



ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

ANNOTATED PROVISIONAL AGENDA FOR THE FIFTY-FIRST ANNUAL SESSION

I. INTRODUCTION

1. The Provisional Agenda has been prepared following Rule 11(1) of the AALCO's Statutory Rules. It may be recalled that until the Forty-First Annual Session of the AALCO, held in Abuja (Nigeria, 2002), all the substantive items on the Organization's agenda were deliberated in the Annual Sessions and the Secretariat prepared reports on all the agenda items. However, before the Forty-Second Annual Session held in Seoul, Republic of Korea, (16-20 June 2003), the Host Government of that Session proposed to the Secretary-General to divide all the items on the agenda into deliberated and non-deliberated items with a view to allocating more time for the exchange of views and experiences and intensive discussion on the deliberated items apart from discussion on organizational items.

2. This innovative approach was implemented for the first time during the Forty- Second Annual Session, held in Seoul and is being successfully followed since then. In order to keep the Member States informed, the Secretariat had prepared reports on all the items on the work programme. It consists of organizational and substantive matters. As regards, the non-deliberated items since the Forty-Ninth Annual Session (Dar es Salaam, 2010), to economize resources these are being submitted for consideration in a single volume. Furthermore, in order to encourage deliberations on resolutions, the drafts of resolutions to be adopted by the Fifty-First Annual Session, have been annexed at the end of every report¹.

¹ This innovation was suggested by the Drafting Committee of the Forty-Eighth Annual Session.

3. At the forthcoming Fifty-First Annual Session, **scheduled to be held in Abuja, Federal Republic of Nigeria from 18th to 22nd June 2012**, apart from the consideration of items on Organizational matters, building upon the AALCO tradition, the deliberations at the Annual Session would focus upon some of the important substantive items on AALCO's agenda, these include: (i) Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied territories in Violation of International law particularly the Fourth Geneva Convention of 1949; (ii) Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties; (iii) The International Criminal Court: Recent Developments; and (vi) Environment and Sustainable Development. Besides this, three half-day Special Meetings will also be held during the course of the Fifty-First Session, on important themes pertaining to namely: (i) Selected Items on the Agenda of the International Law Commission; (ii) Law of the Sea – Responses to Piracy : International Legal Challenges and (iii) International Terrorism.

II. ANNOTATED LIST

A. Chairing of the Session

4. Rule 3(1) provides that the President of the previous Session shall preside until the Member States elect a new President for the Session. Accordingly, **His Excellency Mr. Rauff Hakeem, Minister of Justice of the Democratic Socialist Republic of Sri Lanka and President of the Fiftieth Annual Session** of the AALCO shall preside over the Inaugural Session and the First Meeting of the Delegations of AALCO Member States.

B. Participation of Member States

5. Rule 12(1) provides that at the Annual Session of the Organization, the Delegation of each Member State shall be composed of the Leader of Delegation, Alternate Members and Advisers.

C. Credentials of Participants

6. Rule 12(2) provides that the official communication addressed to the Secretary- General shall serve the purpose of credentials for the delegations and observers. The communication shall be authenticated by a competent authority in the Ministry of Foreign Affairs or by the Diplomatic Missions of the concerned States. An official communication from the Organization addressed to the Secretary-General would serve as credentials for the Organizations in the UN system, inter-governmental organizations and other international institutions.

D. Adoption of Agenda

7. Rule 11(3) provides that the provisional agenda shall be placed before the Meeting of the Delegations of Member States for consideration. The Meeting may, at its discretion, delete any item included in the provisional agenda. A new item may be included on the proposal of one or more delegations, if the Meeting is of the opinion that the matter is one of urgency and there are sufficient reasons on account of which the item could not be included in the provisional agenda. All decisions in this regard shall be taken by consensus. In the event that consensus cannot be reached after all efforts have been exhausted, a decision may be taken by two-third majority of those present and voting in secret ballot.

