



ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

PROVISIONAL ANNOTATED AGENDA

**FIFTY-SECOND ANNUAL SESSION (HEADQUARTERS)
ITC MAURYA SHERATON HOTEL, NEW DELHI, INDIA
9th to 12th SEPTEMBER 2013**

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. On the other hand, since the Forty-Ninth Annual Session (Dar es Salaam, 2010), the non-deliberated agenda items are being brought out in a single volume and the same are also placed for consideration of the Member States. Furthermore, in order to encourage deliberations on resolutions, the drafts of resolutions to be adopted by the Fifty-Second Annual Session, have been annexed at the end of every report¹.

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

3. At the forthcoming Fifty-Second Annual Session, hosted by the AALCO Secretariat and **scheduled to be held in New Delhi, India from 9th to 12th September 2013**, apart from the consideration of items on Organizational matters, building upon the AALCO tradition, the deliberations at the Annual Session would focus upon some of the important substantive items on AALCO's current agenda, these include: (i) Law of the Sea; (ii) A Special Study on the Statehood of Palestine and the Jurisdiction of the ICC within the topic "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"; (iii) Environment and Sustainable Development; and (iv) Challenges in Combating Corruption: Role of the UN Convention against Corruption. Besides this, two half-day Special Meetings will also be held during the course of the Fifty-Second Session, on important themes pertaining to namely: (i) Selected Items on the Agenda of the International Law Commission; and (ii) Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties.

During the session, relevant reports and books, i.e. reports on specific topics and latest Issue of AALCO's Journal of International Law would also be launched.

II. ANNOTATED LIST

A. Chairing of the Session

4. 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, **His Excellency Mr. Mohammed Bello Adoke, Attorney General of the Federation and Minister of Justice of the Federal Republic of Nigeria and President of the Fifty-First Annual Session of the AALCO** shall preside over the Inaugural Session and the First Meeting of the Delegations of AALCO Member States.

B. Participation of Member States

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

C. Credentials of Participants

6. Rule 12(2) provides that the official communication addressed to the Secretary-General shall serve the purpose of credentials for the delegations and observers. The communication shall be authenticated by a competent authority in the Ministry of Foreign Affairs or by the Diplomatic Missions of the concerned States. 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

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 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.

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

E. Admission of Observers

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

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

11. 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

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 among the dignitaries of the Member State hosting the Session.

H. Election of the Vice-President

14. 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

15. 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-Second Annual Session covers the activities of this Organization since its Fifty-First Annual Session, including the substantive, organizational, financial and administrative matters.

Document: AALCO/52/HEADQUARTERS (NEW DELHI) SESSION/2013/ORG 1

J. The AALCO's Financial Report and Proposed Budget for the year 2014

16. In accordance with Rule 24(4), the AALCO's Proposed Budget for the year 2014, as endorsed by the Liaison Officers to be sent to the Fifty-Second Annual Session, shall be submitted to the Meeting of the Delegations of Member States of the AALCO for approval and final adoption.

Document: AALCO/52/HEADQUARTERS (NEW DELHI) SESSION /2013/ORG 2

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

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

L. 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-Second Annual Session.

Document: AALCO/52/HEADQUARTERS (NEW DELHI)/2013/ORG 3

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

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

Document: AALCO/52/HEADQUARTERS (NEW DELHI)/2013/ORG 4

N. General debate

20. 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-Second 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.

O. Submission of Statements

21. *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.

P. Venue of the Fifty-Third Annual Session

22. According to 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. As the Fifty-Second Annual Session is being held in Asia, the next annual session should be hosted in the African continent. Therefore, any Member State desirous of hosting the session could make the announcement of the same during the Third Meeting of Delegations to be held on Thursday, 12th September 2013.

III. MATTERS UNDER ARTICLE 1 OF THE AALCO STATUTES

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

1. Law of the Sea

23. 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 (RES/51/SP 2), adopted on 22 June 2012, at the Fifty-First 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.

