

**SUMMARY RECORD OF THE FIRST
MEETING OF DELEGATIONS OF
AALCO MEMBER STATES HELD ON
MONDAY, 30TH JUNE 2008
AT 11: 35 AM**

Her Excellency Mrs. Brigitte Sylvia Mabandla, Minister for Justice and Constitutional Development, Republic of South Africa and President of the Forty-Sixth Session, in the Chair.

1. The **President** welcomed the Delegates for the First Meeting of Delegations of AALCO Member States and announced that the meeting was exclusively for the delegations of AALCO Member States, and therefore requested the Observer Delegations to withdraw from the Meeting and later join the Session for the General Meetings.

2. Thereafter, the **President** referred to the Provisional Agenda and the Schedule of Meetings for the Forty-Seventh Session. There being no comments from the delegations, the President declared the Agenda and Schedule of Meetings for the Session as adopted.

3. The next item taken up related to the “**Admission of Observers**”. There being no comments, the admission of Observers was approved by the Meeting.

4. The Meeting then took up the agenda item “**Election of the President and Vice-President**”. The President invited **Amb. Dr. Wafik Zaher Kamil, the Secretary-General** to explain the position in this regard. The **Secretary-General** explained that in the context of Headquarters Session, three choices were available to the President of the Forty-Sixth Session, which she may exercise (1) the President and the Vice-President of the last Session continue in their posts for another year, (2) to share the Presidency with the host country or (3) handing over the Presidency to the host country of AALCO- India.

5. The **President** thanked the Secretary-General for his explanation. She stated that it would indeed be an honour for her to continue as the President of AALCO, however, she wished to handover the Presidency to India and therefore, proposed the name of **His Excellency Mr. Narinder Singh, Joint Secretary, Legal and Treaties Division and Legal Adviser, Ministry of External Affairs, Government of India** as President of the Forty-Seventh Session. Thereafter, Mr. Singh was elected by acclamation.

6. The **Leader of the Delegation of Japan** proposed the name of **His Excellency Mr. Wanjuki Muchemi, the Solicitor General of the Republic of Kenya** to be the Vice-President of the Session. The proposal was seconded by the **Leader of Delegation of the Republic of South Africa**, following which Mr. Muchemi was elected as Vice-President.

7. Thereafter, the newly elected **President** assumed his position on the dias and invited the **Vice-President** to also join him.

8. The **President** stated that there were a number of important items, which would be taken up at the substantive Sessions. In the Meeting of Heads of Delegations, the focus would mainly be on administrative matters concerning AALCO. The agenda and the schedule of meetings had already been adopted. The first item under the heading of Administrative matters was the “**Report of the Secretary-General on the Work of the Organization**” and therefore, he invited the Secretary-General to present his Report.

9. **Amb. Dr. Wafik Zaher Kamil, Secretary-General** congratulated the President and Vice-President on their election. He hoped that under their visionary leadership and masterly command over international law issues, this Forty-Seventh Session, being held at the Headquarters of

the Organization in New Delhi, would attain its goals and would be a great success. On behalf of his colleagues in the Secretariat and on his own behalf, he assured them of their full co-operation in their endeavors to promote the work of the AALCO, during the Session as well as throughout their term.

10. The Secretary-General stated that upon completion of his mandate, this was the last Report he was presenting. Therefore, he wished to take the opportunity to express his gratitude to the Member States for entrusting him with the responsibility of steering AALCO's activities since his appointment in May 2000. He recounted the following five important milestones attained during the course of his tenure: (i) the decision by the Member States, at the Fortieth Session in 2001, based upon his proposal, to upgrade the then Asian-African Legal Consultative Committee (AALCC) into a full-fledged International Organization, namely the Asian-African Legal Consultative Organization; (ii) the inauguration of the Permanent Headquarters Building of the Organization, after several years spent in its finalization by His Excellency Mr. Anand Sharma, Minister of State for External Affairs, Government of India, on 6th April 2006, during the Forty-Fifth Golden Jubilee Session of the Organization; (iii) Adoption of the Revised Bangkok Principles relating to Status and Treatment of Refugees in 2001; (iv) the commencement of the functioning of the Secretariat from the AALCO's Permanent Headquarters Building from April 2008; and (v) Revision and adoption by Member States of the Statutes of AALCO at the Bali Session in 2004.

