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## **I. INTRODUCTION**

1. In the discharge of the mandate entrusted upon me by Rule 20 (7) of the Asian-African Legal Consultative Organization's Statutory Rules, I have the honour to present to the Member States, a brief Report on the Work of the Organization since the conclusion of the AALCO's Forty-Fifth Golden Jubilee Session held in New Delhi (Headquarters) from 3-8 April 2006. This Report covers the period until April 2007.

2. To begin with, I wish to express my deep gratitude to the current President of AALCO, His Excellency Mr. Narinder Singh, Joint Secretary and Legal Adviser, Ministry of External Affairs, Government of India and his distinguished predecessor Hon'ble Mr. S. Amos Wako, the Attorney-General of the Republic of Kenya for their valuable guidance in promoting the activities of AALCO. It is a matter of pride that both these distinguished international law experts have been recently elected as Members of the International Law Commission (ILC) for the period 2007-2011. It is my pleasant duty, on behalf of the Organization, as also on my own behalf, to wish them all success in the discharge of their functions as Members of the ILC. Their presence at the Commission would enable the AALCO to further strengthen the relationship between the two Organizations.

3. It may be recalled that the Forty-Fifth Golden Jubilee Session of the Organization, took place from 3 to 8 April 2006, at the Headquarters of the Organization in New Delhi, India. Being the Headquarters Session, the Secretariat had made elaborate preparations for the Session and with the close cooperation of Member Governments, Government of India -the host Government of AALCO and AALCO Secretariat, the Session turned out to be a historical one. In terms of participation, the Headquarters Session saw the highest number of representation ever. Delegations from 39 Member States, 14 Non-Member States and 9 International Organizations attended the Session. Ministers of Justice, Attornies-General or very high-ranking Government Officials led several of the participating delegations. A momentous occasion in the annals of AALCO, which took place alongwith the Golden Jubilee Session of AALCO was the inauguration of the Permanent Headquarters Building of the Organization on 6<sup>th</sup> April 2006.

4. I would like to take this opportunity to profoundly thank the Government of India for hosting the Organization since its establishment as also for gifting to the Organization in its Golden Jubilee Year a magnificent building for the Permanent Headquarters. In the fifty years of existence of AALCO, India has contributed significantly in strengthening the profile and stature of the Asian-African Legal Consultative Organization in the family of Inter-governmental Organizations. I would also like to place on record the deep gratitude of the Secretariat for the financial and organizational support received from the Government of India for organizing the Forty-Fifth Headquarters Session.

5. The Republic of South Africa became a full Member of the Organization with effect from 15 May 2004. Ever since its joining the Organization, the Republic of South Africa had very actively and ably participated in the deliberations at the Forty-Third

(Bali, 2004), Forty-Fourth (Nairobi, 2005) and Forty-Fifth (Headquarters, New Delhi, 2006) Sessions of the Organization. Her Excellency Ms. Brigitte Sylvia Nabandla, Minister of Justice and Constitutional Development of the Republic of South Africa led her delegation at the Headquarters Session (2006) and very soon after her return to the Capital, wrote to me enquiring the possibility of hosting an AALCO Session in the possible near future. In my reply, I had explained as it was decided by the Forty-Fifth Session, that the Forty-Sixth Session would take place at Khartoum, Republic of Sudan. Thereafter, Forty-Seventh Session in 2008 would take place in an Asian Member State. Thus, the earliest possible date for the Republic of South Africa to host an AALCO Session would be in 2009.

6. As owing to certain constraints, the possibility of holding the Forty-Sixth Session at Khartoum appeared remote to me, therefore I sincerely approached the Government of the Republic of South Africa to consider hosting the Forty-Sixth Session in 2007. Very graciously and very promptly, the Government of Republic of South Africa accepted my humble request on behalf of all Member States and agreed to convene the Forty-Sixth Annual Session from 2-6 July 2007 in the beautiful legislative capital city of Cape Town. This significant gesture on the part of South Africa aptly testifies to the fact that South Africans are “can-do” people and demonstrates that their optimism and confidence are irrepressible. I am extremely confident that the forthcoming Session at Cape Town marked by this positive approach and “can-do” attitude of the South African people would turn out to be truly historical and memorable in the history of the Organization. On behalf of AALCO Member States and my own behalf, I would like to thank the Government of Republic of South Africa for their kind invitation to host the AALCO’s Forty-Sixth Session.

7. I also take this opportunity to express my gratitude to all Member Governments, their Ambassadors, High Commissioners and the Liaison Officers in particular, for their valuable inputs in dealing with substantive and organizational matters and kind support to me, which has always helped me in discharging my duties and functions in a smooth manner.

8. As regards AALCO’s activities, my endeavour has been to implement its Work Programme as outlined in decisions taken at the Forty-Fifth Golden Jubilee Session. Since the conclusion of the Forty-Fifth Golden Jubilee Session, three major Inter-sessional Activities that have taken place were the “Meeting of International Experts on Human Rights in Islam”, jointly organized by the Government of Malaysia, Kingdom of Saudi Arabia and AALCO, in Kuala Lumpur, Malaysia from 15-19 May 2006; AALCO’s Legal Advisers’ and Joint AALCO-ILC Meeting, on 30 October 2006, in New York and the “Meeting of Experts on the Emerging Issues on the United Nations Convention on the Law of the Sea”, at the Headquarters, in New Delhi, on 24 November 2006. In addition, as mandated by the Session, I addressed the ILC on 21 July 2006, explaining to the Commission the crux of deliberations on the agenda item on the ILC and also I presented a brief overview of the work carried out by the Organization in the period 2004-06, before the United Nations General Assembly on 20 October 2006. On an official invitation, extended by H. E. Mohammed bin Ali al Alawi, Minister of Legal Affairs,

Sultanate of Oman, I visited the Sultanate of Oman, from 22 to 26 April 2007. During the course of my official visit, I had held wide-ranging discussion, with several very high-ranking dignitaries of the Government of the Sultanate, to further strengthen the cooperation between the Sultanate and the AALCO.

9. My Report is divided into six parts: Introduction; Rationalization of AALCO's agenda items; Activities undertaken since the Forty-Fifth Golden Jubilee Session; Strengthening the Cooperation with the United Nations, its Specialized Agencies and other International Organizations; Future Plan and Perspectives. I sincerely hope Member States would reflect upon the suggestions made in this Report and give their views on implementing them.

## II. RATIONALIZATION OF AALCO's AGENDA ITEMS

10. It may be recalled that at the AALCO's Forty-Second Session (Seoul, 2003), an innovative approach was followed to implement the proposal concerning the rationalization of the consideration of items on the agenda of AALCO's Annual Session. This practice has been followed at the subsequent Forty-Third (Bali, 2004), Forty-Fourth (Nairobi, 2005), Forty-Fifth (New Delhi, HQ) Sessions as well. At the Forty-Fifth Session, among the 16 items on the current agenda, as enumerated below, as many as 9 items were considered for substantive deliberations<sup>1</sup> and in regard to the remaining items, the Session took note of the recent developments. The rationalization of Agenda ensured focused and in-depth deliberations on the selected items. With a view to consolidating this achievement, the Secretariat while preparing the provisional agenda for the Forty-Sixth Session, sought the views of Member States both at the AALCO's Legal Advisers' Meeting in New York as well as the Liaison Officers' Meeting in New Delhi. It is hoped that, this provisional agenda, subject to its approval at the Forty-Sixth Session, will provide a useful basis for fruitful deliberations at that session. As regards the agenda item on "Jurisdictional Immunities of States and their Property", the resolution adopted at the Forty-Fifth Session dropped the item and decided to place it on the agenda as and when required. In view of that decision, as also there being no noteworthy developments on this agenda item, it has not been included in the Provisional Agenda. However, like last year, the Secretariat has prepared documents on all the items on the AALCO's current agenda. A list of these documents covering the substantive items is as follows:

1. Report on Matters Relating to the Work of the International Law Commission at its Fifty-eighth Session
2. The Law of the Sea
3. The Status and Treatment of Refugees
4. Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949
5. Legal Protection of Migrant Workers
6. Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties
7. International Terrorism
8. Establishing Cooperation Against Trafficking in Women and Children
9. The International Criminal Court: Recent Developments
10. Environment and Sustainable Development
11. An Effective International Legal Instrument Against Corruption
12. Report on the Work of UNCITRAL and Other International Organizations in the Field of International Trade Law
13. WTO as a Framework Agreement and Code of Conduct for World Trade
14. Expressions of Folklore and its International Protection
15. Human Rights in Islam

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<sup>1</sup> Agenda Items 1, 2, 4, 7, 8, 11, 13, 14, and 15 were considered at the HQ Session for substantive deliberations, while for the rest of the items, the Session took note of the developments stated in my Report, while agenda items 3 and 5 were considered in two half-day Special Meetings.



## **A. Deliberated Agenda Items**

11. Based upon consultations with Member States, and the Host Government, and the discussion at the Legal Advisers' Meeting and the Liaison Officers' Meeting, following items are placed for detailed and focused deliberations in the Provisional Agenda for the forthcoming Forty-Sixth Session:

1. Report on Matters Relating to the Work of the International Law Commission at its Fifty-eighth Session
2. Law of the Sea
3. The Status and Treatment of Refugees
4. Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949
5. International Terrorism
6. Establishing Co-operation Against Trafficking in Women and Children
7. The International Criminal Court: Recent Developments
8. An Effective International Legal Instrument Against Corruption
9. WTO as a Framework Agreement and Code of Conduct for World Trade
10. Human Rights in Islam
11. Expressions of Folklore and its International Protection

## **B. Elaboration on Non-deliberated Agenda items**

12. Accordingly, recent developments in respect of those items which would not be taken up for deliberations at AALCO's Forty-Sixth Session are as follows:

### **i. Legal Protection of Migrant Workers**

13. The item "Legal Protection of Migrant workers" was included on the agenda of AALCO upon the reference of the Government of Philippines at its Thirty-Fifth Session and has been under consideration since then. During the Thirty-Sixth Session held at Tehran, the Secretariat was directed to study the utility of having a model legislation on the legal protection of migrant workers within the framework of the existing legal regime governing the issue. Member States were urged to submit to the Secretariat their national legislation, if any, so as to help frame the model law. The Governments of Philippines and Sri Lanka responded positively to this proposal. The item was again discussed during the Thirty-Eighth Session and the Secretary-General was requested to consider convening an open-ended working group for in-depth consideration of issues on migrant workers.

14. In 2000, a fresh impetus was given to the work on this issue when International Organization for Migration (IOM) and AALCO entered into a cooperation agreement. Both the organizations had successfully organized a 'Special Meeting on Some Legal Aspects of Migration' in conjunction with the Fortieth Session (2001) of AALCO. During this Session, the Secretariat was also directed to explore the feasibility of drafting a "Model Agreement for Cooperation Among Member States on Issues related to Migrant

Workers”. Pursuant to that mandate a Draft Model Agreement was prepared by AALCO in collaboration with IOM, after duly taking into account the legislative inputs received from Member States. This could serve as a Model Regional Cooperation Agreement between Member States and also could be used as framework for establishing bilateral agreements between Member States on issues concerning the protection of the human rights of migrant workers.

15. The present Secretariat Report contains an overview of the international legal regime that exists on the protection of the rights of migrant workers along with its salient features. It then proceeds to explore the nexus between migration process and development as evidenced in various international law instruments. The international community reaffirmed the importance of locating the migration process within the development matrix during the recently held UN High-Level Dialogue on Migration and Development that took place on 14-15 September 2006, at the UN Headquarters, in New York. The Report then proceeds to outline the important outcomes of this dialogue process.

## **ii. Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties**

16. The item “Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties” was placed on the agenda of the Thirty-Sixth Session of the AALCO following upon a reference made by the Government of the Islamic Republic of Iran. Accordingly, a preliminary study was prepared by the Secretariat, for consideration at the Thirty-Sixth Session held in Tehran in 1997. With a view to carrying out an in-depth discussion on the issues relating to extraterritorial measures affecting third parties, AALCO convened a Seminar on this item in co-operation with the Government of the Islamic Republic of Iran, at Tehran, in January 1998. The Secretariat has been monitoring related developments and providing updates on this matter for consideration at AALCO’s Annual Sessions.

