



ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

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ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

I. INTRODUCTION

A. Background

1. The law relating to “Environment and Sustainable Development” constitutes an important item on the work programme of AALCO. The Organization has been following the developments on this topic for nearly four decades now. The present report is on the implementation of the international regime established by the three Rio Conventions namely, the United Nations Framework Convention on Climate Change, 1992 (UNFCCC); Convention on Biological Diversity, 1992 (CBD); and United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994 (UNCCD), which is supplemented by the Follow-Up on the progress in the Implementation of the outcome of World Summit on Sustainable Development, 2002 (WSSD).

2. The present Secretariat Report attempts to furnish an overview of the Seventeenth Session of the Conference of Parties to the UNFCCC (COP 17) and Seventh Meeting of Parties to the Kyoto Protocol, (CMP 7) held from 28 November to 9 December 2011 at Durban, South Africa and briefly refers to the subsequent negotiations on climate change held in Bonn, Germany and Panama in June 2011 and October 2011; Tenth Session of the Conference of Parties to the UNCCD (COP 10), held from 10 to 21 October 2011 at Changwon, Republic of Korea. The last section of the Report deals with the Nineteenth Session of the United Nations Conference on Sustainable Development (UNCSD) which took place in UN Headquarters, New York from 2 to 13 May 2011; and the Twelfth Special Session of the UNEP Governing Council /Global Ministerial Environment Forum that took place from 20 to 22 February 2012 in Nairobi, Kenya. Finally, it offers some comments and observations on the agenda item under consideration for the Fifty-first Annual Session of the Organization.

B. Deliberations at the Fiftieth Annual Session of AALCO (27 June-1 July 2011, Colombo, Democratic Socialist Republic of Sri Lanka)

3. The agenda item “Environment and Sustainable Development” was a deliberated item considering the relevance of the topic. Dr. Hassan Soleimani, Deputy Secretary-General (DSG) of AALCO introduced the agenda item “Environment and Sustainable Development”. On climate change issues, the DSG mentioned that the international community has been engaged in various rounds of negotiations for elaborating on a framework of action after 2012, when the Kyoto Protocol’s first commitment period would expire. The DSG requested Member States to recall that in December 2007, negotiators meeting at the United Nations Climate Change Conference in Bali had approved the Bali Action Plan and Roadmap setting the Fifteenth meeting of Conference of Parties in December 2009 at Copenhagen as the deadline for agreeing on a framework for action after 2012. The plan laid out the four-fold action roadmap for climate change

action – mitigation, adaptation, technology and finance. It was essentially a mandate to finalize two things: one, the emission reduction commitments of industrialized countries for the second phase of the Kyoto Protocol, and two, the global goals for long-term cooperative action until 2050. Although, those negotiations were to conclude at Copenhagen, the Conference failed to achieve the requisite breakthrough.

4. It was informed that at the Sixteenth Conference of Parties of the United Nations Framework Convention on Climate Change (COP) held in Cancun, a balanced package of decisions known as “Cancun Agreements” were adopted. The call for countries to list under the Climate Change Convention the emission reduction targets and actions which were announced in 2010, was described as forming the collective basis for the largest mitigation efforts the world had ever seen. It was also agreed to build a comprehensive system of mutual accountability towards those goals. However, the issue of the legal form of the agreement was not resolved in Cancun and would be discussed in 2012 in Durban, Republic of South Africa. That meant that Parties still need to decide whether to adopt a legally binding agreement that complements the Kyoto Protocol, an inclusive legally binding agreement for all country that would replace the Kyoto Protocol, or another option where Parties cooperate through Conference of Parties decisions rather than a new treaty.

5. In the field of biological diversity protection, the adoption of Nagoya Protocol on Access to Genetic Resources and Benefit Sharing, 2010 and Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress, 2010 by the Tenth Conference of Parties to the Convention on Biological Diversity and Fifth Meeting of Parties to the Cartagena Protocol on Biosafety were significant developments towards enhancing the international commitment to protect biological diversity. Those instruments held several implications, for biologically diverse countries while dealing with the ‘liability and redress’ and ‘access and benefit sharing’ options. Implementation of those instruments would be difficult, if they were not signed and ratified by biotech rich countries. The DSG informed that there existed many criticisms of the Nagoya Protocol on Access and Benefit Sharing which could be considered as crucial for indigenous communities within the developing countries. To add on, obligation for compliance for countries with users in their jurisdiction to establish ‘effective, appropriate and proportionate measures’, required state parties to be well equipped to deal with issues regarding access and benefit sharing of genetic resources. Therefore, AALCO Member States that were parties to those Protocols could consider taking effective, appropriate and proportionate measures taking into account the biologically rich and diverse environment.

6. In conclusion, the DSG stated that while preparing for the Rio+20 Summit commemorating 20 years of Rio Conference and 10 years of World Summit on Sustainable development, it was essential that countries take adequate efforts for protection of the environment besides safeguarding their national interests.

7. Mr. Masa Nagai, Acting Deputy Director and Senior Legal Officer, United Nations Environment Programme, made a short presentation on “Initiatives for strengthening the rule of law for environmental sustainability”. The speaker mentioned

that there was a need to strengthen implementation of international commitment and enforcement of national environmental law. The presentation focused on the legal frameworks for environmental sustainability, such as supporting progressive development of international law in the field of environment, implementation of multilateral environmental agreements, and strengthening capacity of countries to develop and enforce national environmental law. Asia-Africa cooperation to advance environmental law, he added needs to be promoted. Other challenges that were to be addressed related to combating transnational environmental crime as illegal traffic in wildlife/wildlife products; illegal exploitation of natural resources; hazardous wastes and chemicals, and so on. Advancing environmental justice through enhancing environmental awareness and capacities of judiciary; guidelines for strengthening national legislation, etc., were crucial in the area of promoting rule of law in international environmental law. Looking Forward to Rio+20, the speaker said that participation of Member States of AALCO was very essential.

