

**VII. SUMMARY RECORDS OF THE SECOND GENERAL  
MEETING**

**SUMMARY RECORDS OF THE SECOND GENERAL MEETING  
HELD ON TUESDAY, 22<sup>ND</sup> JUNE 2004 AT 9:30 AM**

**The President His Excellency Prof. Dr. Yusril Ihza Mahendra, in the chair.**

1. The **Leader of Delegation of Ghana** congratulated the President of the Forty-Third session for his assumption of presidency and expressed his conviction that the sterling qualities of the President would positively impact the Forty-Third session. He expressed the greetings of the Government and People of Ghana to the President of the Republic of Indonesia as well as the Government and People of Indonesia. Thereafter, he extended warm regards to every delegation present at the session.

2. He expressed his gratitude for the kind invitation from the Government of Indonesia and the warm hospitality extended to the Ghana Delegation since their arrival in Bali. He congratulated India, Malaysia and South Africa for the successful conclusion of the general elections recently. He also extended a hearty welcome to South Africa for formally joining AALCO and hoped that South Africa's influence in the Southern African region, in particular and Africa in general would be brought to bear in AALCO.

3. He informed the august body that Ghana would be holding presidential and parliamentary elections in December 2004 and was hopeful that the elections would further strengthen democracy and good governance in their country and contribute towards the promotion of peace and stability in the West Africa region.

4. In this context, on behalf of his Delegation, he brought up the concept of the New Partnership for Africa's Development (NEPAD), an idea put forward by African leaders to bring about substantial political, economic and social changes for their people. He said that NEPAD depended on the attainment of peace, security, democracy, political and economic governance and regional cooperation and integration to ensure socio-economic development and thus urged the AALCO Member States from the Asian region to support the NEPAD initiative by entering into trade and economic relations with African countries.

5. He stated that Ghana, along with South Africa, had submitted to the African Peer Review Mechanism (APRM). He hoped that this mechanism would enhance the democracy and political stability of Ghana, and promote economic growth and sustainable development in Africa.

6. He expressed his concern regarding the prevailing situation in the Middle East as a very disturbing spectacle in international affairs. He assailed the violence used against the people or citizens of another country, be it in the form of abuse of rights of prisoners in contravention of the Geneva Protocols, the abduction, kidnapping or gruesome killing of foreign civilians by armed militias, or the continuing violence on both the sides of the Palestinian and Israeli divide. While expressing the solidarity of his Government with the Governments of Indonesia and Saudi Arabia in their fight against terrorism, he said that such distasteful acts should not be tolerated by civilized society. However, he cautioned

that the fight against terrorism must not divert the attention from other global issues of great importance.

7. Finally, he congratulated the AALCO for its performance over the years since the Bandung Conference and said that by pooling together the resources they had contributed to the development of international law in various respects.

8. The **Leader of Delegation of Nepal** congratulated the President and Vice-President on their respective elections to the Forty-Third session, he was confident that their long experience would help in the smooth functioning of the session. While referring to the inaugural address of the President of Indonesia, he said it was truly an inspiring one which had provided useful guidelines for the session. He expressed sincere appreciation to the host country for hosting the session in the beautiful city of Bali. He welcomed the Republic of South Africa, and said that with increasing membership the foundations of the Organization would be further consolidated. Recounting the items on the agenda he felt it had touched upon the most important topics of relevance in the international legal arena. He commended the Organization for its remarkable contribution in the progressive development and codification of international law. He stated that his Government continued to lend consistent support to the roles and activities of AALCO.

9. The **Leader of Delegation of the United Arab Emirates**<sup>1</sup> at the outset extended appreciation to the Government of the Republic of Indonesia for its generous hospitality for hosting the Forty-Third Session. He also acknowledged the efforts of the AALCO Secretariat and its personnel for making every effort for placing before the meeting a comprehensive agenda.

10. He felt that the Session was being convened at a time when there was utmost need to abide by principles of international law in face of all serious phenomenon taking place at the international level. He felt that the contribution of AALCO in the formulation of provisions which could be incorporated into national legislations was commendable.

11. His delegation was absolutely committed to support international cooperation for the sake of establishing legal rules in various fields which could benefit humanity as a whole. UAE had actively participated in all regional and international efforts in standing up against situations which might threaten international peace and security.

12. The delegate informed that his country had signed the Rome Statute of the International Criminal Court and had participated actively in the preparatory process as well as in the Assembly of States Parties meetings.

13. His delegation supported all international efforts at combating international terrorism by ratifying or acceding to international conventions on terrorism. UAE, he stated, had ratified the International Convention on Combating Terrorism. He also enumerated the various fora in which his country had actively participated including the

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<sup>1</sup> Statement delivered in Arabic. Unofficial translation made from the Interpreter's version.

