

**XII. SUMMARY RECORD OF THE THIRD MEETING OF DELEGATIONS
AND CONCLUDING SESSION OF AALCO MEMBER STATES HELD ON
THURSDAY, 20TH AUGUST 2009 AT 1: 00 PM**

His Excellency Mr. Ebo Barton Odro, Vice-President of the Forty-Eighth Session of AALCO in the Chair.

A. Report on AALCO's Regional Centres for Arbitration

1. **Dr. Xu Jie, Deputy Secretary-General of AALCO** while introducing the report on the above mentioned topic contained in Secretariat Document No. AALCO/48/PUTRAJAYA/2009/ORG.3 mentioned that the document contained the background relating to the establishment of the five AALCO's Arbitration Centres and also the Reports of the Directors of Kuala Lumpur, Tehran and Cairo Arbitration Centres.

2. The Deputy Secretary-General in his statement recalled that the Regional Arbitration Centres were originated from the "Integrated Scheme on Settlement of Disputes in Economic and Commercial Transactions" at the Tokyo Session in 1974 that envisaged the establishment of Regional Arbitration Centres under the auspices of AALCO in different locations in the Asian-African region. The 1978 Doha Session decided to establish such Centres. Subsequent to that decision, with the support of respective host Governments, AALCO had established four such Centres in Kuala Lumpur, Malaysia (1978); Cairo, Arab Republic of Egypt (1979); Lagos, Republic of Nigeria (1980); and Tehran, Islamic Republic of Iran (1997). AALCO had also concluded an agreement with the Government of the Republic of Kenya in 2007, to establish its Fifth Regional Arbitration Centre in Nairobi to cater to the needs of the Eastern and Southern parts of the African continent. He said that the objectives of these Centres were to promote international commercial arbitration in their respective regions and conduct arbitration and facilitate enforcement of arbitral awards.

3. He observed that the Arbitration Centres had acquired a prestigious status among the family of international arbitral institutions. Though established under the auspices of AALCO, they also functioned as autonomous regional and international arbitration institutions. They had played an important role in settling the disputes relating to Economic and Commercial Transactions in the Asian and African regions. These Centres also organized seminars, workshops and training programmes to promote arbitration culture and expertise in the Asian-African region.

4. In that context, he took the opportunity to congratulate the Directors of all the Regional Arbitration Centres for their cooperation and efforts which took the AALCO Regional Arbitration Centres from strength to strength and thanked the Host Governments for their support, assistance and guidance to the Centres in their respective countries.

5. He also mentioned that the Kuala Lumpur Regional Centre for Arbitration (KLRCA) celebrated its Thirtieth Anniversary in the year 2008. As a part of the celebrations, KLRCA hosted a Conference on the theme, “The Asian Horizon: International Arbitrations in Developing and Newly Developed Countries – Special Challenges and Opportunities”. The Conference was inaugurated by the then Deputy Prime Minister of Malaysia and the Keynote address was delivered by the then Secretary-General of AALCO Amb. Dr. Wafik Z. Kamil. He noted that he also had the privilege of attending the 30th Anniversary Conference.

6. With great grief and sorrow, he had informed the Member States about the sad and sudden demise of Dr. Mohamed Aboul-Enein, former Director, Cairo Regional Centre for International Commercial Arbitration (CRCICA) in November 2008. On behalf of the AALCO Secretariat, he while valuing his significant contributions to the development of the Cairo Arbitration Centre, he extended their heartfelt condolences to his family and prayed that the departed soul rests in peace.

7. Finally, the DSG extended his warm welcome to the Directors of Kuala Lumpur, Lagos and Tehran Centres who were among them to present their respective reports.

8. **Dato’ Noorashikin Tan Sri Abdul Rahim**, Director, Kuala Lumpur Regional Centre for International Commercial Arbitration (KLRCA) made the statement. At the outset, she presented her compliments to H.E. Tan Sri Gani Patail, and took the honour to congratulate him on his appointment as the President of the Forty-Eighth Annual Session of AALCO. She also expressed her appreciation to their host, the Government of Malaysia. Further, she extended her sincere gratitude to the Honourable Dato’ Seri Mohamed Nazri Abdul Aziz, the Minister in the Prime Minister’s Department, and H. E. Tan Sri Gani Patail, the Attorney-General of Malaysia.

9. She stated that after more than 3 decades of their establishment, KLRCA needed to be revitalized. Their Business Plan was formulated in 2008, and she was pleased to report that in March 2009, the Malaysian Cabinet Ministers were ordered steps to be taken to revitalize the Centre. She informed that they were currently working on the Paper to be submitted for Cabinet’s approval. In this regard, she requested the kind assistance of the Secretary-General of AALCO:

Change of name:

10. She said that in order for them to be on the same level playing field as their competitors in that region, they need to change their name “Regional” to “International”. She observed that the Hon’ble Minister had proposed to be named as “Kuala Lumpur International Arbitration Centre”. However, she said that we have to maintain the name “Regional”, which was their identity as an AALCO centre. She submitted some proposals for the approval of the former Secretary-General of AALCO. In as much as they would like to emulate their siblings in Cairo and Lagos, She took the view that to use the name “Kuala Lumpur Regional Centre for International Arbitration” may prohibit them from

administering domestic arbitration cases. Therefore, She had sought the views of the President and the Secretary-General.

Tenure of the Director:

11. She had informed that unlike the leaders of the arbitration centres in the region, the tenure of the Director of KLRCA had always been for a period of 2 years per term. The lack of continuity could be a contributory factor to their lack of success. The Centre certainly prospered well, during the tenure of Dato' PG Lim, their second Director, who served as their Director for 9 terms (18 years). She noted that the respective tenure of the Directors of Cairo and Lagos were lengthy. The late Dr. Aboul-Einen was the Director of the Cairo Centre until his recent demise, and Mrs. Eunice Oddiri was, and is still, the Director of the Lagos Centre.

