



ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

ANNOTATED PROVISIONAL AGENDA FOR THE FIFTIETH ANNUAL SESSION

I. INTRODUCTION

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

2. This innovative approach is being successfully followed since the Forty-Second Annual Session. In order to keep the Member States informed, the Secretariat had prepared reports on all the items on the work programme. It consists of organizational and substantive matters. As regards, the non-deliberated items beginning from the last Annual Session, to economize resources these are being submitted for consideration in a single volume. Furthermore, for encouraging deliberations on resolutions, the drafts of resolutions to be adopted by the Fiftieth Annual Session have been annexed at the end of every report. Such an innovation was desired by the Drafting Committee of the Forty-Eighth Annual Session.

3. At the forthcoming Fiftieth Annual Session, **scheduled to be held in Colombo, Sri Lanka from 27th June to 1st July 2011**, apart from the consideration of items on Organizational matters, eight (8) substantive items have been proposed for consideration as deliberated items for in-depth discussion.

Following the tradition of holding Special Meetings in conjunction with the Annual Session, it is proposed to hold two-half day Special Meetings on the following topics: (i) Trafficking of Women/Children, Migrant Workers and Protection of Children; and (ii) International Commercial Arbitration.

II. ANNOTATED LIST

A. Chairing of the Session

4. Rule 3(1) provides that the President of the previous Session shall preside until the Member States elect a new President for the Session. Accordingly, Her Excellency Ms. Celina Ompeshi Kombani, Minister for Constitutional Affairs and Justice of the United Republic of Tanzania and President of the Forty-Ninth Annual Session of the AALCO shall preside over the Inaugural Session and the First Meeting of the Delegations of AALCO's Member States.

B. Participation of Member States

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

C. Credentials of Participants

6. Rule 12(2) provides that the official communication addressed to the Secretary-General shall serve the purpose of credentials for the delegations and observers. The communication shall be authenticated by a competent authority in the Ministry of Foreign Affairs or by the Diplomatic Missions of the concerned States. An official communication from the Organization addressed to the Secretary-General would serve as credentials for the Organizations in the UN system, inter-governmental organizations and other international institutions.

D. Adoption of Agenda

7. Rule 11(3) provides that the provisional agenda shall be placed before the Meeting of the Delegations of Member States for consideration. The Meeting may, at its discretion, delete any item included in the provisional agenda. A new item may be included on the proposal of one or more delegations, if the Meeting is of the opinion that the matter is one of urgency and there are sufficient reasons on account of which the item could not be included in the provisional agenda. All decisions in this regard shall be taken by consensus. In the event that consensus cannot be reached after all efforts have been exhausted, a decision may be taken by two-third majority of those present and voting in secret ballot.

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

E. Admission of Observers

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

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

11. Observer delegations have the right to attend all Meetings except those, which are declared closed meetings and attended exclusively by Delegations of Member States.

F. Admission of New Members

12. Rule 4 provides that the Organization may by a decision supported by a two-third majority of the Member States admit the participation of an Asian or African State, if such a State by written communication addressed to the Secretary-General of the Organization intimates its desire to participate in the Organization and its acceptance of the Statutes and the rules framed there under. Such decision may be taken by means of a resolution adopted in any of its sessions.

The Secretariat has so far not received any application for new membership.

G. Election of the President

13. Rule 3(1) provides that at each Annual Session, the Organization shall elect a President. It has been the practice that the President of the Organization is elected from a dignitary of the Member State hosting the Session.

H. Election of the Vice-President

14. Rule 3(2) concerning the election of the Vice-President provides that in the election of the President and Vice-President, regional representation will be taken into consideration to the extent possible. In accordance with the established practice, if the President is from the 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 presents an annual report to Delegations of the Member States on the work of the Organization. The Report for the Fiftieth Annual Session covers the activities of this Organization since its Forty-Ninth Annual Session, including the substantive, organizational, financial and administrative matters.