8. The following Member States of AALCO made their intervention on this agenda item. The **Delegation of the Sultanate of Oman** stated that their country attached great importance to the environment and its sustainable development. The Omani Government was in the process of its comprehensive development, as the protection of the environment and human health from all types of pollutants, as well as laying the foundations for a balanced and sustainable development with equal economic, social and environmental considerations were some of the main objectives of the Sultanate of Oman.

9. The delegation mentioned that it has also prepared a national plan to combat drought and desertification. The Sultanate has put together an integrated system of natural reserves in the country, besides developing environmental laws to be in line with the requirements of environmental protection from the dangers of pollution emanating from requirements of environmental activities, as well as raising awareness amongst citizens and residents of the importance of the conservation of natural resources in the achievement of the principles of sustainable development.

10. The **Delegation of Pakistan** briefly outlined the strategies and measures adopted by their Government to mitigate issues relating to climate change, environmental degradation, and so on. The delegation mentioned that their country had witnessed reasonable long-term economic growth, amidst natural calamities. It was reiterated that there was a dire need to amend policies of capital-driven growth and to focus on policies that gave due cognizance to ‘capitals’ that sustained human well-being including natural, human and socio-cultural capital. The delegation also highlighted the details of the National Sustainable Development Strategy (NSDS) of Pakistan that stressed the framing and implementation of complementary policies that address environmental as well as social issues while facilitating economic growth to capture the maximum development dividend of that growth.

11. The **Delegation of the People’s Republic of China** raised concerns about the climate change issues. In order to achieve economic development, sustainable

development must be kept as a priority. Sustainable development was both the means and the end for effectively addressing climate change. Within the overall framework of sustainable development, environmental protection, economic development and poverty eradication should be considered in a holistic and integrated manner to safeguard the basic rights of developing countries for development. Equal emphasis had to be given to mitigation and adaptation and principle of common but differentiated responsibility. The delegation applauded the Cancun Agreement for providing a political foundation for future negotiations.

12. The delegation mentioned that due importance must be accorded to the forthcoming Durban Conference to formulate second commitment period under the Kyoto Protocol. Three important concerns that were addressed were: (i) deeper quantified emission reduction targets should be set for developed countries for the second commitment period under the Kyoto Protocol, and those developed countries that are not Parties to the Kyoto Protocol should also take comparable emission reduction commitments. (ii) Effective institutional arrangements should be established to ensure that developed countries fulfill their commitments to provide technology, financing and capacity building support to developing countries. (iii) In the context of sustainable development, developing countries should take nationally appropriate mitigation and adaptation actions, supported by technology, financing and capacity-building assistance from developed countries. The delegation stated that their country was willing to enhance pragmatic cooperation with countries in the area of energy saving and clean energy.

13. The **Delegation of the Republic of Indonesia** said that the climate change negotiation process ranging from Copenhagen, Cancun, Bangkok to Durban, had all been intended to make the Bali Action Plan adopted in 2007 a success. The delegation reiterated the need to push forward the process based on common but differentiated responsibility. Three important points were made: first, need to build on Copenhagen Accord; second, Durban negotiation must have a workable decision; and third, addressing the trust deficit by building an open, transparent and inclusive process for achieving goals at Durban.

14. The **Delegation of Malaysia** took note of the Cancun Agreements reached by the Parties during the 16th session of the COP to the UNFCCC and the 6th MOP to the Kyoto Protocol held in 2010. In the context of the future negotiations on climate change, Malaysia was aligned to the principle “common but differentiated responsibilities” whereby developed countries must assume a leadership role, and developing countries, supported through technological, financial and other assistance, should continue to implement their sustainable development policies. The delegation briefly narrated the biodiversity strategy and action plan introduced by their country. The delegation also took note that The Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety was now opened for signature by Parties to the Convention on Biological Diversity, and as a party to the Convention on Biological Diversity; Malaysia was considering to sign the said Supplementary Protocol.

15. The **Delegation of Nepal** raised concerns of climate change issues having adverse effects on lives and livelihood of the peoples living in Asia and Africa. Nepal had been on the receiving end of the climate change calamities. The delegation mentioned that their Government, understanding the seriousness of that problem had been continuously participating in all the international negotiations and has made all efforts to implement measures for complying with its obligations under the legal instruments.

16. The **Delegation of Japan** said that environmental issues were critical problems faced by the international community. The delegation stated that their country was making all efforts to recover from the recent disasters, earthquakes, tsunami, the worst ever experiences faced by Japan and at the same time, the country was determined to continue its active participation in international efforts to mitigate climate change. In that regard, the delegation confirmed its support towards adopting a new single undertaking or comprehensive legal instrument for addressing climate change issue in the forthcoming negotiation in Durban, South Africa.

17. The **Delegation of Bangladesh** thanked the representative from the UNEP for a detailed presentation. Commenting upon the presentation which emphasized on formulating binding environmental laws and regulations, the delegation said that one must be cautious while formulating the rules of international environmental governance. The questions that had to be asked were: (i) whether a comprehensive and binding environmental laws was possible, (ii) who would assume the responsibility of international environmental governance and whether it would be generally acceptable to all.

18. The delegation said that Bangladesh being a least developed country (LDC), has been adversely impacted by climate change. However, they were a victim of adverse climate due to unsustainable production and consumption pattern mainly practiced in the developed countries. Due to environmental degradation, loss of biodiversity and ecosystem loss, Bangladesh had been experiencing adverse climatic changes like drought, excessive flood, heavy rainfall, storms and cyclones. Therefore, as a country worst affected by the climate change, the delegation called upon the developed countries to fulfill their pledges and commitments made at various Multilateral Environmental conference (MEC) like the World Summit on Sustainable Development.

