

## (ii) THE SECOND MEETING

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

1. The **President** stated that the purpose of this meeting was to formally adopt the Minutes of the first Meeting of the Delegations of the AALCC Member States which was held on Wednesday, 20<sup>th</sup> June, 2001 at 11.30 A.M. He drew attention of the delegations to the draft minutes of that Meeting including the draft resolutions circulated by the Secretariat and invited their comments. He said that the Delegates might wish to focus their comments on any substantive changes only, typographical errors or other minor grammatical mistakes will be taken care by the Secretariat. Should the Delegates feel that their statements and views had not been reflected adequately or correctly they were welcome to make such corrections, as they considered necessary. He assured the Delegates that the Secretariat would take note of all the corrections made by the delegations and the same would be incorporated in the revised minutes. He asked the delegations who wish to make corrections to indicate the page and paragraph numbers.
2. The **Delegate of the Arab Republic of Egypt** referred to para 68 which he felt did not reflect his delegations views accurately. He said that he would hand-over the corrections to the Secretariat.
3. The **President** thanked the Delegate of Egypt for his cooperation.
4. The **Delegate of Malaysia** drew attention to para 61 of the First Meeting of the Delegations held on 20 June 2001 at 11.30 A.M. which reflected the Indian delegation's support to the proposal to change the name of the AALCC. She felt that paragraphs 61 and 66 appear to contradict each other. Nevertheless she sought clarifications about that matter.
5. The **President** clarified that in line 3 para 61 on page 12, the word "any" should be inserted. He said that the change in the name of the "Committee" to "Organisation" would require minimal changes in the Statutes. There will be no change in the functions, powers and basic character of the Organisation.
6. The **Delegate of Malaysia** felt that because there was no provision in the Statutes concerning the amendment procedure, legal the premise of the Secretariat's proposal appeared to be based on Article 9 of the Statutes.
7. The **President** further clarified that the Member States had adopted the Statutes by consensus. Even though no amendment procedure had been provided in the Statutes, if there is consensus among Member States, the Statutes could be amended. The original Statutes of 1956 had been revised in 1987 by adoption of a resolution at the annual session. That had been the practice in the past. He drew attention to footnote to Article 6 of the Statutes, which need to be deleted as a consequence to the conclusion of the Headquarters Agreement between the AALCC and the Government of India on 26<sup>th</sup> April 2000.

8. The **Delegate of Pakistan** stated that most of his concern had been expressed by the Delegate of Malaysia. However, since incorrect reference to Article 9 of the Statutes had been made, the clarifications given by the President should be reflected in the record of the Meeting. That will take care of the concern expressed by the delegations.

9. The **President** assured the Delegate of Pakistan that it would be done.

10. The **Delegate of Sudan** stated that he had some corrections, which he would hand over to the Secretariat.

11. Since there were no further comments, the **President** declared adoption of the Minutes of the First Meeting of the Delegations of Member States held on 20<sup>th</sup> June at 11.30 A.M.

12. Before proceeding to the next item, the President recognized the presence of Hon'ble Batty Wirakona, Minister of Justice of Sri Lanka who had just joined the Meeting. Welcoming the Hon'ble Minister, he said that it was an honour that the Hon'ble Minister had graced the Meeting of the AALCO. He cordially invited him to participate in the discussions.

13. **The Meeting then took up the Draft Resolutions for consideration**

14. The **President** drew attention to the two sets of draft resolutions prepared by the Secretariat and distributed to the delegations. He said that the first set of six draft resolutions dealt with the Organisational matters namely, the Report of the Secretary-General, AALCO's Budget for the year 2001, the proposal to change the name of the AALCC to AALCO, the Report on the Data Collection Unit, the Report on the Regional Arbitration Centres and the Headquarters Matters. The other set of 13 draft resolutions were concerned with the substantive items discussed in the six General Meetings.

