



**EXTRATERRITORIAL APPLICATION OF NATIONAL LEGISLATION:
SANCTIONS IMPOSED AGAINST THIRD PARTIES**

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EXTRATERRITORIAL APPLICATION OF NATIONAL LEGISLATION: SANCTIONS IMPOSED AGAINST THIRD PARTIES

I. INTRODUCTION

A. Background

1. 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.

2. Thereafter the item had been considered at the successive sessions of the Organization.¹ The Forty-Eighth Annual Session of the Organization (Putrajaya, Malaysia, 2009) vide resolution AALCO/RES/48/S 6² 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 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.

3. At the Fifty-First Annual Session of the AALCO (Abuja, Nigeria) held in 2012, the AALCO Secretariat was mandated by its Member States to undertake a Special Study on the ‘legal implications of the application of unilateral sanctions on third parties’ vide resolution AALCO/RES/51/S 6. At the Fifty-Second Annual Session held in Headquarters, New Delhi in 2013, an abstract of the research study was released. The Secretariat takes pride in informing that this research study has been successfully completed and this book entitled “*Unilateral and Secondary Sanctions: An International Law Perspective*” was released in 24 February 2014 at AALCO Headquarters, New Delhi during the Legal Experts Meeting on Law of the Sea. This Secretariat Report provides an overview of the deliberations at the Fifty-Second Annual Session of AALCO held in New Delhi in 2013; and will highlight the recent developments in this area including Ministerial Declaration adopted at the Thirty-Seventh Annual Meeting of the Ministers for Foreign Affairs of the Member States of the Group of 77 and China held at the United Nations Headquarters in New York on 26 October 2013; and the debates on the agenda item “Necessity of Ending the Economic, Commercial and Financial Embargo imposed by the United States of America against Cuba”, at the Sixty-eighth Session of the United Nations General Assembly held on 29 October 2013.

¹ It was last considered as a deliberated item at the Forty-Seventh Annual Session (HQ, New Delhi, 2008).

² For the full text of Resolution see AALCO, “Report of the Forty-Eighth Annual Session (17-20 August 2009, Putrajaya, Malaysia) India, p.261a.

B. Deliberations at the Fifty-Second Annual Session of AALCO (9–13 September 2013, AALCO Headquarters, New Delhi, India)

4. A Half-Day Special Meeting on “Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties” in conjunction with the Fifty-Second Annual Session of AALCO was organized by the AALCO Secretariat. The distinguished panellist for the Half-Day Special Meeting were Dr. A. Rohan Perera, Former Member of International Law Commission from Sri Lanka; Prof. Vera Gowlland-Debbas, Professor of International Law, Geneva Institute of International Studies, Geneva; Prof. M. Gandhi, Professor and Executive Director, Centre for International Legal Studies, Jindal Global Law School; and Dr. R. Rajesh Babu, Associate Professor, Indian Institute of Management-Calcutta (IIM-C).

5. **Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO (SG)** welcomed everyone to the Special Half-Day Meeting on the topic of “Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties” which was organized by the AALCO in collaboration with the Government of India. The SG formally welcomed and thanked all the panelists for taking time from their busy schedule to be a part of the discussion. He said that the agenda item entitled, “Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties” was first placed on the provisional agenda of the Thirty-Sixth Session at Tehran, 1997, following a reference made by the Government of the Islamic Republic of Iran. Thereafter, the item had been considered at the successive sessions of the Organization. At the Fifty-First Annual Session of AALCO (Abuja, Nigeria) vide resolution AALCO/RES/51/S 6, the Secretariat was mandated to undertake a Special Study on the ‘legal implications of the application of unilateral sanctions on third parties’. The SG informed that the Secretariat was proud to announce that the Study, entitled “**Unilateral and Secondary Sanctions: An International Law Perspective**”, has been completed and would be released soon. An executive summary of the Study, as well as the contents page of the Study, have been distributed.

6. The SG stressed that the topic unilateral sanctions was of particular importance to AALCO as few of its Member States have been the targets of unilateral sanctions in the recent past. Indeed, the topic was also of great relevance to the wider community of developing nations and the community finds itself the target of such sanctions.

7. He explained that term ‘Sanction’, in international affairs meant a penalty imposed against a nation to coerce it into compliance with international law or to compel an alteration in its policies in some other respect. Legitimacy of sanctions under international law was applicable only to ‘multilateral sanctions’, which were applied as per Chapter VII of the Charter of the United Nations. The Security Council was vested with the ‘primary responsibility’ for maintenance of international peace and security under the UN Charter.

8. On the other hand, unilateral sanctions often refer to economic measures taken by one State to compel a change in policy in another State. The most widely used forms of economic pressure are trade sanctions in the form of embargoes and/or boycotts, and the

interruption of financial and investment flows between sender and target countries. However, while the common conception of unilateral sanctions was as a tactic by which a State refuses to maintain trade relations with a country whose policies it disagreed with, or with whom it had a dispute, these unilateral sanctions also gave rise to secondary sanctions. These secondary sanctions were imposed against third parties, either States or non-State entities, who were outside the jurisdiction of the sanctioning State, in order to prevent them from trading with the 'target State'. Essentially, this result in the sanctioning State enforcing its own domestically enacted legislations against entities those are outside of its territory and jurisdiction, thus resulting in a violation of some of the most basic principles of international law.

9. The SG briefly introduced the Study conducted by the AALCO Secretariat that dealt in detail with the violation of international law by Unilateral and Secondary Sanctions and these violations which could be broadly divided into 4 areas. The first chapter provides the genesis of the subject within AALCO; how sanctions have been listed under international law; and the political economy of sanctions regime. It also briefly describes the concepts like extraterritorial jurisdiction, unilateral sanctions, secondary sanctions and collective or multilateral sanctions.

10. Chapter 2 argues that Unilateral and Secondary Sanctions are impermissible under International Law. The foundational principles that regulated and governed international relations were stated in Charter of the United Nations and the 1970 Declaration of Friendly Relations and Cooperation among States. These included the principle of sovereign equality of states, principle of non-use of force, the principle of self-determination of people, the principle of non-intervention into the internal and external affairs States, the principle of peaceful settlement of international disputes, the principle of cooperation among states, and the principle of fulfilling in good faith obligations assumed under international law.

11. He said that Chapter 3 attempted to highlight the adverse effects of financial sanctions that are imposed against financial institutions especially the Central Bank of an economy, which hampered the effective functioning of these institutions in developing countries. The role played by the central banks in achieving development in developing countries was very pivotal. The central bank had a crucial function towards developing the banking and financial system of the country in order for ensuring well-organised money and capital markets within the economies. The main contention was that since Central Bank had major role and function in regulating financial system of the country, they should be granted immunity and their properties shall not be attached.

