



**ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION (AALCO)**

**PROVISIONAL ANNOTATED AGENDA FOR THE  
FIFTY-SIXTH ANNUAL SESSION**

**NAIROBI, REPUBLIC OF KENYA  
1<sup>ST</sup> to 5<sup>TH</sup> MAY 2017**

**I. INTRODUCTION**

1. The Provisional Agenda has been prepared following Rule 11(1) of the Statutory Rules. It may be recalled that until the Forty-First Annual Session of the AALCO, held in Abuja, Nigeria (2002), all the substantive items on the Organization's agenda were deliberated in the Annual Sessions and the Secretariat prepared reports on all the agenda items. However, before the Forty-Second Annual Session held in Seoul, Republic of Korea (2003), the Host Government of that Session proposed to the Secretary-General to divide all the items on the agenda into deliberated and non-deliberated items with a view to allocating more time for the exchange of views and experiences and intensive discussion on the deliberated items apart from discussion on organizational items. This innovative approach was implemented for the first time during the Forty-Second Annual Session, held in Seoul and is being continuously followed since then. Furthermore, in order to encourage deliberations on resolutions, the draft resolutions to be adopted at the Fifty-Sixth Annual Session have been annexed at the end of each deliberated report<sup>1</sup>.

2. On the other hand, since the Forty-Ninth Annual Session held in Dar es Salaam, Tanzania (2010), the non-deliberated agenda items were being published in a single volume and the same were also placed for consideration of the Member States. During the past several years Member States have recommended austerity measures to be adopted by the Organization, including cutting down costs on its publications. In compliance with this observation, since the Fifty-Third Annual Session (2014) the Secretariat is not publishing the report on the non-deliberated agenda items. Consequently, draft resolutions on the non-deliberated agenda items would not be drafted and discussed. However, in the future, as and when an item is taken up as deliberated, the needful would be done.

3. Since the Fifty-Fourth Annual Session held in Beijing, People's Republic of China, sub-theme of the respective agenda for substantive matters has been introduced in an effort to have

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<sup>1</sup> This innovation was suggested by the Drafting Committee of the Forty-Eighth Annual Session, held in Putrajaya, Malaysia in 2009.

focused discussions among Member States. At the forthcoming Fifty-Sixth Annual Session, to be held at Nairobi, Republic of Kenya from 1<sup>st</sup> to 5<sup>th</sup> May 2017, apart from the consideration of items on Organizational matters, the deliberations would focus upon some of the important substantive items on AALCO's current agenda. These include: (i) The Status and Treatment of Refugees; (ii) Violations 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); and (iv) International Law in Cyberspace. Besides this, two half-day Special Meetings will also be held in conjunction with the Fifty-Sixth Annual Session, namely, "Selected Items on the Agenda of the International Law Commission" and "The International Criminal Court: Recent Developments". It needs to be mentioned that "Violent Extremism and Terrorism (Legal Aspects)" will be considered by a Working Group convened for that purpose. The registration for the Session would begin on Sunday, 30<sup>th</sup> April 2017 and continue on Monday, 1<sup>st</sup> May 2017.

4. During the session, AALCO publications namely, Yearbook of the Asian-African Legal Consultative Organization; AALCO Journal of International Law; and two special studies: one, "International law in Cyberspace; two, "Legality of Prolonged Israeli Occupation of the Occupied Palestinian territory and its Colonial Practices under International Law and International Humanitarian Law", would also be launched.

## **II. ANNOTATED LIST**

### **A. Chairing of the Session**

5. Rule 3(1) of AALCO's Statutory Rules provides that the President of the previous Session shall preside until the Member States elect a new President for the current Session. Accordingly, **His Excellency Dr. V.D. Sharma, the President of the Fifty-Fifth Annual Session and Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India** shall preside over the Inaugural Session and the First Meeting of the Delegations of AALCO Member States during the Fifty-Sixth Annual Session.