19. It was further mentioned that Bangladesh has been advocating for a new climate change regime embedding the principles of responsibility, differentiated capacity to pay and equity. In terms of climate change funding, Bangladesh made its viewpoint clear that the financing had to be in the form of grants and in addition to ODS which has to be binding, well-designated, easily accessible, stable and predictable. Also, it has to be disbursed through the UNFCCC.

20. The **Delegation of the Republic of South Africa** informed that the 17th Session of the Conference of Parties (COP-17) to the United Nations Framework Convention on Climate Change and the 7th Session of the Conference of Parties serving as the meeting of

the Parties to the Kyoto Protocol would be held in Durban, South Africa from 28 November to 9 December 2011. In that regard, the delegation suggested some minor changes to the AALCO draft resolution on Environment and Sustainable Development held in April 2011. The delegation added that the resolution adopted at the recent Bangkok Session must be preserved, in order to keep the delicate balance between the Bali Road-Map and the Cancun Decisions. Also that both the negotiations must be read together and one could not be highlighted over the other.

21. The **Delegation of the Republic of Korea** commented on Korea's interest in the 16th Conference of the Parties to the UN Framework Convention on Climate Change, or COP16, which were held in Cancun, Mexico last year. The delegation was of the view that with the Cancun Agreement, the COP 16 established an important milestone for the COP17 to be held in Durban, South Africa in December 2011. Even though the Copenhagen Accord was just taken note of, the Cancun Agreement specified and developed the Copenhagen Accord. In order to draw genuine transformation in the measures against the climate change, "common but differentiated responsibilities" were needed. In order to take appropriate measure against the climate change, the delegation considered that the difference in positions between developed and developing countries should be narrowed in terms of core issues such as the Second Commitment period for the Kyoto protocol. In addition, two-track negotiation system, which divides developed countries' duty and developing countries' action to reduce greenhouse effect gases, must be supported. The delegation then gave an overview of the measures adopted by their country to mitigate climate change. Against that backdrop, the delegation reminded that Republic of Korea wished to host the COP 18 in 2012. The delegation requested all the Member States of AALCO to extend support for the Republic of Korea in hosting the COP 18.

22. The **Delegation of the United Republic of Tanzania** took note of the developments at the Cancun negotiations. The delegation summarized the measures undertaken by their country to deal with climate change issue and biodiversity conservation problem, like finalization of Environmental Impact Assessment (EIA) regulations and Guidelines; review of relevant sector policies to incorporate management of biodiversity issues; involvement of communities through establishment of Wildlife Management Areas and Community Forest Inter Sectoral Wetlands Steering Committee (NAWESCO) and National Wetlands Working Group (NWWG) for the implementation of the Tanzania Wetland Management Plan.

23. Further, on the forthcoming Durban Conference, it was mentioned that main objective was to discuss on the implementation for the UNFCCC and Kyoto Protocol. The delegation hoped to work within the framework of Bali Road-map.

24. The **Delegation of the Arab Republic of Egypt** highlighted the challenges faced by the Member States of AALCO, namely climate change. The delegation expressed deep concern on the recent calamities that occurred in Japan and extended solidarity with peoples of Japan. The problems of globalization and liberal trend negatively impacted on the environment, active role of civil society in dealing with issues relating to environment

along with the governmental authorities was very essential. In that regard, expanding environmental friendly products and sustainable development are major steps on those lines.

C. Issues for focused deliberations at the Fifty-First Annual Session of AALCO

- *Issues for deliberating upon the forthcoming Protocol/legal instrument on second-term commitment of countries in climate change, encompassing the principle of common but differentiated responsibility to be completed by 2015;*
- *Importance of Green economy and preparations for the Rio+20 Conference; and*
- *Challenges facing environmental sustainability.*

II. INTERNATIONAL REGIME ON CLIMATE CHANGE

A. Background

25. The United Nations Framework Convention on Climate Change (UNFCCC), 1992 and its Kyoto Protocol of 1997 contains the response of international community to meet the challenges posed by the threat of climate change. The UNFCCC was concluded on 9 May 1992 and opened for signature at the United Nations Conference on Environment and Development (UNCED) in June 1992. It entered into force on 21 March 1994 and having attained ratification by 195 State Parties Convention, it has reached universality. The Kyoto Protocol (KP) entered into force on 16 February 2005 and currently there were 193 countries and 1 regional economic integration organization (the EEC) that have deposited instruments of ratification, accession, approval or acceptance. The total percentage of Annex I Parties emissions is 63.7 %. However, the largest contributor to the global greenhouse gas emissions, the United States of America, remains outside the Kyoto Protocol.¹

26. The Conference of Parties (COP) to the UNFCCC and the Meeting of Conference of Parties serving as Meeting of Parties to the Kyoto Protocol (CMP), the supreme decision-making bodies of the Climate Change Convention and the Kyoto Protocol, since the entry into force of these legal instruments have been meeting on an annual basis. As such, until December 2011, seventeen COP meetings and seven CMP meetings have taken place.

27. The international community is presently engaged in negotiations for elaborating on a framework of action after 2012, when the Kyoto Protocol's first commitment period expires. It may be recalled that in December 2007, negotiators meeting at the United Nations Climate Change Conference in Bali had approved the Bali Action Plan (BAP) and Roadmap setting the Fifteenth meeting of Conference of Parties (COP 15) in December 2009 at Copenhagen as the deadline for agreeing on a framework for action after 2012. The plan laid out the four-fold action roadmap for climate change action – mitigation, adaptation, technology and finance. It was essentially a mandate to finalize two things: one, the emission reduction commitments of industrialized countries for the second phase of the Kyoto Protocol, and two, the global goals for long-term cooperative action until 2050. Although, these negotiations were to conclude at Copenhagen, the Conference failed to achieve the requisite breakthrough.

