

Asian-African Legal Consultative Organization



**Verbatim Record
of Discussions**

Fiftieth Annual Session

27 June – 1 July 2011
Colombo, Democratic Socialist Republic of Sri Lanka

**AALCO Secretariat,
29-C, Rizal Marg,
Diplomatic Enclave, Chanakyapuri,
New Delhi-110021
INDIA**

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PREFACE

AALCO is one of the prominent regional intergovernmental Organizations that unite countries from Asian and African continents on matters of international legal issues of common concern. It serves its Member States as an essential mechanism for Inter-Regional co-operation; and the exchange of information and views on matters with an international legal dimension. The consultative nature of the Organization beholds transparency within the AALCO and also ensures that the voice of Asia and Africa is heard in various fora where international law-making takes place. Its close working relationship with various other international organizations is the evidentiary fact of AALCO's contribution towards progressive development and codification of international law. The current work programme of AALCO incorporates important legal issues and closely tracks the items on the agendas of the International Law Commission and Sixth Committee of the UN General Assembly.

At the Plenary Organ of the Organization – the Annual Sessions, deliberations that take place lead to framing a concerted Asian-African approach on contemporary issues of relevance to Asian-African countries. In conjunction with this, the Fiftieth Annual Session of AALCO was held from 27 June to 1 July 2011 in Colombo, the Democratic Socialist Republic of Sri Lanka. The session marked a memorable event in terms of extensive deliberations on various significant areas of international law. The session witnessed participation from thirty-two Member States, representatives from three Regional Arbitration Centres of AALCO, Observers from three Non-Member States and representatives from nine Intergovernmental/Specialized Agencies/Subsidiary Organs/Inter-Regional Organizations, totalling approximately 190 participants.

One of the major achievements of the Fiftieth Annual Session was to set into motion the AALCO-Eminent Persons Group (EPG) which held its preliminary meeting on 26 June 2011. Besides this, the Annual Session witnessed deliberations on Organizational and Substantive matters like: (i) Report on Matters relating to the International Law Commission at its Sixty-second Session; (ii) Law of the Sea; (iii) Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949; (iv) Environment and Sustainable Development; (v) Expressions of Folklore and its International Protection; and (vi) Report of the UNCITRAL and other International Organizations in the Field of Trade Law.

The major highlights of the Fiftieth Annual Session were the two half-day Special Meetings on: (i) "Trafficking in Women and Children, Migrant Workers and Protection of Children" and "International Commercial Arbitration".

This comprehensive Verbatim Record presents to the Member States the discussions and deliberations on all the above stated items in detail. On the concluding day of the Session, the Member States adopted the Summary Report, Resolutions on Organizational and

Substantive Matters, including Resolutions on the two half-day Special Meetings along with the Message of Thanks on behalf of all the Member States to the President of the Democratic Socialist Republic of Sri Lanka. I take this opportunity to thank all the distinguished members of the Drafting Committee for their immense support in scrutinizing all the above mentioned documents in the Summary Report of the Forty-Ninth Annual Session.

This Verbatim Record of the Fiftieth Annual Session contains mainly the text of statements of the Inaugural Session, three Meetings of Delegations of Member States and six General Meetings; two half-day special meetings; the Summary Report of the Fiftieth Annual Session; the Resolutions on both Organizational and Substantive matters adopted at the Session; and the list of participants who attended the Session.

I wish to thank the Ministries of Justice, and Foreign Affairs of the Democratic Socialist Republic of Sri Lanka for convening the Annual Session of the Organization, for their whole-hearted cooperation and excellent administrative arrangements, which were very helpful in conducting the proceedings of the Session successfully. I would also like to express my heartfelt appreciation and thanks to my friends and colleagues Dr. Xu Jie, and Dr. Hassan Soleimani, the Deputy Secretaries-General, for their support in making the Session a success.

I also wish to express my deep appreciation to Mrs. Anuradha Bakshi, Assistant Principal Legal Officer; Mr. Mohammed Hussain, Senior Legal Officer; Mr. S. Senthil Kumar, Ms. Shannu Narayan and Mr. S. Pandiaraj, Legal Officers; and Mr. Azizur Rahman, Arabic Translator, along with the other Staff of the Secretariat for their immense efforts exerted to help me in accomplishing my mandate. Their professionalism and sense of responsibility contributed a lot towards making the Session a success and in bringing out all the documents referred to above on time.

31 March 2012

Prof. Dr. Rahmat Mohamad
Secretary-General

I. AGENDA OF THE SESSION

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I. Organizational Matters

1. Consideration and Adoption of the Agenda
2. Election of the President and the Vice-President
3. Admission of Observers
4. Report of the Secretary-General on the Work of AALCO
5. Proposed Budget for the Year 2012
6. Preliminary Report of the Sub-Committee on the AALCO Secretariat's Human Resources and Financial Matters
7. Report on the AALCO's Centre for Research and Training (CRT)
8. Venue of the Fifty-First Session

II. Matters under Article 1 (a) of the Statutes: Matters Referred to the Organization by Member States

1. 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
2. The Law of the Sea

III. Matters under Article 1 (b) of the Statutes: Matters of Common Concern having Legal Implications

1. Expressions of Folklore and its International Protection
2. Environment and Sustainable Development

IV. Matters under Article 1 (d) of the Statutes: Matters Relating to the International Law Commission

Report on matters relating to the International Law Commission at its Sixty-Second Session

V. International Trade Law Matters

Report of the UNCITRAL and Other International Organizations in the Field of International Trade Law

VI. Two half-day Special Meetings

1. Special Meeting on "Trafficking of Women and Children/Migrant Workers and Protection of Children"
2. Special Meeting on "International Commercial Arbitration"

VII. Any Other Matter

II. BUREAU OF THE SESSION

II. BUREAU OF THE SESSION

PRESIDENT	H. E Mr. Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka
VICE-PRESIDENT	H. E. Mrs. Ifeyinwa Rita Njokanma, Director, International Law Department, Federal Ministry of Justice, Nigeria
SECRETARY-GENERAL	H. E. Prof. Dr. Rahmat Mohamad
DEPUTY SECRETARIES-GENERAL	H. E. Dr. Xu Jie H. E. Dr. Hassan Soleimani
HEAD OF THE HOST NATIONAL COMMITTEE	H. E. Mr. Priyasath Gerald DEP, Judge, Supreme Court of Sri Lanka
CHAIRPERSON OF THE DRAFTING COMMITTEE	Ms. Sriyangini Fernando, Former Additional Legal Draftsman and Current Consultant to the Ministry of Justice, Democratic Socialist Republic of Sri Lanka
CO-CHAIRPERSON OF THE DRAFTING COMMITTEE	Mrs. Indika Demuni de Silva, Deputy Solicitor-General, Attorney General's Department, Democratic Socialist Republic of Sri Lanka

III. VERBATIM RECORD OF THE INAUGURAL SESSION

III. VERBATIM RECORD OF THE INAUGURAL SESSION OF THE FIFTIETH ANNUAL SESSION HELD ON MONDAY, 27 JUNE 2011 AT 9.00 AM AT HOTEL CINNAMON LAKESIDE, COLOMBO

Master of Ceremony Mr. Viran Corea, Attorney-at-Law: On behalf of the National Organising Committee of the Fiftieth Annual Session of Asian-African Legal Consultative Organization (AALCO), I welcome the Honourable President of the Democratic Socialist Republic of Sri Lanka, H. E. Mahinda Rajapaksa as the Chief Guest of this session. With the arrival of the Chief Guest, we proceed with the traditional lighting of the oil lamp with which we extend our warm invitation to our Chief Guest President H. E. Mahinda Rajapaksa; Madam Celina O. Kombani, President of the Forty-Ninth Annual Session of AALCO; Her Ladyship Honourable Dr. Shiranee Bandaranayake, Chief Justice of the Democratic Socialist Republic of Sri Lanka; H. E. Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO; Hon. G.L. Peiris, Minister of External Affairs, Democratic Socialist Republic of Sri Lanka; H. E. Judge Owada, President of the International Court of Justice; Hon. Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka; and H. E. Tan Sri Abdul Gani Patail, President of the Forty-Eighth Annual Session of AALCO. Official lighting of the lamp.

May I now invite His Excellency the President of Sri Lanka, and other dignitaries at the Head Table to make their way to the places at the table. We remain upstanding for the National Anthem.

This morning we gather with different ceremonies for the inauguration of the Fiftieth Annual Session of the Asian-African Legal Consultative Organization (AALCO). It all began far back as 1956, when seven states from the Asian region, a year after the historic Bandung Conference in Indonesia decided to get together and formulate the Committee. This Committee extended its reach to the African continent as well, two years later and since then it has grown in stature and the function in the service that it provides to its Member States to the level of becoming an extremely highly reputed international organization. Today as we inaugurate the historic Fiftieth Annual Session in admitting recognition of perhaps of great value of services rendered by the Organization as it is being hosted in Sri Lanka, which was an original Member State back in 1956, this ceremony witnesses the embellishment of patronage of no less than the first citizen of the land as chief guest - His Excellency President Mahinda Rajapaksa.

Without any further delay, we will proceed for an address of welcome made by H.E. Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO.

(i) Welcome Address by H.E. Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO

“Ayubowan” – Welcome to the Democratic Socialist Republic of Sri Lanka.

Your Excellency, Mr. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka,

Hon. Celina Ompeshi Kombani, Minister of Constitutional and Legal Affairs, United Republic of Tanzania and the President of the Forty-Ninth Annual Session of AALCO,

Hon. G. L. Peiris, Professor of Law and Minister of External Affairs, Democratic Socialist Republic of Sri Lanka,

Hon. Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka,

Hon. Justice Owada, President of the International Court of Justice,

Hon. Dr. Shirani Bandaranayake, Chief Justice of the Democratic Socialist Republic of Sri Lanka, and

Hon. Tan Sri Abdul Gani Patail, the Attorney-General of Malaysia and the President of the Forty-Eighth Annual Session of AALCO,

Hon'ble Ministers, Excellencies, Distinguished Delegates and Observers, Ladies and Gentlemen,

On behalf of the Asian-African Legal Consultative Organization and my own behalf, I respectfully and warmly welcome Your Excellency Mr. President and this distinguished gathering to the Fiftieth Annual Session of AALCO.

Your Excellency, the AALCO, since its foundation in 1956, has a unique tradition of holding its Annual Session, at the invitation of its Member States, on a rotational basis in the countries of the two continents. It gives me immense pleasure in informing you that the hosting of the Fiftieth Annual Session in Sri Lanka, would truly be a milestone in the history of AALCO, for Sri Lanka, as we all know is one of the “founding Members of the Organization”.

Sri Lanka is often known as the “Pearl of the Indian Ocean”. It is also referred to as the “original paradise, amid scenes as beautiful as the hand of God ever created”. Ever since we landed in this country, we have been mesmerized by the attractive beauty of the colours and costumes of this land which, according to the famous poet Mark Twain, were “All harmonious, all in perfect taste”. It is an ancient civilization where people of many cultures live in peace and harmony, and experience the nation's glittering tapestry of culture and the rich abundance of nature including, tea gardens, waterfalls and legendary gem mines, giving credence to the old adage – that good things come in small packages.

I would like to express on behalf of the Organization and its Member States our profound gratitude to Your Excellency, to the Government and people of Sri Lanka for inviting the AALCO to hold its Fiftieth Annual Session. Personally, I am also beholden to your esteemed Government for graciously offering to host this Annual Session with utmost

efficiency. We are also overwhelmed by the warmth, generosity and hospitality of the Sri Lankan people.

Your Excellency, Let us also take this opportunity to remember and pay our tribute to Late J.R. Jayavardene, the “people’s President of Sri Lanka”. In 1980 when the leaders of the Asian-African countries assembled in Bandung, (Indonesia, 1980) to commemorate the Twenty-Fifth Asian-African Conference, Late J.R. Jayavardene, had stated, and I quote:

“Looking at the conclusions that were reached at Bandung one is struck by the recognition of our common problems and the common vision of a brighter future for the peoples of our countries based on cooperation in all fields and the adherence to the principles of international life guaranteeing international peace and stability”. (End of Quote)

As an illustrious follower of Jayavardene’s ideology, Your Excellency’s contribution to the all-round development of Sri Lanka and for promoting international peace, justice and rule of law in international affairs, are well respected and recognized. Mr. President, it is a matter of honour and privilege, for us that our Annual Session is being inaugurated by an outstanding, respected and eminent leader of your stature from our region. We are confident, with your Excellency setting the pace for our deliberations; the Colombo Session is going to be a historic success.

