

**(iii) THE THIRD GENERAL MEETING HELD ON THURSDAY, 21 JUNE 2001 AT 2.45 P.M.**

**(Hon'ble Chief Bola Ige (SAN) Vice-President in the Chair)**

The Meeting then took up for consideration the item **Jurisdictional Immunities of States and their Property.**

1. **Dr.Li Zhenhua, the Assistant Secretary General of AALCC** introduced the Secretariat document AALCC/XL/HQ(New Delhi)/2001/S-6 on this topic. The Assistant Secretary General traced the developments on the subject, since the adoption of a set of draft articles by the ILC in the year 1991. The present work on this topic is primarily confined to the Sixth Committee's Working Group on Jurisdictional Immunities which is engaged in resolving the outstanding substantive issues over the ILC's draft articles and seeks to evolve a consensus to finally adopt them. Dr.Li also briefed the Committee on the deliberations on this topic by the Legal Advisers of AALCC Members held at New York on 26 October 2000.

Speaking on the developments in the Working Group during the 55<sup>th</sup> Session of the General Assembly, he stated that the Chairman of the Working Group has submitted to the Sixth Committee a set of alternative texts on the five outstanding issues, which could form a possible basis for further discussions. Accordingly, the General Assembly has decided to establish an Ad hoc Committee on Jurisdictional Immunities, which would meet for two weeks in March 2002. The Ad hoc Committee is mandated to consolidate areas of agreement and resolve outstanding issues with a view to elaborating a generally acceptable instrument on the topic.

Drawing attention to the mandate of the Committee asking the Secretariat to consider the feasibility of compiling national legislation, jurisprudence and practices of AALCC Member States on Jurisdictional Immunities, Dr. Li urged Member States to communicate the relevant materials to the Secretariat. He also requested Member States to respond by 1 August 2001, by submitting in writing to the UN Secretary General their comments on the Report of the Working Group on Jurisdictional Immunities.

2. **The Delegate of the People's Republic of China** noted that the ILC's work on jurisdictional immunities could contribute to eliminating the differences in the application of the law prevailing in divergent legal systems and harmonize State practice. The Delegate characterized the ILC's draft articles as "generally balanced and acceptable".

While acknowledging the trend of transformation from absolute to restrictive theory of immunity, the Delegate offered the following comments on the draft articles:-

- a) As regards the criteria to determine a commercial transaction, he preferred the integrated nature- purpose test;
- b) As regards waiver, the Delegate emphasized that waiver to initiate proceedings should not be automatically extended to include enforcement proceedings;

- c) As to the final form of the draft article, preference was expressed for an international convention as it had the merit of providing uniform norms for regulating commercial acts of States.

3. **The Delegate of the Arab Republic of Egypt** while noting the importance of the topic, also pointed out the different perceptions and State practices that exists. On the draft articles, the Delegate made the following observations:

- a) In case of federal States, the Delegate stated that his delegation favoured the granting of immunity to acts of constituent political units, if such a position was the established practice of the State;
- b) The Delegate noted the divergence of opinion in the Sixth Committee's Working Group on the appropriate criteria to determine a commercial transaction (as between the 'nature' and 'purpose' tests). Drawing attention to the proposal by developed countries to expand the definition of 'commercial transactions', the Delegate said that such a proposal has implications in terms of removing immunity for many activities that, in many developing countries usually fall within the domain of governmental functions. Given the social and economic specifications unique to developing countries, the purpose test is indicative of the role and functions of the State in the society. His delegation would consider the issue with an open-mind, if the alternative formulations reflect a balancing of interests.
- c) With respect to article 10(3) of the draft articles, the Delegate was of the view that the formulation should affirm the distinct and separate personality of a State enterprise, so as to prevent the possibility of abusive attachments or enforcement action against State property.
- d) On the alternate texts proposed by the Working Group, more particularly on article 19, the Delegate felt that it provided a good basis for further refinements.

The Delegate stated that his country would submit elaborate comments to the Ad hoc Committee and urged other AALCO Member States to do so.

4. **The Delegate of Indonesia** stated that, in principle, his delegation was in acceptance of the ILC's draft articles. Acknowledging the current trend favouring restrictive immunity, he stated that the draft articles contain elements of progressive development of international law.

Regarding draft article 2 (1)(b) on the definition of 'State', his delegation accepts the definition since it is consistent with the prevailing practices among developing countries. Regarding draft article 16, he proposed the inclusion of aircraft owned by and operated by a State for non-commercial purpose.

