

**V. (v) SUMMARY RECORDS OF FIFTH GENERAL MEETING
HELD ON 19TH JUNE 2003 AT 2:40 P. M.**

The Vice-President Her Excellency Ms. Janat B. Mukwaya in Chair.

(a) Human Rights in Islam

1. The meeting took up for consideration the agenda item **“Human Rights in Islam”**.

2. The **Secretary-General Amb. Dr. Wafik Z. Kamil** said that he had the honour to introduce the important topic of “Human Rights in Islam” for deliberations and placed for consideration the Secretariat document AALCO/XLII/2003/ SEOUL/S 16.

He recalled that the Hon’ble Minister of Justice of Saudi Arabia in his Statement at the AALCO’s 40th Session, held in New Delhi (HQ), in 2001 had proposed for the inclusion in the agenda of AALCO an item “Human Rights in Islam”. However, a formal proposal together with an Explanatory Note was forwarded by the Government of Saudi Arabia just prior to the 41st Session. Accordingly, the item was included in the Agenda of the 41st Session held in Abuja 2002.

Further, the resolution adopted at Abuja Session requested Member States “to forward to the Secretariat their views and observations on the topic, so as to facilitate the preparation of an in-depth study”. It also decided to include the item on the agenda of the 42nd Session.

He stated that as a follow-up, the Secretariat had sent three times, letters to Member Governments seeking information and their views on this item. Till the end of May 2003, it did not receive such communication from any of the Member States.

The Secretariat document for the consideration of the 42nd session highlighted the contents of the Memorandum of the Government of Saudi Arabia and the views of the delegations at the 41st Session at Abuja. It also contained charts depicting the participation of the Member States of the Organization of Islamic Conference in selected human rights conventions under the United Nations. The Cairo Declaration on Human Rights adopted by OIC on 5th August 1990 was annexed to the study.

He observed that the word Islam meant peace, purity, submission and obedience. In the religious sense, Islam meant submission to the will of God and obedience to His law. Those who professed Islam believed that everything and every phenomenon in the world was administered totally by God-made laws, i.e. they were obedient to God and submissive to his laws, they were in the State of Islam.

He explained that the religion Islam was based upon the will of Allah, the Almighty and guaranteed the rights of the people so that they could live in peace, tranquility and brotherly love.

The source of human rights in Islam was the Creator of this Universe and it was he Who gave them sanctity and enforcing power. Ideological conviction was deeply rooted in the human soul by virtue of faith and that was what made the soul accept willingly the duties, which were obliged by such rights and committed to enact, protect and maintain these rights.

He said that criticism was often made that Islamic States did not subscribe to the universal norms of human rights, particularly those that were contained in the Universal Declaration of Human Rights of 1948. In this context, he stated, it would not be out of place to mention that Islam prescribed for a noble treatment of humanity and protected human rights and organized the affairs of man in such a manner that ensured human dignity and guided man to the right path and saved him from the abyss of ruin and destruction. The concept of human rights in Islam were antecedent to international charters and could be traced to the divine revelation in *Quran* and the *Sunnah* (the prophetic traditions).

In this context, he noted with distress, particularly in the wake of September 11th terrorist attacks, the trend that had emerged of linking particular religion or ethnic groups with terrorism. He deplored such linkages, which had now been legitimized by certain governments by adopting policies that sought to include entry to asylum seekers, immigrants and other such practices based on the ethnic or religious persuasion of individuals.

In conclusion, he said that the Secretariat looked forward for comments and inputs from the Member States so that the topic could be deliberated in detail and as a follow-up an in-depth study could be prepared.

3. The **Delegate of Indonesia** supported Saudi Arabia's initiative for the inclusion of the item entitled "Human Rights in Islam" on the agenda of AALCO's work programme. His delegation shared the view that study by AALCO could find common grounds, which could serve as the basis for demonstrating a clear picture of Islam in dealing with human rights issues. His delegation was convinced that extensive discussion on this particular subject in this Session would contribute to the efforts of doing away with the misperception from the minds of certain elements in the West in relation to Islam. Moreover, it could also pave the way for religious harmonization.

His delegation shared the view that in Islam human rights was one of the most important "necessities" in human life. They are more than mere rights. He said that Islam considered human rights as an imperative condition that gives meaning to the human life. Consequently, safeguarding them means not only a "right" for man, but a "duty" as well. In addition to that, anyone who prevented a man from achieving these "necessities" would commit a transgression. Furthermore, Islam has reached far in sanctifying these "human obligatory necessities" to the extent that it regarded them as the foundations. They were indeed the basis of believe, and hence the practice of religion of Islam.

He argued that not all articles in the Universal Declaration on Human Rights (UDHR) could be accepted by Muslim countries. Although some Muslim countries attended the deliberations of the UDHR, Islamic views on human rights had not been appropriately accommodated in the text of the UDHR. For that reason, many Muslim countries questioned the universal spirit and nature of the UDHR. Therefore, his delegation was of the view that some provisions of the UDHR, which seemed to be not in line with the Islamic values, should be further discussed.

