



AALCO
Asian-African Legal Consultative Organization
Fifty-Eighth Annual Session
21 to 25 October 2019
Dar es Salaam, United Republic of Tanzania

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

1. Introduction

- 1.1. 25 Member States of the Asian-African Legal Consultative Organization (AALCO) participated in the Fifty-Eighth Annual Session (hereinafter “the Session”) namely, **Arab Republic of Egypt, Kingdom of Bahrain, People’s Republic of China, Republic of Ghana, Republic of India, Republic of Indonesia, Islamic Republic of Iran, Republic of Iraq, Japan, Republic of Kenya, Government of Nepal, Federal Republic of Nigeria, Sultanate of Oman, Islamic Republic of Pakistan, Republic of Philippines, State of Qatar, Republic of Korea, Kingdom of Saudi Arabia, Democratic Socialist Republic of Sri Lanka, State of Palestine, Syrian Arab Republic, United Republic of Tanzania, Republic of Turkey, United Arab Emirates and the Socialist Republic of Viet Nam.**
- 1.2. Representatives of the following Regional Arbitration Centres of AALCO were also present: **Regional Centre for International Commercial Arbitration, Lagos (RCICAL)** and the **Nairobi Centre for International Arbitration (NCIA).**
- 1.3. In accordance with Rule 18 (1) of the Statutory Rules, the following Observers were admitted to the Session:
 - I. Representatives from the following Non-Member States: **Islamic Republic of Afghanistan, Republic of Belarus, Federal Republic of Germany, Kingdom of Morocco** and the **Russian Federation.**
 - II. Representatives of the following International Organizations: **African Institute of International Law (AIIL), Committee of Legal Advisors on Public International Law (CAHDI), International Court of Justice (ICJ), International Committee of**

the Red Cross (ICRC), International Criminal Court (ICC), The Saudi Fund for Development (SFD), and the United Nations Environmental Program (UNEP).

2. Inaugural Session

2.1. The Fifty-Eighth Annual Session of AALCO commenced on 21 October 2019.

2.2. **Hon. Prof. Palamagamba John Kabudi, Minister for Foreign Affairs and East African Cooperation of the United Republic of Tanzania** warmly welcomed the delegates to the United Republic of Tanzania and the historic city of Dar es Salaam. He elaborately discussed the tryst of AALCO with the United Republic of Tanzania, recollecting that the Forty-Ninth and the Twenty-Fifth Annual Sessions of the Organization were hosted in the country in the years 2010 and 1986 respectively. He noted that it was a great honour to the country and to the Faculty of Law, University of Dar es Salaam that the present Secretary-General is an alumnus from the prestigious institution. Several AALCO seminars and workshops have also been hosted in the country. Apprising the gathering of the country's commitment towards international law, he observed that his Ministry, as an overseer of all ratified international instruments in the country would continue to ensure that the State fulfils its obligation under various international and regional instruments ratified so far. The State's commitment to the welfare of AALCO was underlined, the Secretariat was thanked for the cooperation extended, and the State's inclination to continue to work with other AALCO Member States in rendering support to the Organization was registered.

2.3. **H.E. Prof. Dr. Kennedy Gastorn, Secretary-General of the Asian-African Legal Consultative Organization (AALCO)** welcomed all the delegates to the United Republic of Tanzania, highlighting the importance of the Annual Session of AALCO. Pursuant thereto he pointed out the challenges faced by Asian-African States expressing the need for multilateral engagement in addressing these challenges. Expressing satisfaction at the conduct of the Annual Session in his home country, Secretary-General referred to the iconic contributions of the First President of the country, Julius Nyerere. Urging the Member States of AALCO to strengthen the organization, he hoped that the Fifty-Eighth Annual Session would pave the way for a deeper engagement of the Member States with the substantive dimensions of international law. In addition, it was noted that while there are numerous challenges to the international rule of law, it is only while facing these challenges that opportunities for growth and progress can be realized.

2.4. **H.E. Amb. Koji Haneda, Member of AALCO and Ambassador Extraordinary and Plenipotentiary of Japan to the Republic of Philippines** representing **H.E. Mr. Masataka Okano, Assistant Minister and Director-General of the International Legal Affairs Bureau of the Ministry of Foreign Affairs of Japan and the President of the Fifty-Seventh Annual Session**, in his address welcomed all the delegates to the Fifty-Eighth Annual Session of AALCO. Highlighting the historical origins of AALCO, he stated the strong role played by the United Republic of Tanzania in promoting the values of AALCO. H.E. Amb. Koji Haneda highlighted the important activities of the organization

during the last one year of Japan's presidency and appreciated the close working relationship of AALCO with the United Nations and the International Law Commission.