17. As regards future work on this item, it has been the view that Member States should consider sharing their experiences on issues relating to Extraterritorial Application of National Laws. This view has found endorsement in the repeated requests made at the annual sessions of the Organization, wherein AALCO Member States have been urged to provide relevant information and material relating to national legislation on this topic. So far the Secretariat has received responses from Governments of Japan, Mauritius, Republic of Korea and Kuwait on the item. The Secretariat wishes to renew its request and hopes more such information would be forthcoming from other Member States.

18. Based on the views expressed at AALCO’s Annual Sessions, it may be reiterated that the promulgation and application of laws with extraterritorial effects impinges on sovereignty of other States, the legitimate interests of entities and persons under their jurisdiction and the freedom of trade and navigation. Similar concerns have been expressed in many international and regional fora, such as the United Nations General Assembly, Group of 77, Organization of Islamic Conference, the Inter American Juridical

Committee, and the European Economic Community and at the Sessions of the Non-Aligned Movement.

19. The present Secretariat Report *inter alia* focuses upon some of the current developments pertaining to imposition/lifting of sanctions by the United States of America against some of the AALCO Member States, namely Myanmar, Thailand, certain firms in the Peoples' Republic of China, Sudan, Syrian Arab Republic and Islamic Republic of Iran. It reproduces the views and comments received by the Member States on the agenda item and places for consideration the deliberations that took place at the Forty-Third Session of the Organization at Bali in 2004. The Report contains details about the resolution adopted by the United Nations General Assembly at its Sixty-first Session on the "Necessity of Ending the Economic, Commercial and Financial Embargo Imposed by the United States of America against Cuba and also contains the details about the Fourteenth Summit of Non-Aligned Movement and its concern on extraterritorial measures against NAM countries. Finally, it offers some comments and observations of the Secretariat on the agenda item.

### **iii. Environment and Sustainable Development**

20. The law relating to "Environment and Sustainable Development" constitutes an important item on the agenda of AALCO. The Organization has been following the developments on this topic for over thirty years now, with the present focus of the work of the Organization being on the implementation of the three Rio Conventions namely; United Nations Framework Convention on Climate Change (UNFCCC), Convention on Biological Diversity (CBD) and United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994 (UNCCD) and Follow-Up in progress of the Implementation of the Outcome of World Summit on Sustainable Development.

21. Accordingly, the Secretariat Report prepared for the Forty-Sixth Session attempts to furnish an Overview of the Eighth Conference of Parties to the CBD (COP-8, 20-31 March 2006, Curitiba, Brazil) and Third Meeting of Parties to the Cartagena Protocol on Biosafety (COP/MOP 3, 13-17 March 2006, Curitiba, Brazil); the Twelfth Conference of the Parties to the UNFCCC and the Second Conference of Parties serving as the Meeting of Parties to the Kyoto Protocol (COP-12 and COP/MOP 2, 6-17 November 2006, Nairobi, Kenya) and the Seventh Conference of Parties of the UNCCD (COP-7, 17-28 October 2005, Nairobi, Republic of Kenya), as well as the International Year for Deserts and Desertification 2006; and Follow-Up in progress of the Implementation of the outcome of World Summit on Sustainable Development. Finally, it offers some comments and observations on the agenda item under consideration for the Forty-Sixth Session of the Organization.

**iv. Report on the work of UNCITRAL and other International Organizations in the field of International Trade Law**

22. With a view to keeping Member States informed about the recent developments in the field of international trade law, it has been the practice of the Secretariat to prepare a detailed report focusing on the legislative activities of international and intergovernmental bodies. In accordance with this practice, the Secretariat has prepared the report for the Forty-Sixth Session of AALCO.

**a. Report of the United Nations Commission on International Trade Law (UNCITRAL) at its Thirty-Ninth Session**

23. At the thirty-ninth session of the UNCITRAL, held in New York, from 19 June to 7 July 2006, the Commission finalized and adopted the legislative provisions on interim measures and the form of arbitration agreement and a declaration regarding the interpretation of Article II (2) and VII (1) of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Under the Model Law on International Commercial Arbitration interim measure (to maintain or restore the status quo; to prevent or require action to prevent imminent harm; to preserve assets out of which a subsequent award may be satisfied and/or to preserve evidence) could be obtained to protect against a party to the arbitration in jurisdictions other than the place of arbitration. However, while an arbitral ‘award’ is enforceable under the terms of the 1958 New York Convention, the extent to which interim or partial award, even when termed ‘orders’ is enforceable under the Convention is not settled. In order to settle this issue, the UNCITRAL drafted this legislative provision on interim measures and preliminary orders. Further, a legislative provision on the definition and form of arbitration agreement was also adopted in order to ensure a uniform interpretation of the form (oral/written) requirement of arbitral agreement.

24. The Commission also considered and approved preliminarily, a draft UNCITRAL legislative guide on secured transactions. The main achievements of the Session were the approval in principle of the key objectives and major policies of a draft legislative guide on secured transactions. Apart from this, the Commission also considered the report of the Working Group on Public Procurement and Transport Law.

**b. United Nations Conference on Trade and Development (UNCTAD)**

25. The United Nations Conference on Trade and Development (UNCTAD) was established in the year 1964 to promote international cooperation in trade and development and also the economic development of developing countries. The Commission had convened a number of Expert Meetings on various issues of importance in the year 2006. It discusses at length about the tenth session of the Commission on Trade in Goods and Services, and Commodities (DITC); Commission on Enterprise, Business Facilitation and Development and the Commission on Investment, Technology and Related Financial Issues (DITE).

26. The Report emphasizes that the AALCO and UNCTAD in co-operation should continue to strengthen its policy-oriented analysis, consensus building and capacity-building activities on services, dispute settlement procedures, protection of traditional knowledge, Electronic Commerce, Sustainable Development, role of environmental standards along with the support of the donor community, to contribute to assuring development gains for developing countries with a view to achieving the Millennium Development Goals (MDGs).

**c. International Institute for the Unification of Private Law (UNIDROIT)**

27. The International Institute for the Unification of Private Law (UNIDROIT) is an independent intergovernmental organization with its seat at Rome. Its primary purpose is to study the needs and methods for modernizing, harmonizing and coordinating private and in particular commercial law as between States and groups of States.

28. The work programme of UNIDROIT in 2006 has several activities which are of interest to AALCO Member States. During the year 2006, an important development was that the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, 2001 came into force. Draft Protocol to the Cape Town Convention on Matters specific to Railway Rolling Stock has been finalized and may be adopted at the next Diplomatic Conference in 2007. As regards the Preparation of Principles of International Commercial Contracts, a draft Uniform Act has been completed. The Third Edition of the Working Group (WG) for the same held its first Session in 2006 in Rome. With regard to Transnational Civil Procedure, the Council welcomed the adoption of Civil Procedure Principles by the American Law Institute. With respect to Transactions and Connected Capital Markets, the Committee of Governmental Experts has adopted the Preliminary Draft Convention on Harmonised Substantive Rules regarding Securities Held with an Intermediary at its second session in Rome and it consists of 27 articles. On the preparation of Model Law on Leasing, the text of the preliminary draft Model Law on Leasing consisting of twenty-four articles has been submitted to the Governing Council for consideration at its 85<sup>th</sup> Session.

**d. Hague Conference on Private International Law**

29. The Hague Conference on Private International Law is an intergovernmental organization with the primary purpose of the progressive unification of the rules of private international law. The principal method used to achieve the purpose of the Conference consists in the negotiation and drafting of multilateral treaties or conventions in different fields of international law. The work programme for the period 1996-2004 includes issues relating to: Maintenance Obligations; Legalisation, Service and Evidence; International Child Abduction; Intercountry Adoption; Jurisdiction and Foreign Judgments in Civil and Commercial Matters; Electronic Commerce; and Cooperation with UNCITRAL on Insolvency Law.

30. With regard to Special Commission on Maintenance Obligations established by the Special Commission on International Recovery of Child Support and other Forms of

Family Maintenance, a Working Draft on Applicable Law was framed containing ten articles and it mainly deals with provisions of remedies for finding the jurisdiction in order to fix the liability on maintenance issues. The Special Commission after its fifth meeting held from 30 October to 9 November 2006 gave some recommendations, specifically emphasizing on 'aid on ensuring the safe return of children'.

31. With regard to inter country adoption, the Special Commission gave its general endorsement to the draft Guide to Good Practice dealing with Implementation of the 1993 Convention, prepared by the Permanent Bureau. The Guide discusses good practice and general principles grouped under four headings like the protection of the child's best interests; the safeguards for the child against abduction; sale or trafficking, the establishment of a framework of co-operation between authorities; and the establishment of a framework for authorization of competent authorities to approve inter country adoptions.

### **III. ACTIVITIES UNDERTAKEN SINCE THE FORTY-FIFTH SESSION**

32. As the Secretary-General of the Organization, it has been my constant endeavour to implement AALCO's Work Programme as approved at the Forty-Fifth Session. A brief description of the activities undertaken until the writing of this Report is presented below. I shall update this information when I formally place my Report at the Meeting of the Leaders of the Delegations of AALCO Member States at the Forty-Sixth Session.

#### **A. Admission of Republic of Cameroon**

33. It has been my constant endeavour to expand the Membership of the Organization, and bring in more and more countries from our two regions, as also the French speaking Asian-African countries, within the fold of our Organization. Last year, such efforts yielded another positive result, when Cameroon joined the Organization. It may be recalled that the Ministry of External Affairs of the Republic of Cameroon had informed the AALCO on 3 February 2006, that the President of the Republic of Cameroon had approved that the Republic of Cameroon should accede to the AALCO Organization. Following the receipt of this communication, I had circulated a *Note Verbale* to all Member States regarding the admission of Cameroon on 1 June 2006.<sup>2</sup> As within the stipulated period of 60 days, no objection was received from any of the Member States, thus based upon the positive response and support to Cameroon's membership, it became the full Member of the Organization with effect from 1<sup>st</sup> August 2006.<sup>3</sup> Thus, it is highly appropriate that at the forthcoming Forty-Sixth Session of the Organization at Cape Town, South Africa, we would welcome Cameroon as a new Member from Africa. It may be not out of place to mention here that in Africa exists the tremendous potential of further expanding the Membership of the Organization.

#### **B. "Meeting of International Experts on Human Rights in Islam" jointly organized by the Government of Malaysia, Kingdom of Saudi Arabia and the AALCO Secretariat (15-19 May 2006, Kuala Lumpur, Malaysia)**

34. A Meeting of International Experts on Human Rights in Islam (MIEHRI) was held in Kuala Lumpur, Malaysia from 15 to 19 May 2006. The Governments of Malaysia and the Kingdom of Saudi Arabia and the AALCO Secretariat organized the Meeting. This was in pursuance of RES/44/S 16 (1 July 2005), adopted at the AALCO's Nairobi Session (Republic of Kenya) in which the Member States requested the Secretary-General to take necessary steps based on the proposal made by Malaysia to convene an Expert Meeting comprising Member States of AALCO to achieve a concrete study in respect of the issue of human rights in Islam. To this end, Malaysia expressed its willingness to host the meeting of experts in collaboration with the AALCO Secretariat and the Kingdom of Saudi Arabia, the initiator of the subject matter.

35. The main theme of the Meeting was "Understanding Human Rights as Understood in Islam". Based on this theme, MIEHRI was set to serve as a platform for

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<sup>2</sup> AALCO Doc. No. Membership/111/2006/aalco dated 1 June 2006.

<sup>3</sup> AALCO Doc. No. Membership/138/AALCO/2006 dated 23 August 2006.

experts from various fields to examine Islamic principles on human rights with the main purpose to dissuade the misunderstanding regarding Islam and the Muslims, predominantly against the backdrop of the current tensions between the Muslim and the non-Muslim worlds.

36. In his welcome address, Hon'ble Tan Sri Abdul Gani Patail, Attorney-General of Malaysia and Chairman, MIEHRI, observed that the challenge facing the Islamic community in dealing with human rights in Islam must be met with an educated and principled argument built on the principles of Islamic law. He emphasized that the Meeting should not be used as a forum for lashing out at those who deem to be "against" those from the Muslim community.