He said that since the beginning of its inception, Islam attached a great importance to the issue of respect and protection of human rights. Both *Al-Qur'an* and *Hadith* have clearly stipulated the basic human rights values. In this respect, he referred to the Madina Charter concluded in 612 AD which also incorporated the human right provisions, which were more advanced as compared with the Magna Carta adopted more than six centuries later.

His delegation was of the view that some provisions of the UDHR *vis a vis* Islamic law on human rights seem to be controversial, particularly those concerning with different religion marriage and apostasy.

However, the controversy did not necessarily lead to rejection of the articles of UDHR as the whole. Apart from those provisions relating to different religion marriage and apostasy, the provisions of UDHR were compatible with the Islamic teachings.

The development of human rights protection in Muslim countries has achieved remarkable progress. The basic principle of constitutionality of modern state emphasizing the protection of human rights has been adopted in constitutions of Muslim countries, such as Indonesia, Malaysia, Iran, Pakistan, and many other Islamic countries. Moreover, the fact that Indonesia and some other Islamic countries have established ministries or special bodies entrusted to promote human rights protection in their respective countries reflect their commitment to respect human rights.

His delegation was of the view that discussion on human rights and Islam should be taken seriously from now on. He also recommended that the AALCO Secretariat could consider the feasibility to hold a special seminar or workshop, in collaboration with Saudi Arabia and Indonesia, focusing on this particular issue.

4. The **Delegate of Saudi Arabia*** offered his felicitations to the President and Vice-President for their election to the respective offices and Secretary-General for his reappointment. He welcomed the admission of Brunei Darussalam to the AALCO.

He thanked the Secretary-General for keeping the important topic of “Human Rights in Islam” as a deliberated item for the 42nd Session.

He observed that the heavenly religion of Islam was based upon the dignity given to man was based upon justice and good deed. In the application of Islamic *Shariah*,

* Statement delivered in Arabic. Unofficial translation based upon the interpreters version.

Saudi Arabia was committed to preserving the five principles which inter alia included dignity, honour, safety and security. He said that the subject matter of the agenda item required much attention and was of great importance.

He said a Working Paper has been presented by his delegation on the item.

Saudi Arabia, he said, condemned terrorism in all its forms, however it called for a proper definition of terrorism. To fight the menace of terrorism it had ratified the Arab Convention on combating terrorism.

5. The **Delegate of Kuwait*** thanked the Secretary-General for the Secretariat document and welcomed the initiative of Saudi Arabia in proposing this important topic. He observed that all religions aimed at preserving dignity and therefore it was important to know the importance of human rights. Islamic religion was a noble religion and even fourteen centuries back it had firmly entrenched human rights in it. However, it provided that public interest had precedence over private interests. Islam was a religion of tolerance, provided for free expression of opinion, and was based upon the principle of conviction through dialogue.

6. The **Delegate of Qatar*** thanked Saudi Arabia for its proposal on this topic. Islam he said was the first heavenly religion to prescribe human rights. Islamic Shraiah prescribed for laws for all aspects of the community. It also provided for the rights of non-Muslims. The non-Muslims also had rights and duties under Islam. It provided for great care for non-Muslims. The general principles of the religion provided for justice and equality.

7. The **Delegate of Islamic Republic of Iran** was delighted that Human Rights in Islam had been included as an agenda item. He said that discussion of Human Rights in Islam in workshops and meetings was essential because there were different schools of thoughts and conceptual discourses in Muslim countries. It was a very serious task to study the consistency of Islam and Human Rights. His delegation agreed that the common denominator of all discourses in all circumstances was the respect for human rights in Muslim countries. Islam was a faith for better life in this world and eternal salvation for the other world. The distorted image of Islam by certain western media to introduce Islam as a violent religion emanates from the dangerous idea of “clash among civilizations.” However, policy and practice of Muslim countries in respecting human rights can prove vice versa. There was a wide range of actions and options maintaining law and order in Muslim countries such as enhancement of civil society, taking participating measures to promote education at all levels particularly for women and children and to eradicate poverty and discrimination altogether. This would provide a better ground for preserving human rights in the troubled time.

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8. The **Delegate of United Arab Emirates*** thanked the Secretary-General for including this topic on the agenda and supported the Saudi Arabian Working Paper on the subject. He also welcomed the proposal of sisterly Republic of Indonesia to convene a Seminar to discuss the issue in greater detail. It was one of that subject matter that was required to be discussed technically and judicially and therefore Secretariat should consider and propose for an appropriate place for discussion of this topic in greater detail.

9. The **Delegate of Sudan*** thanked the Secretary-General for his lucid and comprehensive report on the subject matter. He also thanked Saudi Arabia for its initiative in introducing the topic and also its Working Paper. He observed that human rights in Islam were not rights provided by anyone but Rights granted by God. It was not a grant by anyone. He called for a greater dialogue on the subject so that a better understanding could be developed on it.