5. **The Delegate of Nigeria** commenting on immunity of constituent units of a federal State, said that in Nigeria, the constitution apportions distinct functions for the federal and the sub-political or constituent units. Therefore there could be no conflict in action on the exclusive list, while any conflict in the concurrent list could be resolved through existing machinery.

The Delegate further stated that the issue of commercial transaction and state immunity should be studied further and the final position made definitive and clear.

6. The **Delegate of the Republic of Korea** noting the importance of the subject said that he hoped that the Ad hoc Committee meeting scheduled for March next year would arrive at a consensus on the draft articles.

On specific aspects of the draft articles, the Delegate made the following comments:-

- (a) With respect to the concept of 'State' for purposes of immunity, the revised definition as adopted by the ILC in 1999 accords to a political subdivision the same immunity as a constituent unit of a federal State for acts performed in the exercise of the sovereign authority of the State. This approach was reasonable and acceptable.
- (b) As regards determining the commercial character of a transaction, the Delegate expressed primary importance to the 'nature' test, though purpose may also be taken into account in certain cases.

As to the practice of his country, the Delegate stated that in the year 1997 the Supreme Court had upheld the restrictive theory of immunity. The relevant literature on his country's practice, the Delegate said, would be communicated to the AALCC Secretariat in written form.

7. The **Delegate of Myanmar** in his presentation spoke on the status of the law relating to sovereign immunity in Myanmar.

Until 1948 there was no precedents or other legal guidance on this subject. But, the rulings by the Myanmar courts in the case of *U Kyaw Din. vs. His Britannic Majesty's Government of United Kingdom* and another (1948) and in the case of *U Zeya vs. The Secretary of State of His Britannic Majesty for War Represented by Headquarters, Burma (MYANMAR) Command* (1949) lays down the minimalist approach that where there is a possibility of infringing the principles of international law, a Myanmar court will decide in favour of a foreign State or sovereign. As per the principle of *stare decisis*, the above authority still holds good.

As regards the alternative texts formulated by the Chairman of the Working Group, the Delegate expressed his country's preference in the following manner:

- Article 2(c) on definition of commercial transactions, Alternative III is preferred as it accords recognition to the sovereignty of individual States.
- For similar reasons, as regards article 10(3) the Delegate preferred Alternative I.
- Alternative III in Article 2(2), the Delegate suggested the replacement of the phrase "reference should be made to the nature of the transaction as well as...." with the following phrase: "reference should be made to the nature of the contract or transaction as well as..."

8. The **Delegate of Thailand** commenting on the alternative texts presented by the Chairman of the Working Group stated:

- (a) As regards the definition of commercial transaction under article 2, his delegation preferred Alternative III.
- (b) On article 18 relating to enforcement measures, he preferred Alternative I.

Referring to the differences in State practice on the subject, the Delegate pointed out that under Thai law, foreign governments and embassies do not possess legal personality and hence cannot be sued. Therefore he suggested that 'reciprocity' in the area of applying jurisdictional immunities could help the harmonized development of the law and avoid conflicts.

The Meeting then took up the item **“Extraterritorial Application of National Legislation: Sanction imposed Against Third Parties.**

9. The **Vice President** called upon Mr. M.R.DABIRI, Deputy Secretary-General, AALCO to introduce his statement on the item.

10. **The Deputy Secretary General (Mr. Mohammad Reza DABIRI)** while introducing the Secretariat Doc. AALCC/XL/NEW DELHI/2001/S.5, recalled that the item was placed on the agenda of the Organization on the basis of a proposal made by the Government of the Islamic Republic of Iran at the 36<sup>th</sup> Session of the AALCC. He further stated that the Secretariat had prepared a preliminary study on the basis of that proposal and had also convened an Expert Group Meeting on the topic in Teheran in 1998 and had published a Report. Detailing the consideration of the topic at successive sessions of AALCO, he said the discussions had revealed that promulgation of extra-territorial measures were violative of the core principles of territorial integrity and political independence of States. Besides violating the principles enshrined in the UN Charter, extra-territorial sanction he said hindered peaceful and economic relations between States. These extra-territorial measures, the Deputy Secretary General added, took the shape of local unilateral sanctions, executive orders and presidential proclamations. Buttressing his statement, he cited the example of one such local legislation called the Massachusetts Law, that restricted state entities from purchasing goods or services from companies (either foreign or domestic) engaged in business activities in Myanmar and had been struck down in a particular case as violating federal policy.

Referring to the consideration of the topic at the last session held in Cairo (2000), the Deputy Secretary General stated that Delegates had expressed concern at increasing attempts to impose extra-territorial measures and called for continued study on the topic. Towards this end, he said that the Secretariat had invited comments and suggestions from Member States but very few states had sent their comments.