Your Excellency, the Democratic Socialist Republic of Sri Lanka (then Ceylon) was one of the seven founding members of the Organization in 1956, and ever since then the Government of Sri Lanka has actively contributed to the work of AALCO. Its commitment to the AALCO’s objective of increasing the Afro-Asian influence in the progressive development and codification of international law is further demonstrable from the fact that it is for the fourth time we are assembled in your country for our Annual Sessions. The earlier ones were the; Third Session in 1960, Twelfth Session in 1971 and Twenty-second Session in 1981. I am quite confident that our Fiftieth Annual Session will also be equally successful.

Before dwelling briefly on the role and work of AALCO, I would like to thank all the distinguished and eminent personalities who have spared their valuable time to grace this inaugural segment and share their views with us. I would like to particularly thank Justice Owada, the President of the International Court of Justice, who has a very long association with AALCO and has attended some of the early Annual Session’s of the Organization.

Excellencies, Distinguished Delegates, Ladies and Gentlemen; the AALCO in its journey of fifty-five years has been steadfastly contributing towards realizing the vision of its founding fathers. Today, it has emerged as a leading inter-governmental regional organization, which renders consultative and advisory services to its Member States. Very few Inter-Governmental Organizations enjoy such a rich and long history. This steady march amply demonstrates that firstly, the ideological basis of AALCO remains

relevant in the contemporary world; secondly, newer and emerging legal issues require that Asian-African States remain united to face those challenges; thirdly, the imperative of strengthening the Organization in all its aspects is considered of vital importance; and lastly, and more importantly, for me as the Secretary-General, the Member States are fully supportive of the various activities being undertaken by the Organization and wish to further enhance AALCO's profile and promote its role at the international level.

The Organization has been making significant studies on various branches of international law and conducting researches on issues having contemporary relevance for the Afro-Asian region. In the present day, taking into account the current practice of international law-making, the role and range of activities required to be undertaken by the AALCO has multiplied several folds, thereby it is imperative that the Organization remains on a strong ideological foundation and enjoys firm financial support from its stakeholders- the Member States.

Your Excellency, over the course of coming five days, our Annual Session would be deliberating upon several important international legal issues. Very soon after this Inaugural Session, the Heads of Delegations of the participating delegations through their General Statements engage in sharing of experiences and perspectives on contemporary areas of core concern in international legal matters for Afro-Asian States. Thereafter, on Tuesday, some of the AALCO Publications will be released and Organizational Matters will be discussed with the Heads of Delegations. On Wednesday, we will deliberate on the substantive agenda items, including (i) Matters relating to the ILC; (ii) UN Convention on Jurisdictional Immunities of States and Their Property, (iii) The Law of the Sea, (iv) Deportation of Palestinians and (v) Expressions of Folklore. On Thursday we will have the first half-day Special meeting on; "Trafficking in Women and Children/Migrant Workers and Protection of Children, in the morning and in the afternoon we will discuss the agenda items relating to (i) the report of the UNCITRAL and (ii) Environment and Sustainable Development. On Friday, the concluding day of the Session, in the morning we will have the second half-day Special Meeting on "International Commercial Arbitration" and the concluding Session. In addition, the Heads of Delegations would also be reviewing the organizational matters, including the financial situation of AALCO.

I request the delegates to avail this unique opportunity and reflect the concern of their countries regarding these topics and to share their experiences with and among AALCO Member States as it is in my view one of the fundamental aims of our annual meeting. Together with the National Organizing Committee of the Host Government, the AALCO Secretariat has done its utmost to make all the necessary arrangements for the success of our Fiftieth Annual Session. Pardon us, if there is any shortcoming in the arrangements of this Session from our part.

Allow me to take this opportunity to profoundly thank Mr. Priyasath DEP, the Vice-President of the Forty-Ninth Annual Session and the Solicitor-General of Sri Lanka, under whose able guidance and tireless efforts the National Organizing Committee, left no stone unturned towards the successful organization of this event. It gives me immense

pleasure to inform this distinguished gathering that he has now been elevated as Judge of the Supreme Court of Sri Lanka, and I heartily congratulate Justice Priyasath on his new appointment and wish him all the success

A special thanks is due to the National Organizing Committee from the AALCO Secretariat team, as the host Government has been generous and gracious enough to host the AALCO team lead by the Secretary-general.

I am quite confident we would be able to achieve amicably, in the spirit of reconciliation, friendship, and mutual trust, the objectives of this Fiftieth Annual Session of AALCO and rekindle the true “Spirit of Bandung”. We cannot be satisfied with our past achievements, much need to be done in unifying the concerns of our Member States from Asia and Africa, let this meeting mark the beginning of a “new era” for the Organization.

I once again welcome you all to the Fiftieth Annual Session of AALCO and to Colombo – the “resplendent island”. Thank you very much.

Master of Ceremony: having graced as the Chief Guest, I now extend a warm invitation to address this inaugural session to His Excellency Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka.

(ii) Statement of H. E. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka

Mr. Chairman, Your Excellency Professor Rahmat Mohamad, Secretary-General of the Asian-African Legal Consultative Organization,

Your Excellency Hisashi Owada, President of the International Court of Justice,

Chief Justice Dr. Shiranee Bandaranayake of Sri Lanka, Judges of the Supreme Court and Court of Appeal; Ministers; Acting Attorney-General,

Distinguished Delegates, Ladies and Gentlemen,

It is with the greatest pleasure that I inaugurate these proceedings of the Asian-African Legal Consultative Organization in Colombo this morning. The occasion is all the more significant because you have chosen Sri Lanka as the venue of your discussions which mark the 50th anniversary of the establishment of this body which has made a rich contribution to the development of the laws and legal systems of two continents in our time.

Your choice of Sri Lanka is especially appropriate, as my country turns a new and exciting page in her modern history. As you gather here today, we as a nation leave behind us the pain and anguish of a long-drawn-out conflict thrust upon us by one of the most ruthless terrorist organizations the world has known. With the sacrifice, prayers and blessings of all our citizens, irrespective of language, religion or cultural background, we

have overcome the menace of terror out of our country and brought back on the fast track of economic and social development for the benefit of us all.

This is a change which touches every aspect of our national life. It requires re-vamping of our institutions in every sector. Not least of these is the law, its priorities, the values on which it is based, the procedures which are considered suitable for the pursuit of its aims, and the agencies through which it is applied for the well-being of the community.

There are several factors uppermost in our minds as we address the challenges that accompany the dawn of a stable and honourable peace.

The first among these is the need to protect our nation against a wide range of activities which groups closely linked to the merchants of terror, continue to engage in to the detriment of our country. Since the problem of terrorism is by no means restricted to Sri Lanka, but is of immediate relevance to many of the countries represented in this forum, you will no doubt rejoice that terrorist violence is, for us, a thing of the past, and we will never allow to raise its ugly head to be raised again within our shores. But it is to be remembered that these initiatives have now been transferred to the field of international action, and no stone is left unturned to apply every possible form of pressure to obstruct our country's efforts to heal the wounds of the past and to bring together the entire nation through a process of reconciliation in keeping with the culture and aspirations of our people. This is why continuing vigilance at the international level, and resort to both domestic law and international law as a source of protection, are vitally important.

It is equally necessary to ensure that the opportunities which are now available to us, after many decades, are exploited to the full for the benefit of all our people without distinction. You will observe yourselves during your stay in our country how rich and varied these opportunities are in such sectors as tourism, direct and portfolio investment and increase of trade. Our government has put in place an effective strategy to harness our nation's resources at the optimal level, and this has called for fresh thinking with regard to legal concepts and procedures, in harmony with the far-reaching changes that are taking place around us in every sphere of society.

Release of the country's inherent energy and the use of its unique human potential with strong political stability have resulted in the growth of our economy by more than 8%. This places us in the category of one of the most rapidly developing economies of Asia.

Remarkable as this achievement is, our government is determined to do more. I strongly believe that economic development must not be confined to mere statistics, far removed from the lives of the people. It must have a direct impact on their everyday experience, enriching and uplifting their lives. Throughout my political career, I have been convinced that the fruits of economic progress must trickle down to the grassroots level, by penetrating the rural hinterland.

With this objective in view, we have taken vigorous steps to transform not only our legal system and our legal culture but, even more importantly, the nation's mindset to put

timely emphasis on social equity and access to opportunity, particularly for those sections of the community which have been deprived of advantages in the past. I am legitimately proud of our achievements in the field of computer literacy which is no longer an exclusive privilege of urban schools but has significantly enhanced the prospects of gainful employment available to the rural youth of our country. During the last few years skills development, especially in the form of practical programmes of vocational training, have greatly strengthened social mobility, in terms of livelihood and incomes.

This pre-occupation with social equity is certainly appropriate at the international level at this time. It is important to ensure that the major trends of economic policy in the developed world should not have a harmful effect on the well-being of developing countries. Dumping of commercial and industrial goods manufactured in developed countries imperils the economies of many of our countries, as indicted by the focus on anti-dumping and counter-veiling legislation in the vast majority of Asian and African nations represented here.

The use of substantial subsidies by Treasuries and reserve Banks to support agricultural production in the developed world, and other forms of protectionism, cause serious distortion of the interplay of market forces. These measures reduce to a great extent, the ability of farmers in our countries to access international markets for their export products on an equitable basis. The disproportionate pollution of the environment by industrialized countries, and the resulting impact on global warming and climate change, cannot be remedied with any semblance of justice by imposing harsh restraints on developing countries, which are not the cause of this problem. The over-exposure of banks and the irresponsible use of financial instruments, especially with regard to the mortgage market, in the developed world, brought about financial volatility and instability of alarming proportions, which led to the weakening of the foundations of many of our economies.

Against this backdrop, we strongly support timely reform of the international financial architecture, with particular reference to the re-vamping of the Bretton Woods institutions. There must also be reform of the United Nations system on the basis of consensus among the international community in respect of all the key issues.

It is vital to ensure greater effectiveness with regard to regulatory mechanisms at the international level, in respect of issues which are of immediate concern to many of our countries in Asia and Africa. Money laundering, gun running, drug trafficking, people smuggling and economic crime in general—many of which have an intimate connection with international terrorism—continue to pose serious challenges, which call for a prompt and vigorous response by the international community. The consequences of piracy engage the attention of many of our countries, and action is urgently required to put in place, effective deterrents and in particular, to address issues connected with retention of ransom money in the hands of perpetrators of crime— an area in which a wide gap in current international law and practice, plainly visible.

Through the financial turbulence which threatened the world recently, my country steadfastly maintained an educational system which not only provides free education from

kindergarten to university, but puts at the disposal of the student, all the facilities he needs during the educational career. We offer our people a healthcare system, which is acknowledged to be one of the best in Asia. Our record with regard to infant mortality and maternal health is without parallel in our geographical region. These attainments in respect of the equality of life have won recognition from the United Nations system.

In accelerating progress towards these goals, our government, faithful to the value system which finds expression in the Mahinda Chinthana setting out our cherished beliefs, has identified two areas as being of crucial importance.

One of these is the development of infrastructure. In the recent past, and especially after the advent of peace, I have accorded the highest priority to this area. No other government in our country's history has made so substantial an investment in the highways and railroads sector. We have energetically implemented a cluster of projects in respect of irrigation, and power and energy. The most striking developments have been with regard to ports, harbours and airports. I am deeply conscious of the importance of connectivity, linking Sri Lanka with the world at large and making a reality of our vision of our country as a shipping and knowledge hub.

Parallel with this, we are making every effort to breathe new vigour and vitality into both the private and public sectors. We are actively engaged in facilitating enhanced investment and expansion of volumes of international trade by modernizing our systems and procedures applicable to customs, banking, the board of Investment, the Export Development Board and the whole range of fiscal and monetary policy. The entire spectrum of commercial and industrial law is being reformed. This is supplemented by new thinking aimed at making the public sector more sensitive to the changes taking place around us and, therefore, a more effective instrument of service to our people.

Let me conclude with a thought that goes to the very root of my thinking on current issues. The law is the strongest instrument of social organization known to humankind, since the beginning of recorded history. The central purpose of the law is to achieve a balance between competing interests, to bring about harmony in the social order and, by doing so, to enable the full flowering of the human personality.