10. The **Delegate of Malaysia** thanked the Secretariat for inclusion of this important topic during the 41st Session of AALCO in Abuja on a reference made by the Kingdom of Saudi Arabia. He said that the Organization of Islamic Conference (OIC) had considered the issue of Human Rights in Islam. In this respect, one of the fundamental principles of the OIC Charter was to promote and encourage respect for human rights and fundamental freedom for all people without distinction as to race, sex or religion. The 19th Session of the Islamic Conference of Foreign Ministers, held in Cairo, in 1990 adopted and issued a document entitled “Cairo Declaration on Human Rights in Islam”. He also noted that the 30th Session of the ICFM held in Tehran from 28th May to 30th May 2003 discussed legal matters relating to the follow-up of the Cairo Declaration on Human Rights in Islam. At that meeting, Malaysia expressed its support for Resolution No.2/30-LEG which recognized the importance of the follow-up of the Cairo Declaration on Human Rights in Islam and called upon the Inter-governmental Group of Experts to start the formulation and consideration of Islamic Charters on Human Rights, which will take the form of Covenants, each of which would deal in detail with one or more issues based on the provisions of the Cairo Declaration.

He informed the meeting that Malaysia would be hosting the 10th Islamic Summit Conference from 16 to 18 October 2003. His country therefore welcomed the recommendations and outcomes of deliberations during and after the 42nd Session of the AALCO on the issue of Human Rights in Islam to be brought to the attention of the 10th OIC Summit to be held in Kuala Lumpur in October 2003.

(b) WTO as a Framework Agreement and Code of Conduct for the World Trade

The Meeting took-up the next item for consideration “WTO as a Framework Agreement and Code of Conduct for the World Trade”

1. The **Vice President**, before inviting the Deputy Secretary-General for introducing the item, released **“A Study on Special and Differential Treatment in WTO**

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Agreements”, a special study prepared by the Secretariat as part of the Centre for Research and Training.

2. The **Secretary-General**, speaking on the occasion, thanked and appreciated the Secretariat team consisting of Dr. Li Zhenhua, Mr. R. Vidjea Barathy and Mr. R. Rajesh Babu for their commitment, professionalism and inspiring team work in bringing out this study.

3. **Dr. Li Zhenhua, Deputy Secretary-General** introduced the Secretariat document AALCO/XLII/SEOUL/2003/S.14 on the topic. He said that the Secretariat document contained an overview of the progress on the implementation of the Doha Mandate and the status of the review of the Dispute Settlement Understanding (DSU).

After providing a brief overview of the negotiation process, he pointed out that negotiations in the WTO which was expected to deliver on three key issues of interest to developing country Members by the end of 2002: (a) essential medicines for Members lacking capacity to manufacture such things indigenously; (b) special and differential treatment for developing country Members; and (c) resolving implementation issues, have missed their deadline without reaching any agreement. Failure in all these areas was a matter of concern.

Another area of concern was the negotiations on clarification and improvement of the dispute settlement understanding (DSU). Though, the review was to be completed not later than May 2003 and the report to be presented at the Fifth Ministerial Conference, Dr. Li observed that no clear understanding has been reached in any of the significant issues under negotiation.

The Fifth WTO Ministerial Conference scheduled to be held at Cancun, Mexico from 10 to 14 September this year would be a forum for stock-taking of the progress made over the Doha mandate. However, the comprehensiveness of the Doha Mandate, he said, has evidently led to Members adopting a more cautious and a ‘wait-and-watch’ approach, thus slowing down the pace of the ongoing negotiations. The inherently conflicting perceptions between developed-developing country Members; the cross-cutting nature of certain issues; and the multiplicity of negotiating bodies were other factors which have influenced the pace and direction of the current negotiation process. Therefore, he urged that the time between now and September should be utilised to arrive at consensus on a substantial number of issues. Leaving out many issues undecided, he cautioned would overload the agenda for the Fifth Ministerial Conference and jeopardise the prospects of reaching any agreement at that stage.

From a developing country point of view, progress in negotiations over special and differential treatment provisions and implementation issues have special significance and could have a decisive influence on negotiations in other areas. In this regard, he noted that the developing and least-developed Member country have adopted a pro-active approach in putting forth specific and well articulated proposals as regards review of S&D provisions. However, the developed Member country response to these proposals,

has been the same as in the past – that is indifferent and evasive. Beyond perfunctory gestures towards LDC proposals, developed country responses have not seriously attempted to go beyond mere technical assistance and extended transition periods. Any meaningful review of S&D provisions, he felt should seek to place the developmental dimensions at the central focus of the review process.

In the view of the AALCO Secretariat, he observed, attempts by some industrialised countries to move the S&D process from the Committee on Trade and Development to other specific negotiating bodies was a matter of concern. Such actions undermined the explicit wordings of Doha mandate and raises doubts if they are merely delaying and frustrating tactics employed to pressurize developing countries to make concessions within the overall negotiating framework.

Recognizing the importance of this issue, he said that the Secretariat has prepared a special study on the “Special and Differential Treatment under the WTO Legal System”. The special study provides a comprehensive overview of the working of the special and differential treatment (S&D) provisions under the GATT/WTO agreements, along with comments and statements made by the WTO Members in the implementation and administration of specific S&D provisions in the ongoing trade negotiation process.

4. The **Delegate of India** said that the various agreements of the WTO provides the legal framework for multilateral trade rules not only on traditional trade issues but also with regard to intellectual property rights and intangibles like services. She said the multilateral trade rules was expected to provide development and better standard of living especially for the developing countries. However, she added that such hopes have so far not fructified and should examine why such benefits have not percolated sufficiently to the developing countries.