8. Rule 11(4) provides that the provisional agenda upon its approval by the Meeting of the Delegations of Member States shall be adopted as the agenda of the Session.

E. Admission of Observers

9. The admission of Observers is governed by Rule 18, and will be taken up by the Meeting of Delegations of Member States. According to the Organization's present practice, there are three categories of observers, namely: (i) observers representing non-member Asian-African States; (ii) observers representing States other than those in the Asian-African region; and (iii) observers representing United Nations, its Organs and specialized Agencies, other inter-governmental Organizations and other international institutions.

10. In addition to these three categories, in accordance with the decision taken at AALCO's Twenty-Second Annual Session in Colombo (1981), Australia and New Zealand enjoy Permanent Observer Status.

11. Observer delegations have the right to attend all Meetings except those, which are declared closed meetings and attended exclusively by Delegations of Member States.

F. Admission of New Members

12. Rule 4 provides that the Organization may by a decision supported by a two-third majority of the Member States admit the participation of an Asian or African State, if such a State by written communication addressed to the Secretary-General of the Organization intimates its desire to participate in the Organization and its acceptance of the Statutes and the rules framed there under. Such decision may be taken by means of a resolution adopted in any of its sessions.

The Secretariat has so far not received any application for new membership.

G. Election of the President

13. Rule 3(1) provides that at each Annual Session, the Organization shall elect a President. It has been the practice that the President of the Organization is elected from a dignitary of the Member State hosting the Session.

H. Election of the Vice-President

14. Rule 3(2) concerning the election of the Vice-President provides that in the election of the President and Vice-President, regional representation will be taken into consideration to the extent possible. In accordance with the established practice, if the President is from the Asian region, the Vice-President may be elected, preferably from a Member State in the African region and vice-versa.

I. Report of the Secretary-General on the Work of the Asian-African Legal Consultative Organization

15. Following Rule 20(7) of AALCO's Statutory Rules, the Secretary-General presents an annual report to Delegations of the Member States on the work of the Organization. The Report for the Fiftieth Annual Session covers the activities of this Organization since its Forty-Ninth Annual Session, including the substantive, organizational, financial and administrative matters.

Document: AALCO/51/ABUJA/2012/ORG 1

J. The AALCO's Financial Report and Proposed Budget for the year 2013

16. In accordance with Rule 24(4), the AALCO's Proposed Budget for the year 2012, as adopted by the Liaison Officers, shall be submitted to the Meeting of the Delegations of Member States of the AALCO for final approval and adoption.

Document: AALCO/51/ABUJA/2012/ORG 2

K. Report of the Sub-Committee on AALCO Secretariat's Human resources and Financial Matters.

17. Pursuant to the mandate received from the Forty-Ninth Annual Session held in Dar es Salaam, United Republic of Tanzania, in August 2010, an open-ended sub-committee was established to look into the following three aspects namely: (i) salary structure of the local staff; (ii) the right size of the AALCO Secretariat and (iii) ways and means to generate income for AALCO other than the contributions received from its member States. A Report by the Chairman of the Sub-Committee would be presented at the Fifty-First Annual Session.

L. Report on the Second Meeting of the AALCO-EPG

18. The Second Meeting of the AALCO-EPG was held at the AALCO Headquarters in New Delhi on 9th April 2012. Both Organizational and Substantive matters were discussed in detail. A report of this meeting, by its Chairman, would be presented at the Fifty-First Annual Session.

M. Report on the AALCO's Regional Centres for Arbitration

19. A report on the activities of the AALCO's Regional Arbitration Centres located in Cairo, Kuala Lumpur, Lagos and Tehran is to be submitted for consideration at the Fifty-First Annual Session.

Document: AALCO/51/ABUJA/2012/ORG 3

N. Report on the Centre for Research and Training of the AALCO

20. A report on the activities of the AALCO's Center for Research and Training is to be submitted for consideration at the Fifty-First Annual Session.