It is of the utmost importance to remind ourselves that these objectives need to be accomplished in accordance with the cultural traditions and value systems which are part of the experience of each society. The continents of Asia and Africa, which are the focus of the discussions you begin today, have nurtured over the centuries, some of the world's greatest civilizations. It is crucial to insist, I believe, that the manner, in which the laws and legal systems of our countries are restructured to serve the interests of our populations, and to ensure their security and well-being, must reflect the character of a home-grown and home-spun product. By all means, let us look at positive experiences elsewhere but, at the end of the day, a solution will be sustainable only if it caters for the aspirations of our own people.

I venture to suggest to the distinguished legal luminaries, whom I have the privilege to address today, that this is true of all the countries and cultures represented here.

This is my earnest message to you as I inaugurate, with eager anticipation, what I have no doubt, will be an immensely rewarding and fruitful discussion. I wish your deliberations every success.

May the noble Triple gems Bless you all.

Master of Ceremony: Thank you Your Excellency. In appreciation of the contributions of His Excellency Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka, there will be a memento presented by Secretary-General of AALCO, in gracing this occasion and embellishing it with his presence as Chief Guest at the inaugural session.

His Excellency the President and the Heads of Delegations will now make their way outside to the area at which there will be a group photograph that will be taken. His Excellency will now make his way out and we request all the Heads of Delegations to follow. The others to please remain seated in the Hall.

Cultural programmes would follow. There are many indigenous dance forms in Sri Lanka and that was just a glimpse of what we have is the fact that the talented performers, drummers and dancers that you saw are the dance troop from the Sri Lanka Navy. I now invite back on stage distinguished dignitaries who are at the Head table, the group photograph having been taken, and the rest of you being treated with the glimpse of Sri Lankan culture and many more glimpses to come by way of itinerary which stands ahead of you in the days to come. So as we proceed with the inaugural session, we now have the address by the Honourable Celina Ompeshi Kombani (MP), Minister of Constitutional and Legal Affairs, United Republic of Tanzania and the President of the Forty-Ninth Annual Session of the AALCO.

(iii) Statement of Hon. Celina O. Kombani (MP), the President of the Forty-Ninth Annual Session of the Asian-African Legal Consultative Organisation

Your Excellency Rauff Hakeem, Minister for Justice of the Democratic Socialist Republic of Sri Lanka,

Your Excellency Prof. G. L. Peiris, Minister for External Affairs of the Democratic Socialist Republic Sri Lanka,

Your Excellency Tan Sri Abdul Gani Patail, Attorney General of Malaysia and the President of the Forty-Eighth Annual Session of AALCO,

Your Excellency Mr. Justice Owada, President of International Court of Justice,

Your Excellency Prof. Dr. Rahmat Mohamad, Secretary General of the AALCO,

Honourable Ministers, Heads of Delegations, Distinguished Delegates and Observers,
and
Ladies and Gentlemen;

Kindly allow me at the outset, to take this opportunity, on behalf of my delegation, to thank the Government and People of Sri Lanka for the warm hospitality extended to us since our arrival and for the excellent arrangements and facilities made available to us.

Allow me also to express my deep appreciation to the Secretary-General and the AALCO Secretariat for the excellent arrangements made for the Session. I am grateful to all the AALCO Member States, the Secretary-General and the Secretariat for the support and cooperation extended to me as the President of the Forty-Ninth Annual Session.

In the same vein, I thank all the Honourable Ministers, Heads of Delegations, Distinguished Delegates and Observers, who have come all the way to Colombo to participate in this important event.

May I also take this opportunity to express my deep solidarity with the Government and people of Japan who have been affected by an earthquake, tsunami and nuclear radiation. We hope and pray that they recover from these calamities with all their courage as they have done in the past.

Excellencies, Ladies and Gentlemen, today we have assembled in this historic city of Colombo, capital of one of the founders of this esteemed Organization, Sri Lanka to attend the Fiftieth Annual Session of the AALCO. In five days, we are going to deliberate on important agenda items on international law which are of significant and common interest to the Asian-African countries. This, I believe will certainly help our Member States in consolidating their positions at the international level, which would reflect the aspirations of the Asian-African countries in the progressive development and codification of international law.

The Fiftieth Annual Session of the AALCO takes place at the time when countries in the world, especially developing countries in Asia and Africa are being faced with challenges of economic depression, food shortages, oil price escalations and inadequate energy supplies. These challenges are a draw-back to work still to be done in realizing the Millennium Development Goals, the alleviation of poverty in particular.

As developing countries in Asia and Africa, we must recall the spirit of the 1955 Bandung Conference, which requires us to join hands and exert our energy to contribute in finding solutions to the current world challenges. Armed conflicts, piracy, terrorism and other forms of organized crimes remain to be the challenges of the world.

Excellencies, Ladies and Gentlemen, the past 50 years have witnessed a significant development among African and Asian countries in political, social and economic areas. Most of these countries have managed to build democracy; to improve social services to

their people and to put in place strong economic systems. These achievements need to be protected by having a common voice in international bodies. In this regard, the AALCO as a legal consultative organization has to continue to discharge its obligations by broadening its participation in international legal matters especially those with economic dimension.

In this era of globalization, Member States have to equip themselves with skills relating to investment contracts and international business so as to be on an equal footing with developed countries. It is only through participation of the AALCO in international legal matters and its advice to Member States, the interests of Member States will be safeguarded against super powers.

Excellencies, Ladies and Gentlemen, since this is a Fiftieth Annual Session of our Organization, kindly allow me to reflect the achievements attained by the AALCO and challenges experienced by this noble Organization since its inception. One of the significant achievements since the establishment of the AALCO is the role played by this Organization in shaping international law. Since its establishment, the Organization has been examining international law matters, which are before the United Nations and specifically the International Law Commission and the Sixth Committee of the General Assembly.

In this endeavor, the Organisation managed to play a crucial role in shaping various areas of international law such as International Trade Law and related matters, Law of Treaties, Diplomatic Law, Oceans and Law of the Sea, Human Rights and Refugees and Humanitarian Law. You will agree with me that this Organization has done a commendable job in bringing us together all issues pertaining to international law of which we have a common interest.

As we all understand, our Organization is currently working on topics on agenda of the International Law Commission which includes among other things issues like reservations to treaties, the most favored-nation clause (Part II) and effects of armed conflicts on treaties. Other issues that are on current programme of the Organization are Environment and Sustainable Development Matters. Recognizing the significance of these issues to Member States, may I take this opportunity to urge all Member States to render full support to the Organization in its efforts of making sure that our two Continents are on equal footing with other continents when international law matters are in question.

Excellencies, Ladies and Gentlemen, the scourge of conflicts among Member States remains a challenge to the well being of our Organization. This state of affairs does not only tarnish the image of our Organization, but also accelerate poverty, diseases and other maladies to our people. It is high time now, we, as members of the AALCO, proposed methods under the umbrella of international law that may be used to end these unnecessary conflicts.

As we mark this Golden Jubilee, the Organization is facing acute shortage of funds. This state of affair in one way or another hinders the implementation of the activities of the AALCO. In my view, the best way to observe this golden jubilee is for Member States to honour their financial obligations to the Organization. May I, therefore, take this opportunity to urge Member States to timely pay their dues to the Organization.

Excellencies, Ladies and Gentlemen, my country, the United Republic of Tanzania, joined the AALCO family in the year 1973. Since then, Tanzania is very much committed to the cause of the AALCO. We consider that it was a great privilege and honour for us to host the Forty-Ninth Annual Session of the AALCO in the historic city of Dar es Salaam. The hosting of the Forty-Ninth Annual Session to us goes well with an old Kiswahili adage which says “*mgeni aje, mwenyeji apone*” meaning literally that “the arrival of a guest is a blessing to the host”. Indeed, the Forty-Ninth Annual Session was a blessing to us bearing in mind that despite the short notice, it was enriched by the participation of thirty out of forty seven Member States of the AALCO, two Observer Non-Member States and six Observers from International Organizations. Despite of that, the Session was a great success.

We had very productive discussions on the select items in the AALCO’s agenda. Also, the two half-day Special Meetings had the opportunity to discuss two important topics of concern for Asian-African countries, namely, “principle of complementarity and the crime of aggression” on one hand; and “Environment and Sustainable Development with the focus on Building Momentum towards Cancun Climate Change Negotiations” on the other the hand.

You may wish to note that, it was at the Forty-Ninth Annual Session that Member States endorsed the proposal by the Secretary General for the establishment of the AALCO Eminent Persons Group. The Group, of which my country is a member, will serve as an Advisory Body to the Secretary General in steering the work of the Organization. I am informed that the Group held its preliminary meeting on 26th June, 2011 at Cinnamon Lakeside Colombo. It is my sincere hope that the Group will identify issues of common concern amongst Member States and formulate strategies on how to address such issues and advise the Secretary General accordingly.

Excellencies, Ladies and Gentlemen, at this juncture, allow me to congratulate the Secretary-General, Prof. Dr. Rahmat Mohamad and his two Deputies for sparing no efforts in ensuring a fully functional Secretariat, which meets standards required for the Secretariat of an inter-governmental organization.

To conclude, I would like to, once again, thank all the distinguished delegates and observers, who are here to participate in this Session and wish you fruitful deliberations. Thank you for listening.

Master of Ceremony: Thank you. Sri Lanka has had a very long association with AALCO having been one of the Founder Member States. So, it is that at this historic Fiftieth Annual Session of AALCO, the incoming President is none other than

Honourable Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka. So, we extend a warm invitation to Honourable Rauff Hakeem, Minister of Justice to address this gathering.

(iv) Honourable Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka and President of the Fiftieth Annual Session of AALCO.

Bismillah ir Rahman ir Rahim.

Honourable Celina O. Kombani (MP), the Outgoing President of the Asian-African Legal Consultative Organization;

Mr. Justice Owada, the President of the International Court of Justice;

Her Ladyship Shiranee Bandaranayake, the Chief Justice of Sri Lanka;

Honourable G. L. Peiris, my co-host of this Conference and also the Keynote Speaker for this inaugural session;

Prof. Rahmat Mohamad, the Secretary-General of AALCO;

Tan Sri Abdul Gani Patail, the Attorney-General of Malaysia;

Their Lordships of the Supreme Court of Sri Lanka;

His Lordship the incoming Judge of the Court of Appeal of Sri Lanka; other Judges of the Court of Appeal;

Heads of Delegations, Their Excellencies, Distinguished Delegates,

Ladies and Gentlemen,

We have been keeping with the long tradition of harmony and co-existence, to greet you all in the traditional way in which the three ethnic communities in this country greet their guests,

“Ayubowan, Vannakkam, and Assalamu alaikum”.

This Fiftieth Annual Session of the Asian-African Legal Consultative Organization brings to my mind some nostalgic memories of this event when we in three previous occasions had the honour of holding the Sessions in Colombo. It is recorded that way back it was Sri Lanka along with India that proposed that the law creating the High Seas including the right to Sea-Bed subside in the Open Sea was mooted in Annual Session that was held here. And similarly it is also a matter of pride that on the last occasion when we hosted the Annual Session thirty years ago in 1981, this Organization which

upto then was continuing on a temporary basis every five years was made into a permanent Organization. And that pride too us in Sri Lanka we just share with the rest of the Member Countries.

Every time we host the Asian-African Legal Consultative Committee Annual Session, something significant happens to this Organization. Yesterday, we had the summoning of the first meeting of the Eminent Persons Group (EPG) – an idea that emanated from the previous sessions and we were fortunate enough, once again, to have one of our eminent jurists in it - Dr. Rohan Perera to be elected as the Chairman of the Eminent Persons Group. It was Rohan who told me that it was in the deliberations that took place in 1971 in Colombo, that the idea of Exclusive Economic Zone (EEZ) was created as the part of the law of the Seas. Since it was a very contentious issue to extend the territorial waters beyond twelve nautical miles as many maritime powers resisted that it would hinder their passage in the High Seas and it was the Asian-African Legal Consultative Organization that came up with the idea of the Exclusive Economic Zone which now extends to two hundred nautical miles and enables variety of jurisdictions to have exclusive economic rights to enjoy the resources of the Seas for all the countries spread across every continent in this world. Therefore, our Organization is the progenitor of many such new and varied legal principles and ideas that are now enriched the arena of international law. Therefore Ladies and Gentlemen, it is with imminent pleasure to be once again host and that too at this historic juncture where we mark the Golden Jubilee of this Organization.