More specifically, she pointed out that in the area of greater market access for the export of the developing countries, the expectation from the Uruguay Round had not materialized due to various reasons, including tariff peaks and escalation and use of non-tariff barriers in respect of products of export interest to the developing countries. She said that India along with other countries had submitted proposals to operationalise Implementation Issues. However, no progress was achieved so far.

The negotiation on Doha Declaration on TRIPS and Public health, she noted, have not yet borne fruit and any solution, which redefines the scope of public health problems in a restrictive manner, would not be acceptable to the developing countries. The solution should have a permanent, legally secure, and predictable character. She also stated that the Indian delegation considers that the TRIPS Agreement should be interpreted and harmonized with the UN Convention on Biological Diversity so as to ensure appropriate returns to traditional communities located mostly in developing countries in Asia and Africa.

In the case of Dispute Settlement Understanding, she said that there was a need for improvement in certain areas. She pointed out that though the text circulated by the

Chairman of the Special Session of the DSB seeks to address various issues including sequencing issue, remand authority to the Appellate Body (AB), enhancement of third party rights etc., proposals for providing special attention to the particular problems and interest of developing countries have not been included in the text.

Further, commenting on the Chairman's proposed text, she observed while some of the proposals of various countries have been included in Chairman's limited package, there was no clarity about how the residual issues would be addressed. She also explained India's position on the expansion of the Appellate Body members, introduction of practice of interim report by the Appellate Body and litigation cost.

5. The **Delegate of Kenya** said that though the next WTO round of negotiations were approaching at Cancun, Mexico, the concerns that the Kenyan delegation expressed at the Abuja Session from the perspective of the non-industrialized nations still apply. He said that the lack of capacity for negotiation continues to be a major problem and pledges made for the development of human resources and institutional arrangements has not been met.

He said that in order to participate at the next round of negotiation, Kenya is prepared to develop its capacities and focus on issues that would have a direct bearing on developing countries pursuant to the numerous obligations arising from the WTO Agreements. The technical assistance since Doha has been very low both from the WTO Secretariat and the States in support of the next round of negotiations. In addition, he pointed out that more than 30 developed and large developing states have already submitted proposals and requests on the structure of the next round of negotiations, indicating their level of preparedness.

Further, he highlighted several other issues of interest to countries which have not been adequately addressed. These include:

- (a) Implementation problems with the Uruguay Round agreements. Financial and technical resources are required for the statutes and legal provisions, which need review, amendment or enactment in order for the States to be WTO compliant.
- (b) An apparent stalemate on the Agreement on Agriculture and TRIPS and Special and Differential Treatment. Issues such as those involving subsidies in Agriculture, cheaper drugs under TRIPS remain largely unresolved.
- (c) Trade in Services agreement issues remains largely unsatisfactory.

He called upon the AALCO Member States for closer cooperation in addressing these pertinent issues. While welcoming the initiative of establishing training centers in Africa, he said that it is unfortunate that the centers are temporary and still inadequate.

Finally, he welcomed the efforts of the Secretariat in publishing its study on Special and Differential Treatment in WTO Agreement and reiterated the need for the

Secretariat to closely monitor activities relating to the development of capacity of Member States to comply with the WTO agreements.

6. The **Delegate of Malaysia** said that Malaysia is participating in the discussions in the various Working Groups to review existing agreement and new issues to be prescribed in the Cancun Ministerial Meeting. With regard to the non-trade issues such as labour and environment, Malaysia maintains its position that these non-trade issues should be appropriately dealt in their respective forum and should not be construed as a trade issue.

In relation to the new issues, he said that Malaysia is finalizing its position and in this regard on the issue of competition policy, Malaysia is studying the feasibility of establishing a legal framework on competition which will enable its industry to sustain its competitive edge.

He said that Malaysia supports the emphasis of the Doha Ministerial Meeting on capacity building and technical assistance and also noted the mandate to establish a Global Trust Fund by the WTO for providing technical assistance to developing countries and LDCs. He informed that Malaysia has conducted a technical assistance programme with the assistance of Japan International Cooperation Agency (JICA) in October 2002.

As regards the review of Dispute Settlement Understanding (DSU), he said that Malaysia has been participating in the review process and felt that it should be extended. However, Malaysia is of the view that such extension must be subject to a specific dateline but not later than December 2003 to ensure finality in the review. Further, Malaysia also proposed that the future review of the DSU be confined to the issues, which have received consensuses rather than the more contentious ones.

Finally, he thanked the Secretary-General for bringing out the special study on Special and Differential Treatment in WTO Agreements.

7. The **Delegate of Republic of Korea** said that Korea has been actively participating in multilateral negotiations in forums such as the OECD, WTO etc. He said that Korea, as a country that has benefited greatly from the multilateral trading system, rejects protectionism and unilateralism. Korea is also making efforts to promote economic cooperation with developing countries in Asia and Africa to provide technical assistance to least-developed countries. He then briefly spoke on the Korean trade policy objectives.

Focusing on the issues relating to WTO, he noted that the Doha mandate has several areas of negotiations and that the WTO members are determined to reform and complement the world trade order to adjust to the expansion of world trade and to changes in the trade environment.