12. Explaining about Chapter 4, which attempts to elaborate on the adverse effects and the illegality of unilateral and secondary sanctions in the context of the international trade agreements and freedom of trade and navigation, he highlighted the core principles which were violated. The SG stated that the violation of the core principles of international trade law vis-à-vis multilateral trade agreements and bilateral trade treaties which analyzes the impact of the secondary sanctions on third parties on a country-specific basis. The Chapter suggests possible measures for the developing countries

against the imposition of unilateral and secondary sanctions; in other words, the possible legal options for the third countries to respond to the Secondary Sanctions.

13. Chapter 5 focused on the list of recognized human rights that were adversely affected by sanctions and was limited to some of the more pertinent rights, particularly in view of the fact that the targeted states were developing and third-world states. The rights discussed would include: the right to self-determination; the right to development; and, the right to life, with particular attention paid to the right to food and the right to health and medicine. While a classification of the importance of rights was obviously not possible, these particular rights were chosen for their relevance to the developing world and because of the massive problems caused by their violation.

14. Response of the international community being an important aspect, he said Chapter 6 addressed the issue. The chapter would deal with the opinions voiced by some of the international Organizations, as well as their Member States in the forum provided by the Organization through resolutions and statements of the Organizations. These include the United Nations General Assembly (UNGA), the Asian-African Legal Consultative Organization (AALCO), the Group of 77 (G-77), and the Non-Aligned Movement (NAM); which form part of in-depth analysis for evolving evidentiary customary international law.

15. By way of conclusion, the SG reiterated that the Study contends that unilateral and secondary sanctions were against international rule of law and promotes self-interest. Unilateral and secondary sanctions affect trade relations of the target country as well as its trading partners; affect the economic and banking system besides inflicting suffering and deprivation of basic human rights on innocent civilian population of the target countries. These sanctions disrupt international trade and navigation and were impermissible and unjustifiable under international law.

16. Further, apart from theoretical discussions in the Study regarding international law and unilateral sanctions, illustrations of the practical aspects and real-world consequences of unilateral sanctions regimes would be done through the use of the case study of certain countries who have been the targets of sanctions; primarily Iran.

17. The SG said that he has been able to highlight the salient points relating to AALCO's Special Study and that had given a brief overview of some of the pertinent issues relating the topic of "Extraterritorial Application Of National Legislation: Sanctions Imposed Against Third Parties" in an effort to set the stage for the discussion that were to follow.

18. **Dr. Rohan Perera, Former Member, International Law Commission, Sri Lanka**, made a presentation outlining some of the important concerns for Asian and African States with respect to this topic. The distinguished panelist referred to the topic of unilateral sanctions from an international law perspective. Dr. Perera said that only multilateral sanctions were permitted under international law under Chapter VII of the Charter of the UN. However, unilateral sanctions were impermissible under international law because it violated basic principles of international law that included the principle of

sovereign equality of states, principle of non-use of force, the principle of self-determination of people, the principle of non-intervention into the internal and external affairs States, the principle of peaceful settlement of international disputes, the principle of cooperation among states, and the principle of fulfilling in good faith obligations assumed under international law. Moreover, the law relating to state responsibility was also very crucial for the study on this subject. Henceforth, the he appreciate the initiatives of the Secretary-General and the Secretariat for undertaking the study which he highlighted would be very significant in the field of international law.

19. **Prof. Vera Gowlland-Debbas, Professor of International Law, Geneva Institute of International Studies, Geneva:** The distinguished panelist made a presentation on “Sanctions and State Responsibility”. The Panelist focused her presentation on individual state accountability for the imposition of economic measures in particular, though not solely, under international human rights law. She examined this in light of the relationship between unilateral measures and collective measures. The Speaker noted that unilateral measures have been regulated through prior conditioning or subsequent control by international institutions, as for example trade measures under the law of the WTO or the European Union. Also, under the general law of State responsibility as codified by the ILC in its Articles, a series of constraints have been placed on the procedural and substantive aspects of countermeasures.

20. The Speaker recalled the US’s long history of the use of economic sanctions as a tool of foreign policy going back to the 19th century. Therefore most US Sanctions are not an invocation of the 1945 US United Nations Participation Act which authorizes the US’s executive to carry out Security Council sanctions adopted on the basis of a determination of a threat to the peace. US Sanctions are also far more comprehensive than sanctions mandated by the UN Security Council. For instance US sanctions mandate sanctions on Iran’s energy and general financial sector, which the Security Council sanctions do not.

21. The speaker stressed that justifiable countermeasures need to meet certain conditions laid down in the ILC Articles particularly. 1) It an injured state taking proportional countermeasures (unilateral sanctions) in response to a prior internationally wrongful act; 2) it was taking action on behalf of another state in a matter where it has a legal interest in compliance; or, 3) it was enforcing obligations protecting general or collective interests.

22. Prof. Gowlland-Debbas also spoke of the development of constraints on collective measures, especially in the light of more value-oriented international law, which has seen the emergence of the concept of obligations protecting the fundamental interests of the international community and individual human rights law gaining centre stage. The speaker also mentioned that recent reform proposals emphasized links between collective security and respect for human rights and mentioned that sanctions measures should be terminated once their objectives have been achieved. Targeted sanctions also raise due process questions as, when enforced against individuals, function as penalties without any mechanism for review. Prof. Gowlland-Debbas also asserted that no sanction can violate peremptory norms of general international law. However, the shift in focus from

comprehensive to targeted sanctions along with the institution of an ombudsman for individuals on black lists addresses some of these problems.

23. Finally, the panelist, addressed state responsibility in the enforcement of collective sanctions and asserted that the UN Secretariat has said that Member States are responsible for the way that they enforce sanctions. However, Prof. Gowlland-Debbas reiterated that it was important to hold Member States responsible, either individually or jointly with the UN for conduct flowing from a decision of the UN Security Council in order to provide some remedy for victims.

24. **Prof. M. Gandhi, Professor and Executive Director, Centre for International Legal Studies, Jindal Global Law School, presented a paper** entitled “**Implications of unilateral and secondary sanction on financial institutions: An international law perspective.**” He noted that since ancient times States have deployed economic sanction as a weapon of international diplomacy to bring change in the attitude of sanctioned state. He pointed out that the United States has unilateral sanctions programs relating to several countries and regions, including those in the African and Asian regions. he noted that sanctions range from embargos on trade and financial sanctions to penalizing the leadership and close associates of enemy regimes and specific measures imposed on designated terrorist, drug trafficking and weapons proliferating States and entities. While most of these sanctions are *primary* sanctions, i.e. restrictions placed on citizen companies or individuals from doing business with certain specified countries or groups, Secondary sanctions, such as secondary trade boycotts and foreign company divestment, involve additional economic restrictions designed to inhibit non-U.S. citizens and companies abroad from doing business with a target of primary U.S. sanctions. Such sanctions, he pointed out, are broadly claimed to be illegally extraterritorial in their purpose and effects.

