



ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

PROVISIONAL ANNOTATED AGENDA FOR THE FIFTY-THIRD ANNUAL SESSION

TEHRAN, ISLAMIC REPUBLIC OF IRAN
15th to 18th SEPTEMBER 2014

I. INTRODUCTION

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

2. This innovative approach was implemented for the first time during the Forty- Second Annual Session, held in Seoul and is being continuously followed since then. The Secretariat publishes reports on all the agenda items on the work programme of AALCO comprising of organizational and substantive matters. Furthermore, in order to encourage deliberations on resolutions, the drafts of resolutions to be adopted at the Fifty-Third Annual Session, have been annexed at the end of each deliberated report¹.

3. On the other hand, since the Forty-Ninth Annual Session (Dar es Salaam, 2010), the non-deliberated agenda items were being brought out in a single volume and the same were also placed for consideration of the Member States. **During the past several years Member States have been insisting upon austerity measures to be adopted by the Organization, including cutting down costs on its publications. In compliance with this observation, this year the Secretariat will not be publishing the report on the non-deliberated agenda items. Consequently, draft resolutions on the non-deliberated agenda items would not be discussed.**

¹ This innovation was suggested by the Drafting Committee of the Forty-Eighth Annual Session, held in Putrajaya, Malaysia in 2009.

However, in the future, as and when an item is taken up as deliberated, the needful would be done.

4. At the forthcoming Fifty-Third Annual Session, hosted by Government of the Islamic Republic of Iran, and **scheduled to be held in Tehran from 15th to 18th September 2014**, apart from the consideration of items on Organizational matters, building upon the AALCO tradition, the deliberations would focus upon some of the important substantive items on AALCO's current agenda, these include: (i) Law of the Sea; (ii) Status and Treatment of Refugees; (iii) 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"; (iv) Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties; (v) Environment and Sustainable Development; and (vi) WTO as a Framework Agreement and Code of Conduct for World Trade. Besides this, two half-day Special Meetings will also be in conjunction with the Fifty-Third Annual Session, on important themes pertaining to namely: (i) Selected Items on the Agenda of the International Law Commission; and (ii) "World against Violence and Violent Extremism". During the session, AALCO publications including the latest Issue of AALCO's Journal of International Law would also be launched.

II. ANNOTATED LIST

A. Chairing of the Session

5. Rule 3(1) of AALCO's Statutory Rules provides that the President of the previous Session shall preside until the Member States elect a new President for the Session. Accordingly, **Her Excellency Dr. Neeru Chadha, Legal Advisor, Government of India, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, Government of India** shall preside over the Inaugural Session and the First Meeting of the Delegations of AALCO Member States.

B. Participation of Member States

6. 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

7. 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. For the same purpose, 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

8. 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 have been 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.

9. 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

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

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

12. Observer delegations have the right to attend all Meetings and do not have the right to vote, except those which are declared closed meetings and attended exclusively by Delegations of Member States.

F. Admission of New Members

13. 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

14. 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 among the dignitaries of the Member State hosting the Session.

H. Election of the Vice-President

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

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

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

Document: AALCO/53/TEHRAN/2014/ORG 1

J. The AALCO's Financial Report and Proposed Budget for the year 2015

17. In accordance with Rule 24(4), the AALCO's Proposed Budget for the year 2015, as endorsed by the Liaison Officers to be sent to the Fifty-Third Annual Session, shall be submitted to the Meeting of the Delegations of Member States of the AALCO for approval and final adoption.

Document: AALCO/53/TEHRAN/2014/ORG 2

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

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

Document: AALCO/53/TEHRAN/2014/ORG 3

L. 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. As the Fifty-Third Annual Session is only for four days, *Leaders of Delegations are requested to kindly consider limiting their speech to 7 - 10 minutes due to paucity of time, so that the general statements could finish within the stipulated time, on the first day itself.* However, if they wish to give a longer version, the same could be handed over to the Secretariat for reproduction in the Verbatim Record of the Session.