Panel of Advisors:

12. She noted that she had reactivated the Panel of Advisors, as approved by the Malaysian Cabinet Ministers in 1998. The Chairman of the Panel of Advisors was none other than Dato' PG Lim, who in that day's newspaper, had been reported as the recipient of the Merdeka Award, conferred by the Rt. Hon. Prime Minister of Malaysia. The other members of the Panel were those from the various industries, who rendered their respective service to them, *pro bono*. The Chairman of KLRCA had also been identified. AALCO's Scheme of Constitution:

13. The Director stated that the jurisdiction of KLRCA was limited to what had been provided under the Scheme of Constitution of AALCO's Regional Arbitration Centres. The antiquated Scheme needed to be revised and revamped.

Statistics:

14. As regards the statistics, she said that the assessment of the performance of KLRCA could not be judged primarily by their statistics:

15. Their statistics had been based on the cases conducted under the auspices of KLRCA Rules for Arbitration, which were the cases administered by them as institutionalized arbitration. They failed to include the *ad hoc* arbitrations, using merely their facilities. Since 2007, KLRCA had opened its doors to arbitration proceedings conducted under any other Rules. These cases had never been taken into consideration for the purpose of its statistics.

16. She stated that whilst some centres around the region portrayed a high number of cases conducted under their Rules, they found those statistics were inaccurate. One of the major Centres launched its Rules only in September 2008, and secured its first case in April 2009.

Competitions:

17. She pointed out that the competitions could be healthy. However, they were faced with numerous problems, as follows:

At Domestic Level:

18. There were numerous institutions, and many individuals, in that country that conduct *ad hoc* arbitration. They discovered that even the cases, which contained arbitration clauses with reference to their Rules, were conducted by them without their knowledge, or without being registered with them. For this reason, She requested the Malaysian Government to make them the Registry.

19. Their primary function was to provide settlement of disputes through fair, expeditious and inexpensive procedures, so that resort to arbitration centres outside the region might no longer be necessary. The arbitration centres beyond the boundary of the Asian-African region had infiltrated their market. Majority of them would be beneficial to arbitrators who had sought exorbitant fees, at the expense of the disputants.

At International Level:

20. She mentioned that the Regional Centre for Arbitration in Kuala Lumpur was established for the Asia-Pacific region with the approval of the AALCO member states. But they were faced with stiff competitions from the arbitration centres established in the AALCO Member States. Apart from competitions with those national arbitration centres, for example, the London Court of International Arbitration Centre had established a branch in New Delhi. It was impossible for them to compete, due to lack of manpower and financial resources. She respectfully sought the AALCO Member States to utilize the AALCO Regional Arbitration Centres, as expressed by H. E. the President of the Forty-Eighth Annual Session.

21. KLRCA presented its compliments and expressed its gratitude to H.E. the Deputy Attorney-General of the Republic of Kenya for the kind reference made by him about them, during the earlier part of that Session. She said that after the Forty-Sixth Annual Session, they informed the former Secretary-General of their willingness to assist in the establishment of the Nairobi Centre.

22. She pointed out that they were unable to proceed with the inaugural International Conference by AALCO's Regional Arbitration Centres in 2008, for reasons as stated in their 2008 Annual Report. She reported that pursuant to her discussion with their sister Centre in Lagos, they would certainly work on the Conference, which would most likely be held in Kuala Lumpur next year.

23. She had reported that the Legal team of KLRCA had been filled after a vacuum of 2 years, they had been able to publish its Newsletter in April 2009. She invited all the participants to take a copy of the Newsletter, which was on display at the Secretariat's table outside the Hall. She has also invited the Delegates and the AALCO Secretariat to visit the KLRCA in Kuala Lumpur.

24. **Mrs. Eunice R. Oddiri**, Director, Lagos Regional Centre for International Commercial Arbitration, Nigeria presented the report on its activities during 2008 and the anticipated activities in the remaining segment of 2009.

25. She reported firstly on the Centre's Case Load for 2008/2009.

Case Load in 2008

26. She stated that in 2008, 5 (five) disputes/cases were arbitrated at the Centre. 1 (one) International arbitration and 4 (four) ad-hoc arbitrations involving Nigerian registered companies with subject matter ranging from oil and gas to hospitality services, to construction works.

Case Load in 2009

27. From January – July 2009, 3 (three) arbitrations and 2 (two) mediations had took place at the Centre.

28. 1 (one) mediation was domestic and the other international. It was however the international mediation which she wished to comment on and in particular the choice of the Lagos Centre as the place for mediating the dispute.

29. Documents for arbitration had been filed in the United Kingdom (London) by the parties – two multinational oil corporations, in accordance with the arbitration clause contained in the contract from which the dispute had arisen. However, last minute consultations between the legal teams of both parties resulted in an agreement to subject the dispute to resolution by mediation, before the onset of the arbitration in the United Kingdom. The parties chosen the Centre as the place for mediation; and the dispute was resolved after three days by an international mediator appointed by the parties.

Significance

30. The significance of this was two fold:

i) It fulfilled the fundamental objectives for the establishment of the AALCO Regional Centres for Arbitration in the different regions of the two continents of Asia and Africa which were:

a) to afford parties from the regions with commercial disputes, easy access to arbitration institutions situated within the various regions; for the settlement of such disputes in an expeditious manner, and under a uniform and universally acceptable body of rules (being the UNCITRAL Arbitration/Conciliation Rules), adopted by all the AALCO Regional Arbitration Centres with some modifications in line with the peculiarities of each region of operation; and

b) that resolution of international commercial disputes would take place where performance of the contract had occurred within the region.

31. The latter was the reason why the parties in the mediation under reference chosen to mediate the dispute at the Lagos Centre because the subject matter of the contract was performed within Nigeria.