- 2.5. **Hon. Yuji Iwasawa, Judge, International Court of Justice** appreciated AALCO for the role the Organization has been playing to further strengthen and promote the rule of law in the international community. He focused his statement on the increasing importance of individuals as subjects of international law since the end of the Second World War. The increasing recognition of rights and duties of individuals under international law was illustrated by citing the recent trends in the fields of international human rights law, international economic law and international criminal law. He also highlighted the specific contribution to international law made by Julius Nyerere.
- 2.6. **H.E. Dr. Augustine P. Mahiga, Minister for Constitutional and Legal Affairs of the United Republic of Tanzania** lauded the accomplishments of AALCO under the presidency of Japan and the leadership of the Secretary-General. He also congratulated the Secretary-General for his appointment as Ambassador. Recollecting the historical ties of the State of United Republic of Tanzania with States like China, India and Indonesia, he observed that the country presents a melting pot of a variety of cultures and civilizations, and that the travel to Tanzania to attend the Annual Session of AALCO might be deemed to be a home-coming of sorts for many delegates. By highlighting the achievements of AALCO, the President-incumbent of the Session asserted that the Organization has been striving to carry on the legacy of the Bandung Conference. The need to bring in new ideas, and to preserve consistency and unity in the quest to maintain the underlying principles of this Organization, was emphasized. The readiness of the State to partner with all Member States in realizing the objectives of AALCO was reiterated.
- 2.7. **H.E. Samia Suluhu Hassan, Vice-President of the United Republic of Tanzania and the Guest of Honour for the Fifty-Eighth Annual Session of AALCO**, expressed her gratitude to the Secretary-General for playing a major role in facilitating cooperation among the Asian and African Member States in the development of international law, and thanked the Member States for extending unqualified support to the Secretary-General. She encouraged the Member States to continue upholding the spirit of cooperation and engagement with a view to sustain international law in Asia and Africa. The commitment of the United Republic of Tanzania to the international rule of law and the work of AALCO was emphasized. The role of the State in peace building in the Great Lakes Region and peace keeping in different missions in the region and beyond, steps taken to ratify treaties against terrorism and international organized crime, and measures put in place to combat corruption were referred to. The States which have imposed sanctions were called upon, through the platform of AALCO, to lift those sanctions. The position of the State vis-à-vis the recent developments in the domains of law of the sea, international trade and investment law were accentuated. It was observed that through adherence to the rule of law, the United Republic of Tanzania has strived to advance all economic and social sectors development including health, education, infrastructure, agriculture among other key sectors.

- 2.8. **Hon. Prof. Adelardus Kilangi, Attorney-General, United Republic of Tanzania** delivered the vote of thanks. He expressed his deep gratitude to the Vice-President of the United Republic of Tanzania for officiating the inaugural session, the outgoing President of AALCO for his distinguished leadership, and the Secretary-General of AALCO for his service to the Organization. He also thanked the Secretariat of AALCO, the Ministry of Constitutional and Legal Affairs of the United Republic of Tanzania, the delegates and the sponsors and supporters.

3. First Meeting of the Delegations of AALCO Member States

- 3.1. **H.E. Amb. Koji Haneda** called the Meeting to order. The following agenda was adopted for the Fifty-Eighth Annual Session:

3.2. Agenda

I. Organizational Matters

1. Consideration and Adoption of the Agenda and Tentative Schedule of Meetings and Events
2. Election of the President and the Vice-President
3. Admission of New Members
4. Admission of Observers
5. Opening Speech of the President of AALCO
6. Report of the Secretary-General on the Work of AALCO
7. Release of AALCO Publications
8. Presentation of Draft Budget for 2020
9. Report on the Work of the AALCO's Regional Arbitration Centres
10. Report of the Chairman of the Working Group on International Law in Cyberspace
11. Venue of the Fifty-Ninth Annual Session

II. Substantive Matters

1. Extraterritorial Application of National Legislation: Sanctions imposed against Third Parties
2. Selected Items on the Agenda of the International Law Commission
3. International Law in Cyberspace
4. Law of the Sea
5. Peaceful Settlement of Disputes
6. Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine
7. International Trade and Investment Law

III. Any Other Matter

- 3.3. **Admission of New Members:** Republic of Philippines

- 3.4. **Admission of Observers:** The following Non-Member States were admitted as Observers to the Fifty-Eighth Annual Session: **Islamic Republic of Afghanistan, Republic of Belarus, Federal Republic of Germany, Kingdom of Morocco** and the **Russian Federation**. The following International Organizations and other organizations were also admitted as Observers: **African Institute of International Law (AIIL), Committee of Legal Advisors on Public International Law (CAHDI), International Court of Justice (ICJ), International Committee of the Red Cross (ICRC), International Criminal Court (ICC), The Saudi Fund for Development (SFD), Universiti Teknologi MARA (UiTM)** and the **United Nations Environmental Program (UNEP)**.
- 3.5. **H.E. Amb. Koji Haneda** invited the Member States to propose candidates for the posts of President and Vice-President of the Fifty-Eighth Annual Session of AALCO. The Head of Delegation of Republic of India proposed the nomination of **H.E. Dr. Augustine P. Mahiga, Minister for Constitutional and Legal Affairs of the United Republic of Tanzania** as the President of the Fifty-Eighth Annual Session of AALCO. The nomination was seconded by the Head of the Delegation of Republic of Kenya and the Arab Republic of Egypt, thereafter the President was unanimously elected. The Head of Delegation of the Republic of Ghana proposed the nomination of **H.E. Mohammed Shalalkeh, Minister of Justice, State of Palestine** as Vice-President of the Fifty-Eighth Annual Session. The proposal was seconded by the Head of Delegation of the Islamic Republic of Iran and thereafter the Vice-President was unanimously elected. Thereafter, **H.E. Koji Haneda** invited the President and Vice-President of the Fifty-Eighth Annual Session to assume their positions on the dais.
- 3.6. The newly elected President, **H.E. Dr. Augustine P. Mahiga**, in his opening statement vowed to follow the footsteps of his predecessors. Mentioning the role of the Bandung Conference in the history of AALCO, the President elucidated the work done by AALCO over the last year. He congratulated the Secretary-General of AALCO, H.E. Prof. Dr. Kennedy Gastorn for his leadership role in the organization, and welcomed the Republic of Philippines to the AALCO family. Soliciting an expression of solidarity, he called upon the Member States to support the Organization and the Secretariat.