Gulf Cooperation Council. He fully supported the necessity for combating the various forms of terrorist acts.

14. UAE, he stated, had also signed the most recent Convention on Transnational Organized Crime and had taken all necessary measures on the national level for suppression of organized crimes. National provisions of UAE provided severe punishments for serious crimes like corruption, money laundering as well as all forms of trafficking in women and children.

15. He strongly supported the inclusion of the item 'Human Rights in Islam' which he hoped would be able to clarify the comprehensive, generous and merciful rules enshrined in the Holy Quran. He urged AALCO to study the juristic efforts in light of the Cairo Declaration of Human Rights in Islam.

16. The delegate also supported the inclusion on the agenda, the item Folklore and its international protection, which would help in providing legal protection for the regulatory mechanisms on Intellectual Rights of Heritage.

17. He lent full support towards the Palestinians and abhorred the violations being committed by the Israeli's against the population of Palestine.

18. The **Leader of Delegation of Arab Republic of Egypt**<sup>2</sup> thanked the Secretary-General of AALCO for his efforts in building the Organization. Pointing out that Egypt was one of the founding members of AALCO he said that they supported the work of the Organization, being done by the young legal experts of the Secretariat. He supported the revision of Statutes of the AALCO as it would add more importance to the Organization. There were new challenges the world was facing and there was a need for new international legal mechanisms to tackle these issues. These challenges were in the fields of intellectual property and free trade, electronic commerce and environment. He proposed a fellowship programme at the Secretariat of the AALCO for young international lawyers from the Member States. This programme would help the young international lawyers to get training in various aspects of international law. He requested the Secretariat to prepare a proposal in this regard involving financial and other implications and submit to the next session of the AALCO. Pointing out the huge challenges, he appealed for concerted efforts to establish rule of law at the international level. He stated that there was a clear violation of Fourth Geneva Convention in Palestine.<sup>3</sup>

19. **The Leader of Delegation of People's Republic of China** on behalf of his delegation, congratulated the President of the Forty-Third Session H. E. Yusril Izha Mahendra on his election and congratulated the outgoing President H. E. Ambassador Young-jin Choi, for the excellent job he had done over the past year. He also thanked the Government of the Republic of Indonesia for hosting this session and for the warm welcome and hospitality that had been accorded and also thanked the Secretary-General

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<sup>2</sup> Statement delivered in Arabic. Unofficial translation made from the Interpreter's version.

<sup>3</sup> Statements delivered in Arabic. Unofficial translation made from the Interpreter's version.

and his colleagues in the AALCO Secretariat for the excellent preparations for the session. He also welcomed the new Member, the Republic of South Africa to the Organization.

20. The Delegate noted that the international situation now was undergoing complicated and profound changes and there were emerging many new conflicts and some new problems. The international law system, which was underlain by the Charter of the UN, and the international order maintained by it had met with unprecedented impacts and challenges. However, he felt that the contemporary international law and the international order maintained by it had not been undermined, neither was the United Nations marginalized. On the contrary more importance had been attached to the United Nations and International Law. The Basic Principles of international law, including the Five Principles of Peaceful Coexistence had been widely accepted by the international society, and were playing an increasingly important role in maintaining world peace and promoting common development.

21. He pointed out that the precious photos displayed outside the conference hall were reminders of the proposal by the People's Republic of China, India and Myanmar of the Five Principles of Peaceful Coexistence, namely, mutual respect for each other's territorial integrity and sovereignty, mutual non-aggression, non-interference in each others internal affairs, equality and mutual benefit, and peaceful co-existence. Over the past five decades, the Five Principles of Peaceful Co-existence had been accepted by the international society at large. Being the Basic Principles of international law in consonance with the Purposes and Principles of the UN Charter, the Five Principles constituted core and basis of contemporary international law. They had become the spiritual wealth of all humankind, thanks to the contribution by the People's Republic of China, India and Myanmar, as well as the common effort by all the independence-cherishing and peace-loving countries in the world.

22. He recalled the Bandung Conference which was very significant in the development of the Five Principles of Peaceful Co-existence. The essence of these Principles could also be found in the Ten Principles put forward in the Declaration on Promotion of World Peace and Cooperation. These Five Principles became accepted by the Asian and African countries after the Bandung Conference and gradually got recognition by the whole world. He said that his Government was dedicated to carry forward the spirit of the Five Principles and would hold a commemoration in Beijing at the end of this month.

23. He felt certain that this session would not only provide guidance for the Member States in the practice of law, but also enable AALCO to play a greater role in promoting development and codification of international law. He noted that AALCO was the only intergovernmental legal consultative body of the Asian and African region and over the years had been playing a positive role in enhancing cooperation on legal issues among Member States and contributed many useful proposals on the contemporary issues of international law.