28. The Copenhagen Conference was followed by Cancun Climate Change Conference (2010) and Bangkok Climate Change Conference in April 2011. Under the Convention track, it recognized the need for deep cuts in global emissions in order to limit global average temperature rise to 2°C. Parties also agreed to consider strengthening the global long-term goal during a review by 2015, including in relation to a proposed 1.5°C target. They took note of emission reduction targets and nationally appropriate mitigation actions (NAMAs) communicated by developed and developing countries,

¹ The status of ratification of these instruments is drawn from the website: http://unfccc.int/essential_background/items/2877.php (last accessed on 15 April 2012).

respectively. It also addressed other aspects of mitigation, such as measuring, reporting and verification (MRV); reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries (REDD+). The Bangkok Conference focused on engaging in procedural discussions of the AWG-LCA and agreed on an agenda for its subsequent work. Under the AWG-KP, parties focused on key policy issues hindering progress.

B. Bonn Climate Change Talks (6 – 17 June 2011, Bonn, Germany)

29. At the Bonn Climate Change Talks, sessions on the SBI, SBSTA, AWG-LCA and AWG-KP were convened. The SBSTA agreed to a new agenda item on impacts of climate change on water and integrated water resources management under the Nairobi Work Programme. Agreement could not be reached on other proposed new items, such as blue carbon and rights of nature and the integrity of ecosystems, and a work programme on agriculture. Under the SBI, work was launched on national adaptation plans, and loss and damage, as mandated by the Cancun Agreements. The agenda item relating to MRV remained in abeyance. The focus of the AWG-KP in Bonn was on outstanding political issues and conditionalities set by various Annex I countries for taking on new commitments during a second commitment period. Under the AWG-LCA, parties worked on adaptation, finance, technology, capacity building, shared vision, review of the global long-term goal, legal options, and diverse issues related to mitigation.

C. Panama Climate Change Talks (1 – 7 October 2011, Panama City, Panama)

30. On October 2011, the Panama Climate Change Talks were convened, wherein the AWG-KP concentrated on outstanding issues and further clarifying options concerning mitigation targets, the possible nature and content of rules for a second commitment period, and the role of a possible second commitment period within a balanced outcome in Durban, South Africa. Parties worked on adaptation, finance, technology, capacity building, shared vision, review of the global long-term goal, legal options, and diverse issues related to mitigation. The outcome for most of the informal group discussions was some “form of text” which was forwarded to Durban as a basis for further discussions. Developing Countries strongly expressed their differences in the treatment of their obligations in relation to the mitigation actions as per common but differentiated responsibility.

D. Seventeenth Conference of Parties to the UN Framework Convention on Climate Change and Seventh Meeting of Parties to the Kyoto Protocol (28 November to 9 December 2011, Durban, South Africa)

22. The Seventeenth Conference of Parties to the United Nations Framework Convention on Climate Change and the seventh session of Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (COP/MOP 7) took place

from 28 November to 9 December 2011 in Durban, South Africa². The focus in Durban Conference was on post-2012 Kyoto Protocol commitment or second-term commitment period. The hope was that the negotiations would produce more ambitious greenhouse gas emission reduction pledges by developed countries, a second commitment period under the Kyoto Protocol, and a mandate for a new legally-binding agreement. Further, it also wanted the institutions mandated by the 2010 Cancun Agreements to become fully operational and to complete the terms of reference for the review of the long-term global goal for emission reductions.

23. These include decisions to implement the Cancun Agreements, operationalise the Green Climate Fund, extend the Kyoto Protocol for a second commitment period, and launch a new process to negotiate a future climate regime. This was a “package deal”, in that without an agreement to negotiate a future climate regime, the EU would not have agreed to a Kyoto second commitment period. The Durban Package seems to fulfill several objectives of countries that are among the most vulnerable to climate change: the Pacific Island Developing States (“PSIDS”) and the larger Alliance of Small Island States (“AOSIS”). In fact, the Durban Package comprises decisions under both the UNFCCC and the Kyoto Protocol that accomplish many of the PSIDS and AOSIS goals for adaptation, finance, technology transfer, and capacity building. However, there was a shortcoming in terms of mitigation, and the action taken on the Kyoto Protocol’s second commitment period was mere proposal to formalize pledges made in Cancun in 2012 by developed country Kyoto Protocol parties and does not include major emitting countries such as the United States, Canada, Russia, and Japan. The Durban Outcome dealt with UNFCCC parties agreeing to establish the Ad Hoc Working Group on the Durban Platform for Enhanced Action (“AWG-DPEA”) which would adopt, a new “protocol, legal instrument or agreed outcome with legal force” by 2015. The new AWG-DPEA has a mandate to develop proposals on the full range of climate change issues, its focus would clearly be on raising the “level of ambition” with respect to mitigation for all parties.

Mitigation

24. On the question of “common but differentiated responsibility”, there were divided perspectives as many developed countries wanted the emerging economies from the developing world to undertake commitments whereas the developing countries stated that they had already undertaken commitments as per Cancun Agreement. In the climate change regime, CBDR means that developed countries bear a disproportionate responsibility to mitigate climate change given their disproportionate historic emissions. Therefore, the Durban Package does not formally propose any amendments to the Kyoto Protocol. Instead, it tentatively establishes a second five-year commitment period running from January 1, 2013, to December 31, 2017. The second commitment period is tentative

² “Summary of the Durban Climate Change Conference: 28 November - 9 December 2011, *Earth Negotiations Bulletin*, vol. 12, no. 534, dated 13 December 2011, available online at <http://www.iisd.ca/climate/cop17/> and also see also http://unfccc.int/meetings/durban_nov_2011/meeting/6245/php/view/reports.php for details on the Durban Climate Conference.

because the parties must complete many steps to make it a reality. The Durban Package merely “takes note” of the proposed amendments to Annex B of the Kyoto Protocol, which restate the pledges these countries have already anchored in the Cancun Agreements. In addition, the Durban Package “takes note” of the “intention” of Annex I (developed country) parties to convert their pledges into quantified emission limitation and reduction objectives (“QELROs”); this step is needed to make pledges comparable as some countries have chosen different base years from which to measure reductions or used different assumptions for calculating emission reductions.