4. First General Meeting

- 4.1. **Release of AALCO Publication:** The following AALCO publications were released: Yearbook of the Asian-African Legal Consultative Organization (2018, vol. XVI), AALCO Journal of International Law (2017 & 2018, vol. 6 & 7), Newsletters [vol. 11(2) and 12 (1)], and a Special Study titled “The Status of Jerusalem in International Law: A Legal Enquiry into the Recent Attempts to Disrupt the Status Quo.”

Second Meeting of the Delegations of AALCO Member States

Agenda Item: Report of the Secretary-General

- 4.2. The **Secretary-General**, prior to presenting his report on the work of AALCO, expressed his deep gratitude to the President and the Vice-President of the Fifty-Seventh Annual Session of AALCO, the Member States for their confidence in him, and the Ambassadors/High Commissioners and the Liaison Officers in New Delhi. He thanked the Republic of India for its support, as the host country of the Secretariat, as well as the United Republic of Tanzania, his home country and the gracious host of the Fifty-Eighth session. The Member States were informed that the Report on the organizational matter was divided into seven sections, namely, 1. Consideration of Work Programme of AALCO at the Fifty-Eighth Annual Session; 2. Activities undertaken since the Fifty-Seventh Annual Session of AALCO; 3. Overview of the Secretariat; 4. Financial situation of AALCO and 2020 Draft Budget; 5. Steps taken to Revitalize and Strengthen the AALCO; 6. Future Work Plan; and 7. Strengthening the cooperation with the United Nations, its Specialized Agencies and other international organizations. Brief insights were furnished regarding each of the sections, and relevant suggestions provided. Finally, the Member States were encouraged to actively participate in the activities of the Organization in its collective pursuit to ensure that Asian-African voices are heard in the making of international laws and norms.

Agenda Item: Discussions on the Budget for 2020

- 4.3. The **Deputy Secretary-General of AALCO** highlighted the details of the budget approved by the Liaison Officers for the years 2020. An amount to the tune of 631,540 USD, same as the previous year, was sanctioned for the year 2020. He highlighted the continuous efforts of the organization to harness the human and material resources available with it and the need to minimize operational costs. Due consideration would be accorded to increasing the annual budget of AALCO from 2021 onwards.

Agenda Item: Report of the Chairman of the 4th Working Group on International Law in Cyberspace

- 4.4. **H.E. Dr. Abbas Bagherpour Ardekani**, Head of Delegation, Islamic Republic of Iran and Chairman, AALCO Open-ended Working Group on International Law in Cyberspace briefly reported the proceedings of the Fourth Working Group Meeting (4WGM) held in Hangzhou, People's Republic of China on 2-4 September 2019. 10 Member States of AALCO participated in the 4WGM, and the topics "International Cooperation for Combating Cybercrime", "Application of the Principle of Non-Interference in Cyberspace", "Data Sovereignty, Transborder Data Flow and Data Security" and "Peaceful Use of Cyberspace" were discussed. Two reports, namely, the Summary Report and the Chairman's Report of the 4WGM were adopted. He recollected that two proposals were set forth in that context. Firstly, the Member States ought to be more active in responding to the questionnaire of the Rapporteur. Secondly, the Member States may seek the guidance of the Secretary-General to explore the drafting of a non-binding document clarifying the consensual basic principles of international law in cyberspace.
- 4.5. Pursuant to the first proposal, he remarked, the questionnaire had been recirculated by the Secretariat requesting responses. Pursuant to the second proposal, the Secretary-General's

Proposal of the Consensual Basic Principles of International Law Applicable in Cyberspace had been drafted and circulated to the Member States. So far, comments have been received from four Member States and one observer. The Secretary-General's proposal and the comments received would be submitted to the next Working Group Meeting on International Law in Cyberspace for further in-depth discussions and possible adoption. It was further noted that at least one Working Group meeting will be convened before the next annual session in order to further deliberate upon the subject and the mandated tasks.

Agenda Item: Signing of the Memorandum of Understanding (MoU)

4.6. **Memorandum of Understanding with the Universiti Teknologi MARA (UiTM), Malaysia: H.E. Prof. Dr. Kennedy Gastorn, Secretary-General of AALCO and Emeritus Prof. Ir. Dr. Mohd. Azraai Kassim, Vice-Chancellor, Universiti Teknologi Mara (UiTM)** signed a Memorandum of Understanding (MoU) between the two organizations.

