

(v) **THE FIFTH GENERAL MEETING HELD ON SATURDAY, 23 JUNE 2001 AT 2.30 P.M**

(Dr. P.S. Rao President in the Chair)

1. The Meeting continued its consideration of the item relating to **Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949.**

2. The **Delegate of the Islamic Republic of Iran** stated that in course of the past decades, Israeli actions and policies have turned the Middle East into a region constantly engulfed in a whirlpool of bloodshed and crisis. He reflected on some of the atrocities that are committed on a daily basis by the Israeli regime against Palestinian people, he said that the Israeli occupying forces have been engaged in excessive and disproportionate acts of violence and collective punishment against them. Indiscriminate killings and besieging of Palestinians, he said, negated the Israeli pretence of peaceful intention or desire for pacific co-existence with Muslims and Christians in the region. Israelis repeated crimes and heavy handed approach run counter to all its high sounding and empty claims of seeking peace.

He added that the continuation of the illegal settlement activities in occupied territories, despite worldwide outcry, figures prominently on the Israeli agenda. The fact that the Israeli regime continues to reject the major parts of the Sharm-el-Sheikh Fact Finding Committee (Mitchell Report), including call for complete cessation of settlement activities, is explicitly indicative of the aggressive and expansionist nature of the Israeli agenda and policy, thus resulting in mass deportation of the Palestinians from those areas.

He said, that the consensus opinion, expressed and maintained by the international community over the past decades, stresses explicitly on the applicability of the Fourth Geneva Convention of 1949, the continuation of illegal acts by the Israeli regime constituted in his view, a flagrant violation of this Convention as well as other instruments on humanitarian issues and human rights, and in total disregard to numerous UN resolutions and statements. He maintained that the agony is deepened when the world witnesses that Israel even disregards its obligations and commitments arising from the agreement which it has willfully entered into, despite the fact that they have been designed mostly in its favour.

He said that the UN Human Rights Commission has also repeatedly condemned the Israeli treatment of Palestinians and its policies and practices in occupied territories. He referred to the resolution adopted by the Commission on 27 October 2000, wherein grave concern was expressed at the widespread, systematic and gross violations of human right. The commission also condemned the gross and massive violations of the human right of Palestinian people by Israel the occupying power.

He noted that Israeli acts and policies in blatant violation of the well established norms and principles of international law, constitute war crimes and crimes against humanity and the

perpetrators of such crimes should be brought to justice. These policies had further exacerbated the situation in the occupied territories.

In the face of the worsening situation, an overwhelming majority of UN members have called for an international force to be stationed in the occupying territories.

He said that the AALCO within its limited power and prerogative should not and shall not abandon our hope of what we can do. The UN, through the Security Council and the emergency special sessions of General Assembly and the Human Rights Commission has not been able to play a significant part in mitigating the sufferings of the Palestinians. The members of this organization he said, are aware of the situation in Palestine and are of the strong conviction that the item should be retained on the agenda of the organization and the Secretariat is expected to monitor the development of the Palestinian situation and provide a substantive report for the next session.

3. The Delegate of **Indonesia** stated the most fundamental problem of Palestine was how to return its sovereignty as an independent nation in its own land and territory with its capital Al-Quds-Al-Sharif. The struggle of Palestinian people to achieve their ultimate goal has been the most essential problem to the Islamic countries across the globe, therefore their exhaustive struggle to fight Israeli expansion within Palestine territory, which is against a number of agreements and UN Security Council resolutions must be supported. Enumerating all the agreements between the parties and non adherence to them was indicative of stagnation which tends to end with deadlock. He enumerated the peace effort and constructive efforts put in by the US at the Camp David “tripartite meeting” which had demonstrated the extremely different position of Palestine and Israel on the status of Jerusalem. He referred to the provocative actions of Israeli leaders which further increased tension and “Intifida” from Palestine. On the other hand rough military aggression, cruelty, oppression and brutality of Israel in response to Palestinians reactions had killed hundreds of innocent civilians. He referred to many resolutions passed by the UN, ECOSOC and resolution No. 1322 on “Illegal Israeli Actions in Occupied East Jerusalem and the rest of Occupied Palestinians Territory”.

He reiterated his government’s clear position as has been reaffirmed many times and at many occasions, it had from the very beginning supported all Middle East countries to find peaceful solution to their problems. He reaffirmed that a peaceful comprehensive and lasting settlement of Israeli conflict is through genuine commitment to Security Council resolutions 242 (1967) and 338(1973) which clearly stipulate return of all Arab territories occupied by Israel immediately.