M. Submission of Statements

20. *The Delegations wishing to make statements (General statements, and Statements on organizational and substantive matters) are requested to read the statement at a reasonable speed and to handover two copies of their statement well in advance to the Secretariat.* This would enable the interpreters (Arabic and English) to provide quality interpretation and ensure that the impact of the statements of the delegations is equally strong in all languages.

N. Venue of the Fifty-Fourth Annual Session

21. Sub-rule (1) of Rule 10 of the AALCO's Statutory Rules 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. **Even though the Fifty-Third Annual Session is being held in Asia, another Asian Member State has expressed its willingness to host the Fifty-Fourth Annual Session.**

III. MATTERS UNDER ARTICLE 1 OF THE AALCO STATUTES

The agenda items that have been listed in this Annotated Agenda are the deliberated items, which are listed as per the Tentative Schedule of Meetings, and would be taken up for deliberation during the Fifty-Third Annual Session.

1. Law of the Sea

22. It may be recalled that the item "Law of the Sea" was taken up for consideration by the Asian-African Legal Consultative Organization (AALCO) at the initiative of the Government of Indonesia in 1970, since then it has been considered as one of the priority items at successive Annual Sessions of the Organization. The AALCO can take reasonable pride in the fact that new concepts such as the Exclusive Economic Zone (EEZ), Archipelago States and Rights of Land Locked States originated and developed in the AALCO's Annual Session and were later codified in the UNCLOS. The resolution on the subject Law of the Sea (AALCO/RES/52/S 2), adopted on 12 September 2013, at the Fifty-Second Annual Session of AALCO emphasized upon the universal character of the UNCLOS and its legal framework governing the issues relating to the management of the oceans. It urged for the full and effective participation of AALCO Member States in the work of the International Seabed Authority, the Commission on the Limits of Continental Shelf and other related bodies established by the United Nations Convention on the Law of the Sea, as well as in the United Nations Informal Consultative Process so as to ensure and safeguard their legitimate interests.

23. Accordingly, the Secretariat Report prepared for the Fifty-Third Session provides information on the status of the UNCLOS and its implementing agreements in addition to the an overview of legal developments that have taken place during the intervening period between the Fifty-Second and Fifty-Third Annual Session of AALCO. It has also focused on new areas that can

be explored for consideration by Member States of AALCO including current challenges in the regime of the Law of the Sea. Finally, it offers comments and observations of the AALCO Secretariat. A draft of the resolution for the consideration of the Fifty-Third Annual Session is also annexed to the Secretariat Report.

Document: AALCO/53/TEHRAN/2014/SD/S 2

2. Status and Treatment of Refugees

24. As may be recalled, this topic was introduced onto AALCO's agenda in 1964 at the behest of the Arab Republic of Egypt at the Sixth AALCO Annual Session in Cairo, Egypt. Following this, in 1966 the Eighth Session in Bangkok, Thailand, saw AALCO adopt the 'Principles Concerning the Treatment of Refugees', also known as the 'Bangkok Principles'. Two addenda to these principles were adopted; first, the 'Right to return' in 1970; and second, the 'Burden Sharing Principles' in 1987. In 2001 a revised text of the Bangkok Principles were adopted. Additionally, AALCO adopted 'A Framework for the Establishment of a Safety Zone for Displaced Persons in their Country of Origin', and submitted 'A Model Legislation on the Status and Treatment of Refugees' in 1995.

25. With the number of conflicts occurring across the world on the rise, the numbers of people seeking refuge from these conflicts, as well as natural disasters in the developing world, continues to increase. The Office of the UN High Commissioner for Refugees has estimated that that approximately eighty percent of the world's displaced, including Internally Displaced Persons, (IDPs) come from, and are cared for, in developing countries. Since these issues are of particular importance to the Asian-African Region, this brief shall focus on the various major instances of migration as well as the measures taken in those regions both at the national and regional levels, to help the condition of refugees. This is also an opportune moment for AALCO to revisit the Bangkok Principles, particularly the Burden Sharing Principles, and discuss how these principles continue to be relevant and useful, or how they need to be revised and amended to better suit the ideals and needs of the Asian African region.

