discussions in this distinguished gathering here will be informed by and in turn will influence and carry forward the international debates on these topics. As someone on a foreign office who depends every day on the expertise and support that we receive from our colleagues who deal with international law matters, I would like to affirm the deep support that we all are committed to giving your work.

It is therefore my pleasure and my privilege to declare this Fifty-Fifth Annual Session of the Asian-African Legal Consultative Organization open. I wish you all very stimulating and productive discussions, and a good stay here in Delhi. Thank you for your attention.

**President:** I would like to thank the hon'ble Secretary Sujata Mehta, for her inspiring address and I hope this will set the ball rolling during the Fifty-Fifth Annual Session of AALCO. The Chief Guest has a very busy schedule so she will have to leave us and I request all the delegations to remain seated so that we may proceed with the rest of the programme. The Chief Guest, Secretary Sujata Mehta has kindly enough decided to stay with us until the end of the Inaugural session.

Now dear colleagues, I invite H.E. Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO to present his welcome address.

**(iii) Introductory Remarks of H.E. Prof. Dr. Rahmat Mohamad, Secretary-General of the Asian-African Legal Consultative Organization:**

Her Excellency Ms. Sujata Mehta, Secretary (West), Ministry of External Affairs, Government of India,

His Excellency Mr. Liu Zhenmin, Vice Minister of Foreign Affairs, People's Republic of China and the President of the Fifty-Fourth Session of AALCO,

Honorable Ministers, Attorneys General, Heads of Delegations,  
Excellencies, Distinguished Delegates and Observers, Ladies and Gentlemen,

It is my singular pleasure to welcome you all to this distinguished gathering of the Fifty-Fifth Annual Session of AALCO. I am extremely grateful to Your Excellencies for having spared your valuable time to participate in this Session. The presence of Honourable Ministers and Attornies General heading the delegations is indeed a matter of immense importance for us. This signifies that AALCO and its initiatives remain valuable to you all. I am sure we would immensely benefit from your insightful comments and eagerly looking forward to your active participation.

Let me begin by conveying my heartfelt thanks to Her Excellency Ms. Sujata Mehta, Secretary, Ministry of External Affairs, for taking time off her busy and hectic schedule to grace this occasion and deliver the inaugural address. India, as the Host Government of AALCO, has been one of the most proactive participants in AALCO matters. And India's support remains invaluable to us for fulfilling the mandates entrusted on us.

I would also like to express my sincere gratitude to His Excellency Mr. Liu Zhenmin, Vice Minister of Foreign Affairs, People's Republic of China and the President of the Fifty-Fourth Session of AALCO. His guidance and support have been instrumental in the successful organization of many events in the past year. I would particularly like to thank him and his government for establishing China-AALCO Exchange and Research Programme on International Law. The first initiative under its banner, a training programme on international law, was successfully organized by the Ministry of Foreign Affairs of China at Xiamen University in China last year. Legal officers and diplomats from many Member States participated in that three week long programme. I hope many more similar events will be held as part of this programme and I assure you full support from the AALCO Secretariat for holding them.

Further, I would also like to thank the Vice-President of the Fifty-Fourth Annual Session, Honourable Prof. Githu Muigai, Attorney-General of Kenya, for his service and support.

Excellencies, Ladies and Gentlemen, this Annual Session is important to the Organization and the Member States for many reasons. Firstly, AALCO is celebrating its sixtieth anniversary this year. As you all know, it is a tangible outcome of the historic Bandung Conference. Seven countries, which had freed themselves from colonial bondage, decided to join hands to create a forum through which they may forge a common position on matters of international law matters and present it in various negotiating fora, and in November 1956, the Asian Legal Consultative Committee was established. The Committee was meant to serve as an advisory body of legal experts to facilitate and foster exchange of views of legal matters of common concern to the participating countries. To fully embrace the "Bandung Spirit" and encourage participation of countries from the African continent, the name of the organization was changed accordingly to the Asian-African Legal Consultative Committee from the year 1958.

Its success is evident in the last sixty years, as it has grown from just seven Member States to 46. From the initial temporary deliberative nature of the Committee, to a permanent regional organization dealing with matters of international law from the perspective of the two most populous continents of the globe, AALCO has traversed a long path in six decades. This

sixtieth anniversary celebration provides us yet another opportunity to reflect on the past and chart out the future course of action.

This Annual Session is significant for another reason. We are living in times where Rule of Law in many parts of our continents is trumped by violence and anarchy perpetrated by non-state actors. Violent extremism and its different manifestations which have engulfed a number of countries in Asia and Africa affect many communities across both regions by propagating terror violence, acts of terrorism and other abhorrent criminalities. These acts require a coordinated international response since they also endanger regional peace and security. It is in this context that AALCO Member States started deliberating on this issue. Pursuant to mandates received from Member States at the Fifty -Third Annual Session and reiterated at the Fifty-Fourth Annual Session, the AALCO Secretariat convened an Inter-Sessional Meeting of Legal Experts from Member States at the AALCO Headquarters in New Delhi in January this year. The first reading of the Draft “Principles and Guidelines to Combat Violent Extremism and Its Manifestations” was concluded in this meeting. The Draft was taken up again for deliberations in the follow-up meeting held yesterday.

Another significant session involves the first meeting of the Open-ended Working Group on International Law in Cyberspace. The meeting is expected to elect the Chair, the Vice-Chair and Rapporteur of the Working Group. A Half Day Special Meeting devoted to discussing “Selected Items on the Agenda of the International Law Commission” will be held on Thursday this week. During the Annual Session we would also be discussing the following topics that are on the work program of AALCO: The Law of the Sea; Violations of International Law in Palestine; and WTO as a Framework Agreement and Code of Conduct for the World Trade.

Excellencies, Distinguished Delegates, Ladies and Gentlemen, Personally speaking, I feel a little emotional—this Session is my last Annual Session as the Secretary-General. Eight years back, when I was given charge of this Organization, a serious financial crisis was looming large. But pursuant to Putrajaya Declaration and with the strong support of the Member States, we were able to successfully rejuvenate and revitalize the Organization back to strength. In this course, an Eminent Persons Group (EPG) was constituted to serve as an informal guidance mechanism, an “Advisory Body”, for the Secretary-General to steer the work of the Organization and to suggest short, medium and long term measures needed for the substantive work and financial well being of the Organization.

Further, with the able assistance of the Deputies- Secretary General and other staff, I was able to successfully organize many seminars and workshops and initiate Special Studies on topical issues such as unilateral sanctions, statehood of Palestine, marine biodiversity beyond national jurisdiction and international law in cyberspace during my tenure. The Organization forged active ties with other IGOs such as International Law Commission and International Criminal Court and various UN agencies in this period. It is a matter of great pride that I have been successful in ensuring that Asian-African voices are heard and heeded to in various international forums of law making.

The election for the new Secretary-General of AALCO will happen later today and he/she will be from Africa as the appointment is based on rotation between two regional groups. I am certain that he/she will strive further to consolidate its current position of strength and devise innovative ways to serve the Member States.

Excellencies, Distinguished Delegates, Ladies and Gentlemen, I request the delegates to avail of this unique opportunity and reflect the concern of their Governments/Countries regarding these topics and to share their experiences with and among AALCO Member States as it is, in my view, one of the fundamental aims of our annual meeting. In this context, I welcome the initiative of Japan to organize a side-event to share the experiences of the country and others on international cooperation in legal sphere.

To conclude, I once again welcome you all to the Fifty-Fifth Session of AALCO being held in this historic and beautiful metropolitan city of New Delhi and thank the Ministry of External Affairs of India for their wholehearted support in organizing this Session. I sincerely hope that the discussions will uphold the “Bandung spirit” of cooperation to ensure focused and outcome-oriented deliberations, paving the way for this Session to be a huge success. Thank you very much.

**President:** Your Excellencies, I thank the honorable Secretary-General for his warm welcome to all the delegates attending the Annual Session. Now I would like to invite H.E. Hossein Panahi Azar on behalf of H.E. Mr. Mehdi Danesh-Yazdi, President of the Fifty-Third Annual Session to propose the vote of thanks.

**(iv) Vote of Thanks by H.E. Mr. Mehdi Danesh-Yazdi, President of the Fifty-Third Annual Session of AALCO and Deputy Foreign Minister of the Islamic Republic of Iran**

Thank you, Mr. President. *In the Name of God, the Compassionate, the Merciful,*

Honorable Chief Guest, Ms. Sujata Mehta, Secretary, Ministry of External Affairs, Government of India,  
President of the Fifty-Fourth Annual Session of AALCO, H.E. Mr. Liu Zhenmin, Vice Minister of Foreign Affairs, People’s Republic of China,  
Secretary-General of AALCO, Prof. Dr. Rahmat Mohamad,  
Honorable Ministers, Attorneys General, Heads of Delegations, Distinguished Delegates, Ladies and Gentlemen,

It is indeed my honor to convey the message of the President of the Fifty-Third Annual Session of AALCO to propose a vote of thanks at the Fifty-Fifth Annual Session. The Annual Sessions of AALCO present a valuable opportunity for the Member States of the two prominent continents of Asia and Africa to deliberate on the most important issues of concern to our region and to the international community at large. The variety of topics covered and the depth of understanding on each topic developed over time is witness to the maturity of the work of our Organization with a sixty-year background in the progressive development of international law. Without a doubt, the establishment and promotion of the rule of law in our region today owes much to the attempts made in the past by all Member States including through AALCO and its Annual Sessions. Let us hope that the good work demonstrated by the Member States in upholding the cardinal principles of international law through the work of AALCO will flourish in its further improvement and another glorious sixty-year period.

Distinguished delegates, Please allow me to express my gratitude on behalf of the Member States of AALCO to the Government of India and the AALCO Secretariat for the excellent

arrangements made for holding the Fifty-Fifth Annual Session of AALCO here in New Delhi. The coincidence of the Fifty-Fifth Annual Session and the sixtieth anniversary of AALCO render this occasion all the more valuable. Here, I wish to extend our heartfelt support and cooperation to the incoming President for conducting the Fifty-Fifth Annual Session, and I am sure he will fulfill his duties at best.

I would like to thank H.E. Mr. Liu Zhenmin, President of the Fifty-Fourth Session for his excellent stewardship in presiding over the deliberations of Member States at the Fifty-Fourth Annual Session.

I should also like to take this opportunity to thank H.E. Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO for his untiring efforts for the purpose of the work of our Organization during the Fifty-Fourth Annual Session and during his tenure as Secretary-General. The Deputy Secretaries-General and other officials and members of the Secretariat should also be commended for their contribution to AALCO's work.

In the end, let me express my gratitude in advance on my own behalf and on behalf of H.E. Mr. Danesh-Yazdi to all honorable Ministers, Attorneys General, Heads of Delegations, Distinguished Delegates and observers for participating in the forthcoming deliberations. I hope that this Annual Session will bear fruitful results like its predecessors. Thank you, Mr. President.

**President:** I thank H.E. Mr. Danesh-Yazdi for the vote of thanks proposed by him.

Excellencies, ladies and gentlemen, with this we come to the end of the inaugural session of the Fifty-Fifth Annual Session of AALCO. Thank you.

**Master of Ceremony:** Thank you Excellencies for your addresses. Now I request the Heads of Delegations to gather in front of the podium for a group photograph with the Chief Guest, However, you have to bear with us for a few minutes in order for the staff to make the necessary arrangements. All other delegates are requested to proceed for tea and coffee.

## **IV. VERBATIM RECORD OF THE FIRST MEETING OF DELEGATIONS**

#### **IV. VERBATIM RECORD OF THE FIRST MEETING OF DELEGATIONS OF AALCO MEMBER STATES HELD ON 17 MAY 2016 AT 11.45 AM**

**His Excellency Mr. Liu Zhenmin, President of the Fifty-Fourth Annual Session and Vice Minister of Foreign Affairs of the People's Republic of China in the chair.**

**President:** Good morning again to all of you. Well, we will now commence the first meeting of the delegations of Member States.

Ladies and gentlemen, before you is the “**Provisional Agenda and the Tentative Schedule of Meetings and Events**”. The first item for this delegations’ meeting is the adoption of the **Provisional Agenda and Tentative Schedule of Meetings and Events**. If you all approve of the same, I regard it as adopted. I see no objections, therefore the “**Provisional Agenda and the Tentative Schedule of Meetings and Events**” for the Fifty-Fifth Annual Session of AALCO has been adopted. And now I move to the second agenda of the item which is the “**Admission of New Members**”. Since there is no application for the same we will proceed to the next item.

Then we can move on to the next agenda item, which is the “**Admission of Observers**”. For this purpose I request the Secretary-General to read out the list of Observers. Secretary-General, you have the floor.

**Secretary-General:** Thank you Mr. President. We have received three requests for admission of Observer States, namely: Belarus, Eritrea and Vietnam.<sup>1</sup>

**President:** Dear colleagues, we have heard that there are three countries applying as Observers to AALCO. If there are no objections, I take it that we admit these Observers to the Fifty-Fifth Annual Session. Let us welcome them.

The next agenda item is the “**Election of the President and Vice-President**” of the current Session. I shall give the floor to the delegation of Kenya for the nomination. You have the floor, Madam.

**The Leader of Delegation of Kenya:** Mr. President, Kenya is extremely pleased to propose Dr. V.D. Sharma, who is currently holding the position of Joint Secretary, Ministry of External Affairs, Government of India, as the hon’ble President of the Fifty-Fifth Annual Session of AALCO. Dr. V.D. Sharma has held many distinguished positions in his illustrious career. He started his career as a law teacher, teaching international law at a university for seven years. He then joined the Legal and Treaties Division of the Ministry of External Affairs in 1995. For a few years he worked as a counselor (legal), at the Permanent Mission of India in New York. Dr. Sharma’s areas of expertise include the Law of the Sea, settlement of disputes and so on. It is our pleasure to nominate Dr. V.D. Sharma. Thank you.

**President:** I thank the delegation of Kenya for the nomination. I now give the floor to the delegation of Iran for secondment.

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<sup>1</sup> The International Committee of the Red Cross was later admitted as an Observer Organization.

**The Leader of Delegation of Iran:** Thank you Mr. President. My delegation would like to second the proposal by the distinguished delegate of Kenya of Dr. Sharma as the next President of AALCO. Thank you.

**President:** I thank the delegation of Iran. Dear colleagues we now turn to the election of the Vice-President of the Fifty-Fifth Session of AALCO. I shall give the floor to the delegation of Malaysia for the nomination.

**The Leader of Delegation of Malaysia:** Mr. President and distinguished delegates, Malaysia would like to nominate H.E. Mr. Samuel Panyin Yelley, the High Commissioner of the Republic of Ghana to India, to be the Vice-President of the Fifty-Fifth AALCO Annual Session. Thank you.

**President:** I thank the distinguished Representative of Malaysia for the nomination of the Vice-President. I now give the floor to the delegation of Sudan for the secondment.

**The Leader of Delegation of Sudan:** *In the Name of God, the Compassionate, the Merciful*

Thank you, Mr. President. Sudan would like to second the proposal of H.E. Samuel Panyin Yelley, the High Commissioner of Ghana as the Vice President.

**President:** I thank the delegation of Sudan for the secondment. Dear colleagues, I think you have heard from the nominations and secondments of both the President and Vice-President that we are to elect Dr. V.D. Sharma, Joint Secretary of the Ministry of External Affairs, India, as the President of the Fifty-Fifth Session of AALCO, and we shall elect H.E. Mr. Samuel Yelley, the High Commissioner of Ghana in India as the Vice-President of AALCO. Let us congratulate and welcome them.

I now have the honour of inviting the President and Vice-President of the Session to the podium to assume their functions.

**The meeting was thereafter adjourned.**

## **V. VERBATIM RECORD OF THE FIRST GENERAL MEETING**

**V. VERBATIM RECORD OF THE FIRST GENERAL MEETING HELD ON  
MONDAY, 17 MAY 2016 AT 12:15 PM**

**His Excellency Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India, and the President of the Fifty-Fifth Annual Session of AALCO in the Chair**

**President:** Honourable Ministers, Distinguished Delegates, Excellencies, Ladies and Gentlemen,

At the outset I would like to express my profound gratitude to all the delegations for electing me as President of the current Annual Session of AALCO, the Fifty-Fifth Session. It would be my pleasure and privilege to work along with the Member States of this Organization, the Secretary-General, Deputy Secretaries-General, efficient and dedicated staff of the Organization, and all stakeholders of the Organization to guide the organization to ensure that it is more active in playing its role in the progressive development of international law.

I would like to express my gratitude to H.E. Mr. Liu Zhenmin, Vice Minister of Foreign Affairs, People's Republic of China, on the completion of his tenure and for his exemplary leadership and commitment as President of the Fifty-Fourth Annual Session of the Organization.

Ladies and gentlemen, this Session is important particularly on two counts. *One*, the Organization is celebrating its sixtieth anniversary, and *two*, the Organization is getting a new Secretary-General.

Excellencies, distinguished delegates, ladies and gentlemen,

We have a hectic schedule ahead as the deliberations for the current Session will focus on various substantive items on the agenda, which includes a wide range of international law topics, including law of the sea, violent extremism and terrorism, WTO-related issues, and international law in cyberspace. A half-day special meeting will also held on selected items on the agenda of the International Law Commission. We also have side-events additionally.

Apart from the regular publications, this time we have two special studies to be released. One is on marine biodiversity beyond national jurisdiction, and the other is on the Asian-African perspective on international law in cyberspace. We also have the Secretary-General's Report on the Work of the Organization during the past year, discussion and adoption of AALCO's proposed draft budget for the year 2017, as well as the Regulations governing the Secretary-General's salary, allowances and other emoluments. The reports on the arbitration centers will also be taken up.

With these words, I once again thank all the delegations for electing me as the President of the current Session and request the cooperation of each one of you for the smooth conduct of this Session and to realize the mandates of the Session. Thank you very much.

**Prof. Dr. Rahmat Mohamad, Secretary-General:** Mr. President, the next agenda item is in relation to the release of the AALCO Publications. I would now like to invite Mrs. Anuradha Bakshi, the Principal Legal Officer, to give you an account of each of these publications.

**Mrs. Anuradha Bakshi, Principal Legal Officer of AALCO:** Thank you Your Excellency. The following publications will be released during the course of this Annual Session. I begin with the release of the **AALCO Yearbook, 2015, Volume Thirteen**. The Yearbook of the AALCO, which was previously known as the ‘Report and Selected Documents’, has been published since 2003.

The Yearbook remains the most comprehensive and authoritative reference work of the Organization in a particular year. More specifically, the Yearbook provides comprehensive information about AALCO, its activities, the studies prepared by the Secretariat on the agenda items during the year, summary of deliberations and the resolutions adopted at the Annual Session. In addition, it contains statements delivered by the Secretary-General and the Deputy Secretaries-General at various forums and countries. In the last fifteen years or so, the Yearbook has established its place firmly among the publications as an important reference material not only for the Member States of AALCO, but also for other international organizations, international lawyers and academics who work in the field of international law. The Thirteenth Volume of the Yearbook has been prepared by the AALCO Secretariat and is being released now by the President.

**The second publication is the AALCO JOURNAL OF INTERNATIONAL LAW, VOL. 4, Issue 1, 2015.**

With a view to contributing towards a better knowledge and understanding of international law, which in turn can influence the discourse of the global policy debates, AALCO has been publishing “Quarterly Bulletin” since 1976. In the year 1997 its name and periodicity were changed to “AALCO Bulletin” brought out bi-annually, till the year 2001. The Secretariat felt the need to re-structure the format and mode of this publication and after careful discussions and study, a totally overhauled publication in the new title, i.e.; “AALCO Quarterly Bulletin” was launched by with Volume 1, Issue No. 1 dated January-March, 2005 and was published until 2011.

Beginning from 2012, the name of the Bulletin was changed to *AALCO Journal of International Law*, and to provide guidance to the editorial board on matters of content and policy, we have established an “International Advisory Board”. The Advisory Board is composed of scholars and legal practitioners from the Asian-African region who have made an outstanding contribution to international law. The *AALCO Journal of International Law* contains articles by academicians, practitioners, government experts, and students, on a wide range of legal topics within the field of international law. It also incorporates a section on current developments that discuss the legal significance of important recent events in international law. From time-to-time the AALCO Journal also focuses on specific themes. The topic for the next issue of the Journal is a thematic one focusing on the protection of cultural property and the norms of international humanitarian law. This will be published in collaboration with the ICRC and for this issue we warmly welcome contributions from government experts and legal advisors of the Member States.

**The third publication to be released is the Special Study on “Marine Biodiversity Beyond National Jurisdiction: An Asian-African Perspective”**

The agenda item “Law of the Sea” is a subject of vital importance to the Member States of AALCO as well as other countries of the region. The United Nations Convention on the Law of the Sea (UNCLOS or the Convention) is one of the most significant accomplishments of the twentieth century in international law. In consonance with United Nations activities on the law of sea, AALCO has provided impetus to ongoing contemporary works in this field.

The UN General Assembly adopted a resolution to develop a new marine biodiversity treaty for the high seas and beyond in June 2015. AALCO believes that Asian-African States can play a key role in the shaping of the international regime regulating and preserving marine biodiversity beyond national jurisdiction. At the Fifty-Fourth Annual Session, held in Beijing, People’s Republic of China (April, 2015) the Member States directed the Secretariat to undertake a Special Study entitled, “Marine Biodiversity Beyond National Jurisdiction: An Asian-African Perspective”.

In compliance with that mandate the Secretariat has published this comprehensive but concise study in order to apprise the Member States of the many legal issues involved in this sphere and suggest means by which this legal framework can be implemented. This legal framework must be in consonance both with the principles of environmental law and the law of the seas, an objective this study has attempted to fulfill. At the same time, the approach adopted must be a pragmatic one that may be implemented by States of differing social, economic and political standings and varying capacities in this sphere.

Most importantly, it is imperative that nations recognize the significance of regulating the marine ecology beyond national jurisdiction, as it is a key element of sustainable development. This study hopes to aid Member States in recognizing what these obligations are and the way forward in terms of a more holistic development of this regime.

There are currently two more ongoing publications which were supposed to be released this year, but will be done so later. One is a coffee-table book to commemorate the Sixtieth Anniversary of AALCO, and the other is a special study on international law in cyberspace. Thank you for your attention.

**Secretary-General:** Thank you Mrs. Bakshi.

**President:** Excellencies, Ladies and Gentlemen, we thank the Secretary-General under whose leadership the Secretariat has prepared this work, which is very important in the field areas for the development of which we are committed as a legal fraternity. Also, as informed by the Secretariat, there are two more studies, which are in line and will be coming up perhaps during the current Session. We appreciate again and thank the Secretariat for undertaking these initiatives.

After, the publications we are done with our work according to the schedule and we can break for lunch. The lunch is from 12:00 to 01:00pm. During lunch we have a side-event organized by the Government of Japan on “International Cooperation in Combating Violent Extremism and Terrorism” which will take place in FF1 in the same hotel. Lunch will be provided during the event there. Thank you very much.

**VI. VERBATIM RECORD OF THE SECOND  
MEETING OF DELEGATIONS**

**VI. VERBATIM RECORD OF THE SECOND MEETING OF DELEGATIONS OF AALCO MEMBER STATES HELD ON TUESDAY, 17 MAY 2016 AT 02:50 PM**

**His Excellency Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and President of the Fifty-Fifth Annual Session in the Chair.**

**President:** Excellencies, Distinguished Delegates, Ladies and Gentlemen, we now have the Second Meeting of Delegations of AALCO Member States. We will be taking part of the session for organizational matters with the note that these matters are open only to Member States of the Organization. Distinguished Delegates, I now give the floor to the Secretary-General to present the “**Report of the Secretary-General on the Work of the Asian-African Legal Consultative Organization**”.

**Secretary-General Prof. Dr. Rahmat Mohamad:**<sup>2</sup> A very good afternoon. Mr. President, Mr. Vice President, Honourable Ministers, Excellencies, Ladies and Gentlemen,

I will be presenting the Report of the Secretary General on the Work of the Organization for the year 2015. As you are aware, the detailed report of the 2015 activities has been distributed to all Delegates, and I will not take much time to report to you on those activities. The other part of the segment will be the presentation of the budget for 2017, which will be delivered by my colleague Ms. Yukiko Harimoto, followed by the regulations on the new salary scales of the Secretary-General and entitlements. She will also be presenting the subject of the new regulations.

Distinguished guests, Ladies and Gentlemen, it is with great honour that I present to you my final Report at the end of my tenure in accordance with Rule 20(7) of the Statutory Rules of the Asian-African Legal Consultative Organization. The Report covers activities since the conclusion of the Fifty-Fourth Annual Session until the start of March 2016.

At the outset, I would like to express my sincere gratitude to the President of the Fifty-Fourth Annual Session of AALCO, His Excellency Mr. Liu Zhenmin, Vice-Minister of Foreign Affairs, People’s Republic of China, for his guidance and support to the AALCO Secretariat in all its activities. I would also like to express my profound gratitude to the Vice-President, the Honourable Professor Githu Muigai, Attorney-General of Kenya.

Especially, I take this opportunity to inform Member States about the passing away of His Excellency Mr. Barry Sen, the first and founding Secretary-General of AALCO, on 8 November 2015 at the age of 90. AALCO shall always remain indebted to him for the exemplary services he rendered in his capacity as the Secretary-General of the Organization.

I am also immensely grateful to the Ambassadors/High Commissioners and the Liaison Officers in New Delhi, for their valuable inputs in dealing with the substantive and organizational matters and for the valuable support rendered to me, which has helped me in discharging my duties and functions in a smooth and effective manner. I would also like to thank all Member States for paying their annual contributions and to those Member States who have started partial payment of their arrears. I would like to reiterate that a robust

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<sup>2</sup> The Secretary-General made a power point presentation based on this text of his statement.

financial situation would facilitate the Secretariat in fulfilling the mandate entrusted to it by the Member States.

My presentation briefly covers the following topics: Briefly I will summarize the activities the activities that took place at the Fifty-Fourth Annual Session in Beijing; then I will highlight the activities undertaken since the Fifty-Fourth Session of AALCO, in line with the Putrajaya Declaration on the revitalization of AALCO; I will summarize the steps taken to revitalize AALCO; I will give my reflections on my eight years tenure in this organization and perhaps the way forward.

The Fifty-Fourth Annual Session in Beijing witnessed unprecedented participation from 40 Member States of AALCO, 6 non-Member States became Observers of the Annual Session and 10 international organizations joined as Observers in that Session. A very important event was organized by the Chinese Government in relation to the special event to commemorate the 60<sup>th</sup> Anniversary of the Bandung Conference and also to commemorate the 70<sup>th</sup> Anniversary of the UN. Another important announcement made by the Prime Minister of the Chinese Government was to establish the China-AALCO Exchange and Research Program on International Law.

The activities undertaken since the Fifty-Fourth Annual Session of AALCO can be divided under several headings: *First*, under the statutory mandates of AALCO is the Sixty-Seventh Session of the International Law Commission (ILC), which took place in May 2015. This has been a regular feature of AALCO, where the Secretary-General will report on the activities of this Organization in presenting the issues or topics in relation to the ILC. This has been a very important meeting and AALCO has affiliated itself with the ILC for many years. These dialogues and meetings are very important because this is where the Secretary-General provides the necessary input—the views of the AALCO Member States—in relation to the various topics of the ILC.

The important aspect of this meeting is that AALCO is the only intergovernmental organization that provides input from both Asian and African countries in relation to the various topics. During my tenure we have expanded and given more time to have ILC topics, and have resolved to have a Half-Day Special Session dedicated to discussing and deliberating on the topics of the ILC among Member States. Occasionally we even invite the Special Rapporteurs on various topics of the ILC to come and discuss with us so that they have firsthand knowledge of the views of Member States. A few years ago we had the benefit of the presence of Sir Michael Wood here in Delhi to provide his input and report on the “Identification of Customary International Law”. It is important that this kind of engagement continues so that they will have their activities highlighted in our Annual Session and the Secretary-General then presents the views of the Member States at the Geneva Session.

Apart from the ILC in Geneva, we also have our annual Meeting of Legal Advisors in New York. With the help of our permanent observer in New York, Dr. Roy Lee, who generously assists us in continuing the activities of AALCO in New York and especially in November when we have the international law week and before the Sixth Committee we will have our sideline Meeting to carry forward some of the views of the Member States. The other important aspect of the Legal Advisors meeting in New York is that we have opened engagement or discussions or dialogues even with non-Member States of AALCO. This is also important so that they know what are the kind of activities that AALCO has taken especially in promoting the progressive development of international law.

The other aspect of activities taken up by the Secretariat is in relation to the hosting of seminars, conferences, dialogues and lectures. These I see as very important because AALCO must continue to keep abreast with the development of international law. We must continue engaging with international organizations and universities so that we have a better perspective on current developments in international law. As Secretary-General I had opportunities to deliver lectures in Europe, Asia and Africa. The idea is to spread the awareness that international law is important and that academic and research institutions must understand that they provide very important input to their governments. In terms of especially research, we know that the reservoir of knowledge has always been in the domain of the universities and research institutions. So if we do not engage academics, it will be very difficult for our Organization to understand better new and current issues in international law. Of course we also understand that bureaucrats do not have the luxury of time to engage in finer or detailed research activities. This is why I thought we should continue engaging research institutions and universities to have a better perspective.

The other aspect of our activities is in terms of research and training. We know that this is important for capacity building of our Organization. We are aware that many of our Member States do not have the human resources or the expertise in various subjects of international law, so it is fortunate that the Chinese Government has established the China-AALCO Exchange and Research Program on International Law (CAERP). They launched the program last year at the Xiamen Academy where they invited participants from Member States of AALCO. They have provided the necessary training, through lectures and seminars for our legal officers and diplomats.

The other kind of training was in-house training. We, at the Secretariat, now regularly organize in-house training even for ourselves, as we have many experts around Delhi, and we take advantage of their positions as experts and specialists. What we had in October last year was we invited experts on Cyberspace and international law from Delhi to provide us the necessary knowledge on the topic of Cyberspace and international law.

Now we continue to cooperate and collaborate with other international organizations. We have for example, yearly affairs of collaboration and joint seminars with the ICRC, especially on the subject of international humanitarian law. We had the benefit of their specialists coming to the Secretariat to provide us details on recent developments in international humanitarian law. So we have benefited a lot from this cooperation and collaboration. We also have close collaboration with the African Union. They invite us to present our views at their forum in the African Union Commission on international law.

As mandated by Member States, AALCO should continue to organize legal experts meetings on the subject of either ILC or the subject under the work program of AALCO. Last year we organized the informal legal experts meeting in Kuala Lumpur on the topic of identification of customary international law. We also had another expert meeting on the law of the sea also in Malaysia that year. There we discussed the thoroughly the subject of marine biodiversity in areas beyond national jurisdiction. We know that this is a very important topic currently being discussed and deliberated in the United Nations. We had the benefit of experts coming from Japan and also Malaysia and India. Recently, in January 2016, we had a meeting of legal experts on violent extremism and its manifestations. These are some of the meetings that have been mandated to us.

I would like to remind Member States of the Putrajaya Declaration of 2009. In that year we had agreed among Member States that we are committed to revitalize and strengthen this Organization. It is important that we reaffirm our commitment to the relevance of this Organization. We need to strengthen this Organization in terms of looking at new subjects under international law, looking at organizational and administrative matters, and also the importance of pledging to provide this Organization with all forms of support as appropriate, in particular financial support. We hope that that Member States will continuously be the pillars of this Organization. Of course we are reminded of the importance of the Bandung Conference and how we came about as an Organization, how this Organization became a platform for Member States to air their concerns and common concerns in areas pertaining to international law.

The steps taken to revitalize and strengthen AALCO on the basis of the Putrajaya Declaration, I look at it in three aspects: human capital; financial matters; and the substantial aspect of the Organization.

In terms of human capital, the Secretariat is always in dire need of attracting local talent. How do we ensure that we have the best brains and talents to come and work at the Secretariat? The concern is always the financial aspect, the financial remuneration. If we have enough financial support then obviously we could employ the best brains to work in the Organization, especially in relation to research activities. That is one aspect. There is also the suggestion that perhaps the Secretariat should recruit international experts. Again, this requires some financial backing. Like any other international or intergovernmental organization, we do have international recruitment. But in order to attract international recruitment, we need to have financial attraction. This is an issue and challenge for the Secretariat.

We, in fact, proposed the nominations of legal experts from Member States. They could be from academic backgrounds, or bureaucrats of diplomats. We suggested this many times in my Annual Report. The fact that we have three deputies from Iran, Japan and China is very much helpful to me as Secretary-General to assist me in terms of managing the Organization, but also to identify the new areas of international law, which is very much required. The Secretariat has to keep abreast of international developments, and we obviously need experts to assist us in providing research input for Member States. We also suggest perhaps fellowship grants for scholars to come and work for the Organization. Unfortunately no countries have responded to this. Finally, we encourage interns from Member States of AALCO. India has been consistent in providing internship programs where law students from various Indian universities come to support and help us. Malaysia has also sent, not on a regular basis, their students for the internship program. Looking at the number of resolutions passed by Member States every year, the Secretariat has been mandated to do several things especially with regard to recent developments and trends in international law. Unfortunately we are unable to deliver as much as is expected by Member States. Provided we have the necessary financial infrastructure we can provide more. Still, we have not neglected the mandates given to us. The fact that we have come out with special studies on sanctions, Palestinian statehood and marine biodiversity, are a testament to the sheer hard work on our part even with a lack of human resources.

When I took office in 2008, we had only a few months to survive financially. As an intergovernmental organization now countries and Member States are beginning to pay their arrears, although we have a large sum of arrears to be collected. I think with the help of my

able deputies, we managed to persuade and convince Member States who are in default to contribute and pay their arrears. It is an obligation of Member States to ensure that they consistently make their contribution to this Organization. We cannot move without financial capacity. This is our problem. For the past eight years I must say that out of 47 countries we know that more than 10 countries will not be making their contribution despite the fact that we have urged, we have persuaded the countries. We have reminded the capital that they still owe us this contribution. This is something that I must say: I think this is something that is a bit unfair to impose on those countries that have been paying regularly and to tax them when some countries do not heed our reminders to make their payments. I think my deputies have done a great job in persuading countries to make their payments. We will continue of course to provide the Memorandum of Agreement and sign agreements with countries in arrears to remind them that they have to pay their arrears. It is an obligation. The recovery of arrears requires continuous effort for the Secretariat. We know we have an obligation to collect.

Now do we need to give an incentive to those Member States in arrears? In some instances arrears are owed for more than 10 years. Some requests have been made for 30% concession or discount, but we do not have the authority to do that. It is up to the Member States to decide whether to give such incentives. We, the Secretariat, on our part try to be creative in trying to collect some fees in organizing seminars or conferences, but at the same time I am ambivalent to imposing fees when we organize conferences or seminars. This is our predicament really. So, if we have a directive from Member States, who have the authority to start charging fees when holding conferences or seminars then we can be clear on that. If you ask me personally, no one would want to come for a free seminar because it is free, but I think there would be a lot of interest if we start charging participants to attend or participate. In the private sectors high fees are charged for seminars, but we have experts and cannot charge because we are an intergovernmental organization. This is something that I seek guidance from the Member States for. Those are the financial matters. My colleague will further enlighten you on some aspects of that.

Now, what is the expectation of Member States at the end of the day? We have meetings and Annual Sessions where we pass resolutions and mandates to the Secretariat. We have intersessional meetings, legal experts meetings, special meetings on substantive topics of AALCO, eminent persons group (EPG) that gives direction to the Secretary-General. During my tenure I have created the EPG as an important entity that will provide assistance in terms of administrative or management or financial matters because they are eminent in their areas as bureaucrats, politicians or experts in international law. So they will give advice as they are in the advisory capacity to the Secretary-General. Then we have the ILC annual meeting and the Sixth Committee which we also participate in. But what is the expected outcome? We expect that out of these meetings and resolutions and mandates, that the Secretariat has been urged to come out with model laws and guidelines that will eventually become soft laws, and at the end of the day the ultimate outcome is to create customary international law if possible. Any expert would expect that kind of output for the Secretariat. But, we are not able to come out with model laws and guidelines because we are prohibited by many reasons, one of which is whether we can hire experts as consultants for this Organization. Of course, just now one eminent delegate mentioned whether we can come out with a definition of, for example, violent extremism. Do we have the political will to come out with that definition? These are answers that only Member States can provide and not the Secretariat because we will be directed by the Member States. However, provided we have strong support from Member States we can help this process. But there is a clear expectation from Member States that you must do this, this and this, that we expect you to come out with model laws, that we expect

you to come out with legal guidelines and principles that will create soft laws and hopefully customary international law, but we have our limitations.

A typical AALCO work programme would have experts meeting, working groups, capacity building, internships and finally the tangible outcomes. As I mentioned earlier, these are the outcomes that we have to finally materialize at our Secretariat. If you look at the 60 years of evolution of the Organization, we were able to do that because when I look at the records we had enough pools of experts coming to the Secretariat. These are things that I hope to achieve at the Secretariat.

The enhancement of AALCO profiling is very important. I have to give credit to our permanent observers in New York and Vienna for helping us to further enhance the image of this Organization. I must thank Dr. Roy Lee for his effort in New York for trying to help enhance the image of this Organization. Their role is pro bono to assist us in creating that important image to non-Members and Members of AALCO in the UN, and he has done a great job. Now AALCO is well known in the New York diplomatic circle. In Vienna we have Madam Christine Nemoto who also helps us, especially in debates, discussions and deliberations with the UNODC. We see that she is very active in helping us, but again we have limitations and cannot afford to provide the necessary remuneration or honorariums to these very important people. Ms. Nemoto has provided assistance to the Organization for over ten years and without fail she comes out with reports on the meetings she attends in Vienna. We are not able to establish a permanent observer office in Geneva because there is a strict requirement by the Swiss Government that we have to open an office and we do not have the necessary means. Geneva is equally important as New York to provide the voice of the Asian and African regions in providing the necessary input in international law.

I cannot imagine if AALCO were not present at the ILC meetings in Geneva because, as I said, many countries do not have the luxury of having experts and specialists to talk about, for example, customary international law. We had a long discussion yesterday with the EPG, that unlike treaties and conventions which are only binding if we become signatories, but in customary international law it is not like that. It is easy to say that as long as you fulfill the two important elements—State practice and *opinio juris*—you have customary international law. But, how many of developing countries agree that you have customary international law? Now at the moment, the customary law that we are bound by is very much Eurocentric. That is why we need an informal expert group to assist us to provide the necessary input and provide Sir Michael Wood with a report on the subject. If you look at the records of countries participating and deliberating in the Sixth Committee meetings not all developing countries would participate on the very important subject, let alone other important subjects such as the “protection of atmosphere”. It is therefore important that permanent observers will provide the necessary engagement and discussion in New York and Vienna and we will keep abreast of that.

The other important profiling of AALCO is the website. The website, as you know, is the window, for the world to know our Organization. I think we have improved the website. I must say that through the generous contribution of the Kuala Lumpur Regional Arbitration Center we have done a lot on the current website. We need to improve it further, especially on the interactive part, so we will continue improving on it.

Publications are another important asset for this Organization. That is why I emphasize the publication of the journal on international law. It has its credence and its credibility because

we have appointed international advisors who are jurists on international law. I want to enhance the publications so that it becomes a refereed journal, not just for academics but also for practitioners.

We need to establish networks in terms of working with other regional organizations, universities, research institutions, NGOs and other important partners and hosting and participating in international conferences and seminars. As I mentioned, the EPGs role in assisting the Secretary-General has been to me a very enriching experience. But these are some things that we have to continue to enhance the image of the Organization.

Perhaps I should move on to my reflections on eight years as Secretary-General of AALCO. In 2008 when I was a candidate in the election in this very hall, I mentioned three things about AALCO. *First*, AALCO as a legal consultative body needs to live up to that expectation; *second*, what is AALCO to its Member States? To what extent do Member States value AALCO?; and, *third*, the function and role of AALCO in looking at new issues in international law. These were the three perspectives I gave during my ten-minute campaign at that time. Upon reflection I see that AALCO must remain a legal consultative body, particularly on common legal issues of its Member States. It is not a political entity as such. It must serve the overall needs of its Membership and not only a few States. If you look at the subjects of the ILC, for example, I was asked why only a few countries are interested in participating. Perhaps this is because only serves the needs of a few countries and does not really reflect the needs of the Members as a whole. AALCO must prioritize the subjects that require immediate attention by its Members. Of course this will only come from the Member States. Your resolutions and mandates are very important to us. AALCO must be utilized as a platform to forward the views on common concerns. These are some of my perspectives on this Organization.

There must be continuous support of AALCO from its Member States. If you become the member of a club you expect some benefits, but at the same time it is also obligatory on your part to provide the necessary support, especially in financial matters. Every year you have to observe your part to make payments to the Organization. At the same time the Secretariat must also live up to the expectations of the Member States. The programmes laid out by the Secretariat must always be beneficial to Member States. There must be a shared vision among Member States of AALCO. We have gone through the first stage of AALCO where in the first 50 years we have contributed immensely to the development of international law. So what is our plan for the coming 50 years? The first half of the Law of the Sea is on UNCLOS. Now I see the importance of moving from the Law of the Sea to Marine Biodiversity. There is a dire need for having a legal framework on Marine Biodiversity and there is no law on exploration and exploitation in areas beyond national jurisdiction. I see again here a divide between North and South. So where is our role here? I think we should quickly on our part look at this as an important issue. There must be some kind of shared vision. I have always been asked by the ILC for example about the position of AALCO in terms of, say, immunity of State officials, and I tell them there is no common position. The fact that there is diversity of opinion and views shows the importance of the subject. It is almost impossible to have a common position. But at least there is a platform for AALCO to discuss and deliberate on important topics of international law.

With regard to AALCO and new issues in international law: we need to participate and engage in diplomatic conferences, we need to host conferences and seminars and dialogues to collaborate and cooperate with regional and international organizations, we need to embark

on research and studies with universities and research institutions. I addressed this issue with university scholars that they have an obligation. I think we need to encourage scholars and academic institutions.

Now I would like to view AALCO as a knowledge organization. Perhaps this is something we have neglected for years. After more than 60 years of our existence, there is a need to manage the organization and reach new ideas. I was told the EEZ, the idea of the contiguous zone, the idea of developing the initial stages of the UNCLOS initiated from AALCO, but how do we claim these very enriching ideas coming from Organization? We had experts for many years engaging in the law of the sea. I know that many of you know each other because you keep attending diplomatic conferences, so you have followed developments, and the Annual Session is an opportunity for experts to provide necessary ideas. So, you need to see this as an important part of the Organization. In order to do so it requires a system and process that can transform views and transfer all these ideas which form a knowledge based product. I know this something we are not really able to think about because when you look at AALCO you look at the surface without going in-depth. But I call this an intangible asset of AALCO because we have 47 countries of Asia and Africa, and the reservoir of knowledge and experience is abundant. The documents we come out with every year—resolutions, mandates, special studies, so on and so forth—are all in the library. The network of legal experts we have gathered since 1956 until today, the collaboration with specialized agencies of the UN and other IOs are immense. But where do we put this? Do we value these assets? Imagine AALCO as an organization of European or American countries. They would definitely have the account of knowledge and assets.

It is regrettable that every time I attend meetings with the ILC, when it comes to the special rapporteur coming from Europe or American you will see pools of experts and researchers to assist them. But, when it comes to Asia and Africa there are none. Yet we produce postgraduates in international law but where are these people? How is it that they are not serving their governments of special rapporteurs? One-third of ILC Members are from Asia and Africa, but we do not see these researchers helping the special rapporteurs. The reason why we see so many special rapporteurs from Europe and America is because we do not have the necessary resources and we do not feel that this is important, and we will continue to see Eurocentric international law in the years to come. With a few exception of Japan I do not see any other countries assisted by international law experts. I think this is something to be seriously considered especially at our 60<sup>th</sup> Anniversary.

Now what is my unsettled business? For the past eight years I must admit that I have tried my best to put AALCO in a better position, improve financial standing. I do not think the next Secretary-General will have difficulties in managing the fund because we have quite a good amount of reserve fund. I have not been able to enlarge membership and unfortunately this is my weakness. We have tried our very best to invite countries to join AALCO, but I have not been able to do that. But we need to continue trying to enlarge AALCO and strengthen the human resources, because these are people that provide the necessary input to the Organization. As I said, not all AALCO Members have the luxury of experts and specialists. You have to entrust this Organization and provide it the resources to help Member States and provide necessary expertise in international law.

We should be more about creation and should innovate in many aspects. Management, finance are very important for the Organization. Can we get, for example, donations and funding from private companies? This is something that we are again ambivalent about

because we are an intergovernmental organization and there have been discussions but we have not come out with a clear direction. Perhaps it is about time for us to look at this. We need to have closer collaboration with international organizations because they help us on a pro bono basis. We have an MoU with the WTO, UNIDO etc., and they can come on a free basis for consultations. They can assist us in capacity building.

We need to nurture and enhance the network of young scholars of international law. We have various societies of international law in Asia and Africa but we do not have a network of young scholars. We need to nurture them and I feel that young diplomats and scholars should contact each other and they should have a regional network.

And finally, to focus on substantive matters, this will focus very much on our priorities. What are our priorities at the moment? It is very important to revisit and look at the substantive activities.

Finally, I have this to say to conclude my presentation. I think AALCO must continue to promote the Bandung Spirit and promote the progressive development and codification of international law and rule of law and rule of law in international affairs. I think this is the role and main objective of this Organization after all. We must continue the efforts to promote this. I am sure after 60 years of AALCO's establishment that it offers us an opportunity to again reflect on our future role. Is there a need to have the Organization? Do we need to revisit our objective? I think this year is an opportunity to look at that, and most importantly, what is AALCO without its Members? Member States must therefore truly support the work of this Organization, if you believe that this Organization can produce the necessary products. What is the product? We promote the progressive development of international law. The founding fathers of this Organization believed that this is the best platform to look into the subject. Then there must be support from Member States. So with that, ladies and gentlemen, I end my presentation. Thank you very much.

**President:** I thank the Secretary-General for presenting the Report on the work of the Organization. Since the commencement of the last Session in last April in Beijing, through the year until today, the Secretary-General has given a full account of the activities of AALCO in various fields in which the Organization is mandated. The Secretary-General has informed us particularly about the engagement of the Organization with the ILC organizing training programmes, establishing cooperation with other international organizations including the United Nations, the role, activities and contributions made by AALCO at the Legal Advisors Meeting in October and November of last year, the meetings of legal experts of Member States in different countries, including Malaysia on the important contemporary topics, and also the steps taken to revitalize the Organization.

Additionally, the Secretary-General has also reminded us about the financial situation of the Organization, which is not in that bad a shape that has been in the past, but still all Member States should agree with the Secretary-General that we should stress for the recovery of arrears. I thank the Secretary-General for a comprehensive and telling presentation, including the way forward and what has been left undone.

The next agenda item before us is the “**Budget for the year 2017**”, and I invite the Deputy Secretary-General to deliver the presentation.

**Ms. Yukiko Harimoto, Deputy Secretary-General of AALCO:** Thank you Mr. President.

Excellencies, Distinguished Delegates, Ladies and Gentlemen;

“AALCO’s Budget for the year 2017” is contained in the Document No. AALCO/55/HEADQUARTERS (NEW DELHI)/2016/ORG 2. In accordance with the AALCO Statutory Rules, the AALCO Budget for the year 2017 was prepared by the Secretariat and placed at the Meeting of Liaison Officers in January this year in New Delhi. Since then, the draft budget has been discussed at the subsequent Liaison Officers Meetings and is now submitted to the Annual Session for its final approval.

The proposed budget for the year 2017 is USD 570,600, which is a decrease of USD 66,575 from the previous year’s budget. Accordingly, respective assessed contribution of Member States in 2017 is expected to decrease as compared to the one in 2016.

The salient features of the 2017 budget can be summarized in three points: First, as just explained by the Secretary-General, under the 2017 budget, the Secretariat plans to conduct programmes on capacity building and research activities in order to meet the need of Member States. In the same line, inter-sessional meetings have been properly budgeted. In the past, this budget line was together with one of Annual Session, and despite all of our efforts, almost every year the actual expenditure under its budget line exceeded the budgeted amount. For the sake of transparency, and in efforts to ensure the minimum finance for one of AALCO’s core activities, the Secretariat has added a new budget line for inter-sessional meetings. Needless to say, when organizing AALCO activities, we will continue with our efforts to get in kind support including financial assistance from our partners, while a minimum operational cost will be budgeted.

Second, the draft budget for 2017 reflects the draft regulations to be adopted on Secretary-General’s salary and entitlements which will be reported and discussed after this agenda item.

Third, the budget lines related to the departure of current Secretary-General and arrival of new Secretary-General were deleted in 2017 budget, which will only be required in 2016, such as moving cost and leave encashment.

Excellencies, Distinguished Delegates, Ladies and Gentlemen, As the Secretariat, we have always felt the commitment to work further in cost effective way and on cost saving measures. We will uphold this commitment. For example, you may find one of the examples of such commitment under the budget line of publication/printing in 2017 budget.

I would also like to emphasize that the Secretariat will continue with its efforts to collect contribution and arrears. Towards this end we have been negotiating with all the Member States that are in arrears. Taking this opportunity, I would like to once again kindly request support and cooperation from Member States to fulfill their financial obligations, to support the activities of AALCO.

I would also like to draw your kind attention to another issue which is not reflected in the proposed budget but might bring a potential impact on the financial situation of AALCO in 2017. The salary structure of the locally recruited staff of the AALCO Secretariat has broadly followed the Government of India pay scale. In India, Pay Commissions have been set up on a regular basis to review and make recommendations on the work and pay structure of the employees of the Government of India. The 7th Pay Commission made a recommendation

recently and the Indian Government's response to it is expected to come out this year. When the announcement is made, the Secretariat will report the matter to the Member States for them to consider its implications to the regularised local staff at the AALCO Secretariat.

Excellencies, last but not the least I would like to kindly remind that as 2017 is the very first year for the new Secretary-General to lead the Organization. The support and cooperation from Member States to AALCO is more than ever crucial, including on financial matters.

I thank you very much.

**President:** I thank the Deputy Secretary-General for providing us the information about the forthcoming budget. Now we have on our agenda the “**Regulations on AALCO's Secretary-General's Salary, Allowances and other Entitlements**”. I invite the Secretariat to deliver the presentation on that agenda item.

**Ms. Yukiko Harimoto, Deputy Secretary-General:** Once again, I thank you Mr. President.

Excellencies, Distinguished Delegates, Ladies and Gentlemen;

“The draft Regulations on AALCO's Secretary-General's Salary, Allowances and Other Entitlements” are contained in Document No. AALCO/55/HEADQUARTERS (NEW DELHI)/2016/ORG 1A.

It may be recalled that by the resolution adopted at the 54th Annual Session in Beijing, the Sub-Committee of Liaison Officers on AALCO Secretariat's Human Resources and Financial Matters (Hereinafter Sub-Committee) was reactivated to formulate the draft rules and regulations for the salary and entitlements of the Secretary-General, taking into account the practice of similar Asian-African Organizations as mandated by the 54th Annual Session. After successive rounds of meetings chaired by the Liaison Officer of The Gambia, Mr. Alieu Bah, the Draft Regulations on Secretary-General's Salary, Allowances and Other Emoluments had been approved by the Sub-Committee and later the same was reported and approved at the Liaison Officers meeting held in January 2016.

However, taking into consideration the comments made later during the Liaison Officers Meeting in March 2016, which pointed out the importance of including “Education Allowance” in the aforementioned regulations, after informal consultation among certain Member States, the draft resolution attached to the Secretariat document includes a reference to revisit the issue, as and when required.

The draft regulation in front of you is the outcome of difficult negotiations among Liaison Officers and if adopted, it is expected to have the transparency and predictability in managing the Organization.

After consideration by the Fifty-Fifth Annual Session, these regulations would be inserted in the existing Administrative, Financial and Staff Regulations of AALCO as stipulated in AALCO Statutory Rules 20(4) and applied accordingly. Thank you very much.

**President:** Thank you Madam Deputy Secretary-General. Now, according to our programme of work we have a tea break for 15 minutes. Any comments regarding the Report of the Secretary-General, the Budget for 2017, and the Regulations on the Secretary-General's

Salary can be made tomorrow during the General Statements. We will reassemble at 3:15 and the item after the break will concern the Election of the Secretary-General. Thank you very much.

**This meeting was thereafter adjourned.**

**President:** We will now resume our business.

Excellencies, Ladies and Gentlemen, The current agenda item we have before us deals with the **Election of the New Secretary-General**. I have been informed by the Secretariat that there is one nomination received from the African region whose turn it is this time to serve as the Secretary-General. The nomination has been received from Tanzania and the nomination received is Prof. Kennedy G. Gastorn. May I request Prof. Gastorn to come to the podium to introduce himself before we go ahead with the formal election. Thank you very much.

**Prof. Dr. Kennedy Gastorn, Candidate for the Post of Secretary-General of AALCO:**  
Thank you Mr. President.

Your Excellency, Dr. V.D. Sharma, President of the Fifty-Fifth Annual Session of AALCO and Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India.  
Your Excellency, Liu Zhenmin, the President of the Fifty-Fourth AALCO Annual Session and Vice-Minister of Foreign Affairs, People's Republic of China,  
Your Excellency, Prof. Rahmat Mohamad, Secretary-General of AALCO,  
Hon'ble Ministers and Attorneys General from AALCO Member States,  
Your Excellencies, High Commissioners and Ambassadors,  
Distinguished Delegates, Ladies and Gentlemen, good afternoon.

I am extremely honoured and humbled to be afforded this opportunity to give a very short speech on my vision and mission as a candidate for the post of the Secretary-General of AALCO.

I am an Associate Professor of Law at the University of Dar es Salaam, trained in Tanzania and the Federal Republic of Germany. At the outset, allow me also to state that I come from the United Republic of Tanzania. Tanzania joined AALCO in 1973 and ever since then it has made valuable contributions to the growth and development of AALCO, endeavoured to improve its substantive and organizational efficacy. Three years after joining the Organization, the father of the nation of Tanzania, Mwalimu Julius Nyerere, addressed the 20<sup>th</sup> Anniversary of the then AALCC in 1976 in Kuala Lumpur, Malaysia. Coincidentally, that was the year I was born. Tanzania has also hosted two Annual Sessions of AALCO, namely the Twenty-Fifth Annual Session in Arusha in 1986 and the Forty-Ninth Session in Dar es Salaam in 2010. I am therefore proud to be nominated by my government for this position, but more so for my candidacy to be endorsed by the African Union in January 2016 in Addis Ababa, Ethiopia.

Mr. President, If elected, my main agenda as the Secretary-General is well founded with the very statutes of AALCO. My first agenda is to engage more with non-AALCO Members in Asia and also Africa to become Members. I think this is more pronounced in Africa where now, with the unfortunate departure of the Republic of Botswana, Africa remains with only 14 Members out of 54 countries in Africa. This accounts for less than 26% of all African countries. I will therefore work hard to reverse this trend and encourage more membership. I

believe that more membership in AALCO is critical and it will significantly promote the image and capacity of AALCO to realize its vision and mission on issues of international law in the realities of the 21<sup>st</sup> century.

Mr. President, My second mission is to increase the strategic partnerships, cooperation, and collaborations with international organizations with similar or related activities and visions to that of AALCO. These also include the United Nations and its specialized agencies. This, in my opinion will significantly expand the scope and coverage of AALCO activities as a platform for legal exchanges and cooperation, and for organizing the struggle for justice of the peoples of the two continents within its area of competence.

Third, to promote AALCO Regional Arbitration Centers as a vibrant home-grown dispute-solving mechanism and the true partner to the business community, especially within the AALCO region. This includes a possible expansion of AALCO Regional Arbitration Centers to other countries, therefore making them more accessible to the wider public.

Fourth, to continue the momentum and good legacy of the outgoing Secretary-General, H.E. Prof. Dr. Rahmat Mohamad, in leading the Secretariat, and activities aiming at revitalizing and strengthening the Organization on both financial and substantive fronts, and more especially on unsettled business left by the outgoing Secretary-General as presented in his Report.

Mr. President, In closing, allow me to allude to what has been stated in the Secretary-General's Report: "the task entrusted to the Secretary-General is a challenging one". In no way do I consider myself fit to wear Prof. Rahmat Mohamad's shoes, but I am hopeful, with support from all of you, that I will endeavor to meet your expectations. Thank you Mr. President.

**President:** Thank you, Prof. Gastorn.

Distinguished Delegates, through the introduction of our newly nominated candidate for Secretary-General, we have come to know that his nomination is endorsed by the African Union. Now we come to the point where all Members come to a consensus and elect Prof. Gastorn formally. For this act I follow the guidance of the Member States and I invite the Member States' consensus on this issue.

It appears to be the case that all Member States are agreeable and I declare Prof. Gastorn to be elected formally as the next Secretary-General of the Asian-African Legal Consultative Organization. He will be taking his position from August of this year. Many congratulations from myself and the Member States.

Excellencies, Ladies and Gentlemen, Now having dealt with the important task at this Annual Session, we should also feel thankful to the African Union, particularly Member States of the Organization from Africa for providing us a candidate who has opened up to us about his vision and how he wants to take the Secretariat's work further. The threshold is already very strong through sixty years of existence of the Organization. What is required is to take it further in cooperation with all the Member States. Having said that, I have a feeling from at least one distinguished delegate who wants to have a comment on the business done before the tea break, which was the Report of the Secretary-General. We still have time and can

utilize it for that purpose. I invite the distinguished delegate from the Republic of Korea to make a comment. The Republic of Korea has the floor.

**The Leader of the Delegation of the Republic of Korea:** Thank you, Mr. President for your indulgence.

Before making substantive comments on the previous agenda item, I would like to take this opportunity to congratulate you on your election as the President. Also, many congratulations go to the incoming Secretary-General. I would like to commend the outgoing Secretary-General on his contribution to the work of AALCO. I shall be very brief. I would like to make some technical comments with regard to the Report of the Secretary-General as presented to this Annual Session of AALCO.

Let me start by recalling some of the relevant parts of the Report of the Secretary-General. Paragraph 102 reads as follows:

“It may be recalled that the Statutes of AALCO were revised and adopted during the Forty-Third Annual Session of the Organization, held in Bali in 2004 by virtue of resolution RES/43/ORG 7, the 25<sup>th</sup> of June 2004. The same resolution also mandated the Secretary-General to revise and present the Statutory Rules to Member States. In partial fulfillment of that mandate, the Secretariat is undertaking a task to streamline the Statutory Rules and Administrative, Financial and Staff Regulations of AALCO, focusing on mainly technical aspects such as changing the ‘Committee’ to ‘Organization’ in the text and it will soon place them on the website of AALCO, [www.aalco.int](http://www.aalco.int).”

The reason why I try to recall the relevant part of the Report of the Secretary-General is first of all, with regard to the Statute of AALCO, which was revised and adopted at the Bali Session in 2004. Article 1, in particular, sub-para (c) reads as follows:

“To communicate, with the consent of the Governments of the Member States, the views of the Organization on matters of international law to the United Nations, other Institutions and International Organizations.”

In the opinion of my delegation, the most important part of this particular provision is “with the consent of the Governments of Member States.” It is my understanding that the Organization can take a decision through, basically, the Annual Sessions. But, some of the Reports presented by the Secretariat do have draft resolutions which might divide the Member States rather than unite Member States. So, in that sense I would like to urge, and maybe appeal to the Secretariat to consider how to accommodate the concerns that my delegation is now raising. That is one thing.

The second issue is *vis-à-vis* the Statutory Rules and Administrative, Financial and Staff Regulations of AALCO. I think we better incorporate some of the relevant parts of this particular Report into the relevant resolution of the AALCO for this year. Rather than simply say “focusing on mainly technical aspects”, maybe we can suggest including but not limited to technical aspects such as changing “Committee” to “Organization”. There are some other issues, but in order to not prolong the discussion, I would like to stop. But, whenever we have informal consultations regarding the relevant resolutions, my delegation is more than happy to intervene and propose some concrete proposals.

Thank you, Mr. President.

**President:** Thank you, Republic of Korea. Is there any other delegation also wishing to make a comment or observation?

This gives the impression that all the Member States are satisfied and largely accepting of the comments and observations just heard from the distinguished delegate of the Republic of Korea, of which the Secretary-General in particular and the Secretariat itself has taken note.

Distinguished delegates, with this we have completed our work in accordance with the programme. One important announcement which is already included in the programme is the photo exhibition and dinner reception which is going to be hosted by the Government of the People's Republic of China in this very hall at 6:15pm. The former President and the Head of the Delegation of the People's Republic of China yesterday during the dinner for the Heads of Delegations has already invited all the members of all the delegations of Member States present here. So, once again, it has been repeated; all are requested to join the reception at the photo exhibition at 6:15pm. With this today's meeting is adjourned. Thank you very much and see you tomorrow.

**The meeting was thereafter adjourned.**

## **VII. VERBATIM RECORD OF THE SECOND GENERAL MEETING**

**VII. VERBATIM RECORD OF THE SECOND GENERAL MEETING HELD ON  
WEDNESDAY, 18 MAY 2016 AT 9.45 AM**

**GENERAL STATEMENTS**

**His Excellency Dr. V. D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and President of the Fifty-Fifth Annual Session of AALCO in the Chair.**

**President:** Good morning everyone. I hope you all have rested well and are ready to start with today's proceedings. The first item today is "General Statements", the theme for this debate, as indicated, is the "60<sup>th</sup> Anniversary of AALCO and its significance". However, the Member States, in their statements are free to touch upon any issue they deem fit. This segment is open to both the Member States as well as non-Member States; I take this opportunity to welcome the three Observer States of Belarus, Eretria and Vietnam. The Secretariat has provided me with a list of Member States wishing to make general statements. Accordingly, I now invite the distinguished Head of Delegation of Malaysia. You have the floor sir.

**H.E. Tan Sri Dato' Sri Mohamed Apandi, Attorney General, the Leader of the Delegation of Malaysia:** BISMILLAH! RAHMANI RAHIM, His Excellency Mr. President, His Excellency the Secretary General of AALCO, Excellencies, Distinguished Delegates, My Brothers and Sisters of the Asian-African fraternity. Assalamualaikum and a very good morning to all.

On behalf of my delegation, I would like to express our sincere gratitude and appreciation to His Excellency Mr. Liu Zhenmin, the Vice Minister of Foreign Affairs, People's Republic of China, who was the President of the Fifty-Fourth Annual Session of AALCO, and the Government of the People's Republic of China for their continued support throughout China's Presidency of the Organization.

Allow me also to express my congratulations to Dr. V.D. Sharma on your appointment as the President of the Fifty-Fifth Annual Session of AALCO. We look forward to working with you Sir under your leadership.

Our deepest appreciation is also due to His Excellency the Secretary General of AALCO, the Deputies Secretary-General of AALCO, the Government of India and the AALCO Secretariat for all the arrangements made for this Fifty-Fifth Annual Session.

Mr. President and Distinguished Delegates, this year marks my inaugural appearance before this august body since my appointment as the Attorney General of Malaysia in July 2015. I understand the enormous significance of this Organization in the development of international law, and the immense benefits and contributions it could afford to Asia and Africa. I will work with my officers at the Attorney General's Chambers of Malaysia and the Government of Malaysia to map out our strategies to tap fully the potential of AALCO in these coming years.

Mr. President and Distinguished Delegates, each year we come together to reaffirm the founding vision of this Organisation. But this year's Annual Session is a momentous occasion as the year 2016 marks the 60<sup>th</sup> Anniversary of AALCO and Malaysia is proud to be part of

this prestigious Organisation. This Organisation has indeed come a long way since the historic Asian-African Conference held in Bandung in 1955 which I dare say was unprecedented in history. This is because it gave a clear and distinctive message to the world at large that despite the differences in our political, economic or legal systems, the States of our two continents are intricately linked together as an Asian-African identity.

AALCO has always taken great pride over the fact that the concept of the Exclusive Economic Zone was born in the AALCO's cradle and it was then adopted by the G-77, and finally found its rightful place in the modern law of the sea, both customary and conventional. AALCO had also played other key and important roles during the negotiations of the United Nations Convention on the Law of the Sea. AALCO also made useful recommendations on many international law topics such as the Bangkok Principles on the Status and Treatment of Refugees adopted at its Eight Session held in Bangkok in 1966.

In relation to this, the deliberations at AALCO and the views of AALCO Member States should continue to be used as a basis to put forward AALCO's views in a more consolidated and meaningful manner.

My delegation notes with interest and will take part in the deliberations of the topics placed on the Agenda during the next few days of the Meeting. At this point in time, allow me to share with you Malaysia's initial reactions to some of the topics we consider to be important.

Mr. President and Distinguished Delegates, Malaysia notes that the current Secretary-General of AALCO would complete his term of office this year. In view of this, Malaysia further notes the appointment of the incoming Secretary General, Prof. Dr. Kennedy Godfrey Gastorn, who is from the United Republic of Tanzania and looks forward to working closely with him.

As this is the last Session that Professor Dato' Dr. Rahmat Mohamad would be attending here in his capacity as the Secretary-General, we certainly hope that this is not the end of his association with AALCO and that we would continue to see more of him in future.

I wish to take this opportunity to extend Malaysia's sincerest appreciation towards Professor Dato' Dr. Rahmat Mohamad remarkable achievements and contributions for the past eight years, particularly in the work of AALCO and the development of international law.

His unwavering commitment during his tenure as the Secretary-General has seen an active role and increased participation of AALCO in the International Law Commission's work through initiatives such as the Inter-Sessional Meeting of Legal Experts, which focuses on current matters under deliberation at the ILC. The establishment of the Informal Experts' Group definitely enhanced the relationship and cooperation between AALCO and the ILC.

We further appreciate the Secretary General's initiatives on a substantive front such as the establishment of the Eminent Persons Group comprising eminent international law practitioners and jurists, the publication of the AALCO Journal of International Law and AALCO's engagement in research on important and relevant topics of international law.

In recognition of Professor Dato' Dr. Rahmat's immense contributions to the work of the ILC and taking into consideration his distinguished qualifications in international law as well as his commitment in promoting the progressive development of international law, Malaysia is

immensely proud to nominate Professor Dato' Dr. Rahmat Mohamad as a candidate in the election of members of the ILC for a five-year term beginning on 1 January 2017. The Government of Malaysia would highly appreciate the valuable support of all Member States of AALCO to Professor Dato' Dr. Rahmat's candidature at the election in November this year. A vote for Professor Dato' Dr. Rahmat is a vote for AALCO in the Bandung spirit.

Mr. President and Distinguished Delegates, Malaysia notes that the draft Regulations on AALCO's Secretary General's Salary, Allowances and Other Entitlements is now being placed for consideration of Member States during the present Annual Session. Upon reviewing the draft Regulations, Malaysia is pleased to indicate our support to the adoption of the draft Regulations and for it to be applied accordingly.

Mr. President and Distinguished Delegates, one of the most important topics placed in this Session's Agenda is the topic of "International Law in Cyberspace". Malaysia commends the Secretariat on its work on this topic and further welcomes the publication of the Secretariat's special study on International Law in Cyberspace. In this regard, Malaysia encourages Member States to utilize the publication as a source of legal reference on issues concerning International Law in Cyberspace.

Malaysia welcomes the initiative in establishing a Working Group on International Law in Cyberspace and hopes that the first fruit of deliberations by the Working Group at this Session will develop further and work alongside with the special study on International Law in Cyberspace by the Secretariat. These comprehensive studies by the Working Group and the Secretariat are essential in acting as a guide to AALCO Member States at its future discussions.

Mr. President and Distinguished Delegates, as in previous years, Malaysia welcomes AALCO's annual deliberations on matters relating to the work of the ILC. In accordance with Article 1(d) of the AALCO Statute, we take note that AALCO's focus during this session will be on among others, the topics of "Protection of the Atmosphere", "*Jus Cogens*" and "Crimes against Humanity".

In relation to the topic of "Protection of the Atmosphere", Malaysia notes that ILC had provisionally adopted draft guidelines 1, 2 and 5 and four preambular paragraphs. Malaysia further notes that the Special Rapporteur's Second Report to the Drafting Committee has broadly defined the term "atmosphere" as "the envelope of gases surrounding the Earth". It is our contention that the proposed definition by the ILC should not alter or narrow the existing scientific interpretation of the atmosphere.

Malaysia is of the view that further consultation with the scientific and technical expertise would be crucial to the matter, particularly to enable the gaps to be fulfilled with regard to anthropogenic causes and those of natural origins.

Mr. President and Distinguished Delegates, regarding the topic of "Crimes Against Humanity", Malaysia notes that there are other multilateral treaties which addresses this such as the Rome Statute. In this regard, Malaysia is of the view a thorough study is needed before we adopt a new international instrument on the issue of crimes against humanity.

At this juncture, Malaysia observes that draft Article 3(1) of the proposed Convention on Crimes Against Humanity substantially replicates Article 7(1) of the Rome Statute. To avoid

duplicity and redundancy, the application of the proposed new Convention must be distinguished clearly from the application of the Rome Statute. Hence, the work on the proposed Convention should be continued wisely to ensure that it would complement rather than overlap with existing legal regimes.

Mr. President and Distinguished Delegates, last but not least, Malaysia looks forward to the exchange of views with Member States on the issues that have been included in the Agenda for this Fifty-Fifth Annual Session and assures our full cooperation and participation to bring the work of the Session to be a successful conclusion. Thank you.

**President:** I thank the Head of Delegation of Malaysia for his statement and now I invite the Head of Delegation of Saudi Arabia for his statement.