Document: AALCO/51/ABUJA/2012/ORG 4

O. Reappointment of the Secretary-General

21. The present Secretary-General Prof. Dr. Rahmat Mohamad shall complete his first four-year-term on 4th July 2012. In accordance with Rule 20(1), he shall be eligible for re-appointment for another term of four years.

P. General debate

22. It has been the practice that the First and, if necessary, Second General Meetings are open for General Statements by the Hon'ble Ministers and Leaders of the Delegations of Member States and Observers. *Leaders of Delegations are requested to kindly consider limiting their speech to 7 – 10 minutes due to paucity of time.* However, if they wish to give a longer version, the same could be handed over to the Secretariat/Host Committee for reproduction in the Report of the Session.

Q. Submission of Statements

23. *The Delegations wishing to make statements (General statements, and Statements on organizational and substantive matters) are requested to read the statement at a reasonable speed and to handover two copies of their statement well in advance to the Secretariat.* This would enable the interpreters (Arabic and

English) to provide quality interpretation and ensure that the impact of the statements of the delegations is equally strong in all languages.

R. Venue of the Fifty-Second Annual Session

24. According to sub-rule (1) of Rule 10 of the Statutory Rules of AALCO stipulates that the regular Annual Session of the Organization shall, in accordance with Article 4 of the Revised Statutes of AALCO be held once in a year and such meetings shall, to the extent possible, be held in one of the Member States by geographical rotation. It may be recalled that during the Fiftieth Annual Session held in Colombo, Democratic Socialist Republic of Sri Lanka (2011) the *Leader of Delegation from Thailand offered to be the next Asian host of AALCO's Annual Session*².

III. MATTERS UNDER ARTICLE 1 OF THE AALCO STATUTES

The agenda items have been listed in this Annotated Agenda as per the Tentative Schedule, as it would be taken up during the Fifty-First Annual Session.

1. Deportation of Palestinians and other Israeli Practices among Them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949

25. In accordance with Article 1 (a) of the Statutes, this item has been on the agenda of the AALCO since its Twenty Seventh Annual Session (Singapore, 1988) following a reference made by the Government of the Islamic Republic of Iran. Since then it has been considered at successive Annual Sessions. At the Thirty-Seventh Annual Session (New Delhi, 1998) the scope of the topic was expanded to "Deportation of Palestinians and *other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949*". At the Thirty- Ninth Annual Session (Cairo, 2000) it was decided to enlarge the scope of the item and the Secretariat was directed to monitor the developments in (all) occupied territories from the viewpoint of relevant legal aspects.

26. Pursuant to RES/50/S 4 adopted at the Fiftieth Annual Session of AALCO on 1st July 2011, the AALCO Secretariat closely followed the events in the occupied territories from the view point of relevant legal aspects during the period

² See General Statement by the Leader of Delegation of Thailand at the Fiftieth Annual Session of AALCO held in Colombo, Democratic Socialist Republic of Sri Lanka (2011), available at AALCO/50/COLOMBO/2011/VR at page 53 and accessible at www.aalco.int

from September 2011 till March 2012, and ascertained that the situation of human rights in the Occupied Palestinian Territory has seen a significant deterioration in many parts of the Territory, particularly in the Gaza Strip. Another significant event during the reporting period was the discussion centered on the “Statehood” of Palestine in the United Nations General Assembly and the response that it elicited from the Member States. The events reported in this brief as well as the efforts of the international community towards the situation in the Occupied Palestinian Territories, are illustrative of the events during the last one year and are in no way exhaustive. The brief prepared for the Fifty-First Annual Session has covered all the aforementioned aspects.