32. She stated that these objectives were intended to stem the out flow of mediations/conciliations or arbitrations from the Asian African continents to ADR institutions situate outside these continents; with the associated huge costs that accompany such settlements held outside the region; not to mention the unfavorable procedures and rules employed by these foreign institutions which almost always was to the detriment of parties from this Asian-African regions.

33. The Centre had since begun to strengthen its machinery and activities on mediation; because of its popularity within the region.
Participation in Arbitral Events

34. She had informed the Member States about the participation of the Lagos Centre in the following Arbitral events:

i). Arbitration Committee-Section on Business Law of the Nigerian bar Association – 14th April -18th April 2009

ii). The Lagos Centre presented a paper on “Making Lagos an attractive destination for international commercial arbitration”.

The paper highlighted the existence of major frameworks that should attract the inflow of international arbitration into Lagos as with other major international arbitration cities of the world. The frameworks include: the adaptation of the UNCITRAL Model Arbitration Law by Nigeria; the presence of the Regional Centre for International Commercial Arbitration in Lagos; whose Arbitration Rules are the same as the UNCITRAL Arbitration Rules; and the assurances of an arbitration friendly judiciary in Nigeria.

iii). UN Commission on International Trade Law (UNCITRAL) 42nd Session in Vienna, June 29-July 17, 2009

The Director of the Centre participated in the 42nd UNCITRAL Session in Vienna. The Centre was invited to participate as an Observer in its capacity as a recognized international arbitration centre in Sub-Sahara, Africa.

iv). Designation of Appointing authority by the Secretary General PCA

During the Session, the Commission noted with satisfaction the current regime in the UNCITRAL Arbitration Rules whereby the existing mechanism on designating an appointing authority by the Secretary General of the Permanent Court of Arbitration (PCA) was to be retained.

v). New York Convention

On the New York Convention, the Commission urged States to provide the Secretariat with information regarding their implementation of the New York Convention to ensure

that the information published on the UNCITRAL website regarding that project remained up to date. The Commission noted that comments received from States on the impact in their jurisdictions of the recommendation adopted by the Commission at its thirty-ninth Session in 2006 regarding their interpretation of article 11 paragraph 2, and article VII, paragraph 1, of the New York Convention would also be published as part of the project. It was also noted that States generally supported the recommendation as a means to promote a uniform and flexible interpretation, in different jurisdictions, of the writing requirement for arbitration agreements under article 11, paragraph 2, of the New York Convention.

vi). Williem C. Vis International Commercial Arbitration Moot,

Similarly the Commission commended the organizers of the Williem C. Vis International Commercial Arbitration Moot, with its international participation as a very successful educational venture, having contributed to disseminating information about UNCITRAL instruments and to the development of university courses dedicated to international commercial arbitration.

vii). The World Bank sponsored Train the Trainer's Workshop on Mediation of Medium and Small Scale Enterprises' Lagos, July 28 – August 04, 2009

The General Counsel attended this workshop on Mediation training in July 2009 which was professionally anchored by a renowned ADR Centre in Italy, one Professor from the University of Sacramento, California; and one ADR practitioner from California. The programme was rewarding in the sense that it would help to further build the mediation capacity of the Regional Centre for Arbitration in Lagos.

Educational Activities: ADR Moot Competition

35. The collaboration of the Regional Centre for Arbitration, Lagos with Alternative Dispute Resolution (ADR) Consultants from the School of Oriental and African Studies – University of London; some of them who had facilitated the Annual Williem C. Vis Arbitration Moot in Vienna Austria, for the purpose of initiating ADR Moot Competition among Universities within the Sub-Sahara African region was in its concluding stages such that participating students from the African States would be sponsored by the Lagos Centre to future competitions.

36. This was in line with the Centre's plans to promote the Law and Practice of various ADR mechanisms within sub-sahara Africa region; and eventually the rest of Africa.

Promotional Activities

37. She had mentioned about the promotional activities which were embarked upon by the Centre in the period under reference:

1. Advanced Arbitration Workshop: 19th March, 2009

The Centre in association with the Foundation for Alternative Dispute Resolution (SICA FICA) Hague, and the Chartered Institute of Arbitrators (UK) Nigeria Branch, organized an advanced arbitration workshop in Abuja, Nigeria. This was the second part of a series of arbitration workshops being organized under an existing arrangement with SICA FICA. The first part being the introductory course on international commercial arbitration, had earlier taken place.

2. The Intellectual Property Dispute Resolution (IP ADR) Scheme

The project on IP ADR Scheme of the Centre and the Intellectual Property Lawyers Association of Nigeria (IPLSN) aimed at entrenching a dispute resolution scheme for the intellectual property industry in Nigeria in nearing completion. The scheme was already receiving favorable remarks from intellectual property practitioners and users.

3. Domain name dispute resolution scheme

The Centre's collaboration with the World Intellectual Property Organization (WIPO) and the Nigerian domain name service provider was still ongoing. The next stage of work on the project was the sensitization of domain name service providers and users about the benefits and values of a domain name dispute resolution service in Nigeria and other African countries.

4. Workshop on Arbitration and Intellectual Property, Internet, Telecommunications and Sports 16th – 18 September 2008

It was a three day workshop on intellectual property, telecommunications, internet and sports held in Lagos; and co-sponsored by the Centre, World Intellectual Property Organization (WIPO) Geneva, Intellectual Property Law Association of Nigeria, National Office for Technology Acquisition and Transfer and the Nigerian Football Association. Expert trainers were drawn from all the sponsoring organizations including WIPO-which also provided some of the workshop materials. The high points of the workshop were the practical demonstrations of simulated intellectual property arbitration, mediation and negotiation exercises by the trainers and the participants. As an indication of the success recorded at the workshop, the Centre was planning a similar workshop in other African States in the near future.