11. Further, the Secretary-General elaborated about the success achieved, following the adoption of the rationalization policy of consideration of substantive items on AALCO's agenda by categorizing them into deliberated and non-deliberated categories. He explained that by rationalizing the agenda, into deliberated

and non-deliberated items, the Organization had been able to ensure focused and fruitful deliberations on the selected items. He stressed that by following a selective approach, there was no intention to belittle the importance of any particular agenda item referred to the Organization by the esteemed Member Governments. It was the current relevance of each agenda item and the keenness to have an in-depth approach, using the available time effectively that set the priority in making such selection. He outlined salient aspects of the non-deliberated topics.

12. The first item in this list was "**The Status and Treatment of Refugees**". It was taken up on the initiative of Arab Republic of Egypt by the AALCO in the year 1964. Ever since then, it had been a keenly debated item at the subsequent Sessions of the Organization. The Secretariat Report prepared for the Forty-Seventh Session discussed the topic under the following heads: Situation of refugees and armed conflict; International legal regime on the situation of refugees and the armed conflict; Main provisions of the 1951 Refugee Convention; the rights and obligations of refugees; the obligations of refugees; and the Regional Refugee Protection Regime.

13. The next item "**Legal Protection of Migrant Workers**" was included in the agenda of AALCO upon the reference of the Government of Philippines at its Thirty-Fifth Session and had since then been considered at subsequent Sessions of the Organization. The present Secretariat report provided an overview of international migration, the existing legal regime for the protection of migrant workers, international law facilitating state security measures with regard to migration, domestic immigration laws and national security or extraterritorial application of migration controls. The Secretary-General reminded the Member States that at the Forty-Second Session a "Draft Model Regional Co-operation

Agreement between States of Destination/Employment within AALCO Member States” had been submitted for the consideration of Member States. However, very few comments in that regard were received from them. In that context he requested the Member States to give in their considered opinion at the earliest.

14. The third topic on the non-deliberated list was concerning the “**Report on the work of UNCITRAL and other International Organizations in the field of International Trade Law**”. It contained report on the activities of UNCITRAL, UNCTAD, UNIDROIT and the Hague Conference on Private International Law. AALCO maintained close relations with these Organizations and with a view to highlight their work, it had been preparing reports on the progress of work in their respective areas.

15. The fourth item on this list was “**WTO as a Framework Agreement and Code of Conduct for World Trade**”. It was included on the agenda, at the Thirty-Fourth Session of AALCO, held at Doha, Qatar, in 1995. Thereafter, this item had been deliberated upon at successive AALCO Sessions. The present Secretariat Report provided an update on the Doha Development Round of Negotiations with special emphasis on the impending issues in the negotiation on Agriculture, Non-Agriculture Market Access (NAMA) and the Dispute Settlement Understanding. The Report focuses on the draft texts of the Modalities circulated in February 2008 by the Chairperson of the Negotiation Group on Agriculture and NAMA.

16. The fifth item in this list “**Expressions of Folklore and its International Protection**” was included in the agenda of AALCO, based upon his proposal in that regard, at the Forty-Third Session in 2004. Accordingly, the agenda item had been deliberated upon at the successive Sessions of AALCO. The present

Secretariat Report *inter alia*, contained the deliberations at the Forty-Sixth Session of AALCO and work of the WIPO's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) at its tenth, eleventh and twelfth Sessions. He stated that during the course of his visit to the Sultanate of Oman he had explored with the Hon'ble Minister of Justice of Oman the possibility of organizing an inter-sessional meeting on the subject, however, due to paucity of time it could not take place. He was hopeful that such a meeting could be organized in the future.