Measurement, Reporting, and Verification

25. There were progress on measurement, reporting, and verification of their mitigation commitments, which stated that by the beginning of 2014, each Annex I party must submit a biennial report that provides information on its mitigation actions and progress towards meeting its targets. Developing countries, on the other hand, known as non-Annex I parties, would be expected to complete biennial update reports on greenhouse gas emissions and control measures consistent with their capabilities and level of financial support received for reporting, by December 2014, although Least Developed States (“LDCs”) and Small Island Developing States may submit reports at their discretion.

Adaptation, Technology Transfer, and Capacity-Building

26. The need to further developed institutions and processes for adaptation, technology transfer, and capacity-building was also key aspect. They determined the Adaptation Committee’s composition and charged the committee with compiling and sharing information, knowledge, and expertise concerning adaptation. They adopted guidelines for LDCs to prepare national adaptation plans. The Parties also took further steps to launch the Climate Technology Center and Network and established a Durban Forum to share experiences, ideas, and best practices concerning capacity-building.

Finance

27. Several steps were taken to channel funding to developing countries for adaptation and mitigation. Approval of the governing instrument for the Green Climate Fund (“GCF”), that would provide a significant portion of the \$100 billion per year in long-term adaptation and mitigation finance that developed countries have pledged to mobilize by 2020.

26. The eighteenth meeting of the COP and the eighth meeting of COP/MOP is scheduled to take place in Doha, Qatar – an AALCO Member State – from 26 November to 7 December 2012.

III. INTERNATIONAL REGIME ON DESERTIFICATION

A. Background

27. The international regime on combating desertification consists of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and Desertification, Particularly in Africa (UNCCD or CCD) which was adopted on 17 June 1994 and opened for signature at Paris in October 1994. The Convention entered into force on 26 December 1996 and as at 15 April 2012; there were 194 State Parties to the UNCCD.

28. The Convention provides for an integrated approach to combat desertification and mitigate the effects of drought in the countries, especially in Africa, by advocating effective action at all levels supported by regional and international cooperation. The Convention also contains “Regional Implementation Annexes” for Africa, Asia, Latin America and the Caribbean, and the Northern Mediterranean. A fifth annex for Central and Eastern Europe was adopted at COP-4 in December 2000.

29. The Conference of Parties (COP) is the supreme body of the Convention. A Committee on Science and Technology (CST), established under the Convention as a subsidiary body of the COP is entrusted with the task of providing information and advice on scientific and technological matters relating to combating desertification and mitigating the effects of drought, while another subsidiary body is the Committee for the Review of the Implementation of the Convention. Till date ten Conference of Parties have been convened under the auspices of the UNCCD.

30. The UNCCD recognizes twofold approach to pursue environmental and socio-economic development objectives. The Convention gives equal importance to both aspects like improved: (i) “productivity of land, and the rehabilitation, conservation and sustainable management of land and water resources” and (ii) “living conditions, in particular at the community level”. The core of the UNCCD is the development of national, sub-regional and regional action programmes by national governments, in cooperation with UN agencies, donors, local communities and NGOs. The 10-Year Strategic Plan and Framework to Enhance Implementation of the Convention (2008-2018) was adopted at COP 8. The objectives of the plan are: (i) improve the living conditions of affected populations; (ii) improve the condition of affected ecosystems; (iii) to generate global benefits through the effective implementation of UNCCD; and (iv) mobilize resources to support implementation of UNCCD.

B. Tenth Session of the Conference of Parties to the UNCCD (10 - 21 October 2011, Changwon, Republic of Korea)

30. The tenth session of the Conference of the Parties (COP 10) to the United Nations Convention to Combat Desertification (UNCCD) convened in Changwon, Republic of

Korea from 10 - 21 October 2011³. The tenth meetings of the Committee on Science and Technology (CST 10) and the Committee for the Review of the Implementation of the Convention (CRIC 10) convened in parallel to the COP.

High-Level Segment at the Tenth Conference of Parties (COP)

Round-Table Discussion I: Food Security

31. Food security remains an increasingly urgent and critical problem on the international agenda. Strategies to address food security, energy security, water security, poverty alleviation, climate change and biodiversity require an integrated approach to sustainable land management issues that addresses both environmental and social elements. Increasing food insecurity faced by people in arid countries lead to malnutrition and malnourishment. Therefore, as one could witness, there should be country-led initiatives in addressing the root causes of food insecurity and collaborating in South-South, triangular and global alliances to promoting of sharing of technological and policy solutions to address desertification and land degradation.

32. Sustainable use of drylands should serve multiple functions for the global good. The challenges linked to the sustainability of drylands should be encouraged by the creation of innovative approaches to medium- and long-term financial arrangements that include public-private-community partnerships. Drylands should be viewed from a new value system. This requires a strengthened synergy and cooperation with United Nations Framework Convention on Climate Change (UNFCCC) and Convention on Biological Diversity (CBD).

33. Mechanism to preserve the natural reserves must be adopted at national level and alongside this food reserves established in various countries must be brought together in order to effectively tackle the situation of food scarcity in future. Most of the developing countries face the problem of less protection measures to the people whose livelihood is based on agriculture and related activities. To increase land productivity, national measures like increasing facilities to farmers vis-à-vis creating a workforce to sustain agricultural activities must be promoted. Government's annual budget must incorporate funds and projects that would support agriculture and in that regard, sharing of experiences among countries would be beneficial.