5. Construction Industry Arbitration Clinics

The Society of Construction Industry Arbitrators in conjunction with the Centre organized a series of arbitration clinics. This was a practical skills acquisition training arbitration being delivered by seasoned construction industry arbitrators.

Non-lawyers in the construction industry shared their wealth of practical arbitration experience from a non-legal perspective. The clinic was in four modules. The first

module of the clinic was held in March 2009 while the second module was held in July 2009. Architects, Quantity Surveyors and Engineers were utilized as resource persons. Future Activities of the Centre

38. The underlisted events were slated for 2009 and beyond.

1. Training on Arbitration for Law Officers, 3rd Quarter 2009

Duration: 3 weeks

Venue: Regional Centre for International Commercial Arbitration – Lagos

2. International Construction Arbitration Workshop – postponed from early 2009 to early 2010

Duration: 3 days

Venue: An African State

3. Moot Arbitration for African Universities: Ongoing from 2008/2009

Duration: 2 weeks

Venues: Nigeria/Vienna

Conclusion:

39. In conclusion, she observed that a large percentage of settlement of international commercial disputes by arbitration and other ADR methods still find their way out of the AALCO regions where the contracts giving rise to arbitrable disputes were performed as evidenced by the low patronage of the Centre despite the existence of the universally acceptable UNCITRAL Arbitration Rules adopted as Centre Rules; the excellent facilities for arbitration available, not to mention the fact that parties were able to appoint the arbitrators of their choice. She had reiterated that the success of this Centre established under the auspices of AALCO depends to a large extent on patronage and support from AALCO member States. She was looking forward to the continued cordial relationship between the Centre and the Secretary General of AALCO, in realizing the Centre's objectives.

40. **Mr. Mohamad Asbaghi**, Adviser, Tehran Regional Arbitration Centre, took the opportunity to express his sincere appreciation for very kind reception and assistance extended to them during the meetings by very kind people working for AALCO.

41. On behalf of Tehran Regional Arbitration Centre, he had the honour to submit a summary of Tehran Regional Arbitration Centre activities and goals during the year 2008 and early 2009.

42. He said that the Report was divided into 2 sections.

Section one - Activities in 2008

43. He mentioned that during 2008, TRAC had stayed devoted to the fulfillment of its mission and responsibilities for the promotion of International Arbitration. Increasing of awareness about International Criminal Arbitration amongst the practitioners, growing of

the use of arbitration clauses in various international and domestic contracts and conducting arbitration had been the main headlines of TRAC activities.

44. The following summarised TRAC activities:

1. Increasing awareness about International Commercial Arbitration

The Adviser pointed out that the foundation of international arbitration could not be perfectly laid out without infusing necessary awareness regarding this function amongst legal and business practitioners. To that end, TRAC like previous years but on a larger scale, organized several workshops, conferences and seminars on common matters pertaining to international arbitration. The participants of these events varied to include lawyers, judges, business persons and in-house counsels from different trade, telecommunication, oil and gas and construction sectors. In addition seminars and conferences were open to law students of various law schools. Seminars and Conferences were free of charge. TRAC decided to implement these measures to facilitate a wider participation and thus contribute further to the promotion of international arbitration. The panelists and speakers of those events were among the prominent lawyers practicing in international arbitration. These events were received well by the business and legal communities and were viewed as an innovative approach for the promotion of international arbitration and confidence building amongst commercial corporations. The first package on selected subjects of international law (16 workshops from February 2008 to February 2009) was completed. He explained that based on received, the participants, who were the in-house counsels of oil, gas and communication sectors, had found these workshops very practical as well as concise, in terms of providing the latest developments on the issues of international law common place in international commercial law and international business discourse. In order to establish an effective communication with the public and private commercial sectors and legal professionals, he informed that a large number of booklets containing information about the services provided by TRAC had been prepared and distributed amongst relevant persons. Furthermore, to generate awareness about international arbitration, TRAC reflected the latest developments in international arbitration, which included the latest publications; arbitral awards briefs and upcoming international seminars and events through its website and invites interested persons to contribute that section on a regular basis. In the mean time, based on information received, TRAC arbitration clause continued to be inserted on a number of international contracts including in a few major international agreements in the oil sector.

2. New Arbitrators

He informed that TRAC received a number of applications from arbitrators of different nationalities requesting to be included in TRAC's list of Arbitrators. Out of which, TRAC had the honour of selecting and inserting the name of a number of high profiled figures of international arbitrators for the ease of reference of parties at the time of selecting their arbitrators. He stated that at present, the list contained a balanced composition of arbitrators from different nationalities and backgrounds. TRAC had been

informed that the list provided the parties with a significant perspective as to the constitution of the arbitral tribunal.

3. Financial achievements

During the year 2008 as previous years TRAC had been committed to uphold its independence at an optimum level. In doing so, it had remained financially independent from the Government contribution in 2008.

4. Arbitration Cases

During 2008, TRAC received a number of inquiries from different entities intend to refer their disputes to TRAC. While observing its impartiality and independence, TRAC provided sufficient insights as to the process of arbitration and sound assurance as to a quick and efficient settlement of disputes. Furthermore, at the end of 2008, he mentioned that a new arbitration case arose from a contract containing TRAC's arbitration clause commenced under TRAC Rules and after that an arbitral award rendered on July 2009. TRAC had been dedicated to provide necessary assistance to the parties within the scope of its rules, in the selection of its arbitrators, in the decision on the number arbitrators and by facilitating communication between the parties and it had done to ensure a smooth process of arbitration. As a result of the previous year's promotional activities, TRAC arbitration clause had been inserted in a large number of contracts concerning different companies and with different subject-matters.

5. Internship programme

As regards the internship programme, in 2008 and 2009, TRAC offered a limited number of summer internship places to law students from foreign universities who had special interest in international arbitration. The interns were granted certificate of completion based on their performance during the internship programme.