17. The last topic on the non-deliberated list was “**Human Rights in Islam**”. This was introduced in the agenda of AALCO on the initiative of the Kingdom of Saudi Arabia at the Forty-Second Session of the Organization in 2003, and ever since then has been considered at the successive Sessions of the Organization. The Secretariat Report prepared for the Forty-Seventh Session highlighted the contribution of Islam to humanitarian law. The Secretary-General informed that an excellent seminar on the subject was organized by the Malaysian Government in association with the Government of the Kingdom of Saudi Arabia in Kuala Lumpur, Malaysia, in 2006. The AALCO Secretariat had distributed the Summary Report of that meeting. He expected that the topic would remain an important item on AALCO's agenda and more ideas would reactivate the debate.

18. The Secretary-General thereafter mentioned about the Special Day Meetings. It had almost become customary for the AALCO to hold a one-day Special Meeting on a topic of common concern, in conjunction with the Annual Session, with the cooperation of an International Organization. In view of the immense importance of International Humanitarian Law in the contemporary world, he had readily accepted to the proposal of the International Committee of Red Cross to

host a One-day Special Meeting on the "Contemporary Issues in International Humanitarian Law". He informed that several eminent scholars on the subject from the Geneva based headquarters of ICRC would make presentations and he hoped that with their expertise; there would certainly be an occasion for a very fruitful exchange of ideas on the subject.

19. The Secretary-General mentioned that during an informal briefing he had explained to the Heads of Delegations, the importance of constituting the Drafting Committee to facilitate the finalization of Summary Report and Resolutions that were to be adopted on the concluding day of the Session. A representative of India would chair the Drafting Committee. He requested the Head of Delegations to nominate their representative for participation in the meeting and inform the Secretariat about the same.

20. Thereafter, the Secretary-General drew the attention of the meeting to some of the activities undertaken by the Organization since the Forty-Sixth Session.

21. The Secretary-General informed that in July 2007, he had attended the second part of the 59th Session of the International Law Commission and placed before the Commission the crux of the views of AALCO Member States during the deliberations at the Forty-Sixth Session on the agenda item. These views were considered very valuable by the Members of the Commission in proceeding with its Work Programme. On the sidelines of the General Assembly Session, on 5 November 2007, he had convened a meeting of AALCO Legal Advisers' and AALCO-ILC Joint meeting. Her Excellency Mrs. Brigitte Sylvia Mabandla, President of the Forty-Sixth Session of AALCO and Minister for Justice and Constitutional Development of the Republic of South Africa, had come all the way from South Africa to chair that meeting. The Secretary-General thanked her for that

kind gesture and informed that the meeting had provided a very clear work programme for the Organization.

22. The Secretary-General informed that another important inter-sessional activity was the "Commemoration of the thirtieth anniversary of the AALCO's Kuala Lumpur Regional Arbitration Centre", on 7th and 8th April 2008. On that occasion, the Centre had organized a Conference, that was inaugurated by Hon'ble Dato' Sri Haji Mohd. Najib bin Run Abdul Razak, Deputy Prime Minister of Malaysia. He was privileged to deliver the Keynote Address on that occasion. Deputy Secretary-General Dr. Xu Jie also participated with him in the Conference. Amb. S. R. Tabatabaei Shafiei, Deputy Secretary-General represented the Organization in the Non-Aligned Movement Ministerial Meeting on Human Rights and Cultural Diversity, held in Tehran, Islamic Republic of Iran, from 3rd to 4th September 2007. On behalf of the Organization, he delivered a message to that important ministerial meeting. From 4th to 6th February 2008, Dr. Xu Jie, Deputy Secretary-General, participated in the workshop on "The Role of the International Tribunal for the Law of the Sea in the Settlement of Disputes Relating to the Law of the Sea in the Gulf Area", held at Bahrain. The Kingdom of Bahrain, the International Tribunal for the Law of the Sea and the International Foundation for the Law of the Sea organized the workshop. Dr. Xu made a presentation concerning the "AALCO and its Work relating to the Law of the Sea".