5. Second General Meeting

5.1. In the Second General Meeting on 21 October 2019 the following delegations presented their general statements on the theme for the Fifty-Eighth Annual Session "Multilateralism and the International Legal Order based on International Law": **Sultanate of Oman, People's Republic of China, Japan, Syrian Arab Republic, United Arab Emirates, Kingdom of Saudi Arabia, Republic of Philippines, Democratic Socialist Republic of Sri Lanka, Islamic Republic of Iran, and State of Qatar.**

5.2. All delegations congratulated the President and Vice-President on assuming their posts, and expressed confidence that the Annual Session would be conducted successfully under their leadership. All the delegations thanked the Government of the United Republic of Tanzania for hosting the Fifty-Eighth Annual Session of AALCO in the magnificent city of Dar es Salaam. They appreciated the warmth and hospitality of the Tanzanian government and wished the Annual Session a great success. They applauded the leadership of H.E. Prof. Dr. Kennedy Gastorn in leading the efforts of AALCO to further the cause of international law in Asia and Africa. The spirit and values of the Bandung Conference was reiterated and reaffirmed in today's challenging times. They also thanked the President of the Fifty-Seventh Annual Session of AALCO and applauded the role of the UN and AALCO in encouraging multilateralism and a global order based on international law, in times when the world is facing the challenges of unilateralism and hegemonic influences. The Republic of Philippines was generally welcomed as a Member State of AALCO. Many States highlighted the violations of international law in the Occupied territories of Palestine and hoped that a multilateral world order would bring justice to the suffering of the Palestinian people. It was pointed that AALCO has a great potential and the activities undertaken by it in recent times are evidence of its significant role. It was echoed in the general statements of several States that they should extend full support and cooperation to AALCO in all its activities and work programme.

- 5.3. At the outset on 22 October 2019, certain procedural announcements were made by the **Secretary-General** relating to the previous day's proceedings. It was recollected that two reports were adopted the previous day, namely, the Secretary-General's Report on the Work of AALCO, and the Chairman's Report of the Fourth Meeting of the Open-ended Working Group on International Law in Cyberspace. The delegations were requested to refrain from engaging in debates on contentious bilateral matters. The interventions ought to focus only on issues of common multilateral interest, and any reference to a bilateral contentious issue might be expunged from the proceedings pursuant to a communication to that effect to the Secretary-General, with the approval of the President.
- 5.4. At the Fifty-Eighth Annual Session of AALCO the following delegations made their general statements on 22 October 2019: **Republic of India, Government of Nepal, Republic of Korea, Socialist Republic of Viet Nam, Arab Republic of Egypt, Republic of Indonesia, State of Palestine, Republic of Turkey, Republic of Ghana, United Republic of Tanzania, Federal Republic of Nigeria and Republic of Kenya.**
- 5.5. Many delegations stated that international law and order were the prerequisites for international peace and security, and cooperative and effective multilateralism was projected as the solution for all situations that emanate from unilateralism and protectionism. It was observed that for more than seven decades, multilateral arrangements have saved lives, expanded economic and social progress, upheld human rights and helped prevent a third descent into global conflagration. The relevance of the substantive agenda items earmarked for the Annual Session in affecting the collective and individual interests of the Member States was noted and their extensive deliberation in the interest of deepening Asian and African solidarity was appreciated. The need to share responsibilities to combat daunting borderless challenges, like climate change and threats to marine biological diversity, was accentuated. The pertinence of international rule of law was highlighted by most delegations. The havoc wreaked by violent extremism and terrorism was discussed, and instances of flagrant violations of international human rights and humanitarian law were cited. The issues pertaining to international law in cyberspace were pointed out by several delegations. In order to meet the emerging challenges, it was deemed necessary to explore the options to reform global governance structures. The need for States to make a more active contribution to the codification and progressive development of international law by actively providing inputs at international negotiating fora was emphasized. The significance of encouraging seminars and capacity building at domestic and regional levels was additionally underlined.
- 5.6. Thereafter, the Observer States, *viz.*, **Republic of Belarus, Federal Republic of Germany, Russian Federation and Islamic Republic of Afghanistan** presented their general statements. The Observer International Organizations, *viz.* **International Criminal Court (ICC), Committee of Legal Advisors on Public International Law (CAHDI), International Committee of the Red Cross (ICRC) and United Nations Environment Programme (UNEP)** also presented their general statements.

SUBSTANTIVE AGENDA ITEMS FOR DELIBERATION

6. Third General Meeting

Agenda Item: Extraterritorial Application of National Legislation: Sanctions imposed against Third Parties

- 6.1. **The Secretary-General of AALCO** introduced the agenda item which was included as such in the agenda of AALCO in the year 1997 on the recommendation of the Islamic Republic of Iran, and highlighted the illegality of extraterritorial application of national legislations with the imposition of unilateral sanctions and its violation of fundamental human rights which include the right to food, health, medicine and education. He stated that in 2014 the AALCO Secretariat had prepared a Special Study entitled “Unilateral and Secondary Sanctions: An International Law Perspective”, which had looked extensively into the following aspects: (i) Extraterritorial application of national legislation and violation of the UN Charter; and (ii) Extraterritorial Application of National Legislation and Violation of Human Rights Obligations. He recalled the consistent assertions of the international community as regards the effect of extraterritorial application of national legislation and reiterated that sanctions imposed against third parties by extraterritorial application of national legislation violate international law. He stated that it is noteworthy that the brief prepared by the Secretariat on this topic for this year dealt with recent developments in the Human Rights Council and other organs of the United Nations concerning the item for instance the appointment of the first rapporteur by the Human Rights Council and the recent ruling of the ICJ in the case entitled “Alleged Violations of the 1955 Treaty of Amity”. He recommended all parties to reconfirm the illegality of such sanctions and reiterate their commitment to taking affirmative steps, as Member States of AALCO to remove these sanctions which are grossly illegal under international law.
- 6.2. The following delegations presented their statements on the agenda item: **The United Republic of Tanzania, Islamic Republic of Iran, People’s Republic of China, Arab Republic of Egypt, State of Palestine** and the **Republic of Indonesia**.
- 6.3. The delegations, thanked the AALCO Secretariat for including the topic in the agenda of the Fifty-Eighth Annual Session. It was observed that State sovereignty, rule of law, non-intervention and the duty to cooperate are fundamental principles of international law, which stand to be violated when unilateral sanctions are imposed by States in addition to breaching the consensual and multilateral framework of international law. In all cases, unilateral sanctions violate Article 2 (4) of the UN Charter, which prohibits intervention in the internal affairs of a State. It was also highlighted that unilateral sanctions apart from being illegal serve no practical purpose as they seldom advance any substantive policy goal, increase costs of international trade and go beyond the scope of UN Security Council Resolutions adding tension to peaceful international relations between States. Such measures, being an improper exercise of extraterritorial jurisdiction adversely violate the human rights of the people of the State subject to unilateral sanctions posing a serious challenge to international peace and security in addition to affecting international cooperation between States. The work of the UN Special Rapporteur on the negative