Section 2: Promotional Activities from the beginning of 2009

45. He mentioned the following promotional activities held in the beginning of 2009.

1. The second package of workshops concerning internationally aspects of joint ventures, sale contracts, transfer of technology contracts, distribution and agency contracts, license contracts, EPC contracts were carried on.
2. Two subsequent conferences on (Arbitration and Third Parties) and (Arbitration and Law of Foreign Investment) would be held on October and November of 2009.
- 2 A. A hand book on International Arbitration containing relevant conventions, arbitration rules of most commonly referred arbitration institutions had been published.
3. The lectures provided in TRAC's seminars had been published.
4. A law journal of International Trade and dispute settlement was under consideration by TRAC's experts.

B. Report on AALCO's Centre for Research and Training

1. **Dr. Xu Jie, Deputy Secretary-General of AALCO** while introducing the item recalled that the Centre for Research and Training (CRT), was functioning from the Secretariat of AALCO since November 2001 which was primarily evolved from the 'Data Collection Unit' (1989) based on the proposal of the Republic of Korea. The mandate entrusted to it was to collect and disseminate information on the agenda of AALCO and facilitate exchange of information among the Secretariat, the Member States and the United Nations; and foster capacity-building of the Centre to carry out further research projects on international law.

2. As regards the assigned mandate of the CRT, the DSG noted that the website of the AALCO had been significantly modified, upgraded and updated in order to make it more user-friendly, interactive and informative. Further steps were underway to professionally redesign the website. There was also a proposal to provide webcast of the proceedings of the Annual Sessions and other meetings organized by the AALCO.

3. In that context, he requested all the Member States to provide information and other relevant materials, including the name and address of the focal point with e-mail and the website address of the Ministry concerned and Officials in charge of AALCO, in their respective governments as well in New Delhi. This would facilitate in improving communications between the Secretariat and its Member States.

4. The DSG while explaining the organizational activities, mentioned that a one day Seminar on the topic, "International Criminal Court: Emerging Issues and Future Challenges", was organized jointly with the Government of Japan on 18th March 2009 in New Delhi. Further, a half-day "Commemorative Seminar on the Sixty Years of the International Law Commission (ILC)" in conjunction with the Extraordinary Session of the AALCO in New Delhi was held on 2nd December 2008. The Centre was working to organize more such programmes/seminars/ workshops in the forthcoming year with the cooperation of all the Member States.

5. He reiterated that in pursuance of one of the key objectives of the Centre, as stipulated in resolution RES/40/ORG.4 (2001), the CRT organized its first Training Programme on "General Course on International Law 2008" from 3rd to 14th November 2008 at the Headquarters Building of AALCO in New Delhi, India. 15 participants from 11 Member States participated in the programme. The training programme was a great success and well received by the participants. AALCO envisaged similar training programmes in 2010, not only in the Headquarters in New Delhi but also in other regions of the Asia and Africa. It endeavoured to organize Expert Group Meeting, Visiting Fellow Programmes and a Young Jurist Conference for the benefit of Member States.

6. He further mentioned that as AALCO entered into a number of cooperation agreements with the United Nations and its specialized agencies and other international organizations, AALCO's future plan within the CRT was to organize training courses with each of these Organizations on relevant subjects. The training programmes would be

held with the trilateral cooperation of the Organization concerned, AALCO Secretariat and the Member States wishing to send their officials to attend those courses.

7. With regard to the research activities, the DSG informed that the Centre had taken greater efforts to provide Member States with a number of research studies on the various aspects of international law. They were: “*Special and Differential Treatment under WTO Agreements*”; “*International Corruption: A Legal Analysis*”, “*A Preliminary Study on the Concept of International Terrorism*”; “*Rights and Obligations under The United Nations Convention against Corruption*”, which were released during the previous Sessions. In commemoration of the Fifty Years Golden Jubilee Session of AALCO, a publication titled “*Fifty Years of AALCO: Commemorative Essays in International Law*” was released during the Forty-Sixth (Cape Town) Session in 2007. Furthermore, in the Putrajaya Session, a research publication titled “*Essays on Contemporary Issues in International Law*” brought out by the CRT had been released. Apart from those studies, the Centre was in the process of preparing a special study, namely: ‘*Definition of Aggression: An Analysis*’.

8. The DSG emphasized in his statement that the working of the Centre had been adversely affected due to the shortage of funding and budgeting. While the infrastructure, in terms of Seminar and Conference rooms with modern facilities and equipments were in the Headquarters Building, the operational cost of the CRT depended solely on the regular budget of the AALCO. However, the regular budget itself had many difficulties due to non-payment of the contributions and non-revision of the scale of contribution of AALCO for many years.

9. Keeping in view that the financial position of AALCO was not very sound, he urged the Member States to come forward to fund generously through voluntary contributions or to the “CRT Fund” in order to facilitate its future activities efficiently. He also specially mentioned that the Government of the People’s Republic of China had donated office equipments in June 2008 and another set of office equipments worth US\$ 7,500 were handed over to the AALCO Secretariat on 4th August 2009. On behalf of the Secretariat, he sincerely thanked the Government of the People’s Republic of China for their generosity for providing the office equipments that had contributed to enhancing the productivity and efficiency of the Secretariat.

10. He mentioned that the AALCO welcomed directions/recommendations from Member States regarding topics for conducting in-depth research, as well specific proposals for training programmes.

11. The **Delegate of the State of Kuwait**¹ in his statement welcomed the initiatives taken by the CRT and expressed his country’s continuous support to the work of CRT in terms of training programmes and other activities which were useful to the Member States of AALCO.

¹ Statement made in Arabic. Unofficial translation from the interpreter’s version.