Ladies and Gentlemen, in coming five days, we will be deliberating on a variety of current and relevant, matters of topical interest to us the Member Countries in this Organization. Our Organization is perhaps the only inter-governmental organization that spans two most populous continents of the world, Asia and Africa. The dynamism of this region and the growing economic clout of the most populous countries of this region gives us that much vaunted leverage in the efforts that we engage both in the UN General Assembly as well as the International Law Commission.

To us Sri Lankans, it is a matter of pride and as His Excellency President Mahinda Rajapaksa told you this morning, we too are at an important historic juncture of nation-building having overcome most atrocious and dangerous terrorist organization that has bedeviled our country's progress for several decades and we are now on the threshold of embarking on that important national reconciliation and resurgence in our economy. In taking forward this march, this Annual Session is being hosted in Colombo gives us that much needed impetus to surmount the obstacles and be the worthy citizen of the international community. With those comments, Ladies and Gentlemen, I wish this Annual Session a successful five days of deliberations and invite all of you, Heads of Delegations and members of the delegations to enjoy the hospitality and the serene beauty of this resplendent island of the Indian Ocean.

Master of Ceremony: Thank you very much Mr. President. May I now invite Judge Owada the President of the International Court of Justice.

(v) Speech by H. E. Judge Hisashi Owada, President of the International Court of Justice

H. E. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka,

Honourable Rauff Hakeem, Minister of Justice and President of the Fiftieth Annual Session of AALCO,

Honourable G. L. Peiris, Minister of External Affairs of the Democratic Socialist Republic of Sri Lanka,

Honourable Celina Ompeshi Kombani (MP), Minister of Constitutional and Legal Affairs,
United Republic of Tanzania and President of the Forty-Ninth Annual Session,

H. E. Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO,
Honourable Ministers,

Distinguished Delegates,

Ladies and Gentlemen,

It is an honour to be invited to the Fiftieth Session of the AALCO in Colombo today. As it is not always easy for me to meet with the distinguished delegates of AALCO as occasions arise, due to my heavy responsibilities at the Hague, as President of the International Court of Justice, I am particularly grateful to the Secretary-General of AALCO, Prof. Dr. Rahmat Mohamad, and the Government of Sri Lanka for inviting me to address you today on this felicitous occasion. Let me first of all offer my heartfelt congratulations, on behalf of International Court of Justice and on my own behalf, on this memorable Fiftieth Session of the AALCO.

It was over half a century ago in 1956 that the AALCO, or the Afro-Asian Legal Consultative Committee (AALCC) as it was then called, was created as an outcome of the 1955 Bandung Conference of Asian and African Nations. In those days I had just started my career in the Legal Department of the Foreign Ministry of my country and had the privilege of being 'present at the creation'. Since those early days of the creation of the AALCC, I have had a number of occasions to participate in the session of the AALCO, including the 1961 Session in Tokyo. Notable among my experiences with the AALCO was the time when I visited this city of Colombo for consultations with the Government of Sri Lanka during 1960s. I also represented the Government of Japan at the Karachi Session of the AALCC in 1969, which focused on the issue of the Vienna Convention on the Law of Treaties. Through these experiences, I have been witnessing a great number of contributions that AALCO has made to the development of international law in a different perspective.

Distinguished Delegates, since its creation over half a century ago, the AALCO has provided for countries in the regions of Asia and Africa an important forum to discuss many issues of great importance in the field of international law. Throughout its fifty year history the AALCO, as a major regional organization specializing in the field of international law, has fulfilled an indispensable function of disseminating information, conducting consultations and formulating recommendations on issues of international law from a regional perspective, which in turn has influenced the process of development of international law in the contemporary world. In this regard, the AALCO not only acts as a common forum for voices of Asian-African countries be heard and taken into account by a wider world as international law develops over time. In this way your Organization helps ensure the process of development of international law as truly the law of the global community.

A concrete example of this interaction can be seen in the role that AALCO has been playing in enabling Member States to contribute to the norm-creating process of international law. I have personally participated in this process, especially in the context of the United Nations Law of the Sea, as well as the United Nations exercise in drawing up the Declaration on Friendly Relations. Today this great tradition continues, as illustrated in the interaction between the AALCO and the International Law Commission (ILC) of the United Nations. Over the years, the AALCO has closely monitored the issues taken up by the ILC, as the Commission works in the field of codification and progressive development of international law. In this respect, the AALCO serves as an extremely useful forum for their views on the many important issues under discussion in the ILC. This process helps to contribute to the process through which the views of Asian and African nations are properly reflected in the work of the ILC and in the consolidation of the corpus of international law.

I believe that this task-the incorporation of views of Asian and African nations into the body of international law-is vitally important to the development of a truly universal international law, which in turn, forms the basis for ensuring the overall adherences of States to international law. Because the validity of international law derives from the consent of the members of the international community, each with its won historical, cultural, and social background, the challenge is to identify within this diversity common elements reflecting universal values that prevail in the world of today, so that a given rule of international law may be accepted as a common law of mankind that binds the members of this global community. Forums such as the AALCO facilitate the input of Asian and African nations to this process, thus contributing to development of international law. Such norms have followed the newly-born States of Asia and Africa to identify themselves with these legal norms as of universal validity through their active participation in the norm-creating process.

Similarly, in the field of norm-making process of international law, the growing participation of the AALCO and its Member States in the activities of the United Nations contributes to the more effective consolidation of the rule of international law in international relations. It is through this process that the United Nations and its principal organs, including the International Court of Justice, fortify their link with the AALCO, so

that the legal views of Asian and African States may be articulated and taken into account. It is gratifying in this sense that your Organization maintains a close working relationship with the United Nations and its principal organs, as well as its specialized agencies. In particular, the growingly active participation of Member States from Asia and Africa in the work of these Organizations is truly remarkable. This demonstrates their great willingness to be proactive players in the world arena. As the late Professor Georges Scelle, scholar of sociological jurisprudence of international law, stated, States are performing in the present structure of international law ‘double functions’ (le dedoublement fonctionnel) – they act at the same time as the norm-creating agents of the international community and as the addressees of these norms in the international community. The latter function of States as players in the norm-applying process of the community is as important as their former function in relation to the norm-creating process. In this regard also, as the role that the AALCO is playing is extremely important.

Thirdly, as for the role of States in the norm-enforcing aspect, I am happily impressed by the growing trend in recent years that nations from all corners of the world, but especially those from Africa and Asia are knocking at the door of the International Court of Justice for the judicial settlement of their disputes. The jurisprudence of the Court is considerably enriched by the contribution of different perspectives instilled into the deliberative process of the Court, due to the growing number of cases brought from these countries before the Court.

The Statute of the Court prescribes that the Court should be composed of a ‘body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required...for appointment to the highest judicial offices...’ (Statute of the Court, Art.2). Equally important is the prescription in the Statute that in the Court as a whole “the representation of the main forms of civilization and of the principal legal systems of the world should be assured.” (ibid., Art.9.). Reflecting this principle, out of a total of fifteen (15) judges, six (6) Judges come from the Asian-African region. In the last 30 years, five (5) out of the Court’s ten (10) Presidents have come from Asia and Africa.

Moreover, voices from countries in Asia and Africa, participating as parties in cases that come before the Court, are more frequently heard in the Great Hall of Justice on salient issues of contemporary international law, thus contributing to the universalization of international law. As I noted last year in my speech at the AALCO meeting at the United Nations General Assembly, in the past decade the Court had dealt with a growingly greater number of cases involving Asian-African countries.

As of today, of the thirteen (13) contentious cases currently pending before the Court, five (5) involve Asian-African countries as parties. The most recent case filed at the Court by countries of the region is the case between the Republic of Niger and Burkina Faso concerning the Frontier Dispute between the two countries. Another recent case between Cambodia and Thailand has also been filed by the Kingdom of Cambodia, on the interpretation of the Judgment that the Court had rendered in 1962. The 1962 Judgment related to a long-standing dispute between the two countries regarding

sovereignty over the Temple of Preah Vihear. At the same time as this filing, Cambodia requested, pursuant to Article 41 of the Statute of the Court, for the indication of interim measures and is currently in the process of deliberation.

As for Africa, an increasing number of countries from that continent have in recent years come to the International Court of Justice for a judicial settlement of their disputes. In fact, African States have been involved in no less than six (6) cases before the Court since 2000. With regard to Asia, there is also an increasing number of cases brought by States of that region, although they are fewer in number when compared to those involving African States. It may safely be said that it is no longer an exception for Asian States to appear before the Court for settling disputes by judicial means. This trend can be illustrated by such cases as the one between Pulau Ligitan and Pulau Sipadan (2002) and another between Malaysia and Singapore concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (2007). Both of these cases brought to the Court jointly by the parties by means of a special agreement (compromise). Currently the Court has also on the docket two (2) cases from the Asian region—a case between Cambodia and Thailand that I have already mentioned.

In addition to this growing willingness in the region of Asia and Africa towards referring concrete disputes to the judicial settlement by the Court, I can state with confidence that one can also witness a growing sign of confidence in the dispute settlement mechanism provided by the International Court of Justice. This is demonstrated by the fact that sixteen (16) of the forty-seven Member States of the AALCO have made a declaration accepting the compulsory jurisdiction of the Court to settle their international disputes.¹ This figure is on a par with the average ratio of acceptance by States of the compulsory jurisdiction of the Court under the Optional Clause on a global issue (66 out of 192). Encouraging as this figure is, it is my earnest hope that more members of the AALCO will ponder upon the importance of this mechanism for settling disputes on the basis of law, as effective means of protecting the interests of less powerful States and emulate the good examples of their fellow members of the AALCO. The presence of Asian and African nations before the Court will testify to the international community as a whole that the Court, as an impartial court of justice applying international law of a truly universal character, enjoys the full confidence of the Asian and African countries of the post-colonial era. It will also demonstrate that the nations of Asia and Africa are genuinely contributing to the norm-enforcing process of international law through such proactive co-operation with the Court. I sincerely wish that more AALCO Member States – and – especially its Asian members (which lag behind our African brethren in this respect)—will give serious consideration to making a positive use of the Court as an effective means of peaceful settlement of their disputes.

Distinguished Delegates, before I come to the end of my presentation, let me try to present to you briefly the recent trends in cases that have come before the International Court of Justice in recent years and try to draw some general conclusions.

¹ These include: Arab Republic of Egypt; Bangladesh; Botswana; Cameroon; Cyprus; the Gambia; India; Japan; Kenya; Mauritius; Nigeria; Pakistan; Senegal; Sudan; and Uganda.

Since the creation of the International Court of Justice in 1946, there have been 135 cases on which the Court has delivered Judgments or handed down the advisory opinions. The Subject-matters of these cases have been wide-ranging, evolving over the years from issues in traditional areas of international law, such as territorial disputes and diplomatic protection, to issues in new areas that have prominence against the background of the development of international law. These new issues relate to areas which used to be reserved for the exclusive control of State sovereignty as belonging to its “domaines reserves”. They are concerned typically with issues relating to human rights or the protection of environment, which are now growingly governed by international law, especially in the form of multilateral international conventions. What is significant to us in Asia and Africa is that many of these issues are often linked with situations that exist in our region of the world.

Let me illustrate this by a few examples: in a recent case which came before the International Court of Justice, two African States, the Democratic Republic of the Congo (DRC) and the Republic of Uganda, had a dispute concerning Armed Activities on the Territory of Congo. Central to this dispute, which related inter alia to the issue of the rule of law, was the treatment of individuals placed under the military occupation of another States from the viewpoint of their human rights. The Judgment of the Court in this case makes it clear that the issue of the rule of law at the national level which fell traditionally, by virtue of national sovereignty, within the exclusive domain of the State. In many of the legal systems, the international rule of law now prescribes the normative contents of the rule of law at the international level. As a result of development in international conventional and customary law, the fundamental human rights of individuals are now essentially matters regulated by international law and lie beyond the power of any single State to determine and regulate.