Document: AALCO/50/COLOMBO/2011/ORG 1

J. The AALCO's Proposed Budget for the year 2012

16. In accordance with Rule 24(4), the AALCO's Proposed Budget for the year 2012, as adopted by the Liaison Officers, shall be submitted to the Meeting of the Delegations of Member States of the AALCO for final approval and adoption.

Document: AALCO/50/COLOMBO/2011/ORG 2

K. Preliminary 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 Preliminary Report by the Chairman of the Sub-Committee would be presented at the Fiftieth 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 is to be submitted for consideration at the Fiftieth Annual Session.

Document: AALCO/50/COLOMBO/2011/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 Fiftieth Annual Session.

Document: AALCO/50/COLOMBO/2011/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. *Leaders of Delegations are requested to kindly consider limiting their speech to 7 – 10 minutes due to paucity of time.* However, if they wish to give a longer version, the same could be handed over to the Secretariat/Host Committee for reproduction in the Report of the Session.

O. Submission of Statements

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

P. Venue of the Fifty-First Annual Session

22. The Secretariat has so far not received an invitation from any Member Government to host the AALCO's Fifty-First Annual Session. It may be recalled in this regard that sub-rule (1) of Rule 10 of the Statutory Rules of AALCO stipulates that the regular Annual Session of the Organization shall, in accordance with Article 4 of the Revised Statutes of AALCO be held once in a year and such meetings shall, to the extent possible, be held in one of the Member States by geographical rotation. Accordingly, the Fifty-First Annual Session is to be hosted by an African State.

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 Fiftieth Annual Session.

1. Report on Matters relating to the Work of the International Law Commission at its Sixty-second session

23. 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 Fiftieth Session contains an overview of the ILC's work during its Sixty-Second Session.

24. The Secretariat's report provides an overview of the progress of work achieved by the ILC on topics relating to: Reservation to Treaties; Responsibility of International Organizations; Shared Natural Resources; Effects of Armed Conflicts on Treaties; Expulsion of Aliens; The Obligation to Extradite or Prosecute (*aut dedere aut judicare*); Protection of Persons in the Event of Disasters; Immunity of State Officials from Foreign Criminal Jurisdiction, Treaties Over Time and Most-Favoured Nation Clause.

Document: AALCO/50/COLOMBO/2011/SD/S 1

25. The **United Nations Convention on Jurisdictional Immunities of States and Their Property**, was adopted by the United Nations General Assembly in 2004. It may be recalled that this item was discussed during the AALCO Annual Sessions till 2006. As it is an important Convention the Government of Japan has proposed to have a short discussion on this Convention immediately after the discussions on the foregoing agenda item.

2. Law of the Sea

26. The Secretariat Report prepared for the Fiftieth Annual Session provides information on the status of the UNCLOS and its implementing agreements; twenty-fifth and twenty-sixth Sessions of the Commission on the Limits of the Continental Shelf (15 March to 23 April; and 2 August to 3 September 2010, New York); Sixteenth Session of the International Seabed Authority (23 April to 7 May 2010, Kingston, Jamaica) and the Twentieth Meeting of States Parties to the Law of the Sea Convention (14 to 18 June 2010, New York) and the eleventh meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (ICP-11 or the Consultative Process) that took place at the UN headquarters in New York from 21 to 25 June 2010; and the consideration of the Oceans and the Law of the Sea issues at the Sixty-Fifth Session of the United Nations General Assembly. 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 Fiftieth Annual Session is also annexed to the Secretariat Report.

Document: AALCO/50/COLOMBO/2011/SD/S 2

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

27. The item has been on the agenda of the AALCO since its Twenty Seventh Annual Session (Singapore, 1988) following a reference made by the Government of the Islamic Republic of Iran. Since then it has been considered at successive Annual Sessions. At the Thirty-Seventh Annual Session (New Delhi, 1998) the scope of the topic was expanded to “Deportation of Palestinians and *other Israeli Practices among them* the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949”. At the Thirty- Ninth Annual Session (Cairo, 2000) it was decided to enlarge the scope of the item and the Secretariat was directed to monitor the developments in (all) occupied territories from the viewpoint of relevant legal aspects.