At the AALCO’s 40th Session it is important to reaffirm the support of AALCO Member States to resolution 39/3 which essentially condemns all Israeli brutalities at Arab’s territory against the Fourth Geneva Convention relative to the protection of civilian persons in times of war.

4. **The Delegate of Pakistan** in his short but succinct statement said that he joined all the preceding speakers with complete understanding and solidarity who had made eloquent and comprehensive statements. He unequivocally condemned the brutalities being perpetrated by

Israel, and gross violations of all legal norms by the occupying power which denies to the Palestinian people their right to live in peace and dignity in their own land.

5. **The Delegate of Democratic People's Republic of Korea** said that the item under discussion was very urgent and important keeping in view the present situation in the Middle East. Deportation of Palestinians, and particularly the military attacks resulting in killing of innocent people including children, elderly and the woman are unscrupulous violations of the Fourth Geneva Convention of 1949 and international humanitarian law which are to be condemned. He reiterated that United Nations Security Council Resolutions 242, 338 and 425 should be implemented without delay.

6. **The Delegate of Palestine** seized the opportunity to thank all the delegations who had supported the Arab Palestinian rights and had expressed their worries on Palestinian occupied lands. He expressed the hope that all international efforts would work together to find a just and equitable solution of the Palestinian problem according to the principles enshrined in international law.

7. **The Delegate of Senegal** added his voice to the other delegations and said that his country had supported the Palestinian struggle and the right of an independent State of Palestine as well as the rights of the people of Palestine to be able to enjoy their fundamental rights ever since 1945. In his view the resolution to be adopted at this session of the AALCO should clearly state "that the voice of Palestinian people should be heard".

8. **The Observer delegation of League of Arab States** seconded and lent his support to all what the previous speakers, particularly Palestine, Egypt and Jordan, had said. He supported the 1999 UN Resolution which stipulated that Jerusalem should be the capital of Palestine. The League of Arab States, he said, strongly condemns the inhuman aggression and felt that it is the task of the international community to adhere to all resolutions of international legality and urges the United Nations Security Council to force Israel to abide by all international agreements so that a just solution can be found to the Palestinian problem.

The Meeting then took up the item Status and Treatment of Refugees.

9. **The Secretary General Amb. Dr. W.Z. Kamil** introduced the Secretariat document on this subject. He referred to the resolution adopted at the Cairo Session on this item, which urged the Member States to finalize the revision of the consolidated text of the 1966 Bangkok Principles and place it for final adoption at the 40th Session. Moreover, with a view to expedite consideration of pending issues in the draft text, the resolution mandated the Secretary-General to convene an open-ended Working Group Meeting. Accordingly, that meeting was held in New Delhi on 26th and 27th February 2001 which was attended by as many as 31 Member States. The deliberations were very useful in further revising the consolidated text. While it was not possible to achieve a consensus text, however, there were just few provisions in respect of whom some reservations were put by some member states, which were reflected in respective foot notes in the consolidated revised text.

He said that already more than four years has been spent in this exercise of the revision of the Bangkok Principles. UNHCR has been kind to provide technical and financial assistance to hold four expert group meetings. He recorded his great appreciation to the Office of UNHCR for their cooperation.

He reiterated that a much efforts have been expended to arrive at a fairly precise and clean text which has been placed before the meeting for adoption. He hoped that the Meeting would consider implementing the Cairo resolution and adopt the final text.

10. **Dr. Augustine Mahiga, the Representative of the Office of the UNHCR** expressed his gratitude to the delegations of Member States and AALCO Secretariat for their contributions towards reviewing and updating the Bangkok Principles. He noted the coincidence whereby the inaugural day of the 40th Session of the AALCO fell on 20th June, which was also the first World Refugee Day (as declared by the UN General Assembly).

Emphasizing the importance of the principles of burden – sharing Dr. Mahiga commended the noble tradition of the Asian and African States who have an admirable record of readily providing refuge to the affected population of the region, irrespective of whether they were parties to the 1951 Convention or not

Stating that the Bangkok Principles while being essentially declaratory and non-binding in character, has nevertheless contributed towards strengthening of international refugee protection regime.