Round-Table Discussion II: Green Economy

34. Main theme of Rio+20 are: a green economy in the context of sustainable development and poverty eradication; and the institutional framework for sustainable development. There is a need to strengthen the Strategic 10-Year plan of the UNCCD

³ See "Summary of the Tenth Meeting of the Conference of the Parties to the UN Convention to Combat Desertification: 10-21 October 2011" *Earth Negotiations Bulletin*, vol. 4, no. 241, dated 24 October 2011, available online at <http://www.iisd.ca/desert/cop10/>. See also UNCCD website [http://www.unccd.int/en/about-the-convention/official-documents/Pages/SessionDisplay.aspx?k=COP\(10\)](http://www.unccd.int/en/about-the-convention/official-documents/Pages/SessionDisplay.aspx?k=COP(10)) for details of COP 10.

which is from 2008-2018. It includes improving the living conditions of the affected population, affected ecosystems, etc. Additionally, more role must be given to people from local community in spreading awareness on the benefits of being a green economy. Success stories while adapting to a green economy must be cited as examples. Water conservation, increasing land productivity, disaster reduction/management mechanisms, if any undertaken in any country and was successful in attaining the objectives, must also be shared with the international community so that developing countries and least-developed countries could follow suit.

35. For poverty eradication, developed countries and organizations must support other developing countries to realize Millennium Development Goals. A pro-poor policy at national and regional level should be the base of all green growth economy initiatives.

Round-Table Discussion III: Scientific Knowledge

36. Increasing scientific awareness about the DLDD to the urban class also requires to be implemented, in order to include their participation as contributors towards conservation of renewable energy. Improve the Research and Development (R&D) in the affected ecosystems for framing solutions. More environmental studies programme with a view to address other global issues like climate change and loss of biodiversity must also be introduced as there is a strong nexus among these three major issues.

37. Role of science in developing a new environment-friendly technology for conserving the resources alongside improving the living conditions of peoples and economic prospects must be devised. These would lead to a path of green economy and improvement.

38. Renewable energy is an important potential tool to solve development problems, climate change, desertification and food security. Promoting investment, combined with a renewed synergy of Rio conventions can produce holistic and robust strategies, strategic partnerships and cooperative frameworks. Land rehabilitation programmes which include planning and seeding to renew barren land, reverse-osmosis projects, etc., as implemented by some developing countries could also be considered as examples to work towards increasing land productivity and improve the water quality.

39. The COP also adopted decisions on: (i) the designation of a Convention Secretariat and arrangements for its functioning: administrative and support arrangements by which the COP approved the continuation for a further five-year period the current institutional linkage and related administrative arrangements; (ii) procedures and institutional mechanisms for the resolution of questions on implementation, in which the COP decided to reconvene, at COP 11, the open-ended Ad Hoc Group of Experts (AHGE) to examine further, and make recommendations on, procedures and institutional mechanisms for the resolution of questions on implementation and requests the Secretariat to prepare a new working document to include a compilation of submissions by parties; and (iii) annexes containing arbitration and conciliation procedures, in which the COP decided to reconvene, at COP 11, to examine further and make

recommendations in the annex on arbitration procedures and the annex on conciliation procedures and to request the Secretariat to prepare a new working document including an updated version of the annexes. During COP 10, the retrospective achievements of the Convention since 1994, was recalled including: a legal framework signed by 194 countries; a common strategy and institutional process for its implementation; formulation of country-led National Action Programmes (NAPs); the adoption of a performance review and assessment of implementation system (PRAIS) and impact indicators at COP 9; and the addition of the Global Environment Facility (GEF) as a financial mechanism and allocation of additional resources through the GEF land degradation focal area. These elements have provided the basis for taking agreed global goals and implementing them at the local level, and to begin a process to track and report on the impacts of their projects and activities.

IV. FOLLOW-UP ON THE PROGRESS IN THE IMPLEMENTATION OF THE OUTCOME OF THE WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT (WSSD)

A. Background

40. The debate on the linkages between the environment protection and development, paved the way for recognition of the concept of ‘sustainable development’. The 1972 Stockholm Conference on Human Environment recognized the need of protecting environment and adopted an Action Plan for Human Environment and Stockholm Declaration consisting of 26 principles as a guide for the development of environmental law. United Nations Environment Programme (UNEP) was established as a follow-up to coordinate the environment activities of the UN agencies. In 1992, United Nations Conference on Environment and Development was held in Rio de Janeiro. It adopted Rio Declaration and Agenda 21, a comprehensive programme of action. The Conference also established the Commission on Sustainable Development (CSD). An evaluation of the implementation of the Agenda 21 was carried out at the Special Session of the General Assembly in 1997.

41. The 2002 World Summit on Sustainable Development, held at Johannesburg provided another opportunity to make an appraisal of the implementation of the Agenda 21. *Johannesburg Declaration on Sustainable Development* and the *Johannesburg Plan of Implementation* (JPOI) were the substantive outcome of the Summit. The Plan of Implementation had dealt with poverty eradication; changing unsustainable patterns of consumption and production; protecting and managing the natural resource base for economic and social development; sustainable development in a globalising world; health and sustainable development; sustainable development of small island developing states; sustainable development for Africa; means of implementation; and institutional framework for sustainable development.