The 55<sup>th</sup> (Millennium General Assembly) session, he stated had witnessed a number of AALCC Member States and other states condemning the promulgation of acts with extra-territorial effects. In conclusion he expressed the view that extraterritorial application of national laws was not only infirm as law but also bad as a foreign policy tool. Stating that extraterritorial measures impeded the establishment of an equitable, multilateral, non-discriminatory and rule based trading system, he called upon AALCO Member States to reject the promulgation and application of extra-territorial measures.

11. **The Delegate of Myanmar** expressed the view that the item had been placed on the agenda of AALCO, because some countries continued to violate a state's sovereignty by imposing domestic laws with extraterritorial effects. Stating that such practices were highly ineffective, he instead called for negotiation and direct communication between States for the amicable settlement of disputes.

Reiterating the view that international law recognized the sovereignty and equality of States, he called for States to reject the promulgation and application of extraterritorial laws.

12. **The Delegate of the Libyan Arab Jamahiriya** stated that as he had taken the floor for the first time, he congratulated the President and Vice President on their election. He also praised the Secretariat of AALCO and the Government of India for making detailed preparations for holding the 40<sup>th</sup> session in New Delhi.

He expressed the view that there were a number of important items of contemporary relevance on the agenda of the 40<sup>th</sup> session. International law, in the opinion of the Delegate played a very important role in protecting the sovereignty of states and preventing recourse to war.

Stating that his Government attached a lot of importance to the work of AALCO, he called for effective participation of States in condemning promulgation of extraterritorial laws.

Narrating the experience of his country on which sanctions had been imposed under the D'Amato Kennedy Act, he called for continuation of consideration of the item on the agenda of AALCO. Expressing his solidarity with resolve of the international community, calling for lifting of sanction against Cuba, and the Democratic People's Republic of Korea, he wanted AALCO to evolve a consensus so that weaker states were protected from stronger ones. He expressed the view that AALCO should concentrate on studying the topic in depth to evolve a strong legal stand by declaring as illegal, all forms of extra territorial application of national legislation.

13. **The Delegate of the Nigeria** speaking on the topic stated that his country did not support promulgation of extra territorial legislation as it was violative of the principles enshrined in the Charter of United Nations and general international law. Further, he added that his Government supported dispute settlement by dialogue, bearing in mind respect to sovereign equality based on the territorial integrity and political independence of states. In view of this, he concluded his statement by adding that the sanctions imposed against Cuba under the Helms-Burton Act, had no validity under international law.

14. **The Delegate of Sudan** thanked the Secretariat for the excellent documentation prepared on the item "Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties".

He expressed the view that international law governed the relations between States *inter se* on the basis of respect for their sovereignty and political independence and this basis, stood

negated when domestic laws having extra territorial effects were promulgated. Besides, international law prohibited the use of force, except as provided in the Charter of United Nations and customary international law.

Speaking on the topic of "international terrorism" he said some States had imposed international sanctions against his country to serve their narrow "national interests". He further added, that these States in tandem with large multinational corporations were controlling the economic growth of his country. Condemning the continued use of extra territorial measures against Cuba, he called for all AALCO Member States to reject this practice in all its forms.

15. **The Delegate of the Democratic People's Republic of Korea** expressed thanks to the AALCO for inviting them to attend the 40<sup>th</sup> session in New Delhi. He also thanked the Government of India for their kind cooperation. Speaking on the topic of "Extraterritorial Application of National Legislation: Sanctions Imposed Against Third States", he said it was an important topic being considered by the 40<sup>th</sup> session. Furthermore, he said that a few States were wantonly violating well established principles of international law and retarding the economic progress of third States by promulgating extra territorial laws. Due to the imposition of such laws, he said his country was suffering from prolonged under-development. Condemning the Helms - Burton and the D'Amato - Kennedy Acts, he called for withdrawing the same as Cuba, Iran and Libya had suffered from the fall outs from these sanctions. Such forms of legislation, the Delegate said violated the well recognized principles of sovereignty, territorial integrity, equality of States and non-interference in other State's internal affairs. Similarly, he stated that the ILC had discussed the issue of lifting sanction while considering the topic of states responsibility. Calling for respect for human kind and justice in international relations, he expressed the view that States must endeavour to reject promulgations of laws having extra territorial effects. Reminding the AALCO that it had an important role to play in establishing a fair world order, he proposed that the item should be placed on the agenda of its 41<sup>st</sup> Session.