37. Dr. Abdullah Saleh S. Alhudaithy, Deputy Minister for Judicial Affairs, Kingdom of Saudi Arabia and myself delivered the Introductory Note. In my address, I observed that the topic attained significance in the present context, as it has been a historical fact that there have been systematic efforts from certain quarters to malign Islam and its teachings. I mentioned that in the present context of targeting a particular religious faith in the ongoing 'war against terrorism', it was high time to emphasize that Islam advocated peace and peaceful coexistence. No verse in the Holy Quran preached mass destruction of any group of people, nor did it allow violence as a form of expression, and the blind killing of innocent civilians including women and children, nor did it consider as martyrs those who commit suicide by blasting themselves with the aim of killing others. I explained that there existed a misconception that it was the West which contributed much to the development of international law in general, and human rights law, in particular. To address this misconception, some of the contributions of Islam in developing the law of nations, particularly in the fields of human rights, law of war, law of international trade and law of treaties were highlighted. I further stated that yet another significance of the Meeting stemmed from the position of many Asian, African and non-Western countries that the Western countries were imposing the "western interpretation" of human rights on them. Among current international human rights interpretations, some of which were considered by Muslims as insensitive to Islamic religious and moral view points and also disregarding the cultural specificities of various countries of Asia and Africa.

38. Dr. Abdullah Saleh S. Alhudaithy stated that human rights in Islam were part of the religion and they were not gifted from the ruler or from a legal authority and not a charter or an international act issued from an international organisation or a regional or local authority, but they were part of the religion and the ideology which did not allow omission or delay. He observed that problem arose from lack of understanding from theoreticians in human rights who were ignorant of this fact. In Islam, the person was honored, respected and cared for, his rights honored and cared for by Allah.

39. Hon'ble Dato' Seri Mohammed Nazri Abdul Aziz, Minister in the Prime Minister's Department of Malaysia emphasized that the comprehensiveness of philosophy of human rights in Islam governed not only the belief system, but also the social, political, economic and cultural spheres. He said that the recent reaction of the



Muslim world towards the publication of caricatures defaming the Prophet, and the subsequent defence of the right to publish the caricatures brought about a serious debate about the compatibility of Universal Declaration of Human Rights (UDHR) and Islamic Law. Islam as a religion which commanded large number of adherents worldwide also faced the challenge of determining the relationship between the faith and human rights developed through the western philosophy. He also emphasized Malaysia's commitment towards ensuring compliance with accepted human rights standards. Apart from being signatory to a number of human rights instruments, Malaysia had also established an independent Commission on Human Rights and also supported the efforts of the Organization of Islamic Conference (OIC) towards creating universally accepted human rights standards such as the Cairo Declaration of Human Rights.

40. The other core topics for Plenary discussion were: Human Rights-Islamic Law and International Law; Islam and Human Rights: Managing Diversity; Civil and Political Rights; Economic Social and Cultural Rights; Human Rights of Women and Children; and Islam and War on Terrorism. Several Working Groups were also organized as a follow-up of the Plenary. I chaired the Plenary I of the Meeting "General Overview on Human Rights-the Islamic Law and International Law", in which, History of human rights; Comparative analysis on the sources, Philosophy and concept of human rights in Islam and international law; Comparative analysis on the instruments on human rights in Islam and the instruments on human rights in International law; and Malaysian Perspectives on Human Rights were extensively discussed.

#### **C. Participation at the Fifty-eighth Session of the International Law Commission (July 2006, Geneva)**

41. I attended the second part of the Fifty-eighth session of the International Law Commission (ILC). In my address, I reiterated the importance that AALCO attached to its historical cooperation, which continued now with same vigour. I expressed my sincere appreciation and gratitude on behalf of the AALCO for the presence of Prof. Djamchid Momtaz, Chairman for the Fifty-Seventh session of the International Law Commission as the representative of the ILC at the Forty-Fifth Annual Session of our Organization and for appraising the developments in the Commission's work during the second part of the Fifty-Seventh session of the Commission. I also extended my gratitude to Amb. Chusei Yamada, who in his capacity as representative of his country made valuable contributions to the deliberations on the work of the Commission.

42. Before drawing the attention of the Members of ILC to the item entitled "Report on Matters relating to the Work of the International Law Commission at its Fifty-seventh Session", I briefly explained the activities of the AALCO, since I last addressed the Commission in July 2005. I informed them that AALCO turned 50 now. Established in 1956 as a tangible outcome of historic Bandung Conference, AALCO has grown from seven Members in 1956 to 47 Members now. Another significant achievement for AALCO was the inauguration of the permanent headquarters building in New Delhi. I informed that in this backdrop, the Forty-Fifth Session of the AALCO was held in New Delhi from 3-8 April 2006. Keeping in view the significance of the Session, many

Member States deputed high-level delegations, which took active part in the deliberations.

43. I stated that during these deliberations many delegations offered elaborate comments on the thrust of the Commission's work on various topics as well as their country positions on individual draft articles. However, due to the paucity of time and also keeping in view the final stage of the work in the present quinquennium, I confined myself to certain general observations made by Member States on some of the topics on the agenda of the Commission.

44. I Informed the Commission that on the topic "Diplomatic Protection", in general, the Member States of AALCO welcomed the progress achieved on the topic. Many Delegates were pleased to see that the draft articles adopted in the first reading reflected, the customary rules of international law on diplomatic protection. They hoped that the ILC would continue its efforts to improve draft articles and its commentaries, taking into account comments from States, so that the second reading on this topic could be completed on schedule. Several Delegates welcomed the Special Rapporteur's conclusion that the clean hands doctrine should not be included in draft articles so that the Commission could focus more on matters of a practical nature that needed further elaboration.

45. On the topic of "Reservations to Treaties", I informed that delegates welcomed the tenth report of the Special Rapporteur and appreciated the comprehensive manner in which the report addressed the core issues in the reservations regime and also in developing a Guide to Practice on reservations to treaties. They believed that the guidelines and commentaries, once adopted, would reduce uncertainty and assist States and international organizations in their treaty practice. I further described that it was pointed out that the approach regarding definitions adopted in the draft guidelines should ensure uniformity in the formulation and admissibility of reservations. An observation was made that defining core terms in the international treaty regime would alleviate interpretation problems and thereby reduce subjectivity and welcomed the Special Rapporteur's efforts in defining complex concepts such as "object and purpose". A view was expressed that the gamut of law on reservations ushered in by the Vienna Conventions had, by and large, served well the needs of the international community. The rules established by these Conventions, due to their wide acceptance, have acquired the status of customary norms and it might not be wise to derail them now.

46. On the topic "Unilateral Acts of States", I informed that one view sought the Commission to identify some basic principles governing the Unilateral Acts of States, which could serve as reference points for States. Another view opined that the Commission should formulate concrete principles and guidelines on those Unilateral Acts of States, which create legal obligations before looking into the possibility of drafting legal rules for such acts. On the issue of whether a statement should be treated as creating legal obligation or merely of a political nature, one Delegate was of the view that the intention of the State concerned remained the determining factor. Another Delegate added that it was critically important to formulate a clear definition of Unilateral Acts of

States, which create binding legal obligations so as to distinguish it from those that merely create political obligations.

47. On the topic “Responsibility of International Organizations”, I explained the following observations that were made: one delegation observed that the formulation of the Draft Articles on the Responsibility of International Organizations was timely in view of the increasing range of activities that international organizations have come to regulate in international affairs; another delegate agreed with the Special Rapporteur that wrongful act of the International Organization could consist of either an act or an omission and was satisfied with the fact that draft articles cover both these possibilities; and it was also observed that the whole exercise of the Commission should not go beyond the extent where it would be inappropriate to draw analogies with regard to attribution and responsibility applicable to States in order to develop and articulate principles applicable to International Organizations.

48. On the issue of “Fragmentation of International Law”, I apprised that delegates appreciated the initial but delightful results achieved by the study group on the subject. They expressed hope that the study on fragmentation of international law would facilitate an international consensus on the issue, besides establishing the primary status of the basic principles of international law and standardizing international practice. They expressed optimism that the study would help realize the objective of promoting rule of law throughout the international community.

49. On the topic “Shared Natural Resources”, I summarized the observations made by Member States. These are: it was emphasized that draft articles should be aimed at formulating basic principles, and leave the specific rules to the bilateral and regional arrangements, as transboundary aquifers in the world differ from one case to another; one Delegate also expressed support for the use of the word “*encouraged*” in draft Article 14 in relation to the taking of a precautionary approach by aquifer States in respect of preventing, reducing and controlling the pollution of a transboundary aquifer or aquifer system that might cause significant harm to other aquifer States; and it was also believed that it would be inappropriate to apply the principle of “equitable use” embodied in the 1997 Convention on Non-navigable Uses of Watercourses, for the purpose of building a regime on ground water, where the role of “riparian rights” in the utilization of water was less pronounced.

50. On the topic of “Effects of Armed Conflicts on Treaties”, I informed that one Delegate emphasized that the study under this topic should also cover treaties entered into by international organizations; the scope of “armed conflicts” in the draft articles should be strictly confined to international armed conflicts; and further in-depth study was needed on the issue of the legality of the use of force, as it did have a bearing on treaty relations. Another Delegate was of the view that this subject was not limited to the law of treaties and had close relationship with other domains of international law; *inter alia*, international humanitarian law, particularly law of self-defense and State responsibility.

51. On the topic of “Expulsion of Aliens”, I apprised that one Delegate said that the focus of the study should be on how to strike a balance between the right of a State to expel aliens and the human rights of those expelled aliens. Another Delegate believed that the decision to expel aliens was a sovereign right of State. However, the State should exercise this right in accordance with established rules and principles of international law, particularly fundamental principles of human rights. Any expulsion should be based on legitimate grounds, as defined in domestic law, taking into account issues such as public order and security or other essential national interests.

52. At the end of my presentation, I extended to the Members of the ILC an invitation to participate at the Forty-Sixth Session of the AALCO. Further, as it was going to be the last session of this quinquennium I congratulated all the Members of the Commission for their outstanding contributions to the work of the Commission in the last five years. The Commission has achieved a considerable progress with respect to all the topics that were under its consideration. The Commission has largely completed the work on some. The new topics that were taken up by the Commission were of immense significance and I hoped that the incoming composition of the Commission would carry forward the work with same vigour and enthusiasm.

**D. Preparation of Notes and Comments on Selected Items on the Agenda of the 61<sup>st</sup> Session of the General Assembly of the United Nations**

53. In pursuance of the AALCO’s programme for rendering assistance to Member Governments for their active participation in the work of the Sixth Committee and General Assembly of the United Nations, the Secretariat prepared Notes and Comments on Selected Items on the agenda of the 61<sup>st</sup> Session of the General Assembly. The Document (AALCO/NOTES&COMMENTS/UNGA/61/2006) contained Notes and Comments on the items which included: Report on matters relating to the work of the International Law Commission at its Fifty-Eighth Session; Report on the work done by United Nations Commission on International Trade Law at its Thirty-Ninth Session; Oceans and the Law of the Sea; Measures to Eliminate International Terrorism; International Cooperation in the Fight Against Transnational Organized Crime; Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949; Sustainable Development: Implementation of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa; International Migration and Development; The Illicit Trade in Small Arms and Light Weapons in All its Aspects; and International Humanitarian Law: Recent Developments. This document was circulated to the Diplomatic Missions of AALCO Member States in New Delhi as well as to the Permanent Missions in New York. It was also placed for consideration at AALCO’s Legal Advisers Meeting, in New York, on 30<sup>th</sup> October 2006.

**E. AALCO's Legal Advisers' and Joint AALCO-ILC Meetings  
(30 October 2006, New York)**

**i. AALCO's Legal Advisers' Meeting**

54. The meeting of Legal Advisers of AALCO Member States was held at the United Nations Headquarters, in New York on 30<sup>th</sup> October 2006. H. E. Mr. Narinder Singh, Joint Secretary and Legal Adviser, Ministry of External Affairs, Government of India and President of the Forty-Fifth Session, chaired the meeting. Mr. Bhagwat Singh, Permanent Observer of AALCO to UN Headquarters in New York also participated. Legal Advisers from 25 AALCO Member States, Observers from 11 Non-Member States and 1 Permanent Observer State attended the meeting. Mr. Larry D. Johnson, Assistant Secretary-General for Legal Affairs, represented Mr. Nicolas Michel, Under Secretary-General and Legal Counsel of the United Nations, Mr. Ganeson Sivagurunathan (Malaysia), Vice-Chairman of the Sixth Committee, Mr. Guillaume Pambo-Tchivounda (Gabon), Chairman of the International Law Commission, Prof. Giorgio Gaja (Italy), Prof. Zdzislaw Galicki (Poland), Amb. Chusei Yamada (Japan), and Prof. Alain Pellet (France), (Special Rapporteurs, ILC) were the special invitees who addressed the meeting.