C. Report of Co-Chairs of the Drafting Committee - Dato' Engku Nor Faizah Engku Atek and Mr. K. Muniandy

1. The Chairperson of the Drafting Committee addressed the meeting and presented her Report on the working of the Drafting Committee as well as the tasks accomplished by it. The Chairperson recalled that the Drafting Committee of the Forty-Eighth Session of AALCO had been constituted on the 17th August 2009, the first day of the Session with the task of preparing the documents of the Session, draft resolutions, summary reports and a text containing a Message of Thanks to the Hon'ble Prime Minister of Malaysia. The Chairperson observed that the meetings of the Committee, unlike in the past, had to be convened simultaneously along with the proceedings of the Plenary to make time for a stimulating and fruitful discussions on all the documents that was to be adopted. She observed that the Drafting Committee, which was traditionally chaired by a representative of the host Government, had performed a commendable task of completing all the works entrusted to it with a great sense of satisfaction.

2. With a view to facilitating the adoption of the drafts by the Plenary Meeting, the Committee Members had done their best to prepare the resolutions and other documents in such a way that would be acceptable to all the delegations. As could be found in the drafts, they reflected the collective ideas and view points of the delegations. In this regard, she observed that the negotiations at times were intense and the energy with which the delegates participated in the work of the Committee was exemplary. The Committee had met for long hours often sitting until late night to accomplish the job at hand, she added.

3. The deliberations took place in a spirit of mutual accommodation, harmony and cooperation, which had ensured the smoothful and successful working of the Committee. The Chairperson thanked all the delegates for their lively discussion and active participation in the deliberations of the Committee which ensured that the task at hand was accomplished with ease. She further stated that their useful contribution indeed, had enriched the quality of the documents produced. The assistance and cooperation extended by the members of the AALCO Secretariat was also acknowledged with deep gratitude by the Chairperson. The outcome of the deliberations was thereafter placed before the Plenary for adoption.

4. The **President**, after thanking the Chairperson of the Drafting Committee and all the delegates who participated in the deliberations of the Committee, placed before the meeting the Putrajaya Declaration for adoption. He expressed hope that, this Declaration which represented a blue print for the future of AALCO will be adopted by consensus. He also informed that the Secretary-General had been requested to formulate an "Action Plan" in consultation with the Liaison Officers of AALCO in order to implement the Declaration. This action plan will act as the master plan for the implementation of the Declaration, he added. He stated that this Declaration represented an agreed commitment on the part of AALCO Member States to strengthen and revitalize AALCO. He further added that he looked forward to seeing the details of the action plan in the form of the Secretary-General's Progress Report at the Forty-Ninth Annual Session to be held next

year. With these comments he placed the final text of the Putrajaya Declaration for adoption. Since there were no objections raised on the Declaration, it was adopted.

D. Adoption of Resolutions and Summary Report

1. The **President** then stated that the resolutions on Organizational matters would first be taken up followed by Substantive matters. Accordingly, the Meeting considered **AALCO/RES/48/ORG 1** entitled “Report of the Secretary-General on Organizational, Administrative and Financial Matters”. As there were no comments the resolution was unanimously adopted.

2. The next resolution taken up for consideration by the Meeting was **AALCO/RES/48/ORG 2** entitled “AALCO’s Proposed Budget for the year 2010”. As there were no comments the resolution was unanimously adopted. As there were no objections raised, it was adopted unanimously.

3. The **President** then placed for consideration **AALCO/ RES/48/ORG 3** entitled “Report on AALCO’s Regional Centers for Arbitration”. Since there was no objection, the resolution was adopted unanimously.

4. The **President** then placed for consideration **AALCO/RES/48/DEC** entitled “Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization”. As there were no comments the declaration was unanimously adopted.

5. The next resolution placed for consideration was **AALCO/RES/48/ORG 4** entitled “Report on the Center for Research and Training of the AALCO”. As there were no objections, the resolution was unanimously adopted.

6. The **President** then placed for consideration **AALCO/RES/48/S1** entitled “Report on Matters Relating to the Work of the International Law Commission”. There being no objections the resolution was adopted unanimously.

7. The **President** then placed for consideration **AALCO/RES/48/S 3** entitled “The Status and Treatment of Refugees” (Non-Deliberated). As there were no objections the resolution was adopted unanimously.

8. The **President** then placed for consideration **AALCO/RES/48/S 4** entitled “The 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” (Deliberated). As there were no objections the resolution was adopted unanimously.

9. The **President** then placed for consideration **AALCO/RES/48/S 5** entitled “Legal Protection of Migrant Workers” (Non-Deliberated). As there were no objections, the resolution was unanimously adopted.

10. The **President** then placed for consideration **AALCO/RES/48/S 6** entitled “Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties”. As there were no objections the resolution was unanimously adopted.

11. The **President** then placed for consideration **AALCO/RES/48/S 7** entitled “International Terrorism” (Non-Deliberated). As there were no objections, the resolution was adopted unanimously.

12. The **President** then placed for consideration **AALCO/RES/48/S 9** entitled “The International Criminal Court: Recent Developments” (Deliberated). Since there were no objections, the resolution was unanimously adopted.

13. The next resolution placed for consideration was **AALCO/RES/48/S 10** entitled “Environment and Sustainable Development” (Non-Deliberated). As there were no objections the resolution was adopted unanimously.

14. The **President** then placed for consideration **AALCO/RES/48/S 11** entitled “An Effective International Legal Instrument against Corruption” (Non-Deliberated). The President informed that this resolution requested the Secretary-General to come up with an updated title for this agenda item taking into account the developments that have taken place of late. As there were no objections the resolution was adopted unanimously.

15. The **President** then placed for consideration **AALCO/RES/48/S 12** entitled “Report on the Work of UNCITRAL and other International Organizations in the field of International Trade Law” (Non-Deliberated). As there were no objections the resolution was unanimously adopted.