B. Twelfth Special Session of the UNEP Governing Council /Global Ministerial Environment Forum (20 to 22 February 2012, Nairobi, Kenya)

42. The Twelfth Special session of the UNEP Governing Council/Global Ministerial Environment Forum (GC-26/GMEF) took place from 20 to 22 February 2012 at the UN Office in Nairobi, Kenya⁴. The ministerial consultations during the 12th Special Session focused on emerging policy issues under the overall theme of “The environmental agenda in the changing world: From Stockholm (1972) to Rio (2012).” Participants ranged from representatives from more than 100 governments, as well as intergovernmental organizations, UN agencies, and Major Groups and other stakeholders, and an overall of 951 participants attended the meeting. The GCSS-12/GMEF concluded its work by adopting eight decisions on: (i) “UNEP at 40” international environmental governance (IEG); (ii) world environmental situation; (iii) sustainable consumption and production

⁴ See “Summary of the Twelfth Special Session of the UNEP Governing Council/Global Ministerial Environment Forum: 20-22 February 2012” *Earth Negotiations Bulletin*, vol. 16, no. 8, dated 25 February 2011 available at <http://www.iisd.ca/unepgc/unepss12/>.

(SCP); (iv) consultative process on financing options for chemicals and wastes; (v) enhancing cooperation and coordination with the chemicals and wastes cluster; (vi) budget and programme of work including financial and administrative arrangements between UNEP and the multilateral environmental agreements (MEAs); and (vii) enhanced coordination across the UN system, including the (viii) Environment Management Group (EMG).

43. Ministerial consultations were conducted on “Emerging Policy Issues: Environment and Development”, “Green Economy in the context of Sustainable Development and Poverty Eradication”, “Institutional framework for sustainable development”. The decision on IEG recalled the commitment set out in the Nusa Dua Declaration of 2010 to strengthen the role of UNEP as the leading global environmental authority that sets the global environmental agenda, that promotes coherent implementation of the environmental dimension of sustainable development within the UN system, and that serves as an authoritative advocate for the global environment.

44. President of the UNEP Governing Council on green economy said that the Green Economy was viewed as a tool or pathway to achieving sustainable development, poverty eradication and decent job creation "by increasing resource efficiency, supporting the shift to sustainable consumption and production patterns and facilitating low carbon development". He also underlined the fact that there remained many challenges to realizing that economy especially in developing countries in respect to the necessary finance, capacity and access to relevant technologies. Concerns by some countries were raised that there was a risk that a Green Economy might also lead to trade protectionism and was vital that more engagement across all sectors of society and between countries would be important to address these risks. However, views were expressed that vast majority of nations are in support for the Green Economy because of its potential opportunities for integrating the social, environmental and economic dimensions of sustainable development. It was also underlined that many of the activities under the Green Economy approach could provide new opportunities for women to become key players in the local economy, especially in the energy, land management and water sectors.

45. On Institutional framework for sustainable development, three important observations from the Governing Council were that, (i) the scientific understanding about what is happening to the planet as a result of past and present development paths is far clearer and far more sobering than 20 years ago; (ii) there is overwhelming support for a transition to a global economy along pathways proposed in UNEP's Green Economy Report in order for it to deliver positive social and environmental outcomes across all nations; and (iii) incremental reforms of the current architecture and management arrangements of planet Earth is leading seven billion down an unsustainable path and a very uncertain future. Marking the 40th Anniversary Year of the UNEP this year, nations committed to scaling up environmental sustainability.

C. Nineteenth Session of the Commission on Sustainable Development (2 – 13 May 2011, UN Headquarters, New York)

46. Prior to the Nineteenth session of the CSD, the Intergovernmental Preparatory Meeting (IPM) were held from 28 February to 4 March 2011 in New York. The 19th session of the UN Commission on Sustainable Development (CSD 19) was convened from 2-13 May 2011⁵, at UN Headquarters in New York. Focus was on the thematic cluster on transport, chemicals, waste management, mining and the 10-Year Framework Programme (10YFP) on Sustainable Consumption and Production (SCP). The CSD meets annually in two-year “Implementation Cycles.” Each cycle focuses on one thematic cluster along with cross-sectoral issues and is composed of a Review Year and a Policy Year. This approach was adopted at CSD 11 in 2003, which outlined a multi-year programme of work (2004-2017). CSD 19 negotiated policy recommendations based on CSD 18’s review of the issues and the development of a draft Chair’s negotiating text during an IPM convened from 28 February - 4 March 2011.

47. The chair of the CSD 19 had proposed a negotiating text which was to be adopted. The following are the agreed outcomes on various topics. On the Preambular paragraph,

- reaffirm that economic development, social development and environmental protection are interdependent and mutually reinforcing pillars of sustainable development;
- recognize the need for new and additional financial resources from all sources to achieve sustainable development, and recognize the essential role of ODA as a catalyst for other sources of financing for development
- recognize the urgency and reaffirm commitment to reaching a successful and timely conclusion of the Doha Round of World Trade Organization negotiations with an ambitious, balanced and development-oriented outcome
- recall the chemicals and wastes-related multilateral environmental agreements, including the Basel Convention, the Rotterdam Convention and the Stockholm Convention, and highlight the positive effects of synergistic initiatives among the conventions related to chemicals and waste and bear in mind the potential further to enhance coordination and cooperation of instruments and frameworks in the chemicals and wastes cluster;
- note the need to strengthen implementation of relevant international conventions and agreements on waste management, especially the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and the MARPOL Convention; and
- stress that fighting corruption at both the national and international levels is a priority

48. The Working Group agreed that sustainable transport is a central component of sustainable development and economic growth; and that growing transport challenges are

⁵ See “Summary of the Nineteenth Session of the Commission on Sustainable Development: 2-14 May 2011” *Earth Negotiations Bulletin*, vol. 5, no.304, dated 16 May 2011 Online at <http://www.iisd.ca/csd/csd19/>.

increasingly urgent. On thematic clusters, recommendations of the Working Group were either not adopted by the CSD or remained unresolved.