### **B. Participation of Member States**

6. Rule 12(1) provides that at the Annual Session of the Organization, the Delegation of each Member State shall be composed of the Head of Delegation (Member), Alternate Members and Advisers.

### **C. Credentials of Participants**

7. Rule 12(2) provides that the official communication addressed to the Secretary- General shall serve the purpose of credentials for the delegations and observers. The communication shall be authenticated by a competent authority in the Ministry of Foreign Affairs or by the Diplomatic Missions of the concerned States. For the same purpose, an official communication from the relevant Organization addressed to the Secretary-General would serve as credentials for the Organizations in the UN system, inter-governmental organizations and other international institutions.

#### **D. Adoption of Agenda**

8. Rule 11(3) provides that the provisional agenda shall be placed before the Meeting of the Delegations of Member States for consideration. The Meeting may, at its discretion, delete any item included in the provisional agenda. A new item may be included on the proposal of one or more delegations, if the Meeting is of the opinion that the matter is one of urgency and there are sufficient reasons on account of which the item could not have been included in the provisional agenda. All decisions in this regard shall be taken by consensus. In the event that consensus cannot be reached after all efforts have been exhausted, a decision may be taken by two-third majority of those present and voting in secret ballot.

9. Rule 11(4) provides that the provisional agenda upon its approval by the Meeting of the Delegations of Member States shall be adopted as the agenda of the Session.

#### **E. Admission of New Members**

10. Rule 4 provides that the Organization may by a decision supported by a two-third majority of the Member States admit the participation of an Asian or African State, if such a State by written communication addressed to the Secretary-General of the Organization intimates its desire to participate in the Organization and its acceptance of the Statutes and the rules framed there under. Such decision may be taken by means of a resolution adopted in any of its sessions or by circulation if the period between the date of such application for admission and the next Session exceeds two months. In the latter case, the responses of the Participating States should be given within six weeks. If no response is received from any Participating State within the stipulated period, it shall be assumed that the concerned Participating State has no objection to the admission of the applicant State. The result will be communicated by the Secretary-General both to the Participating States and to the applicant State.

After successful completion of the above mentioned latter process **VietNam** was welcomed as the 47<sup>th</sup> Member State of AALCO with effect from 24<sup>th</sup> February 2017.

#### **F. Admission of Observers**

11. The admission of Observers is governed by Rule 18, and will be taken up by the Meeting of Delegations of Member States. According to the Organization's present practice, there are three categories of observers, namely: (i) observers representing non-member Asian-African States; (ii) observers representing States other than those in the Asian-African region; and (iii) observers representing United Nations, its organs and specialized agencies, other inter-governmental organizations and other international institutions.

12. In addition to these three categories, in accordance with the decision taken at AALCO's Twenty-Second Annual Session held in Colombo, Sri Lanka (1981), Australia and New Zealand enjoy Permanent Observer Status.

13. Observer delegations have the right to attend all meetings, except those which are declared closed meetings and attended exclusively by Delegations of Member States and do not have the right to vote.

#### **G. Election of the President**

14. Rule 3(1) provides that at each Annual Session, the Organization shall elect a President. It has been the practice that the President of the Organization is elected from among the dignitaries of the Member State hosting the Session.

#### **H. Election of the Vice-President**

15. Rule 3(3) concerning the election of the Vice-President provides that in the election of the President and Vice-President, regional representation will be taken into consideration to the extent possible. In accordance with the established practice, if the President is from the African region, the Vice-President may be elected, preferably from a Member State in the Asian region.

#### **I. Report of the Secretary-General on the Work of the Asian-African Legal Consultative Organization**

16. Following Rule 20(7) of the Statutory Rules, the Secretary-General shall present an annual report to the Member States on the work of the Organization. The Report for the Fifty-Sixth Annual Session covers the activities of the Organization since its Fifty-Fifth Annual Session, including the substantive, organizational, financial and administrative matters.