impact of unilateral coercive measures, the ILC Articles on State Responsibility and 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States were cited to highlight the illegal nature of unilateral sanctions and their consequences.

- 6.4. It was recommended that the AALCO Secretariat undertake a Special Study on the Illegality of Sanctions against Humanitarian and Human Rights Considerations.

Agenda Item: Peaceful Settlement of Disputes

- 6.5. **The Secretary-General of AALCO**, in his introductory statement highlighted the importance of the topic ‘peaceful settlement of disputes’ to the Afro-Asian community. Highlighting the emergence of the topic as a substantive agenda item on the work programme of AALCO in the Fifty-Seventh Annual Session, the Secretary-General elucidated the importance of topic in the context of Mahatma Gandhi’s 150th Birth Anniversary in 2019. Pointing out the focus of AALCO’s current engagement with aspects pertaining to ‘peaceful settlement of environment disputes’, the Secretary-General elaborated on the need and importance of protecting the environment in light of the hazards posed by climate change. He highlighted that a sound understanding of environmental dispute resolution is in the best interest of the Asian-African community and affirmed AALCO’s commitment to furthering our collective understanding on this subject. Mentioning the rise of new technologies and the imperatives of capital and human resources mobility across frontiers having increased the importance of environmental protection for Member States, Secretary-General appreciated the role of the latter in safeguarding the environment.
- 6.6. The following delegations presented their statements on the agenda item: **Islamic Republic of Iran, Japan, Republic of Indonesia, Republic of India, Socialist Republic of Viet Nam, People’s Republic of China, United Republic of Tanzania and State of Qatar.**
- 6.7. All delegations emphasized the need to settle their disputes through peaceful means leaving the choice of the methods to the States themselves. The importance of Article 33 of the UN Charter was emphasized, which enumerates both bilateral and third party means of dispute settlement. Some delegations explained that the idea of sovereign equality is implied in the pacific nature of dispute settlement, and accorded priority to consensual methods of dispute settlement. It was also underscored that the consensual basis of jurisdiction of third-party dispute settlement must be borne in mind and that decision makers must conform to their respective mandates. Increasing popularity and utility of Alternate Dispute Resolution (ADR) mechanism was recognised. Taking note of the significance of pacific settlement of environmental disputes, the delegations expressed support for inclusion of the topic and appreciated the Secretariat for preparing the brief on the topic. Some delegations explained that the transboundary effects of climate change and environmental harm pose a major challenge to the international community wherein the need for pacific settlement of disputes necessarily arises. The necessity of dispute

prevention and incorporation of non-compliance procedures in multilateral environmental agreements was underlined.

- 6.8. Observing the multiplicity of proceedings and the fragmentation of the regime of international environmental law, it was recommended that the Secretariat conduct further research to design an integrated effective approach towards pacific settlement of environmental disputes.

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

- 6.9. **The Secretary-General of AALCO**, in his introductory statement highlighted AALCO's historical engagement with the subject over the years, stating the same to reflect the Organization's moral compass. He stated that since 1988, when the topic first came on the Agenda of the Organization, AALCO has consistently applied itself to every conceivable international law dimension concerning the historic land of Palestine and its people. Pointing out the mandate received by AALCO during the previous Annual Session to prepare a Special Study on the subject 'The Status of Jerusalem under International Law', the Secretary-General noted the Study was one of the first to comprehensively undertake a legal analysis of the subject in the wake of the US decision to shift the embassy of the country in Israel from Tel Aviv to Jerusalem and expressed happiness on the same. He hoped that the Study would bring clarity on the varied legal dimensions and US State practice on the subject and encouraged Member States to actively participate in the deliberations.
- 6.10. The following delegations presented their statements on the agenda item: **State of Palestine, State of Qatar, Republic of Indonesia, People's Republic of China, Arab Republic of Egypt, and Islamic Republic of Iran.**
- 6.11. It was observed by the delegations that the State of Palestine has been a victim of egregious violations of international law at the hands of the occupying power. The violations of international humanitarian and human rights law were highlighted to point out the plight of the hapless people of Palestine who bear the brunt of the occupation in their daily lives. The delegations stressed the need to recognize East Jerusalem as the capital of the sovereign State of Palestine condemning all efforts to alter the *status quo*. The delegations condemned all measures to alter the legal status of *Al Quds Al Sharif*, and affirmed that, pursuant to numerous UN resolutions and international conventions those measures had no legal effect. Reference was made to various municipal legislations of the occupying power to highlight the point that all efforts were being made to crush the legitimate aspirations of the Palestinian people to their right of self-determination. Many delegations expressed the view that the conflict should be settled only by resorting to peaceful means and all efforts to unilaterally escalate the conflict should be discouraged. Insistence must be placed upon peace talks and international consensus ought to be achieved on the basis of the two-State solution. It must be ensured that the voice and propositions of the parties, especially Palestine are heeded to and Palestine is recognized as a State with full attributes of sovereignty. In this regard the need to respect UNSC and