16. The **President** then placed for consideration **AALCO/RES/48/S 13** entitled “WTO as a Framework Agreement and Code of Conduct for World Trade” (Deliberated). As there were no objections the resolution was unanimously adopted.

17. The **President** then placed for consideration **AALCO/RES/48/S 14** entitled “Expressions of Folklore and its International Protection” (Non-Deliberated). As there were no objections the resolutions were unanimously adopted.

18. The next resolution placed for consideration was **AALCO/RES/48/S 15** entitled “Human Rights in Islam” (Non-Deliberated). Since there were no objections the resolution was unanimously adopted.

19. The **President** then placed for consideration **AALCO/RES/48/S 16** entitled “Managing Global Financial Crisis: Sharing of Experiences” (Deliberated). He informed that this resolution requested the Member States to convey their views and comments to the Secretariat so as to guide AALCO's future course of action on this issue. Since there were no objections the resolution was unanimously adopted.

20. The next resolution placed for consideration was **AALCO/RES/48/SP 1** entitled “Trafficking in Persons and the Smuggling of Migrants”. Since there were no objections raised, the resolution was adopted unanimously. He informed that this resolution mandated the Secretary-General of AALCO to constitute an open-ended Committee of Experts to conduct a study on ways and means of enhancing mutual legal assistance in criminal matters among the Member States of AALCO. As there were no objections the resolution was adopted.

21. The **President** then placed for consideration **AALCO/RES/48/SP 2** entitled “Resolution on the Special Meeting on the Law of the Sea”. As there were no objections the resolution was adopted unanimously.

22. After the adoption of resolutions, the **President** then handed over the floor to the Secretary-General who released the AALCO Year Book of 2008 and gave the copy to the President of the Forty-Eighth Session. He further informed that the AALCO Year Book of 2008 will be distributed to all the Member States of AALCO in their Missions located at New Delhi. He also distributed the Provisional Summary Record of the proceedings of the 17th and 18th of August (first two days of the Forty-Eighth session) while the rest of the two days proceedings would be distributed to the Member States in New Delhi within two weeks time, he added. He further informed that Member States could send their views and comments if any, within six weeks form the distribution of Provisional Summary Record. It would be finalized after the said period, he added.

23. Thereafter, the **President** invited the Secretary-General of AALCO to read the Message of Thanks on behalf of all the Member States to the Hon’ble Prime Minister of Malaysia. The Secretary-General explained that it was customary to send a Message of Thanks, on behalf of all the participating delegations in annual AALCO Sessions to the Head of the host State. As Forty-Eighth Session, took place in Malaysia, the Message of Thanks would be addressed to His Excellency, Most Hon’ble, Najib Tun Razak, The Prime Minister of Malaysia.

The text of message reads as under:

“Excellency,

On behalf of all the Delegations of the Member States and Observers attending the Forty-Eighth (2009) Annual Session of the Asian-African Legal Consultative Organization, I would like to extend the following message as a token of our heartfelt gratitude and respect:

“We, the participants in the Forty-Eighth Annual Session of the Asian-African Legal Consultative Organization, would like to seize this opportunity to convey our profound gratitude and respect to Your Excellency and through you to your esteemed Government and the people of Malaysia for holding the Forty-Eighth Annual Session of AALCO, under the auspices of the Government of Malaysia, in this beautiful city of Putrajaya, the administrative capital of Malaysia.

Excellency, I thank the Government of Malaysia, on behalf of AALCO, and on my own behalf, for hosting this Session.

Your Excellency, we are aware that Malaysia attaches great importance to the AALCO and it has always remained active in the activities of the Organization be it substantive or administrative and financial matters, ever since it joined the Organization in 1970. This is the second Session hosted by Malaysia. Besides this Malaysia has always taken very keen interest in the deliberations during the Annual Sessions and has undertaken to strengthen the agenda and the role of the Organization in the comity of nations.

Your Excellency would be pleased to know that a spirit of constructive dialogue and co-operation amongst attending delegations marked this Session, thus enabling us to take crucial decisions on the organizational as well as substantive matters. The adoption of the "Putrajaya Declaration on Strengthening and Revitalization of the Asian-African Legal Consultative Organization" was the hallmark of this Annual Session. All of us are highly confident that it would give a new impetus to the Asian-African solidarity on legal matters. Although many factors contributed to the success of the conference, yet it would not be an exaggeration to put on record that the excellent cooperation from the Government of Malaysia, contributed significantly towards the excellent achievements of our deliberations.

Please accept, Your Excellency, the assurances of our highest respect and consideration and may the Almighty bless all the endeavours of your Great Country"

24. The text of the Message of Thanks to His Excellency Most Hon'ble, Najib Tun Razak, the Prime Minister of Malaysia was accepted with a loud applause. The Secretary-General handed over the text to the President of the Session. The President assured that he would convey the Message of Thanks to the office of the Prime Minister of Malaysia.

25. The President of AALCO then invited the Leader of the Delegation of the **Arab Republic of Egypt** to deliver the vote of thanks on behalf of the African States.

26. The **Leader of Delegation of the Arab Republic of Egypt**² expressed on behalf of the Leaders of all African Delegations their profound gratitude and appreciation to the President of the Forty-Eighth Session His Excellency Tan Sri Abdul Gani Patail, the Attorney-General of Malaysia for inviting them to Putrajaya to attend the Forty-Eighth Annual Session. He expressed his deep gratitude to the people of Malaysia for the warm hospitality extended by them to all the delegates who came to attend the Session.

