

the reports for final discussions at the expert meetings at the Hague in May 1999 and St. Petersburg in June 1999. Similar requests had also been made in respect of the Preliminary Reports on International Humanitarian law and the laws of War; and Development of International Law relating to disarmament and Arms Control since the first Hague Peace Conference, 1899.

In the "Progress Report on the action dedicated to the 1999 Centennial of the first International Peace Conference and to the closing of the Decade the delegations of the Kingdom of the Netherlands and the Russian Federation had proposed the convening of six regional meetings to discuss the preliminary reports on the themes of the first International Peace Conference. The AALCC had been identified as one of the regional intergovernmental organizations which could convene such a meeting.

Pursuant to that mandate the Secretariat of the AALCC in collaboration with the Ministry of External Affairs, Government of India, convened a two day meeting to consider the Preliminary Reports on the themes of the three First International Peace Conference. The objective of the Meeting was to promote a free and frank exchange of views on the three preliminary Reports on the themes of the First International Peace Conference.

The Deputy Secretary General Mr. Dabiri, who was also the Officer in-Charge of this meeting stated that the basic working document of the session on the Peaceful Settlement of Disputes was a Report on "The Peaceful Settlement of Disputes: Prospects for the Twenty-first century" jointly prepared for the 1999 Centennial Commemoration of the First Hague Peace Conference by Professor Francisco O. Vicuna and Professor Christopher Pinto. This Report had been circulated by the Secretariat. The full text of the report of the Rapporteur on the Peaceful Settlement of Disputes: Prospects for the 21st Century is annexed to this chapter.

The basic working document of the Session on the question of the "International Humanitarian Law and the Laws of War" was a preliminary Report on "International Humanitarian Law and the Laws of War" prepared for the 1999 Centennial Commemoration of the First Hague Peace

Conference by Professor Christopher Greenwood. The full text of the report of the Rapporteur on the International Humanitarian Law and the Laws of War has been annexed to this chapter.

He stated further that the Session on the question of "Disarmament and Arms Control since the First Peace Conference" of the AALCC Meeting to consider the three Preliminary Reports on the Themes of the First International Peace Conference had considered a Preliminary Report on "Development of International Law Relating to Disarmament and Arms Control since the First Hague Peace Conference" prepared for the 1999 Centennial Commemoration of the First Hague Peace Conference by Mr. Hans Blix. The full text of the report of the Rapporteur on the Development of International Law Relating to Disarmament and Arms Control has been reproduced in this Chapter.

At the end of the Meeting the President of the 37th Session had requested the Secretary General to prepare a Report of the Meeting and to include therein all written comments that may have been or were received within a fortnight of the closure of the meeting. The Report he had announced would be submitted to the 38th Session of the Committee scheduled to be held at Accra, Ghana, and given due consideration. In fulfillment of that mandate the Secretariat had prepared this Report. The Deputy Secretary General stated that Committee may wish to consider mandating the Secretariat to forward this report to the Secretariat of the Centennial Conference for its inclusion in the working papers for the forthcoming meetings at the Hague in May 1999 and St. Petersburg in June 1999. It may also wish to consider mandating the AALCC Secretariat to be represented at those meetings, should funds so permit.

The *Observer for the Netherlands* said that his Government deemed it a great honour to be invited to the Annual Session of the Committee and it offered him an opportunity to thank the AALCC for its response to the Netherlands' proposal of organizing the centennial of the First Hague Peace Conference. He said that the AALCC had convened

an extraordinary meeting to discuss the preliminary drafts of the reports on the three themes of the First Hague Peace Conference. The AALCC meeting which had discussed the issues of humanitarian law, the peaceful settlement of disputes and disarmament questions had contributed to a large extent to the success of the forthcoming discussions at the Peace Palace, the Hague on the 18th and 18th of May, 1999. The AALCC had contributed to the success of the discussion by its willingness to participate in the preparatory work of the centennial as well as by the content of the discussion in New Delhi.

The AALCC together with other regional organizations had elevated the centennial conference and the discussions under its umbrella to a global level. In this, it had contributed to the realization/fulfillment of the intention of the organizers of the centennial conference.