Another recent case involving and African States is the case concerning Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal). The case was instituted by Belgium before the Court against Senegal on 19 February 2009, on the ground that a dispute allegedly exist between the Kingdom of Belgium and the Republic of Senegal regarding “Senegal’s compliance with its obligation to prosecute [the former President of Chad, Hissene Habre] or to extradite him to Belgium for the purposes of criminal proceedings”. Belgium also submitted a request for the indication of provisional measures, in order to protect its rights pending the Court’s Judgment on the merits. This case represents a new trend in cases before the Court pertaining to areas which have traditionally been of no concern to international jurisdiction. Issues arising in these areas are now being revisited in the new context of emerging reality of globalization, and in the new light of growing awareness of human dignity as the core value of the global community. This is an extremely interesting but challenging development, where a fresh look is being called for on the role of national jurisdiction in the context of the implementation of international norms. This case is still sub judice. The Court’s earlier case of Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium) also reflects the same trend to a certain degree.

A case between Argentina and Uruguay concerning Pulp Mills on the River Uruguay presents another interesting insight into the expanding area of international law-that is, international law of environment. While this case was brought before the Court by two Latin American States and did not involve any Asian or African States, it nevertheless dealt with a new issue of growing importance to the countries of the developing world-that is, the international law of environment- an issue closely linked with the issue of sustainable development. Argentina brought this case against Uruguay on the allegation that the construction of pulp mills by Uruguay on the Uruguayan side of the bank of River Uruguay, a river that defines the border between the two States, constituted a breach, committed by Uruguay, of obligations under a bilateral treaty between the two States, as it arose out of “the authorization, construction and future commissioning of two pulp mills on the River Uruguay”, with reference in particular to ‘the effects of such activities on the quality of the waters of the River Uruguay and on the areas affected by the river”.

This case ended with the Judgment of the Court in 2007 in which the Court states that “Uruguay has not breached its procedural obligations [under the Treaty]” but that “Uruguay has not breached its substantive obligations [under the Treaty]”. In this sense, this Judgment was not conclusive in establishing the principles governing the use of waters of an international river, but it is significant as a harbinger of the future development of law of environment in this as yet uncultivated territory of the law.

Distinguished Delegates, these changes in international legal order acquire particular significance in the context of promoting the rule of law at an international level. Especially where national institutions are weak, non-existent, or oppressive, the promotion of the international rule of law takes on an enhanced importance.

Excellencies, Distinguished Delegates, I wish to conclude my remarks by reiterating my congratulating message: over a span of more than fifty (50) years, the AALCO has made a sizeable contribution to the development of contemporary international law. I salute the AALCO for this achievement, and wish that this past achievement will be successfully carried forward into the future over the next fifty years.

In closing I should like to reiterate my thanks to the organizers of this Fiftieth Session and the Government of the Democratic Socialist Republic of Sri Lanka for offering me this opportunity to speak to you today representing the International Court of Justice. Thank you so much.

Master of Ceremony: Thank you Your Excellency. Before we proceed with the Keynote Address, if any of the delegations has any problem with the Headsets I just like to let you know that there are technicians who are available on either side of the Hall, you can identify them by their black coloured T-shirts with a blue collar. They will be on either side and please do signal to any one of them if anyone has problem with the Headphones for assistance.

So that being said, we proceed with the Keynote address by Honourable G. L. Peiris, Professor of Law and Minister of External Affairs of the Democratic Socialist Republic of Sri Lanka.

(vi) Keynote Address by Honourable G. L. Peiris, Professor of Law and Minister of External Affairs of the Democratic Socialist Republic of Sri Lanka.

The Outgoing Chair of AALCO Madam Kombani,

The Incoming Chair my colleague the Honourable Rauff Hakeem, Minister of Justice,

The President of the International Court of Justice, Judge Owada,

Your Ladyship Dr. Shiranee Bandaranayake, Chief Justice of Sri Lanka,

Judges of the Supreme Court, Judges of the Court of Appeal,

Your Excellencies Heads of Delegations,

Distinguished Delegates, Ladies and Gentlemen,

We are obviously very proud of the choice of Sri Lanka as the venue of these deliberations especially because as His Excellency Mahinda Rajapaksa pointed out this morning in his inaugural address these discussions represents a milestone in the development in the evolution of AALCO. It represents a half century of development of rich and varied contribution to the jurisprudence of the world.

Another aspect of these deliberations is the activity with which you have chosen the themes that are going to be discussed, which have been very carefully chosen. And they have immense practical relevance and importance in the context of the continents of Asia and Africa and certainly in the context of the current priorities in our own country Sri Lanka.

If we take a few examples that are going to be discussed in relation to the subject-matter of piracy, the regime of the oceans and the security of Seas, this is a matter of concern for many of our countries. Sri Lanka has not been very seriously affected but some of our fishermen have been held hostile and the Government of Sri Lanka has to intervene on several occasions to ensure their safe return to our country. Now there are many issues in this area which need to be addressed among us. As His Excellency Mahinda Rajapaksa told us this morning there is a significant lacuna in international law and practice with regard to the retention of ransom money. Today the people who benefit from piracy are not the pirates themselves, but the people who organize these criminal activities. And it has been found exceedingly difficult in the current international law as it is currently structured, to follow the money that has been paid as ransom and restitution of these resources is exceedingly difficult. This is certainly an area in which we have to concentrate on. When the way in which these activities are organized in a very

sophisticated and orchestrated manner, how do you deal with them? How do you take action in particular country where the criminal activity is taking place? How do you achieve far better coordination which is one of the yawning gaps in the system? How do you bring together the different agencies which have functions to perform in respect of these different issues? And when you bring these people to trial who would actually be responsible for the adjudication? Who would pay for it? Sometimes the countries have taken initiatives to apprehend the criminal they have to bear the brunt of the financial expenses. So with regard to enforcement, there are many unresolved issues, which call for the urgent attention of the international community. And these deliberations in Colombo, I think, will provide us with a very appropriate forum to address some of these issues in detail.

Then take the whole area of sustainable development and the protection of the environment, His Excellency President Rajapaksa said that throughout his political career he regarded one matter as being of cardinal importance and it is this: “the solutions that we evolve in our countries have to be in harmony with the value systems and cultural traditions which we have nurtured and developed over the centuries.”

Judge Hisashi Owada, in his statement few minutes ago, pointed out that out of 15 judges of the International Court of Justice; six come from the Asian region. He also pointed out very convincingly that more and more Asian countries are relying upon the jurisdiction of the International Court of Justice to arrive at solutions to their problems which are dealt not by having recourse to force but the application of corpus of international law. If that is so, I am sure Judge Owada, would have hesitatingly agreed that was explicit in his remarks that the culture of the countries in the West is of paramount importance. We are holding these discussions in the month of June which has special significance in setting cultural warriors in our country because June is the month during which Buddhism was brought to Sri Lanka. It was brought here by the son of the Emperor Ashoka during the time of King Devanampiya Tissa, who was one of the celebrated kings of this Island during the Anuradhapura Period. Emperor Dharma Ashoka sent his son Arhat Mahindra with the sacred message of Buddhism and in the Mahavamsa, which is the ancient chronicle of our history, there is a very moving passage in which there is a description of the Arahat Mahindra standing on a rock in Anuradhapura that is the North central province in Sri Lanka, King Devanampiya Tissa is aiming his arrow at a deer. Arahat Mahindra addressing the King said that; “O King!, mighty as you are! You are not the owner of the environment. You are duty bound to handover the environment around us, the rivers, the valley, the mountains, and the streams in the pristine state of purity in which you inherited this environment from those who went before you – Your ancestors”.

Now this is, I think, the genesis of the concept of trusteeship as it is known to both domestic and international legal systems - the concept of trusteeship, not full ownership. Sri Lanka in keeping with the tenets of the culture has always believed that there is no dichotomy and no conflict between the imperatives of economic development on the one hand, and the vital issues connected with the issue of prevention of degradation of the environment. These are the two sides of the coin. There was no objection to this. His Excellency President Rajapaksa, told us that Sri Lanka is today achieving economic

development at the threshold of more than 8%. But while we do that, we take immense care that the economic development we achieve is sustainable. And it is sustainable only if it is achieved in consonance with the purity and integrity of the environment. So these are complementary from the antagonistic concept.

Then again you propose to address, as my distinguished colleague the Honourable Rauff Hakeem said during the next three days issues connected with migrant labour, the foreign exchange which Sri Lanka's sons and daughters earns for us in lands beyond this Sea, the money that they remit to the national exchequer, represents more than three billions (three thousand million) US Dollars. It is the largest source of foreign exchange earned by Sri Lanka and is a major contributory factor to the accelerated economic development which His Excellency President Rajapaksa referred to. I think this is a very appropriate forum to address some of the issues connected with migrant labour as they toil and render their unique assistance to the economy of Sri Lanka. There is obviously a reciprocal obligation which the Government of Sri Lanka needs to acknowledge in respect of these persons. My own ministry, the Ministry of External Affairs, is at the very moment concentrating on a variety of modalities which would enable Sri Lanka's mission abroad to accept series of responsibilities with regard to enforcement of the provisions that are contained in the agreement that are signed between these people who were abroad and the people who employ them. In order to ensure that there is no departure from the terms that are agreed upon, as an integral part of the contractual arrangements.

We are also focusing on insurance. How do you refine and invigorate mechanisms of insurance to ensure that these people have the full benefit of the protection of insurance when that is called for. I think you might consider the need for more effective training before people are sent abroad in search of employment because that would significantly diminish the opportunities for abuse which we hear off far too often. So, this one area of migrant labour is important. About six weeks ago, there was a seminar in Dhaka, Bangladesh which was called the Colombo Process that brought together representatives of countries from which these people go abroad to try getting employment and representatives of countries which arrange for these people to come back to their countries. A meeting of minds in this area which proved to be exceedingly fruitful was concluded in the capital of Bangladesh very recently.

Another topic that you are addressing is trafficking in women and children, which is assuming increasing and distressing importance in many of our countries. I think these are the areas in which innovative legal concepts and approaches are necessary. President Rajapaksa said in his inaugural address that the approaches of the law, legal values, the assumptions on which the law is based must be restructured in keeping with far reaching changes that are taking place in the social fabric of many of our countries. I think the time has come to locate modalities like mandatory minimum sentences, the conventional approach of the criminal law has of course been to prescribe maximum penalty and to leave it to the discretion of the judge to decide what the appropriate penalty would be in the circumstances of the specific cases, may be, in some of the grave crimes like trafficking in women and children there should be mandatory minimum penalty, which would sort to curtail the discretion that is available to judges. I think we also have to

address in earnest some of the issues connected to shifting of burdens. The conventional approach is founded upon principles such as the presumption of innocence, the privilege of silence, the privilege against compulsory self-incrimination; these are the pillars of conventional criminal law. But in the age in which we live and having regard to the magnitude of the problems which are the reasons in certain areas, I think it is entirely proper to think of putting limited burden on persons who are accused with grave crimes. Of course with the possibility of rebuttal, some of these innovative changes in the law of evidence should also warrant the attention of the distinguished legal luminaries who are gathered here on this occasion.

Now I would like to tell you that as far as the Government of Sri Lanka is concerned, we will be addressing these issues in keeping with certain values which we believe to be sacrosanct. As Judge Owada has said, each country has its own culture; Sri Lanka is known for a compassionate culture and a caring society. Take our law relating to family relations itself now, in many countries of the West of course universally, the child can claim maintenance and support from the parents. But in Sri Lanka today, as in other Asian countries, we have evolved a law in principles of which indigent parent, a parent who has looked after the child, who now finds himself/herself destitute in old age, can assert not only moral but legal obligation for support from child. In a famous Sri Lankan case, the Supreme Court held that, in these circumstances, the parent can go into court and compel the child to support the parent if the child has wilfully and persistently refused to do so.

The whole of our labour law is based on moral values. The employer is something like a paterfamilias in the Roman Law and we have avoided confrontational approaches in the development of our labour laws. The foundations of our labour law have much in common with the cultural underpinnings of the laws of Japan which were founded upon comparable, although not identical, premises. So a compassionate and caring society is one of the cornerstones of the social policy which has permeated the evolution of Sri Lanka's legal system.

