



ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

ANNOTATED PROVISIONAL AGENDA FOR THE FORTY-NINTH ANNUAL SESSION

I. INTRODUCTION

1. The Provisional Agenda has been prepared following Rule 11(1) of the AALCO's Statutory Rules. 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 was preparing 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 is being successfully followed since the Forty-Second Annual Session. 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 from this Session onwards, to economize resources these are being submitted for consideration in a single volume. Furthermore, a new innovation to facilitate decision making at the Annual Session is being introduced. This consists of annexing draft of Resolutions to be adopted by the Forty-Ninth Annual Session. Such an innovation was desired by the Drafting Committee of the Forty-Eighth Annual Session.

3. At the forthcoming Forty-Ninth Annual Session, **scheduled to be held in Dar es Salaam, Tanzania from 5th to 8th August 2010**, therefore, apart from the consideration of items on Organizational matters, seven (7) substantive items have been proposed for consideration as deliberated items for in-depth

discussion. On the Matter Relating to the work of the International Law Commission, a Thematic Debate is proposed to be held on “Making AALCO’s Participation in the Work of the International Law Commission more Effective and Meaningful”. Following the tradition of holding Special Meetings in conjunction with the Annual Session, it is proposed to hold two-half day Special Meetings on the following topics: (i) International Criminal Court: Principle of Complementarity; and (ii) Environment and Sustainable Development: [Climate Change and Draft Covenant on Environment and Development proposed by the International Council on Environmental Law (ICEL).] {Subject to confirmation}.

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 Tan Sri Abdul Gani Patail, Attorney General of Malaysia, and the President of the Forty-Eighth Annual Session of AALCO, shall preside over the Inaugural Session and the First Meeting of the Delegations of AALCO’s 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; (iii) observers representing United Nations, its Organs and specialized Agencies and other inter-governmental Organizations.

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 African region, the Vice-President may be elected, preferably from a Member State in the Asian 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 Forty-Ninth Annual Session covers the activities of this Organization since its Forty-Eighth Annual Session, including the organizational, financial and administrative matters.

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J. The AALCO's Proposed Budget for the year 2011

16. In accordance with Rule 24(4), the AALCO's Proposed Budget for the year 2011, 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.

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

17. 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 Forty-Ninth Annual Session.

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

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

M. General debate

19. 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.

N. Submission of Statements

20. *The Delegation 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 to provide quality interpretation and ensure that the impact of the statements of the delegations is equally strong in all languages.

O. Venue of the Fiftieth Session

21. The Secretariat has so far not received an invitation from any Member Government to host the AALCO's Fiftieth Annual Session. It may be recalled in this regard that 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. Accordingly, the Fiftieth Annual Session is to be hosted by an Asian State.

III. MATTERS UNDER ARTICLE 1 OF THE AALCO STATUTES

A. Report on Matters relating to the Work of the International Law Commission

Thematic Debate: Making AALCO's Participation in the Work of the ILC more Effective and Meaningful

22. 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.

23. The initiative to conduct thematic debate emerged, as concerns have been expressed in the past by Member States that this was not an optimal means towards achieving the goal of consolidating and where possible presenting the views of Member States as one voice at the United Nations, and the International Law Commission, with regard to topics that were under the consideration of ILC. Suggestions, such as constituting a body akin to International Law Commission be established within the auspices of the AALCO; examining in-depth the ILC subjects at Inter-Sessional Meetings of Experts, prior to the commencement of the Annual Session of the ILC and subsequent to its conclusion and prior to the matter being considered by the Sixth Committee of the UN General Assembly; and assisting the AALCO Member States in responding to the questionnaire prepared by the ILC on the subjects under its consideration etc., have been received from the Member States. Furthermore, to facilitate the International Law Commission Members from AALCO Member States in their work, proposal to provide them research assistance has also been received. Therefore, with the objective of finding ways and means to fully utilize the potential of the AALCO and to ensure effective and active participation of Asian-African States in the codification exercise by the International Law Commission, it is proposed to organize a thematic debate on the topic: "Making AALCO's Participation in the Work of the ILC more Effective and Meaningful", in conjunction with the Forty-Ninth Annual Session of the AALCO. It is expected that the guidance received from the Member States during the course of this thematic debate would enable the Secretary-General in effectively pursuing the statutory obligation in this regard.