**Document: AALCO/56/NAIROBI/2017/ORG 1**

#### **J. AALCO's Financial Report and Proposed Budget for the year 2018**

17. In accordance with Rule 24(4), the AALCO's Proposed Budget for the year 2018, as endorsed by the Liaison Officers during the 336<sup>th</sup> Meeting, held on 28 February 2017, shall be submitted to the Meeting of the Delegations of Member States of the AALCO at the Fifty-Sixth Annual Session for approval and final adoption.

**Document: AALCO/56/NAIROBI/2017/ORG 2**

#### **K. Report on the AALCO's Regional Centres for Arbitration**

18. A report on the activities of the AALCO's Regional Arbitration Centres located in Cairo, Kuala Lumpur, Lagos, Nairobi and Tehran respectively, is to be submitted for consideration at the Fifty-Sixth Annual Session.

**Document: AALCO/56/NAIROBI/2017/ORG 3**

#### **L. General debate**

19. At this Fifty-Sixth Annual Session, the Second General Meeting is meant for the General Statements to be delivered by the Hon'ble Ministers and Heads of the Delegations of Member

States and Observers. In the rapidly changing world scenario it is important that nation States abide by the rule of law, multilateralism and the role of international and regional organizations also needs to be reviewed and strengthened. It is recommended that general statements could be focused on this overarching theme. ***Heads of Delegations are requested to kindly consider limiting their speech to 5 - 7 minutes due to paucity of time, so that the general statements could finish within the stipulated time.*** However, if they wish to give a longer version, the written statement could be handed over to the Secretariat for reproduction in the Verbatim Record of the Session.

## **M. Submission of Statements**

20. ***The Delegations wishing to make statements (General statements, and Statements on organizational and substantive matters) are kindly requested to read the statement at a reasonable speed and to handover three copies of their statement well in advance to the Secretariat.*** This would enable the interpreters (Arabic and English) to provide quality interpretation and ensure that the impact of the statements of the delegations is equally clear in all languages. It would be highly appreciated if soft copies of the statements could also be made available to the Secretariat.

## **N. Venue of the Fifty-Seventh Annual Session**

21. According to sub-rule (1) of Rule 10 of the Statutory Rules, the regular Annual Session of the Organization shall, in accordance with Article 4 of the Revised Statutes of AALCO, be held once in a year and such meetings shall, to the extent possible, be held in one of the Member States by geographical rotation. Those member States interested in hosting the next Annual Session are encouraged to inform the Secretariat at the earliest.

## **II. MATTERS UNDER ARTICLE 1 (a) OF THE AALCO STATUTES**

### **1. The Status and Treatment of Refugees**

22. As may be recalled, this topic was introduced onto AALCO's agenda in 1964 at the behest of the Arab Republic of Egypt at the Sixth AALCO Annual Session in Cairo, Egypt. Following this, in 1966 the Eighth Session in Bangkok, Thailand, saw AALCO adopt the 'Principles Concerning the Treatment of Refugees', also known as the 'Bangkok Principles'. Two addenda to these principles were adopted; first, the 'Right to return' in 1970; and second, the 'Burden Sharing Principles' in 1987. In 2001 a revised text of the Bangkok Principles were adopted. Additionally, AALCO adopted 'A Framework for the Establishment of a Safety Zone for Displaced Persons in their Country of Origin', and submitted 'A Model Legislation on the Status and Treatment of Refugees' in 1995.

23. With a number of refugee crises affecting various regions of the world, on 19 September 2016, a high-level UN Summit was held at the UN Headquarters in New York, where the 193 attending countries adopted the *New York Declaration for Refugees and Migrants*. This Declaration signifies the commitment of the UN Member States to address the ordeals and problems faced by the rapidly increasing numbers of refugees and migrants around the world.

The Declaration encompasses both issues relating to refugees fleeing war, persecution and other humanitarian crises, as well as economic and other migrants.