16. **The Delegate of Indonesia** while speaking on the item said that application of extra territorial laws infringed the sovereignty of other third parties. He added that international law which governed the relations amongst States must respect the territorial integrity and political independence of all States. In this regard, he cited the example of a domestic law, such as the Helms Burton Act, which had imposed sanctions on Cuba for the last 10 years. He recalled resolution 53/4 of the General Assembly and many others, which had called upon States to reject the promulgation and application of extraterritorial laws. The second Act, he mentioned was the Iran - Libya (D'Amato - Kennedy) Act of 1996 which had placed sanctions on Iran and Libya for supporting the cause of international terrorism.

In conclusion, he added that his Government had always condemned the use of extraterritorial sanctions. He added that there was not a single act with extra territorial effects promulgated by his country, as they believed in economic co-operation with all States and favoured maintaining peaceful relation with all States.

17. **The Delegate of the Islamic Republic of Iran** expressed his appreciation to the Secretariat of AALCO for preparing document on the subject, as it was an important issue

affecting a number of countries. He recalled that the item was placed on the agenda of AALCO on the basis of a proposal made by his Government at the Tehran Session, held in 1997.

In an interdependent world, full of opportunities for growth, extra territorial application of domestic laws, he added constituted a flagrant violation of established international norms and principles.

Stating that extra territorial sanctions are inadmissible under international law, he cited a number of UN General Assembly resolutions and decisions of other UN bodies which had called upon States to reject such legislation.

The General Assembly, he further added had stated that such legislations impeded cooperation among States and also retarded economic growth. In this regard, he pointed to the General Assembly "Declaration on the Inadmissibility of Interference in the Internal Affairs of States and the Protection of their Independence and Sovereignty" adopted in 1969 and the "Charter on the Economic Rights and Duties of States" adopted in 1979. Both these declarations stipulated that States shall not use or encourage any economic, political or any other type of coercive force to obtain any form of subordination. He also recalled the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States, 1970 that outlawed the use of force or other coercive measures in their international relations.

The Delegate also said that the application of such extra territorial laws are a stumbling block to the need for establishing an equitable, rule – based, secure, non-discriminatory and practical trading system.

Terming the application of extra territorial legislation as violative of human rights of peoples of affected countries, he cited the UN resolutions of the Commission on Human Rights which had reiterated the view that extraterritorial laws impacted upon the social and human development of third states.

The Delegate called for the urgent need to do away with such legislation, as his own country was subjected to sanctions for the last two decades.

In conclusion, the Delegate voiced the importance and relevance of the item and expressed the need to retain the same on the 41<sup>st</sup> session of AALCO.

The Meeting took up for consideration the item **International Terrorism**.

18. The **Vice President** invited Mr. Mohammad Reza DABIRI, Deputy Secretary General to introduce the item.

19. **Mr. Mohammad Reza DABIRI, Deputy Secretary General** drew attention of the meeting to the Document AALCC/XL/HQ New Delhi/2001/S.11 prepared by the Secretariat on this item.

At the outset he thanked the Government of India for its initiative to place this item on the agenda of the AALCO. He recalled that the delegation of the Syrian Arab Republic, at the AALCO's 27<sup>th</sup> Session held in Singapore in 1988, proposed the inclusion of an item on the agenda of the AALCC entitled "Legal Criteria for the Distinction between Terrorism and People's Struggle for Liberation". The Committee held preliminary discussions at its 28<sup>th</sup> Session. Thereafter, the item was further considered at the 29<sup>th</sup> and 30<sup>th</sup> Sessions. The Committee in its resolution adopted at its 30<sup>th</sup> Session firmly condemned international terrorism irrespective of the identity or motive of perpetrators and expressed its unequivocal support for people's struggle for liberation under recognized national liberation movements.

He said that the concern of the international community to deal with the problem of international terrorism has brought into focus these issues again. The General Assembly at its 51<sup>st</sup> Session decided to constitute an ad-hoc Committee of the Sixth Committee to discuss the matters concerning elaboration of a comprehensive international convention to combat international terrorism and convene a high level conference. The discussions at the Ad-hoc Committee have been useful in identifying the key issues. The draft text submitted by the delegation of India has been the focus of discussion in the Ad-hoc Committee. Since the explanatory note forwarded by India on this item dealt with the draft text in a comprehensive way, he wished to make just a few general comments.

He felt that the adoption of an international convention would greatly facilitate taking of effective measures for combating international terrorism. The proposed international convention would be a comprehensive Convention dealing with the key issues. Attempts should be made to achieve a broad consensus on the definition of international terrorism which among others could draw a distinction between the acts of terrorism and the inalienable right of liberation movements. The main thrust of the proposed convention should be to promote effective legal co-operation among States.