15. He first took the Draft resolution on the Report of the Secretary-General RES/40/ORG.1 for consideration. He said that it was a standard resolution highlighting the work programme of the Organization. He invited comments from the delegations. As there were no comments from the floor, the resolution was adopted. The second Resolution RES/40/ORG.2 on the Budget was also adopted in the same fashion. The President then drew attention of the delegations to the third draft resolution RES/40/ORG.3 which dealt with the change in the name of the Asian-African Legal Consultative Committee (AALCC) to Asian-African Legal Consultative Organization (AALCO).

16. The **President** stated that the proposal to change the name was already discussed in the First Meeting and there was consensus on that proposal. The **RES/ORG/3** reflects that consensus. However, before the adoption of the resolution he invited the comments from the delegations.

17. The **Delegate of the Arab Republic of Egypt** stated that from the clarifications given by the President earlier it was his understanding that since AALCC's Statutes and Statutory Rules have no specific provision for amendment the only procedure to carry out such amendments would be by adoption of resolutions at the annual session.

18. The **President** while confirming that observation clarified that such resolution should be adopted by consensus. That was the basis on which the Organisation has been working.

19. The **Delegate of Ghana** recalled that on the first day during the deliberation one of the issues dealt with was the change of the name of this body. After considerable debate the unanimous decision of this Session was that the word “Committee” in the be replaced by the word “Organization”.

In the course of the debate, however, other related matters in respect of the name of the Organisation came up. There was, among others, the view that the substance of the deliberations of the Organisation has developed beyond the original consultative role and therefore there was the need to drop the word “consultative” in the name of the Organisation. On this point however, the President ruled, and rightly so, that first, the subject was not on the agenda of this Session and secondly that the word “Consultative” was not merely a matter of procedure but of substance and therefore the same required a different treatment. The word “consultative” was therefore maintained and the name AALCC was changed to “AALCO”.

Again, the view was expressed that the name of this body be changed to “African-Asian Legal Consultative Organisation” but the matter was deferred and no decision was taken in that regard.

She observed that the text of the Statutes was brought into force with effect from 12<sup>th</sup> January, 1987 while that of the Statutory Rules was given effect two years later, i.e, 1<sup>st</sup> May, 1989. She thought it pertinent at this point to refer to the Basic Purpose of AALCO as set out in AALCO’s booklet at page 1 of the Statutes and Statutory Rules, She quoted:

“The purposes of the Committee, as originally envisaged, were to serve as an advisory body to its member governments in the field of international law and as a forum for Asian-African co-operation in legal matters of common concern. Its activities have, however, been broadened from time to time to keep pace with the needs and requirements of its member governments and this has been especially so in recent years in the field of economic relations. The Committee as the only organization at governmental level embracing the two continents of Asia and Africa has also oriented its activities to complement the work of the United Nations in several areas. In the light of the Committee’s growing involvement in this field, the General Assembly by a Resolution, adopted at its thirty-fifth Session in 1980 decided to accord the Committee Permanent Observer Status at the United Nations, a distinction which it shares with eleven other inter-governmental organisations”.

She recognised that given this background it has become apparent that there was the need to review the Statutes and the Statutory Rules not only to give effect to the new name AALCO but also to comprehensively update it to avoid successive piecemeal amendments which will not only be tedious but also will tend to fractionalise the rules and regulations by which this Organisation was run.

Therefore, she proposed that a Committee be formed from the body of the Liaison Officers and entrusted with the mandate of updating the Statutes and Statutory Rules and to submit a report for the consideration of the next Session.

20. The **President** stated that Ghana proposed to establish a small sub-committee of the Liaison Officers to consider, review and examine the Statute with a view to recommend any change or amendment for consideration by the Organisation at its next annual session.