24. The ongoing crises and issues of refugees and migrants is of grave concern to the Asian and African regions and, in particular, Member States of AALCO and the New York Declaration occupies a nexus of interest relating to two AALCO agenda items, namely: The Status and Treatment of Refugees; and the Legal Protection of Migrant Workers. The brief will focus on the New York Declaration and examine the comprehensive refugee response framework annexed by the Declaration. Possible topics of deliberation may include the viability of the response framework, as well as the proposed 2018 global compact on refugees, and also relevance and usefulness of the Bangkok Principles, particularly the Burden Sharing Principles, to this process.

**Document: AALCO/56/NAIROBI/2017/SD/S3**

## **2. Violations of International Law in Palestine and other Occupied Territories by Israel and other International Legal Issues related to the Question of Palestine**

25. In accordance with Article 1 (a) of the Statutes, this item has been on the agenda of the AALCO since its Twenty-Seventh Annual Session held in Singapore in 1988 following a reference by the Government of the Islamic Republic of Iran. Since then it has been considered at successive Annual Sessions.

26. RES/55/S 4 adopted at the Fifty-Fifth Session of AALCO held at New Delhi (HQ), India directed 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.

27. Accordingly the Secretariat had prepared the Special Study entitled “**Legality of Prolonged Israeli Occupation of the Occupied Palestinian territory and its Colonial Practices under International Law and International Humanitarian Law**”, which would be released during the Fifty-Sixth Session, and discussions will center on that study.

## **3. Violent Extremism and Terrorism (Legal Aspects)**

28. The item entitled “International Terrorism” was placed on the agenda of the Fortieth Session of AALCO, held at New Delhi, India in 2001, upon a reference made by the Government of India. It was felt that consideration of this item at AALCO would be useful and relevant in the context of the on-going negotiations in the Ad Hoc Committee of the United Nations on elaboration of the comprehensive convention on international terrorism. The topic was subsequently ramified into “Violent Extremism and Terrorism (Legal Aspects)” at the Fifty-Third Annual Session held in Tehran, Iran (2014) at the behest of Islamic Republic of Iran, in the wake of atrocities committed by extremist groups in Africa and the Middle East.

29. The Fifty-Third Annual Session included a Half-Day Special Meeting on the topic of “Violent Extremism and Terrorism (Legal Aspects)”, wherein a resolution was passed

(AALCO/RES/53/SP2), directing the AALCO Secretariat to “coordinate holding inter-sessional expert meetings [...] to consider AALCO principles for coordination to combat violent extremism and its manifestations which could lead to drafting Asian-African guidelines on violent extremism and its manifestations [...]”. This directive was also reiterated *vide* resolution AALCO/RES/54/S9 at the Fifty-Fourth Annual Session in Beijing, People’s Republic of China (2015). In pursuance of these directives, the AALCO Secretariat convened two Inter-Sessional Meetings of Legal Experts on Violent Extremism and its Manifestations: from 28-29 January 2016; and on 16 May 2016. Over the course of this two-day Meeting, the Secretariat’s Draft on Principles and Guidelines to Combat Violent Extremism and its Manifestations were considered by legal experts from the AALCO Member States.

30. After the conclusion of the second Inter-Sessional Meeting on 16 May 2016 and the Fifty-Fifth Annual Session, the the AALCO Secretariat was directed, *vide* resolution AALCO/RES/55/S9, to prepare a report on the ongoing discussions on the topic of Violent Extremism at the United Nations level which is to be presented at the Fifty-Sixth Annual Session in 2017 and discussed by a Working Group to be convened for this purpose during the 2017 Session.<sup>2</sup> Additionally, the Secretariat was directed to prepare a draft resolution in line with comments received from AALCO Member States at the Inter-Sessional Meeting, which is also to be discussed by the Working Group.<sup>3</sup>

31. This brief will therefore briefly review the work done by the AALCO Secretariat on the topic of “Violent Extremism and Its Manifestations” as well as the outcomes of the two Inter-Sessional Meetings held in 2016. The brief will also contain an overview of the work done by the United Nations and its Agencies including: The Fourth Report of the UN Secretary-General on the Threat Posed by ISIL; and the UNODC Handbook on Management of Violent Extremist Prisoners and Prevention of Radicalisation in Prisons.