25. He then referred to the protests raised by EU against the sanctions imposed by the United States on Iran, Cuba and Libya, owing to their trade interests being affected and the firm commitments made by EU to ensure “free movement of capital” and reduction of trade barriers. He also referred to the *Siberian Pipelines Case*, wherein the European Union sought to resist secondary sanctions imposed by the United States, prohibiting United States Companies from financing or providing technical assistance for building a pipeline from the former Soviet Union to Western Europe. In this case, he pointed out, following protests from the European Union, and the refusal of a Dutch Court to enforce the sanctions against a Dutch subsidiary of a United States Company, the latter retracted the application of sanctions.

26. Dr. Gandhi then made a brief description of the Iran and Libya Sanctions Act and the responses of the major trading partners of the United States to the Act – that the Act was “extraterritorially” illegal. He then pointed out the larger political costs incurred by pursuing such sanctions. He stated that the political controversy about secondary sanctions was complicated by questions about their legality under international law and that the majority view was that secondary sanctions are an impermissible “extraterritorial” extension of U.S. jurisdiction that impinges on the rights of neutral states to regulate their own citizens and companies. He then outlined some of the major

academic responses that regarded sanctions as illegal and as an intrusion upon the sovereignty of the neutral State. Dr. Gandhi then outlined the sanctions imposed by United States against Iran's banks, throttling its smooth functioning. Referring to the complicated and frequently changing ambit of sanctions related measures, he pointed out that the complex U.S. framework for secondary sanctions was no longer properly understood as sanctions "against" Iran, but as U.S. sanctions against third-country companies that does business with Iran.

27. He then referred to some of the instances of judicial scrutiny of these measures by courts outside the United States. Some judgments of the General Court of the European Union annulling the entry of Iranian Banks in EU Sanctions list for the reason that there was insufficient evidence to impose sanctions and for not affording those banks an opportunity to be heard. He also noted that neither the Council nor the Commission invoked confidentiality reasons for not presenting evidence against the banks. He also discussed the proceedings of a similar nature before the Supreme Court of the United Kingdom.

28. Summing up, he stated that the law was very clear that unilateral secondary sanctions targeting financial institutions are violative of international law as it interfered with sovereignty of State and illegally extraterritorial in purpose and effect. He further pointed out that it affected the free movement of capital and that they were impermissible under International law and that the recent judgment of the Courts in the United Kingdom and Europe pointed towards the lack of transparency in the processes by which sanctions are imposed.

29. **Dr. R. Rajesh Babu, Associate Professor, Indian Institute of Management-Calcutta (IIM-C)** delivered a presentation entitled "Unilateral Sanctions in International Trade Law". He reiterated that the WTO was founded on the bedrock of the principle of non-discrimination. This includes the MFN status, restraint from imposing higher tariffs and so on. Therefore, any unilateral sanction was in direct conflict with the non-discrimination principle. The WTO itself can only impose sanctions after authorization by the Dispute Settlement Body (DSB). These sanctions must meet requirements of temporariness, prospectiveness and proportionality. However the WTO, under Article XX, does provide for permissible restrictions in order to protect public health, the environment, public morals or the conservation of exhaustible natural resources. The chapeau to this was that such measures cannot be arbitrarily discriminatory or a disguised restriction on international trade.

30. Dr. Rajesh Babu also discussed the two Tuna-Dolphin cases between US and Mexico, where one of the key questions was whether one country can dictate environmental regulation terms to another i.e. extraterritorial application of national laws. While the first case, which was decided in 1991, rejected extraterritorial measures completely, the second case in 1994 did not reject extraterritoriality outright but preferred to fit it into a narrow interpretation with respect to Art XX. Dr Babu also discussed the Shrimp-Turtle cases between the US and India, Malaysia, Pakistan and Thailand. In this

instance, the US was found to have violated the chapeau to the exceptions under Art XX. Dr. Babu also maintained that the threshold for Article XX was high.

31. Dr. Babu also discussed Art. XXI and posited that there was no chapeau for national security exceptions. The scope of Art XXI was examined through the lens of the US-Nicaragua case of 1985 where the ICJ noted that there should be a genuine nexus between security interests and trade action taken.

32. Dr. Babu then discussed the US's Libertad Act, which imposed sanctions against Cuba, and the Helms-Burton Act, which imposed sanctions against Iran. These legislations instituted primary and secondary sanctions wherein the Acts extended the territorial application of the embargos to apply to foreign companies trading with Cuba. And allows US nationals to bring legal action against foreign companies and forced internationally operating companies to choose between the US and the targeted country. The European Council in 1996 initiated a complaint against the US claiming *inter alia* that the secondary sanctions were violations of GATT Articles I, III, V, XI and XIII. The EC eventually suspended their complaint as long as European companies were not prosecuted under the Helms-Burton Act. Dr. Babu explained the "Blocking Statute" enacted by the European Council, which prohibited EU companies from complying with the US sanctions. Similarly UK and Mexico also passed legislations that made complying with the sanctioning acts illegal.

33. In conclusion, Dr. Babu asserted that while trade must take into account genuine national security concerns, secondary sanctions cannot be justified under the WTO. The self-judging application of the national security exception remains a formidable bar to WTO review of the merits of these unilateral sanctions. He stated that there was indeed a danger that this provision may allow governments industries merely by invoking the exception without a threshold or "reasonableness" criterion. The practice till date suggest that the Member States has been reluctant to invoke this provision, because they don't want any external body to judge 'essential security interest' which purely falls under State Sovereignty.

34. After the presentations by the Panelists, the Delegations from **Japan, India, Republic of South Africa, Democratic People's Republic of Korea, People's Republic of China, the Islamic Republic of Iran, Malaysia and Sudan** made statements, which were followed by a brief question and answer session.

35. **The Delegate of Japan** thanked the AALCO Secretariat for preparing useful papers on that agenda item. The delegation was of the view that the question of whether the sanction measures taken by States were lawful or not under international law, should be considered on a case-by-case basis in accordance with the actual circumstances in question. As the sanctions could include those applied by States in accordance with the UN Security Council resolution under Chapter VII of the UN Charter and also those which were taken by States as counter-measures, against such internationally wrongful acts, fulfilling certain conditions which were stipulated in the provisions of responsibility of States for Internationally Wrongful Acts of 2001, it could not be stated that all cases of economic sanction or extraterritorial application of national legislation of States were

unlawful under international law. However, it has to be admitted that certain unilateral economic sanction measures taken by States could include those unlawful cases of extraterritorial application of national legislation and sanction that are inconsistent with such basic principles of international law as sovereignty of other States or non-interference with internal affairs of other States.

