

**SUMMARY RECORD OF THE FIRST GENERAL MEETING HELD ON MONDAY, 15 JULY 2002, AT 12.00 P. M.**

**President, Hon'ble Senator Kanu G. Agabi SAN, in the Chair.**

**The meeting took up for consideration the item "General Statements".**

1. The **Leader of the Delegation of Indonesia** thanked the Government of Nigeria for its warm welcome and hospitality. He expressed his condolences on the tragic demise of the former Attorney-General of Nigeria, Chief Bola Ige SAN. He also greeted the President on his election.

The delegate informed that Indonesia was presently engaged in a process of unprecedented and fundamental reforms in all fields. These reforms were aimed at speeding up national recovery from the social, political and economic system and upholding the rule of law. In this effort, the delegate said, great emphasis was being placed on democratization and human rights.

Speaking on Indonesia's legislative reform process to create and promote good governance, he said that recently an Anti-Money Laundering Law had been adopted. Indonesia had also signed International Convention for the Suppression of the Financing of Terrorism in September 2001 and the Convention on Transnational Organized Crimes and their two Protocols. He informed that Indonesia was close to finalizing its Anti-Terrorism Act.

The delegate proposed the establishment of an Asian-African Human Rights Organization to promote and protect human rights in the Asian and African regions. To implement this proposal, he suggested the constitution of a Special Working Group during the current AALCO Session to prepare the charter and mission of such an Organization.

2. The **Leader of the Delegation of Ghana** expressed his appreciation to the Government of Nigeria for the invitation extended to his Government to participate at the 41<sup>st</sup> Session. In that regard, his delegation wished to extend fraternal greetings from the President of the Republic, John Agyekum Kufuor, the Government and People of Ghana to the President Olusegun Obasanjo, the Government and People of the Federal Republic of Nigeria, not only for hosting the 41<sup>st</sup> Session but also for the warm hospitality extended to his delegation. He recalled with great sadness the assassination of the late Attorney General of the Federation and Minister for Justice, Chief Bola Ige. He was a legal statesman of caliber and integrity and an inspiration to the younger generation of lawyers in Africa.

He said that many events bearing on international law had taken place since the last session in June 2001. Perhaps the most significant was the September 11, 2001 terrorist attack on the twin towers of the World Trade Centre in New York and the Pentagon in Virginia which marked a defining movement in international terrorism and its effect on innocent civilians. He stressed that it was necessary for the entire world to recognize that the fight against terrorism by the international community was not a fight against Muslims or Islam. He therefore called on members to make the necessary efforts to ratify the numerous conventions on terrorism. He expressed his concern about the increasing spiral of violence on both sides in the Israeli-Palestinian conflict. He said that the continued violence would only have a negative effect on the peace process. The only way forward was for both sides to guarantee peace and security which could be achieved ultimately only through negotiations. He expressed satisfaction that India and Pakistan were willing to use diplomatic means to resolve their differences over Kashmir. He felt that AALCO could play a very pivotal and constructive role in the resolution of this dispute and avert a spiral in the crisis.

He recalled that his delegation had put forward a proposal for the review of the AALCO's Statutes and Statutory Rules to give effect to the new name of AALCO and also to avoid a situation where there

will be successive piecemeal amendments of the rules and regulations. He felt that the matter was crucial.

Speaking about the issues concerning trafficking in persons, and women and children in particular, he said that trafficking which is unfortunately gaining ground in West Africa was an abomination against humanity. He referred to the Optional Protocol to the Convention on the Rights of the Child and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children and said that the deficiencies in the international conventions could be filled by domestic legislations. He therefore called on Member States not only to sign and ratify these conventions but to enact legislation in their home countries which will fill the gaps left by international conventions and provide some measure of protection to these unfortunate people.

He welcomed the coming into being of the International Criminal Court. He said that it signified a world of order and not chaos, a world which was not dictated by military or economic might or impunity. The ICC could not be political in nature and would offer a better possibility of bringing perpetrators of war crimes, genocide and crimes against humanity to justice. His country had ratified the Rome Statute and was in the process of amending its national legislation to enable the ICC function in Ghana.