24. He appreciated the current efforts of AALCO to encourage more Asian and African countries to join the organization and the efforts in improving the efficiency and effectiveness of its work in the new international situation, the Chinese delegation encouraged AALCO to continue to enhance and expand cooperation with the UN and other related legal bodies to strengthen the important role of the UN in maintaining world peace and security and promote development.

25. He said that his government had always attached great importance to AALCO and had been taking active part in and rendering strong support for its work. He reiterated that his Government would, as it had always done in the past, continue to support the AALCO and contribute to the strengthening of its role and broadening of its influence in world affairs.

26. The **Leader of Delegation of Islamic Republic of Iran**, congratulated the Host Government for the excellent arrangements made for the successful deliberation of the Session. He also congratulated the Republic of South Africa as a new Member of AALCO. He said that AALCO was the only independent specialized regional fora, where the Member States could exchange views and coordinate their activities.

27. AALCO had played an important role in the span of its activities. He reminded that we were living in a rapidly developing situation in the international arena and this unfolded many challenges to the basic principle of justice, equity and non-interference upon which this Organization was founded.

28. He believed that this Organization would be able to meet these challenges and that the Organization should be further strengthened for this purpose. There were countries in Asia, which experienced political transformation and they were in need of their cooperation to cope with new regulations in international and global trade. They needed to arrange specialized regional workshop in order to stimulate and strengthen professional commend, and in this regard member countries could lend their services by nominating and offering professional expertise in different fields to the Secretariat.

29. He also thanked the Government of India for their generous offer to construct the Permanent Headquarters building and he hoped that through their goodwill the project would be completed soon.

30. He informed that, as promised in the last session, the Government of Islamic Republic of Iran completed the Constitutional requirement and on 21 July 2003, Dr. Moshkan Mashkoo, following consultations between Iranian officials and Secretary-General was appointed as Director General of Teheran Regional Arbitration Center (TRAC). He informed that the Islamic Republic of Iran was planning for the allocation of independent office and initial grant of one billion Iranian Rials.

31. As regards rationalization of the deliberations, he said that it was of utmost importance and that this would help to identify the immediate issues and address them in proper manner. Upholding the sanctity and observance of international law was the best

guarantee for sustainable peace and prosperity in the world. Whenever there was breach of international law there was a threat to peace and security. In the Occupied Palestine Territory the construction of barriers was having profound humanitarian impacts on civilians. In Iraq torture of detainees and other violations of human and humanitarian law led to grave breach of Geneva Conventions, which was a cause of concern to the international community, all states should bring to justice all perpetrators of crimes, with no impunity.

32. Finally, he concluded that democracy, transparency and the rule of law could only ensure collective peace and security.

33. The **Leader of Delegation of the United Republic of Tanzania** at the outset congratulated the President and Vice-President of the Forty-Third session for their respective elections. He welcomed the Republic of South Africa for joining the Organization and was confident about the participation and contribution South Africa would make in the work of AALCO. Thereafter, he extended profound gratitude and appreciation of his delegation to the Republic of Indonesia for their great efforts to host this meeting and the warm hospitality extended to all participants.

34. He acknowledged the important role played by the AALCO in the progressive development and codification of international law. In particular, he underlined the contribution of the reports on the work of the International Law Commission and said that the Organization had been an avenue for coordinating ideas and positions of its Members to the said important United Nations body in the law making process. He commended that the Organization had been a good avenue which had provided a valuable opportunity for Members to share their regional and national experiences as well as for constructive and fruitful deliberations on the current topics of international law.

35. He added that in this era of globalization where the world economy was so interwoven, it was significant for the countries from Asia and Africa to join their efforts to discuss ways and means of promoting their economic development through law. He appreciated that for the meetings of AALCO, the agenda had always included topical issues that were not only of concern to the Member States, but to the international community.

36. Finally he wished all the delegates a comfortable stay at Bali and welcomed the fruitful deliberations during the session.

37. The **Leader of Delegation of the Republic of Korea** extended his congratulations to the President for his election to the Forty-Third session and expressed confidence for the success of the session under his leadership. The delegation extended their gratitude to the Government of the Republic of Indonesia for hosting this Forty-Third session of AALCO in Bali and for the hospitality and efficiency of the host Government in its preparations for the meetings.

38. The delegate recalled the initiatives taken to improve and rationalize the patterns of discussion and the operation of AALCO meetings at the Seoul session and hoped that the same would continue in order to contribute to enhancing the efficiency of the AALCO meetings and attracting the attention of non-member states to AALCO's activities.