55. H. E. Mr. Narinder Singh welcomed all to the meeting of Legal Advisers and Joint AALCO-ILC meeting. He said that the annual gathering of Legal Advisers of AALCO Member States in conjunction with the Annual Session of the General Assembly had been an important activity of AALCO for several years. He provided a brief overview of the Golden Jubilee Forty-Fifth Session, which was held in the Headquarters of the Organization, in New Delhi from 3 - 8 of April 2006. He further informed that the meeting would be discussing two topics, that is 'International Migration and Development' and 'Illicit Trade in Small Arms and Light Weapons'.

56. In my statement, I underlined the significance of the Legal Advisers' meeting in guiding the activities of the AALCO. I briefly explained about the Forty-Fifth session of AALCO. While focusing on the agenda items for the meeting, I explained that the two topics 'International Migration and Development' and 'Illicit Trade in Small Arms and Light Weapons' were chosen keeping their significance in view and I also gave a brief background of the topics. I also drew the attention of all the Member States to the rather modest budget of AALCO and while thanking the Member States who have paid their contribution, urged those who have so far not paid their contribution to do it in time to facilitate the work of the Secretariat, especially as the Secretariat was moving to a new building and needed lot of capital. I also urged those Member States who have not cleared their arrears to do so for the same reasons.

57. **Mr. Larry D. Johnson, Assistant Secretary-General for Legal Affairs**, representing Mr. Nicolas Michel, Legal Counsel of the United Nations recalled his personal experiences of witnessing AALCO's participation in the ILC sessions. He said that the Legal Office had a long tradition of cooperation with the Organization and they look forward to that in the future also. He said that the topics that were there on the agenda for the meeting were of significance to them, particularly the topic of

‘Responsibility of International Organizations’. He also mentioned about the proposed tribunals of international character in Lebanon and Burundi.

58. Further, **Mr. Ganeson Sivagurunathan, Vice-Chairman of the Sixth Committee** and the Legal Adviser of the People’s Republic of China took the floor and expressed their views.

## **ii. AALCO-ILC Joint Meeting**

59. This meeting was held in conjunction with the AALCO’s Legal Advisers’ Meeting in New York on 30 October 2006. Along with the Legal Advisers of AALCO Member States, Mr. Guillaume Pambo-Tchivounda (Gabon), Chairman of the International Law Commission, Prof. Giorgio Gaja (Italy), Prof. Zdzislaw Galicki (Poland), Amb. Chusei Yamada (Japan), and Prof. Alain Pellet (France), Members of the ILC also attended the Meeting.

60. **Prof. Giorgio Gaja, Special Rapporteur, ILC** spoke on the topic of “Responsibility of International Organizations”, and illustrated the basic tenets of the Commission’s drafts. He said that the Commission has attempted to build a coherent system, which was based on a few premises. The first premise was that, International Organizations had objectively a personality under international law. Whenever they act as entities, which were relatively independent from their members, thus legal personality, and hence the responsibility could not be viewed as depending on whether or not the organization has been recognized by an injured party. Responsibility of an International Organization might arise to both Member States, non-Member States or other entities. In relation to Member States, the rules of the organization might provide specific solutions. There was a definition in the draft about the Rules of the Organization, as comprising the constituent instruments, decisions, resolutions and other acts taken by the organization in accordance with those instruments and established practice of the organization.

61. He further said that if there were special rules, special rules of the organization concerned with the responsibility of an organization towards its Members, these rules would apply. However, with regard to most international organizations, there were no such special rules, therefore, the general rules were what the Commission was trying to draft, also relevant for the relation between international organization and the Member. He added that in view of some comments made by the European Union, the rules of the organization did not govern the relations between international organization and its non-Member States. For international responsibilities of an International Organization to arise two conditions have to be met, first, there must be an action or omission on the part of the organization. Second, that action or omission must constitute a breach of an international obligation.

62. **Mr. Guillaume Pambou Tchivounda, Chairman of ILC**, while emphasizing the significance of cooperation between ILC and AALCO said that the ILC did not work in vacuum and they benefited from the useful information from the AALCO and other

similar organizations. He said that AALCO and ILC should have a joint vision for future activities in the field of progressive development of international law and its codification.

63. **Prof. Zdzislaw Galicki, Special Rapporteur, ILC** informed the meeting that he presented a “Preliminary Report” on the topic, ‘Obligation to Extradite or Prosecute’. He gave brief background history of the topic in the context of the ILC. He said that the report he presented focused on the origins of the topic. The topic was formulated originally in Latin the obligation ‘*aut dedere aut judicare*’. He informed that first of all there was a necessity of solving a key question, which had to be considered. Whether the obligation derived exclusively from relevant treaties or whether it also reflected a general obligation under customary international law, at least with respect to specific international offences. He said that we had to agree that now there was no consensus in the doctrine, although a growing number of scholars support the concept of an international legal obligation ‘*aut dedere aut judicare*’, as a general duty based not only on the provisions of a particular international treaty but also on generally binding customary norms, at least as it concerned certain categories of crimes. While underlining the importance of the topic particularly in the context of international crimes including terrorism, he said that the final outcome of the topic would largely depend on the responses of States to the Commission on the topic.

64. **Amb. Chusei Yamada, Special Rapporteur, ILC**, while speaking very briefly on the topic of ‘Shared Natural Resources’, said that the contributions, comments and observations from Member Governments of AALCO up to now had been less than those they received from the European States. The Commission would like to appeal for more comments, more contributions and more observations from AALCO Member Governments, so that the Commission would be able to reflect and safeguard the position of Asian and African States in the second reading. He said that there were opposing views on whether the Commission should deal with oil and gas within the larger topic of Shared Natural Resources. He informed that while awaiting the comments from Governments on the first reading next year, the Commission would have some preliminary study on oil and gas to see, whether the work on oil and gas was relevant to the work on ground water.

65. **Prof. Alain Pellet, Special Rapporteur, ILC** said that the Special Rapporteurs were always anxious to get reactions from States and it was not only the European but other States also. Too often, when following the debates in the Sixth Committee, he had the impression that there were not enough reactions from Asian and African countries and this sign was something disappointing. If a draft had to really answer the needs of all States, comments must come from all parts of the world. While referring to his work on Reservations to Treaties he agreed that the topic was progressing slowly but maintained that it was better to have a completed topic, which really answers the legal questions. He said that work on the topic of ‘Reservation to Treaties’ has till now dealt with mainly the problem of procedure and now they really entered the difficult legal discussions, the legality of reservations to treaties.

66. **Prof. Choung Il Chee, Member, ILC, (Republic of Korea)** said that AALCO being an Inter-Governmental Organization, it did have a regional character, regional problems and regional solutions. He said ‘are we going to simply repeat what has been done, what has been said in the Sixth Committee?’ It is not really AALCO’s job to do so as such. He suggested that as a regional Inter-Governmental Organization, AALCO should tackle it with a particularity with reference to the *raison de etre* of AALCO. Unless it preserved this, it would loose the character of the Organization. He also suggested that for discussions for the next year meeting the topic of ‘Combating of Piracy’ might be taken up.

67. The **Legal Adviser of the Arab Republic of Egypt** underlined the significance of the Legal Advisers’ meeting and also reiterated the necessity of interactions between AALCO and the ILC to further the work of the organizations.

68. The **Legal Adviser of the Republic of Indonesia**, while referring to other speakers with regard to providing comments to the ILC on the agenda items, said that AALCO could fill this gap by providing training and exchange of views on one or two specific subjects of the work of ILC during the Annual Sessions in the host country. This could be useful for Member States to prepare for the discussions of the Sixth Committee.

**F. Meeting of Experts on the “Emerging Issues on the United Nations Convention on the Law of the Sea”, (24 November 2006, New Delhi)**

69. In commemoration of the Golden Jubilee Celebration of the Asian African Legal Consultative Organization, a one day Meeting of Experts on “Emerging Issues on the UN Convention on the Law of the Sea” was held on Friday, 24<sup>th</sup> November 2006 at New Delhi.<sup>4</sup>

70. I welcomed Dr. P. S. Goel, Secretary, Ministry of Earth Sciences, Government of India; Hon’ble Mr. Narinder Singh, Joint Secretary, Legal & Treaties Division, Ministry of External Affairs, also the President of the Forty-Fifth Session of AALCO; H. E. Dr. Choon-ho Park, Judge of the International Tribunal for the Law of the Sea (ITLOS), Distinguished Experts, Panelists from Member States and other invitees. I informed that in international law circles the AALCO was well recognized for its significant contribution in the elaboration of the United Nations Convention on the Law of the Sea, 1982 (UNCLOS). The Forty-Fifth Annual Session had mandated AALCO to convene a Meeting of Experts to deliberate upon the Emerging Issues on the United Nations Convention on the Law of the Sea and in furtherance of that mandate the meeting was convened.

71. Dr. P. S. Goel, Secretary, Ministry of Earth Sciences, Government of India inaugurated the Expert Meeting and in his inaugural address said that it was a matter of

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<sup>4</sup> The detailed record of the proceedings is contained in: *Verbatim Record of the Meeting of Experts on the Emerging Issues on United Nations Convention on the Law of the Sea*, AALCO/EGM/VR/LAW OF THE SEA/24 NOVEMBER 2006.



honour and privilege for him to inaugurate and deliver the Inaugural Address on behalf of Mr. Kapil Sibal, Hon'ble Minister for Science and Technology and Earth Sciences, Government of India. He said that AALCO's contributions towards bringing together the countries in Asian-African region in consolidating the developing countries position in the United Nations on the progressive development and codification of international law, in general and in the elaboration of the 1982 United Nations Convention on the Law of the Sea, in particular, was very well appreciated. He stated that the Convention was 25 years old and more than 12 years have passed since its entry into force. The time was therefore opportune to examine the working of the Convention and explore the emerging areas of concern particularly for the developing countries belonging to the Asian-African region. Having played a vital role in the development of the UNCLOS, he requested AALCO to explore how best the Asian-African solidarity would further strengthen the legal order established by the UN Convention on the Law of the Sea.

72. Mr. Motokatsu Watanabe, the Deputy Secretary-General of AALCO, concluded the Inaugural Session by giving vote of thanks to all the Delegations from Member States, Expert Panelists and invitees who attended the Expert Meeting. He also thanked especially the Government of Japan and Republic of Korea for the voluntary financial support for making the Meeting successful.

73. The First Session was chaired by Mr. Narinder Singh, President of Forty-Fifth Session of AALCO. He introduced the discussion on topic "An overview of the United Nations Convention on the Law of the Sea-Regime of Oceans-Contribution of Asian-African States". Two distinguished panelists Mr. B. Sen, former Secretary-General of AALCO and Prof. R. P. Anand, a leading scholar on the law of the sea, provided some deep insights into the contribution made by the countries of Asian-African region in the "Constitution of the Sea".

74. The Second Session was chaired by Prof. Rahmatullah Khan, Secretary-General of Indian Society of International Law. He introduced the discussion on topic "Preservation and Protection of Marine Environment: Legal Regime and Emerging Issues" and also explained the importance of the topic in the global arena. Dr. M. Gandhi, Director of Legal and Treaties Division, Ministry of External Affairs, Government of India explained Marine Environment under the topic "Re-defining the Scope of Preservation and Protection of Marine Environment-in the Area beyond National Jurisdiction in the Light of Sustainable Development". Prof. Joanna Mossop, Victoria University of Wellington, New Zealand said that there were many challenges to the marine environment, from pollution to over fishing to the impacts of climate change. She highlighted some of the evolving issues under the title "Preservation of Marine Biodiversity in areas beyond National Jurisdiction".

75. The Third Session was chaired by Mr. B. Sen, former Secretary-General of AALCO. He introduced the discussion topic "Maritime Zones and their Delimitation: The Law and Practice". He said that this topic was essentially a task for the States involved, divergent interests between States having opposite or adjacent coast has led to a rise in recent times in international litigation on the subject. H. E. Dr. Choon-ho Park,

Judge, ITLOS explained the history of the International Tribunal for the Law of the Sea (ITLOS) and also highlighted “Problems of Maritime Boundary Delimitation in Northeast Asia with reference to Intransigent Attitudes of the Coastal States”. Prof. Atsuko Kanehara, Rikkyo University, Tokyo, Japan discussed the above said topic under “Some Remarks on Developing Rules Concerning Maritime Delimitation Mainly of Continental Shelf”. Under this title she highlighted the primary status of “the equidistance and relevant circumstances method” in order to achieve an equitable solution, and also touched upon the temporary situation before final delimitation agreements.