He said that AALCO remained a very important organization in the quest of the countries and people of Asia and Africa to make their voices heard in international matters and his country would continue to give full backing. He affirmed his country's determination to contribute to the construction of a new international order dedicated to the pursuit of peace, democracy, respect for human rights and the rule of law. These were the goals of AALCO which he wholeheartedly shared.

3. The **Leader of the Delegation of the Republic of Korea** congratulated the President on his election and expressed his gratitude for the warm hospitality extended by the Government of Nigeria to all delegations. He expressed his thanks to Dr. P. S. Rao, the out-going President of the 40<sup>th</sup> Session and also thanked Amb. Kamil and other members of the Secretariat for their devoted work. He offered his delegation's condolences on the unfortunate passing away of Hon'ble Bola Ige, former Attorney- General of Nigeria and Vice-President of the 40<sup>th</sup> Session of AALCO.

Recognizing the impact of globalization, information revolution and growing inter-dependency of the economy, all these, he felt has worked as a catalyst for spreading freedom, democracy and respect for human rights in international affairs across the globe.

Speaking about the negative impact of globalization, he said that in order to deal with global issues such as refugees, environment, human trafficking and international terrorism there was need for joint efforts and collective response. He said that AALCO's role was significant as it was the sole international legal body which linked the continents of Asia and Africa. He believed that AALCO had been successful in responding to the new challenges.

He recalled AALCO's contribution in the field of Law of the Sea and Refugees. He said that in recent years AALCO has taken for consideration some important issues such as protection of migrant workers, electronic commerce and co-operation against trafficking of women and children and a suggestion to consider the issues concerning corruption is praiseworthy. He informed the meeting that the Global Forum III on Fighting Corruption and Safeguarding Integrity and the XIth International Anti-Corruption Conference (IACC) will be held in Seoul in May 2003. He expected AALCO Secretariat to attend these meetings. He said that although there are more than 100 countries in the Asian-African regions combined, but the AALCO membership had not increased and in the last twenty years less than 10 countries have joined. It was high time for AALCO to work out various ways to induce the participation of non-member countries in Africa and Asia. He said that his Government has long recognized the importance of AALCO and appreciates its numerous contributions to the development of international law in the Asian-African regions. His country hosted the AALCO's 20th Session in Seoul and has now decided to make a bid for hosting the 42<sup>nd</sup> Session.

4. The **Leader of the Delegation of Tanzania** at the outset extended his congratulations to the President of the 41<sup>st</sup> Session and expressed his confidence that he would steer this Organization to prosperity and success.

He paid his tribute, with profound grief and sorrow, to the true son of the African soil and an active intellectual in pursuit of Justice and Truth, the late Chief Bola Ige, the former Attorney General and Minister of Justice of the Federal Republic of Nigeria. He said that the late Minister had played a pivotal role in the transformation of AALCC into AALCO last year.

He expressed his profound gratitude and appreciation to the Government of the Federal Republic of Nigeria, for kindly agreeing to host this meeting and for the hospitality that had been accorded to delegations since their arrival to this great country.

He congratulated the Secretary-General and his able staff for the excellent preparation of this session and the quality of background papers that had been prepared for the delegations as well as the instantaneous postage of these materials to the Organization's website for access. The tasks that lay ahead had been made easy with the excellent background papers and his delegation was looking forward for insight exploration of the topical issues.

He observed that globalization of the world economy was real and brought with it a number of challenges. The agenda before the session reflected on some of the challenges and it was important that AALCO reflected deeply into this not only in the economic sense but also socially. Though globalization appeared to be commercial in character, its effect transcended into all fabrics of life. He said that there was no need to stand in opposition but to collectively lay down a common legal and regulatory framework, including criminal law, for the common good of Asian-African region and the world generally.

5. The **Leader of the Delegation of the Arab Republic of Egypt** while congratulating Hon'ble Senator Kanu G. Agabi of Nigeria on his election as President of the 41<sup>st</sup> Session was fully confident that through his experience and under his leadership the meeting would be successful. He thanked the Government of Nigeria for hosting the 41<sup>st</sup> Session of AALCO in Abuja and on the excellent arrangements made for the Conference. While appreciating the dynamism of the necessary research and the signing of many Memoranda of Understanding with international organizations such as IOM, WIPO, OHCHR, UNU, and most recently with UNHCR was a step in that direction.