39. He drew the attention of the meeting towards the emerging challenge resulting from the events of September 11, the war on terrorism and the recent developments in Iraq to restore peace and security. He said that the international community had been involved in heated debates on how to fight terrorism on a global basis, which related to a wide range of legal and political issues, many of which make up major agenda items of this session. Therefore, his delegation hoped that the Asian and African cultures, deeply rooted in humanism and a sense of community, could provide the international society with much insight while carving out solutions to these difficult situations and thus, the voice of AALCO should be heard now more than ever before.

40. Highlighting the relevance of the issues of international trade and economic cooperation for the Asian and African peoples, he said that his delegation understood that a number of countries expected to build a basic framework for the Doha Development Agenda (DDA) negotiations by the end of the next month and therefore the current session could serve as a meaningful and opportune forum for the exchange of views and information.

41. He acknowledged that the globalization related issues were of common concern to many Asian and African states and that the delegation hoped for a fruitful dialogue during the current session. He recalled the proposal of Indonesia in the Forty-Second Session to hold a special meeting on the vital issue of 'Cooperation Against Trafficking in Persons, especially Women and Children' for the Forty-Third session.

42. Finally, he expressed that his delegation was convinced that the Bali Session would be a very special experience which brought all the participants together for constructive consultations and discussions on important legal matter and that it would reaffirm the will of Asian and African countries to achieve justice and the rule of law on the basis of international cooperation.

43. The **Leader of Delegation of Yemen**<sup>4</sup> thanked the Government of Indonesia and congratulated the President and Vice-President on their election. He welcomed South Africa as a full member of the AALCO and invited other African States to become Members of AALCO. He appreciated AALCO for having on the agenda the item on the issue of Palestine and thanked the Secretary-General for his report on the work of the Organization.

44. The **Leader of Delegation of Syria**<sup>5</sup> appreciated the role of AALCO in strengthening the relations between Asia and Africa in achieving the desired goals. He

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<sup>4</sup> Statement delivered in Arabic. Unofficial translation from Interpreter's version.

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said Syria did not spare any efforts in supporting AALCO in the protection of human rights. He said as a member of AALCO since 1970 Syria had been trying to follow-up the work of AALCO. He pointed out that Syria had been trying to implement international conventions with a view to strengthening rule of law and the protection of human rights. He said that Syria's foreign policy was based on respect for international law and legitimacy and the United Nations Charter. He sought a just, comprehensive and peaceful solution to the Palestine Israel conflict and underlined the Arab Peace Initiative. In that regard, he appealed that AALCO seriously consider the extraterritorial application of national legislation. While pointing out that extraterritorial application violates national sovereignty, he expressed satisfaction that many countries declared sanctions against Syria as illegal. He emphasized the significance of items on the agenda of the session and wished for fruitful deliberations.

45. The **Leader of Delegation of Kenya** on behalf of the Republic of Kenya and his own behalf congratulated the President and the Vice-President of the Forty-Third Session on their elections. He also expressed his appreciation to the outgoing President for successfully steering the Organization for the last one-year.

46. He also expressed Kenya's gratitude to the Government of the Republic of Indonesia for not only generosity and graciously offering to host the Forty-Third Session of the Organization, but also for the warm, reception and hospitality extended to all. The opening of this Conference by Her Excellency the President of Indonesia was indicative of the support and importance attached to AALCO by the Government of the Republic of Indonesia.

47. He also recalled the terrible terrorist attack in this beautiful land and expressed his solidarity with the courageous people of Indonesia who had forged forward despite the terrorist attack on this very island. Kenya, which had similar experiences in its capital and the tourist resort city of Mombassa understood the pain and suffering such an attack could cause.

48. He also thanked the Secretariat for all the preparations and arrangements meticulously put in place for the successful conduct of the meeting.

49. He stated that the Organization had over the years, offered an ideal stage for meaningful deliberations, debate and exchange of ideas on numerous legal issues and challenges facing other countries and Kenya had consistently benefited immensely from these exchanges and looked forward to further interactions. He welcomed the agenda of the current session.

50. He then turned to particular items of interest to Kenya, the first being "an Effective International Instrument against Corruption". He said that, Kenya was the first country to sign and ratify the UN Convention against Corruption on 9 December 2003. The fight against corruption was a priority in Kenya's agenda and H. E. the President of the Republic of Kenya was personally spearheading that fight and the fruits had slowly started emerging. Kenya's vision was for a free, democratic, prosperous and conflict free

Kenya and the strategy in the fight against corruption revolved around legislative reforms, prosecution of the perpetrators and recovery of proceeds and assets acquired through corrupt practices.