21. The **Delegate of the Arab Republic of Egypt** said that in principle, he had no objection to the proposal of Ghana to establish a Committee of Liaison Officers in New Delhi to look into the Statutes and Statutory Rules. As of now, it was a specific idea, so without prejudice to what position his delegation might take in the sub-committee or the Working Group, in principle he welcomed and supported the proposal and if his country was chosen to participate in that Sub-Committee, it would be willing to do so. He, however, said that he had some discomfort with the time limit set for reporting to the next Session. In his view, issues related to constitution or Statutes should be considered in good time. In principle, while he supported Ghana's proposal, he stressed that the time limit should be only when it was completed.

22. The **Delegate of Pakistan**, like the delegate of Egypt had no problem in principle as to the proposal of Ghana. He however requested the Secretary-General to enlighten the Meeting on the role of the Liaison Officers and their status so far as such matters were concerned.

23. The **Secretary General** stated that Liaison Officers was a consultative body which works together with the Secretary General. It was a link between the Member States and the Secretariat. Each Member Governments designates a senior official from the Embassy in New Delhi to represent them. They meet normally every two months. They consider and advice on Organisational and financial matters. In addition, a small group of Advisory Panel of Liaison Officers advices on technical and policy matters related to the Data Collection Unit. Very soon he would be constituting an Advisory body of Liaison Officers to seek their advice on the items on the agenda of the Organisation. He observed that what had been proposed by Ghana and supported by Egypt was to establish an open-ended Working Group of Liaison Officers to look into the Statutes and Statutory Rules with a view to update them and report to the Member States whenever the report was ready.

24. The **Delegate of Oman** was of the view that the Liaison Officers may not be experts in legal matters and have specialization to look into amendments of the Statute, they may not be capable to discuss these matters. He stressed that only a body of legal experts could suggest appropriate amendments, the report of which could be sent to Member States for their comments.

25. The **Delegate of Senegal** stated that since following the established procedure, the AALCC's name was changed to "AALCO", he asked what was the necessity to create a new subsidiary body of Liaison officers, when the Meeting could do such amendment in one go.

26. The **Delegate of Kuwait** sought clarification regarding the main purpose or objective to amend the Statutes. Was it just to amend it in order to cope up with the new name of the Organisation or there were other objectives which need to be defined or determined, he asked.

27. The **President** recalled that the first Meeting of the Delegations of Member States, held on 20<sup>th</sup> June, by common consent unanimously agreed to change the name of the AALCC to AALCO. Such a change in the name did not involve any changes in the status of the Organisation as an inter-governmental body, in its functions and in its methods of work. As has been the established practice, all decisions of the Organisation concerning its budget, programme of work etc. are taken at its annual Sessions. The Liaison Officers are the representatives of Member States. They are like Permanent Representatives appointed at the United Nations. The Liaison Officers is a body which helps and guide the Secretary-General in the implementation of the decision of the Organisation. The Secretary-General is in constant touch with them. He can seek their advice, consult them and make recommendations to the Session for consideration.

Having agreed to minimal change by way of replacing the word, “Committee” by “Organisation”, perhaps there was need to look into if any change was required in the Statutes keeping in view the organisations new role, and increasing functions. The Liaison Officers Sub-Committee, which will be open-ended, could examine and review these aspects and make recommendations. This was the procedural aspect. However, any proposal to change the title of the Organisation could not overlook the historical factors. As had been pointed out earlier by the delegate of Japan, the Organisation was initially established by seven Asian States. It’s Membership has grown to 45. It is a unique organisation for promoting co-operation on international law matters among the States of the two continents. From its stage of evolution now it has reached to the critical stage of development. How to visualize its befitting role at the dawn of the Millennium so that it could provide more beneficial service to its Member States was the main consideration. He urged the delegations to take the proposal of Ghana in the right spirit. It was not intended for cosmetic changes. It suggested to go into content and depth of the involvement of the Organisation. Now its permanent Headquarters had been set up. It was the right time to look into its future role and activities.

Recalling his own long association with the Organisation and speaking as a representative of the Government of India, he endorsed Ghana’s proposal. He said that the Liaison Officers could come up with innovative ideas which could be considered by the Organisation.