The second characteristic is a people-oriented and people-based approach to the development of our law. We have taken very seriously the need to protect the disadvantaged sections of the community as President Rajapaksa said. They must benefit fully from the mechanisms of the law. A poor person, an ignorant person, a person who is not able to assert his legal rights in the traditional way can invoke the jurisdiction of the Supreme Court by simply scribbling with a pencil on a postcard and sending that envelop to the Supreme Court. It is possible to dispense with procedural technicalities and refinements. This is the famous concept of epistolary jurisdiction, the origins of which are to be found in the celebrated judgments of the former Chief Justice of India, Shri P.N. Bhagwati.

So, this is a form of affirmative action. You bring your grievance, however poor, however weak, however impoverished you may be, to the attention of the Supreme Court and you can look forward to an effective and viable remedy. Of course I think you have also to consider the parameters or the limits of such jurisdiction. Judicial activism

is fine, but it must also have its limits if you are to respect the principles relating to the separation of powers. When this jurisdiction was increasing by leaps and bounds in India, there was a famous case in which the Supreme Court of India was asked to rule that a monopoly in India, the Railway Authority, was charging an exorbitant sum for travel by train between Delhi and Allahabad.

The argument was that this was oppressive and the Supreme Court was invited to reduce the railway charges. The Supreme Court of India, declining jurisdiction, held that this is not a matter for them. This is a matter for the Executive. Institutionally, the Court was not equipped to deal with a matter of this nature. Therefore, they held that it was outside the domain of the judiciary and the proper organ of government must deal with the matter.

In Sri Lanka we had a situation some years ago, when attempt was made to ask the Supreme Court to determine the oil prices on the amount of money a citizen of Sri Lanka for a litre of petrol/diesel. Now the question is whether these are matters for judiciary or whether they would constitute an encroachment upon the functions that are described to the other organs of the government. So fundamental rights are a very salutary jurisdiction, but the confines within which it can realistically be exercised, must I think engage the attention of jurists and judges.

Then again we must focus on the law's delays, because "justice delayed is justice denied." In that connection another topic that you are addressing, namely commercial arbitration, is of great practical importance. We certainly have found in our country that when it comes to the resolution of commercial disputes, the adversarial postures which are typical of the criminal law, for example, are no longer appropriate and informal modes of dispute resolution such as conciliation, mediation and arbitration are far more suitable.

Then, finally, you are addressing matters connected with intellectual property. Justice Owada in his remarks pointed out how the International Court of Justice is no longer confined to traditional areas of jurisdiction, he said such as territorial disputes and diplomatic protection. As society develops, the focus of the law, the priority, will naturally change.

So matters connected with patents, trademarks, copyrights, antitrust law, unfair competition, these are assuming increasing importance in our countries. And you are particularly discussing the topic of folklore. People of Asia and indeed Africa are creative people. So you need to protect their intellectual creations, because those are also worth money. It is not just money and chattels and houses, other forms of tangible property but creations of the mind, songs, novels, inventions must also be fully protected. And I am happy this is also receiving a very sharp focus in your deliberations.

These are the reasons Your Excellencies and distinguished delegates, why, on behalf of the government of Sri Lanka, I would like to tell you that we are exceedingly happy that these deliberations are taking place in our country, at a particularly significant juncture in our contemporary history of this island. We welcome you very warmly and we hope very

much that, apart from your rich deliberations, you will find some time to savour for yourselves the scenic beauty of our country, the warmth and hospitality of our people and the vibrancy of our culture and this will induce you to return to this island again and again. I thank you.

Master of Ceremony: Thank you Honourable Minister. Now, Ladies and Gentlemen, before we proceed to vote of thanks, we have some mementos which would be presented by the Secretary-General of AALCO, H. E. Prof. Rahmat Mohamad, to several great personalities in great appreciation of the association that they have had with this Fiftieth Annual Session and indeed at the inauguration. The presentation will be made at this juncture to Honourable Celina Ompeshi Kombani (MP), Minister for Constitutional and Legal Affairs of the United Republic of Tanzania and the President of the Forty-Ninth Annual Session of the AALCO. The presentation as a memento of appreciation will be made at this juncture to Her Ladyship Honorable Dr. Shiranee Bandaranayake, Chief Justice of the Democratic Socialist Republic of Sri Lanka. A presentation to Honourable G. L. Peiris, Professor of Law and Minister of External Affairs, Democratic Socialist Republic of Sri Lanka who delivered the Keynote Address. H. E. Justice Owada, President of the International Court of Justice is receiving the memento now. The Honourable Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka and the Incoming President of the Fiftieth Annual Session of AALCO receiving the presentation. A presentation will also be made to Honourable Justice Priyasath Gerald DEP, President's Counsel Justice of the Supreme Court of Sri Lanka, because of the association that he has had with the AALCO and his tremendous contribution while he was the Solicitor-General of the Democratic Socialist Republic of Sri Lanka - A token of appreciation to Honourable Justice Priyasath Gerald DEP. And a presentation to Tan Sri Abdul Gani Patail, President of the Forty-Eighth Annual Session of AALCO.

So, Ladies and Gentlemen what remains of the Inaugural session is the proposal of vote of thanks and that will be done now by Honourable Tan Sri Abdul Gani Patail, Attorney General of Malaysia and the President of the Forty-Eighth Annual Session of AALCO.

(vii) Vote of thanks by Honourable Tan Sri Abdul Gani Patail, Attorney General of Malaysia and the President of the Forty-Eighth Annual Session of AALCO

Honourable G. L. Peiris, Professor of Law and Minister of External Affairs of the Democratic Socialist Republic of Sri Lanka,

Honourable Rauff Hakeem, the Minister of Justice, Democratic Socialist Republic of Sri Lanka who is also the Incoming President of the Fiftieth Annual Session of AALCO,

Honourable Celina Ompeshi Kombani, Minister for Constitutional and Legal Affairs of the United Republic of Tanzania and the President of the Forty-Ninth Annual Session of the Asian-African Legal Consultative Organisation,

Honourable Mrs. Eva Wanasundera, the Acting Solicitor-General, Democratic Socialist Republic of Sri Lanka,

Honourable Chief Justice of Sri Lanka Her Ladyship Dr. Shirani Bandaranaike,
Democratic Socialist Republic of Sri Lanka,

Honourable Mr. Justice Owada, President of the International Court of Justice,

His Excellency Professor Dr. Rahmat Mohamad, Secretary-General of AALCO,

Honourable Ministers, Attorneys-General, Heads of Delegations, Distinguished Delegates and Observers,

As the President of the Forty-Eighth Annual Session of AALCO, on behalf of the Member States of AALCO, allow me to begin by expressing my congratulations to the Democratic Socialist Republic of Sri Lanka for hosting the Golden Jubilee of the Annual Session of AALCO. This Fiftieth Session is indeed a momentous and significant event for AALCO. It bears a clear testimony of the important role of AALCO in meeting the expectations of its Member States despite the challenges faced since its inception in 1956.

The presence of His Excellency Mr. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka with us today lends credence to the significance of AALCO in advancing the causes of the Member States in the two continents.

Our most sincere thanks go to the Honourable Celina Ompeshi Kombani, as the President of the Forty-Ninth Annual Session of AALCO for successfully guiding the activities and works of AALCO during the last one year. We have been informed that she had also presided over the meeting of AALCO Legal Advisors which was held on the sidelines of the Sixth Committee of the Sixty-third United Nations General Assembly Session in New York at the end of the year 2010.

His Excellency Professor Dr. Rahmat Mohamad and his Secretariat officials and staff should be commended for their untiring efforts in carrying the objectives of AALCO during the last few years by continuously finding solutions to address both administrative and financial constraints. I believe that the Member States of AALCO should undertake the necessary action to protect the interest and viability of AALCO. I do pray and hope that the Secretary-General should be spared from going through the same experience and challenges this year. He and his staff should instead be able to focus their efforts and energy in enhancing the future work for AALCO particularly, in carrying out the mandate as set out in the Putrajaya Declaration. It is of utmost importance that Member States of AALCO are able to enhance its cooperation and stand united to speak with one voice to safeguard the interest of our nations, of course it would be at international fora.

Let us be reminded that this organization is purely a legal organization and is non-political organization which lends credence to the principles that has been accepted in the previous Annual General Meetings of AALCO.

Ladies and Gentlemen, in conclusion, we thank the Government of the Democratic Socialist Republic of Sri Lanka for hosting this Annual General Meeting of AALCO. Thank you very much.

**IV. VERBATIM RECORD OF THE
FIRST MEETING OF
DELEGATIONS**

**IV. VERBATIM RECORD OF THE FIRST MEETING OF DELEGATIONS OF
AALCO MEMBER STATES HELD ON MONDAY,
27 JUNE 2011 AT 12.50 PM**

Her Excellency Ms. Celina Ompeshi Kombani (MP), Minister of Constitutional and Legal Affairs, United Republic of Tanzania and President of the Forty-Ninth Annual Session of AALCO in the Chair.

President: Thank you very much. Let me call the First Meeting of Delegations of AALCO Member States to order. The first item on the agenda of the Fiftieth Annual Session is adoption of the “**Provisional Agenda and Tentative Schedule of Meetings and Events**”. As there are no comments we adopt the Agenda and Schedule of Meetings as proposed by the Secretary-General, for the Fiftieth Annual Session.

The second item on the agenda relates to the “**Admission of Observers**”. We have Observers from Russian Federation, Republic of Kazakhstan and DRC Congo. From International Organizations we have the Saudi Fund for Development, Indian Ocean Marine Affairs Cooperation (IOMAC), International Committee of the Red Cross (ICRC), United Nations Environment Programme (UNEP), United Nations Development Programme (UNDP), and the International Court of Justice (ICJ). As there are no comments, I consider that the participation of Observers is approved by this meeting.

President: Now we move on to the third agenda item “**Election of the President and the Vice President of the Fiftieth Annual Session**”. Any proposals from the floor? Kenya.

The Leader of Delegation of Kenya: Thank you Madam President. It is my honour and privilege to propose Mr. Rauff Hakeem, the Minister of Justice, Democratic Socialist Republic of Sri Lanka, for the President of AALCO. Mr. Hakeem has a very distinguished record. For over twenty-seven years he has been Attorney-at-Law at the Supreme Court of Sri Lanka. Through the years he has served in various capacities in the Government, including important ministries such as Posts and Telecommunications, Trade and Development and currently he is serving as the Minister of Justice. Apart from the fact that at one time, he was the Chairman of an important committee, that of the Public Accounts Committee of Parliament. In 1988 he was chosen as the most outstanding person of the year in Political and Government Affairs category in Sri Lanka. I recommend Honourable Rauff Hakeem as President.

President: Thank you. Now I invite Japan.

The Leader of delegation of Japan: Thank you Madam President. I second the proposal by the Honourable Attorney General Wako, of Kenya to elect Honourable Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka, as the President of this Fiftieth Annual Session of AALCO. Thank you.

The new President was elected by applause.

President: Now we move on to the “Election of Vice-President”. I now give the floor to the People’s Republic of China.

Leader of Delegation of the People’s Republic of China: Madam President it is my honour and privilege to propose Mrs. Ifeyinwa Rita Njokanma, Director, International Law Department, Federal Ministry of Justice, Nigeria, as the Vice-President of the Fiftieth Annual Session of AALCO. Mrs. Njokanma has a LL.B Honours from the University of Lagos. She has been the Legal Adviser to many ministries in Nigeria. She has also been the Legal Adviser to the Public Housing Department of Nigeria. Further, she was the member of the West Africa Technical Committee of Water Resources and Principal Prosecutor for the Miscellaneous Offences Psychotropic Substances and Hard Drugs. I am confident that with her wide knowledge and vast experience in international law matters, she will she will guide the Organization as a Vice-President in an effective manner. Thank you Madam President.

President: Now I call upon Brunei Darussalam.

The Leader of Delegation of Brunei Darussalam: We have the honour to second the nomination of Mrs. Ifeyinwa Rita Njokanma, as Vice-President of the Fiftieth Annual Session. Thank you.

President: The next item on the agenda is the “**Establishment of the Drafting Committee**”. The Drafting Committee will be chaired by Ms. Sriyangini Fernando, Former Additional Legal Draftsman and Current Consultant to the Ministry of Justice, Democratic Socialist Republic of Sri Lanka and Mrs. Indika Demuni de Silva, Deputy Solicitor general, Attorney General’s Department, Democratic Socialist Republic of Sri Lanka, will be the co-chair of the Drafting Committee. Any delegate who wishes to participate in the working of the Committee can give his or her name to the Secretariat of AALCO, if they want to do so. Now with pleasure I invite the President designated to come over and take the chair.