The Arab Republic of Egypt had continued and is continuing to play a dynamic role in enhancing the work of the Organization, one form was that it had provided many international officers for the post of Deputy Secretaries General and the current Secretary -General was also from Egypt. It also held pride in hosting one of the Regional Arbitration Centers in Cairo.

In the contemporary world order, he looked forward to a constructive exchange of views among the Member States of AALCO, this way ideas could emanate on enhancing its role as an effective trans-regional organization dealing with various important and topical issues. Yet, he felt there was further scope for improvement by discussing issues such as intellectual property, legal aspects of free trade national legislations as well as electronic commerce. Dealing with the environmental issues and grappling with terrorism would help in concretizing legal aspects on the aforementioned issues during the new millennium.

The proposal to amend the Statutes and Statutory Rules was a timely one, but tangible results could only be reached by holding more workshops, seminars and training programmes on legal aspects of concern to the Asian-African Regions. The delegate suggested that a one month training and fellowship programme could be launched by the AALCO, whereby one official from each Member State could be sent for training and on completion of the training, certificates could be awarded. He proposed that the secretariat could conduct a study on the financial and technical aspects to implement ways and means of implementing these suggestions.

6. The **Leader of the Delegate of the People's Republic of China** on behalf of his delegation cordially congratulated the President of the 41<sup>st</sup> Session on his election, at the same time he expressed appreciation to the outgoing President.

He thanked the Government of Nigeria for hosting this Session and for the warm welcome and hospitality accorded to the delegations. He stated that although the world today was undergoing profound and complicated changes, the unfair and inequitable old international political and economic order remain unchanged. Poverty and backwardness still plagued many developing countries. On the other hand, the threat caused by international terrorism and other untraditional security issues was increasing.

However, he said, peace and development remained to be the main themes that deserved prompt solution by the international community. The trend towards political multi-polarization and economic globalization continued to develop though with twists and turns. In the face of this situation, he said, the international community should exert concrete efforts to establish a fair and equitable new international order on the basis of principles of the UN charter, the five Principles of peaceful co-existence and other universally recognized principles governing international relations with a view to safeguard, world peace, security and guaranteeing the development and prosperity of humanity.

He noted that the AALCO provided an opportunity to its Member States to exchange views on issues of common concern. Many of the agenda items of this session were of common interest and of importance to the Asian and African Countries. The in-depth discussions on these issues at this session would provide further guidance in the practice of law in Member States and promote the progressive codification and development of international law, and contribute towards peace and development.

He recalled, that AALCO had played a key role in enhancing co-operation on legal issues among the Member States, promote exchange of views and coordinated positions among them on international law issues. He hoped that in this era of political multi-polarization and economic globalization, the AALCO could play an important and positive role and provide Member States with legal advice. In addition, he said, the AALCO could continue to strengthen and expand co-operation with the United Nations and its related agencies and closely follow developments in international law so as to further enhance its influence and role. He hoped, AALCO could hold workshops and training courses of various forms that could help in providing solutions to some practical problems of Member States and make efforts in training legal officers of Member States.

He emphasized that his Government had in the past and would in the future continue to support the AALCO and make contributions to further strengthening of its role and influence.

7. The **Leader of the Delegation of Kenya** congratulated Senator Kanu G. Agabi, SAN on his election as President of the 41<sup>st</sup> Session of AALCO. He expressed his gratitude to the Government of the Federal Republic of Nigeria for graciously offering to host the AALCO's 41<sup>st</sup> Session and the generous hospitality extended to all the delegations. He also expressed his appreciation to the Secretariat for the ever excellent preparations and arrangements put in place for the successful conduct of this session.

He reaffirmed his Governments commitment to international co-operation on legal issues affecting the Asian-African regions under the umbrella of AALCO. He commended the AALCO Secretariat for the very effective and able manner in which they had continued to carry out the AALCO's mandate on behalf of the Member States. He particularly found the 45<sup>th</sup> anniversary commemorative volume of Essays on International Law to be relevant and helpful to understand the current issues and conducting informed exchange of views in the subject. The same could be said for the other publications and working documents which had been useful for delegations from developing countries which did not have adequate resources, be they human or material to adequately address issues of concern to the international community, some of which were quite complex.