23. The Secretary-General stated that after assuming office, in May 2000, he had intensified his endeavours to promote co-operative arrangements with sister Intergovernmental Organizations. Presently, there were 18 such Agreements, some of them signed by him and some by his predecessors. The latest one was the conclusion of Memorandum of Understanding with the International Criminal Court, in February 2008.

Furthermore, to conclude such Cooperation Agreements, negotiations were in progress with UNCTAD, UNICEF, UNESCO, ECO (Economic Cooperation Organization) and ITTO (International Tropical Timber Organization). He hoped that these Cooperation Agreements would now be activated and training programmes would be organized at the new Headquarters Building which had an excellent auditorium that could seat 100 persons and was equipped with latest technology.

24. To conclude, he wished his successor, all success in his endeavors to promote the realization of the objectives of AALCO. He noted with satisfaction that during his tenure, he had been able to build up a highly dedicated and motivated team of Secretariat Staff. He thanked the Secretariat Staff for their devotion and for exerting tremendous efforts in carrying out the work of the Organization. He said his Staff was very instrumental in his success and appealed them to be more helpful to his successor. He assured his successor that this team would work with greater dedication under the leadership of new Secretary-General in steering the Organization towards greater heights and more and more fruitful and beneficial services to all the Member States.

25. Finally, he said that it was gratifying for him to see so many Hon'ble Ministers and distinguished delegates assembled there. He sought their guidance and suggestions to revitalize AALCO's role and activities so that it could be made more vibrant and render more useful services to its Member States.

26. The **President** thanked the Secretary-General for his Report and said that it reflected that the period since the Forty-Sixth Session was productive and a lot of things were achieved during that period. He invited the delegations to make comments. There being no comments, the next item pertaining to the "AALCO's

Budget for the year 2009" was taken up. The President invited the Secretary-General to introduce the item.

27. The **Secretary-General** at the outset informed that the Organization was in tight financial situation. Several factors, such as rising inflation, fluctuation in the rates of US dollar vis-a-vis Indian rupee; rising arrears of contribution of some Member States; and no change in the scale of contribution made by Member States were some of the factors contributing to that difficult position.

28. The Secretary-General informed the Member States that the publications brought out by the Secretariat were of high quality. The AALCO Yearbook contained the round-up of all the activities of the Organization. The Secretariat was also publishing a Quarterly Bulletin and a monthly Newsletter. It had also brought out several books. Bringing out all these publications had financial implications. The salaries of the Secretariat Staff had also been regularly raised, as the Organization followed the pattern of Government of India, in terms of salary-scale, gratuity, dearness allowance, Contributory Provident Fund (CPF), and annual increment. He emphasized that without a strong staff the Organization could not move ahead. The Secretary-General was required to be backed by a strong team. Therefore, since 2006, he had been appealing to Member States to raise the contribution to help the Secretariat in facing that difficult situation. Two years before the end of his mandate, he had informed the Member States about this very crucial problem. He said that many Member States had agreed to the proposal made by him to increase the contributions and some of them had even paid their contributions, according to the new scale. However, all the Member States had not yet officially adopted the new scale. He once again appealed to the Member States to consider and reconsider the possibilities of raising the contributions

to make it match with the rising prices and increasing deficit.

29. The Secretary-General noted that the Member States wanted to streamline expenses and the resolution adopted on the Budget in Cape Town (2007) had requested the Secretary-General to try to streamline the expenses of AALCO, as well as to reduce the tremendous deficit. The 2008 budget had \$ 100, 000 deficit, the one that had been prepared for 2009, had \$ 1, 20, 000 deficit. According to the Cape Town Resolution and suggestions by some Member States, he had done his utmost, to streamline the budget and reduced theoretically the budgetary deficit to about \$ 70, 000. Further work in this regard was still in progress and he would inform his successor about the situation. He was confident that his successor would follow it up.