27. Issues for focused consideration at the Fifty-First Annual Session could be: Firstly, Violations of international law, particularly international human rights law and humanitarian law, committed by the Government of Israel in the Occupied Palestinian Territory (OPT)- (i) Special focus on the Renewed Israeli military excesses in the Occupied Palestine Territories with reference to the Fourth Geneva Convention of 1949 and United Nations Security Council and General Assembly Resolutions; (ii) War Crimes committed in Gaza by Israeli forces including blockade of Gaza and (iii) The developments in the ICC and the recent decision of the ICC Prosecutor. Secondly, establishing peace in the Middle East – (i) The role of the international community to pressurize Israel to comply with its international obligations; and (ii) Highlighting the need for establishing an independent sovereign State of Palestine as a prelude to establishing everlasting peace in the Middle East.

Document: AALCO/51/ABUJA/2012/SD/S 4

2. Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties

28. The agenda item entitled, “Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties” was placed first on the provisional agenda of the Thirty-Sixth Session at Tehran, 1997, following a reference made by the Government of Islamic Republic of Iran.

29. Thereafter the item had been considered at the successive sessions of the Organization.³ The Forty-Eighth Annual Session of the Organization (Putrajaya, Malaysia, 2009) vide resolution AALCO/RES/48/S 6⁴ directed the Secretariat “to continue to study legal implications related to the Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties and the executive

³ It was last considered as a deliberated item at the Forty-Seventh Annual Session (HQ, New Delhi, 2008).

⁴ For the full text of Resolution see AALCO, “Report of the Forty-Eighth Annual Session (17-20 August 2009, Putrajaya, Malaysia) India, p.261a.

orders imposing sanctions against target States". The Resolution also urged upon the Member States to provide relevant information and materials to the Secretariat relating to national legislation and related information on this subject.

30. The Secretariat Report covers the brief outline about the impermissibility of unilateral sanctions against third parties. It also deals with imposition of unilateral sanctions against AALCO Member States, the consideration of this topic at the Ministerial Declaration adopted at the Thirty-Fifth Annual Meeting of the Ministers of Foreign Affairs of Group of 77, and also the responses of AALCO Member States and deliberations at the Sixty-Sixth Session of UNGA on the "necessity of ending the economic, commercial and financial embargo imposed by USA against Cuba".

31. Issues for Focused Deliberations at the Fifty-First Annual Session of AALCO: firstly, Unilateral Sanctions imposed against third parties are violative of principles enshrined in the Charter of the United Nations and other principles that are recognized through soft laws like the right to development and Friendly Relations Declaration and secondly, Extraterritorial application of national legislation on third parties is per se illegal.

Document: AALCO/51/ABUJA/2012/SD/S 6

3. The International Criminal Court: Recent Developments

32. In accordance with Article 1 (b) of the Statutes AALCO has been following the developments relating to the work of the ICC since its Thirty Fifth Session at Manila (1996). The initial discussions relating to the establishment of the ICC were held at the two Special Meetings convened within the framework of the Thirty Fifth and the Thirty Sixth Annual Sessions. Thereafter, the agenda has been successively deliberated in almost all the Annual Sessions.

33. Apart from this, AALCO has conducted numerous Seminars and Work Shops on specific thematic concerns relating to the ICC. In 2009, a seminar on "International Criminal Court: Emerging issues and Challenges" was successfully conducted in collaboration with the Government of Japan. In 2010, prior to the Kampala Review Conference, a Round Table Meeting of Legal Experts was organized jointly by The AALCO and the Governments of Malaysia and Japan with a view to consolidate the position of the Member States. The Reports of these meetings have thereafter been published and circulated among the Member States.

34. This Secretariat Report prepared for the Fifty First Annual Session of AALCO seeks to highlight the developments that have taken place after the

Fiftieth Annual Session of the Organization. This Report briefly highlights AALCO's Work Program on the International Criminal Court in the previous year particularly the Developments at the "Meeting of Legal Experts on the Rome Statute of the International Criminal Court: Issues and Challenges" (Putrajaya-July, 2011); Report on the Tenth Session of the Assembly of States Parties, Consideration of the item during the Sixty-Sixth Session of the United Nations General Assembly (2011), some recent developments and Comments and Observations of the AALCO Secretariat.