51. In addition to the Anti-Corruption and Economic Crimes Act and the Public Officer Ethics Act which were mentioned at the Forty-Second Session of AALCO, Kenya had since that time enacted the National Audit Office Act and the Government Finance Management Act. The Judicial Commission of Inquiry into Goldenberg affairs was about to conclude its work.

52. Kenya acknowledged the importance of international cooperation in the fight against corruption and informed about their accession to the Convention against Transnational Organized Crime. By this the delegate hoped that Kenya would benefit even more on the mutual assistance from other countries in the fight against corruption. Kenya's Constitution Review was now entering the decisive phase after the conclusion of the National Constitutional Conference would further entrench the ideals of Good Governance.

53. On matter regarding the "Establishing of the International Criminal Court", he said that Kenya became a signatory to the Statute of the Court on 11<sup>th</sup> August 1999. This stems from Kenya's deep commitment to see that all persons who commit the crimes against humanity, genocide and war crime were brought to answer to their atrocities. Kenya was committed to share information and cooperation with other States and non-States parties to bring to justice perpetrators of crimes of concern to the international community.

54. Kenya expressed its concern on the definition of aggression, and felt that it should not be defined in such a manner as to exhaustively define the act, because as with the crime of terrorism, it was a fluid and dynamic phenomenon that may acquire different mutations in the future, something that the today's strait-jacketed definition may not even had considered, Kenya supported the view that an illustrative list of acts of aggression should be adopted in the definition so as not to close the door on any possible difficulties in the future.

55. On the matter of "International Trade law", he welcomed the adoption of the Doha Development Agenda and informed about Kenya's participation in the 5<sup>th</sup> Ministerial Conference in Cancun. Following the Cancun impasse, Kenya had convened an informal consultation meeting in Mombassa involving African Trade Ministers, European Union Trade Commissioner and representatives from other organizations. The intention was to put the derailed Doha Development Agenda back to track. This Forty-Third Session of AALCO may need to add its input on how to move forward to ensure equity in WTO negotiations.

56. On the special meeting on the item of "Establishing Cooperation against Trafficking in Women and Children", he noted that trafficking in person was one of the most serious and urgent challenge to migration policy makers and practitioners around

the world. After providing a highlight of the development of legislations in their regard, he said that though Kenya had not largely suffered from trafficking, there had been an increase in female migrants as well as commercial sexual exploitation of children particularly in the coast.

57. Kenya through its Children Act had included provision for the protection from child labour and armed conflict, abuse, harmful cultural rights, sexual exploitation, torture and deprivation of liberty. The Kenyan National Council for Children's Services set up under the Act was established to plan and coordinate the rights and welfare of the child. In addition, the Child Court had been set up and presided over by specially trained judicial officers. In the international arena, Kenya had ratified the Optional Protocol to the Convention on the Right of the Child and involvement of Children in Armed Conflict and was signatory to the Optional Protocol to the Convention on the Right of the Child on the Sale of Children, Child Prostitution and Child pornography.

58. On the matter of "Human Rights in Islam", he stated that the underlying principles of human rights were embedded in Christianity, particularly, in the Bible and the practice of Christianity. In Kenya's view, there was no fundamental difference as to the human rights set forth in the Cairo Declaration of human Rights in Islam and the Universal Declaration under the auspices of the UN.

59. Although Kenya was predominantly a Christian State, the Respect for Choice of religion was a fundamental principle in its Constitution. The law further recognized practice of personal law by Muslims who accept to be governed by it. He felt that all should look at the common issues that bring the Christians, as well as other religions and Islamic aspects of human rights to the same common ground. "For in God's eye we are all equal".

60. He then pointed to the letter dated 10<sup>th</sup> June 2004 wherein Kenya had conveyed to the Secretary-General its wish to host the Forty-Fourth Session of AALCO. The Secretary-General had already circulated Kenya's offer to all the Member States, and wished that this meeting would grant Kenya that honour and privilege. He then expressed all his support for the deliberations.

61. The **Leader of Delegation of Kuwait**<sup>6</sup> welcomed South Africa as a full member of AALCO and called on the Member States of AALCO to participate actively to find solutions to the problems the world was facing today. He hoped that there would be fruitful deliberations on the agenda items. While pointing out the humanitarian problem with respect of trafficking, he sought for a comprehensive study by the AALCO. He said that trafficking was one of the biggest violations of human rights. He pointed out that issue of human rights in Islam as proposed by Saudi Arabia would require a thorough study as it involved some principles. He emphasized the need to exert all efforts to counter the menace of terrorism at the international level. While highlighting the deplorable situation in Palestine he sought the united support to the people of Palestine.

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<sup>6</sup> Statement delivered in Arabic. Unofficial translation from the Interpreter's version.