36. **The Delegate of Republic of India** thanked the Secretary-General for his very informative opening remarks as well as the panelists for their views. The Indian delegation also appreciated the Executive Summary prepared by the Secretariat on this Agenda Item. It was indeed a very thought-provoking document providing valuable inputs to Member States on this topic.

37. The delegate stated that the fundamental principle in international law is that all national legislations were prima facie, territorial in their application. Any unilateral extraterritorial measure based on a national law brings into sharp focus the issues concerning extraterritorial effects of such measures. State practice and doctrinal evolution in international law reflect an almost unanimous rejection of the extraterritorial application of national legislation for the purposes of creating obligations for third States. The unilateral and extraterritorial application of national laws to other States violated the fundamental principle of sovereign equality of States and the principles of respect for and dignity of national sovereignty and non-intervention in the internal affairs of other State. The unilateral and extraterritorial sanctions also impeded the full development of a country, especially adversely affecting citizens, particularly women and children.

38. In that regard, India has consistently opposed any unilateral extraterritorial measures as it impinged upon the sovereignty of another country. Those include any attempt to extend the application of a country's laws extraterritorially to other sovereign nations. It was observed that India had always associated itself with G77 and NAM in urging the international community to adopt all necessary measures to protect sovereign rights of all states. India also opposes unilateral measures that impinge the sovereignty of other States, including the efforts to change the laws of another States. The delegation of India supported the draft resolution on this Agenda Item especially the Operative Paragraph 3 of the said resolution which requested the Secretariat to undertake further research in the implications of unilateral and extraterritorial sanctions on international trade and its effect on AALCO Member States.

39. **The Delegate of Republic of South Africa** stated that sanctions within the context of the United Nations Security Council their position has been consistent that even while imposing multilateral sanctions such measures must be exercised with great caution; and their delegation only supported the resumption of political dialogue and negotiations to achieve a peaceful solution. That even at the Security Council when voting in favour of sanctions measures, highest degree of scrutiny must be exercised because there are unintended detrimental consequences on the citizens of the target state, third parties and neighboring countries. Thus, the delegation had been critical of efforts to use sanctions as a legitimizing platform for action against certain states. Further, the Minister Nkoana-Mashabane while answering a Parliamentary question on sanctions against Iran (which has United States of America sanctions imposed against it, in addition

to UNSC sanctions) in February 2012 said that “As a member of the United Nations, South Africa is obliged to implement United Nations Security Council sanctions that have been imposed on any UN Member States. The Government of South Africa does not subscribe to unilateral sanctions as an instrument of its international relations.”

40. **The Delegate of Democratic People’s Republic of Korea (DPRK)** thanked the AALCO Secretariat and the eminent panelists for their detailed and thoughtful presentation explaining the nature and negative aspects of the US unilateral sanctions against targeted States. The question of extraterritorial application of national legislation was a crucial issue to be resolved for the AALCO Member States to protect and defend their sovereign rights, rights to development and rights to survival. At present, the acts of imposing unilateral sanctions against third states and parties by invoking domestic legislation of an individual state are a flagrant violation of the Charter of the United Nations and general principles of international law and this has increasingly caused deep concern among the international community. These acts retard the socio-economic development of the target state and greatly impeded the establishment of a fair international economic order and trading regime.

41. The delegation stated that it was a well known fact that DPRK together with Iran, Syria and other Member States had been subjected to the US sanctions for the longest period. The United States has imposed sanctions against DPRK for many decades by applying few domestic laws, including “Trading with the Enemy Act”, “Export Administration Act”, “Foreign Assistance Act”, “Export and Import Bank Act”, and many others, all of which are unilaterally fabricated in wanton violation of general principles of international law. The scope and amount of losses that developing countries including DPRK country had suffered during those years due to the unfair sanctions imposed by the United States were beyond imagination. If the arbitrary act of imposing unilateral sanctions against third States by individual States like the US by invoking its domestic laws goes unpunished, it was obvious that more and more countries, especially Asian and African countries were bound to fall victims of the unilateral sanctions.

42. The delegate stated that instead of making efforts to apologize and compensate the political and economic damages they had inflicted to those suffered due to their unfair sanctions, it continues to create more negative results through imposition of its domestic laws to the third states and parties questioning their normal trading activities. Further, the DPRK government condemned all forms of sanctions imposed against third states parties by extraterritorial application of domestic legislation by individual States. Abusing international law and international organizations as an infringement upon the State sovereignty and strongly opposed and rejected it.

43. **The Delegate of People’s Republic of China** observed that when one State imposes unilateral sanctions against another State based on its own national legislation, it reveals that the State gives primacy to its national legislation over international law, and violates core principles of the UN Charter such as sovereign equality, non-intervention and duty to cooperate, and seriously undermines the authority of international law. It was also emphasized that such unilateral sanctions imposed against the third State, including

its government, entities and citizens, showed that the State exercised extra-territorial jurisdiction over the third State in accordance with its national legislation, and compel entities or citizens of the third State to be ally to the embargo so as to realize de facto multilateral sanctions, violated the principles of jurisdiction in international law, and infringed the sovereignty and economic interests of the third State.

44. The delegation stated that China held the opinion that every country has the right to choose its own political, economic, social and cultural system; and no other country should intervene by imposing sanctions or other compelling means. Currently, the international relations are undergoing complex and profound changes. Countries need to follow the principle of peace, development and cooperation, conduct equal-footed and mutually beneficial relations, seek common ground while shelving differences, properly resolve disputes and differences by peaceful means, and realize common development and progress. Therefore, China always opposed any move to impose unilateral sanctions against other countries by abusing domestic legislation, and rejects further any move to impose such unilateral sanctions against the third State.

45. **The Delegate of Islamic Republic of Iran** reiterated the critical importance of this agenda item as “extraterritorial application of national legislation”, especially those manifested by unilateral economic restrictions against some developing countries which continued to unfold in various and new forms. This matter was more important since an alarming trend seemed to be emerging by certain powers to defy all international norms concerning the immunity of State and its properties in furtherance of their policy of pressurizing developing countries through economic embargoes. This trend was consequential not only for the economic and overall human development of the countries but also disruptive of norms and principles of international law and international human rights law.

46. The delegate also stated that extraterritorial imposition of national legislations on other States contravened international law by violating the fundamental principles enshrined in the Charter of the United Nations, particularly the principle of sovereign equality of States and non-intervention in domestic affairs of other States. It also defied the established principle of State immunity, especially in cases where the functional agencies of a sovereign State, like central banks, were subjected to sanctions. The imposing States disregard the very basic notion of State sovereignty by forcing other States to abide by the restrictive measures against a third party. This is tantamount to the presumption of a super sovereign power which has supremacy over all other sovereign States. This could not be acceptable to any State by any means, for sure.