The *Observer for Netherlands* further stated that the comments and observations of the participants of the AALCC meeting were being incorporated, to the extent, feasible, in its final draft of the Report of the Rapporteurs on the themes of the First International Peace Conference. He said that the participants in the Centennial Conference would find on their desks a number of thoroughly researched papers intended to serve as a basis for the formulation of view and conclusions on the further development of International Law to reflect the themes of the First International Peace Conference. The views and conclusions adopted by the Centennial Conference would be presented to the General Assembly of the United Nations. He concluded by saying that he hoped to welcome all the legal advisers of the Member States of the AALCC to the Centennial Conference at the Hague May, 1999. He stated that her Majesty, Queen Beatrix, the Secretary General of the UN Mr. Kofi Annan and the Under Secretary for Legal Affairs, the Legal Counsel of the UN; Mr. Hans Corell would be present at the Conference.

The *Delegate of the Islamic Republic of Iran* commended the Secretary General for convening the meeting to consider the preliminary reports on the themes of the First International Peace Conference. The discussion at that meeting would be useful for a better understanding of the problems of the contemporary international community and the future task of

maintaining international peace and justice.

He observed that non-aligned countries in proposing that the decade of the 1990s be declared the Decade of International law had intended to promote the acceptance and respect for the principles of international law, the promotion of the means and methods of the peaceful settlement of disputes including the resort to and full respect for the international court of justice. The prevalence of the rule of law in international society would make a significance contribution to the establishment of a just and equitable society. The promising record of the Decade had been scarred by some negative discouraging practices, which had become the subject of some concern to some States. He recounted instances of the resort to unilateral measures in contravention of the principles and norms of international law; the resort to the use of force in the pretext of self-defence; imposition of economic sanctions or pressures to coerce others to comply with the political aims of powerful state and the selective invocation of human rights standards for political ends, in this regard.

He was of the view that the prevalence of the rule in international relations cannot be promoted by a half-hearted approach to the acceptance of and respect of international law. He called for the renunciation of the threat of use of force as the means of furthering national policy and strict adherence to the obligations of law.

He pointed out that the principle of peaceful settlement of dispute, a major theme of the 1899 Hague Peace Conference continued to be relevant at the threshold of the new millennium.

The *Delegate of the Arab Republic of Egypt* among other things stated that the views of his Government had been expressed at the meeting in New Delhi and that Egypt had been appointed one of the Rapporteurs at the meeting in New Delhi. He reiterated his delegations stand on the Reports on the 3 themes of the Conference.

The *Observer for Yugoslavia* referred to the recent events in Yugoslavia and pointed out that the NATO military action in Yugoslavia was violative of both Article 2 paragraph 4 and Article 53 paragraph 1 of the Charter of the United Nations. She

pointed out that earlier Rambouillet Agreement had contravened the provisions of the Vienna Convention on the Law of Treaties, 1969, and went against the grain of the principle on non-intervention as couched in Article 2 paragraph 7 of the Charter. She enumerated a whole host of action which in her opinion were violative of the 1949 Geneva Convention.

The *Delegate of the State of Qatar* was of the view that the statement of the observer for Yugoslavia departed from the main agenda item under consideration. He pointed out that AALCC was not a forum for political statements.

The *Delegate of Pakistan* recalled that the Statutes of the AALCC had envisaged that the function of the Committee was to be a forum for consideration of legal matters of common interest to its Member States. He was of the view that the views expressed by the Observer for Yugoslavia should not be a part of the official records of the Session of the Committee since they were outside the purview of the basic functions of the Committee.

The *President* stated that the views of an Observer are not binding on the delegates who adopt a decision by consensus. He recalled the past practice of the Committee in respect of hearing the views of an Observer.

The *Delegate of Ghana* stated that while the Observer for Yugoslavia is entitled to hold an opinion, the views are not binding on the delegates and the Committee cannot take a stand on them.

The *President* said that the Secretariat shall have the mandate to follow the outcome of the Centennial celebrations both at the Hague and St. Petersburg. The AALCC should subject to the availability of funds, be represented at both the Hague and St. Petersburg Meetings.

(ii) **Decision on the "United Nations Decade of International Law"**

(Adopted on 23.04.1999)

The Asian African Legal Consultative Committee at its Thirty-eighth Session

Having taken note of the Report of the Secretariat on the Expert Group Meeting to consider the preliminary reports on the themes of the First International Peace Conference set out in Doc. No. AALCC/XXXVIII/Accra/99/S.7;

Having heard the statement of the Deputy Secretary General;

1. *Expresses* its appreciation to the Government of the Netherlands and the International Committee for the Red Cross for the financial grant to meet the costs of the meeting and the printing of papers and report of the seminar.
2. *Reaffirms* that many of the political, economic and social problems which riddle the Members States of the international society can be resolved on the basis of the rule of law;
3. *Reiterates* the importance of strict adherence to the Principles of International law as enshrined in the Charter of the United Nations;
4. *Requests* Member States to continue to give serious attention to the observance of the objective of the Decade;
5. *Also requests* the Secretary-General to apprise the Secretary-General of the United Nations of the initiatives taken by the Committee in this regard;
6. *Directs* the Secretariat to participate in the centenary meetings at the Hague in May 1999 and, subject to the availability of funds, at St. Petersburg in June 1999;

7. *Also Directs* the Secretariat to monitor the proceedings on this item at the 54th Session of the UN General Assembly; and
8. *Decides* to place the item "United Nations Decade of International Law" on the agenda of its Thirty-ninth Session for review of further work on the item.