62. The **Leader of Delegation of Sri Lanka** stated that as one of the Founder Member of the AALCO, Sri Lanka was extremely happy to participate at the Forty-Third Session of the AALCO. She appreciated and thanked Her Excellency Mrs. Megawati Soekarnoputri, the President of Indonesia for gracing the Inaugural Session and also for her encouraging and supporting statement. The delegate congratulated H. E. Dr. Yusril Ihza Mahendra, Minister of Justice and Human Rights of Indonesia and Mr. Ambrose Patrick Dery, Deputy Attorney General and Minister of Justice of Ghana on their election as President and Vice-President of the Forty-Third Session; and H. E. Ambassador Dr. Wafik Zaher Kamil, Secretary-General of the AALCO for his continuing good work with commitment and dedication. She also welcomed South Africa as a full member of AALCO and felt that South Africa played a leading international role – thus full membership of South Africa in the AALCO would further strengthen the AALCO. She also thanked the Government of Indonesia and the AALCO Secretariat for the warm and sincere welcome extended to all and for making the participation in the Session fruitful and memorable.

63. She also expressed her gratitude towards the AALCO Secretariat for the advance dissemination of Session material-thus giving the delegations the opportunity to study the issues scheduled for discussion. This would enable delegations to contribute positively to the deliberations. She added that the Sri Lankan delegation would closely follow and interact during the deliberations and make appropriate interventions.

64. In conclusion, she wished all success to the Forty-Third Session of AALCO and continued success to AALCO in the future as well.

65. The President gave the floor to the Secretary-General regarding Financial Matters i.e., the **“Revision of the Gratuity Scheme for the Locally Recruited Staff”**.

66. The Secretary-General while introducing the item on the “Revision of Gratuity Scheme for the Locally Recruited Staff” recalled that the then Secretary-General of AALCO, Mr. Tang Chengyuan at the Second Meeting of the Heads of Delegations at the Thirty-Eighth session of the Organization at Accra, Ghana in 1999, had proposed the revision of Gratuity Scheme for the locally recruited Staff, his proposals were welcomed by Member States, but no follow-up to the question was taken up. However, when Amb. Dr. Wafik Z. Kamil was elected in 2000, he undertook to review the Scheme and the said proposals.

67. The Secretary-General explained that the existing scheme in the Administrative, Financial and Staff Regulations adopted in 1990 in Chapter X, Para 10.3 lays down the criteria for eligibility of the terminal gratuity benefits for employees. It provides:

- (1) (a) An employee shall be eligible for a terminal gratuity award subject to a minimum qualifying period of two years continuous service with the Committee, and
- (b) Terminal Gratuity award shall be payable on retirement at the stipulated age; or on health grounds or redundancy or other justified grounds; or in the event of death during employment.

- (2) For services of 20 years or above with the Committee, a full month's salary for each completed year of service up to a maximum period of sixteen and a half years or alternatively, a monetary ceiling of Rs. 100, 000/- whichever is less;
- (3) For services under 20 years with the Committee, 85% of the monthly salary for each completed year of service up to a maximum period of sixteen and a half years, or alternatively a monetary ceiling of Rs. 100, 000/- whichever is less.”

After due consideration from different angles, the Secretary-General outlined the following revision:

**I. Years of employment and right to gratuity**

- (i) For services under two years, no gratuity would be paid;
- (ii) For services under 20 years with the Organisation, 85% of the monthly salary for each completed year of service up to a maximum period of sixteen and a half years, or alternatively a monetary ceiling of Rs. 250,000/- whichever is less.
- (iii) For services rendered for a period of above twenty years 20% above the ceiling i.e. Rs. 250, 000/-.
- (iv) **The gratuity would be paid to all the Staff Members, provided they fulfil any of the above conditions, as and how their employment comes to an end.**

68. Referring to the above stated Article I (iii) he stated that he had proposed to introduce payment of 20% above the ceiling to employees rendering more than twenty years of service as an incentive for them for their sincere devotion and dedicated services to the Organization.

**II. Ceiling of gratuity**

69. The Secretary-General explained that the Organization with regard to its locally recruited staff had normally followed the rules and regulations of the host government of permanent headquarters i.e the Government of India. In this regard he **briefed the Member States** regarding the ceiling followed by Government of India with respect to payment of gratuity.

70. The Government of India enhanced the ceiling of the payment of gratuity from Rs. 1, 00, 000 to Rs. 2, 50, 000/- and later to Rs. 3, 50, 000/- in 1997. As the Member States were aware that **AALCO had no provision for pension for the locally recruited Secretariat Staff**, and Gratuity being one of the main retiral benefits available to them, it was, therefore, appropriate that the monetary ceiling provided for in the Administrative Financial and Staff Regulations of AALCO be revised from the present ceiling.