**H.E. Shaik Hamad bin Abdullah Al khudhairi, Deputy Minister for Garnishment and Enforcement Affairs, Ministry of Justice, the Leader of the Delegation of the Kingdom of Saudi Arabia<sup>3</sup>:** H.E. the Secretary General of AALCO, H.E. the President of Fifty-Fifth Annual Session of AALCO, Distinguished Observers.

At the outset I offer my heartfelt congratulations to the President and Vice President of the Session. I wish both of them success in running the proceedings of the session.

Distinguished Gathering, my country, Kingdom of Saudi Arabia, places the works of the Organization in high esteem, which also happens to be most important legal Organization in the world. My country appreciates the efforts made by it vis a vis the topics of the agenda, which concern our countries and the entire world. Hence, these topics hopefully will receive their due share of deliberations and discussions in order to achieve the desired outcome and will be useful to the entire international community.

Distinguished gathering, we believe that most important item on the agenda of our present session is the forced deportation of Palestinians from their homelands which well depicts one of the Israeli practices vehemently denied by it. This includes killing of Palestinians, and Jewish settlement on entire occupied territories which marks a blatant violation of international law, especially the Fourth Geneva Convention of 1949.

My country, Kingdom of Saudi Arabia, since the commencement of the Israeli occupation of Palestine has always been on the side of the truth and has reiterated at all international fora, the rights of the Palestinians for self-determination and also the need to stop violence and mass deportation perpetrated against the unarmed Palestinian people. All incidents happening in the Palestine are open violation of Human rights and all international conventions and United Nations resolutions in this regard.

We hope that cooperation takes place among all international efforts to deal with these violations and to stop aggression on the lives of civilians which marks a deep concern for my country and for all who support the causes of justice all around the world.

August gathering, the topics of sustainable development and care for environment are the foremost topics which the Kingdom of Saudi Arabia attaches great important and reiterates

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<sup>3</sup> This statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

the need to implement all international conventions in this regard including climate change, biodiversity and those relating to combating desertification.

The Kingdom of Saudi Arabia keenly pursues the issue of desert encroachment in Africa and supports countries affected by desertification and condemns its destructive effects on the environment.

We also, in the context of the agenda items of this session, would like to reiterate the following:

The role of United Nations in fighting corruption is very significant which further needs to be strengthened. The Kingdom of Saudi Arabia has been putting all its efforts within and outside the country to support the efforts made for fighting corruption that calls for coordinated efforts to combat it by all means.

The Kingdom of Saudi Arabia is endeavoring to squeeze the sources of corruption by passing legislations resulting in drying its sources and confiscation of its resources, and has set up a general authority for combating corruption and earlier adopted the general strategy to combat corruption through vigilance departments in all government agencies.

On international and world level, the Kingdom of Saudi Arabia has signed and ratified many international and regional conventions and the most important among all is Arab Convention against Corruption.

Ladies and Gentlemen, extremism and terrorism are a dangerously increasing modern scourge from which the entire world is suffering. The Kingdom has been one of those States affected for a long time in its early days and confronted it with various means and on different levels like, security, militarily and political, intellectual and media levels in order to fight against terrorism in all its forms, implement all methods of confrontation, and prohibit and criminalize its financing.

The Kingdom also called the countries and bodies all over the world in very early days to make all efforts to fight against this scourge and confront it earnestly without any leniency. In 2005, the Custodian of the two Holy Mosques, King Abdullah bin Abdulaziz called for establishing a global center to combat terrorism. In 2011, an agreement was signed to establish the United Nations Centre for Combating Terrorism with the Kingdom of Saudi Arabia investing a sum of ten million dollars and in 2013 the Kingdom providing the support of hundred million dollars to the centre.

The Kingdom also reiterated in wake of its initial understanding that the world must endeavor earnestly to fight against terrorism otherwise it will go beyond Middle East expanding to number of countries and this is what happened. But it did not stop the Kingdom to keep its fight on against terrorism and strengthening every move in this context anywhere in the world.

The Kingdom was one of countries which initiated to sign the international, regional and Arab conventions for combating terrorism and finally announced to launch the Islamic military alliance to counter terrorism and took many proactive preventive measures to thwart any terrorist acts both locally and globally through the security, political and intellectual efforts, as well as the criminalizing legislations for every terrorist act.

In this regard the Kingdom has reiterated that its efforts for combating terrorism are driven from the principles of Islam which forbid these acts and forbid everything that leads to it. The principles of Islam warn the perpetrators of terrorist acts from punishments in this life and the thereafter. Hence Islam is innocent and has no link with acts which are forbidden by Islamic law such as killing or aggression on the human societies and urges the coexistence and spreading peace everywhere. These great values derived from Islam are cornerstone of my country in the war on terrorism.

We bid farewell to His Excellency Secretary-General of AALCO and we thank His Excellency for his efforts and excellent works.

Finally I thank the Secretary-General of AALCO and his Deputies and AALCO Secretariat staff for their excellent efforts to carry forward the works of AALCO, hoping this conference every success.

**President:** Thank you Excellency and now I invite the Leader of Delegation of Sri Lanka for his statement.

**H.E. Mr. Esala Weerakoon, High Commissioner of Sri Lanka in New Delhi, the Leader of the Delegation of Sri Lanka:** Hon'ble Ministers, Mr. President, Mr. Secretary-General, Excellencies, Ladies and Gentlemen

As we all know, this year marks the 60<sup>th</sup> Anniversary of the Asian-African Legal Consultative Organization (AALCO) of which Sri Lanka is a founder member. Since its inception in 1956 in Bandung, Indonesia, this organization has served as a forum to express stronger solidarity and excellent cooperation among these two great Asian-African regions to deliberate upon common challenges of our two regions in the field of international law and to exchange experiences in numerous fields related to various branches of international law and on a variety of current and pertinent subjects of mutual interest in the realm of international law. This vital organization has also served as an important forum for dialogue among the members for 60 years, to uphold and promote the rule of law in these two great regions of Asia and Africa.

Sri Lanka as a founder member is pleased to state that we have consistently participated in all AALCO Sessions since its inception 60 years back and that we have also hosted three Annual Sessions of AALCO in Sri Lanka which is evident of our strong commitment to the work of the Asian African Legal Consultative Organization.

Hence, it is with great pleasure that my delegation participates at this Fifty-Fifth Annual Session of AALCO. On behalf of the Sri Lanka delegation, I would like to take this opportunity to congratulate Your Excellencies,

We congratulate Dr. V. D Sharma, Joint Secretary and Legal Advisor of the Ministry of External Affairs of India on your election as the President of the Fifty-Fifth Session of AALCO. My delegation also wishes to extend our sincere congratulations to the newly elected Vice President His Excellency Sam Yalley, High Commissioner of the Republic of Ghana in New Delhi.

Sri Lanka delegation also wishes to take this opportunity to congratulate the newly elected Secretary General Prof. Kennedy Gastorn from Tanzania whose term is due to commence in August this year. My delegation would fail in its duty if we do not express a few words of our deepest appreciation of the leadership, vision, and commitment of the current Secretary General, Prof. Dr. Rahmat Mohamed who has been the AALCO Secretary General since 2008. If we are to recall some of the most important accomplishments of Prof. Rahmat Mohammad over the last 8 years, they are:

- Creation of the Eminent Persons Group (EPG);
- Creation of Informal Expert Group on Customary International Law;
- Enhanced relationship of AALCO with the other international institutions working in the field of International Law, such as the International Law Commission;
- He was the brain behind the initiation of the AALCO Journal of International Law and the very many other publications including Special Studies; and
- He also organised many training programmes /seminars on various agenda items.

Throughout his tenure of office he has always shown intellectual leadership relying on the power of ideas to shape the international legal discourse of the Asian – African States. If AALCO represents the voice of Asian – African States, Prof. Rahmat has been the sound of that voice for the past 8 eventful years.

Given his stellar accomplishments and thoughtful leadership we have no doubt that AALCO would stand to benefit immensely if Prof. Rahmat Mohammad is made an integral component of the EPG in the years to come.

Accordingly, the Government of Sri Lanka would like to make a proposal to the Member States of AALCO that the membership of EPG could be expanded so as to include Prof. Dr. Rahmat Mohammad. With his vast reservoir of experience, both as an academic and also as the Secretary General of AALCO, he will be an invaluable asset to the EPG. It is our sincere belief that the Member States of AALCO would consider this proposal seriously and positively act upon it.

Mr. President, on behalf of the Sri Lanka delegation, I wish you all, fruitful deliberations and I do hope your able stewardship, leadership, and guidance will steer our deliberations to a successful conclusion. Towards this endeavour, I would like to assure you of my delegation's fullest support. I wish you all success. Thank you Mr. President.

**President:** I thank the Head of Delegation of Sri Lanka for his statement and now I invite the Leader of Delegation of Japan for his statement.

**H.E. Mr. Koji Haneda, Ambassador for International Economic Affairs, Ministry of Foreign Affairs, the Leader of the Delegation of Japan:** H.E. Dr. V. D. Sharma, Joint Secretary, Ministry of External Affairs of India and the President of the Fifty-Fifth Annual Session, H.E. Professor Dr. Rahmat Mohamad, Secretary-General of AALCO, Honorable Ministers and Attorney Generals, Distinguished delegates,

Let me begin with my heartfelt congratulations to you, Mr. President, upon your election. My congratulations also go to the Vice- President. I will assure you of my Government have continued cooperation and contribution to AALCO during your Presidency.

Mr. President, this is my first general statement at AALCO's Annual Session following my appointment as Member of this august body for Japan this March. I thus feel especially honored to speak in front of honorable ministers and distinguished colleagues from AALCO Member States.

Allow me to express my deep appreciation to the Government of India and the AALCO Secretariat for hosting this year's Annual Session. I must also thank Secretary-General Mohamad and his staff for their dedicated work to prepare for this Session. I also congratulate Prof. Kennedy Gastorn for his election as the new Secretary-General.

Allow me also to take this opportunity to express my sincere condolences for the late former Secretary-General, H.E. Mr. Barry Sen, who served as the very first Secretary-General of AALCO for over 30 years and passed away in November last year. His dedicated service in the founding years of the Organization is remembered by all of us.

Mr. President, at the outset, together with all the participants in the room, I would like to congratulate the sixtieth anniversary of the creation of this august body. In 1956, Japan, along with six other countries, founded the then Asian Legal Consultative Committee, predecessor of AALCO, in determination to uphold and promote the rule of law in the international community, in particular in the Asian region. The creation of the Committee was one of the tangible fruits arising from the 1955 Bandung Conference. Three years later, the Committee was renamed as the Asian-African Legal Consultative Committee and expanded its activities to the African region. Since then, the Committee has contributed to the development of international law, most notably by communicating the views of Asian and African states to the United Nations and the International Law Commission on a regular basis. Annual issuance of AALCO Yearbook and AALCO Journal of International Law has been an effective tool to disseminate Asian and African views on emerging legal issues to the international community. One of the most significant contributions by AALCC was a substantive input to the codification of the Law of the Sea during the preparatory phase of the Third United Nations Conference on the Law of the Sea as exemplified by the introduction of terminology and concept of "Economic Zone" at sea. In 2001, the Committee further evolved into the Asian-African Legal Consultative Organization and gained more solid foundation for its activities. It is our hope that AALCO will continue to make valuable contribution to the discussion in the area of international law, and that its viability would be most effectively maintained by fulfilling its mandate as a *consultative body* where Member States exchange views on and deliberate issues of common interest on legal issues in a constructive manner.

Mr. President, let me take this opportunity to share a few highlights in Japan's activities in the area of promoting and strengthening the rule of law since the last Annual Session.

First, Japan has continued to play an active role in the area of concluding multilateral and bilateral treaties. One highlight is signing of the Paris Agreement concerning climate change along with 174 other parties at the United Nations last month. Having consistently advocated for a fair and effective framework applicable to all parties, Japan sees the Paris Agreement as a historic achievement of critical importance for realizing the 2030 Agenda for Sustainable Development.

Another highlight is the signing of the Trans-Pacific Partnership (TPP) Agreement in the field of international trade last February. The significance of the TPP Agreement is that, by

promoting the liberalization and facilitation of trade and investment in the Asia-Pacific region, it establishes new 21<sup>st</sup> century rules in a wide range of areas from intellectual property to the environment. Japan is also active in pursuing conclusion of bilateral treaties. Those approved treaties in the current Parliament session include the investment treaties with Iran and Oman respectively as well as the treaty on the transfer of sentenced persons with Iran.

Second, I would like to briefly explain our continued efforts to promote the rule of law in Asia. In February this year, Japan hosted the 2<sup>nd</sup> international symposium on the law of the sea in Tokyo under the title of “International Law for the Resources of the Sea”, following the success of the first symposium on the law of the sea last year. At the symposium, approximately 300 participants, including authoritative scholars from Japan and abroad, discussed such issues as existing and future rules on mineral resource in the deep seabed, and marine biological diversity of areas beyond national jurisdiction, which are included in the agenda of this Annual Session. Japan intends to continue to host international symposiums on the law of the sea as part of our commitment to promoting the “rule of law at sea” and to maintaining and developing an “open and stable sea”.

Thirdly, the Government of Japan appointed Ms. Tomoko Akane as Ambassador for International Judicial Cooperation in charge of promoting international cooperation for a sound development of justice systems. At yesterday’s side event, Ambassador Akane illustrated Japan’s experience in cooperating with other countries to address violent extremism and terrorism based on her ample experience and expertise as public prosecutor and expert in legal technical assistance. I would like to take this opportunity to thank all participants for taking great interest in this event, and especially those who shared their experiences and views.

Mr. President, as we are all aware, we have to bid farewell to Secretary-General Prof. Dr. Rahmat Mohamad in a couple of months. Yesterday we listened to Secretary-General’s final report which was comprehensive and informative and some insightful thoughts for the future of this important organization. Taking this opportunity let me express Japan’s utmost appreciation to Secretary-General for his dedication in revitalizing the Organization over the past eight years. Thanks to his tireless efforts in improving the Organization both in the administrative and substantive aspects, AALCO has been able to fulfill its mandate more effectively despite the limited resources available. His initiatives, most notably demonstrated by the Putrajaya Declaration in 2009 and its follow-up actions in the subsequent years, have ensured the Organization its more sustainable financial basis. In this connection I would like to stress the need to fulfill our responsibilities in following up the Secretary-General’s efforts on the part of Member States. As he stated in his report on the work of the Organization and Financial Matters of AALCO, a sound financial basis should be ensured so that this august body can fully play its expected role in promoting the rule of law in Asia and Africa.

Allow me to take this opportunity to make a small clarification of the sheet distributed yesterday by the Secretariat. My country was registered as the country that has not paid yet its annual contribution of 2016 in full. This situation happens every year due to the gap in the starting time of the Japanese fiscal year and that of AALCO. There are no arrears for Japan in any year.

As for the proposed budget for 2017, my delegation took note with appreciation that the budget was drafted based upon the principle of cost-savings and reduction of unnecessary expenditure. We welcome in particular that the new budget line for inter-sessional meetings

was introduced to ensure more transparency of expenses in connection with AALCO meetings. Japan expects that the budget allocation for the inter-sessional meetings is cost-effective, cost-saving and reasonable. Having stated this, my delegation can support the proposed budget for 2017.

Mr. President, there is no doubt that AALCO has served as an important forum for strengthening and promoting the rule of law in Asia and Africa, the two growing regions of the world. As one of the founding members that have supported AALCO's activities over the past sixty years, Japan remains committed to working with the Organization to achieve its goal. At the same time, I would like to invite all other Member States to renew their commitment to strengthening AALCO. As regards its membership, AALCO still possesses greater potential to expand itself beyond the current level. To that end, I have great respect for the efforts made by Secretary-General Mohamad in reaching out to Observer States and other interested non-Member States, and in encouraging them to join the Organization. I was also pleased to hear that the incoming Secretary-General expressed his readiness to continue such efforts.

In closing, Mr. President, my delegation would like to assure you our readiness to engage ourselves in fruitful and constructive discussions during the remaining days of this Annual Session in the commemorative year for this august body. Thank you.

**President:** Thank you sir. Now I invite the Leader of Delegation from the State of Qatar for his statement.

**Mr. Ibrahim Mousa Al Hitmi, Assistant Under Secretary for Legal Affairs, Ministry of Justice, the Leader of the Delegation of the State of Qatar<sup>4</sup>:** His Excellency V. D. Sharma, President of Fifty-Fifth Annual Session of AALCO, His Excellency Professor Dr. Rahmat Mohamad, Secretary-General of AALCO, Excellencies, Ladies and Gentlemen, the Heads and Members of the participating delegations.

At the outset I have the pleasure in extending my deep thanks and appreciation to the Republic of India for hosting this AALCO Session. Also I congratulate V. D. Sharma, President of Fifty-Fifth Session and Vice President and I wish them success for their work. Also I congratulate Professor Kennedy Gastorn for his election as the Secretary-General of AALCO wishing him success in his work. I am also pleased to extend my thanks and appreciation to the Prof. Dr. Rahmat Mohamad, the outgoing Secretary-General for successfully conducting the work of AALCO during his tenure and wish him success in his future work. I would like to convey the greetings of H.E. Dr. Hasan bin Lahdan al-Mohandi, Minister of Justice, State of Qatar and his wishes for the success of this session in achieving its great objectives. These objectives put on our shoulders a big responsibility of hard and organized work to materialize the AALCO's role in the service of the issues of Asian and African peoples and responding to the global issues as well as the positions we should take with regard to those issues.

In this context, I should emphasize the keen interest of the State of Qatar to play a positive and effective role in responding to the events the world is witnessing especially in Asia and Africa in order to ensure the well-being, security, stability and development for the countries and peoples of the two continents as well as the whole world.

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<sup>4</sup> This statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

Ladies and Gentlemen, the world is witnessing a permanent movement which enjoins upon us that we should take positions and actions commensurate with its size and degree of importance. The intervening period between our last session and the present one has witnessed important developments, including those relating to some old issues which are yet to be resolved as well as the emerging new issues.

Looking at the agenda of this session, we find that it is compatible with the gravity of the current issues and events which are to be discussed in order to reach a positive, appropriate and applicable vision.

The most important issues on the Agenda include the Law of Sea which deserves priority because of its impact on sea boundaries leading to disputes, maritime biodiversity and climate change. All these issues deserve review and serious discussion to fulfill the common interests, especially of those states which have maritime geographical boundaries.

Other important issue on the Agenda is the Palestinian issue which needs continued follow up in a manner that responds to the seriousness of the situation in the occupied Palestinian territories. The Palestinian people suffer from various forms of violations many of which are liable to punishment under international humanitarian law. They include mass deportation of the Palestinian people, illegal establishment of Israeli settlements in the occupied lands and large scale aggression against civilians and civil establishments, especially in Gaza Strip. There are violations of human rights principles through the practices of racial discrimination, confiscation of properties and deprivation from right to self-determination. What makes the issue more critical is that it endangers not only the security and stability of the region but those of the whole world as well. This calls for serious review and continued follow up.

Amidst the preoccupation of the world with confronting terrorism which is spreading to all regions, the inclusion of item on Violent Extremism and Terrorism in the Agenda becomes necessary in order to review the work of legal experts entrusted by the meeting held on 28-29 January 2016 with the task of studying these issues in the intervening period between the previous and the present sessions and finding out the ways to fight violent extremism in all its forms and manifestations as well as ways of cooperation among the AALCO Member States as well as other States. We undoubtedly look for an extensive effort rising to the level of the terrorist challenge which is growing in its seriousness and reach.

In the context of the world trade and vital geographical location of Asia and Africa that plays an effective international role in addition to the two continents being a region of vital importance for export and import of natural resources and commodities assigning them an effective role in the world trade movement, the inclusion of the item on WTO and world trade law in the Agenda affirms the keen interest of AALCO in continued openness towards the world and joining the international efforts to improve the free trade, to encourage international investment in order to achieve common economic interests of AALCO Member States as well as other states.

The inclusion of item on effects of cyberspace on the international law indicates the necessary concern towards the internet sector that is witnessing fast development and raises serious questions relating to the sovereignty of state in cyberspace, peaceful use of this space, cybercrimes, appropriate rules for international cooperation in confronting these crimes, identifying and activating international treaties relevant to the cyberspace as it

requires enhanced coordination and cooperation based on legal and modern technical foundations.

Lastly, this meeting which is devoted to the selected items on the Agenda of International Law Commission will prove an important international frame which is in line with the nature and tasks of our organization in the field of immunity of the officials of states from foreign criminal jurisdiction. The items on the most favored nation states and subsequent agreements and subsequent practice in relation to the interpretation of treaties, identification of customary international law, protection of environment in the events of armed conflicts, protection of atmosphere and crimes against humanity are also important.

Ladies and Gentlemen, today I convey the interest of the State of Qatar in issues which our meeting seeks to discuss and the effect of which is not confined to the work of organization and relations between the Member States but extends to all the states of the world. In the mutual cooperation between them we find common positive results which serve the people of the world and their common goals of progress, development, stability and wellbeing. I reaffirm the interest of the State of Qatar in contributing to the constructive effort to serve the humanity.

I express my profound thank and deep appreciation to the organizers of this Session for their sincere efforts and wish our endeavors all success.

**President:** Thank you. Now I invite the representative of Brunei Darussalam, you have the floor Madam.

**Ms. Alice Khan Binti Ahmad Khan, Legal Draftsman, Attorney General's Chambers, the Leader of the Delegation of Brunei Darussalam:** Excellencies, Mr. President, Dr. V.D. Sharma, Mr. Vice President, H.E. Mr. Sam Yalley, outgoing Secretary-General Prof. Dr. Rahmat Mohamad, incoming Secretary-General, Prof. Kennedy Gastorn, Honorable Ministers and Attorneys General, Deputy Secretaries-General, distinguished delegates, ladies and gentlemen. It is a great honor and privilege for me to address this very special and memorable session on the completion of 60 years of the establishment of AALCO.

At the outset, on behalf of the Brunei Darussalam delegation, I would like to congratulate the outgoing Secretary-General and convey our heartfelt appreciation for the work done by him during his tenure. My delegation would also like to congratulate Mr. President and Vice President on your election at this Annual Session. Your guidance in steering the meeting is highly appreciated.

We would also like to convey our congratulations to the incoming Secretary-General on his appointment as the new AALCO Secretary-General. We are confident that under his leadership he will further enhance the role of AALCO in the progressive development and codification of international law.

My delegation would also like to express our sincere gratitude to the Government of India and the Secretariat for the excellent arrangements and kind hospitality extended to us throughout our stay here in New Delhi.

We would also take this opportunity, Mr. President, to convey warm regards and greetings from our Attorney-General, Datin Seri Paduka Hajah Hayati Salleh, who unfortunately could not attend this year's Annual Session due to prior engagements and work demand.

Excellencies, distinguished delegates, ladies and gentlemen, AALCO is highly regarded as the only regional and international organization that represents legal fraternity from the Asian and African regions with a focus on the progressive development and codification of international law.

The year 2016 marked another milestone for AALCO as it manifests the completion of 60 years of AALCO's journey since its establishment in 1956. Throughout this period, it has greatly developed from originally 7 founding members to a group of 47 Member States merging 2 vast regions. Member States of AALCO had participated and contributed immensely in a number of international law issues which are of great importance to the Asian and African regions such as the law of the sea, law of the treaties and international humanitarian law.

Brunei Darussalam being a small developing country is very proud to be part of this esteemed organization and undoubtedly has gained great benefits from the activities and programmes organized by AALCO in particular in the legal exchange of views and information sharing among Member States. Brunei Darussalam is pleased to see the contribution by AALCO to address traditional and contemporary issues of international law.

Brunei Darussalam places great importance in the role that AALCO plays in consolidating the views of the Asian and African States despite the financial crisis that the organization has been facing for years.

Excellencies, distinguished delegates, ladies and gentlemen, we would like to take this opportunity to commend the outgoing Secretary-General, Prof. Dr. Rahmat Mohamad for his invaluable leadership and contributions. Brunei Darussalam expresses its utmost appreciation for his hard work and outstanding management of the organization especially in dealing with the financial crisis. During his tenure, Brunei Darussalam acknowledges his significant contributions in the AALCO publications, legal research as well as knowledge –based activities.

Excellencies, distinguished delegates, ladies and gentlemen, please be rest assured Brunei Darussalam's continued support and commitment to the work of AALCO and we look forward to having successful deliberations and fruitful conclusion. Thank you.

**President:** I thank you Madam. Now I invite the Head of Delegation of Cyprus in India to make his statement.

**H.E. Mr. Demetrios Theophylactou, High Commissioner of Cyprus in New Delhi, the Leader of the Delegation of Cyprus:** Mr. President and Vice-President of AALCO, Mr. Secretary General, Excellences, distinguished delegates, dear colleagues,

At the outset, on behalf of the Government of the Republic of Cyprus, I would like to congratulate the new President and Vice President as well as the new Secretary General of AALCO for their well-deserved election. I wish you all every success in your tasks.

Secondly, I would like to express profound congratulations and gratitude to the outgoing President and Vice President as well as the outgoing Secretary General of AALCO for the valuable work, the multiple activities undertaken during their tenure and their significant contribution to International Law. I would like to personally thank the outgoing Secretary General, Professor Dr. Rahmat Mohamad for the close collaboration we have had and for his personal friendship and support, as well as that of his three excellent Deputies. Our sincere thanks and congratulations to all of you.

Let me simply refer, as a way of example, to the equally valuable publications of AALCO, notably the Journal of International Law, which succinctly analyze significant issues that are pertinent to international law and its practice, in the context of international relations. Indeed, this collective work has useful applications in policy making. In fact, I was privileged to have one of my studies on conflict prevention published in the latest edition.

AALCO is undoubtedly an essential platform for discussion and in-depth examination by Member States of legal aspects pertaining to international law and its application – or lack thereof. Indeed, it plays a central role in the elaboration and codification of international law. For instance, AALCO played a central role in the formulation and conclusion of UNCLOS and the Law of the Sea.

Excellences, Distinguished delegates, Cyprus attaches utmost importance to the work of AALCO and very much values its contribution toward the further enhancement of international law, particularly in those areas of international law such as the Law of the Sea, on which small Member States and particularly island states like Cyprus rely heavily, in order to safeguard their sovereignty and territorial integrity, including their Exclusive Economic Zone. The Law of the Sea and UNCLOS, of which essential elements have been meticulously elaborated upon and refined as a result of the excellent work by AALCO, serves not only the national interests of states but mainly the cause of regional and international stability and security.

As of late, AALCO has also been instrumental in so far as the elaboration of legal aspects with respect to major challenges of our times, notably on cyber security and violent extremism and its manifestations. It is our collective duty to support and facilitate the work of AALCO with a view to further enhancing the tenet of international law for the benefit of humanity.

In concluding, I would like – on behalf of the Government of the Republic of Cyprus – to once again warmly thank the previous presidency and secretariat of AALCO for a work well done, and to congratulate and extend to the new leadership all best wishes in the pursuance of their tasks. Cyprus will continue to support you and stand by you. Thank you very much.

**President:** Thank you Excellency for your statement. Now I invite the Head of Delegation of Nepal for his statement.

**H.E. Mr. Agni Prasad Kharel, Minister of Law, Justice and Parliamentary Affairs, the Leader of the Delegation of Nepal:** Mr. President, Honorable Ministers, Attorney Generals, Your Excellencies Ambassadors, Secretary-General, Distinguished Delegates and Observers, Ladies and Gentlemen.

At the outset, on behalf of the Nepalese delegation and on my own, I would like to congratulate you, Mr. President, on your unanimous election to the high office of the President of the Fifty-Fifth Session of the Asian African Legal Consultative Organization. I am confident that the Organization will get a new height under your able and dynamic leadership.

I would like to appreciate and acknowledge the commendable contribution made to the Organization by the outgoing President of the Fifty-Fourth Session, His Excellency Mr. Liu Zhenmin, Vice-Minister of Foreign Affairs, People's Republic of China.

Let me congratulate the Vice-President on your unanimous election. Similarly, I also congratulate Professor Mr. Kenedy Gastorn on his unanimous election to the office of the Secretary-General, and acknowledge and appreciate the dynamic role played by the outgoing Secretary-General Professor Rahmat Mohamad.

Mr. President, this Session bears a special significance in that the Organization, as the only consultative institution formed of Member States from Asia and Africa, is commemorating its sixtieth anniversary. It is appreciative that, since its inception, the Organization has been able to make significant contribution to the codification and progressive development of international law by providing its views to the General Assembly of the United Nations and by consolidating the positions of its members on particular subjects under consideration of the International Law Commission, General Assembly and its Sixth Committee. In a nutshell, since its inception 60 years ago, AALCO, as a major forum for Asian-African legal exchanges and cooperation, has played a vital role in strengthening regional governance and safeguarding common rights and interests of the regions, and in pursuit of independence, freedom and equality.

As an active member, Nepal has always attached a greater importance to the works of the Organization. Mr. President, my delegation welcomes the agenda items adopted for this Session. All the items including the Law of the Sea, Environment and Sustainable Development, International Trade Law matters, Violent Extremism and Terrorism (Legal Aspects) and International Law in Cyberspace are very timely and pertinent.

A Special Meeting on Protection of Atmosphere, Crimes against Humanity and Jus Cogens bears significant importance given that these issues are very important for developing countries.

Nepal welcomes the initiative taken by the Organization for the development of Principles and Guidelines to Combat Violent Extremism and Its Manifestations, and commends the Secretary General's 2015 Plan of Action to Prevent Violent Extremism. So far as the issue of international law in cyberspace is concerned, Nepal wishes to have the open-ended working group come with some meaningful deliberations on the issue.

Mr. President, with the advent of science and technology, particularly communication technology, with increasing globalization and digitization, several forms of transnational, organized crimes have posed a threat to the Asian and African communities as well. Examples include human trafficking, money laundering, corruption, terrorist financing, and cybercrimes that use internet and communication technology. In this context, the Organization is expected to think of having some cooperation mechanisms to combat these crimes in a collective manner.

Mr. President, the issue of climate change has been a most critical issue. Rapid melting of snow, loss of biodiversity, drought and depletion of the source of fresh water are some of the serious consequences of climate change in Nepal. Countries like Nepal are bearing the brunt of climate change disproportionate to the contribution to Green House Gas.

On this occasion, I would emphasize that something concrete need to be done immediately to address the problem, and the burden of climate change should not be shifted to the least developed countries. Climate justice should prevail in real sense.

Moreover, the freedom of transit of land locked countries to and from the high seas should be further ensured having regard to the principles of the law of sea such as duty to cooperate, obligation not to harm and precautionary action to be taken.

Mr. President, on this occasion, let me highlight some recent developments in my country. Nepal has, through a representative body (the Constituent Assembly) promulgated a new constitution (the Constitution of Nepal) on 20 September 2015. Nepal is now engaged in making requisite legal and institutional infrastructures, and some 138 areas have been identified requiring legislations to give effect to the Constitution. The Government of Nepal looks forward to further support and cooperation from the Member States of the Organization in this respect.

Mr. President, the Constitution of Nepal holds commitments to socialism, founded on democratic norms and values, including multi-party democracy, fundamental rights, periodic elections, independent judiciary and rule of law. Federal, democratic, republican system of governance, with inclusive and proportional participation, is envisioned to develop Nepal as a socialism-oriented prosperous nation.

Mr. President, let me express our sincere gratitude to the Government of the Republic of India for hosting this Session in this historic city of Delhi, and for a warm hospitality accorded to my delegation since our arrival here.

Mr. President, I am confident that this Session will be successful in promoting codification and progressive development of international law in the contemporary issues to be deliberated in this Session. Thank you.

**President:** I thank you sir and now I invite the Head of delegation of the Arab Republic of Egypt for his statement.

**H.E. Mr. Mahmoud Samy, Assistant Foreign Minister for International Legal Affairs and Treaties, the Leader of the Delegation of the Arab Republic of Egypt:** Mr. President, Mr. Secretary General, Honorable delegates, Ladies and gentlemen,

At the outset, it gives me a great pleasure to participate in the Fifty-Fifth Annual Session of AALCO, which is held in India. Our meeting also celebrates 60 years since the creation of AALCO organization, and despite all the massive development that the world and the legal regimes had witnessed; we can confidently say that AALCO succeeded to keep up with this challenge and to contribute positively in the development of the International Law.

Since its start, the Organization effectively participated in many international legal forums, and in debating the different international conventions. It attributed in the process of codification of the International Law. It also reflected the perspective of the African and Asian States on many international legal questions. AALCO was always keen to cooperate with various international organizations, especially the United Nations and the International Law Commission.

AALCO enriched the International Law rules in many different sectors; it had a remarkable role and presented valuable debates on Public and Private International Law subjects, also hosted several seminars and deliberations about the current legal issues such concerning Law of the Sea, WTO, International Law in Cyberspace, Environment and Sustainable Development, International Customary Law, and Terrorism and Violent Extremism.

It gives me great honor to mention that Egypt, as one of the Founders called upon and encouraged the Asian and African States to join the AALCO since its foundation, and was keen to play the role as a bridge between those countries, taking advantage of its geographical location, located in the two continents, as well as the political momentum created by the Bandung conference in 1955.

Furthermore, Egypt hosted several Annual Sessions of the Organization in the years 1958, 1964, 1991, and 2000. It participated consistently in the Organization events. Egypt has been honored that Ambassador Wafik Zaher Kamel was elected as Secretary-General of the AALCO for two consecutive full terms from 2000 until 2008.

In addition, Cairo hosted one of the five commercial international arbitration centers of the AALCO based on an agreement between the organization and the Egyptian government.

I would not miss the chance and opportunity here to express our appreciation for the role of India in providing help and assistance for the AALCO since its founding in 1956 and till this Session. On the other hand, I would like to praise the active role of China during the presidency of the Fifty-Fourth Annual Session.

For all that I mentioned above, today, I think that we as member of AALCO should feel proud of what we have achieved over the past sixty years through the AALCO. We were able to leave a mark in the legal matters at the international level, and to contribute in creation of the legal framework and regimes governing our world. We must salute the role of the organization as a proof on the fruitful cooperation between the Asian and African countries and further as an example of success of relations between the two continents.

Having said that, we still have to underline that more challenges need to be encountered. AALCO is providing an important forum to discuss many of the controversial legal issues of the mutual concern of the Member States such as combating terrorism and violent extremism. Also our meeting needs to address a very important issue of the violation of the international law in Palestine. Egypt believes that settling the Palestinian issue and empowering the Palestinian people and establishing their independent state on the borders of June 4, 1967 with East Jerusalem as its capital, will eradicate one of the most important factors of instability in the Middle East region and beyond. You would agree with me that there is no other alternative than settling this issue without delay so that peoples of the region would channel their efforts for building together their future, achieve welfare and progress and create a better future for their coming generations.

Ladies and Gentlemen, let me welcome the new Observers at our Organization; Eritrea, Belarus and Vietnam who joined AALCO recently in this regard.

Finally, I would like to express our gratitude for the great effort put forth by the Secretary-General Dr. Rahmat Mohammed throughout his term of office since 2008, and I thank him for his fruitful role and his dedication in enhancing cooperation between the AALCO and the various international organizations in the areas of law. I wish to express best wishes of luck and success to Professor Kennedy Gastorn the new Secretary-General of the Organization,

Further, I would like to express my appreciation to the exceptional efforts done by the Secretariat. Thank You.

**President:** I thank the Head of Delegation of Egypt for his statement and now we will have a tea break for 15 minutes and then resume the general statements.

### **Break**

**President:** Now I invite the Head of Delegation of the State of Kuwait to make his statement.

**Mr. Ali MUSAED AL-DHABIBI, Counsellor, Chairman of the Appelas Chamber, Ministry of Justice, the Leader of the Delegation of the State of Kuwait<sup>5</sup>:** Excellency the Secretary-General of AALCO, Excellencies, Heads of Delegations, Ladies and gentlemen.

On behalf of myself and my delegation of the State of Kuwait, I am pleased to commence my speech in this august gathering, I greet with the greetings of Islam.

I extend to you all our highest appreciation hoping that this august meeting of ours achieves all its objectives and is crowned with success.

I also like to extend my heartfelt congratulations to the Prof. Kennedy Gastorn for his election as the Secretary-General of AALCO wishing him all the success in the discharge of duties and responsibilities in the best manner in order to achieve the aspirations and objectives of the AALCO.

Ladies and gentlemen, the State of Kuwait values the ceaseless efforts made by the AALCO since its inception toward creating constructive bonds among the Member States and helping them to formulate right approaches and views on various legal topics of concern to the international community.

Hence, I take this opportunity to express my deepest appreciation for this organization on its 60<sup>th</sup> anniversary hoping that it carries forward its rich and invigorated approach to work at all levels and for all topics.

Ladies and gentlemen, indeed the agenda of this session include a number of topics of special legal nature that are around us and which, dictated by the practical necessity call for study in view of their impact on our countries.

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<sup>5</sup> This statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

In this context, the State of Kuwait believes that achievement of just demands of the peoples for self-determination and access to free choices and strengthening of ways of peaceful and secure living conditions essentially represent the basic foundations that support human edifice and rather the pillars of human civilization enshrined by all religions of the world.

Indeed this required placing the Palestine Issue on the Agenda of this Organization since the 27<sup>th</sup> Session held in Singapore in 1988 until our present session.

The State of Kuwait has made a number of efforts to help the Palestinian people by raising this issue politically at the United Nations and with its Secretary-General and also with the president and members of the Security Council and approaching the concerned international organizations and entities to stop aggression and ensuring that the same is not repeated.

On the other hand, on the agenda item related to terrorism and violent extremism I would like to emphasize that Terrorism as a critical threat has become one of the most dangerous national and international phenomena whose impact and fallouts are not confined within boundaries or regions or religion. There is no doubt about the fact that rooting out terrorism requires combating the crimes that support and nourish terrorism in the first place. This requires us today to join hands internationally and regionally to nip these crimes in the bud and root out its causes and work for saving our regional and international communities from their dangerous repercussions for the sake of the security and stability of our countries. The mandate of the organization also includes follow up of the latest developments in the International Law Commission of the United Nations. I and the delegation of my country look forward through this special session on terrorism during our current Annual Session to focus on the latest deliberations and discussions on reaching a comprehensive agreement on terrorism.

In the same vein, the delegation of my country attaches great importance to other items on our agenda most notably the issues related to Law of the Sea, International Law in Cyberspace.

Before I conclude, I like to extend my deepest thanks and appreciation to this august gathering, I sincerely hope that our esteemed Organization achieves its desired noble and lofty ideals and objectives.

I thank you for your patient hearing praying to Almighty Allah to help us in the deliberation of this packed list of items and topics, wishing you all the success in your deliberations. Thank you very much.

**President:** I thank you sir. Now I invite the Head of Delegation of the Islamic Republic of Iran for his statement.

**H.E. Mr. Hossein Panahi Azar, Director General for International Legal Affairs, Ministry of Foreign Affairs, the Leader of the Delegation of the Islamic Republic of Iran:** “In the name of God, the Compassionate, the Merciful”. Mr. President, Prof. Rahmat Mohamad, Secretary-General, Honourable Ministers and Attorney Generals, Excellencies, Distinguished Delegates, Ladies and Gentlemen,

It gives me immense pleasure to address this august meeting to present my General Statement at the Fifty-fifth Annual Session of AALCO.

At the outset, let me thank the Government of India and the AALCO Secretariat for their excellent work in organizing this session. I also find it imperative to express my appreciation to his Excellency Professor Dr. Rahmat Mohammad, Secretary-General of AALCO, for his ever-present support for the organization of Annual Sessions. My delegation also wishes to congratulate His Excellency Dr. V. D. Sharma, Joint Secretary of Ministry of External Affairs of the Government of India, on his election as the President of the Fifty-Fifth Annual Session of AALCO. Our congratulation also goes to His Excellency Mr. Samuel Pamyin Yalley, High Commissioner of the Government of Ghana in India, for his election as Vice President. Under your able leadership, I am confident that the meeting will come to a fruitful conclusion. I would like to assure you of my delegation's full cooperation.

Mr. President, the Asian-African Legal Consultative Organization holds a unique place in Asia and Africa due to the wide range of issues it covers and the serious engagement of its Member States. The Islamic Republic of Iran attaches great importance to AALCO and remains committed to do its best for the progress of its work.

The role AALCO plays in the promotion of rule of law in the two regions is, without doubt, pivotal and can contribute to a better respect for rule of law at the international level. From the fight against terrorism to unilateral sanctions and the issue of refugees, the diverse topics deliberated by AALCO Member States during the past 60 years have proved it crucial for other States, jurists and practitioners to keep a vigilant eye on our organization's progress, a fact which renders heavier the burden already on our shoulders.

Continuous consideration given by AALCO for consecutive years to such challenging items, to be also deliberated at the Fifty-fifth Session, as violent extremism and terrorism, international law in cyberspace, the issue of Palestine and the topics on the agenda of the international law commission is evidence of the vigilance and awareness of the Member States and can, in the long term, contribute to codification and progressive development of international law.

Mr. President, the creeping spread of violent extremism linked with terrorism in recent years has introduced a multi-faceted menace to the world. On the one hand, religious beliefs are being threatened to be linked to radical ideologies by terrorist extremist groups; and on the other, sovereign territories are being violated in Asia and Africa. Unspeakable instances of crimes committed against civilians, including women and children, and an unprecedented sabotage directed against civilian infrastructure and cultural heritage have called into question the efficiency of the existing legal framework to prevent violent extremism and terrorism.

The UN General Assembly resolution (A/Res/68/127) of 18 December 2013 entitled 'A world against Violence and Violent Extremism' served to forewarn the scourge. The efforts to that end have since culminated in numerous instruments including the Tehran Declaration and Plan of Action of the First International Conference on World Against Violence and Extremism, and more recently the report of the UN Secretary-General on the Plan of Action to Prevent Violent Extremism. While the former set the grounds for further action to combat violent extremism, the latter focuses on the impact of violent extremism on peace and security, sustainable development, human rights, the rule of law and humanitarian action, and also touches upon the context and drivers of violent extremism and proposes multiple recommendations on preventing violent extremism.

On the other hand and on a more operative level, the adoption of resolutions 2170, 2178, 2199, 2249 and 2253 by the Security Council against Da'esh (or the so-called ISIL) and the splinter groups of Al-Qaida by the UN Security Council, have proven to address only part of the challenge. Crimes are still being rampantly committed on a daily basis and sovereign territories are still being threatened by extremists, and still many individuals cross thousands of miles to join extremist groups.

All that said, it is fortunate to see that the two inter-sessional meetings of legal experts on Violent Extremism and its Manifestations held in January 2016 and yesterday before the commencement of the present session in New Delhi proved the potentials of AALCO in delving into the gray areas of international law. Evidently, Member States presented divergent views on certain issues some of which have always remained, and will prove to be, quite controversial. My delegation would like to commend the collective work done so far by Member States and the AALCO Secretariat and is assured that by our active participation, the continued work on the issue in line with parallel developments at the United Nations and other international fora, AALCO and its Member States can have a significant role in the existing legal arsenal to that end.

Mr. President, on the item of 'Violations of International Law in Palestine and other Occupied Territories by Israel and other International Legal Issues related to the Question of Palestine', passage of time has not wiped away the significance of the issue. What is quite alarming in this respect is that the focus of the media and the international community on the acts of extremist-originated terror violence in the region conducted by Da'esh and other terrorist groups should not drive away our focus from the issue of Palestine. We fully support the adoption, by Palestine, of numerous international instruments and its membership in international organizations, which can pave the ground for Palestine to fully claim its rights and for the international community to put an end to the blatant disregard for fundamental principles of international law demonstrated through years by the Israeli regime. With nearly a decade-long siege and the land, air and sea blockade on Gaza strip with numerous instances of defiance of international law, as reflected by the UN on numerous occasions, including in the report of the Secretary-General in October 2015 and the report of the Special Rapporteur on the Situation of Human rights in the Palestinian Territories in January 2016, just to name a few, the international community still awaits the bringing to justice of the perpetrators of the most heinous crimes committed against Palestinian civilians through years, especially during the 50-day massacre in the summer of 2014.

Mr. President, the tenure of the current Secretary-General, His Excellency Professor Dr. Rahmat Mohamad will come to an end in August 2016. We congratulate His Excellency Professor Kennedy Gastorn for his election as the Secretary-General of AALCO. My delegation fully supports the Secretary-General elect and hope all the best for him during his tenure.

I would like to touch upon some of the significant achievements of AALCO during His Excellency Professor Rahmat Mohamad's term as Secretary-General. Since his election as the Secretary-General during the 48<sup>th</sup> Session in 2008, important items have been constantly deliberated by Member States and have reached certain results and have been, undeniably, promoted among Asian and African countries.

While the issue of Palestine and Sanctions imposed against Third parties set previously on the agenda of AALCO gained special vigor during the eight years of His Excellency Professor Rahmat Mohamad's term, the issue of international terrorism was revitalized by gaining the new challenging dimension of violent extremism and AALCO Member States engaged seriously for the first time in negotiating every single word of such a detailed document as Guidelines and Principles, a work which will continue until final results. Furthermore, AALCO's great work in scrutinizing the issue of identification of customary international law could not be carried out unless by the full support of Prof. Rahmat Mohamad. In sum, my delegation would like to wish His Excellency Professor Rahmat Mohamad all the best for his future career and wish that the next Secretary-General would keep up the good work. We are assured that with the full support of all Member States, Professor Gastorn will likewise add much to the achievements of AALCO.

In the end, allow me to close this statement by wishing to have fruitful deliberations on all the items on the Agenda of the Fifty-Fifth Session and a fruitful outcome. Thank you Mr. President.

**President:** I thank the Head of Delegation of Iran for his statement. Now I invite the Head of Delegation of Kenya to present his statement.

**Ms. Njeri Mwangi Wachira, Chief State Counsel, the Leader of the Delegation of Kenya:** Your Excellency the President of the Fifty-Fifth Annual Session of AALCO, Your Excellency Secretary-General of AALCO, Honourable Ministers of Justice and Attorneys-General, Distinguished Leaders of Delegations, Distinguished Observers, Excellencies, Ladies and Gentlemen:

On behalf of the Republic of Kenya and that of my delegation, allow me to take this opportunity to thank our gracious hosts the Government and the people of the Republic of India and the AALCO Secretariat for hosting the Fifty-Fifth Session of the Asian-African Legal Consultative Organization (AALCO) in the beautiful green and majestic city of New Delhi, which has a rich history and culture. I am sure that all the delegates would agree with me that ever since we set foot here in New Delhi, we have been made to feel totally at home with the kind hospitality and meticulous arrangements made for each one of us, and the excellent preparations made for the Session.

Today marks an auspicious occasion when we celebrate 60 years since the founding of AALCO at the Bandung Conference. It has been 60 years of solidarity, friendship, cooperation and development as an Organization. We are truly proud of AALCO and the Republic of Kenya wishes to express her gratitude to all the AALCO members for their unwavering support and cooperation.

Distinguished Delegates, I wish to take this opportunity to thank and commend H.E. Prof. Dr. Rahmat Mohamad, the out-going Secretary-General, of AALCO. Your dedication and great leadership of the Secretariat has seen the profile of the Organization raised and its areas of focus expanded. Under your stewardship, the Organization has been rejuvenated and strengthened and relations between AALCO and other international organizations have been greatly fostered. Kenya wishes you well in your future endeavors.

The delegation of Kenya would like to take this opportunity to congratulate Prof. Kennedy Godfrey Gastorn of the United Republic of Tanzania on his election as the next Secretary

General of AALCO. On behalf of the Government of Kenya, we wish Prof. Gastorn success in his assignment and we commit to support him in his tenure as Secretary General.

Ladies and Gentlemen, I take this opportunity, on behalf of the people of the Republic of Kenya to convey our sincere condolences to the bereaved family of His Excellency Mr. Barry Sen, the first and founding Secretary-General of AALCO. We remain indebted for the remarkable role he played and the positive influence he made while heading the Secretariat. May his family and friends find peace and comfort even as we honour his legacy.

Distinguished Delegates, Kenya welcomes the agenda item in this Session on “Legal Aspects of Violent Extremism and Terrorism”. The world over, violent extremism and terrorism has adversely affected nations. Kenya is no exception and indeed, we have suffered the brunt of terrorism over the recent past. Kenya therefore once again calls on AALCO members and the international community, in compliance with UN Resolution 68/119 of 16 December 2013 and Resolution 68/127 of 18 December 2013, to renew efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, and to further unite against violent extremism in all its forms and manifestations, including through the elaboration of and adherence to regional and international conventions.

Excellencies, Ladies and Gentlemen, it will be recalled that during the Forty-Fifth Annual Session of AALCO held here in New Delhi on 3 April 2006, the then Secretary-General of AALCO and the then Attorney-General of the Republic of Kenya signed the Memorandum of Understanding for the establishment of the Regional Centre for Arbitration in Nairobi, Republic of Kenya. This was followed by the signing of an Agreement Establishing the Nairobi Regional Arbitration Centre for Arbitration during the Forty-Sixth Annual Session of AALCO held in Cape Town, South Africa in July 2007.

Last year during the Fifty-Fourth Annual Session of AALCO, we reported that in accordance with our undertaking to AALCO to establish a Regional Arbitration Centre in Nairobi that would serve the countries in Eastern and Southern Africa, Kenya enacted the Nairobi Centre for International Arbitration Act, which Act came into force on January 25 2013. The inaugural Board of Directors established the systems and structures for the Centre between 2014 – 2015. The Centre’s Arbitration and Mediation Rules, which are a modification of the UNCITRAL Rules, were published in December 2015 after wide consultation was undertaken amongst practitioners and institutes including KLRCA. The Rules are now available online.

The Centre continues carrying out collaborations with other Arbitration Centres including the most recent visit by a delegation from the Shanghai Arbitration Commission during which visit the two institutions discussed areas of mutual interest and collaboration in the area of international arbitration.

Distinguished Delegates, Kenya wishes to express her deep appreciation to AALCO Member States for the tremendous support extended to Kenya when we hosted the 10<sup>th</sup> World Trade Organization Ministerial Conference in Nairobi, Kenya from 15<sup>th</sup> to 18<sup>th</sup> December 2015. Your attendance and participation at the conference made it a great success. Kenya looks forward to hosting you again on the near future whether in your official or private capacities.

Ladies and Gentlemen, as I conclude my remarks, allow me once again to congratulate the Member States as we commemorate 60 years of the existence of AALCO. We commend the AALCO Member States of this Organization for the cooperation and purpose of unity in making positive impact in the field of international law.

I wish you all fruitful deliberations during this Annual Session of AALCO. I thank you.

**President:** I thank the Head of Delegation of Kenya for his statement. Now I invite the Head of Delegation of India to make his statement.

**Dr. A. Sudhakara Reddy, Director, Legal and Treaties Division, Ministry of External Affairs, the Leader of the Delegation of India:** Excellency, Dr.V.D. Sharma, President of the Fifty-Fifth Annual Session of AALCO; Excellency, Mr. Sam Yalley, Vice President of the Session; Excellency, Prof. Rahmat Mohamad, Secretary-General of AALCO;

At the outset, please allow me to congratulate you for your election as President of this Session. My delegation is confident that with your wisdom, experience and expertise we will make this Session a memorable one.

I would also like to take this opportunity to congratulate H.E. Mr. Sam Yalley, on his election as the Vice-President of the Fifty-Fifth Session of AALCO.

Delegation of the India wishes to congratulate H.E. Prof. Kennedy Gastorn, on his election as new Secretary-General of AALCO. We are confident that with your brilliant academic and professional background you will be able to take AALCO to greater heights. We extend our full support and cooperation to H.E. Prof. Gastorn steering the Organization during his term as the SG of AALCO.

I take this opportunity to appreciate the Secretary-General, Deputy Secretary General and staff of AALCO for the excellent preparations made for our current Session, including the preparation of background documents which are helpful in facilitating our deliberations.

Mr. President, India being one of the founding Members of AALCO, we are deeply committed to the spirit and objectives of the AALCO. We are proud to be the host country of AALCO Headquarters. We continue to attach highest importance to AALCO and its work.

In this year, marking sixtieth anniversary of AALCO, Delegation of India feel it appropriate to remember the commendable services of H.E. Mr. Barry Sen, the first and founding Secretary- General of AALCO who left us on 8 November 2015. We are greatly indebted to Mr. Sen for his tireless service and contribution to the Organization as Secretary-General during its initial three decades, particularly in the formative stage of the Organization.

AALCO Annual Sessions are known for deliberations on select topics of international law on the AALCO Agenda. This differentiates AALCO from other regional/international organizations which generally focus on political aspects of inter-state relations. AALCO is a legal consultative organization purely for deliberation on legal matters. We are of the firm view that AALCO should stick to its mandate.

The items chosen for this Session includes Violent Extremism and Terrorism (Legal Aspects); WTO and related issues; Items on the Agenda of the International Law Commission; Law of the Sea; International Law in Cyberspace; and Palestine.

We will be expressing our views on these substantive topics as and when those topics are taken up for deliberations. Hence, we do not wish to repeat those views here.

Mr. President, AALCO being exclusively the Organization concerning legal affairs, I take this opportunity to highlight some developments concerning India in the field of international law. India signed the Paris Agreement on Climate Change along with more than 170 countries on 22<sup>nd</sup> April 2016. India highlighted the need to chalk out our action plans to implement the Paris Agreement based on two features: sustainable lifestyles and consumption; and climate justice.

On 9 October 2015, India deposited with the International Labour Organization the instrument of ratification of the Seafarers' Identity Documents Convention (revised), 2003 (No. 185) and the Maritime Labour Convention, 2006 (MLC, 2006). India, which is the 31st ILO Member State to ratify Convention No. 185 and the 66th to ratify the MLC, 2006, is a major maritime country and an important maritime labour supplier.

India ratified the Convention on Supplementary Compensation for Nuclear Damage in January 2016. India also ratified the Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization (Trade Facilitation Agreement) in March 2016.

Mr. President, at the domestic level, India has enacted major legislations/amendments in the years 2015-16. Notable among are The Juvenile Justice (Care and Protection of Children) Act, 2015, which seeks to consolidate and amend the law relating to children found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, and social re-integration. The Act adopts a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation.

India has amended its Arbitration and Conciliation Act recently. The major highlights of the amendments to the Indian Arbitration Act are the inclusion of time lines and incentives for the same, and insertion of a schedule with a table of fee which addresses the issue of high cost arbitrations. There is also an explanation addressing the conflict of interest. Further, the Act has narrowed down the scope of Public Policy. These amendments have codified the Act addressing the concerns of Ad-hoc arbitration as against institutional arbitration.

Mr. President, AALCO is an inter-governmental organization, the primary objective of which is to function as an advisory body to its Member States in the field of international law. We believe that AALCO has the potential to contribute more in the field of research, publications and capacity building exercises. We appreciate the efforts taken by the Secretariat to collect the arrears which will strengthen the financial position of the Organization. We believe that the continued effort of Secretariat in this regard would improve AALCO's financial position and would address the problem of accumulated arrears.

We are looking forward to participate in the deliberations on specific issues and once again thank the AALCO and its Secretariat for the excellent arrangements made for the Session.

Last but not least, Mr. President, My delegation recognizes the sincere efforts and hard work of our outgoing Secretary General, H.E. Prof. Rahmat Mohamad, under whose leadership, the Organization has taken up several important issues. We place our appreciation on record. Thank you Mr. President, for giving us this opportunity.

**President:** I thank the Head of Delegation of India for his statement. Now I invite the Head of the Delegation of the People's Republic of China to present his statement.

**Mr. Hu Bin, Counselor, Department of Treaty and Law, Ministry of Foreign Affairs, the Leader of the Delegation of the People's Republic of China:** Mr. President, at the onset, I would like to extend warmest congratulations of the Chinese delegation to the President and the Vice President on your election and assure you the full cooperation of my delegation. I also wish to take this opportunity to thank Secretary-General Dr. Rahmat Mohamad and his team for their great work over the past year, and congratulate Professor Kennedy Gastorn on elected the next Secretary-General. We thank the Secretariat and the Indian government for their thoughtful arrangements for the session.

This year marks the 60th anniversary of AALCO. As one of the most important tangible outcomes of the Bandung Conference, AALCO played a vital role in strengthening our consultation and cooperation in international law, building consensus and promoting our common interests. It also contributed significantly to the development of rule of law at international level and has become a major platform for its Member States to draw upon each other's experience and advance international cooperation on the rule of law and promote international fairness and justice.

A review of its six decades of development shows that AALCO has contributed to progressive development of international law in broad areas such as diplomatic law, treaty law and law of the sea. Especially in recent years, under the strong leadership of Secretary-General Dr. Rahmat Mohamad and with joint efforts by all Member States, AALCO has strengthened institution-building and internal management, advanced external cooperation and conducted lively discussions and research on a broad contemporary and emerging topics such as international law in cyberspace, anti-violent-extremism and marine biodiversity. All these have brought renewed vibrancy momentum to its further development. In this regard, my delegation wishes to reiterate our deepest appreciation to the outgoing Secretary-General Dr. Rahmat Mohamad for his commitment, dedication and contribution in his tenure for the development of this Organization. As said he really made a real difference for this Organization. And with the election of the new Secretary-General, we have full confidence in AALCO's future and look forward to cooperating with all Member States to support the Secretariat.

The Chinese government values the role of AALCO and reaffirms our support for its revitalization and growth. A latest new testament to the support is the establishment of the China-AALCO research and exchange program on international law. As the photo exhibition that was opened yesterday shows, this program is aimed to promote the exchanges and capacity-building among ourselves. The first workshop of this program was held last year and provided three-week training to 22 officials and experts from 14 Asian and African countries and territories and the AALCO Secretariat. China is now preparing for the second workshop to be held late this August. And we are hosting a photo exhibition and reception during this session to attract more interest in the program. In addition, China has proposed that AALCO put the subject of "international law in cyberspace" on this session's agenda and establish a

corresponding working group to enhance AALCO's influence on this emerging global issue. China is also providing funding support to AALCO for hosting a side event on "international cooperation on combating cybercrime" during the 25th Session of the UN Commission on Crime Prevention and Criminal Justice next week to convey the voices of Asian and African countries in the discussion at the UN platform. Going forward, China will continue to provide more support to AALCO through the above programs.

The international law and order are undergoing a historic transition. Asian and African countries are growing into an important force in safeguarding and promoting the international rule of law and face common opportunities against an evolving international landscape. We need to take AALCO's 60th anniversary as a new starting point to further enhance solidarity and cooperation, revitalize AALCO with joint efforts, raise our influence as a whole on international legal affairs, and work for a more just and equitable international order that better serves the common development of Asian and African countries. To that end, China proposes that AALCO focus its work on the following areas:

First, be more active in international discussion of international law and global governance to promote the common interests of Asian and African countries. It is important for AALCO to keep abreast of the latest developments in international law, and update and enrich its agenda in a timely fashion to keep its members informed on the development of international rules in the new areas of cyberspace, outer space, the sea and polar areas, help ourselves coordinate positions and play an active part in international rules-making. The first meeting of the working group on international law in cyberspace will be held during this Annual Session and elect its President, Vice President and Rapporteur. China hopes that the meeting will make good progress and the working group will facilitate in-depth exchange of views and consensus building on this high-stake issue so that we could draw on each other's best practices and advance our common position in related international discussions.

Second, raise AALCO's international profile. AALCO needs to further strengthen its contacts and cooperation with the UN specialized agencies, the International Law Commission and other international and regional organizations to enhance its capacity and influence in participating in important international law-making. China supports AALCO in hosting a meeting on "international cooperation on combating cybercrime" on the sidelines of the 25th Session of the UN Commission on Crime Prevention and Criminal Justice in Vienna, believing that it will help promote AALCO's position and views on this important global issue. China hopes that with the support of Member States AALCO will host more events of this kind in the future.

Third, put greater emphasis on capacity building. China welcomes the measures proposed in the Secretary-General's report on strengthening exchanges and cooperation with universities and think tanks, and increasing research and publications on such frontier issues as international law in cyberspace and marine biodiversity beyond areas of national jurisdiction. China encourages AALCO to hold seminars and thematic workshops to help raise the awareness and capability of its developing country members in participating in the formulation of and in applying international law. China will work closely with the Secretariat and all other members to make the most of the China-AALCO research and exchange program on international law, promote mutual learning and enhance capacity building with joint efforts.

Fourth, enhance overall planning for AALCO's future growth. China hopes that the Secretariat will take the opportunity of AALCO's 60th anniversary to bring more Asian and African developing countries into AALCO membership in an active yet steady manner, which will raise AALCO's representation in Asia and Africa and in international affairs and bring fresh impetus to its development. AALCO needs to enhance communication and coordination with Member States to better meet their higher expectations and needs in the new era and strengthen strategic planning for its work. Member States, on their part, should continue their strong support to the Secretariat and Secretary-General, take an active part in the Annual Sessions and other events, and create enabling conditions for AALCO to play a bigger role in international legal affairs.

China stands ready to work with other members to step up input in and support to AALCO so that it can truly become "the main center for harmonizing the actions of Asian-African States in international legal matters" as set forth in the 2009 Putrajaya Declaration. Thank you.

**President:** I thank the Head of Delegation of China. Now I invite the Head of Delegation of Tanzania for his statement.

**Mr. Mohammed Hija Mohammed, Acting High Commissioner of the United Republic of Tanzania in New Delhi, the Leader of the Delegation of the United Republic of Tanzania:** Your Excellency, President of the Fifty-Fifth AALCO Annual Session, Your Excellency Secretary General of AALCO, Hon Ministers, Attorney Generals from AALCO Member States, Your Excellency, High Commissioners and Ambassadors, Heads of Delegation of AALCO Member States and Non-Member States, Heads of International Organizations, Distinguished Guests, Ladies and Gentlemen. Mr. President, I want to really thank you for affording me this opportunity to make this general statement before this august Assembly.

At the outset, let me, on behalf of my delegation, the Government and People of the United Republic of Tanzania, thank the entire AALCO membership for the honour and confidence placed in Prof. Kennedy Gastorn, a Tanzanian - by endorsing him as the next Secretary General of our Organization. This is a testimony of love, trust and more, especially the hope that he will live up to your expectations. As a Government, we will rally behind him to ensure that his promises are fully realized.

Allow me join the previous speakers in congratulating you for a well-deserved election to steer up the work of this Organization in the coming year. We wish to assure you of our unwavering support during your tenure as President of our Organization. Let me also express, on behalf of my delegation, our sincere appreciations to the outgoing President, H.E Liu Zhenmin for the accomplishments he has made over the past.

In the same way, let me thank the outgoing Secretary General, H.E. Prof. Dr Rahmat Mohamad for the excellent job for the past eight years. In doing so, I wish to join others in congratulating Secretariat team that has made it possible for him to function effectively throughout his mandate. We wish you a well-deserved retirement, although we will be happy to see you serve in some other capacity elsewhere.

Mr. President, in a special way, we wish to thank our host, the Government of India for the usual warm reception and hospitality extended to us since our arrival. I should also hasten to bring to all of you warm greetings from His Excellency, Dr. John Pombe Joseph Magufuli,

President of the United Republic of Tanzania. President Magufuli joins the AALCO Member States to celebrate the 60<sup>th</sup> Anniversary of this Organization and he has wished us a very successful Annual Session.

Mr. President, as we celebrate the anniversary of our Organization since its establishment in 1956 we have cause to do so because of the successes that have been achieved, so far. But at the same time we should not be complacent in any way; we should, instead we should rise to the surmounting challenges that lie ahead.

It is essential that we must maintain our cohesion and strive to preserve the ideals that our founding fathers had in mind when they conceived the idea of this partnership. Indeed, there is no better way of appreciating the founders than embracing and, more importantly sustaining those ideals which are still valid and relevant.

AALCO has continued to provide an important platform where various strategic international legal issues and attendant solutions are generated. Besides, the AALCO expertise has not only benefitted its Member States but also the non-Members States too, have become beneficiaries in a big way.

From the laws governing diplomatic relations, environmental legal regime, state immunities, international boundaries, trade and business, commercial transactions, forced occupation, terrorism, blue economy; to issues of law of the sea, conflict resolution and the like, AALCO has actively contributed in developing the requisite legal regime, including the codification of the same.

Mr. President, it is our sincere hope, as a delegation, that the entire membership will continue to rally together to advance the Bandung spirit to greater heights by encouraging more members to join and scaling up regional presence through regional centres that have played a major role in finding home grown dispute solutions. Our strength as an Organization resides greatly in our unity. And therefore, this anniversary is, certainly a fitting occasion to renew our solidarity and commitment to strengthen this Organization.

In stating so, I am mindful of the oldest aphorism, whose authorship is still unknown which states ...quote. "The largest room in the world is the room for improvement". (end of quote) Let us work together on improving on what we have built together and also work together towards achieving our mission and vision. And in the same spirit, I should hasten to commend the Sub Committee of Liaison on AALCO Human Resources and Financial Matters for the drafting of new regulations on the Secretary General's entitlements.

However, following a brief informal exchange that the Honourable Attorney General of the Uganda and I had with you during a coffee break, we wish to seek the indulgence of this assembly that the adoption of the new regulations, if possible, should benefit from a further fine tuning so as to address all the issues that seem to have not been fully exhausted such as the children's education and medical expenses as it was echoed here yesterday.

Specifically, our request would be to refer the matter back to the Sub Committee for further consideration and maintain the status quo, in the interim.

In closing, Mr. President, allow me, once again on behalf of my delegation to reiterate Tanzania's commitment to the work of the AALCO and our readiness to partner with

colleagues in this club. I should hasten to remind you that Tanzania hosted two successful AALCO Annual Sessions in 1986 in Arusha and the recent one in 2010 in Dar es Salaam. This testifies to this commitment. And, since this session has approved the appointment of Tanzanian the new Secretary General, then we will have all the justification and reason to avail all the necessary moral and material support that he, and his team, will certainly need. I Thank You, President.

**President:** I thank the Head of Delegation of Tanzania for his statement. Now I invite the Head of Delegation of the Democratic People's Republic of Korea to make his statement.

**H.E. Mr. Pak Myong Guk, Vice Minister of Foreign Affairs, Ministry of Foreign Affairs, the Leader of the Delegation of the Democratic People's Republic of Korea:** Mr. President, I would like, first of all, to congratulate you Dr. Sharma on your election as the president of the current session and I am convinced that your able leadership will lead this session to a success.

Current session under the theme of "60<sup>th</sup> anniversary of AALCO and its significance", is of the great importance for reviewing its past 60 years and revitalizing the AALCO.

During the last 60 years, the AALCO has contributed to realizing sovereign equality enshrined in the UN Charter and to progressive development and codification of international law for peace and security of the world and enhancement of well-beings of mankind.

However, in spite of our endless efforts, the high-handedness and arbitrariness to overthrow the sovereign states are getting ever more rampant in the world, in particular, in Asian-African region and armed conflicts, civil war and violent extremism are prevailing across the world.

Aspiration of friendship, solidarity and cooperation and the building of a just and equitable new world are remaining as only dream. Looking back the past over 60 years of AALCO, the DPRK delegation recognizes that the theme and agenda of this session are selected in timely manner. In this context, my delegation would like to clarify its viewpoint as follows.

Firstly, it is prerequisite to get rid of the root to eliminate violent extremism and terrorism threatening the world peace and security. The principle of sovereign equality enshrined in the UN Charter is the principle of respect for sovereignty and non-interference in internal affairs of others. As long as those principles are violated, the world can never be peaceful and mankind never lives in comfort. High-handedness and arbitrariness veiled under the various disguises such as imposing western standard value, "humanitarian intervention", "counter-terrorism", "human rights protection", "non-proliferation" and "R2P", and particularly naked armed attack and armed intervention for overthrowing a sovereign state for the only reason with different ideology and social system from theirs' are causing violent extremism and terrorism across the world. The US mainland and its troops stationed in other countries have become the main target of terrorism because the US is the kingpin causing violent extremism and terrorism. As long as the US persists in high-handedness and arbitrariness, violent extremism and terrorism will not be vanished.

Secondly, AALCO should draw its due attention to crimes against humanity such as infringement upon sovereignty and killing civilians committed under the pretext of war on terrorism. "Counter-terrorism" conducted by the US is the state-sponsored terrorism and

aggressive war provocation of new kind against the anti-US countries. The DPRK remains in consistent principal position to strongly oppose all forms of terrorism. Combating terrorism must be complied with international law. Civilian massacre committed by the US in Iraq, Libya, Afghanistan and Pakistan under the pretext of combating terrorism have nothing to do with counter-terrorism. It is clearly a crime against humanity. Also the armed intervention to overthrow Syrian Government, support for the anti-government terrorist groups and patronizing and backing air attack and massacre against Palestinian by Israel are also crimes against humanity as inciting state-sponsored terrorism. International Community should never tolerate these crimes against humanity infringing upon the sovereignty of state and right to self-determination of its people.

Thirdly, AALCO actively encourage and promote efforts of its Member States to defend justice and peace in the spirit of friendship, solidarity and cooperation upheld by it in the early days of its foundation.

Today, Korean peninsula has turned into a world's biggest hot-spot where vicious cycle of confrontation and escalating tension continues due to the hostile policy of the US against the DPRK. The US has never recognized our sovereignty and imposed unprecedented political pressure, military threats and economic sanctions against our country over the half century. Recently the US has imposed harsh and comprehensive sanctions against DPRK while seeking the opportunity to attack our country pursuant to the mapped-out war plans categorically. The US has staged the nuclear war exercises in large scale for two times this year. We are labeling and condemning it as state-sponsored terrorism and crimes against humanity threatening our sovereignty and right to life of our people. Preventing all-out war in Korean Peninsula from the endless military provocations of the US is entirely thanks to our peace-defend will and war deterrence which is legitimate from the viewpoint of international law and right to self-defense. We firmly believe that the Member States of AALCO will extend their firm solidarity to the struggle of Korean People for ensuring peace and security in the Korean Peninsula and for defending justice to cope with high-handedness and arbitrariness of the Super Powers.