(iii) **Secretariat Study: United Nations Decade of International Law: Report of the Expert Group Meeting, New Delhi 11th and 12th February 1999**

AALCC Meeting to Consider the Preliminary Reports on the Themes of the First International Peace Conference

Pursuant to the given mandate the Secretariat of the AALCC in collaboration with the Ministry of External Affairs, Government of India, convened a two day meeting to consider the three Preliminary Reports on the themes of the First International Peace Conference. The objective of the Seminar, chaired by Dr. P.S. Rao, Joint Secretary, Legal and Treaties Divisions, Legal Adviser, Ministry of External Affairs (India) and the President of the AALCC, was to promote a free and frank exchange of views on the three preliminary Reports on the themes of the First International Peace Conference.

Senior Government officials, eminent experts, and distinguished international lawyers from 23 Member States of the AALCC;¹ 12 observer States,² and the representatives of 4 international organizations³ participated in the Meeting which was inaugurated by Mr. Dilip Lahiri, Additional Secretary in the Ministry of External Affairs, Government of India. The Under Secretary General for Legal Affairs and the Legal Counsel of the United Nations, Mr. Hans Corell and the Executive Secretary of

¹ These had included the Arab Republic of Egypt, People's Republic of China, Ghana, India, Indonesia, Islamic Republic of Iran, Japan, Kenya, Democratic People's Republic of Korea, Kuwait, Myanmar, Nepal, Oman, Philippines, Qatar, Somalia, Sri Lanka, Syria, Thailand, Turkey, the United Arab Emirates and the Republic of Yemen.

² These had included Bulgaria, Burkina Faso, Chile, Colombia, Finland, France, Germany, Israel, Morocco, the Netherlands, United Kingdom, and Venezuela.

³ These had included the United Nations, the United Nations High Commissioner for Refugees (UNHCR) the League of Arab States and the International Committee for the Red Cross (ICRC).

the Organizing Committee of the Centennial Conference of the First Hague Peace Conference Mr. T. Buchli were among those who participated in the meeting.

Inaugural Session

The President of the Committee, Dr. P.S. Rao, in his opening statement *inter alia* observed that commemorating the centennial of the first Hague Peace Conference was an opportune time to reflect not only upon the progress made on the themes of that Conference but also on the course the rule of law had taken in establishing a just and equitable world order. The destructive capacity of the means and methods of armed conflicts had, in the intervening period, he emphasized, become more comprehensive and less discriminating of combatants and non-combatants. While the United Nations had succeeded in averting a third world war it had failed to prevent localized and regional armed conflicts where the effects on innocent civilians and combatants were equally devastating. He stated that as the international society approached the turn of a new millennium the failure in terms prohibiting certain means of warfare and regulating the methods of warfare itself was a cause for great concern. Emphasizing that international peace and security could not be attained by half hearted approaches and that there could be no partial solutions in matters of life and death he called for the renunciation of the use of force as a concept and as an idea to achieve ends of national policy. Members of the international community, he stated, needed to abide by that obligation and keep that in view even while planing military strategy or in conducting the "diplomacy of violence". States needed to abandon theories of deterrence and forsake their reliance upon doctrines like Mutually Assured Destruction (MAD) and instead adopt a policy of not merely non-proliferation of nuclear weapons but total elimination of nuclear weapons.

Turning to the question of peaceful settlement of disputes, Dr. Rao observed that the "peaceful settlement of disputes is not a synonym for compulsory settlement of disputes by a third party" and comprises various means and methods. Referring to the settlement of disputes by having recourse to the

jurisdiction of the International Court of Justice he stated that the jurisdiction of the court is based on the principles of consensus and agreement among the disputing parties. The need to obtain the consent of the contesting parties to a dispute is based on a realistic assessment of such factors as the level of integration that is still required to be achieved among the peoples of the world as members of one international legal community and the lack, perhaps, of a just, equitable and universally applicable international law on some of the fundamental aspects of access to and enjoyment of the resources of the world.