He welcomed the agenda items listed for discussion at the 41<sup>st</sup> Session. On international terrorism he said Kenya was a victim of terrorism and experienced first hand the untold human and the deleterious effects of terrorism. He condemned terrorism in all its manifestations and supported all measures taken by the international community in the fight against terrorism. His country would welcome AALCO's work particularly in the implementation of Resolution 1373 (2001) of the UN Security Council on Terrorism.

He commended the AALCO for the inclusion of the item on the Establishment of Co-operation against Trafficking in Women and Children. It was a problem that could be linked to the state of poverty in the South states and a source of serious violations of the basic rights of women and children.

On Status and Treatment of Refugees, his country was currently in the process of drafting a legal text for enactment on the status and treatment of refugees. The AALCO's work on this topic which included the revised Bangkok Principles would be very useful reference material would form part of the text to be considered for the elaboration of the statute.

On Trade Law matters, his country continued to be active on WTO matters as far as south states were concerned and the challenges arising out of WTO agreements. A minimum of 90 statutes required revision, amendment or enactment to enable his country to be WTO compliant. Lack of adequate and legal capacity made this a daunting task. Although Kenya had opened up her economy, the benefits that were expected to accrue from a freer trade regime had not been forthcoming to date. On the contrary, Kenya had experienced increased unemployment, poverty and balance of deficits. He supported proposals for the improvement of WTO Agreements to address the imbalances in them with the aim of fully integrating it and other developing countries into the multilateral trading system.

He informed the meeting that Kenya was selected as one of the training centers for a three month diploma course on WTO for English speaking Africa and hoped that the center would provide the much needed capacity building and a knowledge base on international trade matters.

Migration was also a pertinent issue. AALCO's initiative to organize a special meeting at the 40<sup>th</sup> Session to discuss international migration was highly commendable. In a similar spirit, Kenya hosted the International Conference for East Africa, Horn of Africa and the Great Lakes Region and he offered to share the common problems and resolutions agreed upon at that meeting.

8. The **Leader of the Delegation of Nepal** at the outset cordially congratulated the President and Vice-President on their unanimous elections to the 41<sup>st</sup> Session and was confident that with their wisdom and experience they would ably steer the work of this organization in this Session.

He sincerely appreciated the Government of Nigeria for having hosted this session and the warm welcome and hospitality extended to the delegations. He also recalled the sufficient efforts made by the outgoing President, Dr. P. S. Rao for the success of this organization.

Turning to the Agenda for the 41<sup>st</sup> Session, he said it was timely and pertinent as it addressed the needs of the hour throughout the world. He underscored that the organization had made remarkable contribution towards the progressive development and codification of international law and he was confident that this session, as the preceding ones would address the pertinent issues. He reiterated that his delegation was and would always be in favour of the activities carried out by the Organization.

9. The **Leader of the Delegation of Indonesia** took the floor for the second time and reiterated his Governments offer to host the forthcoming 42<sup>nd</sup> Session of AALCO. He expressed his deep regret for not being able to host the previous session due to unavoidable circumstances in his country. He took the opportunity, to thank the Government of India for having done so. However, as now the position in his country was stable in terms of social and economic aspects he once again offered to host the 42<sup>nd</sup> Session.

10. The **Delegate of Sri Lanka** did not take the floor, instead he informed the Secretariat that his Government had paid its contribution for the current financial year.

11. **Excellency the Minister of State for Justice of the Federal Republic of Nigeria\*** congratulated the President on his election and believed that under his leadership, AALCO would progressively attain its enviable position. He also extended his deep appreciation to the out-going President Dr. P. S. Rao, for the able manner in which he had conducted the affairs of the Organization.