B. 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

24. The 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.

25. At the Forty-Second (Seoul, 2003), Forty-Third (Bali, 2004), Forty-Fourth (Nairobi, 2005), Forty-Fifth (New Delhi, Headquarters, 2006), Forty-Sixth (Cape Town, 2007), Forty-Seventh (New Delhi (HQ) 2008) and Forty- Eighth Annual Session (Putrajaya (Malaysia) 2009) the Secretariat reported on legal developments concerning Israeli practices in all occupied territories, including violations of the Fourth Geneva Convention of 1949 and the United Nations resolutions. For the Forty-Ninth Annual Session, in order to facilitate discussions at the Session, the Report prepared by the Secretariat, besides giving detailed background information and highlighting the recent developments, contains a description of Israeli activities that amount to violation of 1949 Geneva Convention and also includes violations of international law by Israel including United Nations Security Council and General Assembly Resolutions. The report contains a summary of the deliberations held at the Forty-Eighth Annual Session of AALCO; Israeli atrocities (war crimes) in Gaza; and responses of the International Community.

26. Issues for focused consideration at the Forty-Ninth Annual Session could be: Violations of international law, particularly international humanitarian law and human rights law, committed by the Government of Israel in the Occupied Palestinian Territory (OPT); War crimes committed in Gaza by Israeli forces including blockade of Gaza; Establishing peace in the Middle East, with particular reference to the role of international community to pressurize Israel to comply with its international obligations; and highlighting the need for establishing an independent sovereign State of Palestine as a prelude to establishing everlasting peace in the Middle East.

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C. The International Criminal Court: Recent Developments

27. Developments pertaining to the International Criminal Court (ICC) have been on the agenda of the Organization, since its Thirty-Fifth Annual Session (Manila, 1996). In the initial phase of its work-programme on the agenda item, the Secretariat reported on the various developments pertaining to the elaboration of the Statute of the ICC. After the entry into force of the Rome Statute, the focus of the Secretariat's work has been on monitoring and reporting on the developments in the various institutions established under the Rome Statute, namely, the Assembly of States Parties (ASP), the ICC, Office of the

Prosecutor, the on-going work on the crucial issue of the crime of aggression, and other pertinent developments relating to the ICC.

28. The Secretariat Report prepared for the Forty-Ninth Annual Session seeks to highlight the developments that have taken place after the Forty-Eighth Annual Session of the Organization, in particular the outcome of the first Review Conference of the Rome Statute of the ICC, held in Kampala (31 May – 11 June 2010). This Report outlines AALCO's Work Programme on the International Criminal Court in the previous years; Report on the Eighth and Resumed Eighth Session of the Assembly of States Parties; Report of the Special Working Group on the Crime of Aggression; Consideration of the item during the Sixty-Fourth Session of the United Nations General Assembly (2009); Summary Report of the "Round Table Meeting of Legal Experts on the Review Conference of the ICC" jointly organized by AALCO and the Governments of Japan and Malaysia, held on 30-31 March 2010, in Putrajaya, Malaysia; participation of the Secretary-General in the Kampala Review Conference, 1st June 2010; and Comments and Observations of the AALCO Secretariat.

29. A Special Meeting on the topic "International Criminal Court: The Principle of Complementarity and the Crime of Aggression" would be held in conjunction with the Forty-Ninth Annual Session. Details regarding this meeting would be available in due course.

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D. Environment and Sustainable Development

30. The law relating to "Environment and Sustainable Development" constitutes an important item on the agenda of AALCO for thirty-five years now. The present focus of the work of the Organization being on the implementation of the three Rio Conventions namely: United Nations Framework Convention on Climate Change (UNFCCC), Convention on Biological Diversity (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 in progress of the Implementation of the outcome of World Summit on Sustainable Development (WSSD).

31. In view of the unprecedented momentum in the struggle to mitigate and adapt to climate change, the focus of the Secretariat Report is on the fifteenth meeting of the Conference of Parties to the UNFCCC and the Fifth Meeting of the Parties to the Kyoto Protocol, held in Copenhagen, Denmark from 7 to 18 December 2009. The Report also seeks to furnish an overview of Ninth Session of the Conference of Parties to the UNCCD, held in Buenos Aires, Argentina from 21 September to 2 October 2009; issues before the forthcoming Ninth Conference

of Parties to the Convention on Biological Diversity, that would take place in Nagoya, Japan from 18 to 29 October 2010; the Eleventh Session of the Governing Council of the UNEP /Global Ministerial Environment Forum, held in Bali, Indonesia, from 24 to 26 February 2010; and the Eighteenth Session of the Commission on Sustainable Development that took place at the United Nations in New York from 3 to 14 May 2010.

32. A Special Meeting on “Environment and Sustainable Development”, focusing upon the themes of “Building Momentum towards Cancun Climate Change Negotiations”, the revised “African Convention on the Conservation of Nature and Natural Resources” and the “Draft Covenant on Environment and Development” proposed by the International Council of Environmental Law (ICEL) would be held in conjunction with the Forty-Ninth Annual Session. Details regarding the Meeting would be available in due course.