Dr. Rao further stated that efforts to achieve a legal community of mankind had fallen short of the legitimate expectations of the international community and this had to be urgently remedied and provided for. He asked for consideration to be given to the methods and procedures of codification conferences. Law making conferences, he stated, should afford ample opportunity at every stage of the decision making for interests of all States to be properly given a play, according to fair procedures. Decisions should save in exceptional circumstances be arrived at by consensus.

In his welcome address the Secretary General, Mr. Tang Chengyuan emphasized that the meeting was one of the six regional meetings, as resolved by the General Assembly of the United Nations at its 53rd Session, which would discuss the preliminary reports on the themes of the First International Peace Conference and thus provide an opportunity for the representative of AALCC Member States and experts from the Afro-Asian region to exchange views on the Three Reports for final discussion at the Expert Meetings scheduled to be held at the Hague in May 1999 and St. Petersburg in June 1999. He stated in this regard that he "Progress Report on the action dedicated to the 1999 centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law" submitted by the delegations of the Kingdom of the Netherlands and the Russian Federation at the fifty third Session of the General Assembly has been made available to the participants. He said that the subjects identified by the co-

organizers of the 1999 Centennial Celebrations for discussion at the meeting are: (i) The Peaceful Settlement of Disputes; Prospects for the Twenty First Century (ii) International Humanitarian Law and the Laws of War; and (iii) Development of International Law relating to Disarmament and Arms Control since the First Hague Peace Conference in 1899.

The Secretary General stated that the debate on these items were to revolve around the three Reports prepared by eminent Rapporteurs, and that copies of these three reports have been reproduced by the Secretariat and circulated among the participants. The Meeting was intended to provide an opportunity for the representative of States in the region to exchange views on the Three Reports for final discussion at the Expert Meetings scheduled to be held at the Hague in May 1999 and St. Petersburg in June 1999.

The Under Secretary General for Legal Affairs and the Legal Counsel of the United Nations Mr. Hans Corell in his address to the Meeting *inter alia* said that the principle of the peaceful settlement of disputes had been vastly developed during the current century. He pointed out that while there was no lack of instruments and institutions for the pacific settlement of disputes, the political will to seek third party resolution or to submit a case to an institution was sometimes found wanting. He said that what was required was not the adoption of more international instruments or the establishment of institutions for the peaceful settlement of disputes but the dissemination and understanding of the existing instruments and institutions. There was also the need to strengthen the political will of states to employ the existing modes and means of settlement of disputes. Recalling that the International Court of Justice had more cases on its docket than ever before he said that the resources of the Court need to be augmented and increased. The Permanent Court of Arbitration, unfortunately, had never in its history been employed fully for the purpose for which it had been established.

Appropos international Humanitarian law and the Laws of War he was of the view that the existing norms and principles need to be observed and implemented. The General Assembly at

its 53rd session had noted with appreciation that the year 1999 would mark the 50th anniversary of the Four Geneva Conventions of 1949. He expressed the hope that more states would accept the provisions relating to fact finding missions. Turning to the International Criminal Court he called for greater support for the Statute of the ICC in the interest of implementation of international humanitarian law. Speaking of the significance of the work of the PREPCOM on the International Criminal Court, which was scheduled to hold its first session in the latter half of February, he urged that States actively participate in its work.

Referring to the question of disarmament and arms control he said that it is ironic that there had been an unprecedented increase in armament in the period since the first Peace Conference. He said that the Convention relating to anti Personnel Mines would contribute to the elimination of arms which cause suffering to non-combatants and civilians. He called for concerted action for disarmament and the abolition of weapons of mass destruction.

In his inaugural address, Mr. Dilip Lahiri, Additional Secretary, United Nations Division, Ministry of External Affairs (India) stated that he believed that the deliberations of the Asian and African Group of Experts will be an essential input into the Centennial Commemoration, bearing in mind, particularly the sweeping changes in the political geography of the Eurocentric world of 1899 when the Hague Conference took place. He commended for the Rapporteurs three excellent and incisive preliminary Reports before the meeting on the Hague themes and stated that the Reports bring out the tremendous but uneven progress made over the last 100 years in the three areas. The 20th Century had seen slaughter, destruction and suffering through war and armed conflict on a scale unprecedented in human history. It is therefore only appropriate that these bitter experiences should have provided the impetus for remarkable advances in the codification and progressive development of international humanitarian law.