(The President of the Fiftieth Annual Session assumed seat on the Dias)

The Outgoing President: The election of H.E. Mr. Rauff Hakeem, the Minister of Justice, Democratic Socialist Republic of Sri Lanka, and Madam Ifeyinwa Rita Njokanma, as President and Vice-President of the Fiftieth Annual Session, respectively, marks the end of my tenure as President. May I take this opportunity to sincerely congratulate both of you for being elected, at a time when we are marking the Golden Jubilee of Annual Sessions of the Organization, is indeed a blessing to you. I thank all the Heads of Delegations for successfully electing you both. Once again allow me to sincerely express my heartfelt appreciation to Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO, his two Deputies and the Secretariat for the support and cooperation extended to me in the discharge of my duties as the President of the Forty-Ninth Annual Session. May I request them, to extend the same kind of support and cooperation to the

President of the Fiftieth Annual Session of this noble Organization. In the same vein I once again thank you all Member States for rendering me support and cooperation during the Presidency, and urge the Member States to extend the same support and cooperation to the President of the Fiftieth Annual Session of AALCO. You must have to know to realize that I took over the Presidency from Honourable Mathias Chikawe, a lawyer by profession, elected by the Forty-Ninth Annual Session of AALCO in Dar es Salaam. It was indeed a privilege and honour and a life time experience for me to lead an Organization of legal minds. Taking this opportunity to thank you all for your cooperation and wish you all the best. Mr. President I wish you all the best too. Thank you.

Hon'ble Rauff Hakeem, Minister of Justice of the Democratic Republic of Sri Lanka: President of the Fiftieth Annual Session: Madam Celina Ompeshi Kombani, the outgoing President of AALCO, thank you very much for the kind sentiments that you expressed in your address, and it is also a bounden duty on behalf of the Organization to thank you most profoundly, for your stewardship of this Organization during the past year. Certainly your able guidance has assisted the Secretary-General and his staff in carrying out the worthy objectives of this vibrant Organization. Having said that, it is also incumbent upon me, as tradition demands to thank the proposer and seconder, of the motion to elect me as the in-coming Chair of AALCO. In that regard my heartfelt thanks go out to the Head of the Delegation of Kenya, the Honourable Attorney-General of Kenya and also to the Head of Delegation of Japan, which incidentally was a country which was among the first seven to have initiated this worthy Organization.

Having said that, dear Members, Heads of delegation, Ladies and Gentlemen, it is indeed a great honour and privilege for me to be elected to chair this Organization in its Fiftieth Annual Session, to guide the Organization for the next one year, before the next chair takes over. It would be my privilege to work along with the Secretary-General and his staff, to make AALCO a vibrant Organization with an increased role in social, economic and political issues, particularly in the legal sphere, to increase the leverage we have with the international organizations, with whom we deal with. We would endeavour to take new initiatives in the law and policy reforms in general, in keeping with tradition with the International Law Commission (ILC). In this regard we are pleased that we have managed to set up the Eminent Persons Group (EPG), within this Organization, which will guide us in selecting the necessary topical subjects which are relevant to the current climate of discussions. Then we also should focus on Training and Capacity Building Programmes, targeting Member States in the legal and international trade areas, particularly there has been request from all over, to increase capacity of our Member Nations in these areas in particular and of course in any other area where requests are forthcoming.

It would also be useful to set up a steamed up consultative mechanisms for the purpose of furtherance of AALCO objectives, and I am sure the EPG would be helpful to the President and the Secretary-General in designing this consultative mechanism, for us to take forward our deliberations in the future. As a matter of fact I am told that the first meeting of the EPG, that suggestions had come about also to restructure the way in which

we engage in our deliberations during the Annual Sessions. It has been suggested as an alternative to look at working groups to be set up, on different subjects, so that in-depth discussion could be held with specialized experts from different countries, into different areas of concern to all the Member States. Of course that is a matter for consideration for the Plenary and I am sure these are issues we can consider as time goes along. Then of course the review of the AALCO objectives itself to include current issues on the AALCO agenda.

Then, we have to look into other matters relating to structural changes, if need be, so that we will make this more useful and interesting to the participants. Of course it is important for us as time goes along to look at the review of the AALCO Statute itself, to accommodate the changes we need to bring into our deliberations. There is also the all important need for inter action with multilateral agencies and other sister organizations, to take forward our objectives. Certainly, during my tenure I hope we will be able to persuade and encourage more Member nations to join this worthy Organization, from our two continents, and that too would be a focus of attention of my period of Presidency. Having said that may I once again thank all of you for your support in electing me to this chair and to place the trust in me to guide the Organization and assist the Secretary-General to carry on the worthy work of this institution. Thank you.

President: I have the pleasure of inviting Mrs. Ifeyinwa Rita Njokanma, the Vice-President to join me at the head table.

President: Now we move on to the next agenda item **“Establishment of the Drafting Committee”**: As the delegations are aware, the Drafting Committee is mandated to prepare the drafts of Resolutions, Summary Report and the Message of Thanks to the President of the Democratic Socialist Republic of Sri Lanka. **Ms. Sriyangini Fernando, Former Additional Legal Draftsman and Current Consultant to the Ministry of Justice**, Democratic Socialist Republic of Sri Lanka and **Mrs. Indika Demuni de Silva, Deputy Solicitor-General, Attorney General’s Department**, Democratic Socialist Republic of Sri Lanka are being appointed as Chairperson and Co-Chair respectively of the Open-Ended Drafting Committee to steer its activities. The Delegations who wish to participate in the work of the Drafting Committee are requested to hand over their names to the AALCO Secretariat. In due course the Chairperson of the Drafting Committee would inform the Member States about its first meeting.

The Meeting was thereafter adjourned.

V. VERBATIM RECORD OF THE FIRST GENERAL MEETING

**V. VERBATIM RECORD OF THE FIRST GENERAL MEETING
HELD ON MONDAY, 27 JUNE 2011 AT 1.15 PM**

His Excellency Rauff Hakeem, President of the Fiftieth Annual Session of AALCO in the Chair.

President: I call the First General Meeting to order and it is my pleasure to invite the Honourable Attorney-General of Malaysia who has kindly requested to speak first during the session. Honourable Tan Sri Abdul Gani Patail, Attorney-General of Malaysia.

GENERAL STATEMENTS

The Leader of Delegation of Malaysia: Thank you Mr. President.

His Excellency Mr President, His Excellency the Secretary-General, Excellencies, Distinguished Delegates, Ladies and Gentlemen. On behalf of my delegation, allow me to take this opportunity to thank His Excellency, the President of this Fiftieth Session of AALCO, the Secretary-General of AALCO, the Host Country and AALCO Secretariat for the excellent arrangements made for this AALCO session. Our heartfelt gratitude also goes to the Organizing Committee for the warm hospitality and the tireless efforts in making our stay here a most pleasant and memorable one.

Your Excellency, may I on behalf of my delegation congratulate your appointment as the President of this Session. We look forward to working with you. We believe Your Excellency will be able to carry forward the work of AALCO and would be able to point us in the right direction noting the cause and taking into considerations of all the meetings, acceptance and agreements by the various member of the AALCO.

Your Excellency, my delegation would also like to express our appreciation to the AALCO Secretariat for its efforts in conducting a detailed and in-depth analysis of issues in international law relevant for both Asian and African Regions. The reports provided by the Secretariat are extremely useful particularly in providing the updates of current international law issues and developments. Malaysia looks forward to the exchange of views with Member States on the issues that has been included in the Agenda for this Fiftieth Annual Session. In this regard, Malaysia has always regarded AALCO as one of the most effective mechanism in addressing issues of legal concern from both the Asian and African regions. The deliberations at AALCO and the views of AALCO Member States should continue to be used as a basis to put forward AALCO's views in a more consolidated and meaningful manner.

My delegation notes with interest of the topics that are being placed on the agenda of this Session. Malaysia will place its views, comments and observations on the deliberated items and non-deliberated items. However, given the significance of some of the deliberated items on the agenda, Malaysia would like to highlight some reaction given our domestic considerations.

Mr. President and Distinguished Delegates, on the topic relating to the international legal and policy framework on trafficking, it is essentially just a little more than a decade old. In 2000, the year the Trafficking Protocol was adopted, there was no international legal definition of trafficking and no political consensus on the nature of the problem. Apart from a few vague and rarely invoked treaty references, there was very little in the way of tangible obligations despite its pride of place on the political agenda. The assurance of legal and policy safeguards towards victims of trafficking has always been important to Malaysia, who is committed to work towards the suppression and subsequent abolition of all forms of trafficking which remains a prevalent issue of concern for both the Asian and African regions.

In that vein and recalling the Resolution on “*Establishing Cooperation Against Trafficking In Women and Children*” adopted by AALCO during its Forty-Ninth Annual Session, wherein AALCO Member States mandated the Secretary-General to constitute an open-ended Committee of Experts to conduct study on ways and means to enhance mutual legal assistance in criminal matters, my Chambers has hosted the “*Workshop on Trafficking in Persons, Smuggling of Migrants and International Cooperation*” in collaboration with the AALCO Secretariat in Putrajaya from 24 to 26 November 2010.

The Workshop focused on the international legal frameworks relating to trafficking in persons and the smuggling of migrants and the sharing of experience among AALCO Member States in their criminal justice responses against trafficking and smuggling operations. The Workshop also explored themes in international cooperation, in particular mutual assistance in criminal matters and extradition in the contexts of human trafficking and migrant smuggling. At the conclusion of the Workshop and in noting the negative impacts and dangers of human trafficking and migrant smuggling on both the individual and the community, Malaysia proposed for AALCO Member States to begin work on the elaboration of an international instrument on international cooperation, particularly toward formalizing mutual legal assistance channels amongst AALCO Member States. The proposal was well received by other Member States. The Secretary-General further informed that the necessary action will be taken by the AALCO Secretariat in following up on the proposal.

Malaysia understands and acknowledges that it has an obligation to uphold the human rights of both women and children against the crime of trafficking-in persons by implementing and adhering to the three-pronged approach of prevention, protection and prosecution under the United Nations Convention against Transnational Organised Crime (UNTOC) and its supplementary protocol, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the TIP Protocol).

In line with its commitment in the fight against the crime of trafficking-in persons, Malaysia has introduced vital amendments to the Anti Trafficking in Persons and Anti Smuggling of Migrants Act 2007 in 2010 wherein all victims of trafficking whether men, women, children including victims of labour trafficking are accorded legal protection and redress. The 2010 amendments represent a step in strengthening the existing framework

to combat trafficking-in persons and to specifically enable the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air by the introduction of the specific offence of smuggling of migrants distinguishable from an immigration offence.

As a result of the amendments, there has been a positive increase in the number of cases brought before the Courts in relation to the crime of trafficking and smuggling. 2010 showed an increase of 11 charges framed against suspected traffickers and smugglers against a total of 161 charges in 2009 while up to May 2011, there have been 7 charges framed in Malaysian Courts against traffickers and smugglers.

In light of that, Malaysia welcomes the Half Day Special Meeting on “*Trafficking of Women, Children and Migrant Workers, and the Protection of Children*” in addition to its Agenda Items of “*The Legal Protection of Migrant Workers*” and “*Establishing Cooperation against Trafficking in Women and Children*” in the hope that AALCO Member States will be able to take on a leading role in the condemnation, suppression and subsequent elimination of this heinous crime.

Mr. President and Distinguished Delegates, incidents of piracy in the Gulf of Aden, which affect navigational access of the international shipping community to international sea lanes, continue to be a threat to the good order of the sea. In this regard, AALCO Member States should strive to enact specialized and comprehensive laws on piracy. Malaysia further proposes that the issue of piracy continue to be deliberated at the next session of AALCO.

Mr. President and Distinguished Delegates, Malaysia notes the outcome of the Special Meeting on “*International Criminal Court: Recent Developments*” at the 49th AALCO Session at Dar Es Salam, Tanzania for the convening of a Workshop in collaboration with the ICC in Kuala Lumpur specifically for AALCO non-State Parties to the Rome Statute of the ICC. In line with this, Malaysia together with AALCO are currently making the necessary arrangements for the forthcoming meeting entitled “*Meeting of Legal Experts on the Rome Statute of the ICC*” tentatively scheduled to be held from 19 to 20 July 2011 in Putrajaya, Malaysia. In this regard, the AALCO Secretariat has been in touch with the ICC Secretariat to secure the attendance of the ICC President and the ICC legal experts to the meeting. Malaysia welcomes participations and looks forward to further deliberate and exchange views on matters of concerns relating to the Rome Statute.