He proposed to add one para in the RES/40/ORG.3 as para 2 reading as follows:

“Authorise the Secretary-General, in consultation with the Liaison Officers to examine, review and recommend such amendments to the Statutes as are appropriate for consideration of the Organisation”

He suggested that other paragraphs in the resolution could be renumbered accordingly.

28. The **Delegate of the Arab Republic of Egypt** said that he was a bit confused now. There were two quite distinctly different matters. First the proposal from the delegation of Ghana debated extensively referring to the creation of a Committee of the Liaison Officers to look into the matter and the second in the President’s proposal, the wording “authorizes the Secretary General in consultation with the Liaison Officers”. He sought clarifications on these matters.

29. The **President** explained that procedurally it was correct to authorise the Secretary General instead of authorising the Liaison Officers directly. Procedurally the mandate have to be given to the Secretary General to get these things done. That was why he put that proposal to amend the resolution and put it in a procedural way in a correct fashion. Because Secretary General works with the Liaison Officers so when he is authorized, he will appoint whatever Committee, whether to start with a small Committee or an open-ended. It will be flexible between him and the Liaison Officers.

30. The **Delegate of the Arab Republic of Egypt** seeking further clarification stated that this body at the annual Session can decide and it does decide, to create a Committee. It can decide to do what it wants. This was the supreme body of the Committee or the Organization. Moreover, there was a rather large amount of ambiguity in the terms “in consultation with”. And, since it was a matter pertaining to the Statute of the Organization, it was not a small matter, particularly when the Statute did not as of now have any procedure for its amendment. In his view, the Committee of Liaison Officers would look at the Statute, make recommendations that they deem appropriate as Member States and submit to the next or to later annual Session. That was his understanding of the intention of the Ghanaian proposal. Of course any effort in that regard would most certainly involve and be guided throughout by the Secretariat. It cannot be done without them, but the whole term “in consultation with” was very vague. He would prefer creation of a contact group, a working group, a drafting committee, whatever, to submit to the annual meeting for its approval or consideration specific proposals for amendment of the Statue.

31. The **Delegate of Pakistan** said that the proposal of amendment or addition of a new para to the draft resolution RES/ORG/3 seemed to be open-ended. His understanding of Ghana’s proposal was that it was restricted to the matters flowing from the change in the name of the Organisation which had been approved by the Meeting. On the other hand, the proposal of the President went beyond that. He suggested that additional para to be added should restrict itself to the matters flowing from the change of the name.

32. The **Delegate of Malaysia** drew attention to the role of Liaison Officers as elaborated in Rule 22 of the AALCC’s Statutory Rules. She pointed out that Rule 22(3) specifically provided that “The Secretary-General shall, in the performance of his duties, act in consultation with the Liaison Officers appointed under this Rule except in routine matters and he shall report to their meetings any action taken by him in this regard”. She said that against this background, it was her understanding that there was no necessity of establishing a new Committee of the Liaison officers. The existing rules already provide for such a Committee.

33. The **President** thanked the delegate of Malaysia for drawing his attention to such a specific provision in the Statutory Rules of the Organization. He said that RES/ORG/3 was essentially a procedural one. He made his suggestions rather in a hurry proposing insertion of a new paragraph in that resolution to accommodate Ghana’s proposal. However, now there was no need to make any addition to that resolution and the resolution as such effecting the change in the name of the AALCC could be considered for adoption. Further, in deference to the proposal made by the delegation of Ghana, which had caught the imagination of so many delegations, he

said that it was a fundamental proposal and deserved attention and full debate at the next Session.

34. The **Delegate of the Islamic Republic of Iran** stated that since the Meeting was approaching the last moment of the Session, it was not the right time to discuss the proposal from Ghana. It would need more time for deliberations. It would be desirable to stick to the proposal to endorse the change in the name of the Organisation.