76. All the three sessions were followed by an in-depth discussion both from the floor and also from the dias. On the basis of the discussion, some of the issues were highlighted for the future work of the AALCO on the Law of the Sea. Finally, I concluded the Expert Meeting by assuring Member States and delegates to evolve and enhance the study related to Law of the Sea and to deal with all the challenges confronted by Asian-African countries in this matter.

**G. Secretary-General’s Official Visit to the Sultanate of Oman  
(22-26 April 2007)**

77. On an official invitation, extended by H. E. Mohammed bin Ali al Alawi, Minister of Legal Affairs, Sultanate of Oman, I visited the Sultanate of Oman, from 22 to 26 April 2007. During the course of my official visit, I had held wide-ranging discussion, with several very high-ranking dignitaries of the Government of the Sultanate, to further strengthen the cooperation between the Sultanate and the AALCO. It may be recalled that the Sultanate of Oman joined the Organization in 1976 and has since then been very actively participating in the various activities of the Organization, and within it is considered to be an important Member State. Mr. Mohammed Hussain K. S., Legal Officer, accompanied me.

**i. Meeting with H. E. Mohammed bin Ali al Alawi, Minister of Legal Affairs  
(22 April 2007)**

78. In my meeting with H. E. Mohammed bin Ali al Alawi, I highlighted the contribution of the Sultanate to the growth of AALCO and its cooperation with AALCO. The Minister recalled the excellent cooperation between the Sultanate and AALCO and the services of AALCO in formulating the cooperation in international law matters in the Asian-African continent. He emphasized on the growing relevance of AALCO in the field of international law in the Asian-African region. I briefed the Minister regarding the preparations for the forthcoming Forty-Sixth Session of the Organization, scheduled to take place in Cape Town, South Africa from 2 to 6 July 2007. I also expressed my gratitude to the Minister for extending me an invitation to visit the Sultanate of Oman and according me a very warm hospitality.

**ii. Meeting with H. H. Sayyid Fahd bin Mahmoud al Said, Deputy Prime Minister for the Council of Ministers, Sultanate of Oman (23 April 2007)**

79. It was my privilege to call upon H. H. Sayyid Fahd bin Mahmoud al Said, Deputy Prime Minister for the Council of Ministers on 23 April 2007. The Meeting was attended by H. E. Mohammed bin Ali al Alawi, Minister of Legal Affairs. H. H. Sayyid Fahd appreciated the distinguished effort of the AALCO in addressing issues of concern and cooperation of Member States through legal research, consultation and studies which constitute the literature to lay-down legal concepts to preserve the rights of humanity. We also discussed the role of AALCO in consolidating the Asian-African cooperation in international law. H. H. Sayyid Fahd highlighted the integrated legal system of the Sultanate based on the concept of justice, equality among citizens and *Shura* (Consultation). I expressed my deep appreciation for the comprehensive progress achieved by the Sultanate in all spheres under the enlightened vision and leadership of His Majesty Sultan Qaboos. I also appreciated the Sultanate's unique experience in establishing an institutionalized State governed by the rule of law, impartiality of judiciary and respecting and protecting citizen's rights.

**iii. Meeting with H. H. Sayyid Haitham bin Tariq al Said, Minister of Heritage and Culture (25 April 2007)**

80. I met H. H. Sayyid Haitham bin Tariq al Said, Minister of Heritage and Culture on 25 April 2007. H. E. Mohammed bin Ali al Alawi, Minister of Legal Affairs also attended the meeting. Amongst other things, His Highness expressed his delight that Expressions of Folklore and its International Protection was on the agenda of AALCO and appreciated AALCO's effort in this direction. I appreciated the rich cultural heritage and traditional knowledge of Oman and cherished its effort to preserve and protect its cultural heritage. I informed the Minister that the Expressions of Folklore and its International Protection was an important item on AALCO's agenda and was included on my proposal, in 2004, and has since then been regularly considered in the Annual Sessions. I proposed to the Minister that with the joint cooperation between the Government of the Sultanate of Oman, AALCO and Specialized Agencies of UN, we could organize a joint Expert Group Meeting/Seminar on Expressions of Folklore and its International Protection. H. H. Sayyid Haitham readily accepted the proposal in principle. I said that the Secretariat would work on the proposal in detail regarding the modalities and topics to be discussed and would send a draft to His Highness for consideration.

81. My visit to the Sultanate was a highly successful one. It not only reaffirmed the cooperation and relationship between the AALCO and the Sultanate, it also gave an opportunity to appreciate the rich historical, cultural and religious heritage and significance of one of the important Member States of AALCO. The Meetings with the H. E. Mohammed bin Ali al Alawi, Minister of Legal Affairs; H. H. Sayyid Fahd bin Mahmoud al Said, Deputy Prime Minister for the Council of Ministers; and H. H. Sayyid Haitham bin Tariq al Said, Minister of Heritage and Culture; were very productive and gave a new dimension and direction to the effective cooperation between the AALCO and the Sultanate.

82. An important outcome of the visit was the acceptance in principle of my proposal for organizing an Expert Group Meeting/Seminar on Expressions of Folklore and its International Protection jointly with the Ministry of Heritage and Culture, Sultanate of Oman and AALCO and with the cooperation of the UN specialized agencies, by H. H. Sayyid Haitham, Minister of Heritage & Culture.

83. The Sultanate's media, including audio and visual media, gave much significance to my visit. The visit was widely reported in all major Arabic and English newspapers, including the *Times of Oman*, *Oman Observer* and *Oman Tribune*. Apart from News dailies, the Oman Television and Radio gave important coverage of the visit.

## **H. AALCO's Representation at International Meetings**

### **i. Secretary-General's Participation in the Joint ECOWAS-ECCAS-UNICEF Meeting of Ministers on Trafficking in Persons (6-7 July 2006, Abuja, Nigeria)**

84. Upon an invitation from the Attorney-General and the Minister of Justice of Nigeria, I participated in the Meeting of Ministers on Trafficking in Persons held in Abuja on 6-7 July 2006. Trafficking in women and children has been a keenly debated topic within the AALCO since the topic was first taken up in 2001. The agenda for the above stated meeting included presentation of the Economic Community of West African States (ECOWAS)/ Economic Community of Central African States (ECCAS) report of the Regional Meeting to Combat Trafficking in Persons. It was followed by a lucid analysis and assessment of the situation by the UNICEF representative. An overview of the Joint Plan of Action was put forth for consideration of the meeting. A multilateral agreement was also placed before the meeting. On the second day a Resolution and Joint Plan of Action and Multilateral Agreement by Ministers was adopted and signed.

85. The resolution highlighted that immense suffering was caused by the growing incidence of trafficking in West and Central African sub-regions and from other Member States to other parts of the world. It recognized the root causes of trafficking as poverty, lack of education and lack of equal opportunity that made women and children more vulnerable to trafficking. It also recalled the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the necessity to ratify the same. The resolution also called upon the Member States of ECOWAS and ECCAS to ratify the African Charter of the Rights and Welfare of the Child. It finally adopted the Plan of Action against Trafficking in Persons 2006-2008, pledged to adopt and sign the Multilateral Cooperation Agreement to Combat Trafficking in Persons especially Women and Children and declared that all necessary efforts would be taken to fully implement the Joint ECOWAS/ECCAS Plan of Action against trafficking in persons 2006-2008. On the occasion of this meeting, I delivered a statement, in which I highlighted the ever-growing relevance of this topic and the need for AALCO to cooperate with Organizations such as the ECOWAS and ECCAS and an exchange of views and experiences and to coordinate and cooperate on a solid basis to combat this crime.

ii. **Deputy Secretary-General Mr. Motokatsu Watanabe's Participation in the "Symposium on the Jurisprudence of the International Tribunal for the Law of the Sea-Assessments and Prospects" (29-30 September 2006, Hamburg, Germany)**

86. A Symposium on the Jurisprudence of the International Tribunal for the Law of the Sea: Assessment and Prospects was held at the seat of the Tribunal in Hamburg on 29 and 30 September 2006. This Symposium was organized by the International Foundation for the Law of the Sea (IFLOS) Hamburg and also it was convened to commemorate the tenth anniversary of the inauguration of the Tribunal. About 170 delegates, including Member Governments, representatives of United Nations, researchers, lawyers from various countries participated.

87. Mr. Motokatsu Watanabe, Deputy Secretary-General, AALCO participated at the Symposium and delivered the contributory message for commemoration of the Tenth anniversary of ITLOS.

88. Two-day sessions were organized to discuss the issues relating to achievements and future prospect of ITLOS. The first session was on *Introduction to International Dispute Settlement* by Judge Rudiger Wolfrum, President of ITLOS, and *The Tribunal and General International Law* by Sir Michael Wood. The second session debated the subject: *The Environmental Jurisprudence of the International Tribunal for the Law of the Sea* by Prof. Alan E. Boyle, University of Edinburgh, *The Jurisprudence of the International Tribunal for the Law of the Sea relating to Fisheries: Is there much in the net?* by Prof. Robin Churchill, Cardiff University U. K., *The International Tribunal for the Law of the Sea and the Prompt Release of Vessels* by Prof. Thomas Mensah, *The ITLOS and Provisional Measures : Settled Issues and Pending Problems* by Prof. Francisco Orrego Vicuna, Universidad de Chile.

89. First session was chaired by Judge Hugo Caminos, Second session was chaired by Judge Jean Peerre Cot and Judge Albert Hoffmann, respectively. Judge Rudiger Wolfrum, President of the Tribunal affirmed that, "in its first ten years the Tribunal has been successful in helping States of both developed and developing nations to reach a peaceful solution with respect to cases involving, *inter alia*, the freedom of navigation, prompt release of vessels and their crews, protection and preservation of the marine environment, the commissioning of a nuclear facility and the movement of radioactive materials, land reclamation activities, fisheries, nationality of claims, use of force in law enforcement activities, hot pursuit and the question of the genuine link between the vessel and its flag State." He went on to note that the Tribunal's "decisions have not only enabled parties to resolve their disputes but have also contributed to the development of international law in general, in particular with regard to environmental law". President Wolfrum concluded his statement by stating that the Tribunal strove to uphold the rules of law as enshrined in the Convention and would endeavour to promote the rule of law in matters relating to oceans, and strive to assist in the settlement of disputes whenever it is called upon to do so.

90. Prof. Alan Boyle, Professor of Public International Law, University of Edinburgh made a presentation on “The Environmental Jurisprudence of the International Tribunal for the Law of the Sea”. He highlighted in his presentation that the last decade had witnessed an unparalleled growth in the environmental jurisprudence of international tribunals. Out of the seventeen cases decided by the International Tribunals pertaining to international environmental law, three of ITLOS decisions had significant bearing on environmental issues. He noted that the Tribunal has not taken a narrow view of what was meant by the “marine environment”. He addressed the issues that have arisen in the ITLOS cases under four heads: the precautionary principle; environmental impact assessment; environmental cooperation and jurisdiction over marine environmental disputes.

91. Prof. Robin Churchill, Professor of Law, Cardiff University made a presentation on “The Jurisprudence of the International Tribunal for the Law of the Sea Relating to Fisheries: Is there much in the Net?” He emphasized that the degree to which the ITLOS was able to develop a significant jurisprudence relating to the substantive fisheries provisions of UNCLOS and other fisheries treaties depended both on the number and kind of cases that were referred to it and also on the type of proceedings in which fisheries issue may arise. These factors helped to explain why the fisheries jurisprudence of the Tribunal was at present relatively modest, even though matters to do with fishing formed the principal subject matter of no less than ten of the thirteen cases contained in the Tribunal’s List of cases.

92. Mr. Thomas A. Mensah, former President of the ITLOS spoke on “The International Tribunal for the Law of the Sea (ITLOS) and the Prompt Release of Ships”. He mentioned that Article 292 of the UN Convention on the Law of the Sea gave ITLOS compulsory (and residual) jurisdiction to deal with applications for the prompt release of ships and crew when they were detained in a foreign port. Certain provisions of the Convention empowered a coastal State to arrest and detain a foreign ship if there was evidence that the ship had violated applicable national or international laws. However, in some cases the detaining State was obliged to release an arrested ship and its crew upon the posting of a reasonable bond or other financial security. If the detaining State failed to release the ship as required, an application may be made to ITLOS which could order the release of the ship and crew, upon the posting of such reasonable bond or other financial security as it may determine. ITLOS since its establishment has dealt with several of such cases and established a comprehensive judgment on the subject.