24. Accordingly, the Secretariat Report prepared for the Fifty-Second Session provides information on the status of the UNCLOS and its implementing agreements; Thirtieth and Thirty-first Sessions of the Commission on the Continental Shelf (30 July to 24 August 2012 and 21 January to 8 March 2013, UN Headquarters, New York); Eighteenth Session of the International Seabed Authority (9 to 27 July 2012, Kingston,

Jamaica); Twenty-Second Meeting of the States Parties to the UN Convention on the Law of the Sea (4 to 11 June 2012, UN Headquarters, New York); Thirteenth Meeting of the United Nations Open-ended Informal Consultative Process on Oceans and Law of the Sea (29 May to 1 June 2012, UN Headquarters, New York); ; the consideration of the Oceans and the Law of the Sea issues at the 67th Session of the UN General Assembly; and Dispute Settlement under the UNCLOS. This report presents an overview of all these developments. Finally, it offers comments and observations of the AALCO Secretariat. A draft of the resolution for the consideration of the Fifty-Second Annual Session is also annexed to the Secretariat Report.

Document: AALCO/52/HEADQUARTERS (NEW DELHI)/2013/SD/S 2

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

25. In accordance with Article 1 (a) of the Statutes, this item has been on the agenda of the AALCO since it's 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.

26. Pursuant to RES/51/S 4 adopted at the Fifty-First Session of AALCO on 22 June 2012, the AALCO Secretariat closely followed the events in the occupied territories from the view point of relevant legal aspects during the period from September 2012 till March 2013, and pursuant to the mandate given in the aforementioned resolution conducted a study to examine and establish the legal requirements and principles that would determine the status of Palestine as a State. The study took into account requirements of international law and existing international norms and standards particularly the provisions of the Montevideo Convention on the Rights and Duties of States. This shall be presented at the Fifty-Second Annual Session for further discussion of the aspects covered therein.

27. Issues for focused consideration at the Fifty-Second 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 developments in the ICC and the decision of the ICC Prosecutor; (v) the General Assembly according Non-Member Observer Status to Palestinian Authority and how this could impact the relationship between Palestine and Israel and how this enhanced status could be used by Palestine to further its case in the ICC .

Document : “A Study on The Statehood of Palestine under International Law”

3. Environment and Sustainable Development

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

29. The present Secretariat Report would provide an overview of the Eighteenth Session of the Conference of Parties to the UNFCCC (COP 18) and Eighth Meeting of Parties to the Kyoto Protocol, (CMP 8) held from 26 November to 8 December 2012 at Doha, Qatar and briefly refers to the subsequent negotiations on climate change held in Bonn, Germany in June and April 2013 and in Bangkok in August 2012. A brief summary of the Seminar held on “Climate Change: Post Kyoto Climate Policy” organized by the AALCO Secretariat at AALCO Headquarters, New Dehi on 16 January 2013 would also be dealt with. The next section would deal with Eleventh Meeting of the Conference of Parties to the CBD (COP 11) held from 8 to 19 October 2012 and Sixth Meeting of Parties to the Cartagena Protocol on Biosafety (CPB) held from 1 to 5 October 2012 at Hyderabad, India. The last section of the Report deals with the First Universal Session of the Governing Council/Global Ministerial Environment Forum held from 18 to 22 February 2013 at Nairobi, Kenya. Finally, it offers some comments and observations on the agenda item under consideration for the Fifty-second Annual Session of the Organization.

Document: AALCO/52/HEADQUARTERS (NEW DELHI)/2013/SD/S 10

4. Challenges in Combating Corruption: Role of the UN Convention against Corruption

30. The agenda item “An Effective International Legal Instrument Against Corruption” was introduced into the agenda of AALCO by the Secretary-General of AALCO at its Forty-First Session held at Abuja, Nigeria in 2001. This introduction had coincided with the efforts of the United Nations General Assembly (UNGA) to adopt an international Convention on corruption. When the General Assembly established an (open-ended) Ad Hoc Committee for the Negotiation of a Convention against Corruption, AALCO had joined itself with the work of the Ad Hoc Committee with the aim of influencing the negotiation process by giving the common concerns of the Asian-African States to it. AALCO has always held the opinion that an effective international legal instrument against corruption would be a powerful weapon in the armoury of the international community in its fight against corruption. The AALCO has been deliberating on various aspects of the UNCAC during its Annual Sessions, with the objective of promoting the domestic implementation aspects of the UNCAC in its Member States. In pursuance of its work on corruption, AALCO has also produced two Special Studies on the subject. They are: *Combating Corruption: A Legal Analysis* (2005); and *The Rights and Obligations under the United Nations Convention against Corruption* (2006).