28. At the Forty-Second (Seoul, 2003), Forty-Third (Bali, 2004), Forty-Fourth (Nairobi, 2005), Forty-Fifth (New Delhi, Headquarters, 2006), Forty-Sixth (Cape Town, 2007), Forty-Seventh (New Delhi (HQ) 2008), Forty- Eighth Annual Session (Putrajaya (Malaysia) 2009) and Forty-Ninth (Dar es Salaam, 2010) the Secretariat reported on legal developments concerning Israeli practices in all occupied territories, including violations of the Fourth Geneva Convention of 1949 and the United Nations resolutions. For the Fiftieth Annual Session, in order to facilitate discussions at the Session, the Report prepared by the Secretariat, besides giving detailed background information and highlighting the recent developments, contains a description of Israeli activities that amount to violation of 1949 Geneva Convention and also includes violations of international law by Israel including United Nations Security Council and General Assembly Resolutions. The report contains a summary of the deliberations held at the Forty-Ninth Annual Session of AALCO; Israeli atrocities (war crimes) in Gaza; and responses of the International Community.

29. Issues for focused consideration at the Fiftieth Annual Session could be: Violations of international law, particularly international humanitarian law and human rights law, committed by the Government of Israel in the Occupied Palestinian Territory (OPT); War crimes committed in Gaza by Israeli forces including blockade of Gaza; Establishing peace in the Middle East, with particular reference to the role of international community to pressurize Israel to comply

with its international obligations; and highlighting the need for establishing an independent sovereign State of Palestine as a prelude to establishing everlasting peace in the Middle East.

Document: AALCO/50/COLOMBO/2011/SD/S 4

4. Expressions of Folklore and its International Protection

30. Keeping in view the importance of the work undertaken by the World Intellectual Property Organization's (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and the Folklore (the IGC) and its impact on the Asian and African countries, the then Secretary-General of AALCO proposed to the Member States to include an Item entitled "Expressions of Folklore and its International Protection" on the agenda of the Forty-Third Annual Session of AALCO in the year 2004. From then on, this topic has been considered as an agenda item in the successive Sessions. The Secretariat's report of the Forty-Eighth Annual Session provided the developments at the IGC's thirteenth Session and the discussion during the Session were on developing a policy and legal framework for the protection of expressions of folklore, at the international level.

31. As a follow-up to the mandate received from the Forty-Ninth Annual Session, this report provides an overview of the work of the WIPO Intergovernmental Committee (IGC) since its inception in 2001, focusing its attention on the discussions held in Intersessional Working Group on TCEs/EoF as well as the deliberations took place at the Seventeenth Session of the IGC and the documents circulated during the IGC Seventeenth Session for the consideration of the Member States as annexure. The AALCO Secretariat hopes that the Committee's substantive work would accelerate to produce a draft legal international instrument to protect the expressions of folklore and also urges the Member States to participate in the forthcoming IGC meetings effectively in order to produce a balanced legal instrument to prevent the acts of misappropriation and misuse of the Expressions of Folklore regime.

Document: AALCO/50/COLOMBO/2011/SD/S 14

5. Report on the Work of UNCITRAL and other International Organizations in the field of International Trade Law

32. The issues concerning International Trade Law were first included in the agenda of the Asian-African Legal Consultative Organization (AALCO) at the Third (Colombo) Session in 1960, pursuant to a reference made by the Government of India. At the Fourth Session, 1961 (Tokyo), the topic "Conflict of Laws relating to Sales and Purchases in Commercial Transactions between States or their Nationals" was considered by the Member States.

33. At its Eleventh Session (1970), the Organization included the topic of “International Sale of Goods” and also decided upon the establishment of a Standing Sub-Committee to deal with economic and trade law matters as a regular feature of its activities and official relations were established with the UNCITRAL in 1971. From then onwards, AALCO started considering the issues pertaining to international trade law and the international organizations dealing with such matters, viz., United Nations Conference on Trade and Development (UNCTAD), International Institute for the Unification of Private Law (UNIDROIT) and Hague Conference on Private International Law (HCCH).