UNGA resolutions was highlighted. The delegations expressed their unwavering support to the legitimate aspirations of the State of Palestine and its people.

7. Fourth General Meeting

Agenda Item: Select Items on the Agenda of the International Law Commission

- 7.1. **The Secretary-General of AALCO** provided a brief account of the six topics that had been deliberated at the seventy-first session of the International Law Commission (ILC): (1) Peremptory norms of general international law (*jus cogens*); (2) Succession of States in respect of State Responsibility; (3) Crimes against Humanity (4) Immunity of State Officials from foreign criminal jurisdiction; (5) Protection of the environment in relation to armed conflicts; (6) General principles of law. He encouraged the delegations to present their views on agenda items of the Commission in the seventy-second session as well.
- 7.2. The four experts, **Dr. Hussein A. Hassouna, Dr. Georg Nolte, Dr. Aniruddha Rajput, Dr. Chris M. Peter, Members of the International Law Commission (ILC)** delivered their presentations on the various items on the Agenda of the International Law Commission at its Seventy-First Session. Thanking AALCO for the invitation to participate in the Fifty-Eighth Annual Session of AALCO, they highlighted the working methodology of the ILC, hoping that Asian and African states get more involved in the relationship between the ILC and the Sixth Committee .. They stated that through its strong support to the Commission, AALCO can effectively contribute to the consolidation of an international legal order based on the rule of law. The experts apprised the Member States of the stages of completion that the various topics on the agenda of the Commission were currently at. It was recommended that AALCO take note of the new topics on the long-term program of work of the Commission.
- 7.3. The following delegations presented their statements on the agenda item: **Republic of Korea, Japan, Islamic Republic of Iran, People's Republic of China, Republic of India, Socialist Republic of Vietnam, Arab Republic of Egypt and the United Republic of Tanzania.**
- 7.4. The delegations expressed gratitude to the experts for their insightful presentations and appreciated the brief of the secretariat on the subject. The role of the ILC in facilitating the codification and progressive development of international law was lauded by the Member States. They also appreciated the role of Special Rapporteurs on the various topics. The delegations expressed their respective positions on the topics deliberated at the Seventy-First Session of the Commission, expressing optimism and pointing out areas of concern. The topics on which the delegations made their interventions included peremptory norms of general international law (*jus cogens*), State succession in respect of State Responsibility, Crimes against Humanity, Immunity of State officials from foreign criminal jurisdiction, Protection of the environment in relation to armed conflict and General Principles of Law. The Delegations stated that the Commission's future work should be based on careful selection avoiding conflict with existing international instruments and duplicity of ongoing international efforts. Delegations, in general,

welcomed the inclusion of the topic Sea-level rise in relation to international law on the work programme of the Commission. The role of AALCO in facilitating interaction between the Commission and Member States was appreciated.

- 7.5. **Republic of Belarus** and the **Russian Federation** presented their statements on the agenda item as observer delegations.

Agenda Item: International Law in Cyberspace

- 7.6. **The Secretary-General of AALCO** in his introductory statement highlighted the importance of cyberspace for all States striding ahead on the path to rapid technological progress. Mentioning the history of AALCO's engagement with the topic since the proposal of the topic by the People's Republic of China as an agenda item for the Fifty-Third Annual Session of AALCO in Tehran (Islamic Republic of Iran) in 2014, the Secretary-General referred to the recently concluded Fourth Working Grouping Meeting on Cyberspace held in Hangzhou, China from 2-4 September 2019. Congratulating China for taking an active interest in the topic, the Secretary-General stressed the importance of peacefully using cyberspace and the importance of taking all possible efforts to tackle the menace of cybercrime. The Secretary-General highlighted that cooperation on matters pertaining to cyberspace between States has been forthcoming and encouraged States to further strengthen efforts on this front. The Secretary-General welcomed Prof. Huang Zhixiong the Rapporteur of the AALCO Open-ended Working Group on International Law in Cyberspace.
- 7.7. **Prof. Huang Zhixiong, Rapporteur of the AALCO Open-ended Working Group on International Law in Cyberspace** succinctly summarized the responses received from the Member States on the questionnaire on cybercrime, prepared pursuant to the mandate received at the Fifty-Seventh Annual Session of AALCO in 2018. Referring to the responses received from eleven Member States so far, the Rapporteur observed that there was consensus on the need for capacity building and technical assistance to combat cybercrime, and general agreement on the benefits of public-private partnership in that regard. Further inputs from Member States were requested on the topic. **Prof. Zakayo N. Lukumay, Senior Lecturer and Acting Principal of the Law School of Tanzania**, examined the applicability of international law principles to cybercrimes in his presentation, focusing on universal jurisdiction theory, relation between the Rome Convention and cybercrimes.
- 7.8. The following delegations presented their statements on the agenda item: **Republic of Kenya, United Republic of Tanzania, Government of Nepal, Republic of India, Republic of Korea, Islamic Republic of Iran, People's Republic of China, Republic of Indonesia, Socialist Republic of Viet Nam** and the **Sultanate of Oman**.
- 7.9. The relevance of the agenda item and AALCO's continued emphasis on the topic was appreciated by all the delegations. The efforts of the AALCO Secretariat in preparing the brief and the role being played by the Rapporteur of the AALCO Open-ended Working Group on International Law in Cyberspace were commended. The Secretary-General's