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E. Challenges in Combating Corruption: The Role of the United Nations Convention Against Corruption

33. The item “*An Effective International Legal Instrument Against Corruption*” was introduced by the Secretary-General in the agenda of the AALCO at its Forty-First Annual Session held in Abuja, Nigeria (2002). In the year 2003, the United Nations Convention against Corruption, which is the most comprehensive anti-corruption instrument available, was adopted. Since then, the AALCO Secretariat has been reporting developments that have been taking place in the global fight against corruption in its reports periodically.

34. However, during the Drafting Committee deliberations that took place at the Forty-Eight Annual Session of AALCO in Malaysia last year, the need to adopt a new title for the agenda item of corruption was expressed by many delegations. It was opined collectively that the existing title was obsolete in view of the adoption and coming into force of the UN Convention against Corruption in 2005 and also that it did not reflect the various gamut of issues thrown upon by the UN Convention. Accordingly, the Secretariat of AALCO was mandated by the resolution on the agenda adopted at the plenary of the Session to propose a new title which would reflect the contemporary reality. Hence, the title has been changed to: “*Challenges in Combating Corruption: The Role of the United Nations Convention Against Corruption*”.

35. With this new title, this year’s report focuses comprehensively on the critical issues that were deliberated during the Third Conference of the Parties to the UN Convention against Corruption that took place at Doha, Qatar in

November 2009. These include; identification of the problems and flaws that plague the UN Convention, the creation of a mechanism to review the implementation of the UN Convention and the modalities for arranging technical assistance to States finding it difficult control the menace of corruption.

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F. WTO as a Framework Agreement and Code of Conduct for World Trade

36. At the Thirty-Fourth Annual Session of the AALCO (1995) held at Doha, Qatar, the item "WTO as a Framework Agreement and Code of Conduct for the World Trade" was for the first time introduced in the Agenda of AALCO. Thereafter, this item continued to remain on the agenda of the Organization and was deliberated upon during the subsequent sessions - Thirty-Fifth Session (1996) to Forty-Sixth Session (2007). At these sessions, the Secretariat was directed to monitor the developments related to the WTO, particularly the relevant legal aspects of dispute settlement mechanism. In fulfillment of this mandate, the Secretariat has been preparing reports and presenting it to the Member States for their consideration and deliberation. In furtherance of its work programme, the AALCO in cooperation with the Government of India also convened a two-day seminar on 'Certain Aspects of the functioning of the WTO Dispute Settlement Mechanism and other Allied Matters' at New Delhi (1998). Further, at the Forty-Second Annual Session held in Seoul (2003), the Secretariat presented a Special Study on 'Special and Differential Treatment under WTO Agreements'. In pursuant of the mandate of the Forty-Eighth Annual Session, the Centre for Research and Training of AALCO, successfully organized a five-day training programme: "Basic Course on the World Trade Organization" from 1 to 5 February 2010. It was attended by diplomats, officials, law teachers and researchers from Member States and Non-Member States of AALCO.

37. The report of the Forty-Ninth Session provides updates on the Doha Development Round of Negotiations with focus on the negotiation on Agriculture, Non-Agriculture Market Access (NAMA) and the various proposals submitted for the Review of the Dispute Settlement Understanding.

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G. Expressions of Folklore and its International Protection

38. Keeping in view the importance of the work undertaken by the World Intellectual Property Organization's (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and the Folklore (the IGC) and its impact on the Asian and African countries, the then Secretary-General of AALCO proposed to the Member States to include an Item entitled "Expressions of Folklore and its International Protection" on the agenda

of the Forty-Third Annual Session of AALCO in the year 2004. From then on, this topic has been considered as an agenda item in the successive Sessions. The Secretariat's report of the Forty-Eighth Annual Session provided the developments at the IGC's thirteenth Session and the discussion during the Session were on developing a policy and legal framework for the protection of expressions of folklore, at the international level.

39. The present report of the Secretariat provides an overview of the Work of the WIPO's IGC since its inception in 2001, focusing the attention on the Fourteenth, Fifteenth and Sixteenth Sessions of the Committee and the relevant documents circulated during the Sessions. The Report also highlighted the fact that the recent Session had witnessed agreement on the establishment of Inter-sessional Working Groups (IWGs) on Substantive Matters and also agreed to engage in text-based negotiations. The AALCO Secretariat hopes that the Committee's substantive work would accelerate to produce a draft legal international instrument to protect the expressions of folklore and also urges the Member States to participate in the IWGs effectively in order to produce a balanced legal instrument to prevent the acts of misappropriation and misuse of the Expressions of Folklore regime.

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