Mr. President, today, in the DPRK, mass struggle is pushed ahead to carry out the tasks put forward at 7<sup>th</sup> Congress of the Workers' Party of Korea held a short time ago under the wise leadership of the respected Comrade Kim Jong Un. Any attempt to isolate and stifle us will never block the way of our people advancing forward firmly united around our great Party.

DPRK is a country that has covered the path of self-reliance and self-development in the face of sanctions and blockades of the US over the 70 years as well as our people are courageous people who emerged in the high rank of Nuclear and Space Powers by smashing anti-DPRK stifling and pressurizing maneuvers of the US.

Our people will vigorously smash all maneuvers of the hostile forces to infringe upon our right to life and sovereignty with toughest counter measures and build a socialist powerful nation without fail. The DPRK will make great efforts for a just and equitable new world order and further strengthen cooperation with Asian-African Legal Consultative Organization to defend the common interest of its Member States. Thank you.

**President:** Thank you. Now I invite the representative of South Africa to make her statement.

**Adv. Aarti Brijlall, State Law Advisor (International Law), Office of the Chief State**

**Law Advisor (International Law), the Leader of the Delegation of the Republic of South Africa:** Mr. V.D. Sharma, the President of the Fifty-Fifth Annual Session of AALCO, Vice-President of the Fifty-Fifth Annual Session, Mr. Sam Yalley, Secretary-General of AALCO, Excellencies, Ladies and Gentlemen.

On behalf of the Government of the Republic of South Africa I have the honour to thank the Government of the Republic of India, for hosting this Fifty-Fifth Annual Session of the Asian-African Legal Consultative Organization. We also wish to thank you for the excellent arrangements and hospitality extended to us since our arrival in this beautiful country. South Africa would also like to congratulate Mr. V.D. Sharma on his election as President of the Fifty-Fifth Annual Session.

Mr. President we thank the outgoing Secretary-General H.E. Prof. Dr. Rahmat Mohamad for the two terms during which he passionately, loyally and selflessly served as the Secretary-General of this vital and important Organization and for leading the Organization into a position of influence and importance in matters of international law. His continued dedication has elevated the Organization to what we see today. The Government of the Republic of South Africa also congratulates the newly elected Secretary-General Prof. Gastorn and assures him of its fullest support and cooperation in going forward.

We would also like to convey our gratitude to the AALCO Secretariat and all those who are involved in the preparation for this Fifty-Fifth Annual Session. The Government of the Republic of South Africa expresses our confidence that the proceedings of this Fifty-Fifth Annual Session will yield positive results.

Mr. President we are pleased to commemorate the 60<sup>th</sup> Anniversary of the establishment of AALCO. It is therefore befitting that the Organization should look into its historical significance and its past achievements are highlighted at this Session. The Government of the Republic of South Africa is acutely aware and appreciative of the AALCO's tangible outcomes since its establishment in various areas of international law, which affects all Member States of AALCO as a collective. As international lawyers it is imperative that we reflect on the advancement and progressive development and codification of international law. As we the Members of AALCO commemorate the 60<sup>th</sup> Anniversary of the inception of this Organization, we are sure that our deliberations at this Fifty-Fifth Annual Session will continue to embody the spirit of peace, friendship and cooperation with a view to advocate democracy, promotion and protection of human rights and multilateralism.

South Africa is indeed proud to participate in this Fifty-Fifth Annual Session. We are of the view that the purpose of AALCO is to cooperate and coordinate on matters pertaining to legal aspects of international law and legal aspects only. As lawyers this is our role and mandate and we should therefore, at all times be mindful of such and rather than its becoming an Organization that probes into issues that go beyond our role, purpose and mandate.

Mr. President. Allow me to give South Africa's perspective on two of the topics on AALCO's agenda at the Session. South Africa notes the UN Secretary-General's decision on Palestine's accession to the Rome Statute which became effective on 1 April 2015, which means that Palestine is now the 123<sup>rd</sup> Member State of the ICC. South Africa welcomes Palestine's accession to the Rome Statute as a step towards ending impunity and ensuring accountability for those responsible for committing the most heinous crimes of concern against humanity.

Mr. President, South Africa acknowledges the acute importance of the topic “Violent Extremism and Terrorism”, which remains a global challenge which necessitates a comprehensive, multilateral response. My delegation would like to express its sympathy and condolence to the Government and people of many of our fellow Member States who have witnessed recent terrorist attacks and continue to do so on a regular basis. The Government of the Republic of South Africa strongly condemns such senseless loss of innocent lives as a result of these terrorist attacks, be they for whatever reason. We stand in solidarity with the international community in eradicating this scourge of cowardly terrorist attacks.

Mr. President, in conclusion the South African delegation would like to express the Government of the Republic of South Africa ongoing commitment and support to this important institution and we assure the AALCO of our full support and cooperation during this Fifty-Fifth Annual Session and all such sessions going forward. Thank you.

**President:** I thank the representative of the Republic of South Africa. Now I invite the Head of delegation of Thailand to make her statement.

**Mrs. Vilawan Mangklatanakul, Deputy Director General, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, the Leader of the Delegation of Thailand:** Mr. President, Distinguished delegates, Ladies and Gentlemen, On behalf of the Thai Delegation, I would like to join the Leaders of other delegations in congratulating the President and Vice-President of the Fifty-Fifth Session of the Asian-African Legal Consultative Organization. I am confident that under your able leadership, our Annual Session will become a great success with fruitful conclusion.

Also, I would like to thank the Government of India for kindly hosting this session and for the warm welcome and hospitality extended to us. Special thanks are also due to the AALCO Secretariat team for the excellent preparations for this session.

Mr. President, on behalf of the Royal Thai Government, I wish to commend the AALCO Secretary-General, Professor Dr. Rahmat Mohamad, for his tireless efforts and valuable contribution to AALCO during the past 8 years of his tenure. Congratulations are also in order for the newly elected Secretary-General, Professor Dr. Kennedy Godfrey GASTORN. My delegation and I are looking forward to working closely with you, and we stand to be enlightened by your wisdom.

Mr. President, over sixty years have passed since the historic Bandung Conference was concluded, and AALCO was subsequently originated as a result. Today, AALCO stands proud as an outstanding symbol of Asian-African solidarity in promoting codification and progressive development of international law together with the global community. As AALCO will complete its sixty-year journey in November, I would like to wish AALCO a very happy birthday in advance, and to extend my congratulations on its success.

Mr. President, an Anniversary offers as much a time for celebration as it does for reflection. Looking back, AALCO has achieved a great deal in enhancing the capacity and cooperation among Member States, and in contributing and representing the Asian and African perspective in the development of international legal discipline. We appreciate AALCO’s work on various issues of concern including the law of the sea, combating violent extremism and terrorism as well as international trade law. Looking ahead, AALCO needs to strengthen

its institutional basis in order to ensure an active and influential role within the international arena.

Having been a member of AALCO since 1961, Thailand has attached great importance to the work of the Organization. Today, we stand ready to facilitate the work of AALCO in the development of international law.

Mr. President, for our part, Thailand looks forward to contributing to the issues of contemporary concerns under this forum in order to promote closer cooperation.

In particular, on issues relating to the law of the sea, Thailand reaffirms its commitment to the UN Convention on the Law of the Sea and other frameworks of cooperation in this field, in order to promote maritime safety, security, environmental protection and sustainable maritime development. We believe that marine biological resources beyond areas of national jurisdiction must be treated as common heritage of mankind. It must be ensured that the immense benefits of the oceans are equitably shared by all nations and people. To this end, Thailand is an unwavering supporter of a new legal instrument to govern this issue under UNCLOS.

Of particular importance on the agenda of AALCO this year is the deliberation on the issues of violent extremism and terrorism. Thailand shares the view of all Member States and the global community that violent extremism and terrorism in all forms and manifestations constitute one of the most serious threats to international peace and security. In this regard, Thailand appreciates the discussion we have on how to address this issue in AALCO. We support the continue effort of AALCO to further deliberate on this issue. We also encourage states to enhance cooperation on the basis of relevant developments within the UN framework.

Mr. President, I wish to take this opportunity to inform AALCO delegates that Thailand has submitted its candidature for a non-permanent seat on the United Nations Security Council (UNSC) for the term 2017-2018. Since it became a member of the United Nations in 1946, Thailand has always been committed to the purposes and principles enshrined in the UN Charter. Our international role and contribution have consistently been based on the principle of constructive dialogue and sovereign equality among nations. We believe that peace and security, development, and human rights are mutually reinforcing issues that need to be addressed comprehensively. We believe in a people-centered approach to security and that what the UNSC is ultimately working for is the peace and security of all peoples. In running for the non-permanent member of the UNSC, Thailand stands ready to act as a “Bridge for Partnerships” between the developed and developing countries, as well as between Asia and Africa and the rest of the world, on global issues and common concerns. We would therefore greatly appreciate the invaluable support from distinguished Member States of AALCO at the UNSC election to be held during the 71st session of the United Nations General Assembly, in New York.

Mr. President, in closing, the Thai delegation looks forward to constructive discussions with distinguished members of AALCO during this session. I thank you, Mr. President.

**President:** I thank the Head of Delegation of Thailand for her statement. Now I invite the Head of Delegation of the Republic of Korea for his statement.

**Mr. Jung Hai-Ung, Ambassador for International Law Cooperation, the Leader of the Delegation of the Republic of Korea:** Mr. President, Mr. Secretary General, Excellencies and Distinguished Delegates, Ladies and Gentlemen,

On behalf of the delegation of the Republic of Korea, I would like to express my sincere gratitude to the Government of India for hosting the Fifty-Fifth Annual Session of AALCO, and appreciate the Secretariat's excellent preparations for this Session.

I express my congratulations to Dr. Vishnu Dutt Sharma and H.E. Mr. Sam Yalley, on their elections as the President and Vice-President of this Session.

I also wish to take this opportunity, to extend my congratulations to Prof. Kennedy Gastorn on his election as the new Secretary-General of AALCO, and express my high appreciation for the great contribution that Dr. Rahmat Mohamad has made to AALCO through the outstanding works during his terms as Secretary General.

Mr. President and Distinguished Delegates, in the Fifty-Fourth Annual Session held in Beijing last year, we commemorated the 60<sup>th</sup> anniversary of the Bandung Conference, and now we celebrate another historic year of 60<sup>th</sup> anniversary of the founding of AALCO, achieved under the guidance of the Bandung Spirit. During these sixty years, AALCO has made significant dedication to the development of international legal system, by balancing and enriching it, with creative ideas stemming from the cultures of Asian-African peoples. In particular, AALCO made a great contribution to the formation of the new legal order in the seas and oceans, by introducing innovative concepts, such as the Exclusive Economic Zone, archipelagic waters and the rights of land-locked States, which were finally embodied in the United Nations Convention on the Law of the Sea.

Since the establishment of the UN, the international legal system has been elaborated and consolidated, better than ever in the history of the world. However, more and more serious problems continue to challenge humanity. In particular, the growing risks of violent extremism, cybercrimes and cyber wars require urgent establishment of appropriate international legal regimes. It is time for the AALCO Member States to make more efforts to hammer out great ideas for the creation of more effective international legal regimes in these fields.

I would like to deliver briefly, some general ideas on the orientation of our deliberations on these two issue-areas.

First, in dealing with the agenda of Violent Extremism and Terrorism, the previous discussions and works undertaken within the UN system should be the basis for our discussions in AALCO meetings. In particular, the relevant resolutions of the General Assembly and the Security Council, as well as the Secretary General's Report, entitled "Plan of Action to Prevent Violent Extremism", submitted on December 24 last year, can be used as the stage for further deliberations at national, regional and international levels to protect humanity from violent extremism. By following this orientation, and by providing the UN system with particular ideas embedded in special experiences and concerns of Asian-African peoples, we may better contribute to more effective and united responses to these problems. In this regard, I would like to appreciate the efforts of the participants in the Inter-Sessional Meeting of Legal Experts on Violent Extremism and Its Manifestations, held in Delhi in January this year.

Mr. President and Distinguished Delegates, the delegation of the Republic of Korea condemns all kinds of terrorism, but the measures taken in compliance with the Security Council resolutions should not be considered as terrorist acts.

Regarding the agenda of International Law in Cyberspace, the UN Governmental Group of Experts Report to the General Assembly can be the starting point of our deliberation. By closely interacting with the United Nations, the AALCO Member States may contribute more efficiently to the formation of new rules of international law, complementary to the existing rules of international law applicable to cyber activities.

Excellencies and Distinguished Delegates, the 60<sup>th</sup> anniversary of AALCO provides us with an opportunity to think about the possibility of improving the efficiency of the functioning of the AALCO system. So far, AALCO has functioned very efficiently, thanks to the tremendous contribution made by the Secretariat under the constraint of limited financial and human resources. Admitting the difficulty in increasing resources of the Secretariat or the frequency of AALCO meetings as given conditions, we may try to find out some means of improving functional efficiency of the AALCO system through procedural innovations. For example, the efficiency of the AALCO system may be enhanced by facilitating and reinforcing communications between the Secretariat and the Member States through Liaison Officers and ICT vehicles.

Mr. President and Distinguished Delegates, I conclude my statement by reaffirming the commitment of the Government of the Republic of Korea to the mission of AALCO. Thank you.

**President:** I thank the Head of Delegation of the Republic of Korea. Now I invite the Head of Delegation of Indonesia for his statement.

**H.E. Mr. Rizal Wilmar Indrakesuma, Ambassador of the republic of Indonesia in New Delhi, the Leader of the Delegation of the Republic of Indonesia:** President and Vice President of the Fifty-Fifth Annual Session of the Asian-African Legal Consultative Organization, Secretary General of the Asian-African Legal Consultative Organization, Excellencies, Distinguished Delegates, Ladies and gentlemen,

Allow me on behalf of the Indonesian Delegation to congratulate you upon your election as President of the Fifty-Fifth Annual Session of AALCO. I am confident that under your leadership, our Annual Session will bear fruitful outcomes. Allow me also to extend my deepest appreciation to H.E. Mr. Liu Zhenmin, for presiding over the previous Annual Session. Our sincere gratitude goes to the Government of the Republic of India for hosting this important meeting.

Please allow me to congratulate H.E. Prof. Dr. Kennedy Godfrey Gastorn from Tanzania upon his election as the new Secretary General and we wish during his tenure in New Delhi, the AALCO could continue its roles and contribution in accommodating the interest of its members.

I would like to extend my appreciation and gratitude to the H.E. Secretary General Prof. Dr. Rahmat Mohamad for his very able stewardship. During the 8 years leadership of the H.E. Secretary General Prof. Dr. Rahmat Mohamad, AALCO has been very active in international

role through hosting seminars and workshops inviting experts, practitioners as well as academicians to discuss various aspects related to international law. In particular, I should also appreciate AALCO initiatives to host discussion on marine biodiversity, cyberspace and the recent efforts in formulating principles and guidelines to combat violent extremism.

Mr. President, this year's Annual Session is special event, where we are also commemorating the 60<sup>th</sup> Anniversary of AALCO since its establishment in 1956. Indonesia is very much confident that this esteemed forum plays an important role in strengthening friendship and solidarity including collaboration between countries in Asia and Africa to engage in furthering international law in all its aspects.

Let me in this opportunity reaffirm Indonesia's commitment to join forces with member countries of AALCO in strengthening the roles of AALCO and contributing effectively in addressing various important global issues.

While also taking benefits from activities held by AALCO, Indonesia believes that AALCO needs to be financially supported in order for the Organization to continue its programs and initiatives.

Mr. President, allow me to inform you that Indonesia in March 2016 held the Extraordinary Summit of the (OIC) Organization of Islamic Cooperation on Palestine and Al-Quds Al-Sharif. This extraordinary conference adopted two important documents, the Jakarta Declaration on Palestine and Al-Quds Al-Sharif and the Resolution on Palestine and Al-Quds Al-Sharif. Both Documents highlighted the need to unite efforts to end Israeli occupation of the State of Palestine including Al-Quds Al-Sharif such as establishing an inter-governmental legal experts group to examine the ways and method for referral of individual human rights in Palestine.

I believe this is in-line with this year's Annual Session agenda related to the Violations of International Law in Palestine and Other Occupied Territories by Israel and other International Legal Issues related to the Question of Palestine. Indonesia believes that this would provide the impetus in supporting the State of Palestine for further attain its legitimate rights of self-determination, independence and sovereignty.

Mr. President, Indonesia supports the work of the Inter-Sessional Meeting of Legal Experts on Violent Extremism and its Manifestation. Indonesia looks forward to the draft text on the principles and guidelines to combat violent extremism and its manifestation. In light of this, allow me to inform you that this effort conducted by AALCO is an important endeavor which Indonesia is also putting national efforts to amend its anti-terrorism legislation to encompass the need to combat violent extremism, including those related to foreign terrorist fighters. The important elements of the draft amended legislation on anti-terrorism will focus on prevention and the de-radicalization of terrorist including those that may perpetrate crimes of terrorism.

Mr. President, on matters related to the law of the sea, Indonesia remains steadfast in supporting the global effort to discuss the issues related to biodiversity beyond national jurisdiction. Indonesia believes that it is a 21<sup>st</sup> century issue that requires a constructive approach by the international community to address biodiversity in a sustainable manner, for the interest of mankind.

To this end, Indonesia is of the view that impacts of activities in the areas beyond national jurisdiction will have a direct impact to areas under our jurisdiction and vice versa. Pollution as well as conservation and management of living resources will be a particular concern, because the marine environment as an ecosystem will affect one another regardless of legal boundaries that have been established in accordance with UNCLOS 1982.

On another important issue, related to the law of the sea, is the growing problem related to Illegal, Unreported, Unregulated (IUU) fishing. The scourge of IUU fishing has a detrimental effect on the marine resources environment, whereby illegal fishing practices impacts on the stock of our fishes in the seas and oceans and irresponsible fishing practices have degrade impact our marine environment and ecosystem. Indonesia notes the concern and the possible linkages between IUU fishing as stated in the GA Resolution 70/75 adopted on the 8<sup>th</sup> of December 2015. Therefore, the issue of IUU fishing heightens the need of countries to strengthen enforcement efforts in preventing, deterring and eliminating IUU fishing. Indonesia calls on all members of the AALCO to cooperate in combating IUU fishing.

Mr. President, in matters related to WTO, Indonesia is of the view that the Doha Development Agenda (DDA) related to the issue of agriculture on special safeguard mechanism (SSM), public stockholding for food security purposes (PSA) and the pillar on export competition (EC) are the main elements to further support developing and least developing countries in attaining economic development agenda. Indonesia notes with concern the outcome of the Nairobi Ministerial Declaration as pertains to continued relevance of the Doha Development Agenda. Furthermore, Indonesia calls on members of AALCO to expeditiously complete negotiations as mandated under the Doha Development Agenda by fully taking in to consideration the special development concern of developing and least developed countries of the WTO.

On the issue of cyberspace, for Indonesia three prominent issues arise from the discussion on cyberspace. First the issue of sovereignty in cyberspace, second the peaceful use of cyberspace, and third, the relevancy of international law and instruments related to cyberspace. These are the three important factors to be considered by AALCO in furthering the theme on international law on cyber space. Indonesia is also of the view that international cooperation in cyberspace is a much need avenue, to overcome the negative impact of cyberspace such as cybercrime. To this end, Indonesia observes and anticipates the outcome of the work of the Open-Ended Working Group on International Law in Cyberspace.

Mr. President, these substantive issues as reflected in the agenda of this Annual Session underlines the important work and relevance of AALCO in overseeing and taking part actively in working toward a harmonized law amongst States of both regions. A work that countries in Asia and Africa should strive together, as a beacon and a voice of the majority of the world's population, in settling the agenda for international law. Having said that, allow me to convey my best wish for this Annual Session to achieve the desired success. I thank you.

**President:** I thank the Head of Delegation of Indonesia. Now I invite the Head of Delegation of Sudan for her statement.

**H.E. Mrs. Tahani Ali Mohammed Ali, State Minister for Justice, the Leader of the Delegation of Sudan<sup>6</sup>:** His Excellency Mr. President, His Excellency Secretary-General, His

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<sup>6</sup> This statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

Excellency Ministers of Justice and Attorney Generals, His Excellency Heads of Delegations, Distinguished Delegates and Observers, Ladies and Gentlemen.

It gives me immense pleasure to start my speech by extending deep gratitude to the President of India and Government of India for holding the Fifty-Fifth Annual Session of AALCO, and above all for housing the permanent headquarter of the Organization and providing all kinds of help to the Organization in order to play its role in a constructive way.

It also delights me that this session is being organized in this beautiful and fascinating city (New Delhi) which has witnessed the oldest civilization in course of history, beginning of civilization and human development. This city is held in high esteem and loved by Sudan and all other Afro-Asian countries. It also makes me happy to express my thanks to Honorable Secretary-General of AALCO and its secretariat for organizing this session in a good and organized way.

My greeting and appreciation to all participants in this session and many thanks to you for giving this opportunity to me to present the viewpoint of Sudan on repercussions and legal developments which are witnessed by Sudan at this time and also some issues that this session will take up.

Mr. President, this session is being held at a time when important circumstances and repercussions are coming up in the world closely linked to supremacy of articulations and provisions of international law which are represented in/ manifested as international and regional charters and conventions. Undoubtedly, the rule of law is linked to stability and achieving peace in countries. It means that the threat and breach in context of rule of law and its non-appliance in a just and specific manner will destabilize the country and take away the peace.

Mr. President, every Asian and African countries are well aware of the Sudan's commitment to the provisions of international law and conventions and it was reflected when Sudan adopted the provisions of international law and conventions for all in all fields in accordance with the interim constitution of Sudan in 2005 which is considered a complete constitution in defining the capabilities of state authorities according to methodology of rule of law and constitution and respecting the international laws and conventions.

Moreover, according to the constitution, the State of Sudan is committed to implement all agreements concluded in order to achieve complete peace in Sudan. The entire world witnessed the commitment of Sudan to comprehensive peace agreement and its implementation as well with South Sudan movement in 2005 by which the referendum was held among the people of South Sudan for self-determination resulting into separation of State of South Sudan. The State of Sudan was first to accept this separation and participated in its coronation. This represents an exemplary execution of principals and objectives of international law in all forms.

Mr. President, the State of Sudan is also committed to the provisions of Doha Convention regarding the peace in Darfur and according to the provisions of this Convention; the government of Sudan implemented the special order of referendum for the citizens of Darfur to specify the type of government in Darfur region. In fact, all citizens of Darfur participated in this referendum and the provincial form of government was chosen in this referendum by people.

The matter did not confine to this but His Highness the President of Republic of Sudan took initiative to adopt a comprehensive political dialogue on all levels and sectors to determine one single opinion regarding the future of governance in Sudan.

His Highness the President of Republic of Sudan had committed to implement the results of this dialogue in order to achieve the full political goodwill and rule of law in profound way. God willing, the nearly-concluded results will be completely implemented in upcoming months.

Mr. President, in addition to its commitment to implement the internal political agreements, as I have already mentioned, the State of Sudan is also committed to its international pledges in field of human rights charters and that is considered a part of Sudanese constitution, incorporated in the constitution as a full chapter entitled as Liberty and Human Rights Act.

Sudan is also committed to all international agreements to combat the transnational organized crime and its supplementary protocol especially the human trafficking protocol as Sudan ratified the Convention against Transnational Organized Crime and also the protocols supplementary: protocol to combat human trafficking and especially the children and women. In compliance with the provisions of the Convention and Protocol, the State of Sudan passed the anti-human trafficking act 2014 and in order to implement the provisions of the legislation, the national committee for countering human trafficking was formed which put forward a concrete national strategy to counter human trafficking.

In this context, Sudan has adopted a complete legal framework to counter corruption as the United Nations Convention against Corruption was ratified by Sudan. In this regard, it has also adopted an extensive legal system to criminalize all kinds of corruption which includes the Anti-Dubious Wealth Act and Anti-Money Laundering Act and during this period, Corruption Control Legation Act was passed.

Mr. President, the State of Sudan is also extensively committed to implement all international agreement in combating terrorism as Sudan has adopted and ratified the international and regional agreements in combating terrorism and in order to implement these agreements, a number of bilateral agreements were concluded for cooperation in this field.

In the framework of international convention system, Sudan has adopted the primary and effective agreements to combat terrorism. Some of these agreements are as follows:

- International Convention related to Combating Terrorism.
- Geneva Convention for the Prevention and Punishment of Terrorism, 1937.
- Convention to Prevent and Punish the Acts of Terrorism Taking the Forms of Crimes against Persons, signed in Washington in 1971.
- International Convention against the Taking of Hostages, 1971.
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

Likewise Sudan ratified the number of regional conventions to counter terrorism in Arab League and African Union.

In same context, Sudan resists all kinds of religious extremism which lead to terrorism and killing of innocent people.

Sudan resists and condemns the terrorism as per mere legal interpretation on the basis of international and national laws. That is why the Sudan continues calling the international and regional organizations through the Asian-African Legal Consultative Organization and other conferences to put forward a specific definition of terrorism so that the term of terrorism could not become the unlawful tool of the powerful countries to suppress the people who are battling hard to regain their lands like Palestinians against Israel.

Mr. President, the Asian-African Legal Consultative Organization has been taking up the issue of Palestine in all its sessions and that is what is considered the practical way to oppose Israel on provisions of international law and rule of law. It also reflects the support of some countries to Israeli policies in Palestine which are against the principals and provisions of the law.

Therefore, the Sudan calls upon the Asian and African countries to adopt a specific legal opinion towards Israeli policies and actions in Palestine.

Mr. President, Sudan is suffering from a situation where some countries are acting against the provisions of international law and UN Charter in dealing with Sudan as the unilateral economic sanctions were imposed on Sudan by United States in disregard of these provisions and some countries also followed in its footsteps. The unilateral economic sanctions imposed on Sudan clearly violate the provisions of international law and undermines the UN Charter which has completely empowered the Security Council to impose the economic sanctions under chapter six when the international peace and security is threatened.

The unilateral economic sanctions are also a clear violation of the provisions of International Conventions of human rights and on the other hand, it is also clearly violating the International Economic Rules and Global Banking System.

These sanctions have severely hit the Sudanese economy, financial system in Sudan and also the banking exchanges. All these are reflected in performance of all systems, companies and banks in Sudan as well as the basic amenities of a Sudan citizen like water, electricity, hospitals and aviation.

Sudan also calls upon your esteemed organization to adopt a specific and effective legal opinion through this session and international and regional legal conferences to lift the economic sanctions from Sudan completely.

Mr. President, the judgments of International Criminal Court against Sudan are a breach of the principal of rule of law and a clear violation of the principals of international law and that is considered as the key and decisive issue in context of international justice and equity.

The judgments of international criminal court violate the principles and provisions of international law in three major issues. They are as follows:

- i. Sudan is not a member of Rome Statute through which the international criminal court was established. It means that Sudan is not a party in Rome Statute and subsequently, its provisions do not apply to Sudan and it stands in accordance with the provisions of international law in general and Vienna Convention on the Law of Treaties 1969 in particular. This treaty does apply only to the member

parties to it and to those who agreed to ratify it or became content with its provisions as per required procedures. It becomes clear from the provisions taken at Vienna Convention, for example:

Article 2 Chapter 1 (A) of the Convention defined the Treaty as agreement:

“Treaty means an international agreement concluded between states.....etc.”

The process of showing consent for association with Treaty is considered the primary and decisive one in determining the consent of the state and its commitment to the provisions of the Treaty. That is what has also been elaborated in Article 2 Chapter 1 (B) of Vienna Convention under the title:

“Ratification-Acceptance-Approval and Succession”

The definition of the contracting state in above-mentioned treaty consisting on the clause of State Consent and that too by using terms like “Contracting State” and “Consented to be bound by the Treaty”.

The Convention also decided that the ratification of the Treaty is necessary so as to enable the state to become a party to the Convention and adherent to its provisions. This is what was considered the primary condition by the Convention for validation of the provisions of convention on states and Sudan did not ratify the convention and subsequently, it does not apply to Sudan on basis of this rule which decided that the ratification of the Treaty is necessary for adherence of state.

ii. ICC’s violation of the Charter of the United Nations:

The judgment was violating the following principles:

- Principal of Justice, which was decided by the preamble of the Charter and also Article (2) of the Charter:

“The organization is based on the principal of the sovereign equality of all its members.”

- Principle of non-interference in internal matters: The violation resulted by the judgments of International Criminal Court does not get vilified by this provision that the Security Council has right to interfere when the international peace and security is threatened. While the conflict in Darfur does not amount to the disturbance in international peace and security in accordance with the legal concept of international peace and security but it falls in purview of internal conflict by which the international peace and security is not threatened. This issue has been completely sorted out and peace has been restored in all parts of Darfur.

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iii. Immunity of the Head of State:

The decrees issued against the President of Sudan are obvious violation of the rule of law in general and provisions of international law in particular whereas the Head of State is considered as the symbol of supremacy and unity of the state in accordance with the provisions of international law, and subsequently he enjoys the full legal immunity and cannot be put for trial. The provisions of international law provide the legal privileges and immunities to the Head of State during his regime.

Regarding this specific matter and under the title of “Immunity of State Officials from foreign Criminal Jurisdiction”, we call for adopting the unified and integrated legal concept which provides immunity to State Officials from foreign Criminal Jurisdiction on basis of the principle of sovereignty.

We also call for adopting a legal unified vision regarding the refusal of the Criminal Court and also for supporting and strengthening the positive stand of the African Countries and African Union refusing this Court.

Mr. President, after presenting all repercussions and legal developments witnessed by Sudan, I do not miss out to raise an important issue which has already been discussed during the last session of our esteemed organization and want to be taken up in this session too and that is the International Law for protection of Cyberspaces. The Republic of Sudan adopts this proposal and supports the framing of an international law which put forward by People’s Republic of China for this purpose. The international cooperation in averting the cybercrimes can also be achieved which further can be extended up to the electronic piracy and terrorism and all kinds of space communications crimes. That is why Sudan calls the Asian-African Legal Consultative Organization to adopt this proposal and take operational measures in this regard.

Mr. President, at the end, I extend my heartiest thanks to the government of India once again and also to the Asian-African Legal Consultative Organization for giving opportunity to the Sudan to present its view point on the topic of international legal repercussions. I wish the fruitful discussions and deliberations for the participants in this session and a pleasant stay for all.

**President:** I thank the Head of Delegation of Sudan. Now I invite the Head of Delegation of Nigeria for his statement.

**Mr. Olu Sola Enikanolaiye, Acting High Commissioner for the Federal Republic of Nigeria in New Delhi, the Leader of the Delegation of Nigeria:** Excellencies, the President and Vice President of the Fifty-Fifth Session of AALCO, Distinguished Secretary-General of AALCO, Distinguished Delegates.

The Nigerian delegation hereby congratulates the President and Vice President of the Fifty-Fifth Headquarters Session on their election and for the very able manner they have been handling the Session. We are hopeful that your tenure will offer a fresh opportunity to consolidate on the current work of our Organization. We thank the Secretary-General, Prof. Dr. Rahmat Mohamad and his entire Staff for organizing and hosting of the Fifty-Fifth Session of AALCO.

We also express our deep appreciation to H. E. Mr. Liu Zhenmin, President of the Fifty-Fourth Annual Session, People’s Republic of China for the wonderful and able manner he held forth in that position for the past one year, until when he handed over affairs of the Session.

My delegation notes with immense satisfaction, the excellent work of the Secretariat of AALCO under the esteemed leadership of Prof. Dr. Rahmat Mohamad and joins other delegations in thanking him for the commitment and dedication he brought to bear on the work of the Secretariat during the past eight years, he served as Secretary-General. We note with pride that he has taken AALCO to an enviable position both at the United Nations and in

the comity of international organisation. It is our hope and expectation that you will continue to be of service to our Organization, even out of office.

It is on this note, that we congratulate and welcome Dr. V.D. Sharma as the President of the Fifty-Fifth Session. We are confident that he will be able to bring his deep knowledge, amiable personality and commitment to bear on the work of the Secretariat and improve on the gains already recorded by his predecessor. We also congratulate our brother, the High Commissioner of Ghana to India, H.E. Samuel Yalley on his election as the Vice President of this Session.

Let me also congratulate the sisterly Republic of Tanzania on the election of Prof Dr. Kennedy Gastorn as the new Secretary-General of AALCO. Nigeria looks forward to working closely with him and pledges our strong support for the success of his tenure.

Mr. President, my delegation is pleased to observe that the Agenda of this Session has built on the on-going work of the Organization from the Fifty-Fourth Session in Beijing, People's Republic of China. My delegation appreciates the work of the Secretariat on the various items to be deliberated upon at this Session and is pleased to make Statements on the following items: Law of the Sea, Violent Extremism and Terrorism (Legal Aspects), WTO as a Framework Agreement and Code of Conduct for World Trade, International Law in Cyberspace and An Effective International Legal Instrument Against Corruption.

Nigeria is an active member of the International Maritime Organization, International Sea Bed Authority and has also signed and ratified the United Nations Convention on Law of the Sea (UNCLOS) in 1986. Apart from this, Nigeria has taken steps to internally put in place, the necessary legal and institutional framework by the enactment of an Act in 2007 establishing the Nigerian Maritime Administration and Safety Agency (NIMASA). This Agency oversees the protection and surveillance of our territorial waters, continental shelf, economic contiguous zone and our international waters in collaboration with the Nigerian Navy, Nigeria Customs Service and other Security Agencies in line with International Standards. The collaborative efforts of our Security Agencies have curbed the activities of sea pirates, smuggling and bunkering tremendously and their achievement is remarkable.

Mr. President, on the issue of Violent Extremism and Terrorism (Legal Aspects), we note that terrorism constitutes one of the most serious threats to peace and security of all nations and peoples. Nigeria is committed to the fight against violent extremism and terrorism in all its ramifications and has taken steps in this direction by signing and ratifying the United Nations Convention Against Transnational Organized Crime in 2001, the Convention on the Prevention and Combating of Terrorism in 1999, the International Convention on the Suppression of the Financing of Terrorism in 2003 in addition to other Conventions and Protocols relating to Terrorism. We therefore reiterate our commitment to the early negotiation and conclusion of the Draft Comprehensive Convention on International Terrorism within the context of mutual respect for the sovereignty of states and a regime of shared obligations by all Member States of the United Nations.

Nigeria also notes the effect of anti-terrorism legislation on the promotion and protection of human rights. The concerns of national security occasioned by acts of terrorism have taken the centre stage in global discourse to the detriment of human rights concerns. Nigeria's position is that more efforts should be made to strike a delicate balance between legitimate

national security concerns and respect for human rights in the legislative and enforcement measures adopted to combat terrorism.

On the domestic front, it will be recalled that during the 51st Session hosted by Nigeria in June 2012, the subject of International Terrorism was discussed with particular reference to the experience of the country. It should be appreciated that the times have been challenging to the Government and people of Nigeria. It is important to also inform this Session that in addition to on-going security operations, a crucial component of the anti-terror strategy in Nigeria has been a vigorous implementation of legal counter-measures anchored on the Terrorism Prevention (Amendment) Act, 2013. This is our pioneer legislation to deal with the prevention, investigation, tracking and prosecution of terrorism and financing at domestic level. Pursuant to the implementation of this law, over a thousand cases have already been processed for trial, a significant number of which are already being prosecuted. Member States may appreciate the fact that the security problems facing the country are not religious. They are issues which can be ascribed to criminal activities to disorganize the Government, the people and cause economic damage. The Nigerian Government through the Nigerian Army, Nigeria Air Force and other Security Agencies and its “Operation Lafia Dole” have fought and defeated the Boko Haram insurgents in the North Eastern part of Nigeria, restored peace and ensuring the gradual return of the internally displaced persons to their respective communities. Indeed, there is now relative peace in all areas formerly occupied by the insurgents. This is one of the milestone achievements of the present Administration to provide adequate security and protection of lives and properties of her citizens.

Excellencies, Distinguished delegates, my delegation also wishes to make some comments on An Effective International Legal Instrument Against Corruption, although it no longer features on the Revised Agenda, because of its extreme importance to many developing countries especially on the African continent. Nigeria is well aware of the negative impact of corruption on development, a fact which has since become a global concern. Thus, apart from ratifying the United Nations Convention against Corruption in 2004, Nigeria has taken steps to internally put in place, the necessary legal and institutional framework for combating corruption. Of particular significance is the establishment of the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC).

Although, far from being won, the war against corruption has been re-invigorated in line with Government’s policy of Zero-tolerance for corruption. Consequently, the tempo of prosecution of corruption cases has been on the increase and major convictions have been recorded. With renewed efforts in combating private sector corruption and strengthening of the Public Procurement Process in order to make it transparent in line with global trends and practices, we are confident that significant success will be recorded in the near future.

Excellencies, Nigeria is at a critical stage of her national development where vital State institutions are being re-invigorated. Consequently, reforms are on-going in virtually all sectors of the economy in line with the policy objective of repositioning the country to meet the challenges of the 21st century. The enthronement of the rule of law in all facets of our national life is being championed by the Government of the day. In tackling these challenges, Nigeria will continue to rely on the contributions and assistance it has enjoyed from AALCO over the years and especially the capacity building programmes initiated by the Secretariat.

Let me also apologise for the delayed payment of our assessed financial contributions which has arisen from administrative bottlenecks and does not detract from our unalloyed support and faith in AALCO. Nigeria is therefore pleased to have been hosting one of the Regional Arbitrary Centres in Lagos and pledges its continued support in this regard.

Finally, we wish to express our appreciation to the Government and people of India for hosting the Fifty-Fifth Session and for the warm hospitality extended to members of my delegation since our arrival at this historic city of New Delhi. We also thank the Secretariat for the excellent facilities put at our disposal at this Session.

Nigeria reiterates its commitment to AALCO and calls on the Organization to continue to provide expert knowledge and guidance to Member States in the field of international law. We wish all the delegations fruitful deliberations. Thank you.

**President:** I thank the Head of Delegation of Nigeria. With that all the Member States have finished their statements. I now invite the Observer Delegation of ICRC to make their statement.

**Ms. Mary Wentz, Head of Regional Delegation in New Delhi, the leader of the Observer Delegation from the International Committee of the Red Cross (ICRC):** Mr. President, Dr. V. D. Sharma, President of the Fifty-Fifth AALCO Annual Session, His Excellency, Dr. Rahmat Mohamad, Secretary-General of the Asian-African Legal Consultative Organisation (AALCO), and his successor Professor Kennedy Gastorn, Mr. Samuel Yalley, High Commissioner, High Commission of the Republic of Ghana, AALCO Deputy Secretaries-General; Your Excellencies, Distinguished Delegates, Ladies and Gentlemen,

We wish to affirm our appreciation to the AALCO Secretariat and the Government of the Republic of India for the opportunity to share perspectives on the promotion, implementation and respect for International Humanitarian Law (IHL) at the Fifty-Fifth Annual Session of the AALCO.

The ICRC has a long history of constructive and productive dialogue with AALCO and even more so since the signing of a Memorandum of Understanding in 2003. The ICRC and the AALCO Secretariat continue to engage in a series of programmes and activities which serve to strengthen our resolve towards heightened promotion, dissemination, awareness and implementation of IHL. In 2015 our organisations collaborated to further engage in the debate on cyber warfare, which culminated in the launch of a special edition of the AALCO Journal of International Law, featuring scholarly articles that examined how IHL relates to the conduct of hostilities undertaken within the cyber domain.

I would also like to use this opportunity to personally thank Dr Rahmat Mohamad for his unending dedication to AALCO and contribution towards further enriching this collaboration and dialogue between AALCO and the ICRC.

Mr. President, Ladies and Gentlemen, as you know, IHL is a body of law enshrined, inter alia, in the Geneva Conventions and their Additional Protocols. Binding on States and all parties to armed conflict, it seeks, for humanitarian reasons, to impose limits on the means and methods of warfare and to protect persons taking no active part in hostilities.

However, Mr. President, permit me to be a little provocative and use this opportunity to share a question with the participants of this Fifty-Fifth AALCO Annual Session. It is a question which the ICRC, as a neutral, independent and impartial humanitarian organisation and the guardian of IHL, faces on various occasions. Given our frequent exposure to images of bombarded hospitals, mass civilian casualties, populations living under siege and the displacement of millions of people for reasons related to armed conflict, and here is my question, do we continue to believe in the protective effect of this body of law?

The ICRC shares the frustration lying at the heart of this question. We are on the ground in over 80 countries worldwide. It is not possible to be confronted with the daily reality of civilians in, for example, the Syrian Arab Republic, South Sudan, Iraq, Afghanistan, Somalia, the Democratic Republic of the Congo, Nigeria, Ukraine, Israel and the Occupied Territories and Yemen without harbouring a sense of outrage. From outrage, it is a short step to cynicism on whether the basic human values enshrined in IHL are still intact and able to provide the protection they promise.

However, it is the firm view of the ICRC that IHL has never been stronger. And it is precisely because the law has never been stronger and more comprehensive, that we are more sensitive to violations and transgressions. It is because we know the protective capacity of the law, that we are so outraged when it is violated. That being said, IHL is clearly facing a number of challenges today.

Mr. President, Distinguished Delegates, permit us, at this juncture, to raise some of those current humanitarian challenges that are of particular concern to the ICRC. I will speak on four such challenges:

Firstly – Health Care in Danger: The ICRC is extremely concerned about acts of violence against patients, health-care workers, health facilities and vehicles in many of the contexts in which we operate. For example, over the course of a three year period, in 11 conflict affected contexts studied by the ICRC, there were 2,400 attacks, threats against, and other violent impediments to the work of, health-care personnel, facilities and medical transports, despite IHL providing special protection to medical personnel and objects. It is a painful paradox that in times of greatest need, the availability of healthcare is at its lowest. The few places and persons that can help with these needs, are coming under direct attack, leading to further reductions in available services and greater humanitarian needs.

For this reason, the ICRC welcomes the recent adoption of the UN Security Council Resolution S/2016/380 and the Resolution on Health Care in Danger adopted at the 32<sup>nd</sup> International Conference of the Red Cross and Red Crescent in December 2015. These Resolutions mark a momentous step in the international community's effort to draw attention to a problem that otherwise risks being normalised through the sheer frequency of occurrence. However, these Resolutions should only be viewed as first steps towards providing greater protection to medical missions.

Secondly – Sexual Violence in Armed Conflict: The persistent prevalence of sexual violence is an alarming and yet common feature in armed conflict. However, the ICRC is convinced that sexual violence is not an inevitable consequence of armed conflict and that it can and must be ended. Yet, too frequently we see that women, men, boys and girls of all ages, are subject to such deplorable acts. Preventing such violence, ending impunity and providing protection and a comprehensive response is a critical humanitarian concern.

The ICRC commends the adoption of a dedicated Resolution on sexual and gender based violence by the 32<sup>nd</sup> International Conference of the Red Cross and Red Crescent in December 2015. The Resolution, adopted by consensus, condemns in the strongest possible terms sexual and gender-based violence in all circumstances, particularly in armed conflict, disasters and other emergencies. It underlines the importance of working towards the prevention and elimination of such violence and the preparation of appropriate responses to the needs of victims and survivors before specific incidents arise. The resolution also recognises that - while women and girls are disproportionately affected - men and boys are also victims and survivors of SGBV.

The ICRC would therefore like to take this opportunity to thank the AALCO Secretariat for its continued support and collaboration on this issue, as exemplified during the panel discussion on “Sexual Violence in Armed Conflict” at the Fourth Commonwealth Red Cross and Red Crescent Conference on International Humanitarian Law, which was held in Canberra, Australia in 2015. We shall continue to prioritise the prevention of, and an effective response to, sexual violence in armed conflict and encourage all AALCO members to support the implementation of this resolution and to participate actively in relevant efforts to prevent and to respond to acts of sexual violence in situations of armed conflict.

Thirdly – Internal Displacement: The global community is currently facing a migration crisis on an unprecedented scale with grave humanitarian consequences thereby putting pressure on states to fulfil their obligations. The ICRC wishes in this Statement to focus on one element of this crisis, namely internal displacement. Much of today’s displacement in situations of armed conflict is a direct consequence of IHL violations, such as attacks on civilians, destruction of property, sexual violence and restricted access to health care and other essential services affecting entire communities. While internally displaced, these communities struggle to meet essential needs amid exacerbated hardship, and often face particular threats as a result of tension between them and the host communities, settlement in unsafe or unfit locations, and forced return to unsafe areas. In addition, some groups among internally displaced persons have specific needs and vulnerabilities related to gender, age and disability that require targeted activities.

Through flexible and multidisciplinary responses, the ICRC seeks to address the specific needs and vulnerabilities of IDPs, alongside the negative consequences of displacement on host communities and persons left behind. Assisting communities at risk by restoring essential services disrupted by the conflict and building their resilience can also help people to avoid displacement.

However, it is States who have the primary responsibility to prevent displacement and to provide protection and assistance to internally displaced persons within their jurisdiction. Humanitarian action is no substitute for these obligations. For this reason, the ICRC welcomes the constructive engagement on the issue of addressing the needs of IDPs and the implementation of the Kampala Convention by a number of AALCO Member States.

Fourthly – Protection of Cultural Property: Cultural property is the manifestation of the identity of a people. Unfortunately, armed conflict has long been a reason for its destruction. IHL helps preserve the dignity of victims of armed conflict by providing for the protection of cultural property. Despite both the general and special protection afforded to it under IHL, cultural property continues to be subject to unlawful attack, pillage and destruction, as

evidenced by its deliberate and irreversible destruction in Mali, the Syrian Arab Republic and many other armed conflicts of today.

It is against this backdrop that the ICRC and UNESCO signed a Memorandum of Understanding this year, to strengthen our institutional collaboration on the promotion of IHL, related to the protection of cultural property in armed conflict.

Many AALCO Member States are yet to become a party to the Hague Convention and its protocols, but it is hoped that the number will increase in the coming years. The ICRC would be happy to provide advice or assistance on joining these treaties, and on enacting the necessary implementing legislation.

Mr. President, Distinguished Delegates, we thank you for the opportunity to share some of the current humanitarian challenges and institutional priorities of the ICRC.

By no means, however, do these few topics comprehensively cover all humanitarian concerns that are in existence today. The ICRC recognises that countering terrorism and violent extremism continues to be a priority of States. Indeed, terrorism defies the basic notion of humanity and is therefore contrary to the very foundation of international humanitarian law. In this regard, the ICRC condemns all acts of terrorism; it likewise recognises the need for States to take measures to respond to threats to their security. However, while taking measures against terrorism and extremism, it is indispensable for States to maintain the safeguards protecting human life and dignity as laid down in international humanitarian law and human rights law.

It is the belief of the ICRC that ensuring respect for IHL and HRL is one of the most effective ways of preventing extreme violence. The ICRC therefore welcomes the commitment that AALCO has made to respect the safeguards contained in these legal frameworks in its draft guidelines and principles on CVE. Indeed, the means adopted to combat violent extremism and terrorism are as important as the objective pursued. As the challenges increase, so too does the importance of our collective responsibility to preserve the fundamentals of humanity.

Mr. President, Distinguished Delegates, from our work, we can see that while IHL may be frequently violated, it does not mean that it has become irrelevant. In fact, such violations – and their humanitarian consequences – remind us of the need for parties to an armed conflict to respect IHL. The alternative – war without limits – is simply not acceptable.

**President:** I thank you Madam for your statement. I appreciate the patience of all the delegations sitting beyond the lunch hour. I propose that we resume our session at 3.00 PM.

**The Meeting was thereafter adjourned.**

**VIII. VERBATIM RECORD OF THE THIRD  
GENERAL MEETING**

**VIII. VERBATIM RECORD OF THE THIRD GENERAL MEETING HELD ON  
WEDNESDAY, 18 MAY 2016 AT 3.20 PM**

**AGENDA ITEM: VIOLENT EXTREMISM AND TERRORISM (LEGAL ASPECTS)**

**His Excellency Dr. V. D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and President of the Fifty-Fifth Annual Session of AALCO in the Chair.**

**President:** Welcome back after the lunch break. As per the agenda now we will begin deliberations on the topic “Violent Extremism and Terrorism (Legal Aspects)”. In this meeting Member States, non-Member States and Observers are free to make statements and participate in the deliberations. This item was placed on the agenda during the Fifty-Third Session, held in Tehran in 2014. Since then the topic has been deliberated during the Sessions as well in Inter-sessional Meetings, and has seen active participation of Member States. The topic will now be introduced by Mr. Mohsen Baharvand.

**Mr. Mohsen Baharvand, Deputy Secretary-General:** Thank you, Mr. President. Excellencies, Distinguished Delegates, Ladies and Gentlemen,

The item entitled “International Terrorism”, which was originally placed on the agenda of AALCO’s Fortieth Session held in New Delhi, India (2001), upon a reference made by the Government of India, was modified to “Violent Extremism and Terrorism (Legal Aspects)” at the behest of the Islamic Republic of Iran and introduced into AALCO’s Agenda in 2014 at the Fifty-Third Annual Session held in Tehran, Iran. The Fifty-Third Annual Session also included a Half-Day Special Meeting on the topic. Pursuant to mandates received from Member States at the Fifty-Third Annual Session and reiterated at the Fifty-Fourth Annual Session in Beijing, China (2015), the AALCO Secretariat also convened an Inter-Sessional Meeting of Legal Experts from Member States at the AALCO Headquarters in New Delhi from 28-29 January 2016, and a follow-up meeting on 16 May 2016, with the purpose of drafting a set of legal principles and guidelines that could be used by the Asian-African States to combat violent extremism and its manifestations.

The efforts at the regional level by AALCO reflected the simultaneous efforts in this area by the international community at large. The UN General Assembly Resolution titled “A World Against Violent Extremism” adopted in December 2013, UN Security Council Resolution 2178 (2014) on the cross-border movement of foreign terrorist fighters, UN Security Council Resolution 2199 (2015) on obligations to prevent financing of terrorists groups and, more recently, the Report of UN Secretary-General Ban Ki-moon, which proffered the Plan of Action to Prevent Violent Extremism,<sup>7</sup> are examples of the efforts of the international community to address this global menace.

The negotiations that took place at the two afore-mentioned Legal Experts Meetings were focused on the provisions of the *AALCO Principles and Guidelines to Combat Violent Extremism and its Manifestations*, which was drafted by the AALCO Secretariat. The First Meeting in January 2016, which was chaired by Ms. Alice Otuteye, Deputy High Commissioner of Ghana, was a successful one that saw consensus reached on the majority of the drafted principles and guidelines and amendments thereof.

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<sup>7</sup> A/70/674.

At the Second Meeting, chaired by H.E. Mr. Mahmoud Samy, Assistant Foreign Minister for International Legal Affairs and Treaties, Egypt which took place immediately prior to the Annual Session, on Monday 16 May 2016, it was agreed by the delegates that, in light of ongoing discussions at the international level at the UN General Assembly and other fora, the Secretariat would be better served reporting on the continuing deliberations in the UNGA, AALCO Plenary, and other fora for the purpose of submitting the report to a Working Group that will be constituted at the Fifty-Sixth Annual Session in 2017, and to draft a resolution based on the deliberations that have taken place at the two Inter-Sessional Meetings for the consideration of the Working Group.

The Current Resolution on the topic of “Violent Extremism and Terrorism (Legal Aspects)” has therefore been based on the Resolution passed at the previous Annual Session in Beijing, People’s Republic of China in 2015, and amended to reflect the outcome of the Legal Experts Meeting.

The AALCO Secretariat highly appreciates the active participation of Member States at the two Inter-Sessional Meetings. In addition to the myriad comments the Secretariat received from Member States in attendance at the Inter-Sessional meetings, several States that could not attend the meetings also submitted written comments, which has helped to direct the process of drafting the resolution on the topic. Thank you.

**President:** Thank you Mr. Baharvand. Distinguished delegates the Deputy Secretary-General has briefly but very substantively sailed us through the voyage of this topic, including the outcome of the two inter-sessional meetings held so far. Now the floor is open for comments from Member States. So far I have received request from four countries, out of them first of all I would like to invite the delegate from Turkey.

**The Delegate of Turkey:** Thank you Mr. President. Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO, Prof. Kennedy Gastorn, in-coming Secretary-General of AALCO, Mr. President and Vice-President of the Fifty-Fifth Annual Session, Hon’ble Ministers and Attorney Generals, Excellencies, Distinguished delegates of Member States of AALCO, Hon’ble guests, Ladies and gentlemen.

On behalf of my delegation I wish to thank the Government of India, the host country of the Fifty-Fifth Annual Session of AALCO for their warm hospitality in this beautiful city of Delhi. I also wish to thank the Government of India for the excellent arrangements made for this Session. I would like to appreciate H.E. Prof. Rahmat Mohamad and his Secretariat and all their staff for the efforts and preparations made for this Annual Session.

At the outset I would like to congratulate H.E. Prof. Kennedy Gastorn for his election as Secretary-General of AALCO. I would also like to express our gratitude to Prof. Rahmat Mohamad for his contribution to the activities of AALCO during his tenure for the past eight years. I also congratulate the President and Vice-President of this Session for their election.

The agenda item “Violent Extremism and Terrorism (Legal Aspects)” is closely linked with terrorism, and terrorism causes a grave threat to international peace and security. It is our belief that the international community should work vigorously for creating an atmosphere for common understanding based on shared values among nations belonging to different faiths. For this to happen we believe that organized international efforts underlining the leading role of the United Nations are of importance. In this context UN Global Counter

Terrorism Strategy with its four pillars gives us a solid basis on which we need to build our cooperation. Addressing conditions to prevent and combat terrorism, building States capacity to counter and combat terrorism, and to strengthen the UN systems in this regard and ensuring respect for human rights and rule of law are the fundamental basis for the fight against terrorism.

All known and painful struggle against terrorism has led us to learn that this scourge cannot be defeated by high security measures alone. For sustainable solutions there is an absolute need to counter the spread of radical ideologies that lead individuals to embrace violence and terrorism.

Ladies and gentlemen, let me reiterate that terrorism cannot and should not be associated with any religion, nationality, ethnicity or geography. Turkey sees no difference between the terrorist organizations which are a threat to Turkey's national security or not. We believe that none of the terrorist organizations can be separated from the others and the international community should struggle to combat all of them. Turkey confirms the importance of all of the international cooperation, solidarity and coalition in countering terrorism. Today we see that no nation in the world is immune to extremist violence. Terrorist organizations have reached the capability of attacking different targets all around the world. Several trends associated with globalization, the greater evil of living people, resources and information across borders and the effective and intensive use of social media for terrorist propaganda have worsened international terrorism threat. There is no doubt that terrorism is a global and transnational global phenomenon which needs to be addressed through effective bilateral and multilateral cooperation.

Turkey contributes to the international efforts to counter terrorism. We are associated with a global counter terrorism forum between 2011 and 2016. Moreover, we are formulating and participating in various working groups in GCTF and international coalition against *Diash* as well. We signed bilateral security cooperation agreements with more than 80 countries. We are resolved to participate actively to the global initiatives against terrorism. Turkey has been fully committed to fight against *Diash* and designated it as terrorist organization even though it has been acting under different names. As a member of the international coalition found to counter the threats, Turkey has already been deploying its national assets and capabilities to degrade the terrorist organization.

Ladies and gentlemen, according to the UN Security Council reports there are almost around 25,000 terrorist fighters (FTF) from 100 countries. They are not only from source countries but also from transit countries, they pose a serious threat to the security of Turkey. As we call on third countries to take necessary legal and administrative measures to prevent departure and travel of FTF's from their country. Turkish authorities are taking all necessary measures to prevent this flaw. In this regard more than 41,000 people have been included in the no-entry list since 2011 and more than 3,300 foreigners were deported. We have deployed security units to airports to screen and hold security checks for foreigners. Moreover, we have enhanced our infrastructure on Turkish-Syrian border to prevent illegal passing of FTF's. The issue of FTFs is only a symptom of this disease, and to implement safeguards the international community should focus on the root cause of the problem.

Radicalization is not a new phenomenon nor is it particular to one faith or community. Throughout history there have been radicals in many countries, cultures, beliefs and religions. Many countries are facing the radicalization problem emanating not only from religion but

from other factors such as ethnic aspirations or grievances. The process leading to radicalization and violent extremism have different trigger factors such as under development, grievances, feeling of discrimination and so forth. Extremist groups misuse this atmosphere in their favour easily in order to recruit new members. In countering radicalization the main challenge rests on gaining the hearts and minds of those groups thereby diminishing the poor of these groups. Hence, preventing radicalization should be a holistic effort. In addition to host Governments approach it requires involvement of politicians, civil society and media in order to separate voice of moderation and reason. Education, inter-communal dialogue, most importantly, devising critical for countering extremist propaganda are crucial. Community and religious leaders have a critical role for resonating the right message. Aim should be to reach out to those individuals before they start recognizing radical settings. Turkey is currently stopping the export from several terrorist organizations. We reiterate that none of the terrorist organizations can be separated from the others. International community should resolve to combat all of them. Turkey appreciates the ongoing support of the international community in its efforts against terrorism and expects the United Nations Security Council to continue to display their support and solidarity with Turkey.

In conclusion on behalf of my delegation I wish you all fruitful deliberations and hope this Annual Session will provide with opportunity to develop cooperation on the legal international matters between the Member States. Thank you for your attention.

**President:** Thank you distinguished delegate of Turkey. Now I give the floor to the delegate of Kuwait.

**The Delegate of the State of Kuwait<sup>8</sup>:** Mr. President, Distinguished Delegates, based on the principle of checking undermining peace and security in the society contained/enshrined in the National Constitution of the State of Kuwait, as stated in the article (8) “State must safeguard the pillars of society and ensure security and satisfaction.”

At the international level, it is worth mentioning that Kuwait has ratified most of the international treaties and instruments relating to counter terrorist actions and crimes, which by simply ratifying become national legal legislations, having the same force and power as the national laws.

In addition, Kuwait has concluded a number of bilateral treaties related to mutual legal assistance on punitive issues and extradition of criminals. The Ministry of Justice in Kuwait, as stated above, is bound to follow the aspects related to judicial and legal cooperation in multilateral international treaties especially the one related to money laundering and financing of terrorism.

In same context, and in the framework of the need to formulate national legislation on the issue of mutual legal assistance, the government of Kuwait through a specialized committee under the Ministry of Justice, has prepared a draft namely “Judicial and Legal Cooperation in Punitive Matters Act”. Measures to pass a law in this regard is being taken.

It is worth mentioning in this regard that the government of Kuwait represented by Ministry of Justice and through its participation in the National Commission to Combat Money Laundering and Terror Financing, presented its statements and responses in 2015, regarding

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<sup>8</sup> This statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

regional review team (finance work group) empowered to review the position of Kuwait on fighting terrorism and suppression of its financing. This review was successful and approved to remove the name of Kuwait from the list of periodic review, after its procedural, legislative and tireless persistent efforts in the fight against terrorism and the suppression of its financing.

Ladies and Gentlemen, with regard to this agenda item, I consider it important that the resolution in this regard should emphasize on gravity of terrorist acts. The elimination of terrorism requires combating supportive crimes by joining hands together globally to confront all these crimes, eliminate its causes and focus on adopting a definition of terrorist crime and defining its moral and material pillars, in light of the terms and provisions of relevant international conventions. In addition to the enforcement and implementation of the principles and provisions of UN convention and its protocols against transnational organized crime as well as UN convention for combating corruption nationally, regionally and globally, these conventions criminalize the supporting acts and link it with terrorism like money laundering, drug trafficking and illegal arms trading and smuggling. These acts and crimes have risks to inevitably lead to the spread of terrorism. All these measures should not oppose the fight against national or regional or international terrorism, and should not cross over the frameworks of human rights protection, commitment of governments and countries to the principles and provisions of the human rights instruments and laws and international humanitarian law. There must be a distinction between terrorism and rights of people to armed struggle and self-determination in order to restore their usurped lands, by promoting international justice and legitimacy.

**President:** I thank the Delegate from Kuwait. Now I give the floor to the Delegate from Qatar.

**The Delegate of the State of Qatar<sup>9</sup>:** August gathering: Assalamo Alaikum

Undoubtedly the phenomenon of violent extremism and terrorism is oldest method which appeared in human history, but unfortunately it increased in recent times and becomes threat to both the international security and peace. Therefore, the countries pledged to combat organizing and financing or committing of terrorist acts or involvement in these acts in any way, in order to establish rule of law and enforce international laws, conventions and treaties. These countries are committed to prevent and combat terrorist crimes in accordance with their internal laws and procedures.

The legal legislations agreed upon criminalization of terrorism, the differences only exist in defining it and giving it a legal form that covers all meaning of terrorism, which made the scholars of international law looking for an inclusive definition for terrorism. The complex international relations, proliferation of phenomenon of violence in the international community, the growth of race, class and cultural differences and injustice and arbitrary practices have created confusion in the concept of terrorism despite international efforts through conferences and meetings since the international conference held under the supervision of the League of Nations in 1937 to finalize the definition of terrorism, and the definition of Arab Convention for Combating Terrorism, as it was defined by Non-Aligned Movement in 1984 and Organization of Islamic Conference.

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<sup>9</sup> This statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

There are few definitions separating terrorism and the struggle of people (the armed struggle of people under foreign occupation in order to liberate its occupied territories and get right to self-determination and independence is not termed as terrorism in accordance with the UN Charter and resolutions), in spite that every act and action threatens unarmed people and create terror and fear in their minds or abuse them, kill them, displace them or prejudice their freedoms, properties, resources and their honor whatever the objective of this act from any person or entity is considered a form of terrorism. The legitimate struggle should not target civilians whatever are the motives and justifications and should not affect the natural and environmental resources.

The State of Qatar pays attention to combat violent extremism as it leads to terrorism. That is why it took initiative in calling a high-level meeting of UN General Assembly on children and young people affected by violent extremism in order to protect, rehabilitate and integrate them into society under the international efforts for uprooting terrorism.

The State of Qatar stays vigilant to condemn terrorism in its all forms regardless of its source, location, perpetrators and justifications. Qatar reiterates its commitment to regional and international cooperation for combating terrorism and drying the sources and means of terrorist groups which they use to promote their criminal ideas including use of internet and mechanisms adopted by the international community. We will also continue enhancing our partnership with the United Nations agencies in this regard as to enhance international peace and security.

It is imperative to find a solution of the phenomenon of terrorism comprehensively through combined international efforts and taking into account the root causes of this phenomenon. The terrorism does not arise in a vacuum, but it grew and developed in fragile environments and it was further nurtured by the politics which did not give importance to the political, economic and social problems facing society and did not address the root causes genuinely. The success in eradication of terrorist groups depends on addressing the causes which create an enabling environment for the growth of these groups. This is what the global strategy to combat terrorism adopted by the General Assembly in 2006, has reiterated putting the dealing with the causes of terrorism in the first pillar of the strategy.

At the end, we hope this conference will result in fruitful cooperation between our countries in combating violent extremism and terrorism. We thank you all asking Almighty Allah every success.

**President:** I thank the delegate from Qatar for expressing his views on the agenda item. Next in line is the delegate of India.

**The Delegate of India:** Thank you Mr. President. On behalf of the delegation of India I thank the Deputy Secretary-General for his introductory remarks. The international community is facing unprecedented challenges from terrorism. India is a victim of terrorism for the last more than three decades. India is party to 13 Counter Terrorism Conventions and Protocols, and has enacted legislation to deal with all aspects of terrorism. At the bilateral and regional level India has concluded bilateral treaties on extradition and mutual legal assistance with a number of Member States of AALCO. India is also a party to the SAARC Convention on the Prevention of Terrorism, as well as mutual legal assistance in criminal matters and similar conventions adopted by many States. India strongly supports all efforts within the purview of the United Nations that strengthen international and regional cooperation in the

fight against terrorism. India expresses the need for expanding the scope of the legal instruments and enforcement efforts to destroy safe havens for terrorists, their financial flows and support networks and to bring the terrorist to justice. India attaches importance to the work undertaken by the Ad-hoc Committee on Terrorism established by the UN General Assembly and supports early conclusion of the Comprehensive Convention on Terrorism.

Mr. President, my delegation would like to note the wisdom of the Member States in recognizing the sensitivities involved in the topic of Violent Extremism. We also noted the direction given to the Secretariat to prepare a report on the ongoing discussions on this important topic. Thank you Mr. President.

**President:** Thank you India. Now I give the floor to China.

**The Delegate of the People's Republic of China:** Thank you, Mr. President for giving me the floor.

First of all, please allow me to take this opportunity to convey our appreciation to the secretariat for its efforts in countering violent extremism and terrorism, especially the two inter-sessional meetings of legal experts held by the secretariat. All delegates made good discussions on principles and guidelines to combat violent extremism and its manifestations. Although it seems that we still have a long way to go, at least the issue of violent extremism and terrorism has been highlighted and deeply discussed from legal aspect, which is very important. China is willing to continue our engagement into the discussion and believes that this work the secretariat is doing is important and will provide robust guidance to the Asian African countries in combating extremism and terrorism.

Mr. President, on this occasion, please also allow me to reiterate China's position on countering extremism and terrorism. China believes that the international counter-terrorism actions should be guided by the purpose and principles of UN and its Security Council. There must be no double standards, no linking terrorism with any particular ethnicity or religion. China believes that in fighting terrorism, apart from taking multi-faceted measures to tackle both its symptoms and root causes. More targeted measures are needed. The international community should focus on the removal of breeding grounds of terrorism, further strengthen pragmatic cooperation at multilateral and bilateral levels, keep highly vigilant about the 'back flow' of terrorist fighters and resolutely combat the use of internet for terrorist purposes. Violent extremism is closely intertwined with acts of terrorism, and has fostered the growth of terrorism to a great extent. In this sense, the international community should be well aware of the evil nature of the violent extremism, pay high attention to the severe consequences of it and make joint efforts to thwart its growth and spread.

Mr. President, like other Asian African countries, China is also a victim of violent extremism and terrorism. In July last year, the Chinese Embassy in Somalia suffered a terrorist attack, resulting in one death and three injured. Apart from incidents like this, China also faces perennial threat posed by 'the East Turkistan' terrorist forces headed by 'the East Turkistan Islamic Movement'. To tackle the above threats, Chinese government has taken many domestic and international measures. Enhancing international cooperation in countering violent extremism and terrorism constitutes a large part of them. We have joined 12 international conventions on anti-terrorism under UN framework and 2 regional conventions of Shanghai Cooperation Organization regarding it, reached cooperative agreements on countering terrorism, separatism and extremism with 7 countries. China is also consulting

with relevant countries on draft text of Anti-extremism of SCO through its legal experts' meeting. China also pays high attention to the cooperation with Asian African countries in combating violent extremism and terrorism and will continue supporting AALCO's efforts to promote exchanges and cooperation among AALCO member countries in this field. Thank you, Mr. President.

**President:** Thank you China. Now I give the floor to Iran.

**The Delegate of the Islamic Republic of Iran:** "In the name of God, the Compassionate, the Merciful". Mr. President, Prof. Dr. Rahmat Mohamad, Secretary-General, Honourable Ministers and Attorney Generals, Excellencies, Distinguished Delegates, Ladies and Gentlemen,

At the outset, let me sincerely thank His Excellency Professor Dr. Rahmat Mohamad, Secretary-General for the serious consideration of the topic "Violent Extremism and Terrorism" and his support in organizing the inter-sessional meetings on the issue. I should also express my gratitude to AALCO Secretariat and all the staff for their hard work in presenting the draft AALCO Principles and Guidelines to Combat Violent Extremism and the relevant follow-up arrangements.

Mr. President, since the inception of the idea of a global fight against violent extremism embodied in the General Assembly resolution A/RES/68/127 of 18 December 2013 entitled "World Against Violence and Violent Extremism" (WAVE) proposed by the Islamic Republic of Iran which received unanimous support from the UN General Assembly, extremist groups have remained on the Agenda of the fight against terrorism and violent extremism in international forums. As the scourge persists and the efforts to that end made by the international community have gathered momentum at the political and operative levels, terrorists continue to exercise a quasi-jurisdiction on the areas they control, particularly in Asia and Africa and their extremist ideology has shockingly attracted foreign terrorist fighters from around the globe and has inflicted not only physical damage by claiming the lives of many and destroying diverse civilian infrastructure and cultural heritage, the rampage directed by extremist groups has also irreparably injured the spirits of the youth in the Muslim world and beyond.

Yet, with the latest attempt in this regard being the UN General Assembly resolution A/70/674 of 24 December 2015 on the UN Plan of Action to Prevent Violent Extremism which contains the report of the UN Secretary General on the issue and touches upon different aspects of the phenomenon namely peace and security, sustainable development, human rights and the rule of law and humanitarian action, the Islamic Republic of Iran is of the conviction that no effort can be effective to that end unless thorough consideration is given to the cardinal principles of international law recognized by the community of nations and the Charter of the United Nations namely equal sovereignty, territorial integrity and independence of States, and prohibition of intervention in internal affairs of other States.

Today, violent extremism not only threatens international peace and security, but it has also endangered sovereignty and territorial integrity of some States and has posed a real threat even to the well-established principles of international law, hence leading to a new misinterpretation of long-standing paradigms governing international relations.