47. Moreover, the very basic human rights were at stake; the ongoing unilateral economic sanctions were in fact imposed only to punish the ordinary citizens by depriving them of their basic necessities. Furthermore, imposition of domestic laws and regulations on other States with the aim of pressurizing a third party prejudices the right to development. The delgate referred to the Declaration on Principle of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, which, among others, urges all States to respect the

principle of sovereign equality and territorial integrity as well as non-intervention in domestic affairs of other States. moreover, the delegation believed that the most unjustifiable and deplorable form of sanctions was the imposition of unilateral embargo and extraterritorial application of domestic laws by one State against others that affect not only the population under sanction but also the interests of the third parties.

48. The delegate gave an overview of economic restrictions imposed against their country for past three decades which were unjustified and unjustifiable. Another most unprecedented economic coercive measure by the United States on Iran was by way of blocking the property of Central Bank of Iran and imposing other restriction on its transactions. This unilateral act should be very alarming to all States, particularly for developing States in Asia and Africa, as it contravened all norms and principles of international law concerning the immunity of State and its properties as manifested also in the 2004 UN Convention on Jurisdictional Immunities and their Property.

49. **The Delegate of Malaysia** raised a query that within the context of Chapter VII of the Charter, comprehensive measures were permissible within the international legal framework. However, the UN Security Council sanctions through resolutions were now extending its applicability beyond States to individuals. Therefore, was there any legal justification within the UN Charter for such extensions?

50. This query was replied by Prof. Vera Gowlland-Debbas, who said that UNSC sanctions which were applied beyond States on individuals were justified through a combination of domestic and international legal instruments, which needed to be studied in detail.

51. **The Delegate of Sudan** raised their concern that Sudan was badly affected by the unilateral sanctions from the United States of America since 1997 and the delegation believed that such sanctions did not even respect the general rules of international humanitarian law as it severely harm the innocent civilian people in different ways. The delegate explained this instance by virtue of high rates of plane crash in Sudan because of US ban on the spare parts for their planes since 1997. Also, the US had banned from importing medical equipment and this was clear violation of the right to life.

C. Issues for Focused Deliberations at the Fifty-Third Annual Session of AALCO:

- (i) *Unilateral and secondary Sanctions imposed by individual States are violative of principles enshrined in the UN Charter and other principles that are recognized through soft laws*
- (ii) *Extraterritorial application of national legislation on third parties is per se illegal, especially legislations which imposes financial sanctions on financial institutions.*

II. RECENT DEVELOPMENTS

A. Imposition of Sanctions against AALCO Member States

52. This section of the report covers some of the recent sanctions imposed against the AALCO Member States.

i. Extension of Sanctions against Syrian Arab Republic by the United States of America

53. In May 2004, the President of the United States of America signed Executive Order 13338 (EO) implementing the Syria Accountability and Lebanese Sovereignty Restoration Act which imposes a series of sanctions against Syrian Arab Republic for its alleged support for terrorism, involvement in Lebanon, weapons of mass destruction programs, and the destabilizing role it is playing in Iraq. In continuation to it, on 4 May 2010, the Government of U.S. extended its sanctions against Syrian Arab Republic for its alleged role in supporting terrorist organizations and pursuance of weapons of mass destruction and missile programmes. In retaliation, the Syrian Government had strongly rejected all the allegations and criticized the sanctions imposed and stated that the U.S. action lost its credibility.

54. Through Executive Order 13572 of 29 April 2011, the US President expanded the scope of the national emergency declared earlier EO, finding that the Government of Syria's human rights abuses, including those related to the repression of the people of Syria, manifested most recently by the use of violence and torture against, and arbitrary arrests and detentions of, peaceful protestors by police, security forces, and other entities that have engaged in human rights abuses, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the US. The Executive Order 13573 of 18 May 2011, confirms to "Blocking Property of Senior Officials of the Government of Syria," Executive Order 13582 of 17 August 2011, "Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria," and Executive Order 13606 of 22 April 2012, "Blocking the Property and Suspending Entry Into the United States of Certain Persons with Respect to Grave Human Rights Abuses by the Governments of Iran and Syria via Information Technology."

55. On 2 May 2014, the OFAC amended the Syrian Sanctions Regulations³. The OFAC issues general licenses in order to authorize activities that would otherwise be prohibited with regard to the Syria Sanctions. General licenses under the Syrian Sanctions Regulations, allow all US persons to engage in the activity described in the general license without needing to apply for a specific license. However, vide this amendment, General licenses 1-16 have been removed as amended.

³ Syrian Sanctions Regulations, 31 C.F.R. part 542 (Effective Date: May 2, 2014), available at <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/31cfr542.pdf>.

ii. Sanctions against Islamic Republic of Iran by the United States of America and the review of the recent negotiations

56. It may be recalled that on 29 October 1987, the President of the U.S.A had issued an Executive Order 12613 imposing a new import embargo on Iranian-origin goods and services, on the alleged ground of Islamic Republic of Iran's support for international terrorism and its aggressive actions against non-belligerent shipping in the Persian Gulf, pursuant to Section 505 of the International Security and Development Cooperation Act of 1985 ("ISDCA") which gave rise to the Iranian Transactions Regulations, Title 31, Part 560 of the U.S. Code of Federal Regulations (the "ITR").⁴

57. In 1995, the U.S. President issued an Executive Order 12957 prohibiting U.S. involvement with petroleum development in Iran. Further, he signed an Executive Order 12959, pursuant to the International Emergency Economic Powers Act ("IEEPA") as well as the ISDCA, substantially tightening sanctions against Iran. Later in 1997, the President signed Executive Order 13059 by confirming all trade and investment activities with Iran by U.S. persons, wherever located, are prohibited. Further in 2001, the President of the U.S. signed in to law H.R. 1954, the "ILSA Extension Act of 2001". The Act provides for a 5 year extension of the Iran and Libya Sanctions Act with amendments that affect certain of the investment provisions.

58. In September 2010, the Government of the United States of America through an Executive Order 13533 blocked property of certain persons on the allegations of serious human rights abuses by the Government of Iran⁵. Further, in January 2011, the US Treasury Department imposed new sanctions against 22 Iranian companies affiliated with the Islamic Republic of Iran Shipping Lines (IRISL) and two other companies related to Iran's Aerospace Industries Organization (AIO) over its nuclear energy program⁶.