11. **The Delegate of the Arab Republic of Egypt** welcomed the revised consolidated text as contained in the Secretariat document. As regards the definition of "refugees", he elaborated the shortcomings of the 1951 Convention definition and said that ideally the definition should be one that balances the twin requirements of flexibility to afford protection to genuine refugees and prevent the abuse of the institution of asylum. In this context, the Delegate reiterated his country's stand that the crime of terrorism should be included in the text of Article I (7) of the Bangkok Principles, as a ground for refusal to grant the status of refugee. His delegation also welcomed the text of Article X of the Bangkok Principles dealing with "Burden Sharing".

12. **The Delegate of Myanmar** tracing the evolution of the current exercise to review the Bangkok Principles, that began in 1996, commended the AALCO and UNHCR for bringing the process to fruition.

The Delegate said refugee related issues are complex and pervasive with questions to which there are no easy answer. International migration issues are also often emotionally and politically charged. It has been estimated that the Asian region contains millions of refugees. Although, in some cases, there are those who could be called “refugees” in accordance to the norms and definition of the Bangkok Principle, in others, there could also be those who are being called “refugees” through their own interpretation. The Delegate pointed out that experience has shown that it is very difficult for countries of origin to prevent their nationals from irregular migration when they are lured by prospects of better income, better job opportunities and living standards abroad. Labour markets in the host countries are usually signalling a demand for

illegal immigrants, for the legal or hidden sides of economy, often for both. This phenomenon of labour mobility creates a serious socio-economic issue for both the migrant origin and receiving countries.

Besides, he drew attention to cases when these migration flows threaten national security. In addressing the issue, however, the approach to a durable solution lies in cooperation among all parties concerned. His delegation urged that refugees and illegal migrants be treated separately.

Recalling that the slogan for the 50th anniversary of UNHCR is RESPECT, he pledged his country's commitment to protect refugees, displaced persons and illegal migrants, and respect humanitarian workers who are with them on the frontlines all over the world. Above all, Myanmar would respect each other in the international community, with due respect to each other's sovereignty.

13. The **Delegate of the Republic of India** stated that the reservations of his government were already communicated to the AALCO Secretariat and his delegation would join the consensus within the AALCO towards adopting the revised text of Bangkok Principles. He urged that the reservations expressed by India should be suitably reflected in the revised text.

14. The **Delegate of Tanzania** urged the other delegations to approve the adoption of the revised consolidated text. Recalling that his country has for long hosted refugees and at one point of time was hosting over 2 million refugees, and therefore was ever sympathetic to plight of refugees. He spoke on the need to find durable solutions for refugee problems; establish conducive environment to promote resettlement; and for the States of origin to recognize their duties towards refugees.

15. The **Delegate of the People's Republic of China** suggested that States could make the following efforts towards effectively addressing refugee problems:

- (i) While providing humanitarian protection and assistance to refugees, identifying ways and means of eliminating the root causes of refugee - producing situations would be a particularly useful approach
- (ii) The principle of international solidarity and burden-sharing could be applied to all aspects of the refugee situation. There are three categories of States that could bear the burden of refugees:
 - the home countries of refugees
 - the host country or country of asylum
 - countries that have no direct relations with refugees but who offer economic aid and moral support to them.

In accordance with the principle of burden sharing, the major share should be borne by developed countries, whether through financial or technical assistance and support.

- (iii) The protection of refugees should maintain its peaceful, non-political and humanitarian nature. It should not be abused as a vehicle to pursue power politics and to interfere in other country's internal affairs.

The Delegate stated that the 1951 Convention relating to the Status of Refugees and its 1967 Protocol to which China acceded in 1982, provide the legal basis for the Chinese government to dealing with refugee situations.

16. The **Delegate of Thailand** speaking on the revised consolidated text stated that it has already communicated its reservations on specific aspects of the text to the AALCO Secretariat. In this context, the Delegate made the following observations:-

- (a) Reiterating its reservation to Article V (4) of the revised text, the Delegate said that so as to afford humane treatment to refugees Thailand wanted the deletion of the phrase "The expulsion of a refugee shall be only in pursuance of a decision reached in accordance with due process of law".
- (b) On the issue of burden-sharing, the Delegate shared the view of Singapore as expressed in its written comments to the Secretariat (Doc.No.AALCC/XL/HQ(New Delhi)/2001/S.3 at pp.30-31)
- (c) In Article VII, paragraph 1, the Delegate suggested the deletion of the comma that follows the word "essentially"

17. The **Delegate of Pakistan** stated that his country had at one point of time hosted more than 3 million refugees and in-spite of Pakistan not being a Party to the 1951 Refugee Convention and Protocol of 1967 had offered standards of treatment which were even more favourable than those contained in the 1951 Convention or the Protocol. Noting the statement of the Representative of the UNHCR which characterized the Bangkok Principles as "declaratory and non-binding" in character, he suggested that this be explicitly reflected in the revised text itself or in the resolution to which the Principles will be annexed. The formulation of the revised consolidated text, he said, were couched in legally binding terms, as if they were the provisions of a Convention or an Agreement.