34. Until 2003, the Organization considered the agenda entitled, “Progress Report concerning the Legislative Activities of the United Nations and other Organizations in the field of International Trade Law”. At the Forty-Third (Bali) Session, 2004, the title had been changed to the “Report on the Work of UNCITRAL and other International Organizations in the Field of International Trade Law” so as to focus more upon the work of UNCITRAL

35. The present Report of the Organization primarily examines the UNCITRAL's deliberations at its forty-third session on the above topics. Some of the notable achievements of this session, *inter alia*, were the finalization and adoption of a revised version of the UNCITRAL Arbitration Rules; finalization and adoption of a draft Supplement to the UNCITRAL Legislative Guide on Secured Transactions with Security Rights in Intellectual Property; and finalization and adoption of part three of the UNCITRAL Legislative Guide on Insolvency Law on the treatment of enterprise groups in insolvency. Apart from examining UNCITRAL related developments, the report also make an attempt to look at the developments of the other international trade law organizations, viz., UNCTAD, UNIDROIT and HCCH. The AALCO Secretariat is hopeful that given the importance of the agenda item, the discussion at the Fiftieth Annual Session of AALCO may be focused on issues such as: i) sharing the best experiences of Member States on the implementation aspects of the UNCITRAL instruments as well as the challenges they face; ii) combined efforts to frame or adopt a unified/harmonized financial architecture favouring developing countries so that, in future, financial crisis must be adequately tackled with, considering that it has severe implications on development and trade; and iii) essential factors leading to utilization of other international trade law organizations for the benefits of Member States.

Document: AALCO/50/COLOMBO/2011/SD/S 12

6. Environment and Sustainable Development

36. 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).

37. The present Secretariat Report attempts to furnish an overview of the Sixteenth Session of the Conference of Parties to the UNFCCC (COP 16) and Sixth Meeting of Parties to the Kyoto Protocol, (CMP 6) held from 29 November to 11 December 2010 at Cancun, Mexico and briefly refers to the subsequent negotiations on climate change held from 3 to 8 April 2011 at Bangkok, Thailand; Tenth Session of the Conference of Parties to the CBD (COP 10), held from 18 to 29 October 2010 at Nagoya, Japan and the Fifth Meeting of the Parties to the Cartagena Protocol on Biosafety held from 11 to 15 October 2010 at Nagoya, Japan. The last section of the Report entitled Forward to Rio + 20, attempts to highlight the ongoing momentum towards the United Nations Conference on Sustainable Development (UNCSD) that would take place from 4 to 6 June 2012 in Rio de Janeiro, Brazil. This part also reviews developments relating to the Governing Council of United Nations Environment Programme (UNEP) / Global Ministerial Environment Forum, that took place from 21 to 24 February 2011 at Nairobi, Kenya; and the forthcoming Nineteenth Session of the Commission on Sustainable Development (CSD), that would be held from 2 to 13 May 2011 at United Nations Headquarters in New York. Finally, it offers some comments and observations on the agenda item under consideration for the Fiftieth Annual Session of the Organization.

Document: AALCO/50/COLOMBO/2011/S 10

IV. TWO HALF-DAY SPECIAL MEETINGS IN CONJUNCTION WITH THE FIFTIETH ANNUAL SESSION OF AALCO

- (i) “Trafficking of Women/Children, Migrant Workers and Protection of Children”, on 30 June 2011**

38. The first Half-Day Special Meeting would be held on Thursday, 30 June 2011 on the topic, "Trafficking of Women/Children, Migrant Workers and Protection of Children". Trafficking has long been identified as a migration issue. Indeed, trafficking can be considered as a consequence of what has been called the "commodification of migration". Like migrant smuggling, trafficking involves facilitated, and often illegal, migration. Both practices may involve similar routes and mechanisms, and both are generally organized by criminal groups. Moreover, immigration and consular officials may aid and abet illegal passage across borders. Approaches to prevention and suppression of trafficking necessarily raise important migration and freedom of movement issues, from control of borders to the consequences of immigration law and policies on law enforcement and protection of victims.