93. Prof. Francisco Orrego Vicuna, Director of the Institute of International Studies at the Universidad de Chile, Santiago de Chile, reviewed the contribution of ITLOS in the settlement of some major issues concerning provisional measures in international law generally and the trends of Tribunal in particular.

## **I. AALCO Secretariat's Participation in Meetings held in India**

### **i. UNHCR Seminar on "Refugee Protection: New Challenges" (19 June 2006, New Delhi)**

94. The United Nations High Commission for Refugees (UNHCR) had organized a one-day Seminar on "Refugee Protection: New Challenges", on 19 June 2006, in New Delhi. The seminar was convened on the eve of World Refugee Day and the speakers included Dr. Rajiv Dhavan, Senior Advocate, Supreme Court of India; Justice Bhaskar Rao, Member, National Human Rights Commission of India (NHRC); Dr. V. G. Hegde, Centre for International Legal Studies, JNU; Dr. Sanjoy Hazarika, Centre for North East Studies; Prof. Muchkund Dubey, Former Foreign Secretary; Dr. Mahendra Lama, Chairman of the Centre for South, Central, South East Asian and South West Pacific Studies, JNU; Mr. P. R. Chari, Institute for Peace and Conflicts Studies and Mr. Siddharth Varadarajan, Deputy Editor, The Hindu. Mr. Leeladhara Bhandary M. and Ms. Shannu Narayan, Legal Officers attended the seminar, on behalf of the AALCO.

95. As an introduction to the Seminar Ms. Carol Batchelor, Chief of Mission, UNHCR, New Delhi emphasized on the outstanding role that the UNHCR has attained in the last 25 years in the field of refugee protection and in rehabilitating the refugees at a larger scale world-wide and especially in India. Justice Bhaskar Rao stated that the concept of refugees was very old one and it had to be looked also from humanitarian angle. Dr. Rajeev Dhavan emphasized on the need for a domestic legislation on Refugee Law in India. Dr. V. G. Hegde concurred with this view. Mr. Siddharth Varadarajan emphasized that migration essentially was an economic phenomenon and there was an urgent need to de-securitise approaches to tackling migration. He stressed that migration was a healthy part of normal economic life.

### **ii. Seminar on "The Future of International Refugee Law" (31 August 2006, New Delhi)**

96. A seminar on 'The Future of International Refugee Law' was organized by the Indian Society of International Law (ISIL) at its premises on 31<sup>st</sup> August 2006. Mr. Motokatsu Watanabe and Dr. Xu Jie, Deputy Secretaries General, AALCO; and Mr. Pandiaraj, Legal Officer represented AALCO. A number of scholars and academicians took part in it. In his welcome address, the Secretary-General of ISIL, Prof. Rahmatullah Khan opined that the topic was highly contemporary and involved many critical issues of international law. Mr. Satvinder Juss, Reader in Law, Kings College, London made a key presentation on the topic. Commenting on India's reluctance to become a Party to the 1951 Refugee Convention, he stated that despite that fact India's record in this area remained second to none. He further added that more and more human rights violation were being brought into the term refugee.

**iii. Eighteenth Meeting of Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer  
(30 October - 3 November 2006, New Delhi)**

97. The Eighteenth Meeting of Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer was held at Vigyan Bhavan, New Delhi, from 30<sup>th</sup> October to November 3<sup>rd</sup> 2006. Representatives of Governments, UN Agencies, intergovernmental, non-governmental organizations, academia and industry attended the meeting. Deputy Secretary-General Mr. Motokatsu Watanabe; Senior Legal Officer Mr. Shikhar Ranjan; Legal Officer Ms. Shannu Narayan represented the AALCO at the meeting.

98. The meeting had two levels, (i) Preparatory Segment and (ii) High level Segment. Mr. A. Raja, Minister for Environment and Forests, Government of India stressed the importance of the Montreal Protocol. The High-Level Segment was inaugurated by the Prime Minister of India Dr. Manmohan Singh who underscored the importance of Montreal Protocol for environment protection. Several delegates noted the success of the Montreal Protocol since 190 countries have ratified it and it would celebrate its 20<sup>th</sup> anniversary in the year 2007.

**(iv) Round-table seminar on “Indo-US Nuclear Deal: Legal and Policy Issues”  
(25 November 2006, New Delhi )**

99. A Round table seminar was organized by the Centre for International Legal Studies (CILS), Jawaharlal Nehru University (JNU) on 25 November 2006. I attended the seminar. The other officers present at the seminar from AALCO were Senior Legal Officers Dr. Burra Srinivas and Mr. Rajesh Babu, Legal Officers Mr. Mohammed Hussain, Mr. Leeladhara Bhandari, Ms. Shannu Narayan, Mr. Senthil Kumar and Mr. S. Pandiaraj. Deliberations in the seminar were centered on some crucial questions relating to the Indo-US Nuclear Deal *inter alia*, whether political statements in the deal could be translated into legal commitment; whether the deal would give way to extra-territorial application of US law in India; could India commit itself to IAEA safeguards in perpetuity; what could be the possible tools of interpretation for terms such as “national security,” “critical minimum deterrence,” etc.; and finally how would the Indo-US Nuclear deal concur with the entire disarmament debate.

**v. Secretary General’s Participation at the World Congress on Human Rights  
(10 December 2006, New Delhi)**

100. I delivered the Convocation Address at the award of Post Graduate Diploma Course in Human Rights at the Delhi based Indian Institute of Human Rights on 10 December 2006. In my address, on the occasion, I emphasized on the various initiatives at the international level for the protection of fundamental human rights of all people without any discrimination whatsoever. I also presented a gold medal to the student who topped the postgraduate course offered by the Institute.



**vi. Felicitation Function of Mr. Narinder Singh, President of the Forty-Fifth Session of AALCO, on becoming a Member of the International Law Commission, Organized by Indian Society of International Law (31 January 2007, New Delhi)**

101. The Indian Society of International Law (ISIL) felicitated Mr. Narinder Singh, Joint-Secretary, Legal & Treaties Division, Ministry of External Affairs, Government of India and President of the Forty-Fifth Session of AALCO, on 31 January 2007 on getting elected as Member of the International Law Commission. Mr. Ram Niwas Mirdha, President of the ISIL observed that Mr. Narinder Singh had received the second highest votes in the Asian Region. He stressed that this was because of his intellectual capacity and personal relationships with other Asian region countries. Prof. R. P. Anand, Executive President, ISIL also congratulated Mr. Narinder Singh on being elected to this reputed post as a representative of the Government of India. I, in my capacity as the Secretary-General of AALCO and on my personal behalf, congratulated Mr. Narinder Singh on becoming the Member of the ILC. I mentioned that that Mr. Narinder Singh and myself had worked together for more than ten years. I also added that Mr. Narinder Singh was always co-operative while dealing with matters relating to Asian and African States. I expressed my hope that Mr. Singh would continue with the same kind of the cooperation in future with the additional responsibility as an ILC Member.

102. Mr. Narinder Singh, observed that his election to the prestigious post of Member of ILC was an honour for Indian International Lawyers and the International Law Scholars who really worked for the promotion of international law. He looked forward for support from the Professors, International Law Scholars and International Lawyers in discharging his functions as Member of ILC.

103. Deputy Secretaries-General Mr. Motokatsu Watanabe and Dr. Xu Jie; Senior Legal Officer, Mr. Shikhar Ranjan; and Legal Officer, Mr. Leeladhara Bhandary, also attended the felicitation function.

**vii. Lecture by Dr. S. R. S. Bedi, Head of the Archives Division, the International Court of Justice, The Hague, the Netherlands (AALCO Secretariat, 15 March 2007)**

104. A Lecture on the topic, “Overlapping of Legal Regimes of International Humanitarian Law and Human Rights Law: An Analysis of Confluence into Human Dignity Law” was delivered by Dr. S. R. S. Bedi, Head of the Archives Division, International Court of Justice, The Hague was held at the Secretariat on 15 March 2007. Dr. Xu Jie, the Acting Secretary-General presided over the lecture and the Professional Category Staff at the Secretariat attended it.

105. Dr. Bedi made an elaborate and excellent presentation on the topic. He started with relating the origins and development of both human rights and international humanitarian law (IHL). He said that Human Rights law is an extension of IHL law and evolved after World War II and mainly as a result of genocide. He cited Henry Dunant’s

spirit and his book “A Memory of Solferino”, and analysed the Four Geneva Conventions and two Additional Protocols of IHL. He argued for merging both human rights law and IHL. Further, he stressed the need for an international police force or in his words, force monopoly system, which would be impartial, neutral and independent organ. The presentation was followed by a lively discussion between the presenter and Staff Members.

## **J. Publications**

### **i. Yearbook of the Asian-African Legal Consultative Organization**

106. The annual report of the Organization entitled *Yearbook of the Asian-African Legal Consultative Organization*, which is being published by the Secretariat since 2003 is in the fourth year of publication. The Book provides in comprehensive manner information about AALCO, Secretariat Reports prepared on the agenda items, Summary of deliberations and the Resolution adopted at the Annual Session. In addition, it contains statements delivered by the Secretary-General and the Deputy Secretaries-General. In these four years, the Yearbook has established its place firmly among the publications of this nature. It has been well received by the Member States as well as other interested readers. It would be my pleasure to place for the consideration of the Member States volume IV for the year 2006 of this Yearbook at the forthcoming Session of the Organization. I take this opportunity to request Member States to provide me with their inputs so that the quality and content of this publication could be further improved and could find its place of pride in international law publications.

### **ii. AALCO Quarterly Bulletin**

107. An important initiative commenced in the year 2005 was the re-launch of AALCO Quarterly Bulletin. It is a completely restructured and revitalized version of the earlier AALCO Bulletin published as Quarterly and later biannually by the Secretariat. The present *AALCO Quarterly Bulletin* contains well-researched articles on international law; write-ups on selected current developments; and select documents of relevance to the Asian-African states. The Bulletin is now in the third year of its publication. I request Member States to give support and encouragement to nurture this publication. A useful way for this could be by providing to the Secretariat articles from eminent international law scholars for publication in the Quarterly Bulletin.

### **iii. Newsletter of the Asian-African Legal Consultative Organization**

108. In order to cover the entire gamut of diversified activities of AALCO and to reflect upon the growing stature of the Organization, the Secretariat commenced with the publication of the *Newsletter of the Asian-African Legal Consultative Organization* from September 2004. I have received positive feedback regarding the Newsletter from our Member States.

#### **iv. Other Publications**

109. The Report<sup>5</sup> and the Verbatim Record of Discussions of the Forty-Fifth Session<sup>6</sup> have been already placed for the consideration of Member States. In addition, the Secretariat has also brought out the Verbatim Records of The Meeting of Legal Advisers of AALCO Member States and AALCO-ILC Joint Meeting,<sup>7</sup> held in New York on 30 October 2006. The Secretariat has also brought out the Report of the Meeting of International Experts on Human Rights in Islam<sup>8</sup>, jointly organized by the Government of Malaysia; the Kingdom of Saudi Arabia and the AALCO Secretariat, held in Kuala Lumpur, Malaysia (15-19 May 2006). The Secretariat is in the process of bringing out a commemorative volume in conjunction with the Golden Jubilee Celebration of AALCO. The Verbatim Record of the Meeting of Experts on “Emerging Issues on the UN Convention on the Law of the Sea” organized by the AALCO Secretariat on 24 November 2006 at the Headquarters in New Delhi was soon placed for the consideration of the Member States on 9 March 2007.<sup>9</sup>

#### **K. Report on Matters Relating to the Construction of the Headquarters Building**

110. It may be recalled that during the Forty-Fifth Golden Jubilee Session of AALCO held in New Delhi 2006, the new Permanent Headquarters Building of the AALCO was inaugurated by Hon’ble Mr. Anand Sharma, Minister of State for External Affairs, Government of India on 6<sup>th</sup> April 2006. Due to some pending works and technical requirements, such as the construction of the ramp and utility connections, the Secretariat was not able to shift to the new Building. I hope that we could shift to the new building within the first half of the year 2007. I also take this opportunity to reiterate my request to Member States to provide their National Flags to the Secretariat for display in the Permanent Headquarters. May I also suggest to Member States to present to the Secretariat an item representative of their national culture and heritage to display in the new building.