Proposal of the Consensual Basic principles of International Law applicable in Cyberspace was well-received by the delegations, and further work under the Working Group on it was encouraged. Several delegations highlighted the legislative measures and policy responses adopted in their respective domestic jurisdictions in order to combat cybercrimes. The regional efforts to enhance cyber security were cited by some delegations. Several delegations took note of the ongoing multilateral, equitable and democratic negotiations under the auspices of the UN, the resolutions adopted by the Seventy-Third session of the UN General Assembly (UNGA), and the work of the UN Intergovernmental Expert Group in Vienna. In this regard, support was sought for a draft UNGA Resolution to establish an open-ended intergovernmental committee to elaborate a comprehensive international convention on combating cybercrime. Many delegations declared that they would submit their responses to the Rapporteur's questionnaire shortly.

- 7.10. The **Russian Federation** and the **International Committee of the Red Cross (ICRC)** presented their statements on the agenda item as observer delegations.

Agenda Item: Law of the Sea

- 7.11. **The Secretary-General of AALCO**, while delivering the introductory remarks on the agenda item, observed that the item "The Law of the Sea" was taken up for consideration by AALCO at the initiative of the Government of Indonesia in 1970. It was stated that the Secretariat's reports furnish a backdrop to the items proposed for deliberation, viz., (a) the Marine Biodiversity of Areas beyond National Jurisdiction (BBNJ), (b) Issues Related to the Freedom of Navigation/Sail in the International Waters and Straits and (c) Preventing and Combating Illegal, Unregulated and Unreported (IUU) Fishing. As regards BBNJ, the Member States were encouraged to discuss the topic taking into account the pending constitution of the AALCO open-ended Working Group on BBNJ, whose terms of reference have been finalized. It was pointed out that the Secretariat shall shortly nominate the Chairperson, Vice Chairperson and the Rapporteur of the Working Group for approval of Liaison Officers on behalf of the Member States. The other item for consideration had been taken up pursuant to the proposal by the Government of United Arab Emirates. It was observed that freedom of navigation must not be used as a pretext to challenge the maritime boundaries of another State, and the principle of non-intervention must be abided by, especially by the State asserting freedom of navigation.
- 7.12. The expert **Captain Ibrahim Mbiu Bendera** from the **United Republic of Tanzania** in his presentation highlighted different aspects of the freedom of navigation in the International Waters and Straits and the regulation of BBNJ. He traced the history of the development of the concept of freedom of navigation and provided key insights on jurisdiction of coastal states over ships plying in their internal waters and Exclusive Economic Zones highlighting salient features of the United Nations Convention on the Law of the Sea, 1982 (UNCLOS). Furthermore, he stated that freedom of navigation should exist only in the high seas limiting the doctrine of innocent passage to the EEZ.
- 7.13. The following delegations presented their statements on the agenda item: **United Arab Emirates, Republic of Indonesia, Arab Republic of Egypt, Republic of India,**

Republic of Korea, United Republic of Tanzania, Republic of Kenya, Japan, Islamic Republic of Iran, Sultanate of Oman, Socialist Republic of Viet Nam and People's Republic of China.

- 7.14. Creating an efficient framework of ocean governance for safeguarding BBNJ is an imperative that needs to be taken seriously. The delegations supported international efforts to create a legally binding instrument for the conservation and sustainable use of BBNJ as a supplementary agreement to the UNCLOS, 1982. In this context, delegations highlighted their participation in the Intergovernmental Conference (IGC) established by the United Nations General Assembly to create an international legally binding instrument under the UNCLOS on the conservation and sustainable use of marine biological diversity. It was emphasized that regulating access to Marine Genetic Resources (MGRs) in Areas Beyond National Jurisdiction (ABNJ) and technology transfer to developing countries is essential from the perspectives of the AALCO Member States. It was pointed out that AALCO Member States should coordinate efforts on all aspects pertaining to BBNJ and work towards strengthening the law of the sea framework at the international level. The importance of regulating Illegal, Unreported, Unregulated (IUU) fishing was noted by some delegations and the need for cooperation in this regard was called for.
- 7.15. Some delegations stated that the freedom of navigation in the high seas is an established rule of international law and it comes in tandem with the rights of Coastal States. The delegations reiterated the importance of preserving the freedom of international navigation in straits used for international navigation, based on international treaties and conventions. The need to work collectively for the realization of common interests of the international community that would ensure safety of routes of navigation, international trade and security was also emphasized.