30. The Secretary-General once again appealed to all the Member States to consider his proposals if they really wanted the Organization to attain greater heights. This was more relevant, especially as a new era was commencing, with a new building and new facilities, and with excellent exposure and cooperation with the International Organizations. Furthermore, tremendous efforts had been exerted by the Secretariat to make its activities very alive. The AALCO was non-profit Organization. It was totally dependent upon contributions from the Member States, which had not been raised for the last 14 years. Many countries were also not paying their contributions and had huge arrears. There was more than one and a half million US dollars in arrears. The Secretariat had done the utmost with the help of Member States. The Member States themselves had adopted a resolution to urge Member States to clear their arrears in order to enjoy their rights to participate in the official events of AALCO. He pointed out that due to non-payment of arrears, Sudan could not host the last Session. He had to request the Republic of South Africa to host

the same. Despite all these efforts and contacts with very high-level people in many Member States they were not paying their arrears. At the last Session, Sudan and Senegal, had promised to pay immediately their arrears, however, they had yet not done so.

31. He called upon the Member States to find effective ways to urge Member States to pay their arrears. This he suggested should be put in the resolution. He hoped by the time 2009 budget was adopted some Member States would pay their arrears. With the payment of arrears and streamlining of expenses, he was sure that the financial situation would improve. He proposed that 2009 Budget need not be adopted. In this regard, he had explained to all the Heads of Delegations that he had left it for his successor to study his proposals and to work very closely with the Liaison Officers and with the Member States. The magnitude of the expenses that AALCO would be facing in the new building in term of electricity and water supply and maintenance would be known soon. He would be handing over officially his final study on streamlining, including the budget prepared by him to his successor. He could follow it up with the Member States and appealed to help him to steer the activities of AALCO in a proper manner. On behalf of the Secretariat, he urged the Member States to just fulfill their commitments towards the Organization. He said the Member States wishing to join AALCO, had to fulfill two important conditions before being accepted as a Member State of the Organization; one, full acceptance of the Statutes and Statutory Rules; and two, financial commitment to pay the contributions on time. Then only the Member State could be accepted as a new Member. So once a country had become a Member State, they were committed towards the Secretariat and towards rest of the Member States. The contribution was in a way payment for the services rendered by the Secretariat. Hence, he felt that non-paying Member States should not continue

to enjoy all the services rendered by the Secretariat.

32. The Secretary-General hoped that the delegations would have ample time to accept the 2009 budget, which would be deliberated next year. This would also enable the new Secretary-General to present his concrete proposal, in December 2008, to the Liaison Officers. He hoped that by raising contributions, taking measures against countries that do not pay their arrears, as well as by streamlining the expenses of the AALCO, the financial position of AALCO could be strengthened.

33. The **President** thanked the Secretary-General for his detailed explanation of the current financial situation of AALCO. He mentioned that the Organization was in serious financial difficulties, firstly due to the increase in costs, on account of price rises and the increase in salaries and also because moving to the new headquarters also entailed certain costs in terms of the maintenance and security requirement of the new premises. This was compounded by the situation where the income of the Organization had actually reduced because of depreciation in the dollar value. Hence all these factors had worked to the disadvantage and all these disadvantages had been compounded due to the huge arrears of contribution, which had not been paid by some Member States. This was a very serious situation and he urged the Member States to deal with it. Thereafter, he invited Member delegations to express their views on the matter following which the Delegation of Japan sought the floor.

34. The **Delegate of Japan** stated that as an original member of the AALCO, Japan had constantly supported the activities of the Organization and made big financial contribution. It was of the view that the activities of the AALCO should be meaningful, relevant and efficient. His country would like to work with other members of the AALCO and the Secretariat to settle the financial problems of the

Organization. In this regard, he made following three points. First, it was urged that the Secretariat should continue its efforts to demand that Member States should honor their financial commitments. The AALCO might work more closely with those countries having arrears by extending its technical support in terms of rule making in their domestic legislations. He stressed that such support should be done within the current scale of the AALCO budget. Second, there was a need to streamline and reform of the Organization by way of cutting expenditures that were necessary before but were not necessary any longer. The Secretariat had been doing this work and he hoped that this effort would continue under the stewardship of the new Secretary-General. Third, the Member States should consider introducing an external auditing system for sound financial management. This would be beneficial to the Member States as well as to the Secretariat in the long term.