**Document: AALCO/56/NAIROBI/2017/SD/S8**

#### **4. International Law in Cyberspace**

32. The topic, “International Law in Cyberspace” was placed on the agenda of the Fifty-Third Session of AALCO, held at Tehran in 2014, upon a proposal made by China. After being discussed at the Fifty-Third and Fifty-Fourth Annual Sessions of AALCO, as per the Resolution adopted on this agenda item in the Fifty-Fourth Annual Session held in Beijing, an open-ended Working Group was established to discuss the issues as identified in the operative paragraphs of the Resolution, namely: “deliberation and progress made in the UN framework and other forums, with special attention to a) international law pertaining to State Sovereignty in cyberspace, b) peaceful use of cyberspace, c) rules of international cooperation in combating cybercrimes, and d) identification of the relevant provisions of the UN Charter and other international instruments related to cyberspace”. The afore-stated Resolution also mandated the Secretariat to study this subject based on above-mentioned guidelines.

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<sup>2</sup> AALCO/RES/55/S9, Operative Paragraph 3.

<sup>3</sup> AALCO/RES/55/S9, Operative Paragraph 4

33. The Resolution adopted on this Agenda item in the Fifty-Fifth Session held in New Delhi mandated the Working Group to hold inter-sessional meetings. As per this mandate an inter-sessional Second Meeting of the Working Group Meeting was held at the AALCO Headquarters in New Delhi, from 9-10 February, 2017. In the Meeting the following topics were deliberated, including the Special Study on “International Law in Cyberspace”: a) State-Sovereignty in cyberspace, b) Law and Governance of Cyberspace, c) Cyber Warfare, and d) Cybercrimes and International Law. As per the statutory rules of AALCO the outcomes of this Working Group Meeting would be reported during this meeting, as well as the Special Study released.

The following four sub-topics are expected to be explored during the present meeting:

34. State-Sovereignty in Cyberspace: In practice, States have exercised, and will continue to regulate activities in cyberspace. States have continuously emphasized their right to exercise control over the cyber infrastructure and cyber-activities on their respective territory. However, States also have to ensure freedom of expression and secrecy of correspondence (confidentiality of communication) in cyberspace. The strive to strike a balance between cyber security on the one hand and free flow of information and protection of individual rights on the other shall be discussed.

35. Law and Governance of Cyberspace: As the governance of cyberspace has become more and more complicated, no longer being restricted to the technical management of its core resources, including the broadened spectrum of stake-holders being involved in its management, and growing assertions of State-control over cyberspace, the two main forums for cyberspace regulation that exist today, the multilateral forum and the multi-stakeholder forum shall be deliberated upon, to arrive at a balanced view point.

36. Cybercrimes and International Law: Cyberspace which has provided immense benefits has also provided an ideal environment for burgeoning of cybercrimes, and there exists no global legal instrument for combating cybercrimes. It shall be discussed during the meeting if existing international instruments for traditional crime can be extended for combating cybercrimes, or do we need new global or regional legal instruments, and how the latter may be achieved.

37. Cyber Warfare: As the magnitude and frequency of cyber-attacks have continuously grown in the past few decades, and as States have responded with the creation of various military and governmental cyber-security agencies and with legislations directly addressing the critical importance of cyberspace security, it shall be discussed if the existing international law relating to *jus ad bellum* and *jus ad bello* can be applied to cyberspace, or do we need a separate set of rules for the same, in order to ensure peace in the realm of cyberspace.

**Document: AALCO/56/NAIROBI/2017/SD/S17**

#### **IV. TWO HALF-DAY SPECIAL MEETINGS TO BE HELD IN CONJUNCTION WITH THE FIFTY-SIXTH ANNUAL SESSION:**

**(A) Selected items on the Agenda of the International Law Commission**



38. For this Annual Session, the Secretariat has prepared the document “Report on Matters relating to the Work of the International Law Commission at its Sixty-Eighth Session”. In accordance with Article 1 (d) of the AALCO’s Statutes, the Organization is mandated to “examine subjects that are under consideration by the International Law Commission (ILC or the Commission) and to forward the views of the Organization to the Commission; to consider the reports of the Commission and to make recommendations thereon, wherever necessary to the Member States”.