49. The high-level segment of CSD-19 comprised of an opening session, a multistakeholder dialogue, a ministerial dialogue, 4 round tables, 2 informal straight talk sessions and a closing session. The Multi-stakeholder dialogue was on policy options, practical measures and the way forward. The Ministerial dialogues were on (i) Developing programmes and a framework to accelerate the shift towards SCP, (ii) Enhancing access to sustainable urban and rural transport, (iii) Moving towards zero waste and sound management of chemicals, and (iv) Creating an enabling environment for sustainable mining.

50. UN Conference on Sustainable Development (CSD) will mark the 20th anniversary of the 1992 UN Conference on Environment and Development and the 10th anniversary of the 2002 World Summit on Sustainable Development (WSSD) in Rio de Janeiro, Brazil from 4 to 6 June 2012 and the Rio+20 Conference would be held from 20 to 22 June 2012. The themes for the Rio+20 are (a) a green economy in the context of sustainable development poverty eradication; and (b) the institutional framework for sustainable development. The seven priority areas identified are decent jobs, energy, sustainable cities, food security and sustainable agriculture, water, oceans and disaster readiness.

V. COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT

51. The Durban Outcome emphasized the need for an effective legal instrument for second-term commitment post 2012 by 2015, reaffirmed the importance of Climate Change talks and Conferences. These talks and conferences recall the threat posed to the planet Earth by climate change a fair, effective, comprehensive and legally-binding framework on stronger international action on climate change beyond 2012. The protocol/legal instrument should be based on concepts such as historical responsibility, justice, equity, principle of common but differentiated responsibility, as well as the effective implementation of developed countries commitments and support for developing countries. The negotiations at Bonn and Panama have revived hopes for the multilateralism and the UNFCCC process and in this regard it may be hoped that through collective action the international community would be able to achieve the mandate of the Durban Outcome Package.

52. The conservation of biological diversity and combating desertification etc, have been continued concerns of the international community. With regard to desertification, the COP 10 of the UNCCD have paved way for need for food security, green economy and importance of scientific knowledge in path of development and progress. In June 2012, when the States would mark the commemoration of 20 years of the Rio Conference and 10 years of WSSD, it is essential to recall the role and importance of the UNEP. Therefore, 40th Anniversary Year of the UNEP is also historic. Since 1972 Stockholm Conference, the environmental summits have played a crucial role in bringing sustainable development on international political agenda. Many of the countries have changed their national policies favouring green economy which would in future be beneficial for protection of environment and ensuring sustainable development for succeeding generations. It is essential that countries take adequate efforts for protection of the environment besides safeguarding their national interests with a vision to transform their societies into a green economy which would be less polluting and be environmentally sustainable.

53. It is highly appreciable to acknowledge the active participation of AALCO Member States in all the major environmental negotiations especially in the Climate Change talks. The Member States of AALCO, being developing countries most affected by the climate change, should be actively involved in the post-Durban Conference talks as those negotiations would be more forthcoming in terms of the commitments of the non-Annex I parties. There is also a need to vehemently argue for the concept of common but differentiated responsibility (CBDR) to be incorporated in the new Protocol/legal instrument which would be completed by 2015. Being rich in biological diversity, it has been the sincere concern of the Member States of AALCO to raise the issue of preservation and conservation of natural resources. Therefore, it is desirable that developing countries from AALCO Member States would actively participate and express their approaches at the forthcoming negotiations on environmental issues.

ENVIRONMENT AND SUSTAINABLE DEVELOPMENT
(Deliberated)

The Asian-African Legal Consultative Organization at its Fifty-First Annual Session,

Considering the Secretariat Document No. AALCO/51/ABUJA/2012/SD/S 10;

Noting with appreciation the introductory statement of the Deputy Secretary-General;

Having followed with great interest the deliberations on the item reflecting the views of the Member States on the agenda item “Environment and Sustainable Development”;

Deeply concerned with the deteriorating state of the global environment through various human activities, and unforeseen natural disasters;

Reaffirming that environmental protection constitutes an integral part of sustainable development;

Welcoming the adoption of the Johannesburg Declaration on Sustainable Development and the Plan of Implementation at the World Summit on Sustainable Development, held at Johannesburg in 2002;

Recalling the Nairobi Resolution on Environmental Law and Sustainable Development adopted by the Forty-Fourth Session of AALCO in 2005;

Underlying that climate change is one of the greatest challenges of our time;

Emphasizing that strong political will to combat climate change in accordance with the principles of the United Nations Framework Convention on Climate Change, especially the principle of common but differentiated responsibilities and respective capabilities is essential;

Recognizing the importance of the on-going Bali Road-Map negotiations for stronger international cooperation on climate change for the period beyond 2012;

Considering the Durban Outcome adopted at the United Nations Climate Change Conference held at Durban, South Africa in December 2011 that established the Ad Hoc Working Group on the Durban Platform for Enhanced Action (“AWG-DPEA”) which

would adopt, a new “protocol, legal instrument or agreed outcome with legal force” by 2015;

Conscious of the importance of the conservation of biological diversity for evolution and maintaining life-sustaining systems of the biosphere;

Affirming the importance of the United Nations Convention to Combat Desertification:

1. **Urges** Member States to actively participate in the on-going Bali Road-Map negotiations.
2. **Directs** the Secretariat to follow the on-going Bali Road-Map negotiations and Durban Outcome processes for stronger international legal instrument on climate change for the period beyond 2012.
3. **Further directs** the Secretariat to continue to follow up the progress in the implementation of the outcome of the Johannesburg Summit as well as follow up the progress in the implementation of the United Nations Framework Convention on Climate Change, Convention on Biological Diversity, and the United Nations Convention to Combat Desertification, and
4. **Decides** to place this item on the provisional agenda of the Fifty-Second Annual Session.