On specific provisions of the revised Bangkok Principles, the Delegate made the following observations:

- (a) His delegation could have favourably considered the Bangkok Principles, but for the overly liberalized definition of the term "refugees". The revised definition, in his view, was heavily tilted in favour of the refugees. In his opinion, there should be explicit reference to the effect that the Bangkok Principles apply only to the case of individuals, and does not cover instances of mass exoduses of refugees.
- (b) As regards Article I, the Delegate said:

Paragraph 2:- The phrase "or events seriously disturbing public order in either part or the whole of his country of origin or nationality" is ambiguous, open-ended and all

inclusive. Hence, it may be deleted and Pakistan's reservation in this regard be recorded.

Paragraph 6 (i):- The word "permanently" grants a new status to the refugee. It allows him the opportunity to go back and forth – to the country of his refuge, his country of origin or even a third country. Hence the word is to be deleted.

(c) On Article II:

Paragraph 1: The word "Everyone" does not fit well with the title of the article "Asylum to a refugee". To ensure consistency, the word "Everyone" should be substituted by the words "Every refugee".

Paragraph 3: For reasons of maintaining harmony in the text and avoiding risks of multiple interpretation, the Delegate proposed the insertion of the word "non-political" in the last line of the paragraph so that it would read as: "as its peaceful, non-political and humanitarian nature is maintained".

Paragraph 4: The word 'receive' appearing in the second line is ambiguous in that context. The Delegate said, in the understanding of his delegation, the word 'receive' must be taken to refer to "a State other than the State of the refugee".

(d) On Article IV:

Paragraph 1: The phrase "aliens in similar circumstances" is confusing and does not fit well with reference to the word "refugees". Therefore he suggested the deletion of the phrase and said Pakistan's reservation should be recorded.

Paragraphs 3 and 4: The words "any rights" appearing in the first lines of both paragraphs are ambiguous, open-ended and all-inclusive. Stating that rights of refugees are specific and determined, he suggested its substitution by the words "rights under these Principles" or any other suitable formulation to that effect.

(e) On Article V:

Paragraph 4: The words "due process of law" appearing in this paragraph is to be understood in the light of the contents of paragraph 1 of this article. Accordingly, it was his delegation's understanding that "due process of law" does not mean and include a court process.

(f) On Article VII:

Paragraph 1: The word "essentially" is superfluous and problem-creating, and has to be deleted.

(g) On Article IX:

Paragraph 1: The co-existence of the words "State" and "or the Country" is confusing and likely to generate different interpretations. If they are two different entities, then the word

“Country” requires elaboration. It was his suggestion that either of the two words be deleted.

Paragraphs 3 and 4: These two paragraphs has phrase “such place of habitual residence”. Conversely paragraph 1 contains the phrase, “State or the country which he left or to which he was unable to return”. Since paragraphs 3 and 4 are subject to the provisions of paragraph 1, their text be brought in conformity with that of paragraph 1, to avoid the risk of misinterpretation.

Subject to these observations, his delegation was willing to go along with the wishes of the majority in adopting the revised text of the Bangkok Principles. This approval, the Delegate said, was to be read with the understanding of Pakistan that Article X on Burden-sharing shall constitute an over-riding consideration, while examining the application of obligations of the State of refuge.

18. The **President** stated that the presentation of the Delegate of Pakistan contained some important suggestions and requested the Delegate to give in written form the ideas expressed by him.

19. The **Delegate of Indonesia** stated that though Indonesia is not a party to the 1951 Convention, it adhered to and respected the principle of 'non refoulement'. In this regard the Delegate recalled the experience of Indonesia in handling large scale flow of Vietnamese refugees for over twenty years. Local resettlement and local integration, in the view of the Delegate, was not the most ideal solution for most of the refugee situations. He said that Indonesia was in the process of ratifying the Convention.