71. He stated that his proposal would not involve any additional financial liability as the increase could be met from the available Gratuity Fund. Despite the fact that the Government of India had raised as mentioned above that ceiling to Rs. 3.5 lakhs, he proposed to fix the ceiling to Rs. 2.5 lakh which was in mid-way between 1 and 3.5 lakh.

72. In the light of the above stated rationale, he requested the Member States to endorse his proposal and strengthen his hands in making the Organization a benign employer.

73. The General Meeting after having heard the comprehensive statement of the Secretary-General with regard to the Revision of Gratuity Scheme for the locally recruited Staff unanimously approved the proposals put forward by the Secretary-General in this regard.

74. The Deputy Secretary-General Mrs. Toshiko Shimizu with the permission of the Chair introduced the Secretariat Report on the **Centre for Research and Training of the AALCO** elaborated in the Secretariat Document AALCO/43/BALI/2004/SD/ORG.4. At the outset, she recalled that the Center for Research and Training, functioning in the Secretariat of AALCO since November 2001, evolved from the 'Data Collection Unit' established in 1989. This transformation marked a new beginning in the efforts of the Secretariat towards undertaking research as well as training activities.

75. She pointed out that the mandate entrusted to the Center was to: "collect and disseminate information on the agenda of the AALCO; facilitate exchange of information between the Organisation, United Nations and its specialized agencies and other international bodies; undertake in-depth academic research on the agenda of the AALCO; organize seminars and workshops on topical issues of International Law; and conduct training programmes/refresher courses for official legal personnel working on International Law in the Member States"

76. She said that the Center had significantly contributed to the activities of AALCO. The Center, in accordance with the Resolution 42/ORG.4 adopted at the Forty-Second session held in Seoul, since then had made concerted efforts towards implementing its mandate. She gave the following account of the activities of the Center:

*First*, in pursuance of the assigned mandate, the website of the AALCO had been continuously upgraded in order to make it more user-friendly and informative. New web-links of the Ministries and other official websites of the Member States had been included. Further, she flagged out that a web-link, 'Legal Study Guide', had been envisaged, which would provide useful information on the topics on the Work Programme of AALCO. It would compile international and regional legal instruments as well as provides advanced research electronic links on selected topics.

77. *Second*, as part of the organizational activities, a two-day seminar was organized on "Strengthening Refugee Protection in Migratory Movements", jointly with the United Nations High Commissioner for Refugees from 17-18 September 2003. The Center is determined to organize more seminars/conferences/workshops in the forthcoming year, 2004, as envisaged.

78. *Third*, she reiterated that in pursuance of one of the key objectives of the Center to impart training to the officials from the Member States, the Center was resolved to organize training workshops and fresher courses. It was pertinent to mention herein that

the impending completion of the new Headquarter's building would facilitate the fulfillment of this objective in a more meaningful manner, as it would provide permanent and modern paraphernalia and infrastructure.

79. *Finally*, she brought to the notice of Member States that through the resolutions adopted during the Tokyo Session in 1994 and Doha Session in 1995, the Secretariat was called upon to take active measures to publicise the existence of the Unit and the services available in the Unit. She submitted that the Secretariat as well as Member States would consider reviving this mandate and adopting appropriate methods to publicise the work of the Center and its activities.

80. She concluded by emphasizing that the working of the Center had been adversely affected due to shortage of funding. She urged upon the Member States to provide the Center with adequate funding, through their voluntary and generous contributions, in order to enable it to undertake the envisaged activities. She also welcomed any suggestions and directions from the Member States regarding the future endeavours of the Center.

81. The **Observer from Holy See** at the outset expressed its appreciation to those involved in the preparations for the Forty-Third Session and to the members of the AALCO. He said as an observer to the AALCO, the delegation of the Holy See was pleased to take part in the Session.

82. He said that the Holy See welcomed the opportunity to address the theme on trafficking in human beings. The documentation prepared for the meeting entitled, "Establishing Co-operation against Trafficking in Women and Children", provided a firm starting point. The first international agreement against "white slavery" was formulated one hundred years back. Since then the problem had grown in volume and scope.

83. The Observer felt that as the background document indicated several issues required particular attention, namely, the role of law enforcement in trafficking cases; prosecutorial strategies; model legislation and international agreements; intelligence sharing and effective resource utilization. He was of the view that any attempt to stem the trafficking of human beings had to address the root causes of this trade and always be conscious of the needs of the victims. Establishment of a workable and compassionate programme of rehabilitation and reintegration relies on an honest and thorough scrutiny of those factors. He emphasized that the basic elements of this crime revealed poverty, the disparities that exist within and among nations and conflict. Lack of fundamental human rights, peace and security, shelter, education, health care, nutrition or employment opportunities and dire circumstances make people search for any kind of escape. Traffickers easily and ruthlessly exploit those who were most disadvantaged, vulnerable and hopeless.