On behalf of the Government of the Federal Republic of Nigeria, his delegation acknowledged all the kind words of consolations and tributes paid to the Government on the assassination of the former Attorney-General of the Federation and Minister of Justice, Chief Bola Ige (SAN), who was also the former Vice-President of the Organization. He recalled Chief Bola Ige's dedication to the cause of AALCO and foresight in agreeing that Nigeria host the present session. It was indeed delightful that the 41<sup>st</sup> Session was held in Abuja to actualize the visions of the late Chief Bola Ige.

He said that the challenges which the Organization faces today were no less daunting than those faced by its founding fathers. The problems of poverty, diseases, threat of nuclear warfare, armed conflicts, instability of political institutions, inadequate infrastructure, fragile economies, gross shortage of capital and finance and the debilitating effects of globalization and liberalization portended serious uncertainties and risks.

He called on AALCO to come up with appropriate legal frameworks that were friendly to developing economies and aimed at projecting and protecting Asian-African concerns within the international legal agenda of the 21<sup>st</sup> century.

He considered that security matters at the global, regional and national levels were all important and closely inter-linked. The current wave of terrorist attacks across the globe had heightened fears, uncertainty and anxieties. Therefore he called on AALCO to assist the international community in developing rule-based concepts and definitions on the issue of terrorism.

Expressing his concern about the unsatisfactory performance of the World Trade Organization, he said that the developing countries had hoped that the new trading regime would enhance their trading fortunes, facilitate effective integration into the world economy, and mitigate their marginalization from global trading system. Asian-African trade prospects continued to be hampered by the non-implementation of the special and differential measures in favour of developing countries. Therefore it is incumbent on AALCO to continue to reinforce its machinery to be more proactive in ensuring that during the negotiations of the global nature, Asia-Africa and indeed developing countries interests were factored into legal framework of such agreements.

He said that the developing economies could least withstand the shocks of the international financial and regulatory regimes. In realization of this phenomenon, his country continued to work for the attainment of a more liberal and friendly regime for African growth and opportunity with developed countries partners. Under the acronym of NEPAD Nigeria would want to see the same co-operation fostered between Asia and African in the development of legal concepts that could facilitate the advancement of their economies in the context of the current inequitable economic order and protectionist tendencies of the developed world. Such strategies would aggregate developing countries collective bargaining efforts at multilateral fora.

He drew attention to the problems of human trafficking. The Nigerian delegation strongly felt that the rights of the trafficked persons should be respected. Nigeria would organize an International Conference to address the effect of Human Trafficking, Child Labour and Child abuse.

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\* This statement was circulated at the meeting.

11. The **Observer from Holy See** said that during the last thirteen years, the Holy See had regularly accepted the kind invitation to participate at the AALCO's annual sessions and it was fully aware of the importance of the Organization in the regions of Africa and Asia.

He said that the Holy See, according to the theory and practice of international law, is an independent and sovereign subject, that had always been recognized as such, enjoying an underived legal personality and international capacity. The Holy See had sovereign jurisdiction over the Vatican City State, which had as its main purpose to guarantee and manifest the inherent independence and sovereignty of the Holy See and to facilitate the accomplishment of its worldwide mission.

The Holy See had established diplomatic relations with 174 states. It enjoyed the status of a permanent observer in different agencies and bodies of the United Nations system. It has been actively contributing to the process of codification of international law, participating in specific conferences and many meetings for the development of international, private and commercial law. It contributes to the development of international legal instruments (multilateral treaties and conventions, resolutions, recommendations, declarations) on subjects related to peace, human rights, international co-operation, international humanitarian law, development, environment, etc.

He focused his comments on two agenda items, "WTO as a framework agreement and Code of conduct of the World Trade" and "Legal Protection of Migrant Workers".

As regards the WTO matters, he said that the Doha commitments in favour of developing countries should not be seen just as another declaration of good-will but as the starting point of a long struggle to create a genuine trade-and-development international legal framework. Such framework will be constructed not only by means of a flexible and pro-development interpretation of the existing agreements and of the Doha declaration, but mainly by the responsible engagement of the richest countries, who should consider problems and limitations of the poor WTO members as matters of their own national interest.