As many States in the Asian-African region are not parties to the 1951 Convention the Delegate hoped that the revised consolidated text of Bangkok Principles could, in addition to their respective national policies, offer guidelines to these States to address refugee problems.

20. The **Delegate of the Republic of Korea** expressed reservation to the proposal to include a reference to the "crime of terrorism" under article I (definition of a refugee) of the revised text. Given the lack of consensus on the definition of 'terrorism', the Delegate expressed fears that any reference to 'terrorism' in the refugee definition could be used as a pretext by States to refuse asylum to genuine refugees.

21. The **Delegate of Sudan** at the outset stated that his delegation was in full agreement with the views expressed by the Delegate of Palestine on the item "Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949".

On the item "Status and Treatment of Refugees", he said that his government had carefully examined the revised consolidated text. As regards Article V, paragraph 4 his delegation was of similar view as that of Pakistan which construed the words "competent

authority" to mean the relevant national bodies and not as a reference only to courts or judicial bodies.

As a matter for clarification, the Delegate inquired whether the reservations of States would be appended as footnotes to the text or of the adoption of the text would be postponed to arrive at a consensus on all outstanding issues.

22. The **Delegate of Kuwait** thanked the AALCO Secretariat for the compilation of the revised consolidated text and offered his comments on articles IV, V, VI, VII and IX. He assured that he would make a detailed written submission to the AALCC Secretariat on the above-said provisions.

23. The **Delegate of Singapore** reiterated his country's position, as contained on pages 30 and 31 of the AALCO Doc.No.AALCC/XL/H.Q.(New Delhi)/2001/S.3. He supported the suggestion of the Delegate of Pakistan to add a proviso to the revised consolidated text to the effect that the provisions of the Revised Consolidated Text of the 1966 Bangkok Principles are 'declaratory and non-binding' and that the proviso should not be in the form of a footnote.

24. The **Delegate of Turkey** also supported the above-said suggestion of the Delegate of Pakistan.

25. The **President** assured the delegations that given the 'consultative status' of the AALCO, its decisions or any instrument adopted thereat would be only recommendatory and not binding. He said that the Secretariat could take note of the explanations\reservations made by the Member States and suitably reflect it in the revised text. On this understanding, he invited the Member States to adopt the text of revised consolidated text as finalized by the Open-ended Working Group Meeting of AALCO Member States in February 2001.

The Committee by acclamation adopted the revised text of Bangkok Principles on the Status and Treatment of Refugees.

26. The **President** speaking on the revised text of Bangkok Principles said wherein Member States disagree with any portions of the text, they could record their reservations, and the AALCO would suitably reflect them as footnotes in the final version. Assuming that the stand of Member States would in no way be compromised he sought the concurrence of Member States for its adoption.

27. The **Delegate of Kuwait** stated that the States of the Gulf region have certain reservations on the texts as it would have implications on their national laws and policies.

28. The **Secretary General** reiterated the view of the President to incorporate the explanations of Kuwaiti delegation in the final text.

29. The **Delegate of Kuwait** stated that his delegation would examine exhaustingly the revised consolidated text and once this is completed a suitable communication from his

government could be sent to the Secretariat. Until then, he proposed deferring the adoption of the revised text.

30. The **President** once again reiterated his assurances and said that as the Secretary General, has already exerted maximum efforts to narrow down the conflicting standpoints of Member States, any further consultations in this regard may not yield a different result.

31. The **Delegate of Kuwait** once again pointed out that the revised text required to be examined further as there may be a possibility wherein the text would contradict the constitutional provisions and other legislation of the Gulf States.

The Meeting then took up the item "**Law of the Sea**" for consideration.

32. The **President** called upon the Deputy Secretary General, Mr. Mohammed R. DABIRI to introduce the item.

33. The **Deputy Secretary General** while introducing document No.AALCC/XL/NEW DELHI/2001/S.2 recalled that the item was placed on the agenda of the Committee at the initiative of the Government of Indonesia in 1970. Drawing the attention of the Meeting to the Secretariat document, he stated it dealt with three contemporary developments in the area of the Law of the Sea, namely, the adoption of the mining code by the International Seabed Authority (ISBA); the important role being played by the International Tribunal for the Law of the Sea (ITLOS); and the UN Informal Consultative Process on the Oceans (UNICPO).