84. He highlighted the point that as a transnational organized crime, human trafficking was a problem that national borders could hardly contain. Countries should seek to prevent trafficking and detect persons that were being trafficked. Legislations and

other measures to control the means of transport used to traffic human beings should be adopted.

85. Holy See, he said, believed that when and where victims of trafficking were able to return to their homes, they must be treated as victims and shown the same concern, care and compassion and be provided with chances for rehabilitation and reintegration as befits their human dignity. AALCO report stated that reintegration had been the most difficult task within the anti-trafficking process. The victim should not be “re-victimized” or further marginalized by social and legal systems.

86. Holy See strongly supported for a wider definition of human trafficking. The broadest and most comprehensive definition and understanding of human trafficking should be employed in order to better protect its victims. Since such definition would have penal consequences, it had to be juridically precise.

87. Holy See viewed that the entry into force of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, on 25 December 2003 was an important step. He suggested that it was desirable that States implement and enforce the treaty’s provisions.

88. Holy See believed that international cooperation was essential to bring an end to human trafficking. He encouraged the governments that were in the process of improving their current legislation, as the AALCO report had informed. The human rights and fundamental freedoms of all people must be promoted and protected. Programmes of capacity building, poverty eradication and continued development assistance were also needed.

89. The Observer was extremely confident that this Session, would give the desired attention to the topic and the special recommendations would be drawn up, which would help member States and all the countries to eliminate the shameful phenomenon of trafficking of human beings.

90. The **Observer from Commonwealth Secretariat** thanked the AALCO Secretary-General, AALCO and its Member States for the invitation extended to the Commonwealth to participate in the Forty-Third Annual Session. She expressed her hope that the Session would provide an excellent opportunity to observe discussions and exchanges on a number of important issues of international law. It would also provide an opportunity to hear the excellent work and activities being carried out by the AALCO and to share information on the work of the Commonwealth Secretariat in areas of mutual interest. She was confident that such exchanges would hopefully lead to enhanced cooperation between the two organizations and perhaps even generate future joint activities.

91. She gave an outline on some of the work related to three agenda items, namely, the International Criminal Court (ICC), An Effective Legal Instrument Against Corruption and Terrorism.



92. As regards the ICC, she shared the view made in the AALCO Secretariat brief that for the ICC to realize its potential, State Parties must adopt strong legislation to implement the Rome Statute in national law. She informed the gathering that in recognition of the importance of such legislation, the Commonwealth Secretariat had an ongoing program of assistance on the ICC. The Commonwealth Secretariat, with the assistance from the Government of Canada had run a series of workshops for legislative drafters and policy makers on ICC implementing legislation. These workshops had contributed to further ratifications of the Statute and preparation of legislations. Other activities of the Commonwealth Secretariat include, providing drafting assistance to member countries, preparing manual for police and prosecutors; and the proposed expert group meeting in July 2004 to develop drafting instructions for ICC model legislations.

93. Corruption, she said, had been identified by Commonwealth Heads of Government as a very serious threat to all nations. At their meeting in Durban in 1999, Heads adopted a Framework of Commonwealth Principles on Promoting Good Governance and Combating Corruption. Secretariat had been assisting member countries with the implementation of that framework. She felt that United Nations Convention against Corruption represented an important step forward in the global effort to combat corruption. Its effectiveness was dependent upon comprehensive implementation in domestic law. She gave an outline of the two ongoing projects undertaken by the Secretariat. In April 2004, Commonwealth Secretariat held an expert group meeting with a view to the development of some model legislative provisions and best practice guidance for implementation of Convention against Corruption. Recently, it held the First meeting of Commonwealth Working Group on Asset Repatriation. The group would report to the next Commonwealth summit in Malta in 2005 with what was expected to be a series of practical recommendations relating in particular to mutual legal assistance, asset confiscation and anti-money laundering measures.

94. On the topic of international terrorism, she highlighted the intensive assistance programmes, with the assistance of the Governments of the United Kingdom and Canada, to implement the Plan of Action adopted by Heads of Government at their meeting in Coolumberr, Australia in 2002.

95. She expressed the hope that Establishing Cooperation against trafficking in Women and Children would be a fertile area for future collaborative work between the two Organizations. The Observer concluded by extending her thanks to AALCO for the excellent organization of the session and to Government of Indonesia for the warm welcome and wonderful hospitality.

96. The Meeting was thereafter adjourned.