35. He stressed that his delegation was not advocating reducing the scope of the Organization's activities. Instead AALCO should increase its influence in the field of international law. To that end, his country believed that they should always consider where the competitive advantage of the Organization was and shift their limited resources to the most desired activities. All the Member States were in the same boat and the Japanese Government wanted to work with all Member States to find out suitable solutions. As regards, the proposal on 2009 Budget the proposal of Secretary-General sounded very reasonable and if there was a consensus on it that would be great, however, he wanted to check with his Government so that they can join the consensus.

36. The **President** thanked the Delegate of Japan and enquired from the Member States whether they agreed to the proposals made by the Secretary-General. There was a consensus for Secretary-General's proposals and accordingly it was decided that the work

would take place on the basis of Secretary-General's proposals.

37. The meeting thereafter considered the agenda item "**Election and appointment of the new Secretary-General.**" The **President** informed the meeting that there were three candidates for the post and requested the Amb. Dr. Kamil, Secretary-General to inform about the procedure for the Appointment of Secretary-General and also to give a brief introduction to the three candidates.

38. The **Secretary-General** drew the attention of Member States towards the AALCO Secretariat's Report on the "**Appointment of Secretary-General**" (AALCO/47th /HEADQUARTERS (NEW DELHI) SESSION /2008/ORG 5). It contained an introduction about the beginning and end of his mandate; the procedure at the Bali Session in which the Member States had adopted a resolution to revise the Statutes. One of the important provisions in the revised Statutes was to give the Secretary-General a term of four years, renewable once, i.e. first term for four years and reappointment for four more years. Before this change, the Statutes provided for a term of three years. The Revised Statutes were adopted on 25th June 2004. The Revised Article 3 of the amended Statutes reads: "The Secretariat shall be headed by a Secretary-General appointed by the Organization for a term of four years in accordance with the provisions of the Statutory Rules." *Vide* resolution RES/43/ORG 7, operative paragraph 4, the Bali Session decided to adopt the amended Statutes with immediate effect and *vide* operative paragraph 2, it decided to bring Rule 20(1) of the Statutory Rules in conformity with the adopted Statutes. Thus, after implementing that resolution the appointment of new Secretary-General was due during the Forty-Seventh Session. All three candidates on the list, namely, Ambassador Dr. Ali Reza Deihim (the Islamic Republic of Iran), Professor Rahmat Mohamad, (Malaysia) and Mr. Shair

Bahadur Khan, (Pakistan) were eminent jurists with excellent legal background. Their *Curriculum Vitae* had already been circulated. During the last week they all had a chance to introduce themselves to the Heads of Delegations and members of Delegations. As, there were three candidates; a secret ballot was prepared to choose one amongst the three candidates. The ballot papers prepared did not have the names of any country. There would be two rounds of voting. In the first round there would be three candidates and in the next two. The candidate getting the least votes in the first round would be eliminated and a second round thereafter would be conducted. After the voting was complete a Committee of Six person, comprising the Secretary-General, two Deputy Secretaries-General and one member from each candidate's Delegation would do the counting and inform the President who would formally declare the results. He expressed confidence that whosoever was elected would steer the Organization to greater heights.

39. The **President** thanked the Secretary-General for explaining the procedure of Election of the Secretary-General. He drew attention to Rule 20 (1) of the Statutory Rules of the Organization that called for making efforts to reach a consensus. Only in the event that there was no consensus they could proceed for an indicative ballot in the Meeting of Heads of Delegations. Therefore, he urged the Delegations to try and consult amongst themselves, especially amongst both the regional groups and try to reach a consensus. Thereafter, he invited the three candidates to explain how they viewed the future of the Organization and in what manner they proposed to take the work ahead and what would be their priorities on election. Following the invitation from the President the three candidates outlined their vision and priorities for AALCO.

The meeting was thereafter adjourned.