35. The issues for focused deliberation at the Fifty-First Annual Session could be the following: (i) the relationship between the ICC and the UN Security Council; (ii) the principle of complementarity in light of the post ICC Review Conference developments; (iii) why Asian states are hesitant to ratify the Rome Statute; (iv) the immunity of Heads of States; (v) it is critical that States Parties and non-state parties to the Rome Statute strengthen their domestic legal institutions; (vi) domestication of the provisions of the Rome Statute into the domestic legislations and (vii) imparting proper training to Prosecutors and Judges (State parties and non State-Parties) about the provisions of the Rome Statute.

Document: AALCO/51/ABUJA/2012/SD/S 9

4. Environment and Sustainable Development

36. 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); and Follow-Up on the progress in the Implementation of the outcome of World Summit on Sustainable Development, 2002 (WSSD).

37. 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.

38. Issues for focused deliberations at the Fifty-First Annual Session of AALCO on this agenda item are: (i) 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; (ii) Importance of Green economy and preparations for the Rio+20 Conference; and (iii) Challenges facing environmental sustainability.

Document: AALCO/51/ABUJA/2012/SD/S 10

IV. THREE HALF-DAY SPECIAL MEETINGS WOULD BE HELD IN CONJUNCTION WITH THE FIFTY-FIRST ANNUAL SESSION OF AALCO

(i) The first Half-Day Special Meeting would be held in the morning session on Wednesday, 20 June 2012 on the topic “Selected Items on the Agenda of the International Law Commission”

39. For this meeting the Secretariat has prepared the document “**Report on Matters relating to the Work of the International Law Commission at its Sixty-third Session**”

40. In accordance with Article 1 (d) of the AALCO's Statutes, the Organization is mandated to “examine subjects that are under consideration by the International Law Commission and to forward the views of the Organization to the Commission; to consider the reports of the Commission and to make recommendations thereon, wherever necessary to the Member States”. In pursuance of this mandate, the Report on the Work of the International Law Commission at its Annual Session is taken up for consideration at the AALCO's Annual Sessions. In keeping with this long-standing practice, the Secretariat document for the Fifty-First Session contains an overview of the ILC's work during its Sixty-third Session.

41. The Secretariat's report provides an overview of the progress of work achieved by the ILC on topics relating to: Reservation to Treaties; Responsibility of International Organizations; Effects of Armed Conflicts on Treaties; Immunity of State Officials from Foreign Criminal Jurisdiction, Expulsion of Aliens;

Protection of Persons in the Event of Disasters; The Obligation to Extradite or Prosecute (*aut dedere aut judicare*); Treaties Over Time and Most-Favoured Nation Clause. In addition to this, the report gives a brief Report of the Inter-sessional Meeting of Legal Experts on matters relating to the ILC, which was held at the AALCO Headquarters on 10th April 2012.

The topics for discussion at the Special Meeting would include: (i) Immunity of State Officials from Foreign Criminal Jurisdiction, (ii) Protection of Persons in the Event of Disasters and (iii) Expulsion of Aliens.

Document: AALCO/51/ABUJA/2012/SD/S 1

(ii) “Law of the Sea - Responses to Piracy: International Legal Challenges”

42. The second Half-Day Special Meeting would be held in the afternoon session on Wednesday, 20 June 2012, on the above mentioned topic. For this the Secretariat has prepared the document “Law of the Sea – Responses to Piracy: International Legal Challenges”.

43. It may be recalled that the item “Law of the Sea” was taken up for consideration by the Asian-African Legal Consultative Organization (AALCO) at the initiative of the Government of Indonesia in 1970, since then it has been considered as one of the priority items at successive Annual Sessions of the Organization. The AALCO can take reasonable pride in the fact that new concepts such as the Exclusive Economic Zone (EEZ), Archipelago States and Rights of Land Locked States originated and developed in the AALCO’s Annual Session and were later codified in the UNCLOS.