He said that the Doha Development Agenda is both challenging and an opportunity for countries in Asia and Africa. His delegations believed that the

negotiations should reflect the interests of both developing and developed countries. In this regard, he noted that the negotiations in Geneva are to proceed as to reach consensus by finding common denominators where all the participants can benefit. His delegation is of the view that the countries in Asia and Africa should work together for the balance achievement in the Doha Development Agenda negotiations.

8. The **Delegate of Pakistan** expressed concerns about that the slow progress in the Doha Development round of negotiations. He noted that the AALCO report is more focused attention on the review of the dispute settlement understanding and has also brought out the progress made in the different issues currently under negotiation.

Speaking on the dispute settlement in WTO, he said that it has indeed become a very useful means of settling international trade disputes. In this regard, he highlighted the dispute settlement that existed in the GATT 1947 era. He pointed out that the developing countries lack expertise to handle dispute in the WTO and so there was a need for developing the expertise of the developing countries in dealing with such disputes.

(c) **Environment and Sustainable Development**

The Meeting then took up for consideration the item “**Environment and Sustainable Development**” for consideration. The Vice-President invited Ms. Toshiko Shimizu, Deputy Secretary-General to introduce the Secretariat document on the agenda item.

1. **Mrs. Shimizu, Deputy Secretary-General** referred to the Document AALCO/XLII/SEOUL/2003/S 11. She said that the item entitled “The United Nations Conference on Environment and Development” was placed on the agenda of the AALCO, at its 33rd Session in Kampala in 1993, subsequent to the conclusion of the Rio Summit. The Session directed the Secretariat to monitor the progress in the implementation of Agenda 21 in general and three environmental conventions, in particular, namely, the United Nations Framework Convention on Climate Change, Convention on Biological Diversity and the United Nations Convention to Combat Desertification. Since then, the item has been on the agenda of AALCO’s successive sessions.

At the last session in Abuja, keeping in view the World Summit on Sustainable Development, the title of the agenda item had been changed to “Environment and Sustainable Development”. The Johannesburg Summit, held in August 2002, adopted two main documents: the Johannesburg Declaration on Sustainable Development and the Plan of Implementation, which reaffirmed the commitment to sustainable development and building up of a humane, equitable and caring global society cognizant of the need for human dignity for all. It reinforced Agenda 21 and provided for concrete actions and measures at all levels on a wide range of environmental and developmental issues, such as clean water, energy, agriculture, trade, health and biodiversity.

She stated that the attainment of the objectives of sustainable development *inter alia* required for the strengthening of the international environmental governance and in this context Chapter X of the Plan of Implementation provided for an “Institutional Framework for Sustainable Development”. She suggested that the commitments contained in this chapter could be an issue for focused deliberation.

Thereafter, she proceeded to briefly narrate the important developments concerning the three environmental conventions on the AALCO’s agenda. She said that AALCO Secretariat participated in the Eighth Conference of Parties to the Climate Change Convention that took place in New Delhi, from 23rd October to 1st November 2002. The Secretary-General Amb. Dr. Wafik Z. Kamil addressed the High Level Segment of the Plenary on 30th October 2002.

She observed that the matter relating to the ratification of the Kyoto Protocol to the Climate Change Convention and its entry into force remained the dominant theme for the two-week proceedings. She underlined that the adoption of the Delhi Ministerial Declaration on Climate Change and Sustainable Development was the highlight of COP8.

Moving on to the Convention on Biological Diversity, she said that that the early entry into force of the Cartagena Protocol on Bio-safety was the key issue.

As regards the Desertification Convention, she highlighted the outcome of the first Meeting of the Committee to Review the Implementation of the Convention, which took place in Rome from 11 to 22 November 2002. The Committee was mandated to assist the Conference of Parties in regularly reviewing the implementation of the Convention, in the light of the experience gained at the national, sub-regional, regional and international levels and to facilitate the exchange of information on measures adopted by the Parties. The meeting formulated its “Conclusions and Concrete Recommendations of Further Steps in the Implementation of the Convention”, and submitted it for the consideration by the Conference of Parties.

Lastly, she drew attention to the initiative proposed by the Secretary-General in his Report for the 40th Session relating to the establishment of an Energy and Environmental Law Center, within the AALCO Secretariat. She said that the objective of the proposed Center would be to collect, research and disseminate information related to various legal issues concerning sustainable development of energy. It would undertake preparation of legal guidelines and model agreements on energy contracts, including licensing, transit and related environmental issues, joint venture agreements, and disputes resolution techniques. Wider acceptance of environment related international conventions in the Asian and African region and preparation of model legislation to facilitate their implementation at the national level could be another important task of the proposed Center. She emphasized that the establishment of a comprehensive programme on Energy and Environmental Law matters and the establishment of a Center for that purpose could be a landmark decision and welcomed suggestions on this initiative from the Member States.

2. The **Delegate of the Republic of Korea** noted that a clear paradigm shift had come about with agreement on the concept of sustainable development at the Rio Conference in 1992. This concept reflected the realization that striking a harmonious balance between the pursuit of economic growth and the preservation of environment was vital for the sake of good of present generation, as well as for the welfare of the future generations. The concept, acted as catalyst invigorating active involvement by the international community through opening international environmental conferences and as a result of which there had been conclusion and development of various significant environmental conventions.