As regards the adoption of the Regulations on the Prospecting and Exploration of Polymetallic Nodules also called the mining code, he stated that with its adoption the deep seabed regime was complete. Part XI of the United Nations Convention on the Law of the Sea (UNCLOS'82), he added stood totally amended by the 1994 Agreement relating to the Implementation of Part XI of the UNCLOS'82.

While informing the Meeting that the Secretary General of the ISBA was concluding exploration contracts with seven registered pioneer investors, he called for following a precautionary approach ensuring the protection of marine environment.

Further, he commended the efforts of the ITLOS and stated that it was playing an important role in the settlement of disputes relating to the interpretation and application of UNCLOS'82. On the issue of UNICPO, he expressed the view that the General Assembly had a special relationship with UNCLOS '82, as the latter gained wider acceptance and currency owing to the efforts of the Secretary General of the United Nations. Stating that the UNICPO would play an important role in the review of functioning of the ocean related issues, he added that it would help in collating information on the 10 yearly review of UNCLOS'82 scheduled to be undertaken in 2004.

While concluding his statement, the Deputy Secretary General expressed the view that the topic was of contemporary relevance and interests to the Member States of the AALCO.

34. The **Delegate of Japan** said that as the topic was of very broad scope, he would be concentrating on two related aspects dealing with piracy and armed robbery at sea. The incidents of such crimes at sea, he added were ever increasing hence there was an acute need felt for international and regional cooperation amongst States. Stating that his Government had taken a lead in combating this menace, he added that a number of conferences were organized. The first one on "Regional Conference on Combating Piracy and Armed Robbery against Ships" was held in April 2000, in Tokyo which had adopted three documents entitled "Asia Anti-Piracy Challenges 2000", a "Model Action Plan and the "Tokyo Appeal".

The Asia-Anti Piracy Challenges 2000, he said provided for guidelines for promoting regional co-operation in combating piracy and armed robbery against ships, while the Tokyo Appeal expressed their resolve to fight against these crimes on the basis of countermeasures. He informed the Meeting that more such conference were being organized to strengthen the regional efforts and awareness to combat acts of piracy and armed robbery.

He concluded his statement by reiterating the resolve of his country towards the establishment of a stable legal order of the sea.

35. The **Delegate of Japan (Amb. Chusei Yamada)** in his intervention expressed his desire to provide an update on the events that had taken place since the judgement was delivered in regard to the South Bluefin Tuna Case, that was referred to the ITLOS in 1999. He informed the meeting that an arbitral tribunal as provided under Annex VII to UNCLOS⁸² to decide the dispute, was set up in February 2001, under the Presidentship of Judge Stephen Schwebel, a former President of the ICJ. Japan raised the preliminary objection, contesting the jurisdiction of the arbitral tribunal. The tribunal held oral pleadings in May and rendered an award in August 2000. The tribunal decided that it had no jurisdiction to rule on the merit of the case and revoked the provisional measures prescribed by the ITLOS. The award, in his view, was an important one as it dealt with interpretation of the UNCLOS, in particular the provisions concerning high seas, fisheries and dispute settlement. It also related to the issues of proliferation of international courts, of forum shopping by litigant states and fragmentation of international law. The relevant materials of the case; claims, memorials, counter-memorials, verbatim records of the oral pleadings and the award are available on the website of the ICSID which served as a secretariat of the tribunal.

36. The **Delegate of Sudan** expressed the view that he would speak briefly, owing to constraints of time. In his intervention he highlighted issues relating to the mining code and the role of the UN Consultative Process on Oceans. As regard the adoption of the mining code on prospecting and exploration of Polymetallic modules, he expressed the view that the 1994 Agreement on Implementation of Part XI of the UNCLOS⁸², was disadvantageous to the developing countries. He felt that developing countries stood to lose by not effectively participating in the deliberations of the UNCLOS implementing institutions. Further, he added that the promises of transfer of technology and financial support made under Part XI of the UN Convention in the Law of Sea were now replaced by market driven competitiveness, wherein developing and underdeveloped countries, would be unequal partners. The only way to come to terms, he added was by effectively participating in the activities of the UNICPO meetings of the ISBA, the Council and other bodies related to law of the Sea.

In conclusion, he called upon the AALCO to impart training to personnel of Member States to equip them with better understanding of the subject, wherein the principle of common heritage of mankind, could bring in practical benefits to the poorer nations, by being partners in the mining or exploration activities of the seabed.