In this context, Da'esh (or the so-called Islamic State in Iraq and the Levant (ISIL)) has blatantly threatened the territorial integrity of several States while committing the most heinous acts ever known to man, crossing borders and even continents. Attempts made at the international level have remained at times futile and in this regard the adoption, by the Security Council, of resolutions 2170, 2178, 2199, 2249 and 2253 have been part of the steps taken in the international arena. Whereas these have been done with a view to preventing the flow of foreign terrorist fighters to conflict areas, hampering terrorists' illegal income and legitimating use of force against them, the prolongation of conflicts and the deterioration of the situation of the civilians in some areas, coupled with the multiplication of extremist groups have proved all the attempts made to that end, if not futile, inadequate.

Mr. President, adoption of the resolution on violent extremism and terrorism by AALCO at the Fifty-third and Fifty-fourth Annual Sessions in Tehran and Beijing paved the way for the serious concentration on the topic by Member States. Along with other serious endeavors, this will, undoubtedly, lead to the promotion of rule of law and adherence to well-established principles of international law by AALCO Member States in Asia and Africa.

While international terrorism has been on the agenda of the international community for more than 4 decades now, AALCO has been no exception in the prevailing mood as this issue has been a subject of constant deliberations for quite some time. The horror of massacres in the East and West of our planet spanning five continents gathered us finally to outline AALCO's Principles and Guidelines to effectively delineate the legal framework of the fight against terrorism and violent extremism and mobilize the legal arsenal to that end. Divergent views were presented by the Member States during the two inter-sessional meetings held in January and before the commencement of the present Session, where Member States decided to further contemplate the issue before the final result while keeping a vigilant eye on the parallel developments concerning the issue at the United Nations and other international forums. We commend the work done by the Secretariat and hope AALCO can contribute to the legal literature in the field through further negotiations in line with other ongoing attempts at the international level. Thank you Mr. President.

**President:** Thank you Iran. Now I invite the delegation of Nepal.

**The Delegate of Nepal:** The delegation of Nepal wishes to appreciate the excellent documentation on violent extremism and terrorism prepared by AALCO Secretariat, and notes with appreciation the comprehensive presentation by the Deputy Secretary General. I would also like to appreciate the side-event on this important issue organized by the Government of Japan on the 17<sup>th</sup> May.

Mr. President, Terrorism and violent extremism have now been a global problem, thus requiring a global response. The humankind in recent years has witnessed many armed conflicts, mostly non-international, leaving civilians more affected than combatants themselves, with the women and children being the most affected ones. Violent extremism and terrorism have further aggravated the situation. The brutality of acts perpetrated by extremist groups on combatants and non-combatants including women and children has become something that cannot be expressed in words.

A range of rules of conventional and customary international law aim to combat these violent acts. And, at the domestic level, a range of policy, legal and institutional measures have been adopted in the jurisdictions of the Member States of our Organization.

Mr. President, Nepal has also taken various legal measures to counter these phenomena. In recent times, it has enacted or revised some important laws, which include, the Organized Crimes Prevention Act, Anti-money Laundering Law, Extradition Act and Mutual Legal Assistance Act. Moreover, the Government of Nepal has prepared a draft bill designed to implement the four Geneva Conventions of 1949.

Moreover, Nepal is also party to some 162 multilateral conventions, including the Convention against Transnational Organized Crimes and Convention for the Suppression of Terrorist Financing.

Mr. President, Nepal deeply appreciates the Draft Resolution on AALCO Principles and Guidelines to Combat Violent Extremism and Its Manifestations. In this respect, the delegation of Nepal wishes to make a couple of points. Violent extremism and its manifestations should be defined in a manner to encompass all the manifestations. Non-state actors or extremist individuals and groups should be held accountable for the commission of crimes including crimes against humanity. Member States should consider criminalizing by law the existence of violent extremist groups and membership in such groups. AALCO should develop a model legislation combating violent extremism and its manifestations. Various forms of international cooperation, in particular mutual legal assistance and extradition should be further expanded between the Member States to ensure a robust cooperation against acts of violent extremism.

The issues of capacity building and information sharing between the Member States should also be addressed in order that the UN Security Council Resolution 2178 and the UN Secretary General Plan of Action to Prevent Violent Extremism are implemented at the domestic, regional and international level in a holistic manner.

Nepal commits to cooperate and participate in the making of regional or inter-regional instruments, as appropriate, at the behest of AALCO, to combat violent extremism. Thank you Mr. President.

**President:** I thank the delegate from Nepal. Now I give the floor to Japan.

**The Delegate of Japan:** Mr. President, Japan firmly condemns despicable acts of terrorism. Terror attacks perpetrated by terrorist organizations around the world are a blatant abuse of human rights, and cause destruction and disorder, which continue to pose a serious threat to local, national, regional, and international peace and security.

Terrorist organizations use narratives and ideologies based on their distorted interpretation, not only to justify their ideas but also to inspire and recruit a number of young people by using the internet. But Japan firmly believes that terrorism and violent extremism cannot and should not be associated with any religion, nationality or civilization.

Japan has worked out a comprehensive diplomatic policy consisting of three pillars to fight against terrorism and violent extremism; 1) Strengthening counter-terrorism measures, 2) Enhancing diplomacy towards stability and prosperity in the Middle East, 3) Assistance in creating societies resilient to radicalization, and is expanding its efforts in African and Asian regions. Japan will also host the G7 Summit meeting on the 26<sup>th</sup> and 27<sup>th</sup> of this month, and we are taking the leading role in preparing the Action Plan on Countering Terrorism and

Violent Extremism, which would be a valuable addition to existing global efforts to tackle terrorism and violent extremism.

The international community should stand unified in its efforts to fight this common threat. Japan will continue to steadfastly fulfill its responsibility to fight against terrorism and violent extremism. Thank you Mr. President.

**President:** I thank the delegate from Japan. Now I give the floor to Nigeria.

**The Delegate of Nigeria:** Thank you Mr President. The Delegation of Nigeria appreciates the excellent work done by the Secretariat on this important subject, in particular the convening of the Intersectional meetings and in its efforts to prepare guidelines to combat and counter Violent Extremism. For us in Nigeria this update is of great significance because Boko Haram has continued to pose a very serious challenge to our country including our territorial integrity and we are happy to note that the insurgency phase of this campaign has now been won, and therefore we will be moving towards a delay with attack on soft-targets which shows how terrorism started in the first place.

So Nigeria will continue to remain engaged with this matter at all levels both within the ECOWAS sub-region, also at the African Union and the international community including of course AALCO. The Guidelines and Principles that have been enunciated are worthy of support in our view and we have no difficulty in supporting them. We are particularly concerned with the growing links of Boko Haram with the other terrorist groups like ISIS including of course the Al Qaeda in Maghreb and beyond. We believe that this can only be tackled if we collaborate and foster international cooperation at all levels including with members of this august body.

In Nigeria we have a special programme to counter violent extremism with focus on three forming elements: Rule of Law; Education; Re-orientation; de-radicalization, etc. This is targeted particularly at the youths. We believe that they are the targets of radicalization and recruitment into terrorist activity. With this programme we try to empower the youth and find them gainful employment.

In addressing this challenge, Mr President, we must also be aware of the need to avoid double standards; terrorism is terrorism all over the world. We have seen some attempts to tackle terrorism in some parts of the world while in other parts including my country are perceived as receiving support from some communities.

Mr. President, we are dealing with the legal aspects of the terrorist problem, but we must not look aside of the political context of terrorism because this is the real problem and that is why we have difficulty in defining terrorism, let alone agree on the manifestations of the problem. Therefore, we call for greater political will on the part of Member States in addressing these challenges.

We also support the adoption of relevant resolutions and calls for a clear Programme of Action to push forward AALCO Guidelines and Principles to the UN and other fora, in the sphere of information, intelligence, best practices in the rule and capacity building of law enforcement in countering violent extremism, among others including rehabilitation and rehabilitation of Internally displaced persons. Thank you Mr. President.

**President:** Thank you distinguished delegate from Nigeria. Now I invite the Republic of Korea to present their views.

**The Delegate of the Republic of Korea:** Thank you Mr. President. I would like to join the other speakers in thanking the Secretary-General and the Secretariat for their excellent organization of two Inter-sessional meetings in this regard. I do not want to repeat what I have said earlier in the previous Inter-sessional meeting. However I would like to touch upon two important issues; first one is that I would like to emphasize that the recent development within the UN system should be fully taken into account in our consideration. Second point is that violent extremism is a diverse phenomenon without a clear definition. This point must be also recognized and let me assure you that my delegation will be more than happy and more than ready to make active intervention and participation in the informal discussions on this agenda item. Thank you Mr. President.

**President:** Thank you the distinguished delegate of the Republic of Korea. Now I invite the delegate from U.A.E. to make their statement on the on-going topic.

**The Delegate of the United Arab Emirates<sup>10</sup>:** Mr. President, H.E. Secretary-General, the Government of United Arab Emirates endorses the report of UN Secretary-General presented to UN General Assembly in its 70<sup>th</sup> session and recommendations in this regard. My delegation also supports the report of AALCO on violent extremism and observations made by the secretariat of AALCO, and we support the draft resolution submitted in this regard.

Mr. President, the government of United Arab Emirates hosted Hedaya Centre (guidance centre) in the capital city Abu Dhabi. This hosting came in response to the growing desire of members of the Global Counter Terrorism Forum and international community in establishing a multilateral independent center dedicated to conduct dialogue, training and research in order to combat violent extremism in all its forms and manifestations, so that the center brings together experts and expertise and experiences in countries all over the world.

Hedaya Centre is the International Forum for policy makers, practitioners and researchers in order to promote understanding and taking experiences and best practices in the fight against violent extremism. The center adopts sound scientific methodology which endeavors to limit the threat through conducting activities like discussion, dialogue, communications, capacity building programs, research and analysis. That is why the AALCO should consider setting priorities for combating violent extremism reflecting the concentrated work on the key topics of this center as follows:

1. Combating violent extremism across the communications and hate speech by developing the techniques used in the formulation of effective strategies over the internet and social media.
2. Assistance in preventing radicalism and extremism in foreign terrorist fighters and development of ways and methods relevant to the process of reintegration of returnees from foreign terrorists in their communities.
3. Explaining the national strategies to combat violent extremism through strengthening the understanding of government officials about principles of combating violent extremism and key topics and programme, and helping the governments in

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<sup>10</sup> This statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

formulating comprehensive strategies to combat violent extremism and facilitating the involvement of civil society organizations and local authorities in order to combat extremism.

4. Education and combating violent extremism: through the support of educational institutions in their efforts to strengthen the resilience about violent extremism and the exchange of best practices and support of countries in this area.
5. De-radicalism and disengagement and re-integration: through supporting the strategies of disengagement and rehabilitation of foreign fighters, returnees or prisoners. Circulation and maintenance of initiatives striving for the integrations of returnees in their communities.
6. Involvement of local communities including youth, women and religious leaders in accordance with the programme of community police which is dominated by traditional character, and dissemination of knowledge and scientific instruments.

Mr. President, the Government of United Arab Emirates is fully prepared for cooperation with AALCO in the area of combating violent extremism and terrorism.

**President:** I thank the delegate from UAE for your statement. Is there any other country wishing to make a statement on this topic at this point of time, I see none we therefore end our deliberations on this topic.

**The Delegate of the Democratic People's Republic of Korea<sup>11</sup>:** Mr. President, Distinguished Delegates, On behalf of my delegation, I would like to highlight its viewpoint on the agenda "Violent Extremism and Terrorism". Terrorism is arousing a serious concern of the international community, since it gets ever more rampant in different parts of the world, while posing a serious threats to world peace and security.

The international community has already defined the violent extremism and terrorism as its primary target and has formulated the international laws on prevention of terrorism and set up tribunals for punishing the criminals. But our efforts did not get due results.

It is mainly because some states are sparking off extremism and terrorism under the pretext of "humanitarian intervention" aiming at regime change.

The reality in Syria and other countries' situation show that military attacks and armed interventions against sovereign states under the pretext of "counter-terrorism" are bringing about vicious cycle of retributive terrorism and retaliation by breaking out bloodshed and another disaster of "refugee problem".

State-sponsored terrorism aimed at overthrowing sovereign state is the most serious terrorism because it violates the principle of the respect for sovereignty and territorial integrity and non-interference in internal affairs articulated in the UN Charter and international law and it is crime against humanity depriving rights of innocent people to life.

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<sup>11</sup> The delegation of the Democratic People's Republic of Korea handed over their written statement to the Secretariat for inclusion in the Verbatim Record of proceedings.

Another reason of prevalence of violent extremism and terrorism is that some countries support anti-government terrorist groups for the purpose of overthrowing the sovereign states incurring their displeasure.

State-sponsored terrorism is rooted in their deep hatred and hostile policy against other states and nations. Hostile policy of the US against DPRK is typical manifestation of the hatred. State-sponsored terrorism cannot be justified by any means and counter-terrorism should not be abused as a tool of political purpose.

History proves that high-handedness, arbitrariness, imposition of Western standard value and “humanitarian intervention” of the US are the roots of violent extremism and terrorism, and as long as those are not removed, international efforts to combat terrorism cannot reach its initial objective to put an end to terrorism in this world.

In this context, our delegation is of view that the codification of the Comprehensive Convention on International Terrorism should stipulate the provisions to criminalize and punish the state-sponsored terrorism and the way to remove its root.

We strongly support AALCO and its Member States for playing a key role in the work of formulating the international laws to eradicate terrorism. We will continue to cooperate with Member States for conclusion of the convention fully reflecting their will and requirement.

It is a consistent policy of the government of the DPRK to oppose all forms of terrorism. Our country is positively joining in the international efforts to combat terrorism by becoming a party to main multilateral treaties on counter-terrorism including “International Convention against the Taking of Hostages”, “Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents” and “International Convention for the Suppression of the Financing of Terrorism” and making subsequent amendment and supplement to the relating internal laws from a consistent standpoint of our republic to oppose all forms of violent extremism and terrorism.

The DPRK has recently established the National Coordination Commission for suppression of the money laundry and financing of terrorism and made commitment to implement the action plan recommendation in compliance with the international standard and recommendations of FATF.

It is manifestation of the political will of our Government to strengthen the international cooperation to combat terrorism.

The DPRK will fulfill its responsibility obligation to put an end to all forms of violent extremism and terrorism and assure the peace and security of the Korean Peninsula and the world.

**The meeting was thereafter adjourned.**

**IX. VERBATIM RECORD OF THE THIRD GENERAL  
MEETING (CONTD.)**

**IX. VERBATIM RECORD OF THE THIRD GENERAL MEETING (CONT.) HELD  
ON WEDNESDAY, 18 MAY 2016 AT 4.45 PM**

**AGENDA ITEM: WTO AS A FRAMEWORK AGREEMENT AND CODE OF  
CONDUCT FOR WORLD TRADE**

**His Excellency Dr. V. D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, Government of India and President of the Fifty-Fifth Annual Session of AALCO in the Chair.**

**President:** Good evening everyone. We will now deliberate upon the agenda item WTO, and for that purpose we have among us an eminent Professor Abhijit Das, who is the head for the Centre for WTO Studies at the Indian Institute for Foreign Trade, New Delhi. I would request our Secretary-General to introduce the topic, thereafter the Member States would be at liberty to make their statements on the topic. However, we will not have any Q&A session after Prof. Abhijit Das's presentation.

**Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO:** Mr. President, Prof. Abhijit Das, Head, Centre for WTO Studies, New Delhi, Excellencies, Distinguished Delegates, Ladies and Gentlemen, it is my pleasure to welcome you all to this important meeting on the topic "WTO as a Framework Agreement and Code of Conduct for the World Trade".

The Report of the Secretariat on this subject contained in AALCO/55/HEADQUARTERS (NEW DELHI)/2016/SD/S 13 focuses on the Tenth WTO Ministerial Conference that took place at Nairobi in December 2015 and its outcomes. The Nairobi Conference, which was the first ever Ministerial Conference to be held in Africa, had adopted a few vital decisions in certain critical areas of concern to the developing world including food security, agriculture, trade facilitation agreement and others.

Excellencies, the WTO as an institution has always had immense significance for the welfare of the people of the world, especially for the people of the developing countries since it came into being in 1995. It regulates areas that are very critical for the domestic policies of its Members such as agricultural trade, intellectual property rights; trade in goods and services, trade-related investment measures, etc. While setting up the organization, the founding members of the WTO had agreed that "trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development".

Because this was not fulfilled, the Doha Development Agenda (DDA) had to be launched after the Doha Ministerial Conference in 2001. The DDA was put forward as an agenda to re-work several key agreements keeping in view the development concerns of the developing countries. Thus, the negotiations were mandated to include in the WTO's Agreement on Agriculture (AoA) instruments that would take cognizance of the food security and rural livelihood interests of developing countries, while at the same time curb the use of trade-distorting subsidies. The latter mandate was focused on a politically difficult issue especially for the developed countries. The Doha Ministerial Conference also saw the WTO members introduce measures to blunt the market power of the large firms in the pharmaceutical industry that they exercised using their patent monopolies.

However, over the years after running through many Ministerial Conferences, the WTO membership has not been successful in delivering the promised pro-development changes. Developing countries have been sidelined even today. Just to give an example: WTO members have failed even to agree how to reduce the huge subsidies paid to rich world farmers, whose overproduction continues to threaten the livelihoods of developing world farmers. One of the roots of failure may be found in domestic politics of key WTO members on the core items of the Doha agenda—agriculture and manufacturing.

Be that as it may, the Tenth Ministerial Conference that was held in December 2015 at Nairobi focused among others on trade facilitation, agriculture, cotton, and the LDC issues. These are areas of critical concern to the developing countries of Asia and Africa. However the outcome of this Nairobi meeting has clearly highlighted that it is not in the best interests of an overwhelming majority of the WTO members. Indeed there was no consensus even on the most important issue of whether the future round of trade negotiations would be guided by the Doha Development Framework or not. This forms the context of our discussions today.

It is my firm belief that the deliberations today offer the Member States of AALCO an important opportunity to discuss these issues at length. To set the discussion ball rolling, we have got a distinguished speaker, Prof. Abhijit Das who is the Head of the Centre for WTO Studies, Indian Institute of Foreign Trade, New Delhi. Prof. Das is a trade policy expert who combines extensive experience of international trade negotiations with formulating, implementing and managing trade-related capacity building projects. Prior to joining the Centre for WTO Studies, he has worked in UNCTAD and Trade Policy Division of the Commerce Ministry, Government of India.

Prof. Das would be taking us through the core issues flowing from the Tenth Ministerial (including the Trans-Pacific Partnership) and what do they mean for the AALCO Member States. Like all of you, I am keen too to listen to him. I am equally hopeful that our Distinguished Delegates will rise to the occasion and use this opportunity to discuss threadbare all the problems/issues involved in solving the complex problems that are emanating from the issues identified above. With these initial remarks, I wish you all excellent and productive deliberations. Thank you.

**President:** Thank you Mr. Secretary-General for that introduction. Now I give the floor to Prof. Abhijit Das.

**Prof. Abhijit Das, Head of Centre for WTO Studies, Indian Institute of Foreign Trade, New Delhi:** H.E. Dr. V.D. Sharma, President of the Fifty-Fifth Annual Session of AALCO, H.E. the Ambassador of Ghana, the Vice-President of the Fifty-Fifth Annual Session, H.E. Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO, Excellencies, Distinguished Delegates, Ladies and gentlemen. I feel extremely honoured, privileged, as well as humbled to be here in your midst to make a presentation on the “Trans Pacific Partnership Agreement (TPP) and the Legal Implications for the WTO”. The outline of my presentation is that I would very briefly discuss the Membership of the TPP Agreement; what are the areas that this agreement covers; thereafter I would turn to discussing the interface between the TPP Agreement and some of the WTO provisions; subsequently I would look at how some of the TPP provisions might end up undermining WTO jurisprudence; and eventually I would look at the interface between TPP provisions and WTO dispute settlement mechanism.

Most of you would be aware that the Trans Pacific Partnership Agreement at this juncture has 12 Members, this Agreement was finalized in October last year (2015), the Agreement was formally signed in February 2016 and it awaits ratification. No sooner had this Agreement been finalized in October last year, a few other countries particularly Korea, Chinese Taipei, have actively engaged in joining this Agreement. In addition, a few developing countries including Indonesia, Thailand, news reports also suggest that Philippines have shown interest in joining the Agreement. The coverage of the TPP includes the traditional areas of trade liberalization, namely tariff liberalization, liberalization in services, and a whole host of what are popularly called “Behind the Border Issues”, specifically the TPP envisages strong rules for investment protection, more stringent rules for protection of intellectual property rights. New rules perhaps for the first time for guiding electronic commerce, then there are new rules on competition, State owned enterprises, labour, environment, competitiveness, business facilitation, development, regulatory coherence, and of course dispute settlement chapter.

There are many different facets of the TPP, some would talk about economic aspects, what would be the impact of TPP on countries that are part of TPP, how would countries that are outside TPP would be effected, but the focus of my presentation is not on the economic or political aspects but I will focus on a very narrow area that is the interface between some of the TPP provisions and the provisions at the WTO.

All of you would be aware that under the WTO, a WTO Member is required to give a “most favoured nation” status to each of the WTO Member Countries, in other words if I give any concession, any treatment to any WTO Member I have to extend the same concessions, same favour, same privilege or same immunity to all the WTO Members. However, there are certain exceptions to this MFN provision. The WTO does recognize the possibility of the Member States getting into “Free Trade Agreements” among themselves. The TPP is one such mega Free Trade Agreement. Having said that, the WTO Members do not have an unfettered right, to get into Free Trade Agreements. The Free Trade Agreements have to abide by certain broad principles. One of the broad principle is that the Free Trade Agreement must provide for tariff elimination on substantially all trade.

Well the Trans Pacific Partnership Agreement certainly fulfills these criteria because in respect of this almost 98% or 99% of the products tariff will come down to zero, in certain cases within two years of implementation of the Agreement, in a few cases the phase out of tariffs may be as long as 28 or 29 years. But the fact remains that tariffs on substantially all trade will come down to zero. So, there are no problems on that front, but, where the TPP Agreement might run into bit of a difficulty at the WTO is in respect of services. The requirement in the area of services at the WTO is, yes, Members can get into an integration, or an FTA for services, provided that the FTA has substantial sectoral coverage. What is substantial sectoral coverage? It has been defined in a footnote, what the footnote says is that, substantial sectoral coverage really implies is understood to mean the number of sectors, volumes or trade effected, as well as the mode of supply. In other words, in order to meet this condition the Agreement must provide for trade liberalization in all modes of services. No mode of service must be excluded *a priori* from any Free Trade Agreement. Now, this is where the TPP falls short of the WTO requirements. Some of the TPP Members have not agreed to liberalize the movement of natural persons, an important mode of service delivery.

If and when the TPP Agreement is ratified and implemented, is notified at the WTO, as it is required to be, after notification, once this Agreement gets discussed at the Committee on

Regional Trade at the WTO, perhaps, Members of the WTO will raise concerns on the fact that one mode of services has been excluded in liberalization in schedules of some of the WTO Member Countries. So that is the first area of concern about the TPP at the WTO.

The second area of concern, in my perspective, is that some of the key provisions in TPP are not in conformity with the jurisprudence that has been developed at the WTO. I will give you just two illustrations, there are many other examples. I will give you an illustration from the perspective of “WTO’s Agreement on Subsidies and Countervailing Measures”. All of you would be aware that the WTO puts restrictions, rules, and disciplines on the ability of Governments to subsidize. The WTO Subsidies Agreement also puts restrictions on ability of State Owned Enterprises or Public Bodies to grant subsidies.

The key legal question really in the WTO is what is a public body? That is not defined in the Subsidies Agreement. We do have some jurisprudence which has emerged and in a number of disputes United States argued that ownership test should be a sufficient determinant to take a decision on whether a particular entity is a public body or not. In other words, if the Government owns let’s say 50% of the shares in an enterprise then that enterprise must be treated as a public body. So, from the US perspective, the ownership test is determinative, persuasive, to take a decision on whether an enterprise is a public body or not. It sounds quite logical. But when the United States made this argument before the WTO Panel in a very important dispute called *United States China and Anti-dumping Countervailing Dispute*, both the Panel and the Appellate Body rejected the US argument. Their perspective was that the ownership test is really not the right test to determine whether an enterprise is a public body or not. What the Appellate Body said was “for the enterprise to be considered to be a public body it must be an entity that possesses, exercises, or is vested with Governmental Authority”. It further went on to say, “that existence of mere formal links between the entity and the Government is unlikely to suffice to establish the possession of Governmental authority”. In other words what the WTO Panel and Appellate Body said was that the US perspective on the ownership test for checking whether an entity is a public body or not is incorrect.

What do we see in the TPP? The TPP has an elaborate chapter on State Owned Enterprises. We also have a very specific definition of what a State Owned Enterprise is. And to our surprise the US argument of the ownership test is built into the definition of what a State Owned Enterprise is. I will read out what the definition is: “a State Owned Enterprise means an enterprise in which a party directly owns more than 50% of the share capital”. So the short point on which I am trying to draw home is that the argument made by the United States before WTO Panel and Appellate Body in the context of public body, in terms of ownership test was rejected. There is lot of jurisprudence but the precise TPP provision runs counter to what the jurisprudence has evolved and instead incorporates the ownership test. So clearly this might undermine the jurisprudence.

Let me give you a quick second example. In the TRIPS Agreement we have a provision on Border Measures contained in Article 61. TRIPS Agreement as you all know deals with trade related intellectual property rights. Article 61 concerns itself with Border measures, it says “Members shall provide with criminal procedures and penalties to be applied at least in cases of willful trade mark counterfeiting, or copyright piracy, on a commercial scale”. Now what is commercial scale has not been defined. This became a contentious issue in the dispute called “*China Intellectual Property Rights*”. In this dispute the US approach was that those who engage in commercial activities in order to make a financial return in the market place

are by definition operating on a commercial scale. On the other hand, what the Panel said was that it rejected the US approach of defining commercial scale in terms of financial return. The Panel was of the view that scale itself denotes size, quantity, relative quantities, whereas commercial is more qualitative in nature. But these two terms commercial on the one hand, and scale on the other when read together really would denote the size of acts. In other words, commercial scale refers to counterfeiting or piracy carried on at the magnitude or extent of typical commercial activity, with respect to a given product in a given market. In other words, the Panel rejected reading commercial scale in terms of financial approach.

What do we find in TPP? In a similar provision on Border Measures in respect of protecting intellectual property rights we have a provision in TPP which says, in respect of copyright or piracy, “on a commercial scale includes at least acts carried out for commercial advantage or financial gain”. Again we see a provision which is based on certain terms, certain concepts, which were included in arguments made before WTO Panel, but these were rejected.

So the short point is, what happens if TPP gets implemented? Jurisprudence starts building up around some of these key provisions in the TPP and this jurisprudence which emerges from the TPP subsequently influences the jurisprudence at the WTO. Certainly not a very happy situation to be in, it is something which all of us need to think about. Just to summarize my argument here what I am trying to say is that the TPP, some of the provisions, are based on arguments made before WTO Panel and Appellate Body, the arguments were rejected and the jurisprudence which has evolved runs counter to some of the provisions in TPP and this could lead to fragmentation of jurisprudence, it could make enforcement more difficult and more complex.

The final issue that I want to address is on the choice of forum the TPP has a very extensive, elaborate provision on dispute settlement. It recognizes that if a particular matter is covered by the TPP and is also covered by the WTO and two Members have a disagreement, then the complaining party has the right to choose the forum. It can take the dispute before the TPP Panel or it can agitate the dispute before the WTO Panel. Essentially, there is a fork in the road, but having chosen one forum it is prohibited from agitating the same matter in another forum. In other words if the complaining country has chosen to agitate a matter at the WTO, it is precluded from agitating that matter before the TPP Panel. However, problems could arise, if a complaining Member raises a matter before the TPP Panel loses the dispute, and then goes to a WTO Panel. At the WTO the dispute will be allowed to proceed for the very simple reason that if a particular matter refers to or relates to some of the covered agreements of the WTO, then the WTO Panel is mandatorily obliged to adjudicate on that matter. It is not prevented from adjudicating on the matter just on the basis that the TPP has a choice of forum and a provision. In other words, a TPP Member gets two occasions, two different forums to agitate the same matter, which in a way runs counter to the explicit provisions in the TPP. Although, what the TPP says in adjudicating matters, the TPP Panels must be guided by the jurisprudence that has been developed by the WTO Panels and Appellate Body.

Those were essentially three quick points I wanted to make regarding the interface from the legal perspective between the TPP Agreements and the interaction with the WTO jurisprudence, the WTO CR Committee on Regional Trade Arrangements or the Dispute Settlement Panel. I would be very happy to answer any questions and I am extremely grateful to all of you for giving me a very kind attention. I am also thankful to the organizers the AALCO for giving me an opportunity to share my thoughts. Thank you.

**President:** Distinguished delegates, we have heard an excellent presentation by Prof. Abhijit Das, on the topic of Trans Pacific Partnership Agreement and he has enlightened us about the Most Favoured Nation Clause and how it works in the Free Trade Agreements, issues relating to services and the practice vis-à-vis the TPP Agreement countries and other countries in the other parts of the world, also indicating that most of the provisions of the TPP Agreement are based on the arguments of the US and other countries which were rejected by the WTO Dispute Settlement Body. I am sure that our Member States and particularly those delegates who have an interest in WTO related matters have immensely benefited from this presentation. We must again applaud Prof. Abhijit Das for his presentation. Now I open the floor to hear the views from the Member States. The first speaker on my list is the delegation of China.

**The Delegate of the People's Republic of China:** Thank you, Excellency Dr. V.D. Sharma, President of the Fifty-Fifth Session of AALCO, Excellency Vice President Mr. Samuel, honourable Ministers, Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO, in-coming Secretary-General, distinguished delegates, ladies and gentlemen.

Let me start by giving congratulations to AALCO on the 60<sup>th</sup> Anniversary and appreciation to the Secretary-General for the informative briefing on the agenda item namely "WTO as a Code of Conduct for World Trade". From the perspective of developing countries the paper has provided a relatively objective analysis of the outcomes from the 10<sup>th</sup> WTO Ministerial Conference, held in Nairobi in December 2015, and China generally agrees to its assessment, though we did bring to the attention to the Secretariat a few proposals for amendment, for example, for the sake of accuracy we have suggested that the term WTO Member Countries on pages 3, 4 and 5 be changed to WTO Members.

Ladies and gentlemen, the topic under deliberation indeed is of high relevance and importance. As we attentively listened to Prof. Abhijit Das from IIFT, we know that people are all reflecting on the possible impact of such mega FTA's like the TPP and the WTO and we thank you Professor Das for the interesting legal perspective and the view point that you have shared of some TPP Protocols and provisions with the already existing rules of the WTO.

We all know that since its launch 15 years ago, the Doha Round of Negotiations; have seen many twists and turns. In particular the discrepancy among the main Members are some core issues under negotiations which resulted in the slow progress of talks. The Bali Ministerial Conference in 2013 and the Nairobi Conference in 2015 achieved success and both of them reaped some negotiation outcomes on the Doha Development Agenda or DDA. I think this has demonstrated the important role that the WTO can play in implementing international trade liberalization. Boosting the confidence of various parties in the multilateral trading system and partially address the concerns of the developing Members, including the LDC's. We can tell that WTO is still relevant and even more so for the developing countries located in Asia and Africa, as our friends here in AALCO.

At the same time however, we have noticed that the Nairobi Ministerial Declaration allowed for the very first time in history respective wording of DDA and publically recognized that Members have different views on the path forward taking Doha Round ahead. This has generated a little uncertainty to the future efforts of commencing Doha Round of talks and providing the possibility for developed Members to abandon the development mandate and framework of Doha Round and adopt the so-called new approaches and new methods.

Indeed, as mentioned in the background document, developing countries will be in a tough position again in the future multilateral negotiations.

Confronted with the current difficulty in the multilateral trading system, how should developing countries respond? China holds that we should continue supporting and safeguarding the multilateral trading system, and keeping the vitality of multilateral negotiations, which is of great significance to developing countries. Right now, in the hope of continuing to occupy the dominant position in the making of international trade rules, and bringing these rules into the multilateral trading system in the future. In response, on the other hand, developing countries should continue to hold high the banner of development and push forward the Doha Round of negotiations. Though members have different views on how to promote the Doha Round and hold various concerns, all are willing to continue negotiations on the remaining Doha issues like agriculture, NAMA, services and rules. Development is the core objective of this round of negotiations, as well as the widespread expectation of developing members who take up  $\frac{3}{4}$  of the WTO membership. If the original commitments failed to be delivered, the trust and confidence of developing members in the multilateral trading system would be seriously impaired and the negotiating functions of the WTO would be seriously affected.

On the other hand, in the future multilateral framework, developing members should adopt an open attitude towards the new issues currently in the trade and investment field, especially those of immediate interest to developing members, and support to conduct discussions over these new issues. Participating in the discussions at the launch of new issues could help ensure a more balanced and just formulation process of rules on new issues and ensure that the voice and concerns of developing members be more amply reflected. Of course, the discussions of new issues should not affect the promotion of the remaining issues of Doha Round, and development element must be considered in such discussions and in these new issues. China is of the view that the key to judging whether a negotiation is in the benefit of developing members is not whether the issue itself is new or old, or whether the approach adopted is new or old, but whether it maintains development at its core, whether the concerns of developing members could be properly addressed and whether the development goals could be achieved.

As the G20 Presidency this year, China has put forward several outcome initiatives in support of the multilateral trading system, called on G20 members to make commitments to standing against trade protectionism and enhancing the transparency of regional trade arrangements or RTAs, promoting the early ratification of Trade Facilitation Agreement or TFA, and enabling G20 to play a leading role in moving forward the multilateral trade negotiations and discussions. China has also proposed the initiative of Solidarity Work Programme and called on members to have a stronger sense of urgency and kick off work on promoting the multilateral trade negotiations as soon as possible.

Excellencies, ladies and gentlemen, consolidating and strengthening the multilateral trading system serves the shared interest of Asian and African countries. China stands ready to further communication and cooperation with all, to seek common ground while reserving differences and widen consensus and convergence, and continue to make positive contributions to supporting the multilateral trading system and pressing ahead with the multilateral trade negotiations. Thank you for your attention.

**President:** I thank the Delegate from China. The next country on the list is India. India you have the floor.

**The Delegate of India:** Mr. President, on behalf of Indian delegation, let me take this opportunity to thank the Secretariat for their efforts in preparing the brief on the topic and the Deputy Secretary-General for his/her introductory statement. We also thank the Panelist Prof. Abhijit Das for his insightful presentation on the important topic.

Today, our deliberations on the topic would be focused on the issues concerning: i) continued relevance of WTO and ii) WTO's relationship with Regional Trade Arrangements. Allow me to share some of our views on the agenda item.

Mr. President, the expanding membership of the WTO, the functioning of its unique dispute settlement system, the work in its regular Committees, the progress made thus far in the Doha Development Agenda (DDA), underscore the important role played by this institution. India applauds the achievements of the WTO, and remains committed to strengthening it further. In this regard, we would like to note that India has ratified the Trade Facilitation Agreement in April 2016.

Mr. President, India participated in the recent Nairobi Ministerial Meeting (2015) which coincided with the 20<sup>th</sup> anniversary of the establishment of the organization. The new accession by some of the States to WTO, in our view is an important affirmation of the strength of the multilateral trading system.

The 20<sup>th</sup> anniversary of the WTO also provided an occasion for introspection and to assess where we are today. Keeping its development dimension, the Doha Development Agenda is important in our collective interest for legitimate interests of poor farmers and the food security of hundreds of millions in developing countries.

Agricultural reforms remain the corner stone of the Doha Development Agenda negotiations. Services sector is equally important for developing countries for growth as well as job creation. Besides the accelerated flow of goods, easier flow of services is therefore, equally important.

Mr. President, an open, non-discriminatory and inclusive multilateral trading system contributes to maximizing gains for all its Members. Plurilateral approaches by definition impinge on the multilateral trading system and cannot be a substitute for it. It is important that such arrangements complement, and not segment, the multilateral trading system.

India is prepared to constructively contribute in all areas within the framework of the negotiating mandates and the core principles of the WTO. Thank you Mr. President for the attention.

**President:** Thank you India. Now I give the floor to the distinguished Delegate from Japan.

**The Delegate of Japan:** Mr. President, Rules-based multilateral trading system as embodied in the WTO forms a basis of global trade, and has been a central pillar of Japan's trade policy.

At MC10 in December last year, we delivered a successful Nairobi package including export subsidies in agriculture, and concluded the ITA expansion agreement. These results show that WTO negotiation function is still working and effective. In order to further enforce the WTO negotiation function, we should call for a swift entry into force of the Trade Facilitation

Agreement (TFA) by the end of 2016, and the implementation of existing agreements is crucial as well.

As for the coming WTO negotiations, the remaining Doha issues, including development, are still important. However, so as to keep the WTO relevant, we should explore new approaches and “up-to-date” issues that could lead to revitalize and reinforce the WTO negotiation function.

In exploring new approaches, successful conclusion of ITA expansion agreement shows that the plurilateral negotiation as an effective approach to accelerate trade liberalization. In this respect, a form of plurilateral negotiation could be considered as one of the ways of making intensive negotiation.

In the Brief Report prepared by the AALCO Secretariat, the need of creating “trade rules meet the larger objective of development” is also highlighted with effectiveness of plurilateral negotiation. While it is important to make such rules for creating enabling environment for developing countries, we believe that commitment of developing countries to enter into high level of liberalization is also essential. It is because liberalization would bring a positive impact on developing countries’ own development as well as economic growth. Therefore, Japan actively supports developing countries to attain capacity needed to promote the liberalization of their markets, including through promoting “Aid for Trade” with a view to accomplishing all members to obtain benefits from the liberalization.

The TPP Agreement promotes the liberalization and facilitation of trade in goods and services and investment in the Asia-Pacific region and establishes new 21st century rules in a wide range of areas, such as intellectual property, electronic commerce, state-owned enterprises, and the environment. The Agreement will create a huge market that represents approximately 40% of global GDP and 10% of the world’s population.

The TPP Agreement would not only promote economic growth in the Asia-Pacific region but would also further strengthen relations with the countries that share such universal values as freedom, democracy, basic human rights and the rule of law through building a new economic order, and thus has substantial strategic significance for contributing to the peace and stability of the region and the world.

Japan intends to continue cooperating closely with the other participating countries for early entry into force of the TPP Agreement and its expansion. Building on this momentum, Japan also intends to play an active role in pushing forward other economic partnership negotiations such as Japan-EU Economic Partnership Agreement, Regional Comprehensive Economic Partnership (RCEP), and Japan-China-Republic of Korea Free Trade Agreement, thereby contributing to the development and expansion of new rules for global trade and investment.

**President:** I thank the Delegate from Japan. Now I give the floor to the Delegate from South Africa.

**The Delegate of South Africa:** Mr. President, at the outset we would like to appreciate Prof. Abhijit Das for the very comprehensive presentation made by him. South Africa reaffirms its commitment to the successful conclusion of the Doha Development Round on the basis of fulfilling the objectives of the Doha Declaration and in line with the mandate of the Doha Development Agenda. In this regard, South Africa would like to reiterate that the multilateral

trade negotiations at the WTO should be given priority and not be overtaken by plurilateral or mega-regional agreements. The WTO should remain solely mandated international organization and custodian of a consensus-developed rules and regulations framework that governs international trade.

It is for this reason, that South Africa views the WTO framework as the principal framework that should give guidance to, and regulate international trade. The move away from this key multilateral process, by major economies, to using regional trade agreements as a means to achieve what they cannot achieve in the WTO is something that South Africa deems detrimental to multilateral trade negotiations within the context of WTO.

South Africa will continue to call for the return to multilateral trade negotiations using the WTO as the only forum to conclude international trade rules. Furthermore, the inclusion of new issues or the dialogue of new approaches to multilateral trade negotiations is something that South Africa will not support until such time that the current Doha Development Agenda objectives, upon which it was founded.

South Africa seeks to finalize the Round with a developmental perspective outcome that ensures that the Doha Round will be a trading system that allows developing and least developed countries to integrate themselves into a fair, transparent and equitable global trading system – one that seeks to balance the global trading system in favour of developing and least developed countries. Thank you Mr. President.

**President:** I thank the Delegate from South Africa. Now I give the floor to the distinguished Delegate from Nepal.

**The Delegate of Nepal:** Mr. President, Mr. Vice-President, Distinguished Delegates, Ladies and gentlemen. The delegation of Nepal wishes to appreciate the excellent documentation on WTO prepared by AALCO Secretariat, and notes with appreciation the comprehensive presentation by Professor Abhijit Das. The delegation of Nepal underlines the need of a multilateral forum like WTO for dialogue and negotiations for free and fair trade in goods, services and intellectual property rights, taking into account the special needs of the developing countries particularly least developed countries, and notes the critical importance of the multilateral rule-based trading system.

Any negotiations under the behest of WTO must take full consideration of the special development concerns of developing and least developed country members of WTO and the purposes of the Doha development agenda. Nepal, a member of the LDC group, would like to build on the Bali Decision on Duty Free and Quota Free market access for LDCs and intends to have a specific mechanism for full implementation of the decision.

Mr. President, we the Member States of AALCO should forge a common voice and position that Doha development agenda and framework should be pursued. Our Organization should make its best efforts to ensure that the spirit of the Doha development agenda is not diluted through trade negotiations at regional or multilateral levels.

The delegation of Nepal notes a slightly increasing trend of trans-pacific partnership, transatlantic investment and partnership and regional comprehensive economic partnership. These agreements indicate pluri-lateralism. In the light of these developments, we urge that,

without prejudging the wisdom of these pluri-lateral mechanisms, our Organization should firmly stand in favor of multilateral approach rather than pluri-lateral approach.

The issues of special and differential treatment to developing country members and mandatory provision on technology transfer and technical assistance by developed country members must be the basis of any further trade negotiations, which should at a minimum address the issues of agriculture subsidies, food security and food prices.

Mr. President, finally, I would like to mention that Nepal has initiated the process for the ratification of the Trade Facilitation Agreement concluded by the WTO members at the 2013 Bali Ministerial Conference.

I would like to ask a brief question to the learned Professor in relation to his presentation. We have heard that the TPP recently concluded between and among the Member States of the WTO a number of provisions and issues that are in one way or another in contradiction of the WTO provisions and rules. Can any member State of the WTO make any such arrangements, in any form, which are not in consonance with the WTO regime? If any member is allowed to make any such arrangements not in consonance with the WTO Agreement, in this situation would you like to throw some more light on this issue, and make some clarification that these arrangements are in contradiction of the WTO, and by concluding these kinds of agreements are these members not violating the WTO obligations or not. Thank you.

**President:** I thank the distinguished Delegate from Nepal. As the Delegate has asked Prof. Das a question I would request Prof. Abhijit Das to respond to that question.

**Prof. Abhijit Das:** Thank you Mr. President and I am grateful to the distinguished delegate from Nepal for raising the question. The WTO Member States would get an opportunity to closely examine the provisions of the Trans Pacific Partnership Agreement after it is implemented. There is an obligation to notify this Agreement to WTO's Committee on RTA's and that will be the appropriate forum for WTO membership to examine whether the TPP provisions, or if any of the TPP provisions violate the WTO Agreements. If any WTO member is of the opinion that measures taken under TPP are not in conformity with WTO or curtails the rights of other countries can certainly raise a dispute at the WTO. But it would have to show how there was nullification and impairment, how the action of the concerned TPP member country pursuant to the TPP was not in conformity with the WTO Agreement itself. So the parameter has to be there must be nullification and impairment pursuant to the TPP Agreement and that nullification and impairment should be on a matter that can be challenged under the WTO. So two avenues are available when the TPP is examined by the Committees on RTA and the avenue of initiating a trade dispute under WTO Dispute Settlement, is certainly open. I hope that clarifies the question.

**President:** Thank you Prof. Abhijit, I hope that the question is addressed and the question is well answered. Distinguished Delegates with this we have exhausted the list of Member States who wanted to speak on this topic. Therefore, we have completed our deliberations on the agenda item WTO.

**The meeting was thereafter adjourned.**

**X. VERBATIM RECORD OF THE SPECIAL  
HALF-DAY MEETING ON “SELECTED ITEMS  
ON THE AGENDA OF THE INTERNATIONAL  
LAW COMMISSION”**

**X. VERBATIM RECORD OF THE SPECIAL HALF-DAY MEETING ON  
“SELECTED ITEMS ON THE AGENDA OF THE INTERNATIONAL LAW  
COMMISSION”, HELD ON WEDNESDAY, 19 MAY 2016 AT 09:30 AM.**

**His Excellency Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and the President of the Fifty-Fifth Session of AALCO is the Chair**

**President:** Good morning. This part of the Session is devoted to the work related to the International Law Commission. As international lawyers, we are familiar with the mandate and work of the ILC. The ILC is mandated to codify international law, study the existing international law positions to come up with draft articles and recommendations to the UN General Assembly for its consideration. The importance of keeping in touch with the developments at the ILC cannot be overstated. That is why in the programme of our Organization we have some selected items in the agenda of the ILC for our consideration. Today, we are fortunate to have with us Dr. Roy Lee, the Permanent Observer of AALCO to the United Nations in New York. He is active in organizing dialogues on different areas of international law and is keenly interested in the work of the ILC. I am sure we will immensely benefit from his insights on the items we are going to discuss today. Let us begin this part with a brief introductory statement on the topic by the Secretary-General of AALCO. Sir, you have the floor.

**His Excellency Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO:** Mr. President, Excellencies, Distinguished Delegates, Ladies and Gentlemen, It is my pleasure to invite you all to the Special Half-Day Meeting on the topic “Selected Items on the Agenda of the International Law Commission”. The ILC and AALCO have always shared a longstanding and mutually beneficial relationship. In addition to its role as a consultative body among its Member States in the field of international law, the primary roles of the AALCO are to examine subjects that are under the consideration of the International Law Commission (ILC); to forward its views to Member States; and to make recommendations to the ILC based upon the viewpoints and inputs of the Member States on the Commission’s agenda items. Fulfillment of this statutory mandate over the years has helped to forge closer relationship between the two organizations. It has also become customary for AALCO and the ILC to be represented during each other’s sessions. The Asian and African members of the Commission have undoubtedly made, and continue to make a valuable contribution to the work of the Commission. Their presence is essential if the ILC is to be truly representative.

Though it is customary for the Half-Day Special Meetings of AALCO on the agenda items of ILC to be addressed by the Members of ILC as panelists, this year remains an exception. The reasons are twofold: the election of the members of the Commission for a five year term beginning on 1<sup>st</sup> January 2017 is scheduled to be held later this year; and also, the annual session of the Commission is scheduled to be held from 2<sup>nd</sup> May to 10<sup>th</sup> June and from 4<sup>th</sup> July to 12<sup>th</sup> August 2016. Both of these facts have resulted in the non-representation of ILC members at this meeting. However, this gives the distinguished delegates from the Member States more time to deliberate the agenda items that are the primary focus of this meeting. The three major topics that will be the subject of deliberations today are: *Protection of the atmosphere*; *Crimes against humanity* and *Jus cogens*. Of course, the Member States are also encouraged to present their views on other agenda items of the Commission as well.

With these initial remarks, let me move on to give a bird's-eye view of the way how the various topics of ILC were deliberated and what progress were made on them at the Sixty-Seventh session of the Commission held in 2015. Briefly, the deliberations at the Sixty-Seventh session of the Commission focused on nine topics. These were: Protection of the atmosphere; Crimes against humanity; *Jus cogens*; Protection of the environment in relation to armed conflicts; Immunity of State officials from foreign criminal jurisdiction; Provisional application of treaties; Identification of customary international law; the Most-Favoured-Nation clause; and Subsequent Agreements and Subsequent Practice in relation to the Interpretation of Treaties.

As regards the topic, "Protection of Atmosphere", the Commission had before it the Second Report of the Special Rapporteur, Prof. Shinya Murase. The report provided a further analysis of the draft guidelines submitted in his first report. The second Report consequently presented a set of revised draft guidelines relating to the (a) use of terms; (b) the scope of the draft guidelines; and (c) the common concern of humankind. Further, additional draft guidelines were presented on (a) the general obligation of States to protect the atmosphere and (b) international cooperation. Following its debate on the report, the Commission decided to refer draft guidelines 1, 2, 3 and 5, as contained in the Special Rapporteur's Second Report, to the Drafting Committee, with the understanding that draft guideline 3 be considered in the context of a possible preamble. Upon consideration of the report of the Drafting Committee (A/CN.4/L.851), the Commission provisionally adopted draft guidelines 1, 2 and 5 and four preambular paragraphs, together with commentaries thereto.

In their deliberations on this topic, the Member States of AALCO could focus on few areas of critical importance: draft guideline 3 on the concept "the common concern of mankind", the legal consequences of which remains unclear; draft guideline 5 on the scope of international cooperation and the need (on the part of the ILC) to spell out the special needs and priorities of developing countries in addressing atmospheric pollution.

As regards the topic "Crimes against Humanity", the Commission considered the first report of the Special Rapporteur Mr. Sean D. Murphy. In his first report, the Special Rapporteur, after assessing the potential benefits of developing a convention on crimes against humanity (section II), provided a general background synopsis with respect to crimes against humanity (section III) and addressed some aspects of the existing multilateral conventions that promote prevention, criminalization and inter-State cooperation with respect to crimes (section IV). Furthermore, the Special Rapporteur examined the general obligation that existed in various treaty regimes for States to prevent and punish such crimes (section V) and the definition of "crimes against humanity" for the purpose of the topic (section VI). The report also contained information as to the future programme of work on the topic (section VII). The Special Rapporteur proposed two draft articles (relating respectively to the prevention and punishment of crimes against humanity and to the definition of crimes against humanity) corresponding to the issues addressed in sections V and VI, respectively, which were referred to the Drafting Committee. Upon consideration of the report of the Drafting Committee the Commission provisionally adopted draft articles 1 to 4, together with commentaries thereto.

In their deliberations on this topic, the Member States of AALCO could focus on the following area of critical importance: one of the key elements of the draft articles proposed by the Special Rapporteur and adopted by the Commission deals with the obligations of States to prevent Crimes Against Humanity. This relatively unique proposal is definitely one that merits the attention and discussion of Member States.

As regards “*Jus cogens*”, in 2014 the Commission’s Working Group on the Long-Term Programme of Work submitted a recommendation by Mr. Dire D. Tladi to the Commission to include the topic of *jus cogens* on the Commission’s current Work Programme. This recommendation was accepted by the Commission in 2015 and Mr. Tladi was appointed Special Rapporteur for the topic.

As noted in the proposal for the topic, the Commission could make a useful contribution to the progressive development and codification of international law by analysing the state of international law on *jus cogens* and providing an authoritative statement of the nature of *jus cogens*, the requirements for characterising a norm as *jus cogens* and the consequences or effects of *jus cogens*. The Commission could also provide an illustrative list of existing *jus cogens* norms. The consideration of the topic by the Commission could, therefore, focus on the following elements: (a) the nature of *jus cogens*; (b) requirements for the identification of a norm as *jus cogens*; (c) an illustrative list of norms which have achieved the status of *jus cogens*; (d) consequences or effects of *jus cogens*. The topic has also been included on the Commission’s Provisional Agenda for its Sixty-Eight Session (2016) where the Commission will in all likelihood consider the First Report of the Special Rapporteur.

In their deliberations on this topic, the Member States of AALCO could focus on the following area: the Special Rapporteur has stated that his First Report, which will be submitted and considered by the Commission in 2016, will focus on *inter alia* the past work of the ILC in addressing the question of *jus cogens*, as well as *jus cogens* in judicial decisions. Member States could direct their attention to these aspects.

As regards the topic “Protection of the Environment in Relation to Armed Conflicts”, the Commission had before it the Second Report of the Special Rapporteur Ms. Marie Jacobsson. This report *inter alia*, identified and examined existing rules of armed conflict directly relevant to the protection of the environment in relation to armed conflict. The report contained five draft principles and three draft preambular paragraphs relating to the scope and purpose of the draft principles as well as use of terms. Following the debate in Plenary, the Commission decided to refer the draft preambular paragraphs and the draft principles, as contained in the report of the Special Rapporteur, to the Drafting Committee, with the understanding that the provision on use of terms was referred for the purpose of facilitating discussions and was to be left pending by the Drafting Committee. The Commission subsequently received the report of the Drafting Committee and took note of the draft introductory provisions and draft principles I-(x) to II-5, provisionally adopted by the Drafting Committee.

As regards the topic “Immunity of State Officials from Foreign Criminal Jurisdiction”, the Commission had before it the Fourth Report of the Special Rapporteur Ms. Concepción Escobar Hernández. Since the report of the last year addressed the subjective scope of immunity *ratione materiae*, the fourth report was devoted to the consideration of the remaining material scope namely what constituted an “act performed in an official capacity”, and its temporal scope. This report contained proposals for draft article 2, subparagraph (f), defining an “act performed in an official capacity” and draft article 6 on the scope of immunity *ratione materiae*. The report of the Commission for this year reflects the debate of the Commission on these two draft articles presented by the Special Rapporteur. Following the debate, the Commission decided to refer the two draft articles to the Drafting Committee. The Commission subsequently received the report of the Drafting Committee, and took note

of draft articles 2, subparagraph (f), and 6, provisionally adopted by the Drafting Committee. The Commission is expected to adopt these articles together with commentaries next year. Also in next year, the Commission will deal with the question of limitations and exception. It would appreciate being provided by States with information on their legislation and practice, in particular judicial practice, related to limits and exceptions to the immunity of State officials from foreign criminal jurisdiction.

As regards the topic “Provisional Application of Treaties”, the Commission had before it the Third Report of the Special Rapporteur Mr. Juan Manuel Gómez-Robledo. This report considered the relationship of provisional application to other provisions of the Vienna Convention on the Law of Treaties of 1969, and the question of provisional application with regard to international organizations. The Commission also had before it a memorandum (A/CN.4/676), prepared by the Secretariat, on provisional application under the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations of 1986. The Commission referred six draft guidelines, proposed by the Special Rapporteur, to the Drafting Committee. The Commission subsequently received an interim oral report, presented by the Chairman of the Drafting Committee, on draft guidelines 1 to 3, provisionally adopted by the Drafting Committee, and which was presented to the Commission for information only. It is expected that the Drafting Committee will continue its consideration of the draft guidelines at the current session in 2016.

In addition, the Commission indicated that it would appreciate being provided by States with information on their practice concerning the provisional application of treaties, including domestic legislation pertaining thereto, with examples, in particular in relation to:

- the decision to provisionally apply a treaty;
- the termination of such provisional application; and
- the legal effects of provisional application.

As regards the topic “Identification of Customary International Law”, the Commission had before it the Third Report of the Special Rapporteur Mr. Michael Wood. The report contained, *inter alia*, additional paragraphs to three of the draft conclusions proposed in the second report and five new draft conclusions relating respectively to the relationship between the two constituent elements of customary international law, the role of inaction, the role of treaties and resolutions, judicial decisions and writings, the relevance of international organizations, as well as particular custom and the persistent objector. The report of the Commission for this year reflects the debate of the Commission on the third report.

The Commission referred the draft conclusions contained in the Third Report of the Special Rapporteur to the Drafting Committee. The Drafting Committee examined the two draft conclusions on acceptance as law (*opinio juris*) as contained in the Second Report by the Special Rapporteur and left pending from last year, as well as those presented in his Third Report this year. The Drafting Committee provisionally adopted, in total, 16 draft conclusions on the identification of customary international law structured in seven parts. The Introductory Part One contains one draft conclusion on scope. Part Two, with two draft conclusions, sets out the basic approach to the identification of customary international law, consisting of an inquiry into the two constituent elements, and the assessment of evidence in that respect. Part Three, with five draft conclusions, and Four, containing two draft conclusions, address the basic approach by explaining further the two constituent elements,

namely a general practice and accepted as law (*opinio juris*). Part Five then addresses, in four draft conclusions, the significance of certain materials for the identification of customary international law. Finally, Parts Six and Seven, each containing one draft conclusion, address, respectively, the persistent objector and particular customary international law.

Further to the presentation of the report of the Drafting Committee, the Commission took note of the 16 draft conclusions contained therein. It is anticipated that the Commission will, at its next session, consider the provisional adoption of the draft conclusions as well as the commentaries thereto.

As regards the topic “The Most-Favoured-Nation Clause”, the Commission received and welcomed with appreciation the final report on the work of the Study Group on the Most-Favoured-Nation clause and endorsed the summary conclusions of the Study Group. The final report considers developments in the law and practice since the adoption of the Commission’s 1978 draft articles on MFN clauses with commentaries but does not propose any revision of those draft articles. The final report discusses, in particular, whether an MFN clause in a treaty may be invoked by an investor to obtain a more favorable dispute resolution provision existing in a comparator treaty (i.e., a different treaty between the host state and a third state) and, in that regard, analyzes case law since the *Maffezini v. Spain* award in 2000. The Commission also highlighted that the interpretative techniques reviewed in the report of the Study Group are designed to assist in the interpretation and application of MFN provisions. The Commission commended the final report to the attention of the General Assembly, and encouraged its widest possible dissemination. The Commission thus concluded its consideration of the topic.

As regards the topic “Subsequent Agreements and Subsequent Practice in relation to the Interpretation of Treaties”, the Commission had before it the Third Report of the Special Rapporteur, which offered an analysis of the role of subsequent agreements and subsequent practice in relation to treaties that are the constituent instruments of international organizations and which proposed draft conclusion 11 on the issue. In particular, after addressing Article 5 of the Vienna Convention on the Law of Treaties (Treaties constituting international organizations and treaties adopted within an international organization), the Third Report turned to questions related to the application of the rules of the Vienna Convention on treaty interpretation to constituent instruments of international organizations. It also dealt with several issues relating to subsequent agreements under article 31, paragraph 3 (a) and (b), as well as article 32 of the Vienna Convention on the Law of Treaties, as a means of interpretation of constituent instruments of international organizations. The Commission considered the report and decided to refer draft conclusion 11 on constituent instruments of international organizations, as presented by the Special Rapporteur, to the Drafting Committee. Subsequently, the Commission received the report of the Drafting Committee and provisionally adopted draft conclusion 11.

Excellencies, Allow me to say a few words on the work of AALCO in relation to ILC during my tenure. In my term as the Secretary-General of AALCO the relationship between AALCO and ILC has improved in four ways:

First, in view of the importance that the agenda items of ILC hold for the Asian-African States, the Fiftieth Annual Session of AALCO held at Colombo, Sri Lanka in 2011 had mandated that the future Annual Sessions of AALCO should devote more time for deliberating on the agenda items relating to the work of ILC. Due to this mandate, a Half-Day

Special Meeting on “Selected Items on the Agenda of the International Law Commission” has been held every year since 2012. At these meetings, we have been able to get the Members and Special Rapporteurs of the ILC to participate as Panelists. This intellectual exercise has benefited the Member States of AALCO a great deal in terms of enriching their knowledge and understanding on the topics that are on the agenda of the ILC.

Secondly, at my initiative, issues relating to ILC have been given increasing visibility in our website. The website of AALCO contains a separate section on the ILC issues having information on the various meetings that AALCO has held on various issues of ILC. It also incorporates within itself comments made by the Secretariat on new topics introduced into the agenda of the ILC.

Third, I have tried successfully to convene more and more Inter-Sessional Meetings on Selected Topics of ILC in recent years. For example, due to the immense importance that the topic of CIL holds for the Member States of AALCO, we had established an “Informal Expert Group on Customary International Law” (IEG) at the recommendation of AALCO Eminent Persons Group (EPG) in 2014. It acted as a technical expert group on the Identification of Customary International Law, and the viewpoints and comments emerged from its meetings formed a set of recommendations proposed by the Informal Expert Group. As mandated by the resolution adopted on the ILC, the Secretariat of AALCO has sent the conclusions of the IEG to the Special Rapporteur of the Commission on the subject Mr. Michael Wood for his consideration and reference. The active participation of many of the Member States in the meetings of Informal Expert Group bears testimony to the success of this initiative. Even in relation to other topics on the agenda of ILC, a same process could be followed if it is mandated by the Member States of AALCO.

Fourth, I have also tried to bring to the attention of the Member States of AALCO in the Sixth Committee of the UN General Assembly issues relating to ILC. For example, as part of the AALCO Legal Advisors’ meeting that we convene in New York every year, we have had a separate meeting solely focusing on ILC issues in recent years. It has given opportunity for the legal advisers of AALCO Member States to have a detailed exchange of views on the contemporary topics of international law and also to have an interaction with the Members of the International Law Commission (ILC) on some of the important topics forming part of its agenda.

Now that my tenure comes to an end I wish to extend my wholehearted thanks to the Members of the Commission (especially, Dr. Hussein Hassouna, Prof. Shinya Murase, Dr. Rohan Perera, Mr. Narinder Singh et al.) with whom both AALCO and I have shared a cordial relationship over the years. Needless to add, their presence in our meetings have been enriching for the Member States of AALCO.

Mr. President, I also take this opportunity to introduce the next speaker Dr. Roy S. Lee who is the Permanent Observer of AALCO to the United Nations at New York and a person with vast experience in relation not only to the ILC issues, but international law in general too. I sincerely hope that he will enlighten us on some of the key topics that are on the agenda of the Commission.

I thank you Mr. President.

**President:** Thank you, Excellency, for that brief introduction. Now I request Dr. Roy Lee to enlighten us about ILC topics.

**Dr. Roy S. Lee, Permanent Observer of AALCO to the United Nations, New York:** Mr. President, I thank you for the introduction. You yourself have involved with the UN Headquarters in New York for many years in the work of the ILC and the Sixth Committee. In this presentation, I would like to focus on how to make best use of the work of the ILC. First, we should recognize that the ILC is an expert body that is elected to represent major legal systems of the world. This year we are again going to elect new members of the Commission. The Asian-African group will together have at least about 17 seats— eight for Asia and eight for African States and then one routine seat. If you add six or seven Latin American experts in the Commission, the developing countries have a significant influence on the work of the ILC. The ILC itself has made some very important contributions. If you look at all core matters of international law, they indeed reflect the contributions of the ILC. For example, the consular and diplomatic laws are mostly the product from the ILC. The 1958 Law of the Sea Conventions and Law of Treaties are also products of the ILC. I should also mention the Convention on Watercourse which are critically important to many Member States. So you will see that more than twenty five international instruments are the products from the ILC.

Turning to the second aspect, many of the delegates have told me that many topics in the list of the ILC do not evince much interest. There are at least three reasons for this. Firstly, most of the important subjects in international law have already been codified and it had become more and more difficult to identify areas which require codification. Secondly, special branches have emerged dealing with various subjects of international law and they are deemed to be dealt more appropriately outside the ILC. This goes true for international criminal law and environmental conventions too. This development has greatly reduced the scope of the ILC. The third and perhaps the most important reason is the lack of attention to the work of the ILC. For example, this year there were over a dozen of specific requests from the ILC and there are not many responses from the Member States and this makes their job harder.

Now why should we pay more attention to the work of the ILC? Let me use an example to illustrate this issues involved. On the topic of customary international law, at present, we have a Special Rapporteur and about 15 draft conclusions have been adopted by the Drafting Committees. The work is expected to be complete next year. This topic— “Identification of Customary International Law” is an extremely important subject matter and AALCO itself has convened an expert group to go into these issues. As you know customary international law and treaty law are the two principal sources of international law. But they are quite different. Treaties are subject to negotiation, are written down and are binding only on State Parties. Customary international law, on the other hand, is binding on all States. The question is who identifies that a custom is indeed a custom in international law.

Now the ILC decided that they will complete this subject next year. Some have commented that the ILC has not spent enough time on this subject matter. Let me explain we should pay attention to the draft conclusions put forward by the ILC. For example, for those who believe that Article 2 of the UN Charter provide for the non-use of force principle and Article 51 which defines the conditions for self defense may wish to ask— would this draft conclusions constitute a potential challenge to this basic principles. Because as you know, some States hold the view that according to customary international law, there exists the right to

preemptive strike. Therefore it is a challenge to the written law in the UN Charter. So I leave it to you to think about it—whether the adoption of the draft conclusions on customary international law can be used to challenge existing written law.

The Secretary-General had also mentioned that one of the elements mentioned in Sir Michael Wood's draft is "persistent objector", which constitutes an exception to customary international law. If a State persistently objects to an evolving custom, then it is not binding on that State. Academically, it is a very sound inclusion. But the question is in practice how often do we object to certain events with a view to prevent the emergence of a customary international law. So in practice it is very difficult to insist on persistent objections. This is an example of why we should pay attention to the work of the ILC. Therefore, we should pay more attention to their work and make use of the Commission in a better way. Mr. President, thank you very much.

**President:** I thank Dr. Roy Lee for his guiding comments. He has touched many core issues dealt by the ILC. Given that international law is ever evolving, the Commission will always remain relevant. Turkey is the first Member State to take the floor. I invite the distinguished delegate of Turkey for their statement.

**The Delegate of Turkey:** Mr. President, Vice-President, Secretary-General, Dr. Lee and Distinguished Delegates, I would like to take this opportunity to share some personal thoughts on the relationship of AALCO and the ILC. The mandate of the International Law Commission has two pillars: one is to promote the progressive development of international law and second its codification. Over the decades the ILC has played a role in the codification of international law, in particular the 1958 Geneva Conventions on the Law of the Sea, the Vienna Convention on the Law of Treaties and most recently the Non-navigational Uses of Waterways. And, the current agenda of the ILC includes Crimes against Humanity which is prepared in the form of Draft Articles for a possible international convention. However, there is a sense in the international community that we have graduated from the era of codification into phase looking more to implementation. There has also been a profusion of soft law instruments.

For this reason, some have questioned as to whether the ILC continues to have relevance, especially as many codifications have taken place outside of the ILC such as the recent Paris Agreement. But I firmly believe that this is not the case at all. Quite to the contrary the ILC continues to be extremely relevant – but as in all undertakings it is healthy to reflect.

The ILC is held in high esteem as an authoritative body of international law experts. The well-known and oft-cited Draft Articles on State Responsibility stands as one of the most evident example of how the work of ILC—while not engendering a binding instrument—remains extremely influential in shaping international law. The current on-going work of the ILC on Customary International Law, which is not for codification purposes, is intended to be used as a practical source to assist practitioners, courts at the domestic and international levels and others seeking assistance in understanding this complex area of international law. It has adopted the format of "Draft conclusions"—and not Draft articles for purposes of an international convention. However, the term "conclusion" implies a definitive final statement.

Given the authoritative standing that the ILC holds it is clear that once adopted the Conclusions on the Identification of Customary International Law will become a source in and of itself. While the work of the ILC may be focused less on codification per se, there is

no question that its work will continue to have authoritative force, whether as “conclusions”, “principle” or “articles”. Why is this important for AALCO? AALCO represents 47 States from the Asian and African regions. And this does not even reflect the full scale of countries from these two regions. The question is to what degree we have been able to contribute and actually influence the progressive development of international law and its codification. The Law of the Sea has been one area where AALCO has shaped international law, the EEZ being a case exemplar. But what has been the influence of AALCO in the ILC?

There are nine subjects in the current agenda of the ILC. Two of these have Special Rapporteurs from AALCO Member States: Protection of the Atmosphere and *Jus cogens*, the latter being a very recent addition. Over the history since of ILC – since 1949 I have calculated a total of 9 Special Rapporteurs were from AALCO Member States. I may have missed one or two but still this is a relatively small representation given the area and population that AALCO Member States represent.

Secretary General, Rahmat Mohamad’s work over the past 8 years to increase the profile and influence of AALCO within the ILC cannot be underestimated; it is to be commended and continued. The establishment of the Legal Experts Working Group on different areas of international law provides AALCO with a base to provide input. For example the Expert Group work on Customary International Law and the meeting held last August, which I attended, was important and with actual tangible outcomes. The most recent report of the Special Rapporteur as published this past March, made direct reference to AALCO comments and has taken them into account. This demonstrates the influence that AALCO can have within the ILC and ultimately in shaping the progressive development of international law.

But there is clearly much more we can and should be doing not only in contributing to the preparation of reports but also in defining the agenda of the ILC. While I realize that AALCO is composed of States that may have divergent views on substantive issues of international law, however, this should not preclude AALCO from identifying key questions of international law that could benefit from the work of the ILC, propose and support it being included on the agenda.

As an aspiring member to the ILC together with my colleagues I believe we must promote diversity of views within the ILC to reflect the reality of international law being truly international and not purely Euro-centric. There should be a balance between the different systems. I look forward to your comments and contributions. Thank you, Mr. President.

**President:** Thank you, distinguished representative of Turkey. Now I would like to invite the distinguished delegate of Japan.

**The Delegate of Japan:** Thank you, Mr. President. First, I would like to thank the Secretary-General for the introduction of the issue and Dr. Lee for the presentation. I would like to share a couple points related to this issue.

First, Strengthening the Role of ILC and Promoting Dialogue with ICJ. During the past decades, the International Law Commission has greatly contributed to the progressive development of international law and its codification by developing draft articles on specific subjects. While taking note of the fact that the Commission has already achieved codification in the major fields of international law through its intensive deliberations over the years, I see another emerging challenge which the Commission faces: to make ILC more appealing to the

UN Member States in light of the current situation. To that end, it is important to promote and strengthen an interaction between ILC and ICJ. Given the fact that members of ILC frequently refer judgments of ICJ in their deliberation of each topic in the Commission, they are in the very good position to provide professional evaluations on particular elements of international law which the Court points out.