Agenda Item: International Trade and Investment Law

- 7.16. **The Secretary-General of AALCO**, delivered an introductory statement on the topic explaining how it had been dealt with in AALCO over the years since its inclusion on the agenda. It was expressed that although a number of issues within the topic had gained contemporary relevance in the past year, due to time limitations only the most germane were selected for deliberation. The meeting was apprised that the following topics would be discussed: (a) WTO Reforms, (b) Mediation in Investment Disputes, and (c) Investment Dispute Mechanisms Reform Initiative. The Secretary-General also recalled the previous work of AALCO on the topics in particular on issues such as the treatment of aliens, regional cooperation in the context of the New International Economic Order as well as Promotion and Protection of investments on a reciprocal basis. In relation to the topic of WTO Reforms it was recalled that the topic dealing with WTO Law was first placed on the agenda of AALCO in 1995 the same year as the completion of the Uruguay Rounds of trade negotiations, and that since then out of 48 Member States of AALCO 38 are Members of the WTO whereas 7 have observer status.
- 7.17. **Dr. Aniruddha Rajput, Member of the International Law Commission**, as an expert, made a presentation on mediation in investment arbitration as an under- explored option of

alternative dispute resolution which might be resorted to in the cooling off period. The advantages of mediation over arbitration were emphasized and the form such mediation clauses could take were explained.

- 7.18. The following delegations presented their statements on the agenda item: **Republic of Indonesia, People’s Republic of China, Socialist Republic of Viet Nam, United Republic of Tanzania, Republic of India, Japan, Islamic Republic of Iran and Republic of Kenya.**
- 7.19. The delegations expressed gratitude to the Secretariat for preparation of the detailed brief on the agenda item and for creating a platform to discuss the challenges pertaining to the topic and to explore the options available. Acknowledging the centrality of the WTO in the multilateral regulation of international trade, the need to resolve the Appellate Body impasse prior to considering other existential crises to the system was accentuated. The pertinence of special and differential treatment provisions in the covered agreements of the WTO to enable the developing countries to integrate meaningfully to the world economic order was underlined. As regards the Investment Disputes Mechanisms Reform Initiative, the work of UNCITRAL in particular the Working Group III was appreciated. The legal and institutional challenges to the establishment of a permanent investment court were discussed and the nature and jurisdiction of such an institution were reflected upon. General support was expressed for mediation of investment disputes with a consensual basis.

Agenda Item: Report on the Work of the Regional Arbitration Centres

- 7.20. **The Secretary-General of AALCO**, presented an introductory statement providing a brief rendition of the work and success of the Regional Arbitration Centres, over the years. In his presentation he congratulated the Host Governments of the Regional Arbitration Centres for their support and cooperation and called upon all Member States to continue supporting their activities and work program. The Secretary General recalled the Scheme for the Settlement of Disputes in Economic and Commercial Transactions, which laid foundation for the establishment of the first AALCO Regional Arbitration Centre in Kuala Lumpur, Malaysia catering to Asia closely followed by second one catering to Africa in Cairo, Arab Republic Egypt. The statement also emphasized that the success of the arbitration centres led to the creation three other arbitration centres which have all been operationalized and received a steady flow of commercial disputes.
- 7.21. **Mr. Alex Mwaniki, Senior Case Counsel, Nairobi Centre for International Arbitration (NCIA)** presented the report of the Centre at the Annual Session. In their presentations he apprised the meeting of the volume, nature, and subject-matter of the disputes as well as other crucial statistics such as information about the parties and arbitrators. He also provided an overview of the scale of activities undertaken by the NCIA that ranged from workshops and training seminars to organizing other capacity building programs. A comprehensive outline of the activities of the arbitration centre during the period of 2018-19 was provided and estimates about their growth and future plans were also shared with the meeting.

8. General Meeting and Concluding Session

Adoption of the Message of Thanks to the President of the United Republic of Tanzania

H.E. Prof. Dr. Kennedy Gastorn, the Secretary-General of AALCO, presented a message of thanks on behalf of AALCO Member States to H.E. Dr. John Pombe Joseph Magufuli, the President of the United Republic of Tanzania.

Venue of the Fifty-Ninth Annual Session

8.1. The President informed the meeting that a proposal was made by the People's Republic of China to host the Fifty-Ninth Annual Session in the year 2020. The proposal was unanimously adopted.

Adoption of Documents

The following documents were adopted on 24 October 2019.

Organizational Matters

1. AALCO/RES/58/ORG 1
Report of the Secretary General on Organizational, Administrative and Financial Matters
2. AALCO/RES/58/ORG 2
AALCO's Budget for the year 2019
3. Chairman's Report of the Fourth Meeting of the Open-Ended Working Group on International Law in Cyberspace
4. AALCO/RES/58/ORG 3
Report on AALCO's Regional Centres for Arbitration

Consideration and adoption of the Summary Report

8.2. The draft summary report of the Fifty-Eighth Annual Session was placed for the consideration of Member States and thereafter adopted unanimously by all Member States. The delegations expressed their appreciation to the Secretary-General and the Secretariat for preparing a comprehensive and timely summary report.

Vote of thanks

8.3. A vote of thanks on behalf of Asian Member States was proposed by the Head of Delegation of the **Islamic Republic of Iran** and a vote of thanks on behalf of the African Member States was proposed by the Head of Delegation of the **Republic of Kenya**. A vote

of thanks on behalf of the International Organizations was proposed by **Dr. Aniruddha Rajput, Member of the United Nations International Law Commission.**

- 8.4. **H.E. Dr. Augustine P. Mahiga**, the President of the Fifty-Eighth Annual Session delivered the concluding remarks.

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