He stated that his Government had set great hopes for the comprehensive approach adopted by the Johannesburg Summit for not only solving the issue of environmental conservation but also that of poverty. He said that Korea had ratified several important environmental treaties, including the Kyoto Protocol and would ratify the Biosafety Protocol and the PIC Rotterdam Convention, possibly within the year 2003.

He said that although the concept of “sustainable development” struck the right chord in gaining legitimacy needed for the global governance of environmental issues, the global awareness of environmental issues and the discourse thereon would be ineffective unless supported by legally binding institutions. His delegation therefore attached much importance to the ongoing institutional efforts and urged upon the countries that have not acceded to the Kyoto Protocol and other momentous international environmental treaties to become parties thereto as early as possible.

3. The **Delegate of India** welcomed the change in the name of the item to “Environment and Sustainable Development”, as it emphasized on the problems of the environment as a whole and not just the conventions adopted or considered in Rio in 1992. In her view, the Johannesburg Summit had provided an important opportunity to assess and address issues relating to the full implementation of Agenda 21 and emphasized that the principle of common but differentiated responsibility was and should remain the guiding principle for implementation of Agenda 21.

She said that it was important to note that the developing countries were unable to implement fully their international commitments, because of pressing socio-economic needs. She stressed that although it was necessary to highlight that domestic actions were important to implement international commitments, it was equally important to understand the difficulties faced by the developing countries. Towards this end, she observed that the commitments made at WSSD to reduce the world poverty level and achieve sustainable development through implementation of Agenda 21 were the key issues, requiring positive action on an urgent basis. For realizing these commitments, she called for transfer in good faith of environmentally sound and benign technologies and financial resources to developing countries by the developed ones.

As regards the environmental conventions, she stated that India had ratified the Kyoto Protocol to the UNFCCC and successfully hosted last year the Eighth Conference of Parties to the Climate Change Convention. India had also enacted a comprehensive

legislation entitled “Biological Diversity Act 2002” and as a follow-up action had set up the National Biodiversity Authority. As regards the Cartagena Protocol on Biosafety, she mentioned that India was a signatory to it and the issues pertaining to liability and redress and compliance within the Protocol was required to be addressed urgently. In this regard, she reiterated that compliance to the Protocol should be on the basis of common but differentiated responsibility.

As regards the Desertification Convention, she welcomed the decision of the Assembly of Global Environment Facility (GEF) to designate “desertification” as one of its focal areas.

Finally, she observed that the implementation of environmental law demanded the building of a cooperative spirit and trust between the developed and the developing states to protect and preserve the global environment. She called for studying ways and means of implementation of international environmental instruments for fulfilling the needs of Asian-African States. She said that, towards this end, the WSSD had made a genuine effort to resuscitate the spirit of Rio, wherein the implementation of Agenda 21 would evolve as a true global partnership, taking into account the special needs of developing countries and commitments of developed countries.

4. The **Delegate of the People’s Republic of China** hoped that the Johannesburg Declaration on Sustainable Development and the Plan of Implementation adopted by the WSSD would exert important impacts on global development by mobilizing once again the political will of the international community and stipulating concrete plans of implementation. He stressed that concerted efforts of all countries were essential for achieving sustainable development based on common development objectives. He hoped that the developed countries should take the lead by practical actions to fulfill their commitments on world development and provide necessary assistance to the developing countries in terms of financial support and transfer of technology, so as to promote the implementation of the Johannesburg Declaration and Plan of Implementation and ensure wider participation of the developing countries in the process.

He was of the opinion that to attain the goal of the Climate Change Convention, special needs and conditions of the developing countries should be taken into full account with a view to enhancing their capacity to deal with environmental issues. His Government had deposited its instrument of approval of Kyoto Protocol, in August 2002, and would join the international community in the common efforts to promote the early entry into force of the Protocol.

As regards Desertification Convention, the Chinese delegation was of the view that its implementation had not been as smooth as expected as many of the desertification affected countries lacked necessary funding and technical assistance. China welcomed the designation of desertification as one of the “focal areas” of the Global Environment Facility (GEF).

Finally, he stated that the Johannesburg Declaration and Plan of Implementation would facilitate the wider participation of the developing countries in the development of international environmental law.

5. The **Delegate of Nigeria** stated that the quest for meaningful environmental management and sustainable biodiversity conservation was of great concern to his country. It had signed the Cartagena Protocol on Biosafety in 2000 and ratified the same in 2002. Following the ratification of the Protocol, Nigeria established two independent bodies: the National Biosafety Committee (NBC) and the National Coordination Committee (NCC) for the development of Nigerian biosafety framework. The NBC, for instance, was empowered to take decisions on matters relating to the applications or deliberate release of genetically modified organisms/living modified organisms (GMOs/LMOs) into the environment. Further, an Inter-Ministerial Committee set up by the Government had developed requisite biosafety guidelines to regulate the use of genetically modifies organisms and the practice of biotechnology for the safety of environment, biodiversity and human health.

The two Committees (NBC and NCC), constituted by Nigeria, consisted of Government officials and non-governmental officials, with a view to enlist the participation of all relevant stakeholders of the economy that were directly or indirectly involved in the application and development of national biosafety framework. The process of their work consisted of four phases viz: setting up of required project management; gathering and analysis of basic information; monitoring of project in consultation with stakeholders; and finally, the preparation of the draft national biosafety framework.