As the body consisting of persons of recognized competence in international law, ILC can play a role as a “critical observer” of ICJ. Even though both ILC and ICJ are independent bodies and they should not intervene in each other’s work, the Commission should seek further opportunities for interaction with the Court.

Now one comment on the protection of the atmosphere. Regarding the topic of the “protection of the atmosphere”, it is understood that the third report prepared by the Special Rapporteur Mr. Murase will be deliberated in the on-going Sixty-eighth session.

During the deliberation on the Report of the International Law Commission in the Sixth Committee of the 70th session of UNGA last October, many Member States expressed their support for the decision of the Commission to discuss the topic as a crucial issue of the international community. In particular, a large number of supports were given to the language appeared in the preambular part of the Draft Guidelines that “the protection of the atmosphere ... is a pressing concern of the international community as a whole.” At the same time, I understand that a keen discussion took place regarding the Draft Guidelines proposed by the Special Rapporteur on the general obligation of States to protect the atmosphere.

It is commendable that the Commission provisionally adopted the Draft Guideline 5 regarding international cooperation in relation to protection of the atmosphere. In the modern industrial society, protection of the atmosphere ought to be carried out by cooperation among states. Thus, obligating states to cooperate with each other and with relevant international organizations for the protection of the atmosphere is a necessary rule to be included into the guidelines. Protection of atmospheric environment is a serious issue particularly for Asia and Africa. I thus hope that AALCO Member States will contribute to the discussion both at ILC and the Sixth Committee.

As for the topic of “crimes against humanity” which is currently discussed at the International Law Commission (ILC), I acknowledge the importance of the on-going work to fill the legal gap of obligations of prevention and punishment of crimes against humanity, as Japan attaches great importance to ending impunity for the most serious crimes of concern to the international community as a whole. Japan is of the view that the current work should avoid any legal conflicts with the obligations of states arising under the constituent instruments of international courts or tribunals, including the ICC, and we take note that the current work is carried out while taking that point into consideration. In order to end impunity, coordinated actions by the international community are required. I am thus looking forward to further discussion at the ILC and the Sixth Committee. I also hope that AALCO Member States will contribute to such discussion.

Lastly, I would like to touch upon the cooperation between AALCO and the ILC. In order to provide better chance for ILC to contribute to the promotion of the progressive development of international law and its codification, views from the international community, particularly voices from Asia and Africa should be properly reflected. In this sense, the Japanese delegation welcomes that the informal exchange of views among legal advisors of delegations to the UN was organized by the Permanent Observer of AALCO to the UN on the

role of ILC in the development and making of international law in January last year. The Sixth Committee is a main body of providing ideas of the UN Member States to ILC, and thereby, an appropriate interaction among legal advisors in New York initiated by AALCO is highly appreciated. Mr. President, I thank you.

**President:** I thank the distinguished delegate of Japan for his comments. Now I invite Malaysia for their statement. You have the floor, Malaysia.

**The Delegate of Malaysia:** Thank you, Mr. President. Firstly, on behalf of my delegation, I would like to thank the Secretary General and the Secretariat for the Organization of this Annual Session. I also thank Dr. Lee for his insightful comments. We also would like to use this occasion to thank Prof. Murase for his second report on the “Protection of Atmosphere.”

Mr. President, in this regard Malaysia notes that the ILC has referred the Draft Guidelines 1,2,3 and 5 as contained in the Special Rapporteur’s second report to the Drafting Committee and upon consideration of the report of the Drafting committee the Commission provisionally adopted Draft Guidelines 1,2 and 5 and four preambular paragraphs considered from Draft Guideline 3 together with commentaries.

Mr. President, in relation to the preambular paragraph, Malaysia shares the same view as the AALCO Secretariat that the Commission has rightly incorporated both in the preamble and Guideline 2 the understanding that the Draft Guidelines will not interfere with relevant political negotiations including those of climate change, ozone depletion and long range trans boundary pollution. Malaysia takes note that the fourth preambular paragraph reflects the 2013 understanding of the Commission when the topic was included in the programme of the ILC. On this note, Malaysia is of the view that the fourth preambular paragraph touches on scope of the guidelines. In this regard, Malaysia prefers that the fourth paragraph be relocated in Draft Guideline 2.

Mr. President, with reference to the Draft Guideline 1 on the use of terms, Malaysia notes that the term atmosphere has been broadly defined as the envelope of gases surrounding the earth. Specific reference to the two layers of gases, i.e. troposphere and stratosphere and airborne substances as provided in the first report have been eliminated. Malaysia is of the view that the proposed definition should not by any means alter or narrow the existing scientific interpretation of the atmosphere. Malaysia reiterates that clarification has to be sought on the status of other elements in the atmosphere that are not covered by the proposed definition. Scientifically, atmosphere contains gases, clouds, particles of dust and other particles called aerosols.

Malaysia further notes that both paragraph b and c of the Draft Guideline 1 provide for the term “by human” to focus on human activity whether direct or indirect. Malaysia is of the view that addressing “by human” without specifying the act would be of broad scope. Hence Malaysia would like to reiterate our previous intervention that Malaysia seeks specific kind of human activities intended to be covered under the Draft Guidelines as to ensure that the activities proposed will not overlap with human activities covered under the existing international regime on environmental protection.

Mr. President, in relation to the scope of the Guidelines, Malaysia notes that the proposed Draft Guidelines deals with the protection of the atmosphere in two areas: atmospheric pollution and atmospheric degradation. Malaysia further notes that Draft Guideline 2

concerned only on anthropogenic process originating from human activities and not on natural phenomenon like volcanic eruption and meteorite collisions. In this regard, Malaysia is of the view that consultation with scientific and technical experts is crucial to the matter particularly to enable gaps to be filled with regard to anthropogenic causes and natural origins.

Mr. President, Malaysia understands that international cooperation could take a variety of forms and notes that paragraph 2 of Draft Guideline 5 stresses in particular the importance of cooperation in enhancing scientific knowledge relating to the causes and impacts of atmospheric pollution and atmospheric degradation. Paragraph 2 of Draft Guideline 5 also highlights that cooperation could include the exchange of information and joint monitoring. Malaysia shares the same view with AALCO Secretariat that given the fact that wider range of activities could cause transboundary air pollution or global climate change obligating States to cooperate with each other and with relevant international organizations, further protection of atmosphere is a welcome rule to be included in the Draft Guidelines. Pursuant to that Malaysia reiterates to seek clarification on whether it is appropriate to highlight only exchange of information and joint monitoring as there are many other forms of cooperation that could be relevant such as technology transfer and capacity building.

With regard to “crimes against humanity”, Mr. President, Malaysia records its appreciation to the Secretariat in selecting this topic for deliberation in this half day special meeting. It is settled that this meeting has become a platform for Member States to articulate their views on proposed conventions on crimes against humanity. Bearing in mind that there are already various multilateral treaties which addresses crimes against humanity such as the Rome Statute, Malaysia wishes to reiterates its concern that it is premature to conclude that the time is right for the adoption of a new international instrument on the issue of crimes against humanity.

Mr. President, at this juncture, Draft Article 3(1) of the proposed convention on the crimes against humanity substantially replicates Article 7(1) of the Rome Statute. In this regard, based on the concept of complementarity, there may be necessity for the parties to the Rome Statute to enact legislations under the Rome Statute, failure of which, they may be deemed as unwilling or unable. In view that there are currently 124 State Parties to the Rome Statute, as far as criminalizing issue of the crimes against humanity, Malaysia remains unclear of any value added of Article 3(1) of the proposed convention. Instead what need to be addressed is the reason behind the failure of the State Parties who has not done so in enacting such legislation. In this regard, Malaysia is of the view that the drafting of the proposed convention should be pursued prudently to ensure that any further work on this matter should not overlap with the existing legal regime.

Mr. President, additionally, Malaysia wishes to highlight its concern on the issue of the referral of the UN Security Council which may be manipulated by political influence in the decision of the ICC. In this regard, Malaysia hopes that the concerns regarding the Rome Statute, in particular the role of the UN Security Council in the Rome Statute can be addressed in the proposed convention on crimes against humanity.

Mr. President, finally, Malaysia wishes to reiterates its recommendation to the ILC to focus on drafting guidelines or sample of articles relating to the crimes against humanity to be adopted or to be used as guidance for States in developing legislation on crimes against humanity. Thank you, Mr. President.

**President:** I thank the distinguished delegate of Malaysia for his statement. Now I invite India for their statement.

**The Delegate of India:** Thank you Chair. On behalf of my delegation, I take this opportunity to thank all the panelists for their presentations. I also congratulate the AALCO Secretariat for their brief study on this subject and thank the Secretary-General/Deputy Secretary-General for introducing the agenda item. Taking into consideration the discussion on the work of the Commission, we propose to make some general comments on the topics which are identified for deliberations today.

Mr Chair, On the topic “Protection of the atmosphere”, we appreciate the Special Rapporteur, Prof. Shinya Murase for his efforts and analysis of the Draft Guidelines submitted in his first report and providing revision thereof. It is noted with appreciation that he could organize dialogue with scientists on the topic during the current session.

The five Draft Guidelines prepared and submitted by the Special Rapporteur in his second report deal with the use of terms, scope of the guidelines, common concern of humankind, general obligation of States to protect the atmosphere and, international cooperation. We agree with the decision of the Commission to address the subject matter of draft guideline 3 (on common concern of humankind) in the preambular part, and the reasons given for that in the commentary.

Considering the threats posed to the atmosphere, in particular, by air pollution and ozone depletion, the protection of atmosphere is extremely important for the humankind and so it becomes a general obligation of all States to protect the atmosphere. This general obligation is the subject matter of draft guideline 4 which requires more study and analysis. In this context, we appreciate the wisdom of Prof. Murase for having requested to defer consideration of that draft guideline by the Drafting Committee. It will provide more time for detailed and in-depth study and analysis of the subject matter of the guideline, namely, the States' obligation to protect atmosphere.

The Commission has, following the report of the Drafting Committee, provisionally adopted draft guidelines 1, 2 and 5. India notes with appreciation the future plan of work on the topic presented by the Special Rapporteur as reflected in paragraph 47 of the ILC Report. In this context, we would like the Commission to continue to strengthen its research on relevant theories and practices in a rigorous manner, and gradually clarify relevant guidelines.

Mr. Chairman, on the topic 'Crimes against humanity', we welcome the first report of the Special Rapporteur, Professor Sean D Murphy. The report assessed potential benefits of developing a convention on crimes against humanity and dealt with certain aspects of the existing multilateral conventions that promote prevention, criminalization and inter-State cooperation in dealing with crimes.

After examining various treaty regimes, the Special Rapporteur proposed draft articles on prevention and punishment of crimes against humanity and its definition. After referring these draft articles to the Drafting Committee, the Commission provisionally adopted four draft articles on the scope; general obligation; definition of crimes against humanity; and obligation of prevention. In view of the existing international legal regimes and mechanisms dealing with the subject matter, we consider that it needed in-depth study and thorough

discussion in the Commission. The proposed obligations should not conflict with the existing treaty obligations and it should not duplicate the existing regimes.

Mr. Chairman, With regard to Chapter XII of the ILC Report, we welcome the decision of the Commission to include in its programme of work the new topic '*Jus cogens*' and appointment of Mr. Dire Tladi as the Special Rapporteur for the topic. We agree with the view that "questions relating to sources lie at the heart of international law", and for the reasons explained in the Annex, we agree that it is now timely for the Commission continue its strong tradition of engaging with, *jus cogens*, by a comprehensive examination of the concept as a topic.

We support the legal issues identified on the topic, the nature of *jus cogens*; requirements for the identification of a norm as *jus cogens*; an illustrative list of norms which have achieved the status of *jus cogens*; consequences or effects of *jus cogens*. *Jus cogens*, being peremptory norm of general international law, the aspects thereof to be chosen for study, would be of interest for all. With these observations, I thank the Chair for giving us this opportunity. Thank you.

**President:** I thank the distinguished delegate of India for his comments. Now I invite China for their statement. You have the floor, Sir.

**The Delegate of People's Republic of China:** Mr. President, Vice President, Mr. Secretary General, Dr. Roy Lee, the Chinese delegation would like to join the previous distinguished delegates to thank AALCO for organizing this special meeting, thank the secretariat for the report regarding ILC and especially thank Mr. Secretary General for your efforts to prompt exchanges between AALCO and ILC. We would also like to thank Dr. Lee for your very thoughtful presentation.

Mr. President, The 68th session of the ILC is being held for nearly 3 weeks. The reports of many topics are not available yet. The Chinese delegation will briefly reiterate and highlight a few key points on three topics, taking into consideration the discussion on the report of the ILC on the work of its 67th session at the Six Committee of UN General Assembly last November.

With respect to the topic of "Crimes against humanity", the Chinese delegation holds that, codification of draft articles should be based on a thorough review of the positions and practice of States, rather than primarily draw on the practice of international judicial institutions or adopt verbatim the provision of some international conventions, such as the definition of "crimes against humanity" and the relation between "crimes against humanity" and "in time of war". With regard to the list of specific crimes, full consideration should be given to differences among national legal systems. The Commission should also pay attention to the implementation of relevant provisions by these States whose domestic law has not defined the specific crimes such as "enforced disappearances". In the absence of legal basis and the practice of States, the Commission should give cautious consideration as to whether it is appropriate to impose upon States such obligations as that of cooperation with "other organizations" to prevent crimes against humanity.

With respect to the topic of "protection of the atmosphere", the Chinese delegation believes that, the purpose and scope of this project should be further clarified, especially the boundaries between this topic and the relating questions such as trans-boundary air pollution,

ozone depletion and climate change. Some crucial terms, such as atmospheric pollution and atmospheric degradation, need to be defined more clearly. We suggest the Commission differentiate types of atmospheric pollution in working out relevant provisions instead of a “one-size-fits-all” approach. Adequate consideration should be given to the priorities of developing countries and their capacity building in addressing atmospheric pollution.

With respect to the topic of “*jus cogens*”, the Commission has included this item on its program of work and will start its discussion this year. The Chinese delegation is of the view that, due to lack of relevant state practice, it is yet premature to carry out a thorough study. An in-depth study on *jus cogens* will not be possible unless there is sufficient information on state practice. Although a few international conventions and several decisions of the International Court of Justice did mention *jus cogens*, they did not elaborate on the nature of *jus cogens*, nor can they serve as guidance for identification of such rules. The Commission should adopt a cautious approach in referencing the above practice.

Mr. President, This year will be the last year of the current term of the Commission. China congratulates the Commission on its fruitful progress achieved in the past five years, and hopes the Commission will achieve its goal of work for this term. Thirteen members of the 34 current members the Commission are from the Members of AALCO. Their work helps the Commission perform its mandate from a balanced perspective. The Chinese delegation expresses appreciation for their contribution.

Just as Mr. Secretary General said, there are active interactions between AALCO and the ILC. Over the years, the AALCO Annual Session has considered items of the ILC and has maintained regular exchanges with the latter. We hope AALCO will further strengthen its communication and cooperation with the Commission, reflect the positions and concerns of Asian African countries, and contribute to the comprehensive and balanced development of international rule of law. Thank you, Mr. President.

**President:** I thank the distinguished delegate of China for his comments. Now I invite Iran for their statement.

**The Delegate of the Islamic Republic of Iran:** “In the name of God, the Compassionate, the Merciful”, Mr. President, Prof. Rahmat Mohamad, Secretary – General, Excellencies, Distinguished Delegates, Ladies and Gentlemen,

My delegation would like to express its appreciation for the lucid presentations provided by the panelists of this Session on the topics under discussion by the International Law Commission. I should also thank the AALCO Secretariat for the comprehensive report on the topic and for organizing this Special Half-day Meeting on “Selected Items on the Agenda of the International Law Commission”.

As from the topics on the Agenda of the Commission during its Sixty-Seventh Session, as advised by the Secretariat, we will limit our remarks on the three of them, namely, “Crimes against Humanity”, “Protection of Atmosphere” and “*Jus cogens*”.

Mr. President, The Islamic Republic of Iran is of the view that the idea of drafting a new convention on crimes against humanity by the Commission, due to many reasons, still needs serious consideration. First of all, crimes against humanity as crimes under international law have been defined clearly in numerous international instruments since the World War II, the

most important of which being the Statute of the International Criminal Court (ICC). Furthermore, customary international law gives a clear understanding of crimes against humanity in international law.

Review of the report of the Special Rapporteur and the proposed draft articles demonstrate that no new provisions in international law are to be codified or developed by the commission on this topic. In this respect, it is enough to consider the fact of the matter that virtually all the States that addressed the issue before the Sixth Committee maintained that the Commission should not adopt a definition on “crimes against humanity” that differs from article 7 of the Rome Statute.

At the time, many States have criminalized crimes against humanity in their national legislations by utilizing existing instruments on this crime. Moreover, under the principle of *Aut dedere aut judicare*, bilateral judicial assistance agreements and other international instruments referred to by the Special Rapporteur in the first report, there is sufficient legal basis as to the prevention and punishment of crimes against humanity.

In this regard, my delegation would like to note that the solution to addressing the existing insufficiencies in the implementation of some provisions on crimes against humanity is not to prepare a new convention; rather, it would be more reasonable to seek the reasons and motives of non-implementation and to propose some methods to eliminate them. It is worth noting that drafting a new convention on crimes against humanity risks undermining the legal regime under the existing instruments, in particular, the Rome Statute.

From the abovementioned, one may conclude that consideration of a new convention on a topic of international law parallel to the existing instruments cannot, *per se*, contribute to its strengthening, it may rather lead to fragmentation of international law and would not fill any legal lacunae in the life of the international community.

Mr. President, Turning to the issue of "Protection of Atmosphere", my delegation would like to begin with appreciation to considerable efforts made by Mr. Murase, the Special Rapporteur in preparation of the second report on this item. The Commission's work on protection of atmosphere is aimed at preventing future loopholes in the legal regime applicable to protection of atmosphere. Therefore, we believe that the Commission should not exclude from its study any sources of pollutants and substances detrimental to the atmosphere, in particular radioactive and nuclear emissions, due to their potential longstanding and transboundary risks.

Similarly, in Guideline 2, Paragraph 3, some specific substances such as black carbon, tropospheric ozone, and other dual-impact substances have been excluded from the scope of the guidelines. While this is done so as not to interfere with the results of the ongoing negotiations, we are of a view that a “without prejudice” clause is more helpful and appropriate than exclusion of a specific substance from the scope.

As regards the decision of the Commission to replace the phrase “common concern of mankind” with some paragraphs in the context of the preamble, we consider this modification as an appropriate measure in order to include more legal concepts in the guidelines. Furthermore, the atmosphere is the Earth's largest single and one of the most important natural resources, (as it was listed as a natural resource by former United Nations Committee on Natural Resources, as well as the 1972 Stockholm Declaration on the Human Environment and in the 1982 World Charter of Nature), therefore, we believe that the phrase “common

heritage of mankind” along with the “pressing concern of the international community” is relevant and helps properly refer to the atmosphere in legal terms.

Article 192 of the United Nations Convention on the Law of the Sea sets out the general obligation of States “to protect and preserve the marine environment” which could also be characterized as an obligation *erga omnes*. This approach has been highlighted by ITLOS in the case concerning *Responsibilities and Obligations of States Sponsoring Persons and Entities With Respect to the Activities In the Area*, in which the Court, referring to Article 48 of the ILC Articles on State Responsibility, indicates that “each State Party may also be entitled to claim compensation in light of the *erga omnes* character of the obligations relating to preservation of the environment of the high seas and in the area”. We believe that the same general obligation is applicable to the protection of the atmosphere.

On the issue of cooperation as one of the principles of modern international law applicable to protection of atmosphere, it is worth noting that the obligation to cooperate in international law is a vague and undefined legal concept; thus, any decision as to its extension to the legal regime applicable to the protection of atmosphere ought to be coupled with an in-depth study taking into account the technical aspects of the issue. The same concern exists in relation to the principles of international environmental law, *inter alia*, sustainable development, and their application with regard to the topic. The second report merely makes reference to these principles without analyzing them in the context of the topic. The relationship between the protection of atmosphere and these concepts deserve consideration in the Commission’s future work on the topic.

Mr. President, Last but not least, on the issue of *jus cogens*, we welcome the decision of the Commission to work on the topic and share the Special Rapporteur’s contention that there is no controversy about the very existence of *jus cogens* and that on the other hand its contours, precise legal effects and qualifications need to be analyzed by the Commission.

We wish, however, that the Special Rapporteur would pay a special attention to the consequences of breach of a *jus cogens* norm, particularly, in light of article 41 of the ILC’s Draft Articles on State Responsibility for Internationally Wrongful Acts. We are of the conviction that a good number of situations have been created by a serious breach within the meaning of article 40 of the Draft Articles and likewise efforts have been made by many states to render aid or assistance in maintaining such situations in terms of article 41 of the Draft: thus, there IS enough practice. Constant illegitimate reference to threat or use of force by certain States is only one example thereof.

The same approach has been taken by ITLOS in the case concerning *Responsibilities and Obligations of States Sponsoring Persons and Entities With Respect to the Activities In the Area*, in which the Court, referring to Article 48 of the ILC Articles on State Responsibility. The International Court of Justice has likewise reiterated the obligation of non-recognition of situations created as the result of an *obligation erga omnes*, a priori *jus cogens*, in several cases including in its advisory opinion on “the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory”, whereby all the States are requested not to recognize the situation arising out of an illegal act of an *erga omnes* character. We express our regret that the illegal situation created by the Israeli regime still persists despite the clarity of the issue from the legal perspective.

In sum, due to the fact that the International Law Commission has been cautious in determining the nature and instances of *jus cogens*, we share the views expressed by some

delegations during the Sixth Committee deliberations that the Commission should approach the issue with ample prudence. Thank you Mr. President.

**President:** Thank you, distinguished delegate of Iran. Now I invite Republic of Korea. You have the floor, Sir.

**The Delegate of Republic of Korea:** Thank you, Mr. President for giving me the floor. I shall be very brief. I will make three points. First, our government's views regarding these issues were fully expressed during the Sixth Committee of the UN General Assembly. So I will not repeat them. Second, my delegation intends to make active participation in informal consultation regarding this issue. In particular, how we can envision how to further strengthen or enhance the interaction between the ILC and AALCO. So my delegation will express itself clearly during the informal consultations. Further, I would like to echo what Dr Lee suggested. To a large extent, I share his views. At the same time, I want to point out a couple of issues. If I recall correctly during 1940s, the ILC conducted a survey in connection with its work. Around half of the topics suggested at that time were completed by the ILC. Some of the issues were political in nature. That is why they were reluctant. These days, treaties are not concluded as often as it did a few decades back. This kind of lukewarm attitude of the international community has ramification in the work here too. We have to be more proactive in the work of the ILC through Sixth Committee and other avenues like AALCO. Mr. President, Thank you very much.

**President:** I thank the distinguished delegate of Republic of Korea. Republic of Korea is the last Member States in the list. If no other Member States wishes to take the floor, I invite the observer delegation of Vietnam to express their views.

**The Delegate of Vietnam:** Mr. President, Secretary-General and distinguished Delegates, It is the first time the delegation of Vietnam takes the floor at the 55<sup>th</sup> Annual Session of AALCO, let me start by thanking the Government of India for hosting this important event and for its hospitality towards all AALCO delegations as well as observers. I am pleased to inform the conference that Vietnam is expediting its internal process to join AALCO before this September.

Indeed, Vietnam recognizes the contribution and significance of this Organization in facilitating discussion of topics most relevant to the interest of Asian and African countries as well as developing countries. We believe the Annual Session of AALCO is an important platform for its Members and Observers to exchange views and work towards a common understanding on various matters.

In addition, we also look forward to various training and seminar programs organized by AALCO as part of its capacity building initiatives. These activities will surely benefit its participants and enhance knowledge and capabilities of AALCO members to take an more active role in the works of the International Law Commission and the Sixth Committee of the United Nations General Assembly.

Mr. President, distinguished delegates, With regard to the topics to be discussed at the 68<sup>th</sup> session of the International Law Commission, our delegation would like to provide some comments as follows:

On the topic of "Protection of the Atmosphere", we take note with high appreciation the second report by the Special Rapporteur, Prof. Shinya Murase of Japan. In general, Vietnam

fully supports the codification of international rules regarding protection of the atmosphere and promotes the responsibility of all States in protecting this common concern for the benefits of our future generations. We also share the view that the codification of the Guidelines should take into account the current treaty system as well as on-going negotiation on climate change, trans-boundary air pollution and the deplete of the ozone layer.

With regards to the 5 draft Guidelines proposed by Prof. Murase in his second report, we welcome and actively support the definition of new term “atmospheric degradation” because it broadly includes all kinds of pollutions, such as air pollution, ozone depletion, climate change and any other alterations of the atmospheric conditions resulting in deleterious effects on human life and health and the Earth’s natural environment. However, it should be clear with the exact scientific content and criteria to evaluate the degree of degradation, regional or global.

We also view guidelines 3,4 and 5 are positive contributions by Prof. Murase in this topic. However, we hope the Special Rapporteur will continue to improve the linkages between the definition of “atmosphere”, “Air pollution”, “Atmospheric degradation”, “common concern of humankind” and the obligation to protect the atmosphere. More specifically, the next report should address the content of protection obligations so that States could understand what international law requires them to do.

On the topic of “*Jus cogens*”, we would like to emphasize that we welcome the inclusion of this topic in the work of the International Law Commission and believe that the study undertaken by its Special Rapporteur, Prof. Dire D. Tladi of South Africa, will lead to meaningful outcomes. We also believe that discussion under this topic will greatly contribute to the development of international law. By definition, Article 53 of the Vienna Convention on the Law of Treaties clearly states that “a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character”. Indeed, the consensus-based approach is still valid until today and the recognition of a *jus cogens* rule cannot be an academic exercise but base on solid State practices. With this in mind, we could not support any other approach that may lower the standard of *jus cogens*. Having said that, we encourage AALCO to facilitate the collection of State practices from Asian-African countries.

On the topic of “Crimes against humanity”, we take note of the second report by the Commission’s Special Rapporteur, Prof. Sean D. Murphy. We highly appreciate the work of the Commission to fill the gap in the existing legal framework. Being a victim of genocide act done by Khmer Rouge in 1970s, Vietnam welcomes a broad; clear and inclusive definition of “crimes against humanity”. We take note of the definition proposed by the Special Rapporteur in conformity with Article 7 of the Rome Status. However, we observe that this definition may conflict with provisions of national laws regarding this crime, for example, Vietnam’s Criminal Code which provides additional element of territorial magnitude or social-economic factor.

Indeed, a definition based on Article 7 is also flawed due to the terms ‘widespread’ and ‘systematic’. The term “systematic” means repetition of wrongdoing acts in long period while the prevention of crimes against humanity requires an immediate, prompt identification of crime and action. For example, in 1977-1979, the Khmer Rouge killed, tortured

Cambodians and Vietnamese in widespread and inhuman manner for a long time but the world community had reacted slowly by the political reasons. The Khmer Rouge had even maintained its seat at UN for long time.

Having said that, we encourage the Special Rapporteur to continue development of the draft Articles with a view to enhancing cooperation between States by facilitating mutual legal assistance in criminal matters.

To conclude, Mr. President, Vietnam welcomes and fully support the work done by the International Law Commission and stands ready to cooperate with AALCO Members to build a common understanding that represents the interest of all Asian-African countries as well as developing countries.

I thank you, Mr. President, for your kind attention.

**President:** I thank distinguished delegate of Vietnam for his statement. Distinguished colleagues, with this we have come to the conclusion of our deliberations on ILC topics.

**XI. VERBATIM RECORD OF THE FOURTH  
GENERAL MEETING**

## **XI. VERBATIM RECORD OF THE FOURTH GENERAL MEETING HELD ON THURSDAY, 19 MAY 2016 AT 02:30 PM**

### **AGENDA ITEM: LAW OF THE SEA**

**His Excellency Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and the President of the Fifty-Fifth Session of AALCO in the Chair**

**President:** Welcome back to our deliberations. We have for our consideration the agenda item- “Law of the Sea”. This time the suggestion is to focus our deliberations on the marine biodiversity beyond national jurisdiction. But Member States can express their views on other areas within the topic as well. The reason for keeping “Marine biodiversity” as the theme is in the context of the ongoing discussions and debates on the topic in the Preparatory Committee established for exploring the possibilities of an international agreement on the subject. The need arose from the gaps found in the 1982 Convention which does not adequately address issues related to marine biodiversity.

First of all, I invite Deputy Secretary General, Ms. Harimoto for her introductory remarks.

**Ms. Yukiko Harimoto, Deputy Secretary-General:** Thank you, Mr. President. Excellencies, Distinguished Delegates, Ladies and Gentlemen; The agenda item “Law of the Sea” was taken up for consideration by the Asian-African Legal Consultative Organization (AALCO) at the initiative of the Government of Indonesia in 1970. Since then it has been considered as one of the priority items at successive Annual Sessions of the Organization. The present report No. AALCO/55/NEW DELHI/2016/SD/S2 focuses on (i) marine biodiversity, particularly in areas beyond national jurisdiction and (ii) exploration of deep sea resources. These are the two key developments in the law of the sea regime that have been a subject of much debate and discussion at multilateral international forums including the United Nations.

The General Assembly established the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. The currently existing regulatory, institutional and general governance gaps show that threats to marine biodiversity in Areas Beyond National Jurisdiction (ABNJ) are not sufficiently addressed by existing frameworks, as the existing regime is ambiguous and often inconsistent. While such ambiguity has been resolved partially by regional or sectoral mechanisms, the international community should still endeavour to move towards a more concrete global scheme that obtains the participation, co-operation and support from all members of the international community.

Excellencies, as you might be aware, on 8 April 2016, the Preparatory Committee (‘PrepCom’) met to finalize discussions on principles and recommendations of the first conclusive meeting of the Ad Hoc Working Group. The meeting produced recommendations for a decision to be taken by the UN General Assembly on the development of a new international instrument on Marine Biodiversity Beyond National Jurisdiction (BBNJ) under UNCLOS, as also mandated by the 2012 UN Conference on Sustainable Development (Rio+20). In the last decade, questions have been raised whether the current framework

sufficiently addresses the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction.

This is because it has long been recognized that the open ocean spaces are ‘global commons’ and should therefore be utilized by all States both equitably and peacefully. It is important to recognize that not all ocean regions have adopted legally binding instruments, or have the same institutional capacity. As a consequence, there is a need for a more comprehensive and stringent set of rules at the global level. An international instrument could first of all clarify and strengthen the common global mandate for conservation and sustainable use of biodiversity in ABNJ. Furthermore, we must strive to establish a comprehensive legal, institutional and governance framework that builds on and consolidates the existing regional and sectoral institutions, and also addresses and closes all existing gaps. Once into force, such an instrument could provide for a set of shared and more specific binding obligations that would greatly improve conservation efforts, and provide clear procedures and mechanisms for cooperation and coordination.

Keeping this in mind, the Secretariat of the Asian-African Legal Consultative Organization (AALCO) has successfully completed a study entitled “Marine Biodiversity beyond National Jurisdiction: An Asian-African Perspective.” This study had been mandated by the Member States at the 54<sup>th</sup> Annual Session. The study analyses various norms and regulations that address marine biodiversity and seek to utilize them to build a model legal regime.

Excellencies, Ladies and Gentlemen, the second issue on the agenda is the exploration of deep sea resources. The deep sea has always been a key area for human exploitation: resources such as fish, oil and gas have been taken from the sea for many decades, and recently, the marine environment has been targeted as a source of renewable energy. Although deep sea mining has been in existence since the 1960s, the recognition that metalliferous deposits on the seafloor could provide a valuable source of scarce metals has become increasingly widespread in the past 5 years. Over the past decade the demand for precious metals for advancing technologies has rocketed, making deep-sea deposits increasingly attractive to commercial operators. The most likely targets for deep-sea mining are polymetallic sulphides, manganese nodules and cobalt-rich ferromanganese crusts.

Although mining is confined at present to national waters, exploration is increasingly taking place in areas beyond national jurisdiction. Overall, deep seabed mining is tightly regulated by an international body established for that specific purpose namely, the International Seabed Authority (ISA). Nevertheless, there are several glaring gaps in the regime which was largely negotiated in the 1970s and 1980s, before the 1992 Earth Summit, and which was without the benefit of vastly improved scientific understanding of deep-sea ecosystems or recognition of the new and readily available technologies that enable deep sea mining to take place at a larger scale. There are also concerns that a more strategic approach needs to be taken when addressing the protection and conservation of the deep-sea environment in order to balance other environmental, political or economic concerns of States.

The extraction of deep-sea mineral resources will have a significant impact on the marine environment, particularly its ecosystems. The scale and nature of these impacts remains uncertain and depends on the target resource and its associated ecosystems, and the technology used to extract the ore. Deep-sea mining will potentially affect extensive areas of seabed and will likely produce near-bottom, mid-water or near-surface sediment plumes. Therefore, it is imperative that the international community engages in discourse on the

regulation of this space. In that regard, we must praise the work of the International Seabed Authority (ISA) and look to its work for guidance as we embark on this task.

The nexus between the environment and the high seas has been stressed on by scholars all across the globe. Unless the international community acts swiftly, we are at danger of losing one of mankind's most valuable resources. Thank you, Mr. President.

**President:** I thank Ms. Harimoto, the Deputy Secretary-General for her introductory comments. Kuwait is the first country in the list of Member States wishing to make statements. I invite the distinguished delegate of Kuwait. You have the floor, Sir

**The Delegate of State of Kuwait<sup>12</sup>:** Thank you, Mr. President. Based on Article 70 of the Kuwaiti Constitution which stipulates that “the Prince will conclude treaties by a decree and appraise the Parliament immediately about the same after ratification and notification in the official gazette shall have the form of Law”, the State of Kuwait ratified the United Nations Convention on Law of the Sea vide. Law No. 15 of 1986. Following the ratification, the Convention has become a national law and a comprehensive legal frame work regulating Kuwait's relations with other countries through the high seas.

After the United Nations Convention on Law of the Sea of 1982 came into force, it has become incumbent to carry out a comprehensive evaluation of the legal aspects that have practical implications in the following areas:

1. A system/regime for exploration and exploitation of the sea beds beyond national jurisdiction of countries in the light of agreement on application of Part II of the Convention and the work of the international Seabed Authority in this regard.
2. Developments related to the principles governing the marine spaces under the jurisdiction of coastal states in the area of continental shelf and Exclusive Economic Zones either through treaties between the disputing states or relevant provisions of international jurisdiction.
3. Effects of technological and scientific inventions on the concepts brought in by the 1982 Convention.
4. The perspectives of the Third World countries on the 1982 Convention. The Third World countries have made contributions to the evolution of the Convention in its themes and contents. However, there is a necessity to examine how far the principles of the Convention reflect and take care of the interest of the Third World countries including their developmental needs and fulfillment of their aspirations.

Further, the evaluation of the Convention itself is not sufficient. Rather, it is necessary to discuss its relationship and its impact on related areas including the marine transportation, and the relevant legal responsibility vis a vis marine activities in the light of scientific developments in this regard. Also, there is a need to study evolving principles and mechanisms in the area of application of Convention on the seas in order to explore development of public international law in relation to its fundamental concepts and the means and mechanisms of settlement of international disputes. Thank you.

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<sup>12</sup> This statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

**President:** Thank you, distinguished delegate of Kuwait. I now invite Cyprus to make their statement.

**The Delegate of Cyprus:** Thank you, Mr. President. Cyprus, being an island, has always attached great importance to maritime domain. In modern times this was demonstrated through the active participation of Cyprus in the Third UN Conference of the Law of the Sea, where it contributed to the shaping of contemporary law of the sea.

Mr. President, Cyprus remains committed to the legal framework governing maritime affairs as enshrined in 1982 UN Convention on the Law of the Sea. This Convention is universally accepted as the legal authority of the law of the sea, the “Constitution of Oceans”, and constitutes the codification of the majority of rules and principles of customary international law of the sea, which are also binding on States which are not parties to the Convention. UNCLOS also represents the progressive development of the law of the sea, namely the creation of new rules that have now passed in to the corpus of customary international law, and should not be perceived as two distinct frameworks; they are complementary.

Mr. President, Given that UNCLOS does not adequately regulate conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, the international community has recognized the need to develop an international legally binding instrument to address this issue, as elaborated in the UNGA resolution 69/292, which led to the convening of the First Session of the Preparatory Committee on Marine Biodiversity on Areas beyond National Jurisdiction. We, therefore, appreciate the initiative of the Secretariat to prepare the AALCO publication, “Marine Biological Diversity beyond National Jurisdiction: An Asian-African Perspective.” As we did not have an opportunity to read this publication, we are not in a position to comment on it. Therefore, we would like to reserve our position with regards to the contents thereof. Thank you, Mr. President.

**President:** Thank you, distinguished delegate of Cyprus. I now invite India to make their statement.

**The Delegate of India:** Thank you, Mr. President. On behalf of the delegation of India, let me thank the Deputy Secretary-general for the introductory remarks on the topic. Let me also commend the AALCO Secretariat for bringing out a Special Study on “Marine Biodiversity beyond National Jurisdiction: An Asian-African Perspective” which is a very useful reference for Member States.

Mr. President, Since the Secretariat has suggested that the deliberations may focus on marine biodiversity beyond national jurisdiction, our delegation would confine the statement on the same. Our delegation participated in the first Preparatory Committee to make substantive recommendations to the UN General Assembly on the draft text of a legally binding instrument under UNCLOS. As regards the scope of legally binding instruments under UNCLOS and its relationship with other instruments, our delegation is of the view that instrument should encompass all marine biological resources in areas beyond national jurisdiction currently known or discovered at any time in future. It should address issues related to the access, exploration, exploitation, conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. Issues relating to the protection of marine environment beyond national jurisdiction, access and benefit sharing, patenting of marine genetic resources, capacity building, transfer of marine technology, area-based management tools, including marine protected areas, and environmental impact assessments should also be addressed taking into account the views and positions of States, in particular the developing countries.

As regards the relationship with other instruments, the new instrument could be an implementation agreement under the UNCLOS, 1982 implementing its provisions related to the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction by filling the legal and implementation gaps, in particular concerning marine genetic resources.

Mr. President, on guiding principles of legally binding instruments, UNCLOS remains the basic guiding document, including the principles contained therein, particularly the principle of “Common Heritage of Mankind.” Other relevant principles *inter alia* include freedom of high seas and access and benefit sharing. Additionally, the deliberations should take into consideration the relevant general principles of international law and the rights and duties enshrined in international law. The deliberations should be guided by ecosystem approaches, the precautionary principle and open and transparent decision making process with the participation of all parties. Our delegation is of the firm view that all related questions, challenges and issues need to be examined carefully and settled to the benefit of all in accordance with relevant international principles and based upon full and adequate scientific knowledge of oceans.

**President:** I thank the distinguished delegate of India. The important point touched in India’s statement is the principle of Common Heritage of Mankind. In fact, developing countries stress that the principle applies to all resources in the seabed. Next on the list is Nepal. Sir, you have the floor.

**The Delegate of Nepal:** Mr. President, Deputy Secretary-General, Ladies and Gentlemen. The delegation of Nepal deeply acknowledges and appreciates the excellent compilation of developments in the field of law of the sea prepared by the AALCO Secretariat, and insightful introductory remarks by the Deputy Secretary General. The research study on Marine Biodiversity beyond National Jurisdiction: An Asian-African Perspective is very significant and really admirable. In fact, the AALCO has made a historical contribution to the elaboration of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the Constitution of the Oceans.

UNCLOS is undoubtedly a key instrument dealing with ocean affairs. As a member state of this Convention, Nepal has always extended its full cooperation in ensuring proper management and sustainable use of ocean resources, both living and non-living. As a land-locked country, Nepal attaches a great importance to the UNCLOS in that it provides for the freedom of transit of land-locked states to and from the high seas.

It is clear that land-locked states are entitled by this Convention to two sets of rights, namely transit rights and resource related rights. Given that resources of the seabed and ocean floor beyond the limits of national jurisdiction are the common heritage of mankind, landlocked states are entitled to this right. For this purpose, they have an unconditional right of transit through the territory of neighboring state to have access to and from the sea. In order to facilitate the smooth enjoyment of this right on the ground, transit states are in good faith to enter into bilateral, sub-regional and regional arrangements with landlocked states. The provision of MFN clause will not be applicable in relation to such arrangements.

Similarly, landlocked states have a right to participate on an equitable basis in the exploitation of an appropriate part of the surplus of the living resources of the EEZ of the

coastal states of the same sub-region or region, and as well as in the exploitation of the international seabed and sub-soil thereof.

In view of the foregoing, Nepal is in favour of a comprehensive and binding international agreement under UNCLOS on conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. Nepal has actively participated in the first session of the Preparatory Committee on Marine Biodiversity on Areas Beyond National jurisdiction held on 28 March to 8 April 2016. Nepal reiterates its position that the common heritage of mankind is essentially applicable to marine genetic resources in the Area and in the high seas. Additionally, such agreement should ensure equitable distribution of benefits or fruits, with ensuing intellectual property rights. Capacity building and technology transfer mechanisms should also be given due weight so that landlocked developing and least developed countries would also have share in the exploration, exploitation and sharing of benefits from marine genetic resources, in an environmental friendly manner.

Moreover, I would also like to mention that Nepal has regularly followed up the deliberations at the United Nations Open-ended Informal Consultative Process.

Mr. President, My delegation would also like to appreciate the role played by the permanent observer of AALCO to the United Nations Dr. Roy Lee during the first session of the Preparatory Committee. He has also convened one wonderful side event on behalf of AALCO in New York.

Mr. President, On this occasion, let me make a couple of propositions for consideration by the delegates attending the Session.

Firstly, AALCO should collectively urge to have an appropriate mechanism ensuring mandatory technical assistance and support to land-locked countries particularly developing and least developed ones so that they can be in a better position to enjoy the freedoms of high seas, international sea bed and harness living and non-living resources in an equitable manner.

Secondly, AALCO should continue to pursue the agenda of marine environment so that the polluter pays principle and the notion of common but differentiated treatment are materialized on the ground.

Thirdly, AALCO should consider developing a model agreement on freedom of transit between and among its transit and land-locked Member States. Similarly, the AALCO should take an initiative to develop a common position of its member states on the implementing agreement on marine biodiversity beyond national jurisdiction being negotiated in the Preparatory Committee.

Mr. President, as a final note, Nepal holds the view that the AALCO should maintain its consideration on this agenda item. Thank you.

**President:** Thank you, distinguished delegate of Nepal. I now invite China to make their statement. You have the floor, Sir.

**The Delegate of People's Republic of China:** Thank you, Mr. President. Mr. President, The international community attaches great importance to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction (BBNJ). The Chinese delegation believes that, to develop an international legally-binding instrument on BBNJ under the

United Nations Conventions on the Law of the Sea is the most important legislative process in the area of the law of the sea. China has actively participated in the first session of the preparatory committee held recently, and supports the preparatory committee in pushing forward the discussion on issues of marine genetic resources, area-based management tools, environmental impact assessments, capacity building and the transfer of marine technology, based on the package reached in 2011.

The delegation of China maintains that the new instrument on BBNJ should be complementary to the UNCLOS, and should serve to bridge the legal gap of concrete rules in accordance with the spirit and principle of the UNCLOS. It should also put emphasis on codifying the existing international practice, and develop further on this basis. The new instrument should take into account the interests and needs of the international community as a whole, particularly those of the developing states. Meanwhile, the institutional design and arrangement should strike a reasonable balance between marine environmental protection and sustainable utilization, and meet practical needs, based on sound legal and scientific grounds.

Mr. President, Most of the developing countries, including China, are generally concerned with the issue of marine genetic resources and the sharing of their benefits. The Chinese delegation supports the new instrument in making institutional arrangements for access and benefits-sharing of marine genetic resources, so as to fill the lacuna of the UNCLOS in this aspect.

Area-based management tools, including marine protected areas, represent an important element of the 2011 package. China is of the view that the establishment of MPAs and other area-based management tools should be in line with the purposes and principles of the UNCLOS. It should not affect the freedoms and rights enjoyed by states on the high seas pursuant to the Convention, nor should it affect the sovereign rights of coastal states over their outer continental shelves beyond 200 nautical miles of their territorial baselines.

As to the Environmental Impact Assessment, the institutional design of the new instrument should be consistent with the provisions of the UNCLOS, especially those of Part XII. It should clearly identify the areas and scopes of the EIA and establish a set of complete assessment procedures. As a preventative measure, EIA should not be conducted unless the activities concerned might cause substantial pollution or significant and harmful changes to the marine environment. The relevant arrangements should contribute not only to the marine protection, but also to the goal of sustainable use of marine resources.

Capacity building and transfer of technology are among the important means to improve the ability of the developing countries for conservation and sustainable use of marine biological diversity. The Chinese delegation is supportive of the new instrument in setting out institutional regulations, in order to comprehensively fulfill the obligations provided in part XIV of the UNCLOS and promote the full implementation of the Agenda 2030 for sustainable development.

Mr. President, The Chinese delegation will, as always, continue to engage in in-depth discussion and consultation with all parties on the development of an international legally-binding instrument in a constructive and open attitude. The Member States of the AALCO may enhance communication and coordination on these issues in future negotiations to better safeguard our common interest. In this regard, we appreciate the work of the AALCO secretariat to issue the "Marine Biodiversity beyond National Jurisdiction: an Asian African

Perspective", and applaud the side event organized by Dr. Roy Lee during the first Session of the Preparatory Committee. China also looks forward to further strengthening cooperation with other countries to explore ways and means to tackle the various challenges in the area of the oceans and seas, especially to promote the proper function of UNCLOS, and to jointly build a harmonious world with harmonious oceans and seas that enjoys lasting peace and common prosperity. Thank you, Mr. President.

**President:** Thank you, distinguished delegate of China. I now invite Thailand to make their statement. You have the floor, Sir.

**The Delegate of Thailand:** Mr. President, Excellencies, Distinguished Delegates, On behalf of the delegation of Thailand, I would like to express our appreciation to the AALCO Secretariat for its informative report on the Law of the Sea as well as its continued efforts to provide AALCO Member States with an update on the latest development and challenges in this area of international law.

Mr. President, It goes without saying that, United Nations Convention on the Law of the Sea sets out the very foundation of the legal framework of the international law of the sea. After over 20 years of the entry into force of the Convention, our delegation would like to commend the continued efforts made by States toward the full implementation of the UNCLOS. We also strongly encourage States to join the Convention as it is a crucial step in achieving the common goal of sustainable development in the oceans and seas.

In this regard, Thailand reaffirms her commitment to the effective implementation of the Convention. Recently, the National Legislative Assembly passed a law on marine and coastal resources management- a law that was drafted based on principles set out by UNCLOS and provides for the establishment of a legal framework for fair and efficient management of marine and coastal resources. The participatory mechanism under this new law invites and encourages coastal communities to participate in the conservation and protection of marine and coastal resources; thus raising local awareness of the significance of sustainable exploitation and the potential impact of their cumulative actions on the future availability of resources stretching beyond areas of national jurisdiction – resources which Thailand, and indeed the international community, regard as a common heritage of mankind.

Thailand will continue to actively review her domestic legislation to ensure that the spirits of the Convention are truly and genuinely realized. For this purpose, the Committee on the Law of the Sea and Maritime Boundary of Thailand has been established. As an inter-ministerial body consisting of representatives from various agencies, the Committee is designed to enhance coordination among agencies concerned and is specifically entrusted with the tasks of considering issues relevant to the law of the sea and maritime boundaries.

Mr. President, We believe that marine biological resources beyond areas of national jurisdiction must be treated as common heritage of mankind. It must be ensured that the immense benefits of the oceans are equitably shared by all nations and people. The Thai delegation have actively participated in the deliberation of the meeting of the Ad Hoc Open-ended Informal Working Group to study issues relating to conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. In order to avoid the so-called ‘tragedy of the commons’ for marine biological diversity in this context, Thailand is an unwavering supporter of a new legal instrument to govern this issue under UNCLOS.

The new international instrument must be used to address the issues of definitions, conservation and the sustainable use of marine biodiversity in areas beyond national jurisdiction, and also cover marine genetic resources and a benefit-sharing regime, including capacity-building, transfer of genetic resources technology, as well as the establishment of a comprehensive mechanism within the instrument's framework.

Mr. President, On the issue of maritime security, Thailand reaffirms its strong condemnation of piracy and armed robbery at sea by enhancing capacity building, information sharing and cooperative arrangement. At domestic level, Thailand Maritime Enforcement Coordinating Centre (Thai-MECC), an institute comprising 5 major governmental units: the Royal Thai Navy, the Marine Police, the Customs Department, the Department of Fisheries and the Marine Department is currently in transition to be upgraded to the Thai Maritime Law Enforcement Administration Centre, in which the Maritime Information Sharing Centre would take a priority. At the regional front, Thailand is actively participating in the ASEAN Maritime Forum and the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).

Mr. President, Last but not least, Thailand would like to take this opportunity to reaffirm its commitment under UNCLOS and other frameworks to promote sustainable use of marine biological resources as well as maritime security and cooperation. My delegation has no doubt that AALCO members will continue to benefit from the constructive and fruitful discussions entertained at AALCO's sessions, as well as the remarkable works achieved by the Secretariat on the Law of the Sea. We look forward to this session with great interest and will make contributions whenever the opportunity avails upon us. I thank you, Mr. President.

**President:** Thank you, distinguished delegate of Thailand. I now invite Turkey to make their statement. You have the floor, Madam.

**The Delegate of Turkey:** Mr. President, Deputy Secretary-General and Distinguished Delegates, I have the honor to make the following comments on behalf of the Republic of Turkey:

Pursuant to resolution 69/292, which expressly recognizes that participation in the negotiations for the Development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction will not affect the legal status of non-parties to the Convention, I would like to make some comments on the increasingly important matter of equitable access to marine genetic resources in areas beyond national jurisdiction—that is the high seas.

Without question this is the linchpin of the on-going PreCom negotiations at the United Nations that began in March. Marine genetic resources are increasingly being used for a host of applications—from pharmaceuticals, cosmetics and more. However, it is an extremely cost-intensive process and so only a handful of countries and companies are able to engage in the exploration and exploitation of marine genetic resources—especially in the deep oceans.

In the negotiations, there is a divergence of views—particularly between the developing and developed States, whether or not marine genetic resources in areas beyond national jurisdiction fall under the Common Heritage of Mankind regime or freedom of the high seas. But without delving into this issue I would like to make a some observations and suggestions.

First, AALCO proactively contributed to the first session of the PrepCom at the United Nations. AALCO organized a very well attended side-event on marine genetic resources, and I was honored to have been invited to speak on that panel. AALCO should continue in engaging with this issue as it was clear from the workshop that there is a need for and interest by States to have more information on the scientific and legal aspects of marine genetic resources.

In terms of understanding equitable access and benefit sharing of marine genetic resources in areas beyond national jurisdiction we need to look at all aspects, including non-monetary benefits as well. For example, enhancing participation of developing countries in marine scientific research of marine genetic resource activities. This is also part of capacity building.

Secondly, the issue of transfer of marine technology under Part XIV of UNCLOS—is of particular relevance to marine genetic resources in areas beyond national jurisdiction. Part XIV calls for development of common criteria, establishment of national and regional centers and programmes.

Mr. President, in this regard I would propose the following:

That AALCO consider holding a workshop on equitable access and benefit sharing of marine genetic resources in areas beyond national jurisdiction and to continue with its proactive contribution to the on-going negotiations at the United Nations; and also to hold a workshop on the transfer of marine technology. Thank you, Mr. President.

**President:** Thank you, Madam. I now invite Iran to make their statement.

**The Delegate of Islamic Republic of Iran:** “In the name of God, the Compassionate, the Merciful”, Mr. President, In the beginning, allow me to thank the Secretariat for the inclusive report on the item of "the Law of the Sea". The continuous consideration of the topic by AALCO can contribute to the existing discussion on law of the sea issues currently on the agenda of the international forums, particularly the United Nations.

Mr. President, The General Assembly in its resolution 69/292 of 19 June 2015 decided to establish the Preparatory Committee to develop an international legally binding instrument under the 1982 United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. The Islamic Republic of Iran welcomes the decision and reiterates that the marine biodiversity of areas beyond national jurisdiction has a notable environmental, economic and social importance and it can contribute to development of science, better health, and food security of the international community. My delegation would like to highlight the accumulation of a number of threats to marine ecosystems beyond areas of national jurisdiction, including unsustainable resources exploitation, destruction of habitats, pollution, ocean acidification and climate change. A new legally binding agreement should preclude the unprecedented unsustainable use of marine resources by a few and characterize binding instructions for improving elements of sustainable use of the *status quo*.

My delegation intends to fully emphasize the remarkable importance of the mandate arising from paragraph 162 of “The Future We Want” Rio plus 20 conference outcome agreed in 2012 regarding the commitment on developing a specific legal regime for the conservation and

sustainable use of marine biodiversity of areas beyond national jurisdiction and to take a decision, on the development of an international instrument under UNCLOS.

There is an urgent need to unite our efforts towards reaching common grounds on the contents of a new legally binding instrument to ensure that all States can make the best-informed decision to address legal and regulatory gaps in governance and rule of law over our oceans. Such a new characterized agreement shall not prejudice the rights and obligations of non-Parties to UNCLOS so that all States can work together in ensuring not only on the conservation and management of marine biological diversity in areas beyond national jurisdiction but also on the effects of the exploration and exploitation of genetic resources in areas beyond national jurisdiction.

Mr. President, My delegation reiterates the role of the GA of the UN and in general the role of international law on the relevant issues, particularly the importance of the guiding principle embodied in General Assembly resolution 2749 (XXV) that the Area as well as its resources are the common heritage of mankind and all activities "shall be carried out for the benefit of mankind as a whole, taking into particular consideration the interests and needs of developing States." For my delegation, the principle of the Common Heritage of Mankind enshrined in the UNCLOS is a part of customary international law and should be taken into account without any prejudice to the rights and obligations of non-parties to the Convention. This guiding principle needs to be incorporated into the new legally binding instrument on BBNJ as appropriate.

Meanwhile, we recognize the importance of the responsibilities entrusted to the International Seabed Authority regarding marine scientific research and the protection of the marine environment, and the need to take them into account. Given the positive characteristics of the International Seabed Authority, building an implementing authority resembling the Authority can oversee a future legally binding instrument regarding biodiversity beyond national jurisdiction and guarantee its functions. Such a new authority should be given the priority to explore and exploit marine resources which are considered as the heritage of all mankind and should have the competitive capacity to coordinate all activities performed by the individual legal entities.

Mr. President, My delegation would like to express its concern regarding the current status of fragmented procedures in utilization of the marine genetic resources without a uniformed coherent legal framework for management to that end. Such an overarching legal institutional instrument should ensure a coordinated, integrated and collaborative approach in addressing current existing gaps and shortcomings in implementation.

Meanwhile, my delegation believes that a new binding instrument under the UNCLOS, while helping move from fragmentation to coherent, should fully support and recognize, and avoid overlap and redundancy with existing legal instruments and the activities of the relevant frameworks. As an active party to the 1995 United Nations Fish Stocks Agreement and the 1992 Convention on Biological Diversity (CBD), my delegation would like to draw attention to the need for developing a holistic benefit-sharing regime for marine genetic resources; or effectively address the necessary cooperation and coordination between the existing regional and global organizations.

Mr. President, My delegation also stresses the need for considering the legal regime highlighted by the General Assembly in its resolutions, in particular Resolution 65/37 and believes that the "legal regime" to be negotiated must encompass all the elements at stake including

conservation and sustainable use, including the sharing of benefits, and capacity building and transfer of technology.

Elaborating some integral elements of the issue, my delegation would like to recognize the importance of comprehensive conservation of marine genetic resources by applying the existing mechanisms and management tools including area-based management and environmental impact assessments. In addition, we believe that transfer of technology is an essential tool for capacity-building in the sphere of marine science and there exists an urgent need for a continued and enhanced participation of scientists from developing countries in marine scientific research in areas beyond national jurisdiction, so that they can access and benefit from the sustainable use of marine biodiversity of areas beyond national jurisdiction.

Mr. President, We understand that an appropriate mechanism for sharing all benefits deriving from the exploitation of the biological diversity of a marine area considered as Common Heritage of Mankind needs to be precisely negotiated in the future instrument. Addressing the integral elements of a mechanism for benefit-sharing would be considered as the only feasible option to ensure that developing countries benefit equitably from the conservation and sustainable use of biodiversity beyond areas of national jurisdiction.

My delegation strongly considers that there is a necessity to pave the way for a united decision through meaningful discussions oriented at the remarkable meetings of the Preparatory Committee. This unanimity is best to be created among the Member States of AALCO until the final result. Thank you, Mr. President.

**President:** Thank you, distinguished delegate of Iran. I now invite Japan to make their statement. You have the floor, Sir.

**The Delegate of Japan:** Thank you, Mr. President. I would first like to thank the Secretariat for the presentation of the issue. Mr. President, I will start with the issue of the marine biological diversity of areas beyond national jurisdiction (BBNJ). Last August, experts from Japan participated in the AALCO's Legal Expert Meeting on the Law of the Sea focusing on BBNJ held in association with the University Malaysia Terengganu (UMT). The Expert Meeting was useful for deepening understanding of AALCO Member States on the issue before the start of the Preparatory Committee for the legal Development of an international legally binding instrument under the UNCLOS on BBNJ.

In March this year, the First Session of the Preparatory Committee was convened. Japan attaches great importance to the role played by the Preparatory Committee, established by the UNGA resolution 69/292, to make substantive recommendations to the General Assembly on the elements of a draft text of an international legally binding instrument under the UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

It is of crucial importance that the new instrument enjoys broad support, including by those states with development capabilities in the high seas and in the Area, so that it will be truly universal and effective. It is also important to have science-based and constructive discussion within the Preparatory Committee. Japan has made a human contribution to the bureau of the Preparatory Committee. We will continue to engage actively in the discussions at the Preparatory Committee and contribute to developing the elements of a draft text of an internationally legally binding instrument on the conservation and sustainable use of BBNJ.

Next, As for the Commission on the Limits of the Continental Shelf (CLCS), my Government attaches great importance to the role of the Commission of considering and qualifying the submissions made by States Parties pursuant to UNCLOS, and making recommendations. Since the establishment of the Commission, Japanese Commission Members have been consistently and greatly contributing to the work of the Commission.

In addition, Japan has also made financial contributions to “the Trust Fund for the purpose of defraying the costs of participation of the members of the Commission on the Limits of the Continental Shelf from developing States in the meetings of the Commission”. Last year we donated approximately 60,000 US dollars to the Fund. The Trust Fund was established to support the members of the Commission from developing countries who are facing financial difficulties to participate in the meetings of the Commission held in New York. In each of the 37th and 38th sessions, 8 members of the CLCS were able to attend the meetings through the assistance from the Fund. We hope that, through the contribution to the Fund by other States Parties as well, the attendance of the Commission members from developing countries at the meetings of the Commission will be encouraged further. Japan also expects that the Commission will facilitate an efficient and speedy consideration of the submission regarding the outer limits of the continental shelf made by the States Parties without compromising the quality of its work.

Mr. President, As a maritime state, Japan attaches great importance to role played by the International Seabed Authority for a sound exploration for and exploitation of the mineral resources in the Area in accordance with UNCLOS and its Implementing Agreement. At the 21st session of the Authority, a draft framework for the regulation of mineral exploitation was presented by the Legal and Technical Commission, and further consideration regarding the exploitation code is expected during the coming sessions. Japan intends to continue its constructive engagement in the work of the Authority in order to adopt adequate regulations of mineral exploitation in the Area, with an appropriate balance of considerations for “exploitation” and “environment”.

Japan has served as Council Member of the Authority since its establishment. We have been consistently making human contribution to the Legal and Technical Commission and the Finance Committee. Japan intends to continue to actively engage in activities of the Authority in terms of human and finance resources, and contribute to enhancing the legal order in the Area.

Mr. President, Since the previous Annual Session of AALCO, the International Tribunal for the Law of the Sea (ITLOS) issued two provisional measures and it has two cases in its docket. Japan pays tribute to the Tribunal’s significant contribution to the advancement of the rule of law at sea, which is strongly advocated by Prime Minister Abe with “the Three Principles of the Rule of Law at Sea”.

It is a great pleasure for Japan to see the Tribunal mark the 20<sup>th</sup> anniversary this year. I would like to take this opportunity to extend our congratulations to all of those who have worked very hard to let the Tribunal achieve its record and reputation of today. As the leading contributor to its budget, Japan will continue to support ITLOS to the possible extent. Thank you, Mr. President.

**President:** Thank you, distinguished Ambassador for your statement. I now invite Republic of Korea to make their statement. You have the floor, Sir.

**The Delegate of Republic of Korea:** Thank you, Mr. President. I would like to mention only one element on the issue—area of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, BBNJ. Many provisions of the UNCLOS and other international instruments can be applied to the issues relating to BBNJ. Of course, these provisions are not sufficient to deal with all aspects of BBNJ.

However, my delegation is of the view that the new international legal instrument expected to be adopted one day in the UN system should be devised within the framework under the UNCLOS. The UNCLOS was designed as an open system, capable of embracing new instruments which may complement it in the future. But the UNCLOS has put a limit on this openness and flexibility. In particular, Article 311 of the UNCLOS lays down the rules governing the relation between the UNCLOS and other conventions or international agreements. Article 311 allows a variety of *inter se* agreements, which had pre-existed, or which may be adopted in the future, but this article requires such instruments shall not affect the basic principles of the UNCLOS.

Therefore, my delegation considers that the AALCO Member States and international society should approach to the issue of BBNJ, paying careful attention to the rules set down in Article 311 of the UNCLOS. Thank you.

**President:** I thank the distinguished delegate of Republic of Korea. Distinguished delegate, Republic of Korea was the last speaker among Member States. Now I invite the observer delegation of Vietnam for their statement.

**The Delegate of Vietnam:** Mr. President, distinguished delegates, On the topic of Law of the Sea, we welcome initiative and effort of the AALCO Secretariat to provide in time the full, clear and detailed information relating to the Law of the Sea's activities in the world. The governance of biodiversity in the areas beyond national jurisdiction is probably the most interested issue facing the world community. In this process, the role of regional organizations is very important. Art. 197 of the UNCLOS states that states oblige to "cooperate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features."

We highly appreciated the work of the Preparatory Committee on marine biodiversity of areas beyond national jurisdiction and the UN Ad-hoc Open-Ended Informal working group. At the first meeting of the Preparatory Committee, Vietnam has made it clear that in our opinion, marine genetic resources, especially those living in, on and above the sediment of the Area should be considered as "common heritage of mankind" in accordance with Article 1 and 136 of the United Nations Convention on the Law of the Sea 1982. Accordingly, benefits from the Area should be shared equally among States.

Also from the scientific viewpoint, we consider all living resources in water column as Marine Genetic Resources because all benthic organisms receive nutrient and energy from surface layer through water column. Therefore, conservation of benthic organism on the seabed is closely linked with the conservation of the whole ecosystem.

In this line, we fully support the negotiation of a legally-binding instrument on biodiversity beyond national jurisdiction that addresses topics identified in the package agreed in 2011. More specifically, we would like to emphasize topics of marine genetic resources, area-based management tools, marine protected areas, environmental impact assessment, capacity-building and transfer of marine technology.

We also understand that in embarking on this endeavor, we should be mindful of other existing legal instruments that cover the relevant or similar topics in order to avoid overlapping. In our view, the new instrument should be compatible and complementary to the existing instrument, such as the United Nations Convention on the Law of the Sea, the Convention on Biological Diversity...etc.

Mr. President, With a view to enhancing AALCO's participation in the BBNJ negotiation process, we recommend the AALCO in cooperating with the regional scientific organizations to set up a list of available Marine Protected Areas, vulnerable marine ecosystem areas in the region. In addition, we need to think about the mechanism to safeguard the interest of fishermen in disputed areas and encourage environmental protection activities in these regions. The AALCO should call Member States to apply the Ocean Health index system and share information and data to ocean management. I thank you, Mr. President for your kind attention.

**President:** I thank the distinguished delegate of Vietnam. Distinguished colleagues, with this statement, we have concluded discussions of this agenda item. After the break, we will have the first meeting of the Open-ended Working Group on International Law in Cyberspace. Thank you.

**XII. MEETING OF THE OPEN-ENDED WORKING  
GROUP ON INTERNATIONAL LAW IN  
CYBERSPACE**

## **XII. MEETING OF THE OPEN-ENDED WORKING GROUP ON INTERNATIONAL LAW IN CYBERSPACE HELD ON THURSDAY, 19 MAY 2016 AT 4.00 PM**

**His Excellency Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and President of the Fifty-Fifth Session of AALCO in the Chair**

**President:** Let us start with the next item in our agenda. It is the first meeting of the Open-ended Working Group on International Law in Cyberspace. The house will have to elect the bureau for the purpose of the Working Group— Chair, Vice-Chair and Rapporteur. Let us begin with the election of the President. Any proposals from the floor?

**The Delegate of South Africa:** South Africa would like to nominate His Excellency Mr. Hossein Panahi Azar, Director General for International Legal Affairs, Ministry of External Affairs, Islamic Republic of Iran to be the Chair of the Open-ended Working Group on International Law in Cyberspace.

**President:** Thank you, South Africa. South Africa has nominated Excellency Mr. Hossein Panahi Azar, Director General for International Legal Affairs, Ministry of Foreign Affairs, Islamic Republic of Iran. Any secondment? I see that People's Republic of China requests the floor.

**The Delegate of People's Republic of China:** Thank you. China would like to second the nomination of His Excellency Mr. Hossein Panahi Azar, Director General for International Legal Affairs, Ministry of External Affairs, Islamic Republic of Iran on International Law in Cyberspace. Thank you.

**President:** Thank you. Now we have elected the Chairperson for the Working Group. Next, we will elect the Vice-Chair. Any proposal?

**The Delegate of India:** Mr. President, Ms. Njeri Mwangi Wachira, Chief State Counsel, Kenya to be the Vice-Chair of the Open-ended Working Group on International Law in Cyberspace. Thank you.

**President:** Thank you, India. India has nominated Ms. Njeri Mwangi Wachira, Chief State Counsel, Kenya to be the Vice-Chair of the Open-ended Working Group on International Law in Cyberspace. Any secondment from the floor? I see Uganda. Sir, you have the floor.

**The Delegate of Uganda:** Mr. President, Uganda would like to second the nomination of Ms. Njeri Mwangi Wachira, Chief State Counsel, Kenya to be the Vice-Chair of the Open-ended Working Group on International Law in Cyberspace. Thank you.

**President:** Thank you, Uganda. Next is Rapporteur. People's Republic of China has offered to serve as the Rapporteur. Prof. Huang Zhixiang of Wuhan University Law School has been nominated as the Rapporteur by China and the information has already been circulated. Any secondment? I see India.

**The Delegate of India:** Thank you, Mr. President. India would like to second the nomination of Prof. Huang Zhixiang of Wuhan University Law School has been nominated as the Rapporteur of the the Open-ended Working Group on International Law in Cyberspace. Thank you.

**President:** Thank you, India. We have completed the bureau. I respectfully invite the bureau to the podium.

**Chairperson:** First of all, I wish to thank you all for the support extended to this Working Group. Before I give the floor to His Excellency the Secretary General of AALCO, I would like to ask the Vice-Chair and the Rapporteur if they have any words to say.

**Vice-Chairperson:** Thank you, Mr. Chair. I would like to thank the delegates for having confidence in electing me as the Vice-Chair. I look forward to extending my support to the task ahead of us. Thank you.

**Chairperson:** Thank you, Ms. Njeri. You have the floor, professor.

**Prof. Huang Zhixiang:** Thank you, Chair, Vice-Chair and the Secretary-General of AALCO. It is an honour to be elected as the Rapporteur of the AALCO Open-ended Working Group on International Law in Cyberspace. As you all know, this topic, namely international law in cyberspace, has now attracted worldwide attention.

Which part of international law is applicable to cyberspace? What should be the rules for maintaining peace and order in cyberspace? How can we more effectively combat cybercrimes based on international law and international cooperation? These are some of the questions currently under the consideration of the international community. As an academic, I have the pleasure to be involved in this important field for the past few years. For instance, I had the pleasure to participate in Tallinn 2.0 project on cyberspace. Based on my experience, I have this strong feeling that international debates in these issues have accelerated remarkably. So I have no doubt that the establishment of the Working Group provides an excellent opportunity for the Asian and African countries to have their voices on this important issue. As the Rapporteur, I will certainly do my best to serve the needs of AALCO and its Member States with a view to facilitating cooperation among all the Member States. For that purpose, instructions and directions of all the distinguished delegations will be crucial. So I kindly request guidance from all. Thank you.

**Chairperson:** Thank you, Professor. I now give the floor to His Excellency Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO.

**Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO:** Thank you, Mr. Chairman. Excellencies, Distinguished Delegates, Ladies and Gentlemen,

“International Law in Cyberspace” was added to the agenda items in 2014. It was the People’s Republic of China that proposed this topic as an agenda item to be deliberated at the Annual Session of AALCO held in Teheran, and it was accepted by consensus. The agenda item was also deliberated in the Fifty-Fourth Annual held in Beijing, China in 2015. Cyberspace, in a short span of time, has become the “fifth domain” of human interaction and its idiosyncrasies have given rise to number of challenges to its domestic and international regulations. The recent developments in cyber governance suggests that odds are in favour of

the existing “multi-stakeholder” model as against a UN centric regime and current multilateral efforts are primarily directed at making the existing regime, with ICANN at its centre, more equitable and transparent. As regards consolidation of international law applicable to cyber warfare and peaceful use of cyberspace, after the publication of Tallinn Manual on cyber warfare, what is dubbed ‘Tallinn 2.0’, works to expand its coverage to include peace-time international law. Tallinn 2.0 picks up where Tallinn 1.0 left off, and will set forth the experts’ views on what international law applies to cyber activity that falls below the threshold of armed conflict or the use of force. However, whether it is too Eurocentric or not, the question is still wide open.