37. The **Delegate of Nigeria** expressed its full support to the pacific settlement of disputes, wherein ITLOS could play an important role. Highlighting the importance of the topic, "Law of the Sea", he felt that it should be kept as a "priority item" on the agenda of the Committee. In this regard he called for capacity building and training of the personnel from developing countries to equip them to take part in the technical and skilful activity of seabed mining. While speaking on the adoption of the Mining code by the ISBA, he felt this Code could serve as a model for exploration of other resources of the seabed.

He however, expressed the view that the deep seabed regime as provided under Part XI of the UNCLOS'82 stood diluted, due to the 1994 Agreement relating to the Implementation of Part XI of UNCLOS, which caters to the needs of richer nations. The package providing technical and financial resources to poor, underdeveloped, landlocked and geographically disadvantaged states under Part XI was now replaced by a market driven and competition oriented activity. In this regard, he felt that the dilution of Part XI would further desist underdeveloped states from participating actively or signing/ratifying UNCLOS'82 or the 1994 Agreement. He urged the AALCO to make efforts to see that the mandatory provisions on transfer of technology and financial resources in Part XI of the Convention are incorporated in the 1994 Agreement. This would ensure implementation of the Convention in the spirit and content as well as make it to all parties, that in his view, could be the way by which the adoption of the Agreement could be accepted as a "...breakthrough in the sharing of international transboundary resources on the basis of equity and justice for mankind as a whole"

38. The **Delegate of the Arab Republic of Egypt** in his intervention recalled the good work done by the AALCO in the field of Law of the Sea negotiations, especially the concept of exclusive economic Zone (EEZ), which was the brainchild of AALCO. He also added that the Committee had played an important role in promoting the wider acceptance of the UN Convention on the Law of the Sea 1982 (UNCLOS'82). Concurring with the views expressed by the Delegate of Sudan, he said that Part XI of the UNCLOS'82 wherein the principle of common heritage of mankind was found totally stood negated, by the 1994 implementing Agreement. The 1994 Agreement, he added had made too many concessions to developed states and had placed the developing countries in a vulnerable position vis-à-vis the developed countries, as they lacked the technological process and financial resources to undertake deep seabed mining.

Joining issue with the Delegate of Nigeria, he called for provision of transfer of technology and financial measures to the developing countries, if they were to come to equal terms with the rich land based mineral producing countries. In this regard, he called for the activation of the Trust Fund set up by the Secretary General of the United Nations, to help states participate more actively on law of the sea activities.

Despite these anomalies, he extended his appreciation to the good work being done by the International Seabed Authority (ISBA), its subordinate bodies such as the Council and the Legal and Technical Commission. The Delegate also expressed appreciation to the work done by ITLOS, in the field of settlement of sea related disputes. The advantage of ITLOS as opposed to the jurisdiction of ICJ, he added, was that even non-state parties could come before it. Further he said that the Tribunal had rendered judgements applying provisional measures based on Article 292 of the UNCLOS.

In this regard, he mentioned the ITLOS judgements in the Montefurco and Camouco cases.

Lastly, while appreciating the progress in the work of ISBA and the signing of exploration contracts with the registered pioneer investors next month, he called for transfer of technology and financial resources to poorer states and developing countries, based on the existing principle of common heritage of mankind, found in Part XI of the Convention. He also appreciated the work of the Commission on Continental Shelf, which had played an important role in codifying the rules relating to on a number of issues relating to the continental shelf.

39. The **Delegate of Thailand** expressed his appreciation to the Secretariat for preparing excellent background papers on the topic. Drawing attention to paragraph 58-65 of the Secretariat document, which dealt with the issue of the UN Informal Consultative Process on the Oceans (UNICPO), he informed the Meeting that the second session of UNICPO was held in May 2001, wherein the topics of various marine scientific research, piracy and armed robbery were discussed.

Speaking on the issue of marine scientific research provided for in Part XIII of UNCLOS'82, he felt that there were different views on the topic of what is "marine scientific research" and what is "marine scientific survey"? He added that there was a difference of perception between the developed and developing countries, as the latter believed that marine scientific research was not a survey and applied only to non-living resources. Besides it is a matter of controversy, as to what beings are non-living resources.

Further on the issue of transfer of marine technology, he was of the view that there were varying differences between the perception of countries of North and the South in his regard. He pointed out that an Advisory Body of Experts was set up by the International Oceanographic Commission (IOC), wherein 60 experts deliberated the issue. He however added that, only five were Member States of AALCO. Further he said that increased technology transfer was needed, as poorer states lacked infrastructure and financial resources for capacity building. Furthermore, he added that the expert group would recommend guidelines to the IOC next year, which in turn would submit the guidelines to the General Assembly of the United Nations.