Document: AALCO/53/TEHRAN/SD/S 3

3. 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

26. In accordance with Article 1 (a) of the Statutes, this item has been on the agenda of the AALCO since its Twenty Seventh Annual Session (Singapore, 1988) following a reference 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 (Arab Republic of Egypt, 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.

27. Pursuant to RES/52/S 4 adopted at the Fifty-Second Session of AALCO on 12 September 2014, the AALCO Secretariat closely followed the events in the occupied territories from the view point of relevant legal aspects during the period from September 2013 till April 2014 and pursuant to the mandate given in the aforementioned resolution, has prepared a brief for consideration at the Annual Session.

28. Issues for focused consideration at the Fifty-Third Annual Session could be: (i) violations of international law, particularly international human rights law and humanitarian law, committed by the Government of Israel in the Occupied Palestinian Territory (OPT); (ii) special focus on the Renewed Israeli military excesses in the Occupied Palestine Territories with reference to the Fourth Geneva Convention of 1949 and United Nations Security Council and General Assembly Resolutions; (iii) war Crimes committed in Gaza by Israeli forces including blockade of Gaza ; (iv) the role of the international community to pressurize Israel to comply with its international obligations and (v) highlighting the need for establishing an independent sovereign State of Palestine as a prelude to establishing everlasting peace in the Middle East.

Document: AALCO/53/TEHRAN/2014/SD/S 4

4. Extra-territorial Application of National Legislation: Sanctions Imposed Against Third Parties

29. 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, in 1997, following a reference made by the Government of Islamic Republic of Iran. Thereafter, the item had been considered at the successive sessions of the Organization. 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.

30. At the Fifty-First Annual Session of the AALCO held in 2012, the AALCO Secretariat was mandated by its Member States to undertake this study. The Secretariat has published this research study and released this book in February 2014 at AALCO Headquarters, New Delhi. The Secretariat Report would provide an overview of the Book published by AALCO Secretariat on “*Unilateral and Secondary Sanctions: An International Law Perspective*” and will highlight the recent developments in this area, including the 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 September 2013; and the 16th Summit of the Non-Aligned Movement held in Tehran, Islamic Republic of Iran from 26 to 31 August 2012.

Document: AALCO/53/TEHRAN/2014/SD/S 6

5. Environment and Sustainable Development

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

32. The present Secretariat Report would provide an overview of the Nineteenth Session of the Conference of Parties to the UNFCCC (COP 19) and Ninth Meeting of Parties to the Kyoto Protocol, (CMP 9) held from 11 - 22 November 2013 at Warsaw, Poland; and briefly refers to the subsequent negotiations on climate change held in Bonn, Germany in June and March 2014. The International Regime on Combating Desertification shall have a brief report of the Eleventh Session of the Conference of Parties to the UN Convention to Combat Desertification (COP 11) held from 16 - 27 September 2013 at Windhoek, Namibia. The last section of the Report deals with the Final Session of UN Commission on Sustainable Development and Inaugural Session of High-Level Political Forum on Sustainable Development held on 20 September 2013 at UN Headquarters. Finally, this Secretariat report offers some comments and observations on the agenda item under consideration for the Fifty-Third Annual Session of the Organization.

Document No: AALCO/53/TEHRAN SESSION/2014/SD/S 10

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

33. It may be recalled that at the Thirty-Fourth 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. This coincided with the Uruguay Round negotiations which were completed in 1994 and had culminated in the establishment of the World Trade Organization (WTO) in 1995. Thereafter, this item continued to remain on the agenda of the Organization and was deliberated upon during the subsequent sessions. At these sessions, the Secretariat was directed to monitor the development related to the WTO, particularly the relevant legal aspects of dispute settlement mechanism.