39. In pursuance of this mandate, the Report on the Work of the International Law Commission at its Annual Session is taken up for consideration at the AALCO’s Annual Sessions. In keeping with this long-standing practice, the Secretariat document for the Fifty-Sixth Session contains an overview of the ILC’s work during its Sixty-Eighth Session.

40. The brief of the Secretariat for this year would provide a general overview of the progress of work achieved by the ILC at its Sixty-Eighth Session (2016) on topics relating to: Protection of the Atmosphere; *Jus Cogens*; Immunity of State Officials from Foreign Criminal Jurisdiction; Subsequent Agreements and Subsequent Practice in relation to the Interpretation of Treaties; Identification of Customary International Law; Protection of Environment In Relation to Armed Conflict; Crimes Against Humanity; Provisional Application of Treaties and Protection of Persons in the Event of Disasters. The comments of Member States of AALCO delivered at the UN General Assembly Sixth Committee in its Seventy First Session held in 2016 are also incorporated where available.

41. Be that as it may, the major focus of the half-day special meeting would be on three topics that are of most critical concern to the Member States, namely: *Protection of the Atmosphere; Jus Cogens and Immunity of State Officials from Foreign Criminal Jurisdiction*. However Member States are also encouraged to make their comments on other topics that are on the current work programme of ILC.

#### **Document: AALCO/56/NAIROBI/2017/SD/S1**

##### **(B) International Criminal Court: Recent Developments**

42. In accordance with Article 1 (b) of the Statutes AALCO has been following the developments relating to the work of the ICC since its Thirty Fifth Session at Manila (1996). The initial discussions relating to the establishment of the ICC were held at the two Special Meetings convened within the framework of the Thirty Fifth and the Thirty Sixth Annual Sessions. Thereafter, this agenda item has been successively deliberated in many Annual Sessions, the last being the Fifty-First Annual Session held in Abuja, Nigeria in 2012.

43. Apart from this, AALCO has conducted numerous Seminars and Work Shops on specific thematic concerns relating to the ICC. In 2009, a seminar on “International Criminal Court: Emerging Issues and Challenges” was successfully conducted in collaboration with the Government of Japan. In 2010, prior to the Kampala Review Conference, a Round Table Meeting of Legal Experts was organized jointly by The AALCO and the Governments of Malaysia and Japan with a view to consolidate the position of the Member States. The Reports of these meetings have thereafter been published and circulated among the Member States.

44. In this context, the Secretariat would like to bring to the attention of the Member States that the Government of Republic of Sudan proposed an additional item titled “The Legality, under International Law, of the UNSC authority to refer cases and/or situations to the ICC under Article 13 (b) of the Rome Statute, 1998” to be included in the Provisional Agenda of the Fifty-Sixth Annual Session of AALCO scheduled to be held in 2017. This proposal was duly circulated among the Member States and no objection was received. Since the subject matter of the proposal fits into the agenda item— “International Criminal Court: Recent Developments”, the Secretariat proposes to discuss the topic during the Special Half-day Meeting dedicated to deliberate on matters related to International Criminal Court (ICC).

45. Accordingly, the brief on this agenda item prepared for the Fifty-Sixth Annual Session seeks to focus on analyzing Article 13(b) of the ICC Statute which gives the UN Security Council the authority, under Chapter VII of the UN Charter, to refer a situation to the Court. Further, the brief discusses the context in which a few African States recently withdrew from the ICC. Furthermore, it also includes a brief report on the Fifteenth Session of Assembly of States Parties to the Rome Statute held in November 2016.

**Document: AALCO/56/NAIROBI/2017/SD/S10**