59. Replying to the recent sanctions imposed, Iranian President stated that the sanctions imposed on Iran over its peaceful nuclear energy program are illegal and ineffective. Further, Iran fully cooperated with IAEA and its nuclear program is completely peaceful. He pointed out that dialogue is the only way through which the West can resolve its dispute with Iran⁷. Supporting Iran, Russian Government announced that it could longer support future sanctions against Iran. The Russian Foreign Minister Sergei Lavrov stated that the sanctions imposed on the Islamic Republic of Iran over its nuclear program will undermine cooperation within the Iran and UN Security Council aimed at settling the issue.⁸ India and the People's Republic of China consistently voiced against such sanctions against Iran in the past. Indian Prime Minister stated that "we don't think sanctions really achieve their objective. Very often, the poor in the affected country suffer more...." Further, the Government of the People's Republic of China has

⁴ Details are drawn from: <http://www.treas.gov/offices/enforcement/ofac/programs/iran/iran.shtml>

⁵ Federal Register/Vol.75, No. 190/Friday, October 1, 2010/Presidential Documents.

⁶ www.guardian.co.uk/world/2010/may/04/barack-obama-extends-sanctions-syria/

⁷ See the US Department of Treasury Website: <http://www.treasury.gov/resource-center/sanctions/OFACenforcement/Pages/20110113.aspx>

⁸ <http://www.presstv.ir/detail/148966.html>

all along held that the Iranian nuclear issue needs to be resolved peacefully through dialogue and negotiations by diplomatic means.

60. The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 enacted July 1, 2010 is a law passed by the U.S. Congress that applies further sanctions on the government of Islamic Republic of Iran. Major provisions of this Act are:

- Amends the Iran Sanctions Act of 1996 to direct the President to impose two or more current sanctions under such Act if a person has, with actual knowledge, made an investment of \$20 million or more (or any combination of investments of at least \$5 million which in the aggregate equals or exceeds \$20 million in any 12-month period) that directly and significantly contributed to Iran's ability to develop its petroleum resources.
- Directs the President to impose: (1) sanctions established under this Act (in addition to any current sanctions imposed under the Iran Sanctions Act of 1996) if a person has, with actual knowledge, sold, leased, or provided to Iran any goods, services, technology, information, or support that would allow Iran to maintain or expand its domestic production of refined petroleum resources, including any assistance in refinery construction, modernization, or repair; and (2) sanctions established under this Act if a person has, with actual knowledge, provided Iran with refined petroleum resources or engaged in any activity that could contribute to Iran's ability to import refined petroleum resources, including providing shipping, insurance, or financing services for such activity.
- Establishes additional sanctions prohibiting specified foreign exchange, banking, and property transactions.

61. In this regard, the latest sanctions imposed on Islamic Republic of Iran since May 2011, calling for oil embargo and trading in oil by other countries, was been opposed by India and China stating that they would not reduce the purchase level of oil from Islamic Republic of Iran.⁹

62. Further, in an Executive Order signed on 23 April 2012, the United States has imposed sanctions against Syrian Arab Republic and Islamic Republic of Iran stating that the governments seek to target their citizens for grave human rights abuses through the use of information and communications technology. These unilateral sanctions that adversely affect the trade relations and economic development of a country are illegal per se and has been condemned by various countries and international organizations too.

63. There were negotiations held in order to bridge the gap between these two countries. On that note, on 12 January 2014, the P5+1 (the United States, United Kingdom, Germany, France, Russia, and China, coordinated by EU) and Iran arrived at technical understandings for the Joint Plan of Action (JPOA)¹⁰, which will be implemented beginning from 20 January 2014. The Preamble of the JPOI, reads thus:

⁹ <http://www.thehindu.com/business/article3288265.ece>.

¹⁰ The text of the Joint Plan of Action concluded in Geneva on 24 November 2013, could be accessible at <http://www.state.gov/p/nea/rls/220042.htm>.

“The goal for these negotiations is to reach a mutually-agreed long-term comprehensive solution that would ensure Iran's nuclear programme will be exclusively peaceful. Iran reaffirms that under no circumstances will Iran ever seek or develop any nuclear weapons. This comprehensive solution would build on these initial measures and result in a final step for a period to be agreed upon and the resolution of concerns. This comprehensive solution would enable Iran to fully enjoy its right to nuclear energy for peaceful purposes under the relevant articles of the NPT in conformity with its obligations therein. This comprehensive solution would involve a mutually defined enrichment programme with practical limits and transparency measures to ensure the peaceful nature of the programme. This comprehensive solution would constitute an integrated whole where nothing is agreed until everything is agreed. This comprehensive solution would involve a reciprocal, step-by-step process, and would produce the comprehensive lifting of all UN Security Council sanctions, as well as multilateral and national sanctions related to Iran's nuclear programme.”¹¹

64. This JPOA considers certain step-by-step process towards comprehensive solutions to these issues. The comprehensive solutions aim at comprehensively lifting UN Security Council, multilateral and national nuclear-related sanctions, including steps on access in areas of trade, technology, finance, and energy, on a schedule to be agreed upon. Further, to involve a mutually defined enrichment programme with mutually agreed parameters consistent with practical needs, with agreed limits on scope and level of enrichment activities, capacity, where it is carried out, and stocks of enriched uranium, for a period to be agreed upon. However, the U.S. government has committed to suspend temporarily certain sanctions involving Iran's purchase and sale of gold and other precious metals, Iran's export of petrochemical products, Iran's automotive industry, and certain associated services regarding each of the foregoing. The JPOA also includes a commitment to establish financial channels to facilitate Iran's import of certain humanitarian goods to Iran, payment of medical expenses incurred by Iranians abroad, payments of Iran's UN obligations, and payments of \$400 million in governmental tuition assistance for Iranian students studying abroad. In addition, the JPOA includes a commitment to license certain transactions related to the safety of Iran's civil aviation industry. Finally, in the JPOA the US government has committed to pause efforts to further reduce Iran's crude oil exports and to enable Iran to access \$4.2 billion in Restricted Funds in installments over the course of the six-month period beginning January 20, 2014, and ending July 20, 2014.¹² Every US sanctions with respect to Iran, including financial sanctions, sanctions pertaining to the purchase of Iranian crude oil, and sanctions on investment in Iran's energy and petrochemical sectors, remain in effect with respect to US and non-US persons; except for the limited, temporary, and reversible relief provided pursuant to the JPOA. The relief provided in the JPOA is only attributable to conduct and transactions fully completed during the JPOA Period, and, with limited exceptions, involves only certain sanctions on non-US persons not otherwise subject to section 560.215 of the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 (ITSR) (hereinafter “non-US persons not otherwise subject to the ITSR”). US

¹¹ Ibid.

¹² http://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_faqs.pdf.

persons and US-owned or -controlled foreign entities continue to be generally prohibited from conducting transactions with Iran, including any transactions of the types permitted pursuant to the JPOA, unless licensed to do so by Office of Foreign Assets Control (OFAC)¹³.