40. The **President** in his intervention lamented the fact that out of sixty experts of IOC, only five came from AALCO Member States. He called for distinguishing between "marine scientific research" and "marine scientific survey" and "living" and "non-living" resources of the sea. He added that it was an important issue of relevance to the needs of developing states, especially his country. Further, he added that questions of "military research" not deliberately considered

during the Third Law of the Sea Conference negotiations, also cropped up when the issue of "marine scientific" is discussed. On this issue, the President felt that AALCO Member States could come together, especially in the deliberations of the IOC, to be able to present a common stand.

41. The **Delegate of India** expressed his appreciation to the Secretariat and the Deputy Secretary General for preparing excellent background papers for the 40th session. He also recalled the contribution of the AALCO in the field of coining the concept of "exclusive economic zone". Touching upon the issues discussed at the Eleventh Meeting of the States Parties to the UNCLOS held in May 2001, he said that the Commission on the Continental Shelf (CCS) had adopted the Rules of Procedures and Scientific and Technical Guidelines in May 1999. In this regard he provided details, wherein States required submitting data to CLS within 10 years of the entry into force of the Convention i.e. by 2004, now had this period relaxed to 13 May 2009, i.e. ten years after 13 May 1999, the date on which the Scientific and Technical Guidelines were adopted.

42. The **Delegate of Indonesia** stated that as the topic had a broad scope, he would be expressing his viewpoints on a few selective items. Speaking on the Meeting of States Parties held annually in New York, the Delegate was of the opinion that the agenda items should not only be administrative in nature, but should also concentrate on substantive topics. He further added that, in this regard the AALCO Member States who are parties to UNCLOS'82 should strive towards making the Meeting of States Parties, the sole implementing body.

Further, he exhorted AALCO Members who would be attending the next meeting of UNICPO to prepare themselves well to reach a common understanding on a number of issues, relevant to the needs of developing countries. These, in his view, could include the need for a sustainable and equitable ocean government regime.

Speaking on the need to conserve and manage the straddling fish stock and highly migratory fish stocks, he stated that his country had not yet ratified the Agreement for the Implementation of UNCLOS'82, relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stock, 1995. But, he hastened to add that this country was committed to the preservation of these stocks, on the basis of an evolved regional cooperation and was making efforts to ratify the 1995 Agreement.

On the issue of deep seabed mining, the Delegate conveyed his government's view that the mandatory provisions relating to transfer of technology and financial resources in Part XI, should be provided to all underdeveloped and developing States of which some are geographically disadvantaged and landlocked in nature.

In conclusion, the Delegate expressed the view that while undertaking prospecting and exploration of seabed minerals, the registered pioneer investors must follow the precautionary principle in order to preserve and protect the environment, from commercial exploration.

43. The **Delegate of the Republic of Korea** thanked the Deputy Secretary General for presenting a clear and comprehensive statement on the item Law of the Sea. He added that his

government was pleased with the expanding membership of UNCLOS'82 and the 1994 Agreement relating to the Implementation of Part XI. Further, he added that a trend towards universal acceptance of UNCLOS'82 would usher in a stable legal maritime order.

Speaking on the implementing institutions of UNCLOS'82, he expressed satisfaction that the International Seabed Authority (ISBA), the International Tribunal on the Law of the Sea (ITLOS) and the Commission on Continental Shelf (CCS) have made substantial progress in their work. With the adoption of a Mining Code, he added, the I.S.B.A. had completed its primary legislative task. In this regard, his government had signed a contract for exploration of polymetallic nodules with the ISBA in April 2001, after adoption of the Mining Code. The Delegate added that his country having been a registered pioneer investor had been submitting periodic reports on its activities in the pioneer area. Moreover, it had relinquished the pioneer area to facilitate its return as the "Area", as specified in the certificate of registration. He also informed the Meeting, that his country had provided a training programme in accordance with its obligations under UNCLOS'82.

With regard to the work of the ITLOS, the Delegate expressed satisfaction that the Tribunal had considered eight cases and had delivered a judgement too. The cases that came up before the Tribunal, he added dealt with conservation and management of marine living resources and prompt release of arrested vessels.

(The Meeting then adjourned)