Speaking about the issues concerning trade, economic development and migration, he stated that the continuous expansion of the movement of masses from one area of the globe to another is an inescapable side effect of the trend towards a unified global economic scenario. In order to address the manifold problems created by migrations, such a concept of universal common good could provide new insights and ideas. The legal framework for migrations should be complemented by trade and financial commitments which can foster a vast and sustainable creation of jobs in the countries of origin of the migrants.

12. The meeting then took up for consideration the agenda item, "Report on Matters Relating to the Work of the International Law Commission at its Fifty-third Session".

13. **Dr. Ali Reza Deihim, the Deputy Secretary-General of AALCO** introduced the Secretariat document on this item.

Speaking on the adoption by the ILC of the draft articles on "Responsibility of States for internationally wrongful acts", Dr. Deihim said the topic of "State Responsibility" was one of the traditional and classical areas of international law with profound implications for the determination of rights and obligations of States. Both in terms of the importance of the subject-matter, and as an exercise in codification, the work of the Commission on State Responsibility was significant and comparable to its contribution to the regime on the Law of Treaties. Characterizing the ILC's draft articles as the product of pragmatic compromises, he said the adoption of the draft articles by the ILC did not signal an end to the work on the subject. Still, there were unresolved issues relating to the final form of the draft articles and also utility of a dispute settlement system to regulate countermeasures.

Given the division of opinion, the Commission recommended to the General Assembly a two-stage approach. In the first instance, it recommended the General Assembly to take note of and annex

the draft articles in a resolution, with appropriate language emphasizing the importance of the subject. The second phase involves the consideration of converting the draft articles into an international convention at a future period, if it was appropriate and feasible.

As regards the draft articles adopted by the ILC on "Prevention of transboundary harm from hazardous activities", he explained that they dealt with the concept of prevention in the context of authorization and regulation of hazardous activities, which posed a significant risk of transboundary harm. Thus, they were primarily concerned with the management of risk and emphasizing the duty of co-operation and consultation among all States concerned. In the view of the Secretariat, the articles on prevention strike a reasonable balance between the economic interests of States of origin and the environmental interests of States likely to be affected.

Given the interdependence between the issues of prevention and 'liability', Dr. Deihim stressed that the ILC should expeditiously address the question of 'international liability'.

He also briefly outlined the work of the ILC on the topics of reservations to treaties; diplomatic protection; and unilateral acts of States.

14. **Ambassador Chusei Yamada**, the Representative of the ILC appraised the meeting on the work of the ILC during the first part of its 54<sup>th</sup> Session (29 April to 7 June 2002).

Amb. Chusei Yamada, the Member and Representative of ILC conveyed the greetings of Mr. Robert Rosenstock, Chairman of the ILC. He provided an overview of the work of the ILC during the first part of its 54<sup>th</sup> session held from 29 April to 7 June 2002.

On "diplomatic protection", the Commission adopted 7 draft articles upon the recommendation from the Drafting Committee. These draft articles are divided into Part One: General Provisions and Part Two: Natural Persons. Draft Articles 1 and 2 belong to Part One and provide "definition and scope" and "right to exercise diplomatic protection" respectively. The other draft articles belong to Part Two. Draft Article 3 deals with "state of nationality", Draft Article 4 with principle of "continuous nationality", Draft Articles 5 and 6 with "multiple nationality" and finally Draft Article 7 with the exceptions to Draft Article 3 in the cases of "stateless persons and refugees". The Commission will present these draft articles with commentaries thereto to the General Assembly this year.

On "reservations to treaties", the Drafting Committee has formulated 11 draft guidelines belonging to the second chapter of the Guide to practice dealing with procedures. These draft guidelines deal with the form and formulation of reservations, procedure of communication of reservations, functions of depositaries, the formulation of interpretative declarations and the formulation and communication of conditional interpretative declarations. The Commission will consider the adoption of these drafts at the 2<sup>nd</sup> part of the session.

The Commission has continued its consideration on "Unilateral act of state" but has not yet acted on any draft article.

The Commission adopted three new codification topics, "international liability for injurious consequences arising out of acts not prohibited by international law", "responsibility of international organizations" and "shared natural resources". It also adopted one study topic of "fragmentation of international law". The works on these topics are already underway.

(The Meeting was thereafter adjourned for the day)

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