44. The resolution on the subject Law of the Sea RES/50/S 2, adopted on 1 July 2011, at the Fiftieth Annual Session of AALCO emphasized upon the universal character of the UNCLOS and its legal framework governing the issues relating to the management of the oceans. It urged for the full and effective participation of AALCO Member States in the work of the International Seabed Authority, the Commission on the Limits of Continental Shelf and other related bodies established by the United Nations Convention on the Law of the Sea, as well as in the United Nations Informal Consultative Process so as to ensure and safeguard their legitimate interests.

45. Mindful of the above resolution, as well as the deliberations on the subject at the Fiftieth Annual Session which raised the concerns of Member States regarding the issue of piracy, the deliberations lead to a consensus among Member States to direct the Secretariat to convene a Half-Day Special Meeting on the contemporary topic of “Piracy” under the agenda item the Law of the Sea at the Fifty-First Annual

Session. Towards fulfilment of that mandate, the present Secretariat Report prepared for the Fifty-First Annual Session, provides information *inter alia* on: (i) introduction to piracy; (ii) the legal regime of piracy and its shortcomings; (iii) the responses of the international community; (iv) national and regional strategies in combating piracy: prospects and possibilities. This report presents an overview of all these developments. Finally, it offers comments and observations of the AALCO Secretariat. A draft of the resolution for the consideration of the Fifty-First Annual Session is also annexed to the Secretariat Report.

The issues for focused deliberation at the Special Meeting would include: (i) Piracy: Responses of the International Community; (ii) Lacunae in implementation of existing anti-piracy regimes and (iii) National and Regional Initiatives to combat piracy.

Document: AALCO/51/ABUJA/2012/SD/S 2

(iii) “International Terrorism”

46. The third Half-Day Special Meeting would be held on Thursday, 21 June 2012 on the topic “International Terrorism”. For this too the Secretariat has prepared a document.

47. The item entitled “International Terrorism” was placed on the agenda of the AALCO's Fortieth Session held in New Delhi from 20-24 June 2001, upon a reference made by the Government of India. It was felt that consideration of this item at AALCO would be useful and relevant in the context of the on-going negotiations in the Ad Hoc Committee of the United Nations on elaboration of the comprehensive convention on international terrorism.

48. It is pertinent to recall that during the Forty-First Annual Session of AALCO held in Abuja, Nigeria in 2002, a comprehensive Special Meeting on “Human Rights and Combating Terrorism” was organized by AALCO with the assistance of Office of the High Commissioner for Human Rights (OHCHR).

49. The successive sessions directed the Secretariat to monitor and report on the progress in the Ad Hoc Committee of negotiations related to the drafting of a comprehensive international convention to combat terrorism; and requested the Secretariat to carry out, an in-depth study on this topic. The Centre for Research and Training (CRT) has brought *A Preliminary Study on the Concept of International Terrorism* in the Year 2006.

50. The brief prepared for the Fifty-First Annual Session has reported on the following: (i) Developments in the Ad Hoc Committee on International terrorism;

(ii) Developments in the Counter Terrorism Committee (CTC); (iii) Deliberations on the Comprehensive Convention on International terrorism at the Sixth Committee of the UN General Assembly at its Sixty-Sixth Session; (iv) Consideration at the Sixty-Sixth Session of the United Nations General Assembly; (V) Comments and Observations of the AALCO Secretariat and (vi) the Draft resolution on the subject.

51. Issues for focused deliberation during the Half-Day Special Meeting could include the following issues: (i) Challenges before the Ad Hoc Committee on International Terrorism; (ii) International legal cooperation mechanisms in criminal matters against terrorism; and (iii) Countering financing of international terrorism.

Document: AALCO/51/ABUJA/2012/SD/S 7