35. The **President** requested the delegation of Ghana to submit a formal proposal for consideration.

36. The **Delegate of Turkey** asked the delegate of Ghana what was the exact aim of the proposal. Which aspects of the Statutes had to be considered? What would be the mandate of the Liaison Officers?

37. The **President** clarified that Ghana had been requested to submit a formal proposal in which all these aspects would be elaborated. That proposal would be considered at the next Session and a decision for the future work would be taken at that time. It was, therefore, not necessary for the delegate of Ghana to work out the details at this time. He urged the delegates to adopt the RES/40/ORG.3 as it was placed before the Meeting. The Meeting so agreed and the resolution was adopted.

38. The **President** took up for consideration the next draft resolution RES/40/ORG.4 dealing with matters concerning the Data Collection Unit. He invited comments from the floor.

39. The **Delegate of Pakistan** stated that since he had already submitted his detailed editorial comments to the Secretariat, he would confine himself to make a substantive proposal. He proposed addition of a new paragraph which would read as follows:

“Urges Member States to make voluntary contributions to allow the Centre to start its envisaged activities”.

40. The **President** observed that in the proposal only a request had been made to the Member States there was no compulsion. He asked the delegate of Pakistan to submit a precise formulation of his proposal. As there were no further comments, the resolution was adopted.

41. The next draft resolution for consideration was **RES/40/ORG.5** concerning Report on the Regional Arbitration Centres. The **President** pointed out that it was a standard resolution which took note with appreciation the efforts of the Regional Arbitration Centres in promoting arbitration in their respective regions. There were no comments from the floor and the resolution was adopted.

42. The last draft resolution related to Organizational matter for consideration was **RES/40/ORG.6** which dealt with the Matters Concerning the Establishment of the Organisation’s Permanent Headquarters. The President drew attention to paragraph 1 which urged to delete footnote to Article 6 of the AALCO Statutes as a consequence of the signing of

the Headquarters Agreement between the Government of India and the AALCC on the 26<sup>th</sup> April, 2000. The Meeting agreed to such deletion and the resolution was adopted.

43. The **President** declared that all the resolutions on the Organizational matters have been adopted. He thanked the delegations for their co-operation.

44. **Ambassador Yamada**, Member of the United Nations University Council wished to make a statement on behalf of the Prof. Dr. Hans Van Ginkel, Rector of the United Nations University. However, because of paucity of time he preferred not to take the precious time of the Meeting and handed over a copy of the statement for inclusion in the record of the organization. The statement reads as follows:

“It is an honour and a pleasure for me to be with you for the fortieth session of the Asian-African Legal Consultative Committee as the representative of the Rector of the United Nations University. On behalf of Prof. Hans Van Ginkel, I would like to express our support to the organizers of this important meeting.

Ambassador Wafik Kamil visited the UNU Centre in Tokyo in March this year and met with several senior staff of the University. The discussion centred on issues of human security and human rights. As a result of these discussions, I have been informed that the UNU is prepared to sign a Memorandum of Understanding with the AALCC as the basis to develop further co-operation. It is clear that the UNU and AALCC work in similar areas and there may be some scope for collaboration – particularly regarding the training of young diplomats.

We live in an increasingly interconnected and interactive world – characterized more by technology-driven exchange and communication than by territorial borders and political separation. This year the UNU has been particularly focusing on activities that contribute to the UN’s Year of Dialogue among Civilizations. We need to find better ways to live and work together – based on a genuine respect for our rich cultural, political, and religious diversity.

The theme of mutual learning between Asian and Africa that has been a particularly valuable intellectual contribution of the Tokyo International Conference for African Development – or TICAD – process, a process that UNU is involved with. Very similar to the AALCC, we have been fostering discussions and trying to learn from a comparison of the experiences of the regions of Asia and Africa.

On behalf of Rector van Ginkel and my colleagues at the UNU, I would like to wish you all success in your important discussions over the next few days.