39. In our globalizing world, trafficking in human beings, especially women and children, has increased in both magnitude and in reach, becoming a major human rights concern. The trafficking of women and children must be seen in a broader context of labour migration on account of the reason that the growth in trafficking has taken place during a period in which there has been an increasing international demand for migrant workers. The link and overlap between trafficking and other forms of migration is so important that they must be analysed together. This is what the Report of this year's brief seeks to do.

40. Since protection of children is very important, this year's Report seeks to identify the human rights of the trafficked children as contained in various legal instruments. It also seeks to identify the obligation of States in combating trafficking in women and children. This is due to the fact that if one side of the protection coin is strengthening human rights, the other is the criminal prosecution of those responsible for smuggling and trafficking. It also finds out, within the nexus of migration-trafficking nexus, the rights of migrant children under various legal instruments. For addressing the topic of Half-Day Special Meeting, two reports prepared by the Secretariat are inter-linked and relevant, namely; (i) Establishing Cooperation Against Trafficking in Women and Children (Document: AALCO/50/COLOMBO/2011/SD/S 8); and (ii) Legal Protection of Migrant Workers (Document: AALCO/50/COLOMBO/2011/S 5).

A. Establishing Cooperation Against Trafficking in Women and Children

41. The topic "Establishing Trafficking in Women and Children" was included on the agenda of AALCO at its Fortieth Annual Session held in New Delhi, (2001) upon a proposal of the Government of Indonesia. At the present session, the Secretariat Brief would cover human rights issues of the trafficked children; on recent developments the 20th Session of the Commission on Crime Prevention and

Criminal Justice, Fifty-fifth session of the Commission on Status of Women, and Fifth Session of the Conference of Parties to the United Nations Convention against Transnational Organized Crime are discussed.

Document: AALCO/50/COLOMBO/2011/SD/S 8

B. Legal Protection of Migrant Workers

42. The item entitled "Legal Protection of Migrant Workers" was included on the agenda of AALCO at the reference of the Government of Philippines during AALCO's Thirty-Fifth Annual Session held at Manila in 1996. The Secretariat's Report for this year focuses on the interface between the international migration and the problem of trafficking, particularly in children. The reasons are not far to seek. The link between irregular migration and human trafficking is critical. There is often reluctance to see the exploitation of irregular migrants *as an* aspect of trafficking (and often, forced and/or child labour). There can be a fine line between the legal and above-board employment services; and the job placement, visa and tourist agencies that are linked with the trafficking networks. Consequently, one cannot make much headway against trafficking in persons, as long as there is strong demand for irregular labour in destination countries. Hence, the focus on the nexus between migration and trafficking.

Document: AALCO/50/COLOMBO/2011/S 5

C. Protection of Children

43. The protection of children, in both the situations of migration and trafficking has to be holistically dealt with. This aspect has been illustrated in the aforementioned documents on trafficking of women and children and migration prepared by the Secretariat which have been mentioned above..

(ii). "International Commercial Arbitration" on 1 July 2011

44. The second Half-Day Special Meeting would be held on Friday, 1 July 2011 on the topic "International Commercial Arbitration". The sub-topics that would be discussed during the meeting are: (i) the Current Role and Functions of AALCO's Regional Arbitration Centres: The Revitalization Process, (ii) Recent Developments of UNCITRAL: The New York Convention on the Rules of Arbitration, (iii) The Arbitration Experience in the Asian-African Region, and (iv) Sharing of Experiences by other Arbitration Centres. The Secretariat Brief on the Report on the AALCO's Regional Centres for Arbitration, in Document: **AALCO/50/COLOMBO/2011/ORG 3** could be considered as the background material for this special half-day meeting.