Excellencies, The Resolution on the agenda item adopted in the 2015 Annual Session directed the Secretariat to study this subject based on deliberation and progress made in the UN framework and other forums, with special attention to (1) international law pertaining to State sovereignty in cyberspace, (2) peaceful use of cyberspace, (3) rules of international cooperation in combating cybercrimes, and (4) identification of the relevant provisions of the UN Charter and other international instruments related to cyberspace. The Secretariat is actively engaged in this “Special Study” and will release a detailed report on its successful completion. A catalogue with tentative chapterization of the report has already been circulated amongst you.

Further, it may be recalled that the Member States, through the resolution adopted on this Agenda Item in Fifty-Fourth Annual Session held in Beijing (AALCO/RES/54/SP2), established an open-ended working group on international law in cyberspace to discuss the abovementioned issues as identified in operative paragraphs of the resolution. This Session will be the first meeting of the Open-ended Working Group. As stipulated in AALCO Statutory Rules, this meeting has elected the Chair, Vice-Chair and Rapporteur of the Working Group.

Excellencies, before concluding, I would like to inform you that AALCO is hosting a side-event during the 25<sup>th</sup> Session of the Commission on Crime Prevention and Criminal Justice (CCPCJ) at the United Nations Office in Vienna on 23 May 2016. The theme of the event is “Cybercrimes and International Cooperation: An Asian-African Perspective” and the discussions therein will focus on formal and informal regional responses to transnational challenge of cybercrimes and their effectiveness. Invitations are already sent to the Member States and I, on behalf of the Secretariat, invite you or your country delegate to participate in the event. In this regard, the Secretariat would like to place on record its appreciation and gratitude to the government of People’s Republic of China for the financial assistance to help organizing the event.

Finally, the Secretariat sincerely hopes that this meeting of the Working Group will actively discuss possible final outcome of consideration on this topic or its general direction. Thank you very much.

**Chairperson:** I thank the Secretary-General for his introductory remarks. Now I request the distinguished delegate of China to make their statement. Sir, you have the floor.

**The Delegate of People’s Republic of China:** Mr. Chairman, Thank you very much. First, I would like to extend my delegation's warmest congratulations to you Mr. Chairman, and Madam Vice-Chair, Mr. Rapporteur of the Working Group on International Law in Cyberspace for undertaking such important responsibilities for the Working Group. I believe

that under your able leadership, the first meeting and the future process of the working group will achieve full success. I also would like to thank Mr. Secretary-General for his comprehensive introductory remarks.

International law in cyberspace concerns sovereignty, security and development of every country; it becomes one of the most important emerging issues on international agenda. The establishment of AALCO Working Group on International Law in Cyberspace in last Session and holding its first meeting today is timely and significant for promoting participation of AALCO and its Member States in relevant international discussions. Pursuant to the mandate entrusted by the 54<sup>th</sup> Annual Session resolution, the Working Group shall further discuss the following issues, i.e. state sovereignty in cyberspace, peaceful use of cyberspace, rules of international cooperation in combating cybercrimes and identification of the relevant provisions of the UN Charter and other international instruments. In order to facilitate the Working Group to achieve concrete outcome for AALCO and its Member States' further consideration, we suggest the Working Group, pursuant to its mandate on rules of international cooperation in combating cybercrimes given by 54<sup>th</sup> Annual Session, and taking into account the urgent need of AALCO Member States and international community at large and relevant existing international legal instruments in this regard, may consider to adopt model provisions on cooperation in combating cybercrime between AALCO Member States. The Working Group may hold several inter-sessional meetings for this purpose, and the Chinese side will positively consider to host or provide necessary support for such meetings.

Now, I would like to share views of the Chinese delegation on four issues listed on the agenda:

First, on State sovereignty in cyberspace. The principle of sovereign equality enshrined in the Charter of the United Nations is the fundamental norm of contemporary international relations and international law, it covers all areas of inter-State relations including cyber domain. Cyberspace relies on cyber infrastructure located within the territory of sovereign States, and netizens with citizenship of sovereign States. In this sense, cyberspace should under sovereign control and jurisdiction of States.

The UN Group of Governmental Experts in the Field of Information and Telecommunications in the Context of International Security, in its latest report in 2015 affirmed that State sovereignty and other international norms and principles that flow from sovereignty apply to cyberspace.

Meanwhile, there are still divergent views on identification, interpretation of State sovereignty in cyberspace in detailed manner. We are of the view that, State sovereignty in cyberspace includes sovereignty over tangible cyber infrastructure, and sovereignty over intangible cyber information and data, both are indispensable parts of State sovereignty in cyberspace. Further, States should respect the rights of other states in choosing their development path, regulation models, public policies on cyberspace and equal participating in the international Internet governance, and should not interfere with other countries' internal affairs or engage in or support cyberspace activities that jeopardize the national security of others.

On the other hand, due to unique attributes of cyberspace and development of new technologies, emerging questions such as how to strike balance between data security, privacy, and free flow of data, and how to identify the legal status of critical infrastructure

such as root server that is essential to the functioning of global internet, remain to be further discussed by international community.

Second, on peaceful use of cyberspace. Prohibition of use of force and peaceful settlement of international disputes are fundamental principles of contemporary international law, and they should comply both online and offline. In recent years, some states continuously advanced their cyber military capabilities, as well as exaggerated the issue of cyber attack by categorically describing it as cyber warfare, thereby invoking the provisions of the Charter of the United Nations on the threat or use of force, and advocating the application of *jus ad bellum* and *jus in bello* to those cyber attack. These claims and actions would have potential negative impact on international peace and security, aggravating cyber arms race, affecting strategic trust between countries and increasing the risk of inter-state misperception and conflict.

Given the absence of international consensus and state practices on cyber warfare, China does not agree with the above interpretation and application of the right of self-defense and the law of armed conflict to cyberspace. Due to the specificity of cyberspace, the application of above-mentioned rules still faces major difficulties in attribution, identification of state responsibility, etc. The above UN GGEs could not reach consensus so far on these issues.

Peacetime cyber security threats such as cybercrimes are the most urgent challenge facing us today. All parties should strengthen their cooperation in dealing with these threats, and boycott the militarization of cyberspace, so as to safeguard the peaceful use of cyberspace for the welfare of mankind.

Third, on rules of international cooperation in combating cybercrimes. Absence of a global legal framework for combating cybercrime is not compatible with the increasing cybercrime challenges facing international community today. China has been advocating a global convention on combating cybercrime since 2010, and the UN Commission on Crime Prevention and Criminal Justice (CCPCJ) also established an open-ended intergovernmental expert group to conduct a comprehensive study of the problem of cybercrime and responses to it by member states, the international community and the private sector in 2011. The secretariat of the expert group the UN Office on Drugs and Crime has finished a more than 300 pages draft report on “comprehensive study on cybercrime” according to the mandate of the expert group. The report covers global trend, characteristics and effects of cybercrime, current status of international cooperation in combating cybercrime and its limitations, etc. The report in its conclusion, suggests countries to adopt comprehensive global instruments, including model provisions to further enhancing international cooperation, which is welcomed by the majority of countries. Regrettably, some countries persist in opposing the discussion of a global instrument over years, in the reason of the Budapest Convention of Council of Europe, a regional convention adopted by a small number of countries 15 years ago. Either from the perspective of combating transnational crimes or international practices in other fields, opposing a global convention with a regional convention is groundless and unconvincing.

China calls upon AALCO Member States to more actively express their views on this issue. China fully supports the Secretariat to host a side event on International Cooperation in Combating Cybercrime in Vienna at next week during the Twenty-Fifth Session of CCPCJ. China has nominated its expert for panel discussion of the event, and hopes other AALCO Member States can also nominate their experts to this event.

Finally, on identification of the relevant provisions of the UN Charter and other international instruments related to cyberspace. First, the UN and the Charter of the United Nations should be the main forum and legal foundation for international community to further discuss the adoption, interpretation and application of international legal instruments in cyberspace. Second, the adoption, interpretation and application of international law in cyberspace should be in a comprehensive and balanced way. Recently, some countries, while opposing the adoption of any new international rules on cyberspace, on the other hand promoting 3 to 4 rules reflecting their concerns as universally applicable “norms of responsible state behavior”. This double standard could hardly be accepted widely by international community. Thirdly, apart from the application of existing international law, we should also adopt and develop new international rules in accordance with the specificity of cyberspace and practical need of international community, including rules concerning cybercrime and cyber terrorism, etc. Thank you, Mr. Chairman.

**Chairperson:** Thank you, China. Now I give the floor to distinguished delegate of Kuwait.

**The Delegate of the State of Kuwait<sup>13</sup>:** Thank you, Mr. Chairman. I begin by pointing out that Kuwait has ratified Arab Convention on fighting cybercrimes vide law No. 60 of 2013, which comes in the context of regional cooperation in this area. The law has criminalized several actions such as stealing data, misuse of information technology and actions related to organized crimes that are committed using information technology, which include money laundering, promotion and trafficking of drugs, human trafficking and also illegal arms trafficking.

In this context, Article (5) of this Convention which stipulates that “every State party to the Convention is bound to criminalize actions mentioned under this chapter, as per its domestic legislations and systems”. It is thus clear that Kuwait by ratifying the Convention vide decree No. 60 of 2013, has fully committed itself to all of its provisions and articles, including the international commitment to passing national legislation that meets the requirements of the above Convention.

Kuwait’s keenness to meet all its international obligations made her pass law No. 63 of 2015 regarding combating cybercrimes as basis for its national legislation. Following are some of the key features of the law:

- Definitions of information systems, information related crime, e-fraud and terrorist actions.
- Criminalization of illegal entry/logins into information systems and erasing/deleting their data stipulates harsh punishment for the loss or publication of personal data.
- Criminalization of fabrication of documents or electronic systems.
- Criminalization of act of stealing or hacking information through internet.
- Criminalization of illegal electronic transaction with the intention of making them legal.
- Criminalization of access to bank data illegally.

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<sup>13</sup> This statement was made in Arabic. This is an unofficial translation DONE by the Secretariat.

- Criminalization of disclosing official or confidential communications.
- Criminalization of damaging the dignity and reputation of people.
- Criminalization of websites of terrorist organizations or for the purpose of committing terrorist acts.

In this context, it is worth pointing out that the law and the scope of extension of frameworks of fighting e-crimes internationally will not be the first of its kind in this regard. The European Council was keen about the prevention of illegal use of computers and information networks by way of national punitive legislations and application of European Council Convention to fight e-crimes (Budapest Convention), as the Member States of the council and other signatory nations to this convention with profound changes occurring due to digital nature, proximity and ever increasing globalization.

The Arab Convention for fighting cybercrimes was ratified vide law No. (60) of 2013 in order to reiterate and support the Budapest Convention mentioned above. Therefore, this Convention aims to enhance cooperation between Arab States in the area of combating cybercrimes with a view to prevent the risks of these crimes to the security of Arab States, their interests and safety and security of their communities and individuals.

Considering the increase in electronic crimes and its proliferation between the spaces of electronic networks among nations, the State of Kuwait is keen to enhance international cooperation to effectively combat these crimes. Thank you.

**Chairperson:** Thank you, distinguished delegate of Kuwait. Now I give the floor to Iran. You have the floor, Sir.

**The Delegate of Islamic Republic of Iran:** “In the name of God, the Compassionate, the Merciful”. Thank you, Chair. Mr. Chairperson, At the outset, let me thank you and Madam Chairperson on your election as the chairperson and vice-chairperson of the open-ended working group on "International Law in Cyberspace".

My delegation would like to express its gratitude to the Secretariat for the serious consideration of the item “International Law in Cyberspace” and the comprehensive report on the topic. We look forward to further work on the issue, in particular following the publication of the Secretariat's Special Study on International Law in Cyberspace which will surely create a new momentum on the challenging and multi-faceted issue of international law in cyber space. I should also commend the idea of the establishment of Working Group on International Law on Cyberspace and hope its work will help clarify the legal status of the conundrum of issues surrounding the issue of "International Law in Cyberspace".

While the Islamic Republic of Iran welcomed the inclusion of the topic on the agenda of AALCO since its inception at the Fifty-Third Annual Session of AALCO in Tehran, we continue to support the continuous work on the topic, attach high importance to it and are of the conviction that it is high time extensive work were done on the issue of international law in cyber space and its arising challenges by AALCO and Member States.

Mr. Chairperson, The radical growth of the internet in recent years has brought about miscellaneous legal challenges of considerable significance, spanning various areas of human life and of the international community as such. My delegation is of the view that AALCO

can help expand the debate on the issue and contribute to the current process of the delineation and creation of rules of international law applicable to diverse dimensions of cyber space. While the ongoing debate on the issue covers varied challenges of intricate details, the main question remains to be whether international law, as it stands today, is equipped enough to tackle the challenges posed by the use of cyber space or whether we need a completely new set of rules or a reborn international law to address and properly respond to, the diverse aspects of the phenomenon.

On the applicability of the existing international law to cyber space, we are of the view that the cardinal principles of international law govern, without doubt, relations between States and hence, *a priori*, the Cyberspace. In other words, principles of equality of States, independence of States and non-intervention in other States' internal affairs remain intact in cyber space; yet, the format whereby these principles apply in the virtual universe is different compared to the real world. In this respect, we welcome the study of the issue by the Secretariat in light of the rules applicable to areas designated as common heritage of mankind i.e. High Seas, Outer Space and the Antarctica, the result of which could immensely undermine the current understanding about the Cyberspace. The *res communis omnium* character of the Cyberspace necessitates the participation of all States in internet governance and regulation. The dominance of a single or a few State(s) on the Internet threatens the principle of equal sovereignty of States and calls into question the current system of Internet governance. Therefore, my delegation believes in the multilateral management of the Internet whereby all States would have a share in the regulation and management of the Internet.

Mr. Chairperson, As previously emphasized by my delegation during the past deliberations on the issue, Internet regulation should not lead to the encroachment of territorial sovereignty deemed "the foundation of international relations" by the International Court of Justice in its decision in *Corfu Channel*. The current system provided by Internet Corporation for Assigned Names and Numbers (ICANN), as it currently stands, does not recognize State sovereignty as such and this has been reaffirmed in the 2013 report of the UN Group of Governmental Experts on Information Security.

Mr. Chairperson, Cyber attacks can have ramifications as devastating as full-fledged air raids and can be either launched from the scratch by non-State actors or be sponsored or even designed and directed by States against other States. In either case, the principle of *sic utere* as stipulated in the Trail Smelter arbitration case between the United States and Canada, reaffirmed later by the International Court of Justice in the *Corfu Channel* case, and well-established in international relations ever since, continues to apply. Therefore, States are obliged to exercise due diligence with a view to preventing harm originating from their territories and jurisdiction to other States. this can be done via the adoption and implementation of appropriate legislation.

The Cyber Crimes Act of 2009 in Iran has been the main legislation implemented with a view to preventing illegal acts committed on, and by use of, Cyberspace. The said act provides for the legal ground for preventing and further punishing illegal infiltration and ordinary crimes committed through the Internet. Furthermore, the Cyber Police of Iran, as the main organ responsible for cyber security launches joint cyber missions with other countries to that end. Combating the sale of illegal and fake drugs in Cyberspace through the Operation Pangea 7 is an example thereof, whereby the Iranian Cyber Police cooperated with 111 countries and 200 executive bodies to confiscate fake drugs in the approximate value of 2 billion dollars. Pangea 4, Pangea 5, Pangea 6 and Pangea 7 have been other international operations carried

out with the same objective. Pangea 8 is also remarkable in this regard which was jointly operated with the Interpol and 118 countries and led to 429 investigations, suspension of 550 million online advertisements of illegal medicines and shutting down 2414 websites around the world. It is also noteworthy that according to the official report of the Interpol, Cyber Police of the Islamic Republic of Iran was ranked 17 among 113 countries.

Equipped with the said legislation and Cyber police, the Islamic Republic of Iran follows with interest the relevant work at the UN including since the adoption of the UN General Assembly Resolution 68/243 whereby the General Assembly took note of the outcome of 2012/2013 Group of Governmental Experts and most recently the unanimous adoption of resolution 70/237 whereby it welcomed the outcome of the 2014/2015 Group of Governmental Experts and requested the Secretary-General to establish a new Group of Governmental Experts that would report to the General Assembly in 2017.

My delegation hopes the establishment of the AALCO open-ended Working Group on international law in Cyberspace along with the relevant informative reports prepared by the Secretariat will contribute to the debate on the issue at our Organization and add momentum to the discussion on the topic in international forums. Thank you Mr. Chairperson.

**Chairperson:** Thank you, distinguished delegate of Iran. Now I give the floor to India.

**The Delegate of India:** Thank you, Chair. Mr. Chairman. On behalf of the Indian delegation, I take this opportunity to thank the AALCO Secretariat for the preparation of a detailed background document on the topic and the introductory statement made by the Secretary-General. The issues identified to discuss in this meeting of the Working Group include sovereignty, peaceful use, international cooperation with regards to cybercrimes and the relevant provisions of the UN Charter. The following are some of our thoughts on the topic based on the position we undertook in various fora.

Mr. Chairman, Cyber security issues are contentious and are proving to be difficult even as the incidents of cyber attacks, cybercrime and cyber terrorism grew exponentially. The challenge before the state is how to defend their critical military and civilian infrastructure from destabilizing cyber attacks. Cybercrime is on the increase. Theft of personal information and intellectual property is rampant. The distinction between state and non-state actors in cyberspace is blurring. Even as technologies of active defence are developed, the attackers are several steps ahead.

Reaching international agreement on what qualifies as the 'use of force' or an 'armed attack' is a crucial problem for international negotiation and agreement on cyber security and continued ambiguity hampers the application of international law. The international law aspects of the intervention in self-defence, economic sanctions, counter measures and so on are also within the ambit of the UN Charter.

The classical form of ICT infrastructure based jurisdiction is under reconsideration in terms of evolving nature of cyberspace environment to the data based jurisdictional aspects. Further, jurisdictional issues in respect of high sea cables and ICT infrastructure located at high seas also needs to be clarified given the freedom of high seas enunciated under the UNCLOS. Similar scenarios involving the outer space will also need to be addressed as they may be contrary to classical notions of jurisdiction and sovereignty and corresponding jurisprudence.

Mr. Chairman, In 2015, the UN Group of Governmental Experts (UNGGE) come out with its third report which in our view, was an advance over the previous report. As a result of the efforts of UNGGE, there is now a growing recognition that international law, particularly the UN Charter, applies as much as to cyberspace as to other domains. The UNGEE emphasizes that principles of sovereign equality; settlement of international disputes by peaceful means; refraining from the threat or use of force against the territorial integrity or political independence of any state; respect for human rights and fundamental freedoms including the freedom of expression; and non-intervention in the internal matters of the States are some of the principles which also applies to the ICT domain.

In conclusion, my delegation would like to point out that there is a lack of consensus in the international community on norms of behavior in cyberspace. We are at a stage where technology is far ahead of our thinking on cyber laws and cyber norms. Therefore AALCO could be a useful forum to discuss these issues for arriving at consensus for the benefit of the Member States through inter-sessional meetings and symposia. We are confident that this Working Group can generate ideas on the way forward, building consensus among the Member States on the applicability of international law. Thank you, Mr. Chairman.

**Chairperson:** Thank you, distinguished delegate of India. Now I give the floor to Japan. You have the floor, Ambassador.

**The Delegate of Japan:** Thank you, Mr. Chairperson. Let me join other delegations in congratulating Mr. Chairperson, Madam Vice-Chairperson and the Rapporteur for your election. I would also like to welcome the convening of the very first meeting of the Working Group. I also thank the Secretary-General for his very informative introductory remarks. First, I would like to state the general views of my government on this issue.

Cyberspace serves as a basis for socioeconomic activities. Securing free flow of information in cyberspace is one of Japan's basic policies. The international community is also striving to build a safe and reliable cyberspace by securing its openness and interoperability without states' excessive control or restriction while giving due attention to strike a balance between the protection of privacy and assurance of security.

Japan recognizes the risks, such as the Sony Pictures Entertainment cyber attack, against stable use of cyberspace as one of the urgent security issue that no single country can address by itself. In this context, Japan is engaged in the discussion on the scope of application of existing international law to cyberspace in the UN Group of Governmental Experts (GGE) on Developments in the Field of Information and Telecommunications in the Context of International Security, as well as recognizing the need for further dissemination of the Budapest Convention on Cybercrime in order to address cybercrime in concert with the international community.

We believe Cyberspace has been a driver for social and economic growth, innovation led by the private sector. For cyberspace to retain driving force for social and economic growth, it is essential to maintain open and transparent environment based on not multi-lateral, but multi-stakeholder approaches that all stakeholders, such as civil society, academic, private company, NGO, government can participate in the process.

Mr. Chairperson, I would like to touch upon the four items that are under our consideration. Let me first start with International Law Pertaining to State Sovereignty in Cyberspace. Japan is in the position that a State where cyber infrastructures or persons using cyberspace are located can exercise territorial sovereignty over such infrastructures or persons. In this regard, we support the affirmation by the previous UN GGE report (A/70/174 (2015)) that “state sovereignty and international norms and principles that flow from sovereignty apply to the conduct by States of ICT-related activities and to their jurisdiction over ICT infrastructure within territory”. At the same time, freedom of expression and confidentiality of communication should be respected and protected to the maximum extent possible as fundamental human rights.

Next, I would like to touch upon “Peaceful Use of Cyberspace”. Addressing various threats in cyberspace is an urgent issue in the international community. Application of existing international law should be further considered for the stable use of cyberspace. Moreover, States should be actively encouraged to take confidence building measures (CBMs) bilaterally and multilaterally to prevent unintended escalation that is not intended by the parties.

Thirdly, I would comment on “Rules of International Cooperation in Combating Cybercrimes.” Cybercrime is a transnational threat which needs to be tackled jointly by the international community. The Convention on Cybercrime of the Council of Europe, or the so-called Budapest Convention, is so far the only effective multilateral instrument on the use of cyberspace. We believe that, if more countries harmonize their domestic legislations to the standard of the Budapest Convention, it will contribute greatly to the stable use of cyberspace.

The Government of Japan participated in the negotiation process of the Budapest Convention and finally acceded to the Convention as the first country in Asia in July 2012. Nowadays, more and more non-European countries are adopting the standard of Budapest Convention in their domestic legislations. Other non-European Parties to the Convention so far include the United States, Australia, the Dominican Republic, Panama, Mauritius, Canada and Sri Lanka. South Africa has also signed the Convention.

The Convention is often described as designed solely by and for developed countries. However, this is not true. We believe that the Convention is based on universal needs of the practitioners working on cybercrime investigation and prosecution and that can be applied in any countries around the world, including both developed or developing countries, as the universal standard for cybercrime investigation and prosecution.

There are people who criticize that the Convention was adopted more than 10 years ago and therefore is outdated. It should be noted that, the Convention uses technologically-neutral language in defining criminal acts and criminal justice procedures. Therefore, we believe that the Convention can be applied to technologies of today and in the future and continue to retain an universal value with respect to technologies.

With respect to the proposal to develop cybercrime convention at the UN level, appropriate consideration should be given so as not to duplicate the efforts to create something very similar to the Budapest Convention. While recognizing that many countries are in need of urgent assistance for of cybercrime legislations and capacity building of law enforcement agencies in their own countries, we should consider what is more effective and practical,

undertaking effective assistance to these prosecutors and police officers within the existing treaty or to draft another convention which is similar to the existing treaty.

Lastly, “identification of the relevant provisions of the UN Charter and other international instruments related to cyberspace.” International law has played a significant role in securing the stability and predictability in the international community. Japan is of the position that existing international law is applicable to the conducts of cyberspace, and this point was reaffirmed in the UN GGE. The previous UN GGE report also recalled that the UN Charter applies in its entirety, meaning to caution not to cherry-pick specific rules and principles to apply them to cyberspace. On the other hand, we think that how specific norms, rules and principles of international law apply to the use of cyberspace needs further discussion taking into account the developments of state practice. Mr. Chairperson, thank you.

**Chairperson:** Thank you, distinguished delegate of Japan. Now I give the floor to Malaysia. You have the floor, Sir.

**The Delegate of Malaysia:** Mr. Chairman, First let me, on behalf of my delegation, congratulate you, Madam Vice-Chair and the Rapporteur for your election. The Malaysian delegation wishes to extend its gratitude and appreciation to His Excellency Prof. Dato’ Dr. Rahmat Mohamad, the Secretary General of AALCO and the AALCO Secretariat for their preparation of the report on International Law in Cyberspace. Noting that this topic was first deliberated in at the previous Fifty-Fourth Annual Session of AALCO in 2015; Malaysia applauds the continuation of the ongoing work at this second round of deliberation and appreciates the effort by His Excellency Secretary General and the AALCO Secretariat. Malaysia commends the AALCO Secretariat on its work on this agenda item and looks forward to the publication of the Secretariat’s special study on International Law in Cyberspace.

In this regard, Malaysia encourages Member States to utilize the publication as a source of legal reference on issues concerning International Law in Cyberspace. Mr. President, Malaysia notes that the current Session will focus its deliberations on the four issues and our initial observations are as follows:

First, on “International Law Pertaining to State Sovereignty in Cyberspace.” At this juncture, Malaysia notes that there is a vacuum in terms of international law pertaining to state sovereignty in cyberspace. Nonetheless, Malaysia notes the ongoing efforts to address the aspect of international law at the UN level and at the NATO forum, that is, the Tallinn Manual 2.0 which is at its finalization stage. In relation to the exercise of extra-territorial jurisdiction over cyber activities, Malaysia reiterates its previous position that for Malaysia, any exercise of extra-territorial criminal jurisdiction must be based on enabling domestic law.

Second, on “Peaceful Use of Cyberspace”. International law, in particular the UN Charter, is applicable and essential to maintaining peace and stability and promoting an open, secure and peaceful cyberspace. In this regard, it is arguable that Article 1 (1) of the UN Charter may apply. If this applies, it should be emphasized that breaching the peaceful use of cyberspace would lead to the exercise of the UN Security Council’s powers under Chapter VII of the UN Charter, wherein the UN Security Council may make recommendations or decide the measures to be taken to maintain or restore international peace and security in the cyberspace. Malaysia notes the customary international law principle of peaceful settlement of disputes.

Nevertheless, the applicability and practicality of the customary international law principle of peaceful settlement of disputes to cyber disputes may need to be examined.

Third, on “Rules of International Cooperation in Combating Cybercrimes”. In relation to the establishment of rules of international cooperation in combating cybercrime, Malaysia is aware that Member States apply different regimes and domestic laws in terms of international cooperation in combating cybercrimes. This may inherently cause difficulty, to a certain extent, in establishing a common international cooperation regime which is applicable and acceptable to all Member States, bearing in mind the respective domestic requirements. Therefore, as a way forward, Malaysia proposes for the harmonization of certain cyber offences which are regular to Member States.

Additionally, Malaysia notes while it is essential to have rules of international cooperation in combating cybercrimes which are commonly accepted by the Member States, nonetheless prior to the formulation and eventual adoption of the said rules, extensive consultation on the legal framework of international cooperation of the Member States should be conducted to ensure the rules are acceptable to and practical for the Member States. In pursuant thereto, Malaysia wishes to put forward a proposal for the AALCO Secretariat to conduct a detailed study on the appropriate rules of international cooperation in combating cybercrime which may thereafter lead to the formation of a guideline in this aspect, in order to assist Member States in the determination and consideration of such rules.

Fourth, “Identification of the relevant provisions of the UN Charter and Other International Instruments Related to Cyberspace”. Malaysia supports the notion that a study on the common understandings on the applications of relevant provisions from the UN Charter and other existing international instruments relevant to the use of cyberspace would contribute towards the filling of gaps in the sphere of international law of cyberspace. Aside from national regulations, a mixture of soft law, bilateral and regional accords, customary international law and multilateral treaties, gaps still seem to persist. Malaysia notes that there are a number of inherited inadequacies and loopholes in the Budapest Convention which has rendered it weak in deterring cyber threats. On that regard, Malaysia emphasizes that the Budapest Convention may need to be updated from time to time to reflect the constantly changing reality of cyber threats and cyber warfare. Further, the Budapest Convention could also be expanded to set the groundwork for an even more encompassing international treaty.

Mr. Chairman, In order to combat cybercrime, Malaysia has in place its domestic legal framework criminalizing the primary cybercrime offences, such as the Penal Code [Act 574], the Communications and Multimedia Act 1998 [Act 588], the Computer Crimes Act 1997 [Act 563] and the Personal Data Protection Act 2010 [Act 709]. Further, laws enacted pursuant to Article 149 of the Federal Constitution such as the Security Offences (Special Measures) Act 2012 [Act 747], the Prevention of Crime Act 1959 (Revised – 1983) [Act 297] and the Prevention of Terrorism Act 2015 [Act 769] are in place to provide for effectual prevention of crime throughout Malaysia and special measures for the purpose of maintaining public order and security.

In view of the alarming concern relating to cyber activities in the international arena, Malaysia welcomes the establishment of the Working Group on International Law in Cyberspace. It is Malaysia’s hope that the first fruit of deliberations by the Working Group at this Session will develop further and work alongside with the special study on International Law in Cyberspace which will be released by the Secretariat. These comprehensive studies by

the Working Group and the Secretariat are essential in guiding AALCO Member States at its' future discussions. Thank you, Mr. Chairman.

**Chairperson:** Thank you, distinguished delegate of Malaysia. Now I give the floor to Democratic People's Republic of Korea. You have the floor, Sir.

**The Delegate of Democratic People's Republic of Korea:** Mr. Chairman, As I am taking floor for the first time in Working Group Meeting, I congratulate you on your election as Chair and I assure that my delegation is ready to cooperate with you. Today, with the fast development of IT technology, the cyberspace is becoming an inseparable part of the human life and having greater impact to the political, economic and cultural sectors.

The expansion of cyberspace makes its contribution to the social development, but, on the other hand, it brings about some serious problems. In particular, serious concern is that the US has created a new form of warfare called a cyber-war by taking the advantage of its monopoly position in cyberspace and staged Cyber-war against whole world. US makes plots to abuse the cyberspace as a tool to overthrow the political and social system of independent countries including DPRK and commits cyber-crime such as wiretapping, radar monitoring and stealing secret data of not only its allied countries but also major international organizations. But we have not yet made the law to cope with cyber-crime.

The resolution of UN General Assembly titled "the right of privacy in digital age" was adopted at its 69<sup>th</sup> Session in 2014 to denounce the cyber-crime committed by US such as the wiretapping, radar monitoring, stealing data and unlawful behavior of infringement upon sovereignty of other country. But it is not enough due to its non-binding character. In this context, my delegation is of view that ongoing codification of the International Law on Cyberspace should clearly stipulate the clauses to criminalize and punish the acts of infringement upon the State sovereignty in cyberspace and also the issue to ensure the peaceful use of the cyberspace. The DPRK government will closely cooperate with the Member States to prevent all forms of illegal activities and militarization of the cyberspace. Mr. Chairman, I thank you.

**Chairperson:** Thank you, distinguished delegate of Democratic People's Republic of Korea. Now I give the floor to Republic of Korea. You have the floor, Sir.

**The Delegate of Republic of Korea:** Thank you, Mr. Chair. First of all, I would like to take this opportunity to congratulate you on your assumption of the chair. I would also like to congratulate Madam Vice-Chair and the Rapporteur for their election. Under stewardship, this working group will prove reserved success. With regard to substantive questions, my delegation believes that we need to pay due attention to what is going on and within the context of United Nations, in particular, UNGGE. Thank you very much.

**Chairperson:** Thank you, distinguished delegate of Republic of Korea. Now we completed the list of Member States. If there is no other request for the floor, I give the floor to the observer delegation of Vietnam which is first in the list of observer. You have the floor, Sir.

**The Delegate of Vietnam:** Mr. Chairman, distinguished delegates, At the outset, we would like to express our thanks to the People's Republic of China for proposing the topic "International Law on Cyberspace" to be discussed at AALCO. We also thank the AALCO Secretariat for preparing an insightful preliminary report on International Law in Cyberspace.

We believed that this topic has become a global issue and deserve our utmost attention. At present, cyberspace should be considered as new natural sources like air, water and land. Those sources have to be protected by humankind through international law. States have primary responsibility to cyberspace in the limits of their sovereignty. Beyond land borders and 12 nautical miles of territorial seas and airspace above them, States should have extra-territorial jurisdiction over cyber activities in safeguarding its own interest and respecting other states' in conformity with applicable international law.

In recent years, the Government of Viet Nam has taken steps to prevent and counter the problem of cybercrimes. The widespread use of internet as a platform for business transactions, the proliferation of social networks and smart phones, establishment of national databases for public services...etc have become targets for fraudulence, identity thieves and cyber attacks. To prevent and counter these crimes, Viet Nam National Assembly has adopted the Law on Cyber Security in 2015 which provides that Viet Nam is open to international cooperation in cyber-security in order to prevent and deter cyber offences; to investigate and handle cyber-security incidents and prevent the abuse of internet for terrorist purposes. In this direction, the Government of Viet Nam is working on guiding documents on prevention of cyber attacks, prevention of cyber terrorism, quality control of cyber security software and services. These legal instruments are necessary to complement current criminal laws, regulations by taking into account the specific feature of cybercrimes where crime scenes and criminal evidence are digitalized. With this shard concern, Viet Nam is ready and willing to have open discussions with relevant stakeholders on methods and measures to deal with this emerging crime.

Beyond cybercrimes, Viet Nam is also mindful of serious impact of cyber-warfare. In 2015 at the Inter-Parliamentary Union Assembly in Ha Noi, Viet Nam and other countries have worked to achieve a consensus on the resolution "Cyber warfare: A serious threat to peace and global security" that recognizes on one hand the immense socio-economic benefits that cyberspace brings to all citizens around the world, and on the other hand the covert and illegal use, by individuals, organizations and States, of the computer systems of foreign countries to attack third countries is a matter of grave concern because of its potential to spark international conflicts. In this regard, Viet Nam call on all States to refrain from conducting cyber attacks in any form against the others and cooperate with each others to build capacity and confidence. Viet Nam is also of the view that United Nations should take steps to formalize an international instrument to cover cyber security. We wish the Working Group a fruitful discussion and a great success. Thank you, Mr. Chairman and distinguished delegates for your kind attention.

**Chairperson:** I thank the distinguished delegate of Vietnam. The last request for the floor is from the distinguished representative of the ICRC. You have floor, Madam.

**The Representative of the International Committee of the Red Cross:** Thank you, Mr. Chair for giving the International Committee of the Red Cross the opportunity to address some of the challenges raised by the application of International Humanitarian Law to cyber warfare.

Excellencies, Distinguished Delegates, Ladies and Gentlemen, Cyberspace connects societies in ways that has made our world smaller than it has ever been. "The death of distance," as this worldwide interconnectivity is sometimes referred to, is of great utility in peacetime, particularly in the economic, social, information, and communication realms. Many of us probably have our entire lives on our smart phones. One little click on that touch screen has

helped to make our daily tasks unimaginably easier. However, what is considered a peacetime benefit is also the source of new risks and vulnerabilities in times of conflict. One click on a simple phone can now cause extraordinary loss as well. The subject of our discussion today once considered in the realm of science fiction is now a reality.

What is cyberwarfare? What limitations does IHL impose on cyber warfare and why is it important to have these legal restraints? And what are some of the challenges in applying IHL norms to cyber operations? It is worth clarifying a few things from the outset: while there is no definition of cyber warfare under international law, the understanding that the ICRC has of this phenomenon is that it occurs when cyber operations are launched against a computer system through a data stream, when used as a means of warfare. Simply put, “cyber warfare” is the use of a computer code to cause death, injury, destruction or damage during armed conflicts. As has been affirmed by many States it is also the position of the ICRC that if cyber means are employed during armed conflicts, they must comply with IHL, like any other new means of warfare.

A distinguishing feature of cyber warfare is its potentially unlimited reach into the civilian world - making its humanitarian implications, a source of concern. For this reason, cyber warfare and cyber security are emerging issues that are constantly discussed by security experts. Cyber warfare is one aspect of the broader cyber security debate. While IHL treaties do not expressly prohibit or regulate cyber warfare, there are limitations under IHL. Such limitations prohibit direct attacks against civilian objects; they also prohibit the use of indiscriminate weapons as well as indiscriminate and disproportionate attacks; and moreover, they require that constant care be taken in all military operations to spare civilians and civilian objects.

Allow me to use a few examples to illustrate why it is important that IHL norms apply to cyber warfare. For example, there is increasing concern about safeguarding essential civilian infrastructure against cyber-attacks. Facilities providing potable water and electricity networks that serve the civilian population, as well as public health infrastructure are civilian objects and therefore, cannot be attacked. Similarly, dams and nuclear plants also enjoy special protection and cannot be the object of attack in order to avoid the release of dangerous forces that can cause severe losses among the civilian population. Furthermore, hospitals must be respected and protected, and therefore, a cyber-attack that affects the information system of a hospital and manipulates patient medical records violates IHL, if it endangers lives or causes harm to civilians.

The interconnectedness of cyber space creates specific challenges for the application of IHL. For instance, military systems are often dependent on, or inseparable from, civilian cyber infrastructure. Moreover, cyber infrastructure often comprises of systems that are used both for civilian and military purposes, which may even make it impossible to distinguish between military and civilian networks when launching a cyber-attack. Or for example, a virus released into the computer systems of the enemy, even if introduced *only* into a military network, could spread beyond the intended target destroying civilian systems.

Such viruses would violate the prohibitions against indiscriminate attacks. Another example could be attacks against root servers or undersea cables which also raise concerns under the prohibition of indiscriminate attacks because of the difficulty of limiting their effects as required by IHL. Lastly, anonymity, on which cyberspace is built, leads to difficulties in identifying a perpetrator and attributing the origins of a cyber-attack. Who would be held accountable? Since IHL relies on attribution of responsibility to parties to an armed conflict, anonymity creates serious challenges. These are just some of the challenges. We have also

distributed the complete paper that outlines a number of other challenges to the application of IHL to cyber warfare.

Your Excellencies, Ladies and Gentlemen, The key question is not whether new technologies are inherently good or bad. Technology will continue to evolve impacting weapons and thus the way war is waged. Laws which apply to the conduct of hostilities must evolve and keep up with the dramatic technological changes taking place. Over the last few years the ICRC has engaged with a number of States on these challenges and the potential human cost of cyber warfare IHL may well need to be developed in the future, to address the challenges arising from the use of cyber warfare. That will, of course, have to be determined by States.

What the ICRC brings to this debate is derived from its experience as an independent and humanitarian actor that consistently responds to the needs of people adversely affected by situations of humanitarian concern, in particular armed conflict and other forms of violence. The ICRC also engages with the Cyber Working Group established as part of the Seoul Defence Dialogue to enhance international cooperation against cyber threats. The ICRC is mandated to promote the implementation of, and respect for, International Humanitarian Law (IHL) and protect and assist victims of armed conflicts, and is therefore always concerned about the potential cost to civilians and humanity.

The ICRC is delighted to support this AALCO-led initiative to establish an open-ended working group on international law in cyber space. We reaffirm our commitment to work closely with this working group through our Legal Advisory Services. I remain deeply convinced that exchanging views at forums such as this is a valuable contribution to ongoing debates. Thank you, Mr Chairman.

**Chairperson:** I thank the distinguished representative of the ICRC. With this statement, the list of requests for the floor is exhausted. Before concluding this session, I wish to thank all the delegations for your patience in this late afternoon. Most of the delegations have directly addressed the proposed issues and we had a fruitful deliberation. All the relevant points are taken note of and will be used in the future work of the Working Group. I urge active participate of the Member States in the upcoming UNODC meeting in Vienna.

I thank you all again. I declare that this meeting is adjourned.

**XIII. VERBATIM RECORD OF THE FOURTH  
GENERAL MEETING (CONTD).**

**XIII. VERBATIM RECORD OF THE FOURTH GENERAL MEETING (CONTD)  
HELD ON FRIDAY, 20 MAY 2016 AT 9.45 AM**

**AGENDA ITEM: VIOLATIONS OF INTERNATIONAL LAW IN PALESTINE AND OTHER OCCUPIED TERRITORIES BY ISRAEL AND OTHER INTERNATIONAL LEGAL ISSUES RELATED TO THE QUESTION OF PALESTINE**

**His Excellency Dr. V. D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and President of the Fifty-Fifth Annual Session of AALCO in the Chair**

**President:** Before we go on to deal with the agenda items of today, dear colleagues, we know that a very tragic incident has happened with the crash of the Egyptian airline plane yesterday and so far there has been no news about the cause and what is the status. We all feel very sorry for that, very many human lives have been lost, more than sixty or around seventy were on board and the whole house pays its condolences to the departed souls and extend all kinds of sympathy to the Government of Egypt, the distinguished delegates from Egypt who are present here and the citizenry and the people of Egypt at large.

Now, let us come to our schedule. Today we have to start with the agenda item “Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine”. Dear colleagues this item is a regular item on our agenda for a long time in the wake of humanitarian situation emerging in that area. Before I invite the States who want to make their statement or present their views, I now request the Deputy Secretary-General Mr. Feng to give his introductory statement. Mr. Feng, you have the floor.

**Mr. Feng Qinghu, Deputy Secretary-General of AALCO:** Thank you Mr. President. Excellencies, Distinguished delegates and Ladies and Gentlemen, I have the honour of introducing the topic, “Violations of International Law in Palestine and other Occupied Territories by Israel and other Legal Issues Related to the Question of Palestine”, as contained in the Secretariat Document, AALCO/55/HEADQUARTERS (New Delhi)/2016/SD/S4. This issue was included in the agenda of the Organization in the year 1988 upon the initiative of the Islamic Republic of Iran. Since that year, the Secretariat has closely monitored the developments pertaining to this matter. Over the span of these 28 years, AALCO has recorded and reflected on the numerous legal issues surrounding the situation in the Middle East and no efforts have been spared from our end to provide legal support, whenever necessary.

Excellencies, the illegal military occupation of Palestinian territories and the human rights abuses perpetrated on the people of Palestine has been on-going for nearly half a century. Despite international consensus expressed through the binding resolutions of the Security Council and those of the General Assembly of the United Nations, the occupying power continues to defy international law and the will of the international community. The international community has consistently and firmly asserted the application of International Humanitarian Law to the conflict and has reiterated that the illegal annexation of Palestinian Land, the creation of Jewish Colonial Settlements and the massive deportation of Palestinians are all actions in violation of humanitarian law and international law. We must also recall, here, the historic judgment of the International Court of Justice that reaffirmed the illegal nature of these practices and in particular the construction and maintenance of “the Wall” that

separates and isolates groups of Palestinians. These actions and the continuing expansionist policies of Israel strike at the root of all hopes for peace and violate the internationally sanctioned “Two States Solution” which has been accepted by Israel and which binds it by virtue of being an international agreement.

Mr. President, at the Fifty-First Annual Session of AALCO, the Secretariat was mandated to conduct a study “to examine and establish the legal requirements and principles that would determine the status of Palestine as a State” taking into consideration “the requirements of international law and existing international norms and standards particularly the provisions of the Montevideo Convention on the Rights and Duties of States”. Following this mandate, the Secretariat prepared “A Study on the Statehood of Palestine under International Law”. Most recently, in light of the grave violations of international law by the State of Israel in Gaza, the issue was deliberated at the Fifty-Fourth Annual Session held in Beijing in 2015 and a resolution AALCO/RES/54/S 4 was adopted which changed the title of the agenda item to “Violations of International Law in Palestine and Other Occupied Territories by Israel and other International Legal Issues related to the Question of Palestine.”

On 1<sup>st</sup> April 2015, the State of Palestine became the 123<sup>rd</sup> State to join the International Criminal Court, marking an important step towards accountability and justice for victims in the world’s longest-running conflict. It is now attempting to invoke the jurisdiction of the ICC as a part of its strategy. Let me point out here that the outcome of this demand for exercise of jurisdiction will also be a demonstration of the strengths, weaknesses and efficacy of those institutions in which the international community of States have reposed immense confidence, for maintenance and equal application of the rule of law. Excellencies, the situation in Palestine is grave and the principal tool to redress this is ensuring compliance with international law. AALCO has time and again asserted the illegal nature of Israeli practices in the Occupied Palestinian Territories and called for the resolution of the conflict in accordance with the principles of international law including the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions, in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. It is also relevant here to recall the widely supported United Nations Security Council and UN General Assembly resolutions 242, 338 and 1515 which affirm the legal obligation of Israel to withdraw from Palestinian territories occupied in the year 1967.

This year, once again, the Secretariat has prepared a detailed brief on the issue for your consideration. While the overall structure of our reporting has not been altered, changes have been made to ensure coverage of the more recent issues and developments as well as streamline the report itself. As the historical aspect of the conflict has been extensively reported on by the Secretariat in years past and is now common knowledge, these sections within the current brief are footnoted and refer to the corresponding sections of previous briefs only. This was also done to allow the report to focus on more recent developments including, *inter alia*, recent violations of the Fourth Geneva Conventions in the Occupied Palestinian Territories, the various reports of the UN Secretary General and the Special Committee to investigate, Israeli practices affecting human rights of the Palestinian people, and the Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied Since 1967.

Excellencies, with these introductory remarks, let me draw the framework for the deliberations, which will follow. Possible focus of deliberations may lie on the violations of

international law, particularly international human rights law and humanitarian law committed by the Government of 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 urge Israel to comply with its international obligations. I thank you, Mr. President.

**President:** I thank the Deputy Secretary-General Mr. Feng for presenting the Secretariat's report on this important topic and reminding ourselves about the sensitivities and other legal issues involved in this issue. Dear colleagues, I have a list of countries wishing to make a statement on this issue. The first in line is India. India, you have the floor.

**The Delegate of India:** Thank you Mr. President, on behalf of the delegation of India, let me thank the honorable Deputy Secretary General for his Introductory Remarks. India's approach to Palestine is built upon three core dimensions of Solidarity with the Palestinian people; Support to the Palestinian cause and Support to Palestine's nation building and capacity building efforts. India had supported Palestine's bid for full and equal membership of the UN in 2011 and also co-sponsored the UNGA resolution in November 2012 that upgraded the status of Palestine to a 'Non-Member Observer State'. Our delegation has had a clear and consistent position on the question of Palestine, which is to support a negotiated solution resulting in a sovereign, independent, and a viable State of Palestine, with East Jerusalem as its Capital, living within secure and recognized borders, side by side at peace with Israel as endorsed in the Quartet Roadmap and relevant UNSC Resolutions. I thank you Mr. President.

**President:** I thank the distinguished delegate of India for his statement and now I invite the distinguished delegate of Palestine to make his statement. Palestine you have the floor.

**The Delegate of the State of Palestine<sup>14</sup>:** Mr. President, allow me at the outset to express our appreciation to your wise leadership. We are confident that your able leadership will ensure the success of our Fifty-Fifth Annual Session. We would also like to express our deep gratitude to your country's continuous support to the just issues of our people. I also extend my thanks to His Excellency Liu Zhenmin, the President of the Fifty-Fourth session for all his efforts and for successfully steering its proceedings.

Allow me Mr. President to extend through your kind self, thanks and appreciation for the huge efforts of His Excellency Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO for his prominent role in enhancing the image, role and activities of the Organization and rationalizing its programs and also for directing all its activities with efficiency and efficacy. Thanks are also due to the Secretariat staffs for their untiring efforts towards the preparation of the current Session, and for the important report prepared by it on "Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine." I extend thanks and appreciation to the Member States of AALCO for their support and backing for the legitimate rights of freedom and independence of our people.

Mr. President, the hopes and aspirations of our people toward a future of freedom, peace and security, a future free from occupation and colonization, oppression and humiliation is under continuous attack. Our Palestinian people, especially the children are killed and targeted by the forces of Israeli occupation on a daily basis. Our people are deprived of their basic right

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<sup>14</sup> The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

to life due to their religious and national identity. Our people's refusal of the illegal occupation is responded to by killing and destruction.

Even as we assemble here today, there is dangerous escalation in our land especially in the occupied Jerusalem. Provocations, aggressions from the Israeli extremists and government officials against Palestinian civilians are taking place on a daily basis. The occupation army and the extremist settlers and their militias have unleashed a wave of violence and hatred against the Palestinian civilian population especially targeting the young people which has resulted in the death of scores of civilians and has led to many cases of open lynching and illegal murder. The open and irresponsible racist calls by the Israeli ministers and senior officials for the use of deadly force against the Palestinians and especially against the children and youth have contributed to deepening the culture of hatred and in consolidation of the concept of immunity from punishment. The Israeli occupation forces and settlers and others know beforehand that they will never be brought to book for killing the innocent and unarmed Palestinians; rather the lynching and other illegal actions receive huge support from the government and religious officials who are supposed to be responsible for the legal action against the perpetrators of the crimes.

Despite the serious threats to its security, dignity and existence, our Palestinian people are determined to continue our just struggle for the sake of freedom, for our inalienable rights, especially our right to self-determination for a sovereign and independent state just like all the people of the earth. Indeed this is a legitimate and recognized objective which has the overwhelming support and consensus of the international community. Palestine thus, with wide support from a large number of the Member States of the Organization and outside, continues to strengthen instruments of international law and provides protection to our people by joining international conventions and organizations, and strengthening the instruments of international law to counter the violations that take place so repeatedly and to put an end to them by bringing the perpetrators to book. Over the past years, specifically after Palestine's representation in the UN, it has joined a large number of international conventions including the Geneva Convention, International Bill of Human Rights, International treaties for Human Rights and Conventions relating to war crimes and crimes against humanity, in addition to other Conventions such as UN Convention on Law of the Sea and the Nuclear Non Proliferation Treaty.

In this context, and under the failure of the international agencies entrusted with keeping international peace and security and implementation of international law to hold Israel accountable for her crimes against our people, the only hope today for holding the occupation forces accountable for the crimes is Palestine's accession to the Rome Statute of the International Criminal Court. In view of the strong evidence for serious crimes committed in Palestine including the prevailing climate of impunity from punishment, we do expect the Prosecutor of the ICC to initiate investigation officially into this matter in line with the Rome Statute of the International Criminal Court.

Mr. President, it is worth pointing out that the position of some countries including Canada, vis- a-vis this positive development i.e. Palestine's accession to international Conventions and treaties was shameful. While they defend the ICC's mandate of dispensing justice in a number of countries, they have strongly opposed Palestine joining the Court. Still, some other Countries have threatened to cut off their financial grants to these institutions or they are issuing threats or intimidation to Palestine and putting pressure on some countries to stop Palestine from joining the particular international conventions and institutions and to stop

implementation of the international law, including the Standing Court for Arbitration, as if international justice and international law are a monopoly of few States and peoples only.

Hence, we call upon AALCO Members to counter these practices by supporting the march of international legal struggle pursued by people of Palestine including by providing political and legal support in the international institutions. We also need the continued support of AALCO including training programmes for our Palestinian legal cadres on the use of instruments of international law and treaties signed by us in order to secure our legitimate national rights.

Mr. President, over the past many years and even decades, we have exposed and spoken about the practices of Israel, the occupying State, its illegal practices and aggression against our Palestine people in the occupied land of Palestine including the East Jerusalem in all international fora. However, in spite of continuous deterioration of the condition and repeated setbacks and lull in political process, we have always maintained that the international community and institutions entrusted with protection and implementation of law, including the Security Council, must fulfill their responsibility based on the international law and UN Charter and World Declaration for Human Rights. They must work to force Israel to stop violations. This is a basic demand for achieving any progress in the peace process that aims to resolve the key issues and achieve a just and permanent solution on the basis of international law, and resolutions of international legitimacy.

Quite unfortunately, until now these institutions have proved their unpreparedness to fulfill their responsibilities and to contribute to achieving peace and security. In spite of the repeated calls made by the Arab League, the Non-Aligned Movement, Organization of Islamic Cooperation and other concerned members including the overwhelming majority of the of General Assembly and Security Council members to deal with the exploding situations on the ground and work to end Israel's impunity from punishment, to open the road for peace, things have remained futile. On the contrary, these institutions have remained non-functional and paralyzed. If the same situation continues, the crisis will deepen and irreparable damage will be caused not only to the Palestinian people, but also to the entire region and the international peace and security will be impossible to be achieved. This will undermine international law which is considered the biggest achievement of the humanity during the past century.

Hence, any discussion of the Palestinian issue must focus on the main source of violence, which is undoubtedly the continuation of the Israeli colonial occupation of Palestine and its illegal destructive regime in the settlement colonies reflected in siege, oppression, suppression that denies the Palestinians all the rights enshrined in international human rights and other laws. The unspeakable sufferings of our people due to living under the yoke of racial, barbaric military occupation and the resultant sufferings, frustration and anger must not be lost sight of or ignored. The history of the Member States is full of experiences of colonialism, racism and they know more than others the monstrosity of these practices and their destructive dimensions continuing for generations.

Therefore, we must work together at all levels to reiterate to the international community that peace cannot be achieved except by ending the Israeli occupation and achievement of justice and independence which the Palestinian people have been waiting for long in their State on the basis of 1967 boundaries with East Jerusalem as its capital. There will not be peace if we do not find just solutions to the issue of Palestinian refugees in accordance with the relevant

UN Resolutions and the Arab Peace Initiative. The permanent occupation with temporary solutions and maintaining the conflict will never lead to peace and security. Furthermore, it is the moral and legal responsibility of all States to provide protection to the unarmed Palestinian people as long as the occupation exists at all levels. This would also include protection and legal support to Palestinian peoples on account of the denial of their legitimate rights and also recognition of the State of Palestine. This support would be in accordance with the international legitimacy and law at the international level.

It is incumbent upon countries, individuals and groups to respect and ensure respect for international law. It is their responsibility also not to provide any help or support in any form, either directly or indirectly to the measures that lead to the consolidation of the occupation. They must also recognize the importance of linking the development of relations with Israel, the occupying State, with her commitment to the international law and to end racist and colonial occupation of the lands of the State of Palestine.

Urgent measures are also needed to be taken to put an end to the violence committed by occupation army and the terror of the settlers which has led to the sharp deterioration of the situation on the ground, including the burning of the Dwabisha family around one year ago. There is an urgent need to declare the settlement groups and their leaders who have been committing terrorist crimes against the Palestinians as terrorist and illegal organizations, because this will have financial, legal and political effects and implications. Here, I would like to remind that Israeli Government supports, helps and instigates these terrorist organizations continuously and has protected them and embraced them, it has even motivated them to commit these crimes and protected them from punishment. It is thus our duty to work collectively to bring the perpetrators of these crimes and those who helped them to justice. There is no scope of real protection without accountability.

The Countries must also not allow any of their national companies to operate in the Israeli colonial settlements in the territories of Palestine or any company benefiting illegally from the Israeli occupation of Palestine and punish the international companies that cooperate with this regime, in addition to preventing the goods manufactured in the settlement areas to enter their market. Let us be clear that we can not in any way go ahead with peace on the basis of two States solution while Israel continues, actively and illegally, to change the demographic features and the reality of the occupied Palestinian territories including the East Jerusalem and through consolidation of its occupation.

From our part, we reaffirm our firm commitment to continue with the legal, diplomatic, political and peaceful process in order to achieve the inalienable rights of the Palestinian people as a basis for reaching a comprehensive and just peace which realizes the legitimate national aspirations of our people to live with dignity and freedom in their own State with Jerusalem as its capital and finding just solution to the issue of Palestinian refugees in accordance with the General Assembly resolution No. 194 of 1948.

Mr. President, the inalienable rights of the Palestinian people including the right to self-determination are non-negotiable rights and cannot be left to the goodwill of the occupation authority. No country on the pretext of supporting dialogue between the parties can escape its responsibilities of defending the international law. In no circumstances, the international institutions entrusted with maintaining and implementing international law should be allowed to abdicate its prime responsibility because this will undermine the authority and legitimacy of the international justice in all parts of the world, and thus encourage extremism.

The continuation of Israeli military occupation regime is the source of violence and one of the most glaring examples of historical injustice meted out to the Palestinian people for over several decades. The time has come for the international community to implement the only formula of peace, that is the end of Israeli occupation and help the Palestinian people achieve freedom and independence. The struggle of the Palestinian people for freedom, dignity and return, was a permanent item on the international agenda and on the agenda of the United Nations since its inception. The most important test of the principles which are considered basis of international regime as a whole and the justice stipulated in international law, this is a test that the international community cannot afford to fail in. Thank you Mr. President.

**President:** I thank the distinguished representative from the State of Palestine for his statement. Now I invite the representative of Egypt.

**The Delegate of the Arab Republic of Egypt<sup>15</sup>:** Mr. President, I would like to thank profusely for your kind gesture of expressing sympathy with the people of Egypt who have laid down their lives in the air crash. Until now, the issue is still under investigation and we are all waiting for the details to emerge in the days to come. The matter has touched not only the Egyptian people, but I think it is a matter of international security that touches everybody. Thank you sir.

Mr. President, His Excellency the Secretary-General of AALCO, Ladies and Gentlemen, at the outset I would like to reiterate the importance of the item relating to the Israeli violations of international law in Palestinian territories that has been placed on the agenda of Fifty-Fifth Annual Session. This not only expresses the support of Member States from Asia and Africa to the issue of Palestine which is considered to be the main reason for instability in the region of Middle East, but it also emphasizes all our commitments and obligations to upholding international law and principles of the United Nations and international legitimacy.

In this context I would like to emphasize that the Member States of AALCO and various other parties of the international community, should condemn the negative Israeli practices, and violations of international law including non-implementation and disrespect for a number of UN resolutions on the subject, particularly the ones adopted by the UN Security Council which are binding. We should also demand that Israel fulfills its international obligations arising from its status as an occupying State and also abide by the Geneva Conventions, as well as the decisions issued by the International Court of Justice on the construction of the Wall in the Occupied Palestinian Territories, and stopping its illegal settlement works in particular. It is to be stated here that these practices in its entirety as well as its violations of Human rights conventions and principles and provisions of International Humanitarian Law remain an obstacle to achieving peace in the Middle East region.

The resolutions of Security Council 242 – 383 – 425 – 1397 – 1860 and other resolutions of General Assembly in addition to the Arab Peace Initiative put forward a comprehensive legal framework which guarantees the rights of Palestinian people, and will end, if Israel complies with them, one of the causes of instability in the region and the whole world.

In this context the role of AALCO and other international and regional organizations which are keen to uphold the values of international law, become more important and valuable

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<sup>15</sup> The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

whether it comes to contribute to capacity building of the Palestinian people or rejecting the Israel's violations of all international conventions and legal systems. In this regard I would like to appreciate the agreement arrived at amongst the Member States as reflected in the draft resolution on the issue of Palestine during the work of the current session of the Organization. This sends a clear message that the Member States of ALACO reject these violations committed by the Occupying Power and call upon all relevant international parties to work hard in order to achieve peace and ensure respect for international law.

**President:** I thank the distinguished delegate of Egypt for his statement. Now, I invite the delegate from Qatar.

**The Delegate of the State of Qatar<sup>16</sup>:** Your Excellency, the President of the Fifty-Fifth Session Dr. V.D. Sharma, Excellencies, Ladies and Gentlemen, Heads and Members of the Delegations, Assalam Alaikum. The position of Qatar on the Palestinian issue and the peace process has been unwavering and focused on the support of rights of Palestinian people and condemnation and refusal of Israeli policies and measures against the Palestinian people. Qatar has been making sincere efforts to find a lasting and comprehensive resolution to the Arab Israeli conflict, because ensuring stability in the Middle East is intrinsically linked with finding a comprehensive and just solution to the Palestinian issue including the right of the refugees to return to their homeland and Israeli withdrawal from all occupied Arab territories most notably the Holy Jerusalem.

The State of Qatar condemns the barbaric aggressions committed by the Israeli forces and their violation of the International Humanitarian Law and specially the Fourth Geneva Convention by killing the innocent people and scaring the civilians in the occupied Palestinian territories. It also denounces the Israeli aggression and attacks on Gaza. We, in the AALCO, have an important role and obligation toward supporting Palestinian people and their cause from a legal perspective. We need to use various ways and means in the international fora to advance the cause of Palestinian people. At the end, I thank you for your kind attention and I wish the proceedings of the Session all success.

**President:** I thank the delegate of Qatar and now I invite the delegate from China to make his statement.

**The Delegate of People's Republic of China:** Thank you Mr. President for giving us the floor. Mr. President, the question of Palestine is at the core of the Middle East question. It is the shared responsibility of the international community to safeguard the legitimate interests of the Palestinian people. At present, the conflict between Palestine and Israel poses the risk of continuous escalation, with the spillover effect also on the rise. A comprehensive and fair solution to the Palestinian question is in the interests of all sides. Mr. President, China has always supported the Palestinian people's struggle for their legitimate national rights and has worked to promote peace and negotiations. In 2013, President Xi Jinping made a four-point proposal for resolving the Palestinian- Israeli issue.

During his visit to Middle East in January 2016, President Xi reiterated that China would firmly support the just cause of the Palestinian people. The Chinese Government's Special Envoy on Middle East Affairs has been actively engaged in efforts to promote peace and negotiations. Every year, China provides economic assistance to Palestine through the United Nations or bilaterally for improving the welfare of the Palestinian people. Last January,

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<sup>16</sup> The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

China decided to provide RMB50 millions of free aid to Palestine. China is ready to join the international community in a continued effort to promote a satisfactory solution of the Israeli-Palestinian issue.

Mr. President, China has always believed that establishing an independent Palestinian State with full sovereignty, based on the 1967 borders and with East Jerusalem as its capital, is an inalienable right of the Palestinian people as well as the key to resolving the question of Palestine. As early as 1988, China announced its recognition of the State of Palestine and established diplomatic relations with it. China supports Palestinian membership in the United Nations and other international organizations and its accession to relevant international conventions.

Mr. President, it is necessary to emphasize that Israel, the occupying power should strictly observe the UN Charter and other applicable rules in international human rights law and humanitarian law which applied, safeguarding Palestinian people's legitimate rights. The ICJ's Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* should also be fully respected. China holds that both Palestine and Israel should take concrete steps to move forward the peace process. Israel must first demonstrate its sincerity by taking practical steps to halt its settlement activities, cease the demolition of Palestinian houses, stop the violence against innocent civilians and lift the blockade on Gaza, so as to create enabling conditions for the resumption of peace talks.

Mr. President, the Palestinian issue is a wound on human conscience. The use of force is never a solution. The earlier the peace talks start, the sooner the people of Palestine and Israel will benefit. China is ready to join the international community with other relevant parties in a common effort to achieve peace between Palestine and Israel and safeguard the stability of this region and play a constructive role. Thank you, Mr. President.

**President:** I thank the delegate of China and now give the floor to Japan.

**The Delegate of Japan:** Thank you Mr. President. I would first like to thank the Secretariat for the introductory statement. Mr. President, allow me to reiterate our basic position on this important issue. Japan supports a two-State solution whereby Israel and a future independent Palestinian State live side by side in peace and security. We urge both Israel and Palestinian Authority to make further efforts to build mutual trust and to advance the direct negotiations in order to realize the two-State solution at the earliest possible date. Japan emphasizes that the conflict between the Israeli and the Palestinian sides should be resolved only through negotiations, based on the relevant UN Security Council Resolutions, the Madrid Principles, the Road Map, the agreements previously reached by the parties and the Arab Peace Initiative, and that any violent acts must be firmly rejected.

Mr. President, Japan is concerned by the vicious circle of violence especially in the West Bank, which would not be terminated without bringing hope to Palestinian people. We believe that peace through a two state solution will be attained only by serious negotiations between Israel and Palestine. Japan urges both sides to resume negotiations soon and to refrain from any unilateral actions that might hinder direct negotiations.

Mr. President, it is necessary to improve the humanitarian situation and livelihood of people in Gaza. Seamless assistance from reconstruction to development will contribute to preventing recurrence of conflict and restoring stability in Gaza. Japan newly announced assistance amounting to over USD 78 million for Palestine when President Abbas visited

Japan last February. The already disbursed assistance includes aid for reconstruction and development in Gaza and job creating assistance for the youth. Working with the international community, Japan will continue to contribute to the improvement of the humanitarian situation in Gaza. Thank you Mr. President.

**President:** I thank the distinguished delegate from Japan for his statement and now invite the delegate from United Arab Emirates to deliver his statement.

**The Delegate of the United Arab Emirates<sup>17</sup>:** Mr. President, at the outset we express our solidarity with the people of Egypt in the wake of this tragic accident and would like to state that we are with you. We also send our condolences to the families who have lost their near and dear ones. Mr. President, my delegation is pleased to express sincere thanks and appreciation to the Secretariat for taking continued efforts to help the Palestinian people achieve their aspirations.

Mr. President, reaching a peaceful settlement in the region of Middle East is indeed a vital issue to defuse the tensions in the Middle East Region. The achievement of peace requires Israel's withdrawal from all Palestinian and Arab territories occupied since 1967 and enabling the Palestinian people to establish their independent Palestinian state. Though United Arab Emirates supports reaching a peaceful settlement based on the international legitimacy, resolutions and Arab Peace Initiative, it supports the efforts of Palestinian National Authority and calls for assisting it in order to make the State of Palestine to get full membership in international organizations and treaties. It also reiterates its serious concerns regarding the grave deterioration in the peace process in Middle East, especially during the last year, and emphasizes on the necessity of the urgent resumption of the peace process. Israeli actions aimed at Al-Aqsa Mosque will only create violence and extremism in the region and fuel the conflict in the Middle East further. We, as the countries of this region, are demanding, more than ever, support to the resistance of the Palestinian citizens in Jerusalem and help them against Israeli Judaization policy.

My delegation affirms that the terrorist networks exploit the frustration of Palestinian people caused by injustice and use it to convince and attract young people to achieve their targets, thus posing a permanent threat and instability in the region. We also stress on the importance of enabling Palestinian people to exercise their inalienable rights including right to self-determination, establishing their independent sovereign independent State, release of all prisoners and solution of the refugee issues based on international law and the international legitimacy resolutions and Arab Peace Initiative. The construction of illegal Israeli settlements and the apartheid wall is null and void, unacceptable and which violates international law including the Fourth Geneva Convention and various resolutions of the United Nations.

Mr. President, my delegation supports the Security Council's demand by issuing a resolution on providing international protection to the Palestinian people and enforcement of its resolutions regarding the application of the Fourth Geneva Convention to the Palestinian territories. We endorse the recommendations made by the Special Commissioner on Human Rights in Occupied Palestinian Territories and the report of the Secretary-General on Israeli settlements in Occupied Palestinian Territories including Jerusalem and the occupied Syrian

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<sup>17</sup> The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

Golan, and findings in addition to the observations and comments of the AALCO Secretariat. My delegation also supports the draft resolution in this regard. Thank you, Mr. President.

**President:** I thank the delegate from UAE for his statement and now invite the delegate from Democratic People's Republic of Korea to make his statement.

**The Delegate of the Democratic People's Republic of Korea:** Thank you Mr. President. Mr. President, the DPRK delegation appreciates the efforts made by AALCO to achieve just and comprehensive solution of the question of Palestine, having included this issue as one of its main agenda items. In spite of the international efforts to solve the question of Palestine, Israel continues to commit crimes against humanity, including deportation of Palestinians from their homeland, killings of civilians, collective punishment, and the expansion of Israeli settlements. Those crimes are invoking serious concern of the international community.

As long as there is no end to the continuous violation of the international law committed by Israel against Palestinians, there is no lasting peace in the region at all time. AALCO should concentrate its action to realize the immediate and full withdrawal of Israeli forces from the occupied Palestinian territory and cessation of all forms of crimes against humanity in compliance with the international law and United Nations resolutions related with Palestine and should take substantial measures to achieve just and comprehensive solution of the question of Palestine.

At the same time, we should bring due attention to those acts of putting obstacle to the just solution of the question of Palestine by excusing and backing the Israeli violation of international law. It is a consistent position of the DPRK Government that Israel should immediately stop its acts of terrorism against Palestinians and withdraw from all occupied Arab territories. The DPRK delegation reaffirms its consistent support to and solidarity with the struggle of the Palestinian people for the restoration of their legitimate rights, particularly, the right to self-determination, right to return to their homeland and right to establish an independent State, and the struggle of Arab people to achieve lasting peace in the Middle East. I thank you, Mr. President.

**President:** I thank the delegate of DPRK and now invite the delegate from Kuwait to make his statement.

**The Delegate of Kuwait<sup>18</sup>:** Thank you Mr. President. Based on the data and information contained in the report of the Secretariat, which outlines the latest development in the Palestinian issue especially as regards what has been happening in term of the human rights situation in the occupied Palestinian territories and Israeli military practices, my delegation believes that the resolution to be adopted at the end of deliberations on this agenda item should contain a number of features. Most importantly, it should reflect the endeavor of the international community to make efforts at all levels for finding arrangements and guarantees in Palestinian territories in order to achieve peace, stop violence, and aggression against the Palestinian civilians as well as take into account the humanitarian needs and try to reduce the worsening humanitarian crisis over there. It should also mention the help needed to supply relief and food materials regularly to the populations of Palestine and encourage the international efforts to provide humanitarian assistance and re-build the Palestinian economy. I thank you Mr. President.