34. In fulfillment of this mandate, the Secretariat had 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 Session held in Seoul (2003), the Secretariat presented a Special Study on 'Special and Differential Treatment under WTO Agreements'.

35. The Report of the AALCO Secretariat for this year focuses on the Ninth WTO Ministerial Conference that took place at Bali in December 2013 that has adopted few landmark decisions. The Report will look at the deliberations and the outcome of the Bali Conference from the view point of developing countries. Finally it would offer some general comments.

Document: AALCO/53/TEHRAN/2014/SD/S 13

IV. TWO HALF-DAY SPECIAL MEETINGS WOULD ALSO BE HELD IN CONJUNCTION WITH THE FIFTY-THIRD ANNUAL SESSION OF AALCO

(i) The first Half-Day Special Meeting would be held in the afternoon on Tuesday, 16 September 2014 on the topic "Selected Items on the Agenda of the International Law Commission"

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

37. The brief of the Secretariat for this year would provide a brief and general overview of the progress of work achieved by the ILC at its 66th Session (2014) on topics relating to: Expulsion of Aliens; the Obligation to Extradite or Prosecute; Protection of Persons in the Event of Disasters; Immunity of State Officials from Foreign Criminal Jurisdiction; Subsequent Agreements and Subsequent Practice in relation to the Interpretation of Treaties; Provisional Application of Treaties; Formation and Evidence of Customary International Law; Protection of Environment In Relation to Armed Conflict; Most Favoured - Nation Clause and Protection of the Atmosphere.

38. Specifically, it would focus on three topics that are of critical concern to the developing countries, namely, Protection of Persons in the Event of Disasters, Formation and Evidence of Customary International law and Expulsion of Aliens.

Document: AALCO/53/TEHRAN/2014/SD/S 1

(ii) The second Half-Day Special Meeting would be held in the morning on Wednesday, 17 September 2014 on the topic “Violent Extremism & Terrorism”

39. The item entitled “International Terrorism” was placed on the agenda of the Fortieth Session of AALCO, held at New Delhi between 20-24 June 2001, upon a reference made by the Government of India. It was felt that consideration of this item at AALCO would be useful and relevant in the context of the on-going negotiations in the Ad Hoc Committee of the United Nations on elaboration of the comprehensive convention on international terrorism. The successive sessions directed the Secretariat to monitor and report on the progress in the Ad Hoc Committee of negotiations relating to the drafting of a comprehensive international convention to combat terrorism; and requested the Secretariat to carry out, an in-depth study on this topic. The Centre for Research and Training (CRT) has brought out *A Preliminary Study on the Concept of International Terrorism* in the Year 2006. During the Fifty-Second Annual Session of AALCO held in New Delhi in September 2013, this topic was non-deliberated².

40. The brief prepared for the Fifty-Third Annual Session has reported on the following: (i) Developments in the Ad-Hoc Committee on International Terrorism (A/68/37) (ii) Developments in the Counter Terrorism Committee (CTC); (iii) Deliberations on the Comprehensive Convention on International Terrorism at the Sixth Committee of the United Nations General Assembly at its Sixty Eighth Session; (iv) Consideration at the Sixty Eighth Session of the United Nations General Assembly; (v) Comments and Observations of the AALCO Secretariat and (vi) Draft Resolution on the subject.

41. As this topic would now be covered under a much wider related ambit namely “A World against Violence and Violent Extremism” discussions are expected to revolve around the reasons and contents for the General Assembly unanimously adopting during its Sixty-Eighth Session held in 2013, Resolution A/RES/68/127 (18 December 2013). A background Paper on the topic is now available on the website of AALCO.

Document: AALCO/53/TEHRAN/2014/SD/S 7

² Report on the Non-deliberated Agenda items for the Fifty-Second Annual Session of AALCO, AALCO/52/HEADQUARTERS (NEW DELHI)/2013/SND), International Terrorism pages 22-38.