31. Be that as it may, the contents of this year’s brief focus on three major events in relation to the Convention. The 3rd(18 – 22 June 2012) and 4th(27 – 31 May 2013) Session of Implementation Review Group of the United Nations Convention Against Corruption (UNCAC), which took place in Vienna and focused on the problems occurring in implementing Chapter III (criminalization and law enforcement) and IV (international cooperation) of the UNCAC. It also gives a brief account of the 1st Session of the Open-ended Intergovernmental Experts Meeting to Enhance International Cooperation under the UNCAC that was held in Vienna between 22 – 23 October 2012. This was held with a view to focus on developing cumulative knowledge, facilitating exchange of information, and identifying capacity-building needs, assist in encouraging cooperation among relevant existing bilateral, regional and multilateral initiatives and implementation of the related provisions of the Convention, and build confidence and encourage cooperation by bringing together relevant competent authorities, anti-corruption bodies and practitioners involved in mutual legal assistance and extradition.

32. The title of this agenda item was changed from “An Effective International Legal Instrument Against Corruption” to “Challenges in Combating Corruption: The Role of the United Nations Convention Against Corruption” during the deliberations held at the Forty-Eighth Annual Session of AALCO held at Putrajaya, Malaysia in 2009. This was necessitated by the fact that whereas the work of AALCO initially focused on the

adoption of the UNCAC, once it came into force, it had to deal with the problems faced by its Member States in effectively implementing the obligations flowing from UNCAC.

Document: AALCO/52/HEADQUARTERS (NEW DELHI)/2013/SD/S 11

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

- (i) The first Half-Day Special Meeting would be held in the morning on Wednesday, 11 September 2013 on the topic "Selected Items on the Agenda of the International Law Commission"

33. For this meeting the Secretariat has prepared the document "**Report on Matters relating to the Work of the International Law Commission at its Sixty-fifth 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-Second Session contains an overview of the ILC's work during its Sixty-fourth Session.

34. The brief of the Secretariat for this year would provide a general overview of the progress of work achieved by the ILC at its 65th Session on topics relating to: 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 and the Most-Favoured-Nation Clause.

35. Specifically, it would focus on three topics that are of critical concern to the developing countries, namely Immunity of State Officials from Foreign Criminal Jurisdiction, Protection of Persons in the Event of Disasters, and Formation and Evidence of Customary International law.

Document: AALCO/52/HEADQUARTERS (NEW DELHI)/2013/SD/S 1

- (ii) The second Half-Day Special Meeting would be held in the afternoon on Wednesday, 11th September 2013 to discuss some aspects of **Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties**"

36. The agenda item entitled, "Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties" was placed first on the provisional agenda of the Thirty-Sixth Session at Tehran, 1997, following a reference made by the Government of Islamic Republic of Iran. Thereafter the item had been considered at the successive sessions of the Organization.²

37. Pursuant to the mandate received at the 51st Annual Session held in Abuja, Nigeria (2012), the AALCO Secretariat has prepared a "**Study on the Legality and Effects of the Extraterritorial Application of National Legislation and the imposition of Unilateral Economic Sanctions**" detailing the legal, economic, and human rights ramifications of the extraterritorial application of national legislation by one State against the activities of another, as well as the imposition of unilateral economic sanctions by one State against another and third parties.

38. The past decades have seen Cuba embargoed almost continuously by the United States of America. In recent years other States have similarly found themselves facing the specter of economic sanctions results imposed by another State generally because of contrasting political ideas. States that find themselves the target of such measures are almost invariably developing nations, and the resulting damage done by such economic measures is often catastrophic for the development of the State and the wellbeing of its people.

39. This study focuses on the effects that extraterritorial and unilateral sanctions have had on various developing nations. Discussions will include the legality of such measures in international law and the opinion of the international community, the mechanisms by which the banking and trade sectors of the targeted States are affected, and the human rights fallout of these measures.

**Document: Study on the Extraterritorial Application of National Legislation:
Sanctions Imposed Against Third Parties**

² It was last considered as a deliberated item at the Forty-Seventh Annual Session (HQ, New Delhi, 2008).