He said that the AALCC could provide a useful forum to exchange views on the pending issues. Other organizations, such as the League of Arab States, Organization of Islamic Conference, the Organization of African Unity (Now African Union) the Inter-American Juridical Committee and the Council of Europe have made useful contributions on this topic. The consideration of this item at this session would bring the AALCC in the mainstream of ongoing discussions in the various fora. The next meeting of the Ad Hoc Committee of the Sixth Committee would be held in New York in October this year.

20. **The Delegate of India** stated that terrorism was one of the most heinous crimes of our time. It knows no boundaries and it has no respect for fundamental human rights and human values. It was a crime against humanity, and an assault on the fundamental tenets of any democratic society. The UN General Assembly in a number of resolutions has unequivocally condemned all acts, methods and practices of terrorism as criminal and unjustifiable wherever and by whomever committed. The Millennium Declaration reflected the urgency to take concerted action against international terrorism.

He said that in all 12 Conventions have been concluded so far on specific aspects of terrorism. However, the approach to tackle this menace had principally been sectoral.



India considered it useful to take the initiative to put forward a holistic approach to combat international terrorism. A draft of a Comprehensive Convention on International Terrorism was first circulated in the 51<sup>st</sup> UNGA in 1996. At the 54<sup>th</sup> UNGA in 1999, it was decided that negotiated discussions on the Indian draft will commence in the Ad-hoc Committee on International Terrorism in September, 2000. He said in the preparation of this draft, while on the one hand some very important features that were not present in the earlier conventions, but on which consensus evolved elsewhere in related contexts, have been incorporated, on the other, already established principles and legal formulations that have been adopted in recent anti-terrorism conventions have been kept intact.

He highlighted some important aspects of the draft Comprehensive Convention which were as follows:-

- i) Article 2 of the draft Convention defines the scope of the Convention. It is comprehensive as it covers any means used in the commission of a terrorist offence thus covering the entire range of devices and substances which could be used for committing an offence. Article 2(3) covers the principle of command responsibility, which was now well accepted. He said that the proposed definition of terrorism in Article 2 was a pragmatic one based on practical considerations and would be effective in dealing with acts of terrorism from a penal law point of view.
- ii) Keeping in view the Security Council Resolution 1269 of 1999, which called upon States to prevent and suppress in their territories, preparation and financing of any acts of terrorism and to deny safe havens to terrorists, para 9 of the Preamble of the draft Comprehensive Convention recognizes the responsibility of States for suppressing acts of international terrorism, including those which are committed or supported by States, directly or indirectly. This obligation was further strengthened in Article 8 of the draft Convention, which obliges the contracting States to ensure that their respective territories are not used for the establishment of terrorist installations and training camps. This obligation is based on the agreed language of UNGA “Declaration on Measures to Eliminate International Terrorism” of 1994 which was further supplemented in 1996.
- iii) Article 5 of the draft Convention emphasizes that a terrorist act cannot be justified under any circumstances, whatever be the political, philosophical, ideological, racial, ethnic, religious or other considerations of a similar nature. This obligation is drawn upon the strength of recently concluded Terrorist Bombings and Terrorist Financing Conventions.
- iv) The universally recognised duty to extradite or prosecute is enshrined in Article 11 of the draft Convention. It entitles a State to exercise extra-territorial jurisdiction under Article 6(3) of the draft Convention and submit the case to its authorities for prosecution. In this connection, he drew attention to Article 6(1)(c) which entitles a State to exercise its jurisdiction when the alleged conduct occurred wholly or partly outside its territory, and the effect of the conduct or its intended effects constitute or results in the commission of an offence, within its territory. This provision though appears to be a bit novel, has

already been accepted in recent international and bilateral extradition treaties and even recently in the Vienna Convention on Transnational Organised Crime.

- v) Article 7 of the draft Convention discourages terrorists from seeking safe haven through the regime of asylum. To achieve that objective, it obliges a State to take appropriate measures before granting asylum to ensure that the person involved is not connected with terrorist activities.
- vi) Many countries do not have bilateral extradition treaties and mutual legal assistance agreements in criminal matters making it very difficult to extend cooperation in crimes connected with terrorism. With a view to achieve maximum co-operation in the prevention of crimes and prosecution of offences covered under the Convention, Annexures II and III to the draft Convention provide for procedures for extradition and mutual legal assistance that the parties may, at their discretion, use in the absence of a relevant treaty between them.
- vii) He said that the draft convention has been received well in the Ad-hoc Committee. After the second round of negotiations in February, 2001 Articles 3, 8 and 11 which are based on standard formulations contained in recent anti-terrorism conventions appear to be acceptable to delegations. At the same time, Articles 4,5, 10 and 12 also appear to be generally acceptable. Some progress has also been made on Article 2 (scope) and Article 6 (Jurisdiction). Delegations have also expressed their views on the relationship of this Convention with other sectoral conventions. He hoped that more progress would be achieved during the next round of negotiations to be held in October 2001.