B. Consideration of the Ministerial Declaration adopted by the Thirty-Seventh Annual Meeting of the Ministers of Foreign Affairs of Group of 77 (New York, 26 October 2013)

65. The Ministers of Foreign Affairs of the Member States of the Group of 77 and China met at the United Nations Headquarters in New York on 26 October 2013 on the occasion of their Thirty-seventh Annual Meeting to address the development challenges facing developing countries. It had adopted a Declaration, which inter alia, rejected the extraterritorial application of national legislation in the form of unilateral sanctions, and stated on the agenda that:

“The Ministers firmly rejected the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic measures, including unilateral sanctions against developing countries, and reiterated the urgent need to eliminate them immediately. They emphasized that such actions not only undermine the principles enshrined in the Charter of the United Nations and international law, but also severely threaten the freedom of trade and investment. They, therefore, called on the international community neither to recognize these measures nor apply them.”¹⁴

C. Consideration of the Resolution on the “Necessity of Ending the Economic, Commercial and Financial Embargo imposed by the United States of America against Cuba”, at the Sixty-eighth Session of the United Nations General Assembly (29 October 2013)

66. On 29 October 2013, the United Nations General Assembly at its Sixty-eighth Session, voted in favour of ending the United States economic, commercial and financial embargo against the island nation, which they said had crippled its development and whose justification was morally indefensible. The General Assembly - by a recorded vote of 188 in favour to 2 against (United States, Israel), with 3 abstentions (Marshall Islands, Federated States of Micronesia, Palau) - adopted a resolution¹⁵ for the twenty-second consecutive year, calling for an end to the embargo and reaffirming the sovereign equality of States, non- intervention in their internal affairs and freedom of trade and navigation as paramount to the conduct of international affairs. The resolution recalled the statements of the Heads of State or Government at the Ibero-American Summits concerning the need to eliminate the unilateral application of economic and trade measures by one State against another that affect the free flow of international trade.

¹³ Ibid.

¹⁴ Para 52 of the Ministerial Declaration, accessible at <http://www.g77.org/doc/Declaration2013.htm>, accessed in June 2014.

¹⁵ A/RES/68/8 dated 29 October 2013.

67. The General Assembly expressed concern at the continued application of the 1996 “Helms-Burton Act” - which extended the embargo’s reach to countries trading with Cuba-and whose extraterritorial effects impacted both State sovereignty and the legitimate interests of entities or persons under their jurisdiction and the freedom of trade and navigation. It reiterated the call on States to refrain from applying such measures, in line with their obligations under the United Nations Charter, urging those that had applied such laws to repeal or invalidate them as soon as possible.

68. It was expressed that the basis of the (embargo’s) policies and measures was a violation of the right of a people to self-determination and that all people had the right, among other things, to determine their own political system and their path to development. Further, the resolution urged the Member States to put an end to the trade embargo on Cuba, which, among other things, called on all States to refrain from promulgating laws in breach of freedom of trade and navigation, and urged Governments that had such laws and measures to repeal, or invalidate them. It also requested the Secretary-General to report in the light of the purposes and principles of the Charter and international law and to submit it to the General Assembly at its sixty-ninth session. The human damages caused by the blockade were incalculable, especially the resulting economic damages accumulated after half a century amounted to more than \$1 trillion. The embargo was also the main obstacle to broader access to the Internet, the free circulation of persons, the exchange of ideas and the development of cultural, sport and scientific relations. The emphasis was also on the effects of the blockade in the financial sector.

Statements of AALCO Member States

69. The representative from **Islamic Republic of Iran, speaking on behalf of the Non-Aligned Movement (NAM)**, said that the overwhelming majority of Member States’ call in 2012 to end the embargo had clearly demonstrated how the international community stood on the matter. The Movement reiterated its opposition to such unilateral action. He also noted with concern the tightening of the embargo, as well as all other recent measures taken by the United States against Cuba. Such actions violated Cuba’s sovereignty and the rights of its people, and denied the country’s access to the global market and international financial institutions. The embargo also was extraterritorial by nature and flaunted international law. Despite the difficulties, Cuba had achieved significant progress, particularly in education, health and international cooperation. The representative called on the United States to comply with the Assembly resolutions and put an end to the embargo.

70. The representative from **India**, said despite repeated calls from the Assembly, its resolutions remained unimplemented in contravention of world opinion. Such disregard for the international community’s collective will undermined the United Nations’ credibility and weakened multilateralism. The embargo caused immense suffering for the Cuban people, since the country was denied access to major markets with which it shared geography. Cuba had to pay enormous extra costs for sourcing products, technology and

services from third countries located thousands of kilometres away and find markets for its own products. The Food and Agriculture Organization (FAO) had pointed out the embargo had very negative implications for Cuba's balance of trade and foreign exchange earnings, and for the country's supply of food and agriculture products as well as a direct effect on the food security of the vulnerable segments of the population. Differences between countries should be solved through dialogue and negotiation, he said.

71. The representative from **Arab Republic of Egypt** said that the embargo against Cuba was morally unjustifiable, legally indefensible and contrary to international law. It affected crucial sectors of Cuba's economy and the wellbeing of its people, with negative repercussions on companies and citizens of third countries as well. The United States could not indefinitely ignore the international community's will or turn a blind eye to what was right and just. This went against its values, history and tradition. He hoped this time the international community's call would not go unheard.

72. The representative from **People's Republic of China** said for 21 consecutive years, the Assembly had adopted resolutions on ending the United States embargo against Cuba, urging all countries to abide by the Charter. Unfortunately, those resolutions had never been effectively implemented. Statistics showed that by April 2013, the embargo had resulted in financial losses of \$1.5 trillion, seriously undermining the Cuban economy. The embargo had also caused enormous pain to the Cuban people, hampering them from achieving the Millennium Development Goals and violating their rights to development. The embargo was a blatant violation of the Charter.

73. The representative from **Indonesia** said the embargo violated international law and had indirectly impacted countries that had economic and commercial ties with Cuba. There was immense confidence in the international community that engagement would do more than isolation to advance the noble causes that all Member States ascribed to. "The time is ripe for relations between the two main parties to be transformed through constructive engagement," he said. Lifting the embargo would be in keeping with the spirit of the times and demonstrate unambiguous respect for the principles of non-intervention. Despite small changes, such as easing of travel restrictions to Cuba and the removal of obstacles to transfer remittances, the preferred outcome was for the embargo to be lifted immediately.

74. The representative from **South Africa** said that the unilateral action ran counter to international law and the Charter and it violated the Cuban people's rights. At heart of this embargo was the attempt to prevent Cuba from independently deciding its own political system and path to development. The blockade was a major cause to Cuba's economic problems and had affected every aspect of its trade. As long as the status quo remained, it was difficult for Cuba to benefit from the post-2015 development agenda. Despite the challenges, Cuba adhered to the principle of solidarity beyond its borders, with South Africa being a beneficiary of its assistance.