**President:** I thank the distinguished delegate of Kuwait for his statement. Now, I invite the delegate from the Islamic Republic of Iran to deliver his statement.

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<sup>18</sup> The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

**The Delegate of the Islamic Republic of Iran:** Thank you Mr. President. "In the name of God, the Compassionate, the Merciful". I thank the Deputy Secretary-General for his informative introductory statement. I would also like to express my gratitude for the useful report on the topic prepared by the Secretariat.

Mr. President, the denial of the basic rights of the Palestinians for decades is outrageous. The relentless siege and the horrible land, air and sea blockade on Gaza strip approaches its 10<sup>th</sup> year and the Israeli regime still defies blatantly fundamental principles of international law and denies the rights of the Palestinian people ranging from basic necessities of life to right to self-determination. In this regard, specifically the provisions of the Fourth Geneva Convention, as declared applicable to the Occupied Palestinian Territories on numerous occasions by United Nations General Assembly and Security Council, the International Court of Justice, the International Committee of the Red Cross, and the High Contracting parties to the Convention, fundamental rights and obligations derived from the Convention as well as 1907 Hague Regulations are violated by the Israeli regime as the occupying power on a daily basis.

The atrocities perpetrated against the civilian population in Palestine in recent years beginning from 27 December 2008 and reaching its darkest days during the 50-day massacre in the summer of 2014 still continue to this very day. The illegal expropriation of Palestinian territories and the expanding of settlements, the deportation of Palestinians and the construction of the wall in Palestinian territory have all continued in the face of numerous calls by the international community to put an end thereto.

The Palestinians' right to self-determination has been widely supported and confirmed by the international community, including through relevant resolutions of the United Nations General Assembly and Security Council. UN Security Council resolutions 452 (1979) and 489 (1980) have described "a violation of international law" the construction and planning of Israeli settlements in the West Bank, East Jerusalem and the Golan Heights. UN Security Council Resolution 446 refers to the Fourth Geneva Convention as the applicable legal instrument and calls upon the Israeli regime to desist from transferring its own population into the territories or changing their demographic makeup. In addition, in July 1999, the conference of the High Contracting Parties to the Fourth Geneva Convention ruled that the Convention did apply in the occupied territories and in 2001. The Conference called upon "the Occupying Power to fully and effectively respect the Fourth Geneva Convention in the Occupied Palestinian Territory, including East Jerusalem, and to refrain from perpetrating any violation of the Convention." The High Contracting Parties further reaffirmed "the illegality of the settlements in the said territories and of the extension thereof".

Furthermore, the International Court of Justice, declared, in its 2004 Advisory Opinion on the "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory" that Article 2 of the Fourth Geneva Convention warrants its application to the occupied territories. Thus, pursuant to Article 49 (6) of the Convention, "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies". While the ICJ adopted this interpretation in the 2004 Advisory Opinion, 150 UN Member States supported the General Assembly resolution A/RES/ES-10/15 dated 2 August 2004 demanding Israel to "comply with its legal obligations as mentioned in the advisory opinion", a call that is repeatedly reiterated.

Mr. President, it is high time the perpetrators of the atrocities against the Palestinian people were brought to justice. Latest developments at the UN level provide ample evidence for the crimes committed in recent years against Palestinian civilians. The report prepared by the Office of the United Nations High Commissioner for Human rights pursuant to General Assembly resolution 69/93 is illustrative of the crimes committed against Palestinians in the aftermath of the 2014 fifty day massacre in the Gaza Strip. Furthermore, the report of 11 January 2016 of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories elaborates the numerous instances of human rights violations as a result of the blockade and the illegal detainments.

More importantly, however, the report of Special Committee to Investigate Israeli Practices Affecting the Human Rights of Palestinian People in Occupied Territories and other Arabs of Occupied territories dated 14 November 2015 portrays serious human rights violations and the killing and injury of thousands of civilians, including women and children, during the military operations in the Gaza Strip in July and August 2014 and the grave breaches of international humanitarian law committed during the military operations in the Gaza strip between December 2008 and January 2009.

Last but not least, we welcome the adoption of multiple international treaties by Palestine and we believe this process should continue. This heralds a bright future for a people who have always been deprived of their fundamental human rights. Let me close my statement by expressing my gratitude for the role AALCO and Member States play in supporting the Palestinian people and assisting them in the early realization of their right to self-determination Thank you Mr. President.

**President:** I thank the distinguished delegate from the Islamic Republic of Iran and now invite the delegate from South Africa.

**The Delegate of South Africa:** Thank you Mr. President. Anti-Apartheid struggle icon and the Father of our Nation, late President Mr. Nelson Mandela, shortly after his release after 27 years in prison, famously stated that:

“We know too well that our freedom is incomplete without the freedom of the Palestinians.” That statement, delivered on the global platform, left no doubt that an unmistakable connection between the struggles of the Palestinian and the South African people were cemented more than ever before. We have long held the view that the Palestinian people have the right to self-determination, independence and sovereignty. South Africa therefore strongly believes that the only solution to end hostilities by Israel against the Palestinian people lies in a two-State solution. As such, we welcomed the State of Palestine’s joining of the ICC as its 123<sup>rd</sup> member which, we believe, marks an important step towards attaining accountability for human rights and humanitarian law violations perpetrated by Israel and justice for Palestinian victims.

Mr. President, the outcome of various independent international reports by commissions of enquiries, special investigative committees and fact-finding missions- not to mention the range of UN Security Council and UN General Assembly Resolutions in relation to this topic confirm Israel’s blatant disregard and lack of appreciation that its actions constitute violations of the civil, political, economic, social and cultural rights of the Palestinian people. These include, among others, attacks and incidents resulting in multiple Palestinian deaths (in many instances involving innocent women and children), serious injuries as well as property

damage and illegal arrests. South Africa joins the international community in condemning Israel's atrocious acts carried out against the Palestinian people and its lack of respect for human rights law, humanitarian law and international law.

Mr. President, In conclusion, South Africa reiterates our view that the secession of hostilities by Israel against Palestine lies in the establishment of a two-State solution. We stand in solidarity with Palestine and the international community at large and we strongly support Palestine's right to self-determination, independence and sovereignty. Thank you.

**President:** I thank the delegate from South Africa and invite the delegate from Malaysia to make his statement.

**The Delegate of Malaysia:** Thank you Mr. President. Our delegation would like to thank the honourable Secretary-General and the Secretariat for the report on the item. We also like to thank the Deputy Secretary-General for his statement.

Mr. President, our delegation would like to reiterate that Malaysia has always been supportive of the struggle of the Palestinian people and condemns the aggressive activities of the Israelis towards civilians in the occupied territory. Malaysia has also supported the various UN resolutions on the issue of Palestine and reiterates that the use of force against civilians by the Israeli authorities are in violation of the Fourth Geneva Convention, which made it illegal to commit or order others to commit "grave breaches" of the Convention.

The applicability of the Fourth Geneva Convention to the Occupied Palestine Territories including Jerusalem and other Arab territories occupied by Israelis has been reaffirmed in the Security Council Resolutions and in numerous Resolutions of the General Assembly and other bodies of the United Nations. Last but not the least, Malaysia reaffirms its full support towards the legitimate rights of the Palestinian people for a sovereign State of Palestine, living side-by-side, in peace and security with Israel, based on pre-1967 borders, with East Jerusalem as the capital of Palestine and will continue to play an active role as an AALCO Member States in contributing towards addressing the underlying issues and the Israeli occupation and the root causes of the Israeli occupation and for the attainment to a fair, lasting and peaceful solution to the conflict. Thank you Mr. President.

**President:** I thank the delegate from Malaysia and invite the delegate from Tanzania to deliver his statement.

**The Delegate of Tanzania:** Thank you, Mr. President for this opportunity. Like other speakers, we thank the Deputy Secretary General of AALCO for a comprehensive report on this subject. Tanzania remains an ardent believer that the 1948 UN Security Council resolution on the two-State solution and the Quartet Roadmap remain the only viable solutions to the fate of the Palestinians. We therefore wish to renew our long-standing commitment to continue to support the Palestinian cause for self-determination. I thank you, Mr. President.

**President:** I thank the distinguished delegate from Tanzania and Tanzania was the last Member State to speak on this topic under consideration. Is there any other State wishing to speak? If none, we have completed our discussion on this important topic. Now, we break for tea. And when we come back after 15 minutes, we will be hearing the reports of the Regional Arbitration Centres of AALCO. So, we will resume at 11.30 AM.

## **XIV. VERBATIM RECORD OF THE THIRD MEETING OF THE DELEGATIONS**

**XIV. VERBATIM RECORD OF THE THIRD MEETING OF THE DELEGATIONS OF AALCO MEMBER STATES HELD ON FRIDAY, 20 MAY, 2016 AT 11.30 AM**

**His Excellency Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and President of the Fifty-Fifth Annual Session of AALCO in the Chair**

**AGENDA ITEM: REPORT OF THE WORK OF AALCO REGIONAL ARBITRATION CENTRES**

**The President:** I am informed by the Secretariat that the draft resolutions on all agenda items are ready and will be circulated soon. Those drafts that have been finalized or in whatever stage they are in, they have been done through the informal consultations held in the last two days. All Member States had the opportunity to take part in the drafting exercise. I would request, as informed by the Secretariat, if there are any additions/suggestions they can be given during the lunch time or by the close of it. Thereafter the Secretariat would circulate the finalized version of the draft resolutions for them to be taken up for adoption after the lunch.

Dear Colleagues, now we move on to the consideration of the agenda item of the Report of the Regional Arbitration Centres. As all of you know, we have five Regional Arbitration Centers in Kuala Lumpur, Lagos, Tehran, Cairo and Nairobi. Today we have got with us the Directors of three Centres, Kuala Lumpur, Lagos and Tehran. But first, I would request the Deputy Secretary-General of AALCO, Mr. Feng to introduce the agenda item.

**Mr. Feng Qinghu, Deputy Secretary-General, AALCO:** Thank you Your Excellency Mr. President. Excellencies, Ladies and Gentlemen, it is my pleasure to introduce the report of the AALCO's Regional Arbitration Centres as contained in the Secretariat Document AALCO/55/HEADQUARTERS (NEW DELHI) /2016/ORG 3 which consists of the Reports of the Directors of Kuala Lumpur, Cairo, Lagos and Tehran Regional Arbitration Centres. Ladies and Gentlemen, AALCO's association with this area goes back to 1970s 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 AALCO Regional Arbitration Centres, it may be recalled, 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.

In consonance with the scheme, the Regional Centres for Arbitration at Kuala Lumpur, Malaysia for the Asian region and at Cairo, Arab Republic of Egypt for the African 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. More recently, AALCO 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. In this regard, the Secretariat is glad to notice that the Nairobi Regional Arbitration Centre is beginning to function.

Mr. President, the role of Regional Arbitration Centres is very significant in promoting alternate dispute resolution mechanisms across their region of location. Their progress and

efforts to fulfill their mandate effectively and their efficient functioning have given them goodwill and reputation across borders. In fact, it is an honour that we have these Regional Arbitration Centres under the auspices of AALCO, as these Centres are one of the most successful ventures of the AALCO.

Mr. President, the Resolution on the Report of Regional Arbitration Centres adopted in 2015 had called upon the Regional Arbitration Centres to organize biennial meetings of the Centres by rotation primarily to share best practices and experiences in conducting arbitration proceedings. I am happy to inform you that the Tehran Regional Arbitration Centre (TRAC) took the lead in organizing the first meeting of the Centres in Tehran last month. The outcome of the meeting is reported in the conference document and will also be reported by the Director of the Centre later. In this regard, I would like to place on record the heartfelt appreciation of the Secretariat for the efforts of Dr. Oveis Rezvanian, Director of TRAC, and his team for successfully organizing and hosting the event.

I would like to conclude this brief introduction by extending our warm welcome to the Directors of Kuala Lumpur, Cairo, Lagos and Tehran Regional Arbitration Centres who are among us today to present their respective reports to the Session. I thank you, Mr. President.

**President:** I thank the Deputy Secretary-General of AALCO Mr. Feng for his introduction in respect of the Regional Arbitration Centres of AALCO. I am happy to note that these Centres are progressing in their work. Now may I invite, the Director of the Kuala Lumpur Regional Centre for Arbitration to present his report.

**Prof. Dr. Sundra Rajoo, Director, Kuala Lumpur Regional Centre for Arbitration (KLRC):** Your Excellency the President of AALCO, Your Excellencies, Distinguished Delegates, it gives me great pleasure to be here. I have circulated a complete report and you must have received it yesterday. What I am going to do is, I am going to summarize our activities for 2015 and it has been another bumper year for us, we have been working very hard and I would highlight what we have done for the year. We organized the Diploma in International Commercial Arbitration with the CLARB which has become a regular event, this is actually the 12<sup>th</sup> diploma we have done. We did an outreach program with Africa. In Africa we did an adjudication training program, we took our certificate in adjudication to Kigali, Rwanda and we trained about 60 African adjudicators who are also on panel with KLRC and those who passed the exam. Then we had the KL International Arbitration Week where there were 400 delegates who attended, we had the Annual CIPPA Conference which is held every year and then we had also continued with the training of adjudicators because capacity building is one of the most important things, I think the regional centre have to do, so we have been training adjudicators for the construction industry payment and adjudication centre. I set up a new department. One of the big trends is moving on with the signing of bilateral investment treaties and multilateral investment treaties. The investment treaty is spawning a lot of arbitration and we have set up a new section called Investment Treaty Arbitration and also International Law Department in the Centre.

We organized the first diploma in Islamic Banking and Arbitration with the Chartered Institute of Arbitrators and ENCF in Malaysia and it was held in Kuala Lumpur. It was very successful. Last year we had organized about 21 ADR talks to promote awareness in alternate dispute resolution and these talks are free to the public and there has been various degree of interest and some of them were very heavily attended. We continue our cooperation agreements with a number of organizations and we signed a number of MOUs ranging from

the ICSID, World Bank for alternative hearing venue to other organisations and arbitral institutions.

Going back to the Diploma in International Commercial Arbitration, we had 30 odd participants all over the world and it was organized by the Chartered Institute of Arbitration KLRCA. Qualification is given by the Chartered Institute as Diploma in International Commercial Arbitration which is recognized, it is considered the flagship course. We took our own course which is the KLRCA certificate in Adjudication to Kigali based on a MOU signed with Kigali International Arbitration Centre. And Kigali, Rwanda is looking into introducing adjudication regime in its country but the participants who came for this course came from East Africa and Nigeria, so it was an African centre course but the trainers came from Malaysia and it was quite successful. We had a number of people, lot of engineers and architects and technical people who attended together with lawyers.

One of our highlight events that we do now every year is known as the Kuala Lumpur International Arbitration week which we started last year and this time it was attended by 400 participants. For over 4 days we had a number of conferences, events, programmes and we had a centennial lecture by the Chartered Institute of Arbitrators, and currently I am the global head of the Chartered Institute of Arbitrators and it sort of made sense to have this lecture in Kuala Lumpur. We launched a book detailing the history of the centre which we call *'Acknowledging the Past and Building on the Future'* and that book is available since last year, it has been well- received. We did a conference in Islamic Commercial Arbitration because Malaysia is a Centre for Islamic finance, a lot of initiatives are going on there, and we thought that dispute resolution on that would be very useful. We also moved on to a new area called Sports Arbitration because Asia is becoming a power house for sports and so there is a lot of disputes that are coming such as doping, selection etc., After the last year's meeting in Tehran, we also realized that the impact of sanctions on AALCO nations some of the Member States like Iran, which was particularly affected by sanctions and also we saw an opportunity for regional centres to offer our services in the light of rejections of the traditional centres in the West to resolve disputes arising out of sanctions because they could not handle the monetary provisions of payment to their arbitrators because of the restrictions put on their banks to transfer money.

Regionally, we organized the 9<sup>th</sup> Regional Arbitral Institutes Forum also in Kuala Lumpur. These are the some highlights of the conference. The annual conference of the Construction Industry Payment Adjudication Act was completed. In fact I came late for the AALCO meeting because I had to attend the meeting on 18<sup>th</sup> this year's conference. The Centre delivers an annual report to the public at large to say how is the Act faring and what are the numbers of cases, we give statistics and also we set out the cases that are going on and how it is developing. This is something that is eagerly looked upon by the Construction Industry in Malaysia. The Construction Industry Payment Adjudication Act has taken off well. Till date we have done 300 adjudications starting from 2014 and I expect this year to get 300-350 cases, and it has become a very big successful scheme in Malaysia. In fact in this years' conference I just gave the figures that, the total amount in dispute that has been sent to adjudication is 1.4 billion ringgit and the adjudicators allow 278 million ringgit. Therefore the scheme is very successful to ensure cash flow in the Construction Industry.

We do a lot of training programmes including adjudication training. We do practical programmes to train people on the other side who have to become users. As I mentioned earlier, we are taking our status as an independent AALCO centre and using it to actually

offer ourselves as a first venue for investor state disputes and also eventually looking to administer such disputes. At the present moment it is mainly carried out by ICSID, World Bank, Washington. We are going to tie up with the Permanent Court of Arbitration known as the PCA. PCA is the other alternative body that does under the UNCITRAL Arbitration rules. Our ambition is to actually position ourselves first by offering venue because most of the arbitration disputes are either heard in Washington or Europe. We think that Asian disputes should be heard in Asia. So we are offering the venue and then eventually we will try to manage our own investment disputes.

So what we have done is that we have actually kicked off a number of programmes and we have set up a department and hired a very experienced Head of Department whose entire focus is to promote this area. We started off with evening talks, this year we have done investment treaty conference in Asia. The other thing we did last year was that the diploma Islamic Banking and Finance Arbitration, we have got Madam Nayla and also Mohammad from Egypt, Nayla is from Lebanon to actually run the course and it was very successful. We have been talking to take this course to the Middle East so that we go direct to the users where the market is or whether we can still hold it in Kuala Lumpur.

As I have mentioned we have had a number of talks, every two-three week once we have a talk on all kinds of subject areas. We have signed a number of MOUs and one of the important MOUs we have not only signed with the more established institutions but also with the upcoming institutions like the Russian Arbitration Association. The Chartered Institute of Arbitrators has opened a regional branch in Asia in our Centre. Keeping an eye on the sports arbitration, we had cooperation agreement with the Asian Football Federation signed. One of the things we are also looking at is the Securities Industry Dispute Resolution Centre, actually done by the securities commission. It is actually a subsidiary and we have actually worked with them and they have an office in our Centre. And we are now working together for a training program actually promoting the scheme through their legislations. A breakdown of cases, I must inform you all that our case load is consistent its about 130 cases. It has dropped slightly in the Construction Industry where arbitration is concerned. But it has shot up in the adjudication so we have had about 200 cases in adjudication last year. So when I combine my cases for last year we are having about 300 plus cases. But this year we will have about 400 plus cases and we should be able to maintain it there, but I think this is part of the capacity building, awareness and others. I must acknowledge the support I am given by AALCO. The Secretary-General has been extremely supportive and also my chairman who is the Attorney-General of Malaysia and the Malaysian government itself which has consistently supported us by giving us the kind of support, resources and non-interferences in allowing us to do our work which is an issue that AALCO centers in other places do face in other places. But I think my government has been exemplary in providing the kind of resources and also the support. Whenever I have been in trouble, or perceived to be troubled and I have had direct access to them explaining to them the problem and, eventually there would be some kind of action taken to make sure that we remain independent and strong.

On the future projects, we are now working with Olympic Council of Malaysia (OCM) and the ICAS to set up a platform for the resolution of sports disputes and we are going to set up what is Malaysian Sports Tribunal that is going to be based in KLRCA. I should be able to report because it requires some legislative changes and we have persuaded our Minister that amendments to the Sports Development Act has actually been done waiting for approval from the Malaysian Parliament. So once this is done, we should be able to set up. We already have done the Sports Arbitration Rules. We are training our first set of sports arbitrators in September, we have a course in September, and I am bringing in an Australian and Canadian

to do this training. Once we learn how to do it, then we will do it ourselves. But we need to learn and we do not have expertise, we have to import expertise and we hope that with the first panel we would be ready when the Act is changed. The way the scheme is set up in arbitration rule is that the final appeal only for certain types of disputes will go to ICAS, most of it will be resolved by the Malaysian Sports Tribunal. We think that it will improve the quality of sporting, sports in Malaysia itself and maybe we hope that it will also be a model for this region to use.

We are a great maritime nation, Malaysia is surrounded by sea and in one of the most important straits of Malacca a lot of navigation goes through and of course our neighbors are all maritime nations. Hence, we are looking at setting up maritime arbitration. One of the things that is required is a platform that works together one unique institution itself but you also need a private sector to actually support us. To kick start we have set up the Maritime Law Society and the Maritime Law Society is bringing all the stake holders together including the Centre. They are actually located in the Centre and they would lobby for legislative changes, they will move the changes instead of the Centre itself doing that. So we are hoping that from there we already have the fast track arbitration rule and that rules will be used for maritime arbitrations. We do have maritime arbitration because judiciary has actually introduced a practice rule to set up Admiralty Court to have a more completely integrated system. Our domain name is going from strength to strength and, it shows the domain name sports resolution with the Asian Centers in Hong Kong, Korea is working very well. We are hoping to host ICANN meeting next year, I am bidding for it, but not sure whether I am going to get it. And then we are hoping to be our own full service provider so that we can now apply to ICANN directly. Then we are giving training for DNDR practitioners to become arbitrators for such dispute resolution later this year in November. We continue to collaborate with the number of organizations in Malaysia as I mentioned I did an MOU with ICSID, the World Bank and we have a number of MOUs that are going on. One of the things that we are very interested in doing, particularly with the Chinese Delegation, we want to work on an initiative that has been mooted by the Chinese Government and we have already started discussions and already worked out some platforms which I would be able to announce once our Chinese partners agree because we have to announce it together as partners. So we also want to be part of this initiative, which I think is one of the great initiatives AALCO Member States would be really affected by. That is all for my report, thank you, Mr. President and delegates.

**President:** I thank the director of the KLRCA for presenting an elaborative account of the activities that were carried out last year by the KLRCA. Now I invite the Director of the Lagos Regional Centre for International Commercial Arbitration, Mr. Wilfred Ikatari to present his report.

**Hon. Wilfred Ikatari, Director, Regional Centre for International Commercial Arbitration, Lagos (RCICAL):** Thank you Mr. President. Mr. President, Vice-President, and the Secretary-General Prof. Rahmat Mohamad, Excellencies, Distinguished Delegates, Ladies and Gentleman, I present to you a brief report of the activities of the Regional Centre for International Commercial Arbitration, Lagos for the year 2015-2016 covering March, 2015- February, 2016. This brief report is a consequence of the letter of invitation that we have received from the Secretariat of the AALCO to the Centre which also instructed us to be brief in our reports and presentations. In respect of compliance, the Centre decided to leave all items already made as per the earlier documentation. This included director's profile, Centre's old case laws, analytical distribution and complexities.

In the period under review, the Centre records an addition of five cases which are clearly institutional with the already existing case-loads comprising of mainly ad hoc arbitrations. Of the five additional cases, one has reached the award stage. The parties after the first sitting stated their intention to settle. Upon then second sitting, they furnished the sole arbitrator with the terms of settlement to be incorporated into the award as consent award. These arbitration cases have to do with Supply, Leases and one on Brokerage. Out of the five already existing ad hoc arbitration in the Centre, two have been concluded and award issued to parties. This leaves the Centre with a total of eight arbitrations pending. The Centre also records one mediation during this period under review. The mediation was concluded after two sittings and parties agreed to an amicable settlement of the dispute. The nature of the contract had to do with supply. The Claimant entered into an agreement with the Respondent to supply and install specialized furniture to the Respondent with an agreed deliver date. The Claimants were unable to deliver and install the specialized furniture within the agreed time line due to what the Claimant termed delivery challenges and unforeseen circumstances. Due to the late delivery and installation, the Respondent decided to withhold 10% of the contract sum as penalty for later delivery and installation. The Claimant subsequently demanded for the outstanding balance on the contract sum withheld including interest on the outstanding sum and fluctuation sums due to foreign exchange volatilities. The Respondent refused to pay these sums and this led to a dispute between the parties. The matter was referred in accordance to the terms of the contract between the parties to the Centre.

We participated in several events, domestic events of more profound importance which are presented and reflected in our report, the most important being the Nigerian Bar Association 55<sup>th</sup> Annual General Conference that was held at the Federal Capital Territory Abuja. This year's theme was 'Lawyers and National Development'. Our attendance there was pretty good and a very interesting topic was discussed in one of the breakout sessions. This was on the Use of Alternative Dispute Resolution (ADR) in Mediating Election Petitions'. That area attracted our presence there. You are aware that elections in almost all countries particularly in developing countries are in some cases very contentious and full of intricacies. When people start to feel that ADR can play a crucial role we see it as a fundamental shift in paradigm and that actually was an agenda to our annual conference. I think in the near future election matters will feature prominently at the Centre.

I now move to the area of international participation. The Centre maintains a MOU between International Centre for Settlement of Investment Disputes, Washington D.C., and so with International Law Institute. The International Law Institute had its 60<sup>th</sup> Anniversary Conference and Training programme on International Treaties and Investor-State Arbitration in Washington DC on November 29 to December 12. I was personally there at this event as the Director of the Centre. There was also a training programme attached to it which explored a lot of areas which are of fundamental interest to the Centre and of course to AALCO in general. At this session, I had highlighted the existing collaboration agreement with ICSID and sensitized the participants of the scope of the mandate of the Centre and the existing facilities to host and administer investor state arbitration proceedings under the auspices of ICSID. It was also expected of participants at the end of the training to be knowledgeable in the Mechanics of Arbitration; like the jurisdiction, appointment and challenges of arbitrators; place of arbitration; interim measures; the standard of treatment (fair and equitable treatment), investment policies and transparency in investment arbitrations. Also a major event that attracted all arbitration traditions in the continent of Africa was the Arbitration Institutions in Africa Conference which was held on July 23<sup>rd</sup> 2015. The theme for this

Conference was the ‘Role of Arbitration Institutions in the Development of Arbitration in Africa’. The Centre was a prominent participant in this event. The topic was prompted by the growing institutionalization of arbitration and a critical concern with the ability and capabilities of the Centres and institutions that administer the arbitration process and the quality of the services they provide for their consumers in the delivery of arbitral justice. In that event I presented a paper in which I gave a brief introduction on our Centre, our case load, additional services rendered by the Centre in respect of institutional and ad hoc arbitrations, the jurisdiction of the Centre and its Headquarters Agreement. On the issue of Headquarters Agreement a question was asked that sought answer to the question of independence and neutrality and impartiality of the Centre in the delivery of arbitral justice. It was in relation to the fact that the Centre is being funded by the government. In response to this I had to explain the origin and application of the Headquarters Agreement and the clause of it that deals with the issue and then I got deeper to show the way we are funded and how it does not affect our independence, neutrality and impartiality in the administration of arbitral justice. The highlight in that was in trying to remove the impression that the fountain of the arbitral centers as detailed in the Headquarters Agreement does not render the arbitral centre to be influenced or to be manipulated by any host government. I think it is good for AALCO and it is good for the Centre.

We also attended by invitation the Sixty-Third Session of the United Nations Commission on International Trade Law Working Group held on 7 to 11 November 2015 at Vienna. I was personally there with my delegation. The topic that was discussed was the enforceability of international commercial settlement agreements reached through conciliation. At its forty-seventh (New York, 7 to 18 July 2014), the Commission agreed that the Working group should consider at its sixty-second session the issue of enforcement of international settlement agreement resulting from conciliation proceedings and should report to the Commission at its forty-eighth session in 2015 on the feasibility and possible form of work in that area. In that session the Centre was able to make invaluable contribution in all the items that were on the agenda. It is gratifying that our contribution would in one way or other able to project not the Centre itself but the vision of AALCO in the way we see it in the ADR mechanism and policy.

We also proceeded to London to attend the Oxford Diploma Conference. The Chartered Institute of Arbitrators celebrated their 15 successful years of the Oxford Diploma. The event took place from 11<sup>th</sup> -13<sup>th</sup> September 2015 at the Keble College, Oxford. We maintain an existing and working relationship with the Chartered Institute of Arbitrators. They invited the Centre and I participated personally in that session. The working sessions were based on the active participation of those present. Drawing on their knowledge and experience to identify and get to the bottom of the issues, the course has been a highlight in developing skills and an understanding of the techniques in arbitration to help us resolve client’s disputes and for some, becoming arbitrators in their own right. The Conference is an opportunity to bring knowledge up to date, pick up on and develop friendships forged during attendance on the course and reacquaint ourselves. The main issue that was discussed was the role of arbitration institutions in the growth and development of arbitration and other ADR methods. The Centre brought to limelight its existence, its functions and the role it has played in crystalizing as well as expanding frontiers of development of arbitration in the continent of Africa.

We also had one memorable visit, which was the Courtesy Visit of the Delegates from the Nigerian Shippers Council to the Centre. They visited us on 30<sup>th</sup> April 2015 and the team was led by Ms. A.N. Ogo, the Director, Consumer Affairs Department. In her statement she had

informed the Centre that the NSC has been appointed the Economic Regulator for Nigerian Ports by the President of the Federal Republic of Nigeria. This was in addition to the mandate to protect Nigeria's cargo interest in international trade.

In order to ensure fair trading practices between Providers and Users of shipping services, the NSC plays a mediatory role between Providers of services, Users of services, Port users, and all other stakeholders at Nigerian ports. In this regard the NSC thought it necessary to visit the Centre to discuss areas of collaboration and matters of mutual interest to assist with the NSC Dispute Resolution Role. The areas of common interest were; marketing the Centre to stake holders in the region; using the Centre when parties agree; inviting the Center to meetings both West African ports and locally to make presentations on the use of the Centre's arbitration clause; educating the informal sector on the Centers clause; and collaborating with the Centre together with other service providers e.g. MAN in setting up a dispute resolution mechanism for the Cargo Defense Fund.

The Centre maintains cooperation agreements with major institutions such as the World Bank's ICSID, the Chartered Institute of Arbitrators UK, the China Law Society and most recently the Centre entered a cooperation agreement with the Arabic Centre for Arbitration. Under such Agreements, arbitration proceedings under the auspices of these institutions can be held at the Centre. We have future activities that are lined up. The Centre has a work plan to participate or organize various international conferences, seminars and workshops as soon as the host government facilitates her obligation which is contained in Headquarters Agreement. The Centre is open for internship for those who apply. And also the Centre is working out modalities for a Diploma Programme for Young aspiring arbitration practitioners and students. The Centre organizes the African Universities International Arbitration Moot Court Competition for Undergraduates with the support of Willem Vis Moot International Arbitration Competition, Vienna.

Mr. President, Distinguished Delegated, this is a brief rundown of the activities of the Centre for the period covered. We look forward to a promising year 2016 and wish you all a successful deliberation at this fifty-fifth session. I thank you.

**President:** I thank the Director of the Lagos Regional Centre for International Commercial Arbitration for appraising the house about the arbitration related activities of the Centre and its participation in various activities during last year. Now, may I request Dr. Oveis Rezvanian, *Director, Tehran Regional Arbitration Centre (TRAC)* to present his report.

Dr. Oveis Rezvanian, *Director, Tehran Regional Arbitration Centre (TRAC)*: Thank you Mr. President. His Excellency, Mr. President, Distinguished Delegates, Ladies and Gentlemen, at the outset, as the Director of Tehran Regional Arbitration Centre (TRAC), please allow me to take this opportunity and thank AALCO for providing Arbitration Centres with the opportunity of presenting their reports in the Annual Session.

In 2015, TRAC actively continued to maintain its function and productivity. TRAC is proud that in the past year, it played independently, professionally and efficiently under its mandate. In addition, as an established arbitration institution, it gained a valuable recognition for the smooth and professional conduct and promotion of international arbitration in the Region. I am delighted that TRAC's arbitration clause was inserted in various types of international and domestic contracts.

In accomplishment of its main duty in 2015, TRAC administrated effectively its pending arbitration cases and, in regard to the handled cases, assisted the parties in complying with further legal or administrative formalities before tribunals. Thanks to the TRAC's Rules of arbitration, TRAC provided its users with the highest flexibility as well as remarkable efficiency. Under TRAC's Rules of Arbitration, parties are free to decide about different aspects of arbitration from the appointment of arbitrators to the conduct of proceedings.

In 2015, TRAC also participated keenly in promotional activities in Iran and in the Region. On October 2015, in commemoration of its 10<sup>th</sup> anniversary, the Tehran Regional Arbitration Centre hosted the first ever "International Arbitration Day" in Tehran. The purpose of the conference was to bring together well-known lawyers, distinguished scholars and prominent advocates of international arbitration from all over the world, to discuss recent challenges and developments in the field of international arbitration, but as well to explore Iran's post-sanctions place as a key hub for arbitration in the region.

The conference was composed of three separate panels with the following themes:

- International Arbitration in Iran
- International Arbitration involving State parties; and
- Cultural diversity in Cross- Cultural Counselling and Advocacy.

This "International Arbitration Day" conference, which was greatly welcomed and appreciated by the international and domestic participants had a great show in Iranian media, and was the first conference of its kind to be held in Iran.

I am also delighted to announce that the preparation and setting up of the first Iranian Commercial Arbitration Moot Court have been accomplished in 2015. This competition, which is jointly organized by TRAC and the Arbitration Centre of Iran Chamber of Commerce, aims to foster the study of international commercial law and arbitration for resolution of international business disputes through its application to a concrete problem of a client and to train professional lawyers in international level.

In order to conduct this competition, a Scientific Committee composed of prominent law professors, drafted a problem and the participants were requested to act on behalf of both the claimant and Respondent, in written submissions and oral hearings. This competition was warmly welcomed by law students as well as junior attorneys and was highly appreciated by academic sections as well as legal professionals. The competition is still going on and the oral hearings are scheduled to be held in late May 2016 in Tehran.

TRAC's another activity in 2015 was to launch its new and multilingual website. This brand new website provides the users with more updated information in a very user-friendly manner. In addition, some new sections and features are added to the website, namely News, Careers and some useful Legal Texts. TRAC's new website is now available in four languages (Farsi, English, French and Arabic) which allow more users to benefit from TRAC's website.

In 2015, TRAC's representatives and members participated actively in different conferences and seminars in all over the world, either as the participants or the sponsors. This active participation had a great effect on the promotion of the name of TRAC in global level.

In 2015, TRAC offered several internship opportunities to young professionals. Under supervision of one legal counsel, interns were assigned projects and tasks that were relevant to International Arbitration and they had the opportunity to put into practice their theoretical knowledge.

In 2015, TRAC was pleased to receive the applications of many outstanding arbitrators from all over the world. A number of these applicants were added to the TRAC's list of arbitrators and some others are still under consideration. The updated list of arbitrators is available on TRAC's website ([www.trac.ir](http://www.trac.ir)) and accessible to users. Again, thanks to TRAC's Rules of Arbitration and its flexibility, parties are free to select their arbitrators, either from the TRAC's list or from their own desired professionals.

In completion of all promotional activities and as an initiative to a growing business relationship, in 2015, TRAC aimed to elaborate its collaboration with other arbitration centers and some reputable law firms specialized in the field of international arbitration all over the world. For this purpose, TRAC organized different meetings with international and local arbitrators, law firms and commerce chambers, as well as embassies for promoting TRAC's activities, exchanging the ideas and envisaging possible collaboration.

Mr. President, Please allow me now to turn into TRAC's prospective of 2016. As a prospective to 2016, TRAC aims to offering high institutional services among other arbitration centres in the region and promoting its name as a truly independent, international arbitration centre. TRAC is also very interested to exploring new commercial areas after lifting the sanctions against Iranian companies. TRAC is hoping that its arbitration clause will be increasingly inserted in the commercial contracts that will be signed between foreign investors and Iranian counterparts and, therefore, TRAC will play a significant role in resolving potential disputes that might arise between them.

In addition and in the accomplishments of its educational duty, TRAC envisages to organizing different workshops, seminars as well as intensive summer school in the field of international arbitration in Iran. For this purpose, TRAC is considering collaborating with a number of reputable academic centers in order to maximize the quality of its training activities.

TRAC also intends to collaborate closely with other arbitration institutions as well as academic centers. TRAC believes that this kind of cooperation would be instrumental for striking higher and harmonious standards in arbitration conduct. It also would create for striking higher and harmonious standards in arbitration conduct. It also would create awareness about the existence of a transnational safe environment extended throughout the region for settlement of international commercial disputes. In this regard, TRAC is hoping to commence regular cooperation with other regional Arbitration Centers, under the auspices of AALCO.

The last, but not the least Mr. President, TRAC is envisaging to revise its Rules of Arbitrations in 2016. Adopted and published in 2005, the TRAC Rules of Arbitration are essentially based on the UNCITRAL Rules of Arbitration which are well known to the practitioners and, as a widely used set of procedural norms, would be capable of offering a higher comfort to the parties, However, considering the experiences already gained from the cases, we, at the TRAC, believe that it is to time to update and revise the rules and so far, some basic steps for this mission have been taken.

Mr. President, distinguished ladies and gentlemen, I thank you for your attention.

**President:** I thank the Director of the TRAC for presenting his report. Dr. Oveis Rezvanian has appraised us about the cases that are before the TRAC, its participation in various activities, its cooperation with other regional centers of our organization. He also touched on the procedural aspects of the TRAC rules and the efforts to bring them in tune with the UNCITRAL rules which have almost universal acceptance. Thank you very much for that.

All of us who are from the legal fraternity do know the emerging significance of arbitration particularly in the field of investment treaty arbitrations, commercial treaty arbitration. As we have been knowing so far, it has been arbitration in public international law. But arbitrations are more active in the field of private international law because of development in trade, increased commercial interaction among international community, conclusion of bilateral and regional trade and investment agreements, and the emergence of disputes on account of implementation of these instruments. So far as the establishment of the regional centers is concerned it is not only the AALCO but there are many other regional organizations acting on the international plane, the oldest one being the Permanent Court of Arbitration (PCA). There is almost a competition in the setting up of regional arbitration centers and it is good that we are not behind in this competition. More and more arbitration centers are available for the Member Countries in accordance with their convenience. I have a request from Kenya to make a statement on the Nairobi Center for Arbitration. Now I invite Kenya to make its statement.

**The Delegate of Kenya:** Thank you Mr. President for giving me an opportunity to address this meeting with regard to where we are, with regard to our regional centre. Distinguished delegates, it will be recalled that during the Forty-Fifth Annual Session of AALCO held here in New Delhi on 3 April 2006, the then Secretary – General of AALCO and the then Attorney- General of the Republic of Kenya signed a Memorandum of Understanding on the establishment of the Regional Centre for Arbitration in Nairobi. Subsequently, in July 2007 during the Forty-Sixth Annual Session of AALCO held in Cape Town, Republic of South Africa, an Agreement establishing the Nairobi Regional Arbitration Centre for Arbitration was signed between the then Secretary- General of AALCO and the Republic of Kenya.

During the Fifty-Fourth Annual Session in Beijing, China, 2015 Kenya reported that she had established the Nairobi Centre for International Arbitration through an Act of Parliament namely, the Nairobi Centre for International Arbitration Act No, 26 of 2013. The Nairobi Centre is governed by a Board of Directors of eminent practitioners, consisting of a Chairperson and eleven members, two of whom are from the east African region with its daily affairs being managed by a Registrar.

The inaugural Board of Directors was appointed in 2014 and the Board has been able to establish the systems and structures for the Nairobi Centre. The Nairobi Centre prepared its Arbitration and Mediation Rules after extensive consultations with practitioners and other institutions including the Kuala Lumpur Regional Centre for Arbitration. These Rules which are a modification of the United Nations Commission on International Trade Law (UNCITRAL) Rules were published in December 2015 and the Rules are now available on NCIA website [www.ncia.or.ke](http://www.ncia.or.ke).

Distinguished Delegates, in February 2016, the Nairobi Centre co-hosted with the International Council for Commercial Arbitration (ICCA) the Pre- Congress 2016 Roadshow. The Roadshow involved presentations and discussions on topical issues on international arbitration and the rule of law as well as being a precursor to the ICCA Conference that was held in Mauritius from 9<sup>th</sup>-12<sup>th</sup> May 2016.

The Nairobi Centre has participated in the one-day AALCO Regional Arbitration Centres meeting held on 27<sup>th</sup> April 2016 at the Tehran Regional Arbitration Centre. The event was graced by the presence of His Excellency Prof. Rahmat Mohamad, and it was an opportunity for NCIA to share with other Arbitration Centres and the invited guests on its structures, functions and activities. A delegation from the Shanghai Arbitration Commission visited the Nairobi Centre in May 2016 and the two institutions discussed areas of mutual interest and collaboration in the area of international arbitration.

Distinguished Delegates, in June 2015, NCIA partnered with the Centre for Effective Dispute Resolution in a 40 hour accreditation training that targets judicial officers and practitioners within the public sector. The training is aimed at supporting the roll-out of mediation in the commercial and family divisions of the High Court of Kenya. In order to build the capacity of the NCIA Secretariat, various training sessions have been held by the Chartered Institute of Arbitrators, Kenya Branch to enable the NCIA offer effective and high quality services.

The NCIA has lined the following activities for the period 2016-17:

- Inaugural NCIA Arbitration Conference, Nairobi December 2016
- Launch of the NCIA Strategic Plan 2016-2020.
- Enlisting Arbitrators and Mediators on the NCIA Panel; and
- Promotional Activities and Capacity development and transfer

As I conclude, I would like to say that the Government of Kenya continues to provide support at policy level to advocate Kenya's position with respect to international agreements on Alternative Dispute Resolution and in respect to the neutrality of NCIA. The Government of Kenya is keen to ensure that the arbitration is a preferred dispute resolution process. The Government is committed to ensure that the Nairobi Centre becomes the preferred regional and global centre for resolution of international commercial disputes. Thank you Mr. President.

**President:** I thank Her Excellency Madam High Commissioner of Kenya for appraising us about the status and role of Nairobi Arbitration Centre. With this, we have completed our deliberations on the reports of AALCO Regional Arbitration Centres. Next item on our agenda relates to the AALCO Eminent Persons Group (EPG). Customarily, it is the Chairman of the EPG who presents the report of the meeting of EPG to the Plenary. But since he is unavailable, it was decided to request the Secretary-General of the Organization to do the same. However since Secretary-General had to go for some important engagement, we have got the Deputy Secretary-General Mr. Feng who would report about the meeting of EPG. So, I give the floor to Mr. Feng.

**Report of the Sixth Meeting of the Eminent Persons Group (EPG) Presented by Mr. Feng, Deputy Secretary-General of AALCO on behalf of the Chairman of EPG who was absent:** Thank you Your Excellency Mr. President. As you mentioned, the Secretary-General is supposed to present this report and because he is absent, I will read out the report.

The Sixth Meeting of AALCO Eminent Persons Group (EPG) was convened at Hotel Le Meridian, the venue for the Fifty-Fifth Annual Session of AALCO on 16 May 2016 at 5.00 PM. In the absence of the Chairman, it was proposed that the Secretary-General of AALCO Prof. Dr. Rahmat Mohamad would be initiating the discussions on the issues that have been dealt with by the EPG over the years. It was also agreed unanimously that the report of the EPG could be presented by the Secretary-General at the plenary. The Meeting was attended by EPG Members Dr. Roy Lee, Permanent Observer of AALCO in United Nations, New York and Your Excellency Mr. President, Dr. V.D. Sharma, Joint Secretary, Ministry of External Affairs, Government of India who replaced Mr. Narinder Singh, Member of the International Law Commission from India. Mr. Feng Qinghu, Ms. Yukiko Harimoto and Mr. Mohsen Baharvand, Deputy Secretaries-General of AALCO also attended the meeting. Mrs. Anuradha Bakshi, Principal Legal Officer and Mr. Pandiaraj, Senior Legal Officer, AALCO assisted the EPG.

At the outset the Secretary-General gave a brief overview of the establishment and role of the EPG in the past several years. He pointed out that it has been the practice of AALCO to convene the meeting of EPG a day prior to the commencement of an annual session so that the expertise of those eminent persons attending the session could be utilized. He went on to narrate the work of EPG in relation to both the organizational and substantive issues of AALCO.

It was suggested that Dr. Roy Lee could briefly apprise the meeting about his activities as the Permanent Observer of AALCO in New York. Dr. Lee mentioned at the outset that the Legal Advisors Meetings of AALCO that are organized in New York are open to all missions in New York. On the meetings convened last year, he mentioned that three meetings had been organized in New York, out of which two focused on issues related to marine biodiversity beyond national jurisdiction. One of them related to identifying issues/problems relating to Customary International Law (CIL). On the issue of CIL, he cautioned that due to the intricacies involved in formation and identification of customary law and also due to its universal binding effects, the issue demanded very close scrutiny. The other participant stated that formation and identification of customary international law are two distinct issues and they are to be dealt separately.

Dr. Roy Lee further pointed out that there is a palpable shift in operational paradigm of the United Nations. He illustrated this by reference to the work of UN General Assembly which is currently discussing enhancing cooperation of regional organizations and NGOs with the UN. Taking a cue from this practice, he suggested that AALCO could identify some selected agenda items in its work programme in relation to which the services of NGOs and regional organization could be employed.

In conclusion, it was suggested that the membership of EPG could be gradually increased and that inter-sessional meetings of the EPG could also be convened. Furthermore, it was suggested that the incoming Secretary-General should consider to continue to utilize the services of the EPG by holding regular periodical meetings. A recommendation was also made that the current Secretary-General H.E. Prof. Dr. Rahmat Mohamad upon his relinquishment of his office could continue to serve the Organization as an ex-officio member of the EPG. I thank you Mr. President.

**President:** I thank the Deputy Secretary-General for presenting the report. Distinguished delegates, just to clarify myself, normally the Chairperson of the EPG is supposed to present

the report of EPG. Currently, the Chairperson is Dr. Rohan Perera who is currently the Permanent Representative of Sri Lanka to the United Nations in New York. Since he could not come, the Secretary-General of AALCO was supposed to present the report. But in the absence of the latter, the task had to be done by the Deputy Secretary-General Mr. Feng. Now, the next item on our agenda is the report of the Chairperson of the Working Group on International Law in Cyberspace. The Chairperson is H.E. Mr. Hossein Panahi Azar, Director General for International Legal Affairs, Ministry of Foreign Affairs, Islamic Republic of Iran and I respectfully invite him to present his report.

**Summary Report of the First Meeting of the Open-Ended Working Group on International Law in Cyberspace Presented by its Chairperson, H.E. Mr. Hossein Panahi Azar, Director General for International Legal Affairs, Ministry of Foreign Affairs, Islamic Republic of Iran:** Thank you Mr. President. I am going to read the summary report of First Meeting of the Working Group on International Law in Cyberspace held on 19<sup>th</sup> May 2016 which has been prepared by the AALCO Secretariat.

The First Meeting of the AALCO Working Group on International Law in Cyberspace was convened at Hotel Le Meridian, in New Delhi, the venue for the Fifty-Fifth Annual Session of AALCO on 19 May 2016. Under the Chairmanship of H.E. Dr. Sharma the President of the Fifty-Fifth Annual Session of AALCO, the Working Group had unanimously elected me as the Chairperson based on the proposal of the Delegation of South Africa seconded by the Delegation of People's Republic of China. The Delegation of India proposed the nomination of H.E. Ms. Njeri Mwangi Wachira, Chief State Counsel, Kenya, as Vice-Chairperson and the proposal was seconded by the Delegation of Uganda and she was thereafter unanimously elected. The President announced the prior nomination of Prof. Huang Zhixiang of Wuhan University Law School, China as the Rapporteur proposed by the Chinese Government, which was supported by the Delegation of India, wherein he was unanimously elected.

The Chairperson encouraged Member States to focus their statements on four areas as properly mandated: international law pertaining to State sovereignty and cyberspace; peaceful uses of cyberspace; rules of international cooperation in combating cybercrimes; and finally identification of relevant provisions of the UN Charter and other international instruments related to cyberspace, before inviting the Rapporteur as well as the Vice-Chairperson and then delegations to make statements. Important issues which were addressed by delegates included, *inter alia*, applicability of international law in cyberspace; the domestic legal framework; State sovereignty in cyberspace; rules of international cooperation in combating cybercrimes; and on the work of the AALCO Working Group and the study.

On the Application of International Law in Cyberspace, delegates were in general agreement that the basic principles of international law, particularly those embodied in the UN Charter, did apply to cyberspace, and that they were necessary to maintain peace and stability, and in promoting a secure and peaceful cyberspace. In this context, some delegates made reference to the work of the UN Group of Governmental Experts (UNGGE) which has affirmed their point of view. Yet, a view was also expressed that the format whereby these basic principles of international law could differ in virtual universe compared to the real world.

On the Domestic Legal Framework, some delegations elaborated their national legal regime and other measures that have adopted and implemented in their countries respectively to ensure cyber-security and to combat cybercrimes, in particular. Cyberwarfare, cybercrimes and cyber-attacks in general were issues addressed by delegates, particularly with relation to

attacks on civilian and governmental infrastructure, and the theft of information and intellectual property. The cyber-attack on Sony Pictures Entertainment was used as an example of the danger of cyberattacks as well as the difficulties in preventing these attacks and in identifying and prosecuting their true culprits. A few delegates agreed that the nature of cyber threats was an ever-evolving one and in this regard it was also pointed out by a delegation that instruments like the Budapest Convention need to be updated on a periodical basis.

With regard to State sovereignty in cyberspace, there were diverging views on the identification and interpretation of State sovereignty in cyberspace. It was mentioned by a delegate that there is a vacuum in terms of international law pertaining to State sovereignty in cyberspace. Another view was also expressed according to which State sovereignty in cyberspace includes sovereignty over tangible cyber infrastructure and sovereignty over intangible cyber information and data; both being indispensable parts of State sovereignty. One of the differences amongst the States concerned the ICANN, because while many of AALCO's Member States participate in ICANN as members of its Governmental Advisory Committee, concerns were also voiced about ICANN not recognizing State sovereignty.

On the Rules of International Cooperation in Combating Cybercrimes, one delegation stated that it is essential to have rules of international cooperation in combating cybercrimes due to the reason that Member States apply different regimes and domestic laws in this area. A proposal was made that AALCO Secretariat conduct a detailed study on the appropriate rules of international cooperation in combating cybercrime which could subsequently lead to the formation of a guideline in this aspect. Another view was expressed that to facilitate the Working Group to achieve concrete outcome, AALCO Member States might consider adopting model provisions on cooperation in combating cybercrime among them.

On the AALCO Working Group and the Study of AALCO on the issue, many of the delegations welcomed the creation of the "AALCO Working Group on International Law in Cyberspace" and the study undertaken by the Secretariat on the subject. A few States had mentioned that the work of the Working Group will contribute to the discourse on the issue at AALCO and add momentum to the topic in international forums. A view was also expressed that the Working Group could generate ideas on the way forward towards building consensus among the AALCO Member States on the applicability of international law in cyberspace matters. A concern was expressed that the Working Group should avoid discussion or adoption of resolutions that could pre-judge the approaches being discussed in existing forums. Another view was put forward that the study could be used as a source of legal reference on issues concerning international law in cyber space. I thank you Mr. President.

**President:** I thank H.E. Hossein Panahi Azar for presenting the report of the first meeting of the Working Group on International Law in Cyberspace in his capacity as its Chairperson. We came to know from the report that there has been divergence of views within the Member States of AALCO about some issues that were under consideration. I would say that it is not disagreement or difference between Member States but, that the topic is at its very initial stage and these are the independent views of the Member States and just from my personal viewpoint, if we have a look at the treaties and conventions available in different areas of importance to our planet. For example, oceans occupy 3/4<sup>th</sup> of the earth space and the international community felt the need for framing rules, the effort started with the Third United Nations Law of the Sea Conference in 1973 and the results came out after nine years of hectic negotiations in 1982 in the form of the UNCLOS. So space is also not that easy area

to be regulated. In fact as in the law of the sea area where we claim rightly that AALCO contributed in identifying the EEZ concept, starting now with this agenda item. I think we will be able to contribute importantly if in future at some point during the negotiations that will be undertaken in this area. Due to the increasing use of cyberspace for different reasons, there would be dire need to have international regulations in the area of cyber space. It is good that we have started our work and it is an exploratory exercise and I think that the Secretariat is undertaking studies in coming out with concrete proposals in view of the ongoing discussions. So we look forward for further study and deliberations in this area. Now, distinguished delegates it is lunch time and according to our schedule we have to reassemble at 4.00 PM but I would suggest that we come back at 3.00 PM itself so that we have enough time at our disposal to complete the rest of today's proceedings. If this is acceptable to all of you, I think it seems it is indeed, so we will assemble at 3.00 PM here. I thank you all.

**The meeting was thereafter adjourned.**

**XV. VERBATIM RECORD OF THE THIRD MEETING  
OF THE DELEGATIONS (CONT.)**

**XV. VERBATIM RECORD OF THE THIRD MEETING OF THE DELEGATIONS OF AALCO MEMBER STATES (CONT.) HELD ON FRIDAY, 20 MAY, 2016 AT 3.00 PM**

**His Excellency Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, Government of India and the President of the Fifty-Fifth Annual Session of AALCO in the Chair**

**President:** I welcome back all the distinguished delegates. In the post-lunch Session the first agenda that we are going to take up is the adoption of the Message of Thanks to the Honourable President of the Republic of India. The Secretary-General of AALCO H.E. Prof. Rahmat Mohamad will read the message after which it will be adopted by the delegates. Now I invite H.E. Prof. Rahmat Mohamad to deliver the same.

**Prof. Dr. Rahmat Mohamad, Secretary-General:** Thank you Mr. President. Mr. President, Excellencies, Distinguished Delegates, Ladies and Gentlemen, on behalf of all the Delegations of the Member States and Observers attending the Fifty-Fifth (2016) 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-Fifth 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-Fifth 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 throughout AALCO’s sixty-year history, India has attached 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. On this occasion, the New Delhi Declaration on the Commemoration on the Sixtieth Anniversary of AALCO was adopted.

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 that 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, famed for its picturesque juxtaposition of history and modernity, we the delegates of the Fifty-Fifth 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 by hosting the Annual Session with warmth, graciousness and ability, and ensuring that this momentous occasion of the Sixtieth Anniversary of AALCO was a memorable one.

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

**President:** Thank you very much Your Excellency Prof. Rahmat Mohamad for presenting the message of thanks to the Honourable President of the Republic of India. Distinguished delegates, now the message is proposed to be adopted, so it is adopted. Excellencies, the next item on our agenda is the venue of our next annual session, that is to say the Fifty-Sixth Annual Session. The practice existing in this area is that the venue is decided on the last day of the Session. That is why we are taking this up now. My request is to the Member States to come up with an offer and we have to bear in mind that the hosting of Session is governed by the principle of rotation. For example, if the session is held in Asia this year, it needs to be held in Africa next year. If there is any offer at this point of time, please come forward to say that, or otherwise the Secretariat will get in touch with the country wishing to host the next session in future. With that we shift to the next agenda item. It is the adoption of the summary report and the resolutions.

### **Adoption of Resolutions:**

#### ***Organizational Matters***

RES/55/ORG 1	Report of the Secretary-General on Organizational, Administrative and Financial Matters
RES/55/ORG 1A	Report on the Regulations on AALCO's Secretary-General's Salary, Allowances and other Emoluments <sup>19</sup>
RES/55/ORG 2	AALCO'S Budget for the Year 2017
RES/55/ORG 3	Report on AALCO's Regional Arbitration Centres
RES/55/ORG 4	Appointment of the Secretary-General
RES/55/ORG 4A	Expression of Gratitude to the out-going Secretary-General

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<sup>19</sup> In the discussions leading up to the adoption of this resolution, the Delegate from Tanzania had a query to make on the educational allowance to be given to the children of the incoming Secretary-General of AALCO. Citing the operative paragraph 2 of the resolution which provided that “*Decides to mandate the Liaison Officers Meeting to consider the issue of “Education Allowance” at its next meeting, and place it for consideration of the Member States at the next Annual Session*”, the delegate wanted to know when exactly the meeting to discuss this issue will be convened and whether status quo would be maintained in the interim. Clarifying the issue on behalf of the Secretariat, Mr. Mohsen Baharvand, Deputy Secretary-General of AALCO stated that the drafting of the budget was premised on the acceptance of the regulation and that if the issue is raised at the request of a Liaison Officer, it can be revisited again at the level of Sub-Committee first, followed by the meeting of the Liaison Officers and then the resulting decision can be brought back to the Plenary of the next annual session for the purpose of adoption by Member States. He added that the process that was followed for making amendments to the regulation will be the one that will be followed in relation to this issue as well. On the issue, Delegates from South Africa and Nigeria gave a suggestion that the plenary mandate the Liaison Officers to discuss the issue of educational allowance again. This was accepted. On the title of this resolution, the Delegate from Malaysia pointed out the inconsistency that existed between para one of the resolution and the draft regulation appended to the document. While the former used the word “entitlement”, the latter used “emoluments”. Upon reflection, the word emolument was accepted.

### **Substantive Matters**

RES/55/S 2	The Law of the Sea
RES/55/S 4	Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine <sup>20</sup>
RES/55/S 9	Violent Extremism and Terrorism (Legal Aspects) <sup>21</sup>
RES/55/S 13	WTO as Framework Agreement and Code of Conduct for World Trade
RES/55/S 17	International Law in Cyberspace
RES/55/SP 1	Resolution on the Special Meeting on “Selected Items on the Agenda of the International Law Commission”

### **Declaration**

AALCO/DEC/55	New Delhi Declaration on the Commemoration of the 60 <sup>th</sup> Anniversary of AALCO
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### **Consideration of the Summary Report:**

The draft summary report of the Fifty-Fifth Annual Session was placed for the consideration of Member States.

**President:** Distinguished delegates, with this we have adopted all the draft resolutions. The spirit of cooperation shown by all delegates should be appreciated, and I think we should celebrate this moment. Dear Colleagues, slowly we are coming close to the concluding part of the Session. The next is the proposal of the Vote of Thanks.

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<sup>20</sup> In the discussions leading up to the adoption of this resolution, the Delegate from the State of Palestine had a suggestion to make on the third paragraph (from down) of page two which had used the words “illegal settlement”. Stating that there is no such thing as ‘legal’ settlement, he wanted the term ‘illegal’ to be deleted. This was accepted.

<sup>21</sup> In the discussions leading up to the adoption of this resolution, the Delegate from Nigeria sought clarification on the words ‘sectoral’ conventions occurring in first Preambular Paragraph on the second page. He wondered whether what is being referred to are the regional conventions. The President clarified the issue by stating that sectoral conventions are topic-specific anti-terrorism instruments and that they could be bilateral, trilateral, multilateral or regional. Sectoral Conventions that do not deal with all act of terrorism in totality and that they differed from regional conventions, the President added. It was further clarified by the President that this was why the Comprehensive Convention on International Terrorism had been proposed to cover all terrorist activities in one single instrument. On the words, “trying to further develop” occurring in Operative Paragraph 1, line 2 of the draft resolution, he stated that the words ‘trying to’ could be deleted in the interest of precision. Finally, as regards the words “urges for action” occurring in Operative Para 2, the Nigerian delegate suggested that the word ‘coordinated’ could be added as a prefix to the word action. The President reflected on the proposals. As regards the words “urges for ‘coordinated’ action”, the President pointed out that the word action is a generic term and omnibus in nature and that it would include all kinds of action, coordinated, individual, and unilateral as long as it served the purpose. The President further noted that insertion of the word ‘coordinated’ will be limiting its scope. When the President asked whether the Plenary could go ahead with this understanding, it was accepted. The Delegate from Republic of Korea suggested that the original draft of the resolution be retained. It was accepted and adopted accordingly.

**XVI. VERBATIM RECORD OF THE FIFTH GENERAL  
MEETING AND THE CONCLUDING SESSION**

**XVI. VERBATIM RECORD OF THE FIFTH GENERAL MEETING AND THE CONCLUDING SESSION HELD ON THURSDAY, 20 MAY 2016 AT 03: 15 PM**

**His Excellency Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and President of the Fifty-Fifth Annual Session of AALCO in the Chair**

**President:** Distinguish Delegates, this is a unique custom associated with our Organization. We have the tradition of inviting one country from respective regions and from the category of observer state and even the international organization that are present and want to thank. For the Asian side, we have the distinguished delegate from the Brunei Darussalam to propose the Vote of Thanks. You have the floor.

**Leader of Delegation of Brunei Darussalam:** It is indeed an honour to propose a Vote of Thanks on this important occasion on behalf of the Asian Member States of AALCO.

I have great pleasure in expressing to the President of the Fifty-Fifth Annual Session H.E Dr. V.D. Sharma our sincere gratitude and appreciation for his wise and able leadership that has steered the course of the Session admirably. The successful completion of this Session owes much to your experience, efficiency and wisdom. I would also like to express my gratitude to H.E. Mr. Samuel Panyin Yelley, the High Commissioner of Ghana and the Vice-President of the Fifty-Fifth Annual Session for his unstinted cooperation and able assistance to the President which is laudable.

I would like to express my deep and heartfelt appreciation to the Secretary-General of AALCO Prof. Dr. Rahmat Mohamad for making all the necessary arrangements for the successful conclusion of this Session. I take this opportunity to extend my warm appreciation to him for the vision and commitment with which he has guided AALCO for the last 8 years. I am sure under your leadership AALCO has progressed significantly in terms of attaining the objectives for which AALCO was set up.

I take this opportunity to offer my warmest congratulations to the newly-elected Secretary-General of AALCO Prof. Kennedy Godfrey Gastorn. I feel confident that with Prof. Kennedy Gastorn, AALCO is in good hands and on course for important achievements. I also wish to express my deepest regard to the Deputy Secretaries-General of AALCO and the Staffs of the Secretariat of AALCO for working tirelessly in preparing for the Fifty-Fifth Annual Session of AALCO. The interpreters also deserve our heartfelt appreciation for carrying out their job with utmost care and great efficiency.

Finally, I am thankful to all the delegates of this Session without whose enthusiastic participation and valuable perspectives, the Fifty-Fifth Annual Session would not have been fruitful. Thank you all.

**President:** I thank the delegate from Brunei for proposing the Vote of Thanks on behalf of Asian Countries. Now it is the turn of our sister Continent, the Africa and to propose the Vote of Thanks on behalf of Africa I invite the delegate from South Africa.

**The Delegation of South Africa:** Thank you Mr. President. Mr. President, Hon'ble Ministers, Attorney-Generals, Excellencies, Distinguished Delegates, Ladies and Gentlemen,

it is an honour to have been asked to propose a Vote of Thanks on this occasion on behalf of the African Member States of AALCO.

I would like to extend our sincere appreciation to H.E. Dr. V. D. Sharma the Honourable President of the Fifty- Fifth Annual Session of AALCO as well as H.E. Mr. Samuel Panyin Yelley, the Vice-President of the Fifty- Fifth Annual Session for the excellent and skillful manner in which they directed the proceedings to its successful conclusion. Both of them have brought to the Session all the expertise and experience and steered it to a very productive completion.

Please allow me to express my profound appreciation to the Secretary-General of AALCO Prof. Dr. Rahmat Mohamad for all the necessary efforts to make this session a successful reality. I also thank him for the way in which he has been leading AALCO in the last eight years or so giving it more visibility and direction. We thank him for his valuable contributions to the success of AALCO.

I further take this opportunity to offer my warmest congratulations to the newly-elect Secretary-General of AALCO Prof. Kennedy Godfrey Gastorn. It is our firm belief that under his leadership AALCO will continue to grow in significant ways and achieve further objectives in the future.

I would also like to thank the three Deputy Secretaries-General of AALCO and all the Staffs of the Secretariat for their laudable efforts in preparing for the Fifty-Fifth Annual Session of AALCO. Furthermore, I would also like to thank the interpreters for accomplishing the demanding and grueling task of translating each and every word spoken at this forum.

To all the Member States who tirelessly worked towards the success of this Session, we appreciate your enthusiastic participation. And finally, the African Member States would like to once again thank the Government of the Republic of India for the excellent hospitality. Thank You.

**President:** I thank South Africa for proposing the Vote of Thanks on behalf of the African Continent. We have also Viet Nam from the Observer category to offer the Vote of Thanks. I invite its distinguished delegate to do so. You have the floor.

**The Delegation of Vietnam:** Thank you Mr. President. On behalf of our delegation, we would like to express our sincere thanks to the President and Vice-President of the Fifty Fifth Annual Session of AALCO and also to the Secretary-General and his staffs for making sure that we have reached to a successful conclusion of this Fifty-Fifth Annual Session of AALCO. We would give our full support to AALCO when Viet Nam becomes a full member of the Organization in future. Thank you very much.

**President:** Distinguished Delegates, our next agenda item is closing remarks to be made by the President. That means it has boiled down to me now. Dear Colleagues, before I start delivering my closing remarks, all the delegation including our own delegation from India from the very beginning have been remembering the sad demise of the first Secretary-General of AALCO Dr. B. Sen and we have been remembering his good work as well. In those days, the vision of our leaderships, in the initial stage we can limit it to the vision of some States but later all the Member States in fact came together gradually. Having vision is the work of leadership, but, translating into reality is the responsibility of the representatives

of Member States practically involved in the process and through the Secretariat led by its Secretary-General and in those initial times the Secretariat was led by Dr. B. Sen. It is very easy dear colleagues to take something from a level when it has reached. But to lay the foundation, have some vision, start with it and make it worthy of functioning is entirely different and a difficult task. Only people with full dedication and with extraordinary talent can do it. B. Sen was one of such extraordinary talent who did it and that too for a long time of three decades. So I would propose to all of you to give Dr. B. Sen a one minute standing homage. I thank you all.

Hon'ble Ministers, Excellencies, Distinguished Delegates and Observers, the AALCO has now been working for sixty years. I would like once again to congratulate all of you at the occasion of the Sixtieth Anniversary of our Organization. During this long period, this Organization has established its own traditions and has a lot of promises to fulfill for the future. The best way that this Organization can continue to function and will continue to flourish is to work by consensus. Every Member State has the equal right and unless there is an agreement we cannot move forward in this Organization. In fact I should add that this spirit has reflected very well in this very session itself.

Distinguished delegates, we should maintain the decorum, decency and dignity of this peculiar consultative organization by not bringing in here bilateral matters of political importance and division. Such matters are also avoided here because there are other political forums where we can resolve them. So far we have been practically successful in following this spirit.

Dear Colleagues, this Organization has been created for entirely a different purpose. That purpose is to continue to collaborate together as Asian-African States in the common interest, in promotion of common areas, in developing legal co-operation, in ensuring that each one of our countries is given a type of assistance and the encouragement in the development of international law perspectives, international law positions, which is a highly technical and highly difficult area.

I personally consider international law as an instrument which, has been well employed by the most developed countries to their best advantage. On the other hand, for most of the developing countries, international law is still illusive. Each of us be reminded that this is the reason this Organization has been created, to fill up a much felt gap and need among the developing countries, that means among the Asian-African countries in the understanding and development of international law that could be used by our Governments individually, in cooperating each other and where necessary to take common position in international bodies. However, after sixty years of existence, there is still a lot of distance to be travelled in the field of strengthening international law co-operation among the Asian-African States, nurture it, and to develop it as an effective instrument to reflect our needs and aspirations in the international law forums. Dear colleagues, this is a very difficult task. I just want to remind at least from my side as the President of the current Annual Session of AALCO that this Organization be strengthened in that direction and continue to be so strengthened. International law is a very important technical area. Let us build it up together as Asian-African States.

During the current session, we have deliberated upon a wide range of international law subjects of contemporary importance including the newly emerging subjects. I must thank you all for the excellent co-operation, and for the very active participation. I think a very

involved, committed and concerned discussion took place on every topic and related aspects and each one of you has contributed in your own way. We have a proud record and I am sure we will have a much prouder record in future.

I thank the Secretary-General Professor Rahmat Mohammad for managing the affairs of the Secretariat for the last eight years, for providing guidance to the officials and staffs and I recognize personally his efforts in carrying out research activities in international law fields and for establishing relationship of this Organization with International Law Commission. I also thank all the three Deputy Secretaries- General for their hard work and managing skill. I thank the other Staff for their tireless efforts throughout this session, helping us with timely services. I also wish to thank the interpreters who always take an enormously difficult task to translate the statements properly so that every one of us could follow in one of our languages. I must also thank all the other Conferences officers including the audio-visual equipment people who handled the services, the hotel management who have taken all the care. I must also thank the participating Member States, Observer States and International Organizations for their valuable contribution in making this session a success. I owe them all my gratitude for their understanding, cooperation and for their very meritorious engagement in this process.

I congratulate the Secretary-General elect Mr. Gastorn who will be assuming his position in August this year, and looking forward to work with him. I thank you all.

**Now, I declare the Fifty-Fifth Annual Session of AALCO closed.**

**XVII. TEXT OF THE DOCUMENTS ADOPTED AT  
THE FIFTY-FIFTH ANNUAL SESSION**

## **A. SUMMARY REPORT**



**AALCO**  
**Asian-African Legal Consultative Organization**  
**Fifty-Fifth Annual Session**  
**17 to 20 May 2016**  
**Headquarters, New Delhi, India**

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**SUMMARY REPORT\***  
**OF THE FIFTY-FIFTH ANNUAL SESSION OF THE**  
**ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION**

## **1. Introduction**

1.1 **39** Member States of the Asian-African Legal Consultative Organization (AALCO) participated in the Fifty-Fifth Annual Session (hereinafter "the Session") namely, **Arab Republic of Egypt, Bangladesh, Brunei Darussalam, People's Republic of China, Cyprus, Democratic People's Republic of Korea, Ghana, India, Indonesia, Islamic Republic of Iran, Iraq, Japan, Kingdom of Jordan, Kenya, State of Kuwait, Libya, Malaysia, Mauritius, Myanmar, Nepal, Nigeria, Sultanate of Oman, Pakistan, State of Qatar, Republic of Korea, Kingdom of Saudi Arabia, Singapore, Somalia, South Africa, Sri Lanka, State of Palestine, Sudan, Syrian Arab Republic, Tanzania, Thailand, Turkey, Uganda, United Arab Emirates, Yemen.**

1.2 Representatives of the following Regional Arbitration Centres of AALCO were also present: Kuala Lumpur Regional Centre for Arbitration (KLRCA), Regional Arbitration Centre for International Commercial Arbitration, Lagos (RCICAL), and Tehran Regional Arbitration Centre (TRAC).