On behalf of his delegation, he invited all delegations present here to express their valuable views. He hoped the draft Convention would be received favourably by this august Committee. He assured that he was very flexible towards any constructive idea that may further enhance the prospects of an early conclusion of this Convention.

21. **The Delegate of the Arab Republic of Egypt** observed that apart from the international conventions to suppress international terrorism in certain sectors, regional Conventions have been adopted under the auspices of the League of Arab States, OAU and the OIC. He hoped that the negotiations concerning the draft Convention on the suppression of nuclear terrorism would be concluded soon. As regards the Draft Comprehensive Convention submitted by India, he welcomed the progress being made in the discussion of some of its aspects. This despite the persistence of disagreement regarding some of the key controversial issues, such as the scope of the convention, State terrorism, Definition of terrorism, and the relationship between the draft convention and the existing anti-terrorism conventions. He thought that the true measure of success for this draft convention would be in its ability to successfully strike a balance between effectively bringing all perpetrators of terrorist acts to justice and not prejudicing the legitimate struggle of peoples under foreign occupation for self determination. He hoped AALCO's efforts in this regard would contribute to a more effective and objective legal handling of the scourge of terrorism.

22. **The Delegate of Republic of Korea** fully supported the establishment of an international regime for effectively combating the acts of terrorism. His Government has consistently advocated the position that terrorism, in all its forms and manifestations had to be eliminated for the sake of international peace and for the security of humankind. Based on this firm belief, it had been actively participating in the activities of the United Nations for the elimination of international terrorism. He welcomed the activities of the UN Ad Hoc Committee on Terrorism, which was drafting a comprehensive convention on international terrorism based on the draft worked out by the Indian delegation. He appreciated the efforts and contributions made by the Indian delegation, and believed that the draft Comprehensive Convention should be elaborated to ensure flexibility, making it serve as an effective foundation for dealing with various forms of terrorism. However, in addition to flexibility, this convention should remain consistent with the existing body of law in the field of anti-terrorism.

23. **The Delegate of Islamic Republic of Iran** was of the view that terrorism entails innumerable negative consequences and implications. It disrupts relations among nations and remains a serious threat to the peace and security. It also hampers the economic and social development as well as the political stability of all societies. No country in the world, developed or developing, big or small, is immune from deleterious effects of this heinous crime. Terrorism has also benefited from modern and advanced technology for its inhumane end. It was thus imperative for all states to strengthen their co-operation at bilateral, regional and international levels towards eliminating this menace from the face of the world.

He added, as a vivid victim of international terrorism, his country shared the increasing concern of the international community on acts of terrorism carried out by individuals, groups or states and condemned terrorism in all its forms and manifestations irrespective of its victims and culprits. It supported endeavours, made at any level and at any forum, to curb and combat this devastating phenomenon wholeheartedly. At the regional and intra-regional levels, it has redoubled its efforts to fight terrorism through establishing bilateral coordinating committees with some of its neighbouring and regional states. However, he was of the view that no country in the world can tackle this problem single-handedly.

Recalling that at the international level, a number of major steps have been taken in recent years especially the adoption of the Convention on the Suppression of Terrorist Bombing, 1977 and the Convention on Suppression of Financing of Terrorism, 1999. He believed that these valuable instruments should be able to provide the international community with the universal, non-discriminatory and comprehensive measures to deprive terrorists of their means of recruitment, funding and operation.

He said that the initiative of India in proposing a draft comprehensive convention on international terrorism deserves attention and admiration. The Explanatory Note by the Government of India on the item of international terrorism was also of high validity and magnitude. The Note describes eloquently the main ideas and aspects of this important issue. While appreciating this Indian initiative and supporting the continuation of the discussion on the draft comprehensive convention in the Ad Hoc Committee of the UN General Assembly, he made some preliminary and general comments on the issue under consideration.

First, the comprehensive approach on this issue would certainly raise the question of definition of terrorism – an important point that the international community has thus far been unable to address. It was therefore indispensable to make every effort to arrive at a generally agreed definition of international terrorism. Any definition for the international terrorism should make a clear distinction between the struggle of people who have no alternative except to fight foreign domination and occupation on the one hand and acts of terrorism on the other.