Explanation after Vote on the Resolution

75. The representative from **Democratic People's Republic of Korea** said 20 years had passed since the United Nations had discussed the embargo against Cuba. The blockade was the legacy of the Cold War. It had hampered the Cuban Government's development efforts. The Helms-Burton Act had further hampered Cuba's relations with other countries. The embargo clearly constituted a grave violation against the Cuban people's rights and it was a wanton violation of the Charter. His country condemned the United States and demanded that it remove the blockade.

76. The representative from **United Republic of Tanzania** pointed out that for 50 years the sanctions had no evident effect except preventing ordinary Cubans from enjoying their basic right to development and happiness. Ending the sanctions would have obvious economic benefits for both Cuba and the United States. As a friend and ally of both countries, United Republic of Tanzania saw a glittering light at the end of the tunnel. His country hoped and believed that the two Governments could work towards a lasting solution.

77. The representative from **Syria** said the decades-old embargo had subjected the Cuban people to social, political and economic damages. For 22 consecutive years, the Assembly had voted for the resolution to end the embargo, which ran against international law regarding interference with sovereign States. Although the resolutions were passed by clear majority votes, the embargo imposed by the United States since 1959 was still in effect. Support by 188 Member States during the current session attested to the fact that most of the world did not support the embargo. Israel's vote against the resolution showed that it did not respect international law. The failure to implement the resolution also demonstrated the weakness of the United Nations. Syria condemned all such sanctions, saying that similar aggressive measures were now causing the Syrian people to suffer. Aggressive policies were being adopted by some Member States. Syria hoped that all forms of embargoes against Cuba, Syria and other countries would be lifted, including the Israeli blockade of Gaza and the Syrian Golan.

78. A representative of **Myanmar** said his country supported the resolution and, as a member of the Non-Aligned Movement, opposed the use of economic sanctions. Having experienced sanctions, Myanmar noted their devastating effects included hampering efforts towards achieving the Millennium Development Goals. Constructive dialogue was necessary to foster mutual trust and harmony.

79. The representative from **Sudan** said his country had voted in favour of the resolution and supported Cuba's position. The Assembly had called to end the embargo for many years. However, the call had been in vain. Most Member States again had affirmed the Assembly's position. Several today had said extraterritorial laws violated States' rights, yet the embargoes remained in place. Sudan had experienced economic, social and development blockades, just as Cuba had been deprived of importing spare parts for vital sectors that could have led to development in infrastructure, industry and medication. Embargoes had fuelled conflict in Sudan, and all conflicts were attributable

to underdevelopment. The delegate asked s to how could the United Nations achieve a road map for a post-2015 development agenda to combat poverty when there were laws that hindered international trade, imposing blockades on countries striving to achieve lives with dignity for their people. Those were not the principles on which the United Nations had been established. He called upon the Assembly President and the Secretary-General to reject any unilateral measures that could undermine the basis for international relations. Those measures also undermined the credibility of the United Nations. Sudan's President was also denied a visa by the United Nations host country, which was against international principles and the host country agreement.

III. COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT

80. At the recent Thirty-Seventh Annual Meeting of Ministers of Foreign Affairs of G 77 in 2013, the G 77 countires firmly rejected the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic measures, including unilateral sanctions against developing countries, and reiterated the urgent need to eliminate them immediately. Moreover, such unilateral sanctions imposed on a particular country for more than a decade deprives the citizens of that country from their overall development, be it social, economical or political. The path to progress and development that situates in freedom of trade, navigation and movement of capital, which has a significant role to play in human development has been negated to whole a society for many years.

81. The unilateral sanctions have a particularly adverse effect on the sovereignty of other nations owing to its extraterritorial nature. Unfortunately, the target of sanctions imposed by the United States of America happens to be developing countries, particularly from Asia and Africa. Many of AALCO Member States have been and were prime targets of such unilateral imposition of sanctions having extraterritorial effects in the past and present times. The discussions at the UN General Assembly Annual Sessions, specifically referring to Economic sanctions against Cuba by the US government, pertaining to the economic, commercial and financial embargo, depicts the overwhelming majority of 188 States rejecting the imposition of unilateral sanctions against certain States for more than decades. AALCO Member States have also voiced their concerns and condemned such imposition through extraterritorial application of national legislation.

**EXTRATERRITORIAL APPLICATION OF NATIONAL LEGISLATION:
SANCTIONS IMPOSED AGAINST THIRD PARTIES
(Deliberated)**

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

Considering the Secretariat Document No. AALCO/53/TEHRAN/2014/SD/S 6;

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

Recalling its Resolutions RES/36/6 of 7 May 1997, RES/37/5 of 18 April 1998, RES/38/6 of 23 April 1999, RES/39/5 of 23 February 2000, RES/40/5 of 24 June 2001, RES/41/6 of 19 July 2002, RES/42/6 of 20 June 2003, RES/43/6 of 25 June 2004, RES/44/6 of 1 July 2005, RES/45/S 6 of 8 April 2006, RES/46/S 7 of 6 July 2007, RES/47/S 6 of 4 July 2008, RES/48/S 6 of 20 August 2009, RES/49/S 6 of 8 August 2010 and RES/50/S 6 of 1 July 2011, RES/51/S 6 of 22 June 2012, and RES/52/SP 2 of 12 September 2013, on the subject;

Having considered the AALCO publication entitled “*Unilateral and Secondary Sanctions: An International Law Perspective*” prepared by the AALCO Secretariat;

Recognizing the significance and implications of the above subject;

Expressing its profound concern that the imposition of unilateral sanctions on third parties is violation of the United Nations Charter and in contradiction with the general principles of international law, particularly state immunity, non-interference in internal affairs, sovereign equality, the right to development, and freedom of trade and peaceful settlement of disputes;

Condemning the imposition of restrictions against AALCO Members States, Syrian Arab Republic and Islamic Republic of Iran by the Government of the United States of America;

Condemning also the adoption of restrictive measures against States, especially in cases where the functional organs of a sovereign State, like Central Banks, are subjected to sanctions which violate immunity of State and its properties;

Being aware that extraterritorial application of national legislation in an increasingly interdependent world retards the progress of the Sanctioned State and impedes the establishment of an equitable, multilateral, non-discriminatory rule-based trading regime;

Reaffirming the importance of adherence to the rules of international law in international relations:

1. Appreciates the initiative of the Secretariat for bringing out the AALCO publication “Unilateral and Secondary Sanctions: An International Law Perspective”.
2. Directs the Secretariat to continue to study the legal implications related to the Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties and the executive orders imposing sanctions against target States.
3. Also Directs the Secretariat to further research on the implications of unilateral and extraterritorial sanctions on international trade and its effect on AALCO Member States.
4. Urges Member States to provide relevant information and materials to the Secretariat relating to national legislation and related information on this subject, and
5. Decides to place this item on the provisional agenda of the Fifty-Fourth Annual Session.