111. The new headquarters building, comprising the Secretariat and Secretary-General’s residence, is a massive office and residential complex. It would be necessary to furnish this huge building in accordance with the status of an Inter-governmental Organization. This involves a large expenditure and it would not be possible to meet such expenses from the regular budget of the Organization. In this regard, I might humbly request Member States to make voluntary contributions for ensuring appropriate furnishing of the Headquarters building in case we find that our resources cannot cover the huge expenses the Secretariat may incur.

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<sup>5</sup> AALCO/45/NEW DELHI (HQ)/2006/REP.

<sup>6</sup> AALCO/45/NEW DELHI (HQ)/2006/VR.

<sup>7</sup> AALCO/LAM/VR/NY/2006.

<sup>8</sup> AALCO/EGM/REP/HUMAN RIGHTS IN ISLAM/15-19 MAY 2006

<sup>9</sup> AALCO/EGM/VR/LAW OF THE SEA/24 NOVEMBER 2006.

112. May I also, on behalf of the AALCO Secretariat and on behalf of all the AALCO Member States, take this opportunity to express our deep gratitude to the Government of India for the generous gesture. Thanks are also due to the Ministry of External Affairs and several other departments and agencies of Government of India for the tremendous efforts they have exerted in finalising the Headquarters project.

#### **L. The Secretariat**

113. Apart from the Secretary-General (Arab Republic of Egypt), three Member Governments, namely, the Japan, People's Republic of China and Islamic Republic of Iran have offered assistance to AALCO by deputing their senior officials to the Secretariat. Deputy Secretaries-General; Mr. Motokatsu Watanabe (Japan), Dr. Xu Jie (People's Republic of China) and Amb. Mr. Reza Tabatabaei Shafiei (Islamic Republic of Iran) has been rendering exemplary services to the Secretariat. Mr. Watanabe was recently transferred to Iceland to head the Diplomatic Mission of his Government in that country. I wish to place on record my gratitude to these Member Governments for rendering such valuable assistance, and also wish to express my deep appreciation for the dedicated services of these officials deputed to the AALCO.

114. In addition to the International Category Officials at the Headquarters, there are three Permanent Observers to the United Nations: Mr. Bhagwat Singh at the UN Headquarters in New York; Mr. George Abi-Saab at the United Nations Offices in Geneva and Madam C. Nemoto Deputy Permanent Observer to the European Offices of the United Nations in Vienna.

115. As outlined in my Report for the Nairobi Session, for the expansion of the Secretariat, I have taken several steps. I carried out career advancement by way of promotion of officers in the legal staff. In the Legal Category, Mr. R. Rajesh Babu was promoted to the rank of Senior Legal Officer, and Mr. S. Pandiaraj was promoted to the rank of Legal Officer.

116. It has been my constant endeavor to encourage the legal staff at the Secretariat to upgrade their skills and widen their knowledge base in international law by participating in various seminars and conferences on International Law, both in India and abroad. In pursuance of this objective, I had sent Mr. R. Rajesh Babu, Senior Legal Officer, to Geneva based Graduate Institute of International Studies to participate and make a presentation.

117. The strength of the local staff in the Secretariat is 21. The Legal Staff comprises of one Assistant Principal Legal Officer, three Senior Legal Officers, and five Legal Officers. In addition, there is a Librarian in the Professional category. The remaining staff is in the administrative and supporting category.

118. I would also like to bring on record the continued support that I have received from my dedicated and hardworking staff who do not spare any efforts in assisting me and my deputies in the discharge of our official mandate.

## **M. Report on the Functioning of the Centre for Research and Training**

119. The Data Collection Unit, which had been set up in the Secretariat in 1992, was renamed as the “Centre for Research and Training” (CRT) in accordance with a decision taken in the Fortieth Session of AALCO in 2001. The Centre has been engaged in various activities to strengthen its research programme and to disseminate information on AALCO through its website and electronic communication facilities. This year AALCO website has been assigned the domain name of ‘www.aalco.int’ which is exclusively allotted to the intergovernmental organizations by the Internet Assigned Numbers Authority (IANA). The website is being constantly updated. An initiative was also taken to establish and promote Centre’s relations with the Universities and research institutions engaged in international law matters. Member Governments have been requested to assist the Secretariat in facilitating such contact. I certainly hope that there would be major developments in the CRT activities once the Secretariat moves to its new permanent headquarters.

## **N. Budget and Finance**

### **i. AALCO’s Draft Budget for the year 2008**

120. Based upon the decision taken by the Heads of Delegations during the Forty-Fifth Session, the draft budget for the fiscal year 2008 has been prepared. Few adjustments have been proposed under certain heads and sub-heads. No Budget provision has been kept for new Headquarters in Budget for 2008, keeping in view that AALCO Secretariat would be moving to its New Headquarters by June 2007. There is an overall budgetary deficit, which would be met out of Reserve Fund, and hopefully it would not be spent in its totality. All efforts would be made to incur expenditure within the budgeted amount.

121. In compliance with Rule 24(3) of the Statutory Rules of the Organization, a draft budget for the year 2008 was placed before the 292<sup>nd</sup> meeting of the Liaison Officers held on 21 December 2006 and deliberated at the 293<sup>rd</sup> meeting of the Liaison Officers held on 12 April 2007. It will now be placed for adoption by the Member States at the Forty-Sixth Session.

### **ii. Position of Arrears of Contribution**

122. The Secretariat is in a difficult financial situation, which is mainly due to arrears of contribution payable by Member States. I am sorry to state that some Member States are in arrears for more than 10-12 years. I would once again like to urge Member States to clear up their pending arrears as this will go a long way in strengthening the financial base of the Organization and help in carrying out its mandated activities which cannot materialize due to lack of funds within the Secretariat.

## **O. Archives**

123. Keeping in view the importance of proper documentation in facilitation of an Organization's work, I conceived and adopted an Archives Policy. The Policy was adopted, *inter alia*, to ensure greater and easier access to official documents and to prevent misplacement of the official documents, which thereby ensures improved efficiency in carrying out the work of the Organization. The Policy was aimed at consolidating and organizing the documents in a scientific and methodical way at one place according to an adopted Categorization of the "Official Archives for the AALCO Headquarters". In accordance with the adopted plan, the work is being carried out on a regular pace and I am confident that before we move to our permanent headquarters building the Archives of the Organization would be properly in place and we can set up a proper Archives Section in the new building.

## **P. Revision of Statutory Rules of the Organization**

124. It may be recalled that the Nairobi Session vide RES/44/ORG 6 had mandated the Secretary-General after due consultation with the Committee of Liaison Officers for the revision of Statutory Rules, to prepare revised draft of the Statutory Rules. The preparation of the draft for revision of the Statutory Rules of the Organization is a long process and the Secretariat proposes to initiate work in this regard after shifting to its Permanent Headquarters.

#### **IV. STRENGTHENING THE COOPERATION WITH THE UNITED NATIONS, ITS SPECIALIZED AGENCIES AND OTHER INTERNATIONAL ORGANIZATIONS**

##### **A. Cooperation between the Asian-African Legal Consultative Organization and the United Nations**

125. It may be recalled that the United Nations General Assembly vide its Resolution 35/2 of 13 October 1980, had requested the AALCO to participate in its sessions and work in the capacity of observer. Since then AALCO has been actively participating as an Observer in the work of the UN General Assembly.

126. Following the adoption of new pattern by the General Assembly, the item pertaining to the Cooperation between the Asian-African Legal Consultative Organization and the United Nations is considered on a biennial basis. The Assembly had vide its resolution 59/3 of 3 December 2004 included the item in the provisional agenda of its sixty-first Session and the item was considered on 20 October 2006. The General Assembly would once again take up this agenda item at its sixty-third Session in 2008.

127. In my address to the General Assembly, I explained the various facets of work done by AALCO in the period July 2004 to June 2006 and, *inter alia*, mentioned that the AALCO provided a common platform for bringing together the Asian and African States to strengthen their participation in the development of international law to enable them to realize their goals and aspirations. I informed that seven States founded the Organization in 1956 and today it was proud to have a membership of 47 States representing two-thirds of the world population. In this golden jubilee year, coinciding with the Forty-Fifth Session of AALCO, the new building of the Permanent Headquarters of the Organization was inaugurated in New Delhi on 6 April 2006.

128. I informed the General Assembly that the long-term work programme of AALCO had many topics which were relevant to the General Assembly's agenda such as the Law of the Sea; Cooperation against trafficking in Women and Children; the work of International Law Commission; International Terrorism; Environment and Sustainable Development etc. The Organization's contribution in bringing together the countries of the two continents and coordinating the position of developing countries in codification conferences under the auspices of the United Nations was well recognized. There existed a great deal of cooperation between the AALCO and several inter-governmental Organizations and this is further strengthened by conducting seminars and workshops on several topics of international law. In conclusion, I emphasized the need for full respect, enhancement and implementation of the rule of law everywhere, to keep the international community within the boundaries of a civilized world.

129. The **Delegate of India** introduced the draft text of the resolution on "cooperation between the UN and the AALCO". He stated that India was holding the presidency of the Organization for one year, during which it would stress the need for AALCO to expand its activities, such as; promoting, teaching and advising on matters related to international

law and education; offering fellowships to Asian and African students for higher learning in the field of international law and the publication of books on international law.

130. The **Delegate of the People's Republic of China** observed that AALCO was the only intergovernmental legal consultative body in the two regions. The Organization had during the last fifty years, continued to work as a forum for exchange of information and cooperation in global legal matters among African and Asian countries. It helped them engage in international legal practices, while promoting the gradual development and codification of international law. He said that, as Asian and African countries had registered considerable political, economic and social progress in recent years, those countries would continue to extend their participation in international legal affairs and would take a more effective part in the process of democratization and the rule of law governing international relations.

131. The **Delegate of Japan** also expressed his country's support for cooperation between the United Nations and the AALCO and said that the work of codification, in particular, would be greatly advanced by strengthening the interaction.

132. Resolution 61/3 adopted by the United Nations General Assembly, among others, requested the Secretary General to submit to the General Assembly at its sixty-third session a report on cooperation between the United Nations and the AALCO.

## **B. Strengthening the Cooperation with Specialized Agencies and other International Organizations**

133. From the very beginning, it has been a privilege for AALCO to work in cooperation with the United Nations, its Specialized Agencies and other International Organizations. As envisaged in its Statutes, such co-operation began with the International Law Commission. Subsequently, on matters concerning Status and Treatment of Refugees, AALCO and UNHCR established close relations. With its involvement in International Trade Law matters, AALCO initiated its cooperative arrangements with UNCITRAL, UNCTAD, UNIDO and other Inter-governmental Organizations, such as the UNIDROIT and the Hague Conference on Private International Law. However, a great impetus was given to such cooperative arrangements with the according of Permanent Observer Status to AALCO by the United Nations in 1980. As a follow-up, Agreements were concluded with the United Nations, IMO, IAEA, UNIDO, UNEP, and UNITAR. AALCO also concluded similar co-operation agreements with International Organizations, which include, Council of Europe, Commonwealth Secretariat, League of Arab States and the African Union (formerly Organization of African Unity).

134. When I took over as the Secretary-General, I intensified my endeavours to promote such co-operative arrangements. In August 2000, a Cooperation Agreement was signed between AALCO and WIPO. In 2001, Memorandums of Understanding (MOUs) were signed with International Organization for Migration (IOM), Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations



University (UNU). In 2002, similar MOUs were concluded with the UNHCR and ICRC. The Cooperation Agreement with the ICRC entered into force in July 2003. In September 2004, administrative arrangements for cooperation between the International Tribunal for the Law of the Sea and AALCO were formalized. At the Nairobi Session (2005), I had signed a revised and revitalized Memorandum of Understanding with the United Nations Environment Programme (UNEP). Good progress has been made in the negotiations with UNCTAD and UNICEF to conclude such agreements. I intend to initiate such a process with Organization for Islamic Conference, NAM and the ASEAN as well.

135. Last year, I also initiated discussion with the Hague Conference on Private International Law (HCCH, The Hague, The Netherlands), for a possible Memorandum of Understanding. On 4 December 2006, the Secretary General of Hague Conference on Private International law (HCCH), Dr. Hans van Loon and Dr. William Duncan, Deputy Secretary-General, HCCH visited the AALCO Secretariat to explore the possibilities of strengthening the relationship between the two Organizations.