27. He also expressed his sincere thanks to the highly efficient leadership displayed by the Vice-President of the Forty-Eighth Session His Excellency Hon. Ebo Barton Odro, Deputy Attorney-General and Deputy Minister for Justice, Ghana. The interventions

² The statement was delivered in Arabic. Unofficial translation from the Interpreter's version.

made by the President and the Vice-President made the deliberations richer and enlightening, he added. Commenting on the role played by the staff of the Attorney-General's Chamber in the successful convening of the Session, he stated that their meticulous planning and preparations went a long way in ensuring the success of the Session. In this regard, the work of the Host Committee deserved a through applause, he added. He also highly appreciated the efforts and dedication of the Secretary-General of AALCO Prof. Dr. Rahmat Bin Mohamad in providing leadership to the Organization which he hoped, would steer the work of AALCO in the right path in future. Lastly, he expressed his gratitude to the Staff of the AALCO Secretariat for producing a lot of documents which made the deliberations easy for all the delegates.

28. Then the **President** invited the Leader of Delegation from the **Republic of Indonesia** to convey his vote of thanks on behalf of the Asian States. At the outset, the **Leader of Delegation from the Republic of Indonesia** stated that it was a matter of privilege and honour to propose on behalf of all the Asian Member States of AALCO, a vote of thanks to the gracious host of the Forty-Eighth Session of AALCO- the people and Government of Malaysia.

29. He deeply thanked His Excellency Tan Sri Abdul Gani Patail, the Attorney-General of Malaysia and the President of the Forty-Eighth Session of AALCO for inviting the delegates to the beautiful garden city of Putrajaya to hold their deliberations in the newly constructed Attorney-General's Chamber. The deliberations were indeed highly productive and focused. He stated that the adoption of "Putrajaya Declaration on the Revitalizing and Strengthening of AALCO" was indeed a momentous decision and that he was hopeful that its objectives would be fulfilled in future. He also thanked the Vice-President Hon. Ebo Barton Odro, Deputy Attorney General and Deputy Minister of Justice, Republic of Ghana, for steering the proceedings of the Session in a very effective manner. He appreciated the leadership role of both of them. While commenting on the role played by the Host Government Committee, he opined that it deserved their unreserved gratitude for undertaking untiring efforts in ensuring the smooth conduct of the Session, as also for the very warm hospitality accorded to all of them.

30. He also expressed his profound gratitude to Prof. Rahmat Bin Mohamad, the Secretary-General of AALCO and his Staff in the Secretariat for their useful and efficient efforts in putting in place all the necessary arrangements for the conduct of the Annual Session. He also appreciated the commendable work of the interpreters.

31. Thereafter, the **President** invited the Representative from the International Committee of the Red Cross (ICRC) to propose a vote of thanks to the host government on behalf of the international organizations.

32. At the outset, **Mr. Christopher Harland, Regional Legal Advisor, ICRC**, extended his deep gratitude first, to His Excellency Tan Sri Abdul Gani Patail, the Attorney-General of Malaysia and the President of the Forty-Eighth Session of AALCO, secondly, to the Vice-President Hon. Ebo Barton Odro, Deputy Attorney General and Deputy Minister of Justice, Ghana, for doing an excellent job in steering the work of all

the delegations on right course which was instrumental in ensuring the success of the Session. He also expressed profound thanks to Prof. Rahmat Bin Mohamad, the Secretary-General of AALCO, for undertaking a lot of efforts to ensure the success of the Session. He expressed hope that under his leadership ICRC will continue to have a fruitful cooperation with AALCO as before.

33. He also thanked profusely the Host Committee and the people of Malaysia for extending wonderful hospitality to all the delegates which made their stay at Putrajaya very comfortable during the entire period of the Session. He also thanked the staff of the Secretariat of AALCO for the enormous effort that they had taken to make all the documents available in time for all the delegates. He added that their knowledge and command of the situation was exemplary. He also thanked the interpreters for their tireless and painful efforts in making sure that the statements delivered were understood and appreciated by all the delegates. Lastly, he thanked all others who were associated with the convening of the Session for their unstinted support to the successful completion of the Session.

34. He remarked that ICRC had started working with AALCO from 1997 and had signed an MOU in 2002 and had convened a one day Special meeting last year at the New Delhi Session. It continued to have excellent cooperation with AALCO by way of arranging Seminars and training programmes organized jointly like the one on the International Criminal Court organized with the help of the Government of Japan early this year. He expressed sincere hope that the cooperation between the two Organizations will continue in future as well. Commenting on the proceedings of the Forty-Eighth Session, he stated that the deliberations on the maritime issues and the law of the sea were very interesting and enlightening. Lastly, he expressed the hope that he would be meeting all the delegations at the Forty-Ninth Annual Session of AALCO.

35. Thereafter the **President** thanked the Heads of Delegations from the Arab Republic of Egypt, and the Republic of Indonesia and the representative from the ICRC for their kind remarks. As far the hosting of the next annual Session of AALCO, he stated that any Country willing to host it could communicate the same to the Secretariat of AALCO. He opined that even though the Session had been very tiring yet it was indeed a truly rewarding experience for all the delegates who attended the Forty-Eighth Session of AALCO. The Forty-Eighth Session of AALCO was a watershed since the delegates had traced the humble beginnings of AALCO, its more than fifty years of journey along with a roadmap for AALCO for the future. He expressed hope that the Member States would continue to give their unstinted support to the cause of AALCO which will ensure the realization of its objectives. He further stated that Malaysia had tried to show the best of it along with a cultural feast in an effort to breach the cultural barriers. He specifically highlighted the cohabitation of multi-cultural and multi-religious sections of people in Malaysia to show the cultural richness of his Country. Lastly, he thanked the former President of AALCO Mr. Narinder Singh for his guidance and advice which was very helpful to all concerned with AALCO. He also thanked both the Host Committee and the Drafting Committee which had performed an excellent job in making arrangements and preparing documents respectively at the appropriate time. Lastly, he also thanked the

Vice President for being a source of inspiration for him and all the Heads of Delegations for their cooperation which ensured the smooth functioning of the Session.

The meeting was thereafter adjourned.