Second, a number of regional agreements have been elaborated to combat terrorism at the regional levels. These instruments should be carefully studied by the Ad Hoc committee with the view to incorporating their main ideas in the comprehensive convention as valuable experiences achieved in different parts of the world. As an example, he referred to the Convention of the IOC on combating international terrorism which was adopted by the OIC Ministerial Meeting in 1999.

Third, the Ad Hoc Committee should carefully examine the relationship between the proposed comprehensive convention with the existing conventions on international terrorism. He believed that the Ad Hoc Committee in the course of its future endeavours should explore the possibility of elaborating an umbrella convention which might facilitate the ratification of existing instruments through a single action if state parties to the future convention so desire.

Last but not least, he had serious problem with paragraph 2 of Article 18, which replicates paragraph 2 of Article 19 of the Convention on the Suppression of Terrorist Bombings. The term “in the exercise of their official duties” employed in that paragraph was vague and leaves room for expanding the immunities of military forces. No one disputed the fact that activities of military forces during a military confrontation was covered by the law of the armed conflict. Hence it seemed unjustifiable to accord immunity to military forces during peace time, in a comprehensive convention which intended to cover a wide range of criminal acts.

24. **The Delegate of Indonesia** highly appreciated the initiative of the Government of India for its proposal to include international terrorism on the agenda in this session. His Government was against any acts of terrorism, whatever the motive. It supported any international effort to suppress terrorism, including enhancing international co-operation among United Nations Member States for that purpose. It also supported convening of an international conference under the auspices of the United Nations to define terrorism. In his view, the definition should exclude independence movements recognized by the United Nations.

He informed the Meeting that so far, Indonesia has ratified Tokyo Convention (1963) on Offences and Certain Acts committed on Board Aircraft, the Hague Convention (1970) for the Suppression of Unlawful Seizure of Aircraft, and Montreal Convention (1971) for the Suppression of Unlawful Acts against the Safety of Civil Aviation. Further, he said that domestic legislation on the draft law on terrorism was under preparation.

25. **The Delegate of Sri Lanka** recognised that the question of combating terrorism with its international linkages was of particular concern not only to Sri Lanka but to many Asian and African States. It was common threat to international community of States and it was only concerted collective action on the part of all States that can effectively combat this scourge. It

was in this background that her Government fully supported the initiative taken by the Government of India to draft the comprehensive convention on international terrorism to supplement the existing framework of specific conventions. She was happy to note that this item was before the AALCO and it was her hope that Member States will demonstrate the necessary political will for the successful negotiations of the convention at the forthcoming Session of the UN Ad Hoc Committee on measures to eliminate international terrorism which her government was privileged to chair. She also hoped that the recent Convention for the Suppression of Terrorist Bombings which criminalizes the indiscriminate use of bombs and explosives targeting public buildings and facilities and innocent civilians as well as the Convention on Suppression of Terrorist Financing which required States to adopt stringent measures to monitor terrorist related financial activities would be brought into force at the earliest.

26. **The Delegate of People's Republic of China** said that combating international terrorism was a significant issue intertwined with complicated political and legal elements. Terrorism brought great losses of life and property to innocent civilians, undermined friendly relations among countries and peoples and threatened the security and territorial integrity of States. It posed a threat to the international peace and security. Therefore, the international community had for a long time endeavoured to combat terrorist acts.

Further, he said that it was an established policy of China to combat international terrorism. The Chinese Government, along with all other governments, had always condemned terrorism in all its forms and manifestations. It firmly opposed using terrorists acts as a means for achieving political or any other objectives. It denounced all terrorist acts committed by any state, organisation, group or individual. At the same time, the Chinese Government maintained that the issue of international terrorism involved major political elements. Therefore, combating terrorism should abide by the established norms of international law especially the principles of respecting state sovereignty, territorial integrity and non-interference in internal affairs of States. His Government was firmly opposed to the introduction of double standards in this regard, which in nature promotes power politics and interferes with internal affairs of other States under the pretext of combating international terrorism.

China favoured the consideration by the Ad Hoc Committee of UN General Assembly of the draft Comprehensive Convention on International Terrorism which was put forward by India. And believed that the Comprehensive Convention should become a major part of the international legal framework on combating terrorism. It fully understands the special concern of some States in this regard. He hoped that views of all parties in respect of those important issues could be fully exchanged and reflected in the draft convention in a balanced manner, so as to complete the elaboration of the Comprehensive Convention on International Terrorism at an early date and to further perfect the international legal framework on combating terrorism. China would continue to support and take part in the political and legal measures against terrorism taken under the aegis of the U.N.