136. I formally welcomed Dr. Loon and Dr. Duncan. I recalled the association of AALCO with the Hague Conference on Private International law and expressed my pleasure in having a formal and concrete relation with the Hague Conference. I proposed that cooperation between the two organizations could take place at three levels. Firstly, HCCH's participation at the forthcoming Annual Session of AALCO. Secondly, signing of Memorandum of Understanding (MOU) and thirdly, the training programme for jurists from Member States of AALCO. I also, sought the cooperation of the Hague Conference to prepare a draft MoU including the areas which could be identified for possible future cooperation. I proposed that the priority could be given to child protection and family matters which affect human beings directly and also offered cooperation from AALCO in making awareness in the Asian-African countries. Regarding the participation of AALCO Member States in the Hague Conference, I pointed out that out of 47 Member States, only 10 were Members of the Hague Conference.

137. The Secretary-General of the Hague Conference expressed his desire to have closer cooperation with the AALCO and to plan activities with the financial support from external agencies like the European Union/World Bank. Mr. Loon expressed the desire for HCCH's participation in the forthcoming Annual Session of AALCO with a view to following up the long term action plan of MOU and training Programme. He explained that there were several public international law instruments dealing with private interests and the necessity of sensitizing the AALCO Member States to those instruments.

138. Negotiations are also at an advanced stage to conclude Cooperation Agreement with the International Criminal Court (ICC, The Hague, the Netherlands). Furthermore, negotiations are underway with the Economic Cooperation Organization (ECO, Tehran, Islamic Republic of Iran) and the International Tropical Timber Organization (ITTO, Yokohama, Japan) to conclude a cooperation agreement.

139. I wish to add that these cooperation agreements provide very useful basis for organizing joint meetings and seminars on topics of mutual interest with these Organizations. These Organizations provide funds for the participation of resource persons and experts which enrich the deliberations in the AALCO meetings. AALCO's financial commitments are minimum. I believe this is a very practical way to enhance AALCO's activities and broaden its base of research activities.

**D. Secretary-General's visit to Geneva (July-August 2006)**

140. Apart from the annual address at the International Law Commission, while in Geneva, I had very productive meetings with the high-ranking officials of some of the International Organizations based there, namely, UNHCR, IOM and WIPO. These covered a vast ambit of issues primarily, the on going work programme with these organizations within the Cooperation Agreements/MOUs signed with them.

## **V. FUTURE PLAN**

### **A. Preparation of Studies on the Items on the Agenda of AALCO**

141. The Forty-Second Session (Seoul, Republic of Korea, 2003) heralded the implementation of proposals concerning rationalization of the AALCO's Work-Programme. Based on these decisions, the Secretariat prepared studies and documents for consideration at the inter-sessional meetings and the Forty-Third (Bali, Republic of Indonesia, 2004), Forty-Fifth (New Delhi, HQ, India, 2006), and the forthcoming Forty-Sixth (Cape Town, South Africa) Sessions. Two Special Studies, namely Statelessness: An overview from the African, Asian and Middle East Perspective; and Definition of Aggression: An Analysis are under preparation.

### **B. Preparation of Studies on Selected Items on the Agenda of the 62<sup>nd</sup> Session of the United Nations General Assembly**

142 Following the established practice, with a view to assisting Member States in their participation at the Sixty-second Session of the General Assembly, in particular the Sixth Committee, the Secretariat would prepare studies on selected items, on the agenda of the Sixty-second Session of the General Assembly.

### **C. Participation in International Meetings**

143. I would be attending the International Law Commission's 59<sup>th</sup> Session and would present an overview of the discussions at the Forty-Sixth Session. In addition, I intend to represent the Organization at the 62<sup>nd</sup> Session of the UN General Assembly. Another meeting, which I shall be convening, would be the AALCO's Legal Advisers' and AALCO-ILC joint meeting on the sidelines of the 62<sup>nd</sup> Session of the UN General Assembly in New York in October/November 2007. Apart from the above two meetings, if funds are available, AALCO might be represented at one or two other international meetings where its participation would be useful.

### **D. Expansion of Secretariat**

144. The expansion of the Secretariat's legal team has already been carried out. However, I perceive that for proper management and security of the new Headquarters building, there might be requirement for employing more staff in the administrative category.

### **E. Training Programme**

145. The new Headquarters Building contains adequate logistic facilities for conducting good training programmes. The Secretariat would put in earnest efforts, after shifting to the new headquarters, for a well-structured training programme for the benefit of officials of its Member States.

**F. Strengthening the Library**

146. Library is the backbone for research activities of any Organization. Therefore, in order to strengthen the research activities, at the new Headquarters I intend to put in place an enlarged and well-equipped modern library.

**G. Publications**

147. Publications of an organization are its face to the outside world. In order to ensure wider and periodic dissemination about the various activities of AALCO, the Organization has re-oriented its existing publications and provided them a new and more reader friendly look, apart from enhancing the quality and content of the publication. In future, I visualize we would be able to bring out more studies on topics of relevance to our Member States.

**H. Proposals for holding Inter-sessional Meetings, Workshops and Seminars**

148. Consultations with WIPO are in progress to organize Inter-Sessional Meetings with this Organization.

## **VI. PERSPECTIVES**

149. The Forty-Fifth Golden Jubilee Session of AALCO coupled with the inauguration of the Permanent Headquarters Building of the Organization, marked the commencement of a new beginning in the Organization. I envision that after moving to the new building a new era with a new dimension would commence in AALCO's multifarious activities. With the active and continued support and cooperation from the Member States, I do hope that the Organization would keep alive the Bandung spirit and would continue to strengthen the cooperation between Afro-Asian States on International Law matters.

150. During the last five decades the AALCO has established itself as a well-recognized and respected forum for cooperation on international legal matters amongst Asian-African countries in the comity of international organizations. The deliberations amongst Senior Ministers, Attornies-General, Solicitors-General, and other high-ranking officials from the Ministries of Justice and Foreign Affairs have been found to be highly productive in the progressive development and codification of international law.

151. I would like to take this opportunity to reiterate my gratitude to the Member States for the kind support and confidence they have reposed in me. As the Secretary-General, it has been a privilege for me to steer the activities of AALCO. It is a challenging task. It has been my endeavour to meet the growing expectations of the Member States and orient AALCO's activities in such a way so that it could provide more beneficial and useful services to them. Some of the steps during the last years towards the realization of this goal are as follows:

### **A. Enhancement of the Status of the Organization**

152. Thanks to the sincere efforts of my predecessors, and after one year of my mandate as Secretary-General, in 2001, I felt that AALCO has secured its place among the family of international organizations. The impact of its work had crossed the borders of the Asian-African continents, and it was a misnomer to continue to call it as the "Asian-African Legal Consultative Committee", because the word "Committee" did not reflect its actual status. At its Fortieth Session held in New Delhi in June 2001, I proposed to change the name of AALCC by replacing the word "Committee" with "Organization". The proposal received unanimous approval of the Member Governments and by a decision taken at that Session, with effect from 24 June 2001 the name of the Asian-African Legal Consultative Committee (AALCC) was changed to the Asian-African Legal Consultative Organization (AALCO) which reflects a great symbolic significance and confirms the growing status of the Organization.

### **B. Increasing the Membership of the Organization**

153. Among AALCO's current Membership of 47 Member States, while Asian region is fairly well represented, it is not the same situation for the African region. Ever since I took over as Secretary-General, I have been making strenuous efforts to seek participation of non-member States from the African region as well as the Central Asian

region, including writing letters and personally meeting the officials of many of these States, to solicit their support to join the Organization. Such efforts have borne some fruits. At Seoul, we welcomed Brunei Darussalam, and at Bali, the Republic of South Africa joined the AALCO family. In July 2006, we welcomed Republic of Cameroon in our Organization. Alongwith my deputies, I am putting in serious efforts to increase the number of Member States at the earliest.

### **C. Strengthening the Financial Situation of the Organization**

154. The present financial situation of the Organization is not very bright. Infact, the Organization has been functioning on half the allocated budget and at the same time is rendering full services to all Member States including those, which are in arrears. The overall deficit is to the tune of one million US dollars. It may be recalled that the last budget increase took place in 1993 that is about 13 years ago. Since then there has been a tremendous escalation in prices, as also increase in the activities and Staff at the Secretariat. As the current scale of contribution does not reflect at all the rise in prices of goods and services and is only enough to meet the fixed expenditures, it is therefore time for reassessing the present contribution and in this regard I suggest that the contribution be raised by fifty-percent. As regards realizing the arrears of contribution, immediately after the Forty-Sixth Session, I intend to approach the non-paying Member States at the highest level and would explain to them the real position and call upon them to clear their arrears of contribution. I would suggest that the two processes of rise in the scale of contributions, as well as collection of arrears should take place simultaneously. Success of these two steps would, I believe, help in strengthening the financial situation of the Organization.

### **D. French as a Working-Language**

155. There are a large number of French speaking Asian and African States. In order to make easier their becoming AALCO Member States, there is a need to provide AALCO documents in French and simultaneous interpretation at least at the annual sessions. AALCO's tight budgetary position would not allow any diversion of the resources from the general budget for this purpose. However, till we could establish a French Section financed by French speaking countries we could try to either: establish a Special fund to which voluntary contributions could be sought from Member States; or Seek donations from some sources.

156. It may be noted that Arabic was introduced as a working language way back in 1978 and the Arab Member States contribute to the Arabic Fund for that purpose. Currently, there are only 4 French speaking Member States, namely, Arab Republic of Egypt, Lebanon, Senegal and Cameroon. Out of them, Arab Republic of Egypt and Lebanon contribute for the Arabic budget. Till we could establish the French Section in the same pattern as the Arabic, I would continue my efforts to seek fund as donation from some sources which could be utilized for the translation of main documents prepared by the Secretariat and interpretation at the annual session. This would provide incentive for the French speaking States to join AALCO.

## **E. Training Programme and Research**

157. The organization of training programme for the benefit of the middle level officials of AALCO Member States has been an important component of the Secretariat's training programme. It offers facilities for attachment of officials from the Member States to the Secretariat for a short term. This programme received a boost when the Commonwealth Secretariat agreed to sponsor and provide financial assistance to trainees nominated by those AALCO Member States which are also members of the Commonwealth. Among them, Ghana, Nigeria and Uganda utilized such facilities. Others such as the Governments of Republic of Korea, Nepal, Arab Republic of Egypt, Syria and Yemen deputed their officials to the Secretariat, bearing most of the expenses involved. AALCO Secretariat's financial commitments were limited to payments for some local expenses. Perhaps, this arrangement will be possible if a Fund for research and training is established and Member States make voluntary donations towards the corpus of this fund.

158. I wish to reactivate and strengthen AALCO's training programme. AALCO has concluded co-operation agreements with several United Nations Agencies and other international organizations. These Agreements envisage organization of joint meetings and training programmes in co-operation with AALCO. In this regard, I suggest that specific regimes such as the following could be taken up for training programmes in cooperation with friendly International Organizations. This encapsulates areas like:

- (i) General Principles of International Law (with UNU and UNITAR)
- (ii) International Economic Law (with UNCTAD),
- (iii) Environmental Law (UNEP),
- (iv) International Trade Law (UNCITRAL, UNCTAD and WTO),
- (v) International Nuclear Law (IAEA),
- (vi) International Humanitarian Law (ICRC),
- (vii) Intellectual Property Rights (WIPO),
- (viii) International Refugee Law (UNHCR),
- (ix) International Migration Law (IOM),
- (x) Law of the Sea (ITLOS) and
- (xi) Human Rights Law (OHCHR).

159. The Training Programme for the officials of AALCO Member States in these above-mentioned areas intends to enrich and equip them in various regimes in international law in accordance with contemporary changes that occur in the field of international law.

160. I believe it could be a very constructive way to enhance the role and utility of our Organization. As the only Organization embracing membership of two continents and engaged in promoting the development of international law, AALCO could help its Member States, especially those having a small number of experts on international law matters, in keeping pace with the fast and complex nature of the recent developments in international law.

## **F. Concluding Remarks**

161. The AALCO is poised to play a greater role keeping in view the new dimensions and magnitude of problems which international law is facing today and will have to do so tomorrow. It has been my aspiration and consistent endeavour to meet that aspiration and determination to meet those challenges. And for that, the support and cooperation of Member Governments and partnership with other international organizations would be vital. The journey is long but the AALCO will keep on marching ahead overcoming obstacles on its way.