He informed the meeting that a two-day conference was organized in Nigeria in April this year, to review and assess the existing legislations on import and export and the guidelines and legislations which were being formulated that may impair on the use of modern biotechnology and arrangement for safe use of biotechnology. It was considered essential that any sustainability on importation and exportation of seeds and livestock needed proper regulations of these issues.

He stressed the importance of issues concerning promotion of public participation, sensitization and involvement of media, development of an appropriate database, maintenance of a roster of national and international experts and training of experts to carry out risk assessments and monitoring.

6. The **Delegate of Malaysia** felt that the existence of institutional structure with strong capacities, supported by reliable and substantial resources was essential for the continued implementation of the outcomes of the WSSD. He stressed that financial and technical assistance should be afforded to developing countries in particular, least developed countries to enable the establishment of such institution at national level. At the regional level, he suggested AALCO could play a facilitative role in the attainment of this objective.

Malaysia had ratified the Kyoto Protocol and without adequate financial resources and technological support from the developed country Parties to the UNFCCC and International Organizations, it would be difficult for it to carry out its commitments. He expressed his concern about the lack of technology transfer to the developing countries although promises had been frequently made. The reason, he ascribed to this was that most of the technologies needed by the developing countries was in the domain of the private sector in the developed country Parties. Technology transfer in such cases was possible only if the developed country Parties provided a conducive environment for the private sector to make such transfer, e.g. by providing incentives.

His country supported the flexibility mechanisms under the Kyoto Protocol in principle on the basis that they were more politically acceptable than other options. However, these flexibility mechanisms may lead to corruption and collapse of global efforts to contain climate change if not supervised properly. This is because these mechanisms, e.g. the Clean Development Mechanism (CDM) could enable countries to avoid taking politically awkward domestic measures to combat pollution, such as removing subsidies for fossil fuel electricity. Although Malaysia supported the Clean Development Mechanism (CDM), the inclusion of carbon sinks in the CDM should be viewed with concern and caution. He emphasized that the reduction in carbon emissions should be undertaken at source rather than through carbon sinks. Finally, he said that Malaysia was of the view that other human-induced activities under Article 3.4 of the UNFCCC should not be allowed during the first commitment period. Therefore, his country supported the 6 principles laid down by the G77 and China and called for inclusion of carbon sinks in the CDM.

7. The **Delegate of Indonesia** emphasized that economic and environmental development should be balanced in order to prevent the environment from destruction. He said that the World Summit on Sustainable Development was a pivotal event, which laid the strong foundation for further collaboration, in the realization of the environmentally oriented economic development. In addition, the ratification and implementation of international conventions and protocols pertaining to that realization such as among the important ones, UNFCCC and its Kyoto Protocol; Convention on Biological Diversity; Cartagena Protocol; Vienna Convention on Ozone Layer Depletion; Convention on Combating Desertification; and Basel Convention on Transboundary Movement of Hazardous Waste and other matters should be highly prioritized in the national policy of each country.

He strongly underlined the immediate needs for cooperation in the transfer of technology and knowledge through joint research and training in order to enhance the development of data information on natural resources and of the environmentally oriented technologies.

In conclusion, he drew attention to environmental disputes having transboundary dimensions such as smuggling of logs, marine and air pollution. He called for legal cooperation particularly to facilitate the proper settlement of the environmental disputes

and hoped that this aspect would be further considered and elaborated in the next agenda on environment and sustainable development.

8. The **Observer from the Permanent Court of Arbitration (PCA)** in her intervention said that it was the first time that a representative of PCA was attending the AALCO session. She hoped that it would not be the last one. She informed the meeting about the recent activities of the PCA in the field of environmental dispute resolution. She stated that out of the ten arbitrations pending before the PCA four involved or touched upon environmental issues. Citing the conclusions of an expert group, she said that in the decade following Rio, the development of procedural mechanisms had lagged far behind the explosion in substantive international environmental law. PCA had therefore convened a drafting committee to prepare specialized procedural rules for dealing with environmental disputes. The PCA had in 2001 adopted a set of Rules for the Arbitration of Disputes Relating to the Environment and/or Natural Resources. These were followed, in 2002, by specialized rules for the conciliation of environmental disputes.

The PCA Environmental Rules sought to address the principal gaps in environmental dispute resolution. A prominent feature of these rules was the creation of panels of environmental arbitrators and scientific and technical experts.

She also said that the PCA was involved in drafting dispute resolution clauses for insertion in emission trading contracts, and references to the PCA had been included in the World Bank's Instrument Establishing the "Prototype Carbon Fund". The International Emissions Trading Association (IETA) recommended the PCA Environmental Arbitration Rules in its guidelines on drafting carbon emissions contract.

Finally, she applauded the proposal made by the Deputy Secretary-General of AALCO for the establishment of a research center and information clearinghouse on issues of environment and sustainable development and offered the cooperation of the Permanent Court of Arbitration in sharing with AALCO its developing expertise in the field of environmental dispute resolution.