Besides, China has in recent years strengthened bilateral and regional cooperation with other states on combating international terrorism. In view of his Delegation, the cross-boundary feature of the terrorist acts was becoming increasingly evident in all its aspects and the means adopted by terrorists were reaching a high technical level. That called for a close international

cooperation on combating terrorism. Only by firm measures and effective international cooperation should all forms of terrorist acts be suppressed ultimately and thoroughly.

He said that it was significant for the AALCO, a very important forum among Asian and African States, to consider such a kind of important issues as combating international terrorism. As always, his Delegation together with other Member States of the AALCO and in the spirit of cooperation, would make every effort to combat international terrorism.

27. **The Delegate of Bangladesh** congratulated the Indian delegation and the AALCO Secretariat for bringing this very important item on the agenda of the AALCO. He said that his country like all others was against terrorism and efforts should be made at the bilateral, regional and international levels to combat terrorism. He said that all attempts should be made to arrive at a consensus on the definition of terrorism. He recognised the sharp distinction between the acts of terrorism and people's right to struggle for independence. Then, there was terrorism by individuals and state terrorism. In the latter case, there was a double standard to deal with it. He emphasised that terrorism was a crime against humanity and must be tackled by all means.

28. **The Delegate of Palestine** referred to the initiative of India concerning this very important topic and said that the desire of India in submitting this topic on the AALCO's agenda reflected the great importance not only for her but the international community as a whole in an attempt to confront and overcome the very serious threat that threatened the international community and deprived the human beings from enjoying their life freely. He was of the view that discussions during this Session would help to find a comprehensive and integrated system elaborated in an international convention unanimously on a solid basis. He said that Palestine and people in Palestine were suffering greatly from terrorism. They reject and condemn terrorism and hope to have an international comprehensive justifiable and equitable stance in combating terrorism. Commenting on the draft text submitted by India, he said that scope of the Convention should include comprehensive and complete definition of terrorism. All attempts that took place until now were not successful in arriving at a definition on terrorism. In his view, the definition of terrorism should include two very important issues, one, right of people to struggle by legitimate means according to the Charter of the United Nations, and other international organizations which recognise people's right to struggle against occupation. Secondly, the case of perpetuating crimes of war should have very clear reference in the definition of terrorism. Another important issue, he pointed out was a clear definition of state terrorism. Palestine for instance was suffering from this type of terrorism that terrorists were using this as a camouflage among the settlers. This was a very important issue and what has been raised in the drafting of the Convention concerning the possibility of tackling the responsibility of the terrorism of state and the violation of international rights. He felt that it was not sufficient in this aspect because the definition of state sponsored terrorism and organized terrorism should be very clear and complete. Referring to Article V dealing with political exceptions he said that terrorists could not hide and cover themselves under political exceptions. The provision in the draft Convention should stand against terrorism of a state and not camouflage organized terrorism helped by a state. He drew attention to the work of the regional organizations such as the League of Arab States, OAU, OIC and the Non-aligned Movement and said that these organizations should participate in the drafting of the Convention.

29. **The Delegate of Sudan** recognised the importance of international efforts to combat international terrorism. He appreciated India's initiative to put forward a draft on comprehensive international Convention to combat terrorism. In his view, definition of terrorism was one of the key issues. He felt that it might not be practical to attempt a definition of the term in strict legal sense. An important element of the definition should be state terrorism which itself was not yet crystal clear.

He proposed that a code of conduct could be worked out on the responsibilities in combating international terrorism to remove the confusion brought about by terrorist acts perpetrated by individual acts through criminal intentions or being instigated by certain countries or groups. This should be based according to the UN Security Council Resolution and that the member countries should not spread unprecise or unconfirmed information. Today, the perpetrators of such crimes remain free without their being tried together with those who instigated them and without their being punished for such atrocious acts. He fully supported the proposed draft comprehensive convention and suggested incorporation of amendments which he had proposed in order to reach an international formula which could really face and combat international terrorism.

30. **The Delegate of Tanzania** appreciated India's initiative to place this item on the agenda of the AALCO. He said that his country always supported people's right of self determination and condemned unflinchingly all acts of terrorism which targeted victims having no engagement with the cause of terrorism. He said that his country was making efforts to ratify the international conventions on suppression of terrorism. In that context, he sought the assistance of the AALCO to have full appreciation of the legal regime in this field. He said that his country would leave no stone unturned to punish those persons who perpetrate acts of terrorism.

31. **The Vice President** in his concluding remarks said that there was a great appreciation for India's timely initiative to place the item on the agenda of the AALCO's 40<sup>th</sup> Session. He recalled that way back in 1947, India was the only signatory to the Terrorism Convention concluded under the League of Nations auspices. He said that deliberations during this session were very useful.

(The Meeting was then adjourned)