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: Belarus, Eritrea and Vietnam.
- II. Representatives of the following International Organization: International Committee of Red Cross (ICRC).

## **2. Inaugural Session**

2.1 The Session commenced on 17 May 2016. **H.E. Mr. Liu Zhenmin, Vice Minister of Foreign Affairs of the People's Republic of China, and President of Fifty-Fourth Annual Session** welcomed all the delegations to New Delhi. He touched on the imperative need for the continued revitalization and strengthening of AALCO with the view to creating a just and

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\* The Summary Report reflects all comments received from Member States and other participants in the Annual Session by 20 June 2016.

equitable international system, and proposed sending an appeal to all Asian and African countries to support AALCO in critical areas, including by becoming Members. He noted his appreciation for AALCO's continuing relationship with the ILC, and the publication of its Special Studies. He also reiterated China's renewed contributions to the work of AALCO through the *China-AALCO Exchange and Research Programme in International Law*. He expressed his appreciation for the work of the outgoing Secretary General, **Prof. Dr. Rahmat Mohamad** and invited the Chief Guest, **H.E. Ms. Sujata Mehta, Secretary, Ministry of External Affairs, India**, to deliver the welcome address.

2.2 **H.E. Ms. Sujata Mehta, Secretary, Ministry of External Affairs, India**, in her inaugural address, welcomed the delegates to New Delhi and noted the importance of the 60<sup>th</sup> year of the organization. She recalled the contribution of India to the Organization since its inception and in its attempts to crystallize the ideals and represent the hopes of Asian and African communities. She also noted that it would be important for AALCO to pursue issues and deliberations in both private and public international law as the boundaries between international law and municipal law begin to blur. She concluded by commending the work of AALCO and its alternate dispute resolution centres, expressed her satisfaction at the range of relevant topics to be deliberated upon at the Annual Session, and wished for the deliberations at the Session to be successful.

2.3 **H.E. Prof. Dr. Rahmat Mohamad, Secretary-General of the Asian-African Legal Consultative Organization (AALCO)** welcomed all delegations to the Session. He highlighted this Annual Session is significant to the Member States and the Organization. First, the year 2016 marks the sixtieth anniversary of AALCO. Second, the election of the new Secretary-General is scheduled to be held during the Session.

2.4 **H.E. Mr. Hossein Panahi Azar, Director General for International Legal Affairs, Ministry of Foreign Affairs, Islamic Republic of Iran**, proposed the vote of thanks on behalf of the President of the Fifty-Third Annual Session.

### 3. First Meeting of the Delegations of AALCO Member States

3.1 **The President of Fifty-Fourth Annual Session**, called the Meeting to order. The following agenda was adopted for the Fifty-Fifth 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 Observers
4. Admission of New Members
5. Election of the Next Secretary-General
6. Report of the Secretary-General on the Work of AALCO
7. Proposed Budget for the Year 2017
8. Regulations for AALCO's Secretary-General's Salary, Allowances and Entitlements
9. Report on the Work of the AALCO's Regional Arbitration Centres

10. Report of the Chairman of EPG
11. Report of the Chairperson of the Working Group on International Law in Cyberspace
12. Venue of the Fifty-Sixth Annual Session

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

1. Law of the Sea
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. International Trade Law Matters**

WTO as a Framework Agreement and Code of Conduct for World Trade

## **IV. Half-Day Special Meeting**

Special Meeting on “Selected Items on the Agenda of the International Law Commission”

## **V. Any Other Matter**

Side Event on “International Cooperation in Combating Violent Extremism and Terrorism”, hosted by the Government of Japan

3.3 **Admission of New Members:** No New Member was admitted at the Fifty-Fifth Annual Session.

3.4 **Admission of Observers:** Belarus, Eritrea, Vietnam, and ICRC were admitted as Observers to the Fifty-Fifth Annual Session.

3.5 **The President of the Fifty-Fourth Annual Session** invited the Member States to propose candidates for the posts of President and Vice-President of the Fifty-Fifth Annual Session of AALCO. The Head of Delegation of Kenya proposed the nomination of **H.E. Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India**, as the President of the Fifty-Fifth Annual Session of AALCO. The nomination was seconded by the Head of Delegation of the Islamic Republic of Iran and he was unanimously elected. The Head of Delegation of Malaysia proposed the nomination of **H.E. Mr. Samuel Panyin Yelley, the High Commissioner of Ghana**, as Vice-President of the Fifty-Fifth Annual Session. The proposal was seconded by the Head of Delegation of Sudan and he was unanimously elected. Thereafter, the outgoing President Mr. Liu Zhenmin invited the President and Vice-President of the Fifty-Fifth Annual Session to assume their positions on the dais.

3.6 The newly-elected President, **H.E. Dr. V.D. Sharma**, thanked the Member States for nominating him and congratulated the outgoing President on the success of his tenure as President. He noted the importance of the 60<sup>th</sup> Anniversary of AALCO as well as the election

of a new Secretary-General and requested the cooperation of all the AALCO Member States in the successful conduct of the Session.

#### **4. First General Meeting**

4.1 **Release of AALCO Publication: The Secretary-General of AALCO** invited the AALCO Secretariat's Principal Legal Officer to briefly describe the various publications of AALCO and their importance in the dissemination of international law knowledge in the Asian-African region. Thereafter, the following AALCO publications were released: Yearbook of the Asian-African Legal Consultative Organization (2015, vol. XIII); AALCO Journal of International Law, (Vol. 4, Issue 1, 2015); and the special study on 'Marine Biodiversity Beyond National Jurisdiction: An Asian-African Perspective'. She also added that two other publications of AALCO, namely the special study on 'International Law in Cyberspace' and 'Coffee Table Book on the 60<sup>th</sup> Anniversary of AALCO' were under preparation and would be released in the months to come.

#### **5. Second Meeting of Delegations of AALCO Member States**

##### *Agenda Item: Report of the Secretary-General*

5.1 **The Secretary-General of AALCO** summarized the activities and mandate undertaken since the Fifty-Fourth Annual Session and made a brief presentation on the future plans of action including research intensification programmes and cooperation with academic institutions and international organizations. As this was his last report due to the completion of his tenure, the Secretary-General reflected on the last eight years at AALCO and presented some proposals for Member States' consideration based on his experience. He also expressed his gratitude to all Member Governments, for their constant encouragement, support and participation in all activities pertaining to the agenda of AALCO.

##### *Agenda Item: Discussions on Budget for 2017*

5.2 **The Deputy Secretary-General of AALCO** presented the budget for the year 2017, which is USD 570,600. She outlined the salient features of the budget for the year 2017 and the austerity measures taken by the Secretariat. She also drew attention to the Government of India's 7<sup>th</sup> Pay Commission and its possible implications to the regularized local staff at the AALCO Secretariat.

##### *Agenda Item: Regulations on AALCO's Secretary-General's Salary, Allowances and other Entitlements*

5.3 **The Deputy-Secretary-General of AALCO** presented the above-mentioned regulations, which had been formulated by the Sub-Committee of Liaison Officers on AALCO Secretariat's Human Resources and Financial Matters, and later approved at the Liaison Officers Meeting, pursuant to a resolution adopted at the Fifty-Fourth Annual Session of AALCO.

##### *Agenda Item: Election of the New Secretary-General*

5.4 The **President of the Fifty-Fifth Session** invited **Prof. Dr. Kennedy Godfrey Gastorn**, the candidate nominated by Tanzania and endorsed by the African Union, to deliver a statement in support of his candidacy.

5.5 **Prof. Dr. Gastorn** thanked the Member States for the opportunity to speak and made reference to Tanzania's contributions to AALCO since joining in 1973 including the then Tanzanian President's, address to AALCO at the Annual Session in 1976. He presented his agenda if elected as Secretary-General, which consisted of: Increasing engagement with AALCO Members, particularly in Africa, and increasing the membership of AALCO; Increasing strategic partnerships with other international organizations; Promoting the AALCO Regional Arbitration Centres and making them more accessible to all States; and, Continuing the good work done by the sitting Secretary-General and building on his legacy.

5.6 **Prof. Dr. Kennedy Gastorn** was thereafter elected to the post of Secretary-General by consensus with his term beginning in August 2016.

## **6. Second General Meeting**

6.1 At the Fifty-Fifth Annual Session of AALCO the following delegations made their general statements: **Malaysia, Kingdom of Saudi Arabia, Sri Lanka, Japan, State of Qatar, Brunei Darussalam, Cyprus, Nepal, Arab Republic of Egypt, State of Kuwait, Islamic Republic of Iran, Kenya, India, People's Republic of China, Tanzania, Democratic People's Republic of Korea, South Africa, Thailand, Republic of Korea, Indonesia, Sudan, Nigeria**. The observer delegation from **ICRC** also presented their statement.

6.2 All the delegations congratulated the President and Vice-President on assuming their posts, and congratulated the incoming Secretary-General on his election. They commended the current Secretary-General for the valuable work done by him, and many initiatives undertaken by him during his tenure, particularly in alleviating the financial situation of AALCO. They voiced their grief at the passing away of Mr. Barry Sen, the Organization's first Secretary-General, in November 2015 and reminisced about his contributions to the Organization in its first three decades. They also expressed their appreciation for the AALCO Secretariat and the Govt. of India for arrangements made by them during the Annual Session.

6.3 Many delegates opined that the occasion of the 60<sup>th</sup> Anniversary of AALCO was an appropriate time to reflect on AALCO's past and plan its future. They noted that the topics chosen by AALCO for deliberations during the current Session were of crucial current importance, as all the topics were seeing major developments in various fora. They also noted that AALCO's position, as an intergovernmental organization focused on legal issues, was a unique one and encouraged the Organization to continue placing its focus on legal issues rather than political ones. Additionally, they suggested that AALCO should continue focusing on its research initiatives and capacity-building programmes, which were proving to be beneficial to Member States.

6.4 Several States noted the role of AALCO in promoting the rule of law at the international level and reaffirmed their commitment to principles of international law through the implementation of domestic legislation and ratification of international treaties. Many States also called for further strengthening the organization through enhanced membership

and called for all Members to fulfil their financial obligations to facilitate the work of the Organization.

## **7. Third General Meeting**

### ***Agenda Item: Violent Extremism and Terrorism (Legal Aspects)***

7.1 **The Deputy Secretary-General of AALCO** updated Member States on the proceedings of the Inter-Sessional Meetings on Violent Extremism and its Manifestations that had been held on 28-29 January 2016 and 16 May 2016. He presented the outcome of the negotiations to the Member States.

7.2 Thereafter, the delegates of **Turkey, State of Kuwait, State of Qatar, India, People's Republic of China, Islamic Republic of Iran, Nepal, Japan, Nigeria, Republic of Korean,** and **United Arab Emirates** presented their views on the agenda item. Additionally, **Democratic People's Republic of Korea** presented their written statement for reflection in AALCO's records.

7.3 All the delegates noted the crucial importance of the topic, as many AALCO Member States were facing grave threats from extremist and terrorist organizations such as ISIL, Al-Qaeda and Boko Haram. They noted that Violent Extremism and Terrorism were issues that required cooperative and coordinated action, as they were issues with no respect for inter-State boundaries. They also recommended that AALCO continue closely following the deliberations on the topic that are occurring at the United Nations.

### ***Agenda Item: WTO as a Framework Agreement and Code of Conduct for World Trade***

7.4 **The Secretary-General of AALCO**, after giving a brief account of the Tenth WTO Ministerial Conference held at Nairobi in December 2015, briefly highlighted the outcome of the Nairobi Conference with regard to three areas of critical concern to the countries of Asia and Africa, particularly developing countries, namely agriculture, cotton, LDC issues and their impact on these countries.

7.5 **Prof. Abhijit Das, Head of the Centre for WTO Studies, IIFT, New Delhi**, made a presentation, as a panelist, on the theme "*Trans Pacific Partnership (TPP) and its Legal Implications for the World Trade Organization*". The presentation was divided into four parts focusing on the membership of TPP, issues covered under it, provisions of WTO undermining the TPP, and the interface between TPP and the dispute settlement system of the WTO. While highlighting the provisions of WTO which undermine the TPP, he stated that some of the TPP provisions are based on interpretations of WTO provisions which were rejected by Panels and the Appellate Body of the WTO DSS. He opined that fragmented jurisprudence caused by this would make trade enforcement more difficult and complex. He also elaborated on the TPP provisions that allow for member countries to choose between the WTO and TPP as a dispute settlement forum. In his view, such choice precluded the country from agitating the same matter before the other forum and that this provision is in clear conflict with the WTO mandate on mandatory jurisdiction of WTO panel in disputes arising out of agreements covered by it.

7.6 Thereafter, the delegates from **People's Republic of China, India, Japan, South Africa,** and **Nepal** presented their views on the agenda item.

7.7 Many delegations expressed their support for an open, non-discriminatory, and inclusive multilateral trading system that would contribute to maximizing gains for all the members of the WTO. Some also stressed that plurilateral approaches, by definition, impinged on the multilateral trading system and could not be a substitute for it, and that plurilateral arrangements should complement rather than fragment the multilateral trading system.

7.8 Some countries were of the view that the Doha Development Agenda is important in the collective interests of the Member States of AALCO, and that it would protect the legitimate interests of poor farmers and the food security of millions of people in the developing countries.

7.9 However, one delegate was of the view that in order to keep the WTO relevant it was important to explore new approaches and “up-to-date” issues that could revitalize and reinforce the WTO negotiating function. The delegate also believed that the commitment of developing countries to enter into high levels of liberalization is essential.

## **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-Seventh session of the Commission: *Protection of the atmosphere; Crimes against humanity; Jus cogens; Protection of the environment in relation to armed conflicts; Immunity of State Officials from foreign criminal jurisdiction; Provisional application of treaties; Identification of customary international law; the Most-Favoured-Nation clause; and Subsequent agreements and subsequent practices in relation to the interpretation of treaties*. Thereafter, he enumerated the three major topics that were to be the subject of deliberation for the day, namely: *Protection of the atmosphere; Crimes against humanity; and Jus cogens*. He encouraged the delegations to present their views on other agenda items of the Commission as well.

8.2 He also made reference to the work of the “*Informal Expert Group on Customary International Law*” (IEG) and stated that the IEG acted as a technical expert group on the topic of Identification of Customary International Law, and that the view points and comments emerged from its meetings formed a set of recommendations which have been sent to the Special Rapporteur of the Commission on the subject for his reference and consideration.

8.3 **Dr. Roy Lee, Permanent Observer of AALCO to the UN, New York**, made a statement as a panelist wherein he addressed the issues of “why” and “how” AALCO Member States could make best use of the work of the ILC. He pointed out the significant presence of the developing world in the ILC with the majority of the seats occupied by members from Asia, Africa, and Latin America. He noted that over time, as the number of codified international instruments has increased, the untapped area for the ILC to address has decreased and, additionally, the increase in the number of specialized branches of international law has reduced the scope of the ILC’s work. He also pointed out the importance of States’ responses to the requests for information by the Special Rapporteurs. In particular, Dr. Roy Lee focused on the importance of the work being done by the ILC on the topic of Customary International Law (CIL) as, *inter alia*, proving persistent objection is

difficult to do practically, and therefore the ILC's work to shed light on these nuances would help States and practitioners of international law. The ILC had considered the topic of CIL at its first sessions and decided that the best way to handle CIL was to launch programs of publications of States practice and judgments, awards and decisions from international and regional judicial bodies as they may contain evidence of customary law. He also pointed out that the ILC, in its work on the law of treaties as one of the two major sources of international law, has devoted more than forty years to the core issues and is still continuing the practice of treaty interpretation, while the work on CIL is planned to be completed in four years. He was therefore of the opinion that this important topic may be better served by further study.

8.4 The following Member States presented their statements pursuant to the topic under discussion: **Turkey, Japan, Malaysia, India, People's Republic of China, Islamic Republic of Iran and Republic of Korea**. The observer delegation of **Vietnam** also presented their views.

8.5 All the delegates lauded the work of the Special Rapporteurs on the topics being deliberated upon by AALCO. The delegates all noted the grave importance of the topic, "Protection of Atmosphere", and some delegates noted that some of the terms being used might require further clarification and definition. With regard to "Crimes Against Humanity", delegates stressed that the work of the ILC must not conflict with existing extensive legal framework that deals with crimes against humanity. Many were also of the opinion that it may be more important to consider reasons for non-implementation of existing instruments than to create a new one. Several delegates also came together to welcome the work being done by the ILC on *jus cogens* as it was an area of law where work done by the ILC would help deepen the understanding of concerned parties.

## 9. Fourth General Meeting

### *Agenda Item: Law of the Sea*

9.1 The **Deputy Secretary-General** stated that in pursuance of the mandate received at the Fifty-Fourth Annual Session, the Secretariat had prepared a special study entitled "Marine Biodiversity Beyond National Jurisdiction: An Asian-African Perspective". The Secretariat brief for the Fifty-Fifth Annual Session primarily focused on two important issues namely: (i) marine biodiversity in areas beyond national jurisdiction and (ii) exploration of deep sea resources.

9.2 The following Member States presented their views: **State of Kuwait, Cyprus, India, Nepal, People's Republic of China, Thailand, Turkey, Islamic Republic of Iran, Japan and Republic of Korea**. The observer delegation of **Vietnam** also presented their views.

9.3 Member States commended the Secretariat's publication of the special study. They agreed on the importance of the conservation and sustainable use of marine biological and genetic resources, particularly in areas beyond national jurisdiction, and emphasised the importance of an instrument governing these issues, which, within the UNCLOS, constitute the common heritage of mankind, taking into account the interests and benefits of all countries while also enjoying broad support. Delegates also noted that such an instrument under the UNCLOS should not prejudice the rights of non-Parties to UNCLOS. Some States further emphasized the importance of the UNCLOS in defining the rights of both land-locked States and island States and their entitlements to marine resources. Delegates also appreciated

the work of the First Session of the Preparatory Committee on Marine Biodiversity in Areas Beyond National Jurisdiction and the UN Open-Ended Informal Working Group.

### ***Working Group Meeting on International Law in Cyberspace***

9.4 The **President of the Fifty-Fifth Annual Session** invited Member States to propose candidates for the posts of Chairperson, Vice-Chairperson and Rapporteur of the Working Group Meeting on International Law in Cyberspace. The Delegation of South Africa proposed the nomination of **H.E. Mr. Hossein Panahi Azar, Director General for International Legal Affairs, Ministry of Foreign Affairs, Islamic Republic of Iran**, as the Chairperson and the nomination was seconded by the Delegation of People's Republic of China wherein he was unanimously elected. The Delegation of India proposed the nomination of **H.E. Ms. Njeri Mwangi Wachira, Chief State Counsel, Kenya**, as Vice-Chairperson and the proposal was seconded by the Delegation of Uganda and she was thereafter unanimously elected. The President announced the prior nomination of **Prof. Huang Zhixiang of Wuhan University Law School**, as the Rapporteur, which was supported by the Delegation of India, wherein he was unanimously elected. The elected officials thereafter took their place on the dias.

9.5 The **Chairperson** started the substantive portion of the Meeting by inviting the **Rapporteur** to make a statement. **Prof. Huang** noted that it was an honour to be elected as Rapporteur for the topic. He discussed the importance of the constantly evolving topic at hand for the international community and the importance of the working group's deliberations in highlighting the views of Asian and African States at the international level. Before inviting delegations to make statements, the Chairperson encouraged Member States to focus their attention on four areas, as mandated by last year's resolution: international law pertaining to State sovereignty and cyberspace; peaceful uses of cyberspace; rules of international cooperation in combating cybercrimes; and identification of relevant provisions of the UN Charter and other international instruments related to cyberspace.

9.6 The **Secretary-General of AALCO** then gave a brief overview of the topic and AALCO's work on the topic. He also informed Member States of the side-event being hosted by AALCO during the 25<sup>th</sup> Session of the Commission on Crime Prevention and Criminal Justice (CCPCJ) at the United Nations Office in Vienna on 23 May 2016. The theme of the event is "Cybercrimes and International Cooperation: An Asian-African Perspective".

9.7 Delegations from the following Member States made statements: **People's Republic of China, State of Kuwait, Islamic Republic of Iran, India, Japan, Malaysia, Democratic People's Republic of Korea and Republic of Korea**. Additionally, the observer delegations from **Vietnam** and the **ICRC** also made statements.

9.8 The delegations welcomed the creation of the Working Group and congratulated the Chairperson, Vice-Chairperson and Rapporteur on their appointments and affirmed their commitment to the Group. A few delegations also expressed their confidence that AALCO Working Group could help build consensus among the AALCO Member States on the applicability of international law in cyberspace matters. It was hoped by some delegates that work done by the Working Group and Secretariat in its forthcoming study could help broaden understanding and guide future discussions on the topic in international fora. Most delegations also reaffirmed the applicability of the cardinal principles of the UN Charter to

activities in cyberspace. In this context, attention was also drawn to the Third Report (2015) of the UN Group of Governmental Experts (UNGGE).

***Agenda Item: Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine***

9.9 The **Deputy Secretary-General of AALCO** reiterated the illegality of the occupation of Palestinian territory by Israeli forces and their violations of international law and international humanitarian law on the ground. He mentioned the membership of the State of Palestine in the International Criminal Court and noted that invoking the jurisdiction of the ICC would be an exercise demonstrating the strengths, weaknesses, and efficacy of the ICC and other international institutions.

9.10 Thereafter, the delegates of **India, State of Palestine, Arab Republic of Egypt, State of Qatar, People's Republic of China, Japan, United Arab Emirates, Democratic People's Republic of Korea, State of Kuwait, Islamic Republic of Iran, South Africa, Malaysia and Tanzania** made statements on the topic.

9.11 All the Member States spoke of their solidarity with the State of Palestine and their support of the just cause of the Palestinian people in their quest for the right to self-determination, independence and sovereignty. Many reiterated their support for a two-State solution and an independent Palestine with its borders the same as those established in 1967 and with its capital in East Jerusalem. Several delegations also called for the cessation of Israel's violations of its international obligations, especially those under various UN Security Council resolutions, the four Geneva Conventions and all relevant human rights instruments, and for the cessation of the occupation and illegal activities being conducted in the Occupied Palestinian Territory such as the construction of settlements. Several delegations also condemned the continuous violation of the rights of the Palestinian people and called for an end to these violations.

**10. Third Meeting of the Delegations of AALCO Member States**

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

10.1 The **Deputy Secretary-General of AALCO** gave a brief overview of the evolution of the regional arbitration centres of AALCO. He, on behalf of AALCO Secretariat, thanked the Tehran Regional Arbitration Centre (TRAC) for organizing and hosting the first meeting of AALCO Regional Arbitration Centres at Tehran last month.

10.2 This was followed by presentations made by the Directors of the following arbitration centres: **Prof. Datuk Sundra Rajoo, Director, Kuala Lumpur Regional Centre for Arbitration (KLRCA); Hon. Wilfred Danola Ikatari, Director, Regional Centre for International Commercial Arbitration-Lagos (RCICAL); Dr. Oveis Rezvanian, Director, Tehran Regional Arbitration Centre (TRAC)**. All these presentations had outlined the activities undertaken by their respective Centres in the previous year.

10.3 A statement was also given by the Delegation of **Kenya** on the establishment and recent activities of the Nairobi Centre for International Arbitration (NCIA).

***Report of the Chairperson of the EPG***

10.4 The **Deputy Secretary-General of AALCO**, on behalf of the Chairman of the EPG, presented the report on the Sixth Meeting of the Eminent Person's Group, which took place on 16 May 2016.

10.5 During the discussions in the EPG, attention was drawn to the fact that AALCO has no diplomatic privileges or immunities in the United States—the host country of the United Nations—which, as a result, has certain effects on AALCO's activities, personnel and/or representatives coming from AALCO Headquarters.

***Report of the Chairperson of the Working Group on International Law in Cyberspace***

10.6 The **Chairperson** of the Working Group presented his report on the First Meeting of the Working Group, which took place on 19 May 2016.

***Side Event: International Cooperation in Combating Violent Extremism and Terrorism***

10.7 A side event organized by the Government of Japan was held at lunchtime on 17 May 2016. Following the opening remarks by Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO, and the keynote presentation by H.E. Ms. Tomoko Akane, Ambassador for International Judicial Cooperation, participating Member States shared their experiences and views on how to effectively address the issue of violent extremism from the perspective of criminal justice practitioners.

***Side-Event: Photo Exhibition on China-AALCO Exchange and Research Program on International Law***

10.8 A sideline photo exhibition was hosted jointly by China and AALCO on the work and achievements of the *China-AALCO Exchange and Research Program on International Law*, which was established at the Fifty-Fourth Annual Session. The President of the Fifty-Fourth Annual Session, H.E. Mr. Liu Zhenmin, and the Secretary-General of AALCO, Prof. Dr. Rahmat Mohamad, attended and addressed the audience.

***Adoption of message of thanks to the President of India***

**Excellency,**

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

“We, the participants in the Fifty-Fifth 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-Fifth 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 throughout AALCO's sixty-year history, India has attached 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. On this occasion, a "New Delhi Declaration on the Commemoration of the 60<sup>th</sup> Anniversary of AALCO" was adopted.

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 that 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, famed for its picturesque juxtaposition of history and modernity, we the delegates of the Fifty-Fifth 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 by hosting the Annual Session with warmth, graciousness and ability, and ensuring that this momentous occasion of the Sixtieth Anniversary of AALCO was a memorable one.

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

### ***Venue of AALCO's Fifty-Sixth Annual Session***

10.9 The venue of the Fifty-Sixth Annual Session has not yet been decided. As the Fifty-Fifth Annual Session was held in New Delhi, over the coming months Member States in Africa will be approached in relation to the possibility of their hosting the Fifty-Sixth Annual Session.

### ***Adoption of Resolutions***

10.10 The following resolutions were adopted at the third meeting of delegations of AALCO Member States on 20 May 2016.

### ***Organizational Matters***

- |               |                                                                                                    |
|---------------|----------------------------------------------------------------------------------------------------|
| RES/55/ORG 1  | Report of the Secretary-General on Organizational, Administrative and Financial Matters            |
| RES/55/ORG 1A | Report on the Regulations on AALCO's Secretary-General's Salary, Allowances and other Entitlements |
| RES/55/ORG 2  | AALCO'S Budget for the Year 2017                                                                   |
| RES/55/ORG 3  | Report on AALCO's Regional Arbitration Centres                                                     |

RES/55/ORG 4 Appointment of the Secretary-General

RES/55/ORG 4A Expression of Gratitude to the out-going Secretary-General

*Substantive Matters*

RES/55/S 2 The Law of the Sea

RES/55/S 4 Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine

RES/55/S 9 Violent Extremism and Terrorism (Legal Aspects)

RES/55/S 13 WTO as Framework Agreement and Code of Conduct for World Trade

RES/55/S 17 International Law in Cyberspace

RES/55/SP 1 Resolution on the Special Meeting on “Selected Items on the Agenda of the International Law Commission”

*Declaration*

AALCO/DEC/55 New Delhi Declaration on the Commemoration of the 60<sup>th</sup> Anniversary of AALCO

*Consideration of the Summary Report*

10.11 The draft summary report of the Fifty-Fifth Annual Session was placed for the consideration of Member States. The Member States adopted the draft summary report and thereafter they were requested to send in their written comments on the same to the Secretariat within one month, after which it would be finalized.

**11. Fifth General Meeting and Concluding Session**

*Vote of Thanks*

11.1 A vote of thanks on behalf of Asian Member States was proposed by the Delegation of **Brunei Darussalam** and a vote of thanks on behalf of the African Member States was given by the Delegation of **South Africa**. A vote of thanks on behalf of the Observer delegations was given by the Delegation of Viet Nam.

11.2 **H.E. Dr. Sharma**, the President of the Fifty-Fifth Annual Session delivered the concluding remarks.

*The Fifty-Fifth Annual Session of AALCO was thereafter adjourned.*

## **B. RESOLUTIONS**

**AALCO/RES/55/ORG 1  
NEW DELHI, 20 MAY 2016**

**REPORT OF THE SECRETARY-GENERAL ON ORGANIZATIONAL,  
ADMINISTRATIVE AND FINANCIAL MATTERS**

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

**Recalling** the functions and purposes of the Organization as stipulated in Article 1 of the Statutes of AALCO,

**Having considered** the Report of the Secretary-General on Organizational, Administrative and Financial Matters pursuant to Rule 20 (7) of Statutory Rules as contained in Document No. AALCO/55/ HEADQUARTERS (NEW DELHI)/2016/ORG1,

**Having heard** with appreciation the introductory statement of the Secretary-General on the Report of the Secretary-General on organizational, administrative and financial matters,

**Also having heard** with keen interest and appreciation the statements of the Heads of Delegations of AALCO Member States on the Report of the Secretary-General,

**Recognizing** the significance of the 60<sup>th</sup> Anniversary of the establishment of AALCO,

**Also recognizing** the need to take forward the spirit of Bandung Conference in the current era which has witnessed many international legal challenges for the States of Asia and Africa,

**Appreciating** the efforts of the Secretary-General to enhance the activities of the Organization and to implement its work programme as approved at its Fifty-Fourth Annual Session held in Beijing, People's Republic of China from 13 to 17 April 2015,

**Also appreciating** the continued practice towards the rationalization of its work programme, including consideration of the agenda items during its Annual Sessions,

**Reiterating** the mandate of the Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization; and the Action Plan as explained in Document No. AALCO/ES (NEW DELHI)/2008/ORG 1 adopted by the Extraordinary Session of AALCO Member States held on 1 December 2008, in New Delhi (Headquarters), India,

**Welcoming** the efforts by the Secretary-General for Revitalizing and Strengthening the AALCO,

**Noting with satisfaction** the increased co-operation between the Organization and the United Nations and its Specialized Agencies, other international organizations and academic institutions,

1. **Approves** the work programme of the Organization as set out in the Report of the Secretary-General and urges Member States to extend their full support to the implementation of that programme;

2. **Also requests** the Secretariat to explore ways and means for streamlining the Statutory Rules and Administrative, Financial and Staff Regulations of AALCO;
3. **Also requests** the Secretary-General to continue his efforts and explore the ways and means to enlarge the Membership of the Organization in Asia and Africa, in particular, to increase the representation from the African States and Central Asian States;
4. **Encourages** Member States to make voluntary contributions to support the capacity building activities under the approved work programme of the Organization;
5. **Also requests** the Secretary General to inscribe an official record to express Member States' deepest condolences and pay heartfelt tribute to the family of the late Mr. B. Sen, the first Secretary-General of AALCO; and
6. **Further requests** the Secretary-General to report on the activities of the Organization at its Fifty-Sixth Annual Session.

**AALCO/RES/55/ORG 1A  
NEW DELHI, 20 MAY 2016**

**REGULATIONS ON AALCO'S SECRETARY-GENERAL'S SALARY,  
ALLOWANCES AND OTHER EMOLUMENTS**

*The Asian-African Legal Consultative Organization at its Fifty-Fifth Annual  
Session,*

**Having noted and considered** the Secretariat Document AALCO/55/ HEADQUARTERS (NEW DELHI)/2016/ ORG 1A, on the Report on AALCO's Secretary-General's Salary, Allowances and Other Entitlements,

**Noting with** appreciation the introductory remarks of the Deputy Secretary-General,

**Recalling** the decision and resolution AALCO/RES/54/ORG 1 adopted at the Fifty-Fourth Annual Session of AALCO held in Beijing in April 2015 on the aforementioned issue,

**Having followed** with great interest the comments on the item reflecting the views of the Member States,

1. **Approves** the Draft Regulations on AALCO's Secretary-General's Salary, Allowances and Other Emoluments effective from the date the next Secretary-General assumes office;
2. **Decides to mandate** the Liaison Officers Meeting to consider the issue of "Education Allowance" at its next meeting, and place it for consideration of the Member States at the next Annual Session; and
3. **Also decides** to incorporate the same as Part III of the AALCO's Administrative, Financial and Staff Regulations.

**AALCO/RES/55/ORG 2**  
**NEW DELHI, 20 MAY 2016**

**AALCO'S BUDGET FOR THE YEAR 2017**

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

**Having heard** with appreciation the introductory statement of the Secretary- General on the Proposed Budget for the Year 2017 as contained in the Document No. AALCO/55/Headquarters (New Delhi) /2016/ORG 2,

**Taking note** of the comments of the Member States on the Proposed Budget,

**Noting further** the Proposed Budget for the year 2017 was placed before the 332<sup>nd</sup> Meeting of the Liaison Officers held on 13<sup>th</sup> January 2016 and 333<sup>th</sup> on 2<sup>nd</sup> March 2016 at the Headquarters, New Delhi, and was submitted to the Fifty-Fifth Annual Session for final approval,

**Considering** that the Proposed Budget for the year 2017 is a realistic budget depending on the actual contributions to be received,

**Noting with** appreciation the part of arrears paid by the Government of the Republic of Iraq on the basis of Memorandum of Understanding (MoU) and requesting other Member States in large arrears to follow suit,

**Acknowledging** the need to replenish the Reserve Fund of the Organization, with the objective of ensuring that it always has a six-month operational fund for the functioning of the Organization,

**Considering** all the above-mentioned reasons to place the Organization on a firm financial footing,

1. **Approves** the Budget for the year 2017 as proposed;
2. **Requests** the Secretariat to report to the Liaison Officer's meeting the outcome of 7<sup>th</sup> Pay Commission of Government of India in the context of local employee of AALCO and decides to mandate Liaison Officers to review and make recommendation relating to the salary and entitlements of the local employee and the same shall be placed at the Annual Session for its consideration and approval.
3. **Requests** Member States who have not paid their annual contribution for the year 2016, to do so at the earliest in order to ensure the effective functioning of the Organization;
4. **Strongly urges** Member States, who are in arrears, to fulfill their financial obligation and to expeditiously clear the same in accordance with the Statutes and Statutory Rules of AALCO;

5. **Encourages** Member States to make voluntary financial contribution in order to improve the financial situation of AALCO;
6. **Mandates** the Secretary-General to explore ways and means of raising funds by additional sources in accordance with the Statutes and Statutory Rules of AALCO; and
7. **Decides** to place this item on the provisional agenda of the Fifty-Sixth Annual Session.

**AALCO/RES/55/ORG 3  
NEW DELHI, 20 MAY 2016**

**REPORT ON AALCO'S REGIONAL CENTRES FOR ARBITRATION**

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

**Considering** the Report on AALCO's Regional Centres for Arbitration contained in Document No. AALCO/55/HEADQUARTERS (NEW DELHI)/2016/ORG 3,

**Noting** with appreciation the introductory remarks of the Deputy Secretary-General and the report of the Directors of the Regional Arbitration Centres,

**Reaffirming** the commitment by the Governments of Member States towards enhancing the role of the Regional Arbitration Centres,

**Recalling** decision relating to the Integrated Scheme for the Settlement of Disputes in Economic and Commercial Transactions adopted at its Doha Session in 1978,

**Expressing satisfaction** over the increasing use of the facilities and the opportunities offered for both domestic and international arbitrations under the auspices of its Regional Arbitration Centres,

**Appreciating** the efforts and contributions of the Governments of the Malaysia, Arab Republic of Egypt, Federal Republic of Nigeria, the Islamic Republic of Iran, and the Republic of Kenya for hosting the respective Regional Arbitration Centres,

**Further appreciating** the promotional activities undertaken by the Directors of the Centres, including organization of seminars and training programmes, to promote international commercial arbitration in the Asian and African regions,

**Reiterating** the earlier decision of the AALCO on the necessity for the Governments of Member States to promote and support the use of the Regional Arbitration Centres,

**Further reiterating** its proposal, after consultation with the Directors of the respective Regional Arbitration Centres, for the holding of International Arbitration Conference biennially, by rotation in each of the Centres, with the support of Member States,

1. **Requests** the Member States to continue their support to the Regional Arbitration Centres and use the AALCO's Regional Arbitration Centres for resolving their disputes and in particular to consider in their contracts, the inclusion of the Arbitration Clause of AALCO's Regional Arbitration Centres;
2. **Urges** the Regional Arbitration Centres to consider to the extent possible, among themselves, the formation of a common system both administratively and financially between the Centres and common standards for the qualification of arbitrators;
3. **Directs** the Arbitration Centres to meet at every AALCO Annual Sessions to enable an exchange of ideas and to report the outcome to the Organization;

4. **Requests** the Secretary-General to take initiative to promote the Arbitration Centres among Member States and to work toward establishing another Arbitration Centre in the South Asian region; and
5. **Decides** to place this item on the provisional agenda of the Fifty-Sixth Annual Session.

**AALCO/RES/55/ORG 4  
NEW DELHI, 20 MAY 2016**

**APPOINTMENT OF THE SECRETARY-GENERAL**

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

**Having Considered** the Secretariat Document No. AALCO/55/HEADQUARTERS (NEW DELHI)/2016/ORG 4,

**Recalling** the resolution on the Appointment of the Secretary-General (RES/47/ORG 5, 4 July 2008), adopted at the Forty-Seventh Annual Session of AALCO, and the resolution on the Reappointment of the Secretary-General, (RES/51/ORG 5, 22 June 2012) adopted at the Fifty-First Annual Session of AALCO,

**Taking note** of the entire process of the Appointment of the Secretary-General during the Fifty-Fifth Annual Session,

**Emphasizing** that the Annual Session of the AALCO which has on its agenda the appointment/election of the Secretary-General, has to be held in advance of the completion of the tenure of the outgoing Secretary-General,

1. **Confirms** the appointment of Prof. Dr. Kennedy Godfrey Gastorn as the Secretary-General of AALCO for a term of four years; and
2. **Affirms** that Prof. Dr. Kennedy Godfrey Gastorn will assume his functions as the Secretary-General in his full capacity as from 15 August 2016.

**AALCO/RES/55/ORG 4A  
NEW DELHI, 20 MAY 2016**

**EXPRESSION OF GRATITUDE TO THE OUTGOING SECRETARY-GENERAL**

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

**Taking note** of the completion of tenure of H.E. Prof. Dr. Rahmat Mohamad as the Secretary-General of AALCO,

**Acknowledges with appreciation** the significant contribution made by H.E. Prof. Dr. Rahmat Mohamad during his tenure as the Secretary-General in enhancing the image, role and activities of the Organization, in rationalizing its work programme, and the management of its budget, as well as in steering efficiently and effectively the activities of the Organization, and

**Expresses gratitude** for the valuable services rendered by H.E. Prof. Dr. Rahmat Mohamad during his tenure of eight years.

**AALCO/RES/55/S 2  
NEW DELHI, 20 MAY 2016**

## **THE LAW OF THE SEA**

### ***The Asian-African Legal Consultative Organization at its Fifty-Fifth Session,***

**Considering** the Secretariat Document No. AALCO/55/HEADQUARTERS (NEW DELHI)/2016/SD/S2, and the AALCO Publication entitled “Marine Biological Diversity Beyond National Jurisdiction: An Asian-African Perspective”,

**Noting** with appreciation the introductory remarks of the Secretary-General,

**Recalling** the United Nations Convention on the Law of the Sea 1982 (UNCLOS)<sup>22</sup>, as well as the customary international law relating to the management of the oceans,

**Mindful** of the historical contribution made by the Asian-African Legal Consultative Organization in the elaboration of the UNCLOS,

**Conscious** that AALCO has been regularly following the implementation of the UNCLOS and its implementing agreements as well as other issues regarding the law of the sea,

**Hopeful** that in view of the importance of the law of the sea issues, AALCO would maintain its consideration on the agenda item and continue to perform its historical role on the law of the sea matters,

**Taking note** of the deliberations at the United Nations Open-ended Informal Consultative Process established by the United Nations general Assembly to facilitate annual review of the developments in ocean affairs,

**Also taking note of** the establishment of and work done by the Preparatory Committee on Marine Biodiversity of Areas Beyond National Jurisdiction,

**Welcoming** the active role played by the International Tribunal for the Law of the Sea (ITLOS) in the peaceful settlement of disputes with regard to ocean related matters,

1. **Reaffirms** that in accordance with the UNCLOS, the “Area” and its resources are the common heritage of mankind;
2. **Appreciates** the initiative of the Secretariat for bringing out the AALCO Publication “Marine Biological Diversity Beyond National Jurisdiction: An Asian-African Perspective”;

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<sup>22</sup> The Republic of Turkey disassociates itself from the references made in the Law of the Sea Resolution, AALCO/RES/55/S2, New Delhi, 20 May 2016, to the United Nations Convention on the Law of the Sea, 1982. Approval of the said resolution cannot be construed as a change in the legal position of Turkey with regard to the UNCLOS.

3. **Encourages** AALCO Member States not yet parties to the UNCLOS and its implementing instruments, to consider the possibility to ratify or accede thereto, in compliance with their domestic policies;
4. **Urges** the full and effective participation of its Member States which are parties to the UNCLOS in the work of the International Seabed Authority and other related bodies established by the UNCLOS, and further urges effective contribution of its Member States to the United Nations Informal Consultative Process, and the Preparatory Committee on Marine Biodiversity on Areas Beyond National Jurisdiction, so as to ensure and safeguard their legitimate interests;
5. **Directs** the Secretariat to hold Seminars or Workshops, depending on the availability of financial and personnel resources, to discuss the issues and recent developments relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, marine scientific research and exploration of deep sea resources;
6. **Requests** the Secretariat of AALCO to assist in the capacity building of Member States within the field of the law of the sea through varied ways such as joint training programmes with States and inter-governmental organizations, and calls upon Member States to offer all possible support and assistance; and
7. **Decides** to place this item on the agenda of an Annual Session of AALCO as and when required.

AALCO/RES/55/S 4  
NEW DELHI, 20 MAY 2016

**VIOLATIONS OF INTERNATIONAL LAW IN PALESTINE AND OTHER  
OCCUPIED TERRITORIES BY ISRAEL AND OTHER INTERNATIONAL LEGAL  
ISSUES RELATED TO THE QUESTION OF PALESTINE**

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

**Having considered** the Secretariat Document No AALCO/55/HEADQUARTERS (NEW DELHI)/2016/SD/S 4,

**Noting with appreciation** the introductory remarks of the Deputy Secretary-General,

**Recalling and reiterating** the decisions taken at the consecutive Annual Sessions of the Asian-African Legal Consultative Organization since 1988, when the topic was first introduced on the agenda of the Organization, in particular the decisions adopted on 22 April 1998 and 23 April 1999,

**Also recalling and reiterating** the resolutions adopted on 23 February 2000, RES/40/4 of 24 June 2001, RES/41/4 of 19 July 2002, RES/42/3 of 20 June 2003, RES/43/S 4 of 25 June 2004, RES/44/S 4 of 1 July 2005, RES/45/S 4 of 8 April 2006, RESW/46/S 4 of 6 July 2007, RES/47/S 4 of 4 July 2008, RES/48/S 4 of 20 August 2009, RES/49/S 4 of 8 August 2010, RES/50/S 4 of 1 July 2011, RES/51/ S 4 of 22 June 2012, RES/52/S 4 of 12 September 2013, RES/53/S 4 of 18 September 2014, and RES/54/S 4 of 17 April 2015,

**Having followed** with great interest the deliberations on the item reflecting the views of Member States,

**Being concerned** with the serious obstacles created by the occupying power, which hinder the achievement of a just and lasting peace in the region,

**Recognizing** that the massive Israeli military operation in the Occupied Palestinian Territory, particularly in the occupied Gaza strip, has caused grave violations of the human rights of the Palestinian civilians therein and international humanitarian law, and exacerbated the severe humanitarian crisis in the Occupied Palestinian Territory,

**Also recognizing** that the Israeli occupation siege imposed on the occupied Gaza strip, including the closure of border crossings and the cutting of the supply of fuel, food and medicine, constitutes collective punishment of Palestinian civilians and leads to disastrous humanitarian and environmental consequences,

**Welcoming** the international and regional initiatives for peace in the Middle East,

**Condemning** Israel's acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and the Fourth Geneva Convention of 1949,

**Stressing** the need for compliance with existing Israeli-Palestinian agreements concluded in order to reach a final settlement,

**Being concerned** about the continuing dangerous deterioration of the situation in the Occupied Palestinian Territory, including East Jerusalem and Gaza strip, the continuous forced displacement of Palestinians from their homeland, and the continuing serious and systematic violations of human rights of the Palestinian people by Israel, the occupying power, including those arising from the excessive use of force, the use of collective punishment, the occupation and closure of areas, the confiscation of land, the establishment and expansion of settlements, the construction of a wall in the occupied Palestinian Territory, the destruction of property and infrastructure, use of prohibited weapons and all other actions designed to change the legal status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem and Gaza strip, and about war crimes and crimes against humanity committed in this Territory, and calling for the implementation of relevant United Nations resolutions on the humanitarian situation of the Palestinian people,

**Recalling** the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006), as well as the United Nations initiative to establish a Register of Damage arising from the construction of the separation wall, and bearing in mind that more than ten years have elapsed since the International Court of Justice delivered its opinion,

**Affirm** that all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purported to alter the character and status of the City of East Jerusalem, were null and void and must be rescinded forthwith,

**Deeply concerned** about the continuation by Israel, the occupying Power, of colonial activities in the Occupied Palestinian Territory, including East Jerusalem, through the unlawful construction of settlements and the wall, and condemning those activities as violations of international humanitarian law, relevant United Nations resolutions,

**Condemning also** all acts of violence, destruction, harassment, provocation and incitement by Israeli settlers in the Occupied Palestinian Territory, including East Jerusalem, against Palestinian civilians, including children and their properties, including historic and religious sites, and agricultural lands, as well as acts of terror by several extremist Israeli settlers, and calling for accountability for the illegal actions perpetrated in this regard,

**Affirming** that all States are under an obligation not to recognize the illegal situation resulting from the Israeli illegal practices in the Occupied Palestinian Territory, including East Jerusalem, and not to render aid or assistance to maintaining the situation created by such actions,

**Acknowledging with deep concern** that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall and to act in unison in calling on the occupying Power to halt its settlement enterprise, since it is clearly acknowledged that settlements pose the biggest challenge to a peaceful settlement,

**Recognizing** that actions must be taken to uphold the provisions of the Fourth Geneva Convention and the relevant Security Council and General Assembly resolutions, as well as the advisory opinion rendered on 9 July 2004 by the International Court of Justice to bring the occupying Power into compliance with its legal obligations,

**Expressing** its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14<sup>th</sup> Arab Summit held in Beirut (Lebanon) on 28 March 2002 and reaffirmed in the 19<sup>th</sup> Summit Conference of the League of Arab States, Riyadh, 28-29 March 2007 as well as other peace initiatives, including the Quartet Road Map,

**Taking note** of conclusions and outcomes of all events held at both regional and international levels aiming at the achievement of a just, durable and comprehensive solution of the question of Palestine,

**Also taking note** of the initiation of a preliminary examination of the situation in Palestine by the Prosecutor of the International Criminal Court,

**Affirming** that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the Charter of the United Nations, existing agreement between the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony,

1. **Reaffirms** the right of the Palestinian people to self-determination, including the right to their independent State of Palestine and calls on its Member States to take part in the peace process/efforts exerted by the international community for the achievement of a just and comprehensive solution of the Question of Palestine on the basis of international law, relevant Security Council resolutions, including 242 (1967), 338 (1973), 425 (1978), 1397 (2002) and 1860 (2009), and relevant General Assembly Resolutions, including 194 (1949) on the formula of “land for peace” and the legitimate rights of the Palestinian people;
2. **Strongly condemns** the shocking developments that have continued to occur in the Occupied Palestinian Territory, including East Jerusalem, including the large number of deaths and injuries, mostly among Palestinian civilians, the acts of violence and brutality against Palestinian civilians, the widespread destruction of public and private Palestinian property and infrastructure, the forced displacement of civilians and the serious deterioration of the socio-economic and humanitarian conditions of the Palestinian people;
3. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, and relevant international human rights treaties in order to protect the rights of Palestinians;
4. **Also demands** that Israel positively respond to the recommendations contained in successive reports of the Special Rapporteur for the Palestinian Territory Occupied Since 1967 and recommendations of the 2009 report of the United Nations Fact Finding

Mission on the Gaza Conflict,<sup>23</sup> and the 2014 report of the Independent Commission of Inquiry on the Gaza Conflict,<sup>24</sup> as well as recommendations contained in the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem,<sup>25</sup> in order to protect the rights of Palestinians;

5. **Further demands** that Israel, the occupying Power, comply with its legal obligations as mentioned in the Advisory Opinion rendered by the International Court of Justice in the case concerning the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, and related General Assembly Resolution (A/RES/ES-10/15 of 20<sup>th</sup> July 2004);
6. **Strongly demands** that Israel, the occupying Power, stop and reverse the colonial practices including construction of settlements and the wall in the Occupied Palestinian Territory;
7. **Strongly deplores** the Israeli occupation's blockade of the Gaza strip and its consequent human rights and humanitarian law violation;
8. **Further demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from the Palestinian Territory in implementation of Security Council Resolutions, including 1402 (2002), 1403 (2002), 1515 (2003), and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian territories occupied since 1967;
9. **Calls for** accountability for the illegal actions perpetrated by Israeli settlers in the Occupied Palestinian Territory, aimed at preventing illegal acts of violence by Israeli settlers, and to guarantee the safety and protection of the Palestinian civilians in the occupied territory;
10. **Urges** its Member States to pursue policies that ensure respect for their obligations under international law with regard to all illegal Israeli practices and measures in the Occupied Palestinian Territory, including East Jerusalem, particularly Israeli settlement activities;
11. **Calls upon** Israel, the occupying Power, to ensure the return of refugees and displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions;
12. **Welcomes** the accession of Palestine to international treaties and *calls on* Member States to provide technical assistance to Palestine in carrying out its obligations under these treaties;
13. **Calls on** the Secretariat to charge AALCO *Centre for Research and Training* to provide capacity-building to related Palestinian institutions on international law and organize

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<sup>23</sup> A/HRC/12/48.

<sup>24</sup> A/HRC/29/52.

<sup>25</sup> A/HRC/22/63.

training programs for the benefit of Palestinian government civil servants handling international law issues;

14. **Directs** the Secretariat to closely follow the developments in Occupied Palestinian Territory from the perspective of relevant legal aspects and to prepare a study on the legality of prolonged Israeli occupation of the Occupied Palestinian Territory and its colonial practices therein, under international law and international humanitarian law; and
15. **Decides** to place the item on the provisional agenda of the AALCO Annual Session as and when required.

**AALCO/RES/55/S 9  
NEW DELHI, 20 MAY 2016**

**VIOLENT EXTREMISM & TERRORISM (LEGAL ASPECTS)**

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

**Having considered** the Secretariat Document No. AALCO/55/HEADQUARTERS (NEW DELHI)/2016/SD/S9 prepared by AALCO Secretariat,

**Noting with appreciation** the introductory remarks of the Deputy Secretary-General and the statements of the Member States during deliberations on “Violent Extremism & Terrorism (Legal Aspects)”,

**Noting also** the discussions on the topic that took place at the two Inter-Sessional Meetings of Legal Experts on “Principles and Guidelines to Combat Violent Extremism and its Manifestations” that took place on 28-29 January 2016 and 16 May 2016 respectively,

**Gravely concerned** about the threats posed by acts of violence perpetrated by violent extremist and terrorist groups and desiring to put an end to such threats,

**Reaffirming** that violent extremism and terrorism constitute a serious common concern for all Member States, threatening the security and well-being of their societies, and convinced that there is no justification for violent extremism, whatever the motivation,

**Recollecting** the UN General Assembly Resolution—“A World against Violent Extremism” (A/RES/68/127) adopted by the General Assembly on 18 December 2013 and other relevant UN Resolutions,

**Expressing concern** about the upsurge in acts of violent extremism and terrorism in the Asian - African regions, which threaten the life and security of innocent people and impede the economic development and scientific activities of the concerned States,

**Strongly condemning** any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence,

**Recognizing** the complex and volatile nature of the phenomenon of violent extremism, and the need for a comprehensive, cooperative and coordinated solution to the problems posed by this phenomenon,

**Recalling** the international efforts to eliminate violent extremism and terrorism, and reaffirming the need to strengthen those efforts in accordance with the Charter of the United Nations, taking into account the principles of international law including non-interference, respect for sovereignty and territorial integrity of all states,

**Further reaffirming** Member States’ obligations under international law relating to international human rights law, international humanitarian law, and international criminal law, as well as their commitments and obligations under sectoral conventions on terrorism to

prevent, suppress, investigate and prosecute crimes perpetrated by extremist individuals and groups,

**Taking note** of the mandate of its resolution RES/53/SP2 of 18 September 2014 on “Violent Extremism and Terrorism (Legal Aspects)”, RES/53/S7 of 18 September 2014 on “International Terrorism”, and RES/54/S9 of 17 April 2015,

1. **Encourages** Member States to consider ratifying/acceding to the relevant conventions on terrorism and trying to further develop legal instruments to combat violent extremism and terrorism;
2. **Urges** for action on international, regional and bilateral levels to fight against acts of terrorism and to counter violent extremism, *inter alia*, by adopting and implementing relevant national legislation, bilateral and multilateral instruments;
3. **Directs** the Secretariat to prepare a report on the ongoing discussions to be presented at the next Annual Session and discussed by a Working Group to be convened for this purpose during the 2017 Session;
4. **Also directs** the Secretariat to prepare a new draft resolution on the topic, in line with the comments of the AALCO Member States at the Inter-Sessional Meetings of 28-29 January 2016 and 16 May 2016, to be discussed by the Working Group at the next Annual Session; and
5. **Decides** to place the item on the provisional agenda of its Fifty-Sixth Annual Session.

**AALCO/RES/55/ S 13  
NEW DELHI, 20 MAY 2016**

**WTO AS A FRAMEWORK AGREEMENT AND CODE OF CONDUCT FOR  
WORLD TRADE**

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

**Having considered** the Secretariat Document No. AALCO/55/HEADQUARTERS (NEW DELHI) /2016/ SD/S 13,

**Having heard** with appreciation the introductory statement of the Secretary-General on the agenda item,

**Recognizing** the importance and complexities of issues involved in the successful conclusion of the WTO Doha Development Agenda,

**Taking note** of the decisions adopted at the Tenth Ministerial Conference of WTO held in December 2015 at Nairobi,

1. **Requests** the Secretary-General in consultation with Member States, subject to the availability of necessary resources, to organize seminars or workshops to facilitate the exchange of views by Member States on issues currently under negotiation within the WTO and capacity building programs; and
2. **Decides** to place this item on the agenda of an Annual Session of AALCO as and when required.

**AALCO/ RES/55/ S 17  
NEW DELHI, 20 MAY 2016**

## **INTERNATIONAL LAW IN CYBERSPACE**

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

**Having considered** the Secretariat Document No. AALCO/55/HEADQUARTERS (NEW DELHI)/2016/SD/S17,

**Noting with appreciation** the introductory statement of the Secretariat,

**Welcoming** the election of a Chair, Vice-Chair and Special Rapporteur of the Open-ended Working Group on International Law in Cyberspace and taking note of the Summary Report of the Chairperson on the first meeting of this Group,

**Recognizing** the significance of cyberspace as an integral part of human interaction and its profound impact on Member States and their citizens,

**Deeply concerned** about new threats and challenges in the development and application of information and communication technologies such as cybercrimes and the use of cyberspace for terrorist purposes,

**Noting with concern** the use of cyberspace in various kinds of cyber attacks perpetrated by non-State actors or the use of cyberspace by States inconsistent with international law,

**Underlining** the need for enhanced coordination and cooperation among Member States in combating the criminal misuse of information and communication technologies,

**Stressing** the significance of the principles and rules of international law applicable to cyberspace, including those in the UN Charter,

**Also stressing** the need for further study of and deliberation on rules of international law on cyberspace issues and explore the areas of further development of international law on the issue as appropriate,

1. **Encourages** Member States to actively participate in the relevant regional and global forums deliberating on the governance of cyberspace and to strengthen their communication and cooperation in this regard;
2. **Directs** the Working Group on International Law in Cyberspace to hold inter-sessional meetings, preferably in cooperation with Member States and relevant international organizations and other institutions in particular the United Nations in pursuance of its mandate, taking into account the need of AALCO Member States in combating cybercrime;
3. **Also Directs** the Secretariat to closely follow developments in international forums related to governance of cyberspace and cyber security and continue its study on International Law in Cyberspace pursuant to the relevant resolution adopted in the

54<sup>th</sup> Annual Session, with a view to assisting the Working Group to fulfill its mandate;

4. **Further directs** the Secretariat to report to the Member States the relevant information including the development in the Open-ended Working Group as referred to in paragraph 2; and
5. **Decides** to place this item on the provisional agenda of the Fifty-Sixth Annual Session.

**AALCO/RES/55/SP 1  
NEW DELHI, 20 MAY 2016**

**RESOLUTION ON THE HALF-DAY SPECIAL MEETING ON “SELECTED ITEMS  
ON THE AGENDA OF THE INTERNATIONAL LAW COMMISSION”**

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

**Having considered** the Secretariat Document No. AALCO/55/HEADQUARTERS (NEW DELHI) /2016/SD/SP 1,

**Having heard** with appreciation the introductory statement of the Secretary-General and the views expressed by the Member States during the Half-Day Special Meeting on “Selected Items on the Agenda of the International Law Commission” held on 19<sup>th</sup> May 2016 at New Delhi,

**Having followed** with great interest the deliberations on the item reflecting the views of Member States on the work of the International Law Commission (ILC),

**Recognizing** the significant contributions of the ILC to the codification and progressive development of international law,

1. **Recommends** Member States to contribute to the work of ILC, in particular by communicating their comments and observations regarding issues identified by the ILC on various topics currently on its agenda to the Commission;
2. **Recalls** with appreciation the work of the Informal Expert Group on Customary International Law, and the fact that its final report has been sent to the ILC for the consideration of its Special Rapporteur on the subject Mr. Michael Wood;
3. **Requests** the Secretary-General to summarize the views expressed by Member States during the Annual Sessions of AALCO on the items on its agenda, for the purpose of reporting them at the ILC Meetings.
4. **Also requests** the Secretary-General to continue convening AALCO-ILC meetings in future; and
5. **Decides** to place the item on the provisional agenda of the Fifty-Sixth Annual Session.

**AALCO/DEC/55  
NEW DELHI, 20 MAY 2016**

**NEW DELHI DECLARATION ON THE COMMEMORATION OF THE  
THE 60<sup>TH</sup> ANNIVERSARY OF AALCO**

1. We, the Heads of Delegations of the Member States of the Asian-African Legal Consultative Organization have assembled at the Fifty-Fifth Annual Session of AALCO held in New Delhi (Headquarters), India from 17 to 20 May 2016 coinciding with the 60<sup>th</sup> anniversary of the Organization, wish to reaffirm our commitment towards further strengthening the Organization to enable it to contribute effectively in harmonizing the actions of Member States in international legal matters bearing in mind the functions and purposes of AALCO as stipulated in its statutes.
2. We recall the resolution AALCO/RES/48/DEC titled *Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization*, adopted by the Forty-Eighth Annual Session on 20 August 2009 at Putrajaya, Malaysia, and the resolution AALCO/RES/54/XX titled *Half-day Special Event to Commemorate the 60<sup>th</sup> Anniversary of the Bandung Conference*, adopted by the Fifty-Fourth Annual Session on 17 April 2015 at Beijing, People's Republic of China.
3. We recognize the historical importance of the Bandung Conference held in 1955 in establishing AALCO as a legal consultative body to advise Member States of Asia and Africa on international legal issues of common concern and as a forum to deliberate on these issues.
4. We also recognize that AALCO exists as an embodiment of the Spirit of Bandung hinging on Asian-African solidarity, friendship and cooperation and acknowledge the continued relevance of the Ten Principles of Bandung to the conduct of inter-state relations in the contemporary era.
5. We appreciate the stellar role played by the Organization in the past six decades in codification and progressive development of international law and in ensuring that the Asian-African voices are heard in the United Nations and other international fora.
6. We warmly welcome the countries in Asia and Africa which are not members of AALCO to consider joining the Organization to strengthen our voices in international law making fora.
7. We also welcome countries and international organizations from other regions of the world to come into close cooperation with AALCO appropriately.
8. We emphasize that a stronger AALCO will provide a robust forum for the codification and progressive development of international law reflecting the views of Asian and African countries and promote legal cooperation among the Member States.
9. We realize the continued relevance of Our Organization in the fast changing world order. We pledge ourselves to provide AALCO with all forms of support as appropriate, in particular financial, to ensure that the Organization can effectively fulfill its goals and mandates.

## **XVIII. LIST OF PARTICIPANTS**

**XVII. LIST OF PARTICIPANTS OF THE FIFTY-FIFTH ANNUAL SESSION OF AALCO  
HELD IN NEW DELHI, 17-20 MAY, 2016**

1. Arab Republic of Egypt

H.E. Mr. Mahmoud Samy (HOD)  
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Delhi

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Deputy Chief of Mission

Mr. Wael Fathy Baiowmy Ahmed  
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(Liaison Officer to AALCO)
2. People's Republic of Bangladesh

Mr. Jamal Uddin Ahmed (HOD)  
Counsellor  
High Commission of People's Rep. of Bangladesh  
(Liaison Officer to AALCO)
3. Brunei Darussalam

Ms. Alice Khan Binti Ahmad Khan (HOD)  
Legal Draftsman  
Attorney General's Chambers

Ms. Helyati Binti Mahmud Saedon  
Legal Counsel  
Attorney General's Chambers

H.E. Dato Paduka Haji Sidek Ali  
High Commissioner  
High Commission of Brunei Darussalam in New  
Delhi

Mr. Ak Md Saiful Bahri Pg Md Jofray  
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(Liaison Officer to AALCO)
4. People's Republic of China

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Ministry of Foreign Affairs

Mr. Hu Bin  
Counselor  
Department of Treaty and Law

Mr. Gao Huijun  
First Secretary

Mr. Xu Feng  
Deputy Director  
Department of Treaty and Law

Mr. Li Linlin  
Deputy Director  
Department of Treaty and Law

Ms. Yuan Yuan  
Director  
Ministry of Foreign Trade

Mr. Liang Zhinjun  
Third Secretary  
Department of Treaty and Law

Mr. Zhang Peng  
Third Secretary  
Department of Treaty and Law

Mr. Huang Zhixiong  
Professor  
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5. Cyprus

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High Commission of Cyprus

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6. Democratic People's Republic of Korea

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Ministry of Foreign Affairs

Mr. Kim Kyu Song  
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Department for Treaty and Law Department  
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Mr. Yu Chang Hyok  
Official  
Department for Treaty and Law Department  
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7. Republic of Ghana

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- Ms. Alice Otuteye  
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- Dr. V.D. Sharma(HOD)  
Joint Secretary & Legal Advisor  
Legal and Treaties Division  
Ministry of External Affairs
- Dr. A. Sudhakara Reddy  
Director (L&T Division)
- Dr. Luther Rangreji  
Legal Officer (Gr. I)
- Shri. Yedla Umashankar  
Legal Officer
- Shri. Senthil Kumar  
Legal Officer
- Mr. Mohammed Hussain K. S.  
Legal Officer  
(Liaison Officer to AALCO)
9. Republic of Indonesia
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Deputy Chief of Mission
- Mr. Novrizal  
Counsellor
- Mr. Emmanuel Suryo Widodo  
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- Mr. Akbar Nugraha  
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10. Islamic Republic of Iran
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- Mr. Ali Garshasbi  
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Ministry of Foreign Affairs
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12. Japan
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Ministry of Foreign Affairs
- H.E. Ms. Tomoko Akane  
Ambassador for International Judicial Cooperation  
Ministry of Foreign Affairs
- Ms. Kikuko Kato  
Director, International Judicial Proceedings Division  
Ministry of Foreign Affairs
- Ms. Sakura Ozaki  
Official, International Legal Affairs Division  
Ministry of Foreign Affairs
- Mr. Tsutomu Nakagawa  
Minister, Embassy of Japan in New Delhi
- Mr. Hiroto Ogawa  
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13. Kingdom of Jordan
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- Mr. Mohammad Issa Hammad Al Mahadien  
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14. Republic of Kenya
- Ms. Njeri Mwangi Wachira (HOD)  
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- Mr. Eric Munene  
State Counsel
- Mr. Dan Ochieng  
Foreign Service Officer 1

H.E. Florence Imsa Weche  
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Amb. Bellinda Omino  
Deputy High Commissioner

Mr. David Koskei  
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(Liaison Officer to AALCO)

15. State of Kuwait

Mr. Ali Musaed Al-dhabibi (HOD)  
Counsellor  
Chairman of the Appeals Chamber  
Ministry of Justice

Mr. Saud Abdullah Al-Harbi  
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Legal Department  
Ministry of Foreign Affairs

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Assistant Under Secretary  
Ministry of Justice

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Director of Media & Public Relation  
Ministry of Justice

Mr. Khaled Al-Essa  
Administrative Coordinator  
Ministry of Justice

Mr. Yousef Al-Failakawi  
Director of the Court of Appeal  
Ministry of Justice

16. Libya

H.E. Dr. Ali A.S. Al Isawi (HOD)  
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Mr. Khalifa M. K. Rhayem  
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Mr. Mohamed A.M. Attia  
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(Liaison Officer to AALCO)

17. Malaysia

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Mr. Khairul Azreem Bin Mamat  
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International Affairs Division  
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Mr. Mohamed Rushdan Bin Mohamed  
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Mr. Mohamed Ariff Bin Mohamed Ali  
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(Liaison Officer to AALCO)

18. Mauritius

H.E. Mr. Jagdish Goburdhun  
High Commissioner  
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First Secretary

Ms. Prema Appadu  
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(Liaison Officer to AALCO)

19. Republic of the Union of Myanmar

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Mr. Tek Prasad Dhungana  
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Mr. Dilli Raj Ghimire  
Joint Secretary  
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21. Federal Republic of Nigeria
- H.E. Mr. Olusola ENIKANOLAIYE (HOD)  
Acting High Commissioner for the Federal  
Republic of Nigeria  
High Commission of Federal Rep. of Nigeria in  
New Delhi
- Mr. Samuel Onwuzurike Okere  
First Secretary (Economic, Trade and Investment)
22. Sultanate of Oman
- H.E. Sheikh Hamed Saif Abdulaziz Al-Rawahi  
(HOD)  
Ambassador  
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- Dr. Khalid Hamed Al-Ghaliani  
Minister Plenipotentiary & Deputy Head of Mission  
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- Mr. Othman Darwish Al-Balushi  
First Secretary
23. Pakistan
- H.E. Mr. Abdul Basit (HOD)  
High Commissioner  
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- Mr. Yousef Alemadi  
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- Mr. Abdulla Almarri  
Legal Researcher  
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Ms. Cho Ji I  
Second Secretary

26. Kingdom of Saudi Arabia

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Affairs  
Ministry of Justice

Mr. Ahmed Ibrahim Al Yousef  
Ministry of Justice

Dr. Isa Bin Abdul Rahman Al Isa  
Ministry of Interior

Mr. Naser Bin Mubarak Al Mubarak  
Ministry of Interior

Mr. Omar Abdulaziz M. Alabdulkarim  
Ministry of Justice

Mr. Hesham Auhuhoud  
Ministry of Justice

Mr. Ibrahim Al Muhana  
Ministry of Justice

Mr. Turki Bin Khalid Bin Abdul Rahman Al  
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27. Singapore

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Singapore High Commission in New Delhi

28. Somalia  
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29. Republic of South Africa  
Adv. Aarti Brijlall (HOD)  
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South Africa  
  
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First Secretary  
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(Liaison Officer to AALCO)
30. Democratic Socialist Republic of Sri Lanka  
H.E. Mr. Esala Weerakoon (HOD)  
High Commissioner of Sri Lanka in New Delhi  
  
Mr. Dappula De Livera  
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Mrs. Piyumanthi Peries  
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32. Republic of the Sudan  
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33. Syrian Arab Republic

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Mr. Muhammad Alghazzawi  
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Mr. Salam Socar  
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34. United Republic of Tanzania

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Ms. Chanthapim Banjongjit  
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36. Republic of Turkey

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Ms. Premmisa Nooruangngam  
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Ms. Siphanee Nakmee  
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Minister and Deputy Chief of Mission  
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Ms. Potchamad Saengthien  
First Secretary

Mr. Umit A. Kilic (HOD)  
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Dr. Nilufer Oral  
Member of the Law Faculty of Istanbul Bilgi Uni.  
Candidate nominated by Rep. of Turkey for  
membership to the ILC (2017-2021)

Ms. Gamze Kaderoglu  
Attache  
Board of Legal Counsellors  
Ministry of Foreign Affairs

Ms. Zekiye Dinc  
Second Secretary  
Embassy of the Republic of Turkey in New Delhi  
(Liaison Officer to AALCO)

37. Uganda

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5. Dr. Roy Lee  
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