(d) Report on AALCO's Regional Arbitration Centres

The next item for consideration was the "**Report on AALCO's Regional Arbitration Centres**". The Vice-President invited Amb. Dr. Deihim to introduce the item.

1. **Amb. Dr. Ali Reza Deihim, Deputy Secretary-General** drew attention to Document AALCO/XLL/SEOUL/2003/ORG.3 which contained the Report of the Directors of Cairo, Kuala Lumpur and Lagos Arbitration Centres.

He said that the launching of AALCO's scheme for the Settlement of Disputes in Economic and Commercial Transactions way back in 1978 had been a most successful AALCO's venture. AALCO was very proud of its Arbitration Centres. He congratulated Directors of the Centres for the success they have achieved in promoting the work of

their Centres. He observed that effective adjudication of legal disputes was complicated and costly. Further, prompt access to the required remedies, reparation and justice was hampered in many instances. The resort to these bodies of dispute settlement was of vital importance. He urged Member Governments and the business community in AALCO Member States to consider utilizing the facilities available in these Centres. That would not only help the AALCO Centres to grow further, but at the same time, they would find a better alternative and less expensive arbitration facilities available in our own region.

He extended his warm welcome to Dato' Dr. Zakaria M. Yatim, Director of Kuala Lumpur Centre.

He was pleased to inform the Meeting that the Kuala Lumpur Centre as a part of its Silver Jubilee Commemoration was organizing a three-day Conference during which important issues concerning international commercial arbitration will be discussed.

2. The **Delegate of Islamic Republic of Iran** traced the history of the establishment of AALCO's Arbitration Centres and said that in order to establish Tehran Regional Centre for Arbitration, the Government of the Islamic Republic of Iran and the AALCO concluded an Agreement on 3 May 1997. Under Article 1 of this agreement, it was noted that Tehran Center, which would function under the auspices of the AALCO, would have the following functions:

- a) promotion of international commercial arbitration in the region;
- b) coordination of activities and assistance to existing arbitration institutions in the region;
- c) assistance to ad hoc arbitrations, specially in cases where they are taking place in accordance with UNCITRAL Rules;
- d) assistance to enforcement of arbitral awards;
- e) conducting arbitrations under the auspices of the Centre.

Further, according to Article IX of the Agreement, it would "come into force upon the completion of the Legal procedure applicable in the Islamic Republic of Iran". He was happy to report that last month the agreement adopted by the Judiciary Power and the related legal procedures have been completed. Pursuant to Article 123 of the Constitution of the Islamic Republic of Iran, it needs the signature of the President. The legislation would be signed next week and the formal notification to the AALCO would be done soon.

Taking into consideration the above-mentioned fact, the Government of Islamic Republic of Iran declares its readiness to negotiate with AALCO in order to prepare the Administrative Rules and Rules of Arbitration to be followed by the Centre as required by Article II(2) of the Agreement.

3. The **Director of the Regional Centre for Arbitration, Kuala Lumpur (RCAKL)** said that the Centre was conceived as part of the AALCO's Integrated

Scheme for the Settlement of Disputes in Economic and Commercial Matters in 1978. It was the first Centre of its kind in the Asian region established primarily to promote international commercial arbitration.

The AALCO's Scheme was unique in many ways, especially in regard to its broad-based nature in bringing within the system all activities in the field of commercial arbitration within the region, whether institutional or *ad hoc*. The unique nature of the Scheme was further evidenced by the fact that it created no vested interest in any particular institution and the broad objective which the Scheme tried to promote was the provision of an adequate, inexpensive and fair procedure through which economic and commercial disputes could be settled within the region.

He elaborated the functions of the Centre and said that with the introduction of Section 34 of the Malaysian Arbitration Act in 1980, the RCAKL has become a neutral venue independent of national interests and not subject to the Malaysian domestic law.

He noted that there were several national arbitral institutions in the region, such as the Singapore International Arbitration Centre (SIAC), the Hong Kong International Arbitration Centre (HKIAC), the China International Economic & Trade Arbitration Commission (CIETAC), the Korean Commercial Arbitration Board (KCAB) and the Japan Commercial Arbitration Association (JCAA), which now administer various types of international commercial arbitration. Thus, Asia no longer needed to resolve its commercial disputes in the West, as was the situation after World War II.

Speaking about the RCAKL, he said that for more than two decades after the establishment of the RCAKL, foreign parties, not just within the Asian and the Pacific region but worldwide, where the other parties are from the region, had chosen to arbitrate at the RCAKL. Most of these parties use the RCAKL to resolve their commercial disputes with other parties from other countries. Apart from international arbitration, domestic parties have also preferred to resolve their disputes in accordance with the Rules of the RCAKL.

The RCAKL has turned 25 and preparations were now being made to commemorate its Silver Jubilee. An *ad hoc* Committee of five members headed by the Director has been set up in this respect. He gave details of the three-day programme for the commemoration of the Silver Jubilee. He said that apart from the Conference, RCAKL would be publishing a book containing essays contributed by eminent writers on the settlement of commercial disputes and related subjects in a commemorative volume. He invited AALCO Member Governments and other Governments in the Asian and the Pacific Region, as well as arbitrators accredited to the RCAKL to attend the 3-day Conference.

4. The Meeting was thereafter adjourned.