Mr. President and Distinguished Delegates, the item on *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* is relevant now more than ever as Israel’s occupation of Palestine has been most recently underscored by Israel’s transgressions on 31 May 2011,

against the *Mavi Mavara* and the *Spirit of Rachel Corrie*¹, which formed part of a humanitarian flotilla.

The *Spirit of Rachel Corrie* represented an effort by the Malaysian people to highlight the effects of the illegally imposed Israeli blockade and highlight the persistent violations by Israel of the human rights of the people of Gaza. Despite Israel's continuous actions of preventing humanitarian aid and relief efforts from reaching the Palestinian people, Malaysia is committed to continue in its efforts to assist the Palestinian people. In this regard, Malaysia is of the view that Member States of AALCO should take the lead in ensuring that Israel accounts for its continued violations of international law.

Mr. President and Distinguished Delegates, the Cancun Agreements reached by the Parties during the Sixteenth (16th) session of the Conference of Parties to the United Nations Framework on Climate Change (UNFCCC) and the Sixth (6th) Meeting of Parties to the Kyoto Protocol keep hope alive for a legally binding international climate change instrument from the standpoint of the twenty-year negotiations, but the Cancun Agreements fall short of ensuring the survival of the Kyoto Protocol.

In the context of the future negotiations on climate change, Malaysia is aligned to the principle of "common but differentiated responsibilities" whereby developed countries must assume a leadership role, and developing countries, supported through technological, financial and other assistance, should continue to implement their sustainable development policies.

Mr. President and Distinguished Delegates, the acceptance of International Commercial Arbitration as a dispute resolution mechanism has grown exponentially in the past few years. Malaysia therefore, appreciates that AALCO has also chosen to place on its Agenda for this Session, a Special Half Day Meeting on International Commercial Arbitration. The increasing importance of arbitration as a means of dispute settlement has spurred Malaysia to participate actively in the work of Working Group II (Arbitration and Conciliation), which resulted in the finalization and adoption of the 2010 UNCITRAL Arbitration Rules. The 2010 UNCITRAL Arbitration Rules marks the modernization and a step forward in the promotion of peaceful settlement of disputes for numerous forms of commercial disputes and in many other areas.

Malaysia, during its participation at the Working Group II took note of the presence and contributions made by the many AALCO Member States that were present during the discussions. Once again, Malaysia is of the view that with these States *en-bloc*, are a means to present a united front, for AALCO Member States to better address mutual interests and concerns which would lead to an efficient and pragmatic way of addressing issues during the discussions and work of other UNCITRAL Working Groups.

Mr. President and Distinguished Delegates, the need for a strong legal framework to ensure the protection of expressions of folklore has been a subject of great interest both at

¹ The Ship "The Spirit of Rachel Corrie" is officially known as the "MV Finch".

national and international platforms for the past 50 years. In line with our commitment towards ensuring the protection of expressions of folklore are beneficial to our local and indigenous communities, Malaysia reiterates our commitment to support all efforts to deal with the misuse, misappropriation and commercial exploitation of expressions of folklore. However, it should be highlighted that there still exist gaps between the protections provided under intellectual property law and the ideal level of protection for the expressions of folklore. However, it should be highlighted that there are still gaps. AALCO Member States must continue to bridge the gap as that is the only way forward in ensuring that the expressions of folklore receive the due recognition and appropriate legal protection internationally.

Mr. President and Distinguished Delegates, Malaysia notes that the Report of the Secretary-General on the Work of AALCO proposes the creation of an AALCO foundation modelled after the United Nations Foundation, to enable both Member States and corporations, who share the vision, mission and objectives of AALCO, to contribute financially to its work. In this regard, one of the missions of AALCO is to advance the rule of law in international affairs and increase the participation of States from both the Asian and African regions in the progressive development and codification of international law and its dissemination.

While Malaysia generally supports the establishment of the AALCO Foundation, we would also caution that the AALCO Foundation's process of garnering financial support either through "*no-strings attached donations*" or through strategic collaboration with corporate entities should be both transparent and void of any conflicts of interests. This process and any future partnering corporate entities should not contravene the Statutes of AALCO. Malaysia therefore, requests for the Secretary-general to further study the proposal to seek financial support from corporate entities and individuals and to report his findings at the next Annual Session.

Mr. President and Distinguished Delegates, bearing in mind that one of the functions of AALCO is to undertake studies of international legal issues, Malaysia is pleased to announce that the Attorney General's Chambers of Malaysia has set up an International Centre for Law and Legal Studies (I-CeLLS), dedicated to legal research and capacity-building through collaboration and strategic partnerships with leading international institutions of learning, regional and international organizations, and legal practitioners. It is envisioned that I-CeLLS will publish international legal materials and provide consultancy services, thus contributing towards the development of the corpus of international law.

On this note, Malaysia wishes to extend our heartfelt gratitude to the Secretary-General of AALCO for accepting the offer to enter into a collaborative partnership with I-CeLLS. I am confident that the spirit of cooperation and mutual assistance between AALCO and I-CeLLS would spur both institutions to greater heights. This collaboration would also contribute to the mission of AALCO to advance the rule of law in international affairs and the progressive development and codification of international law and its dissemination.

Mr. President and Distinguished Delegates, Malaysia would like to bring to the attention of the Member States on the growing concerns by countries including from both our regions on the imposition of standards of human rights to which are deemed to be “universal”. It had not gone unnoticed that those standards are mainly of western origin, and as such, must be viewed cautiously against the respective domestic requirements and capacity.

AALCO could be the appropriate platform to embark on this important topic and Malaysia proposes for the AALCO Secretariat to be mandated to carry out a study to collate and undertake a comparative analysis of the extent of human rights’ compliance in both Asian and African regions by taking into account of domestic constraints, culture, tradition and religious values. Perhaps it is also timely for us to formulate our own human rights standards for both the regions.

Mr. President and Distinguished Delegates, Malaysia notes that the term of the current AALCO Secretary-General, His Excellency Professor Dr. Rahmat Mohamad will be ending in 2012. In this regard, we have been informed that no other Member State has put forward any nominations for the position of Secretary-General for the term 2012-2015. Malaysia wishes to place on record that we are taking necessary steps to formally place a request for the extension of the term of the present Secretary-General. Malaysia hopes to get the support and consensus of AALCO Member States for the extension of the term of Professor Dr. Rahmat Mohamad as the AALCO Secretary-General.

Finally, Malaysia would like to take this opportunity to extend our deepest appreciation to His Excellency Professor Dr. Rahmat Mohamad, the Secretary General of AALCO, and to the host of the 50th AALCO Annual Session for a commendable effort in organizing this event.

President: Now I am inviting Minister of Justice of Sudan H.E. Mohammed Bushara Doussa. Thank you.

The Leader of Delegation of Sudan²: His Excellency President of Conference Mr. Rauff Hakeem Minister of Justice, Democratic Socialist Republic of Sri Lanka; His Excellency Professor Rahmat Mohammad General Secretary of AALCO; Honourable ministers and attorneys-general and heads of delegations; Distinguished delegates and observers; Ladies and Gentlemen,

Mr. President, at the outset I am pleased to express my sincere respect and congratulations to you for the trust of the organization of your selection for chairing and conducting of this session. We are convinced that your good self and your experience will lead this organization to the success for which we look forward and achievements that we set up, and this session will get the remarkable results and important recommendations.

² Statement delivered in Arabic. This is an unofficial translation from the Translator’s version.

I am pleased, Mr. President, to express to you my respect and deep gratitude to the Government of the Democratic Socialist Republic of Sri Lanka for hosting this session in this beautiful fascinating city (Colombo).

I extend my greetings and respect to the Secretariat of the Organization for following up the activities of Organization in general, and organizing and arrangement of this session in particular. The greetings and respect also to all participants of this session, and thank you for giving me the opportunity to present statement of Sudan on some of the topics which is covered in this conference.

Mr. President, this session takes place at a point of time while the world is witnessing the important legal and political situations and fall out are closely linked to issues of international law which needs to arrive at a unified and integrated vision of the African and Asian countries towards these issues.

I am convinced and confident that the organization has a large and effective role in determining the unified and integrated visions about the international legal consequences and developments in view of its effectiveness and capacity for making legal regional bloc comprising the two largest continents in the world in terms of geographical area and population.

Mr. President, among the basic principles that we call for defining a common vision is the proper application of the rules of international law, and that requires the commitment of the international system for the application of the concept of the rule of law in the abstract and just, and on the basis of equality and non-discrimination between all the countries of the world whatever the their economic, political or military situation.

The proper application of rules of international law is essentially based on the fairness and effectiveness of the institutions of international law which should play their role in a fair, systematic and institutionalized way accrediting to integrated legal approach and keeping themselves away from the pressures and balances and the dominance of the big states.

Mr. President, of the basic principles of international law is the principle of rule of law, which is based primarily on the objectives and principles set by international conventions and norms and the most important of the Charter of the United Nations, which decided the principle of justice in the preamble of staple and other materials, where the text in this regard to equality between the countries on the basis of sovereignty, which means that the international system of respect for the sovereignty of the state is a basic ingredient for the application of international justice in the framework of international law.

The charter of United Nations also decided another important principle of non-intervention in matters which are under internal jurisdiction of the State as this principle is the legal structure for the basis of international justice.

These principles together represent the basic elements of the rule of law, which defines the framework of global commitment for the approach of international legitimacy.

Application of those principles in accordance with the comprehensive perception of justice and the rule of law which requires real reform of the institutions of international law to play its role fully in the application of the aforesaid principles according to the provisions of international law with justice and equality.

Mr. President, what I have mentioned earlier is base and preamble of the topics we are discussing in this session, which is also a way for important statement I saw to present it to you that our Organization is the regional legal mechanism where African and Asian countries present their vision on the unjust applications of international law.

Mr. President, the decisions of the International Criminal Court against the State of Sudan is a fundamental breach of the principle of rule of law, and clear contravention of the principles of international law, and which is a fundamental issue under the concept of international justice, where these decisions are a dangerous precedent in the journey of international law and international legitimacy which makes the entire international legal system at the crossroads. The International Criminal Court decisions came against the basic principles and provisions of international law in the three main issues are:

First: Sudan is not a member of the Rome Statute which created the International Criminal Court, and is not a party to the Rome Statute of the International Criminal Court, therefore special provisions do not apply on it, as it is clear according to the provisions of international law in general, and the Vienna Convention on the Law of Treaties of 1969, in particular:

“Vienna Convention on the Law of Treaties” the treaty is binding only for member parties of it who have agreed to and signed consent to its provisions according to the procedures needed for that, and it is clear from the provisions decided by the Vienna Convention as follows: -

Article (2) paragraph (1) (A) of the agreement about the definition of the treaty “treaty means an international agreement concluded between states.....etc”

The stage of expression of consent to join in the treaty is main and crucial stage in determining the approval of the state and its commitment to the provisions of the Treaty. This is the decision of the Vienna Convention also in Article (2) paragraph (1) (B) under the title: “Ratification – Acceptance – Approval and Succession”.

The definition of a Contracting State mentioned in the aforesaid agreement which includes the consent of the State, that is using (Convention) for the expression of "Contracting State" and an expression “Consented to be bound by the treaty”.

The agreement made obligatory the ratification of the treaty for a state to be a member of that state and adhere to its provisions. That is what the agreement has stated regarding the same in Article (14) to identify it in cases of ratification of the Convention as a necessary

condition for the application of provisions of convention for the State. Sudan has not ratified the Convention and therefore does not adhere to its constitution which makes obligatory the ratification of the Convention as grounds for the State's obligation

Second: The decisions of the International Criminal Court are against the “Charter of the United Nations”. The decision has come contravene the principles the following:-

- The principle of justice, decided by the preamble to the Charter and also Article (2) of the Charter: “the organization is based on the principle of the sovereign equality of all its members”.
- The principle of non-interference in internal matters does not detract in violation of the decisions of the International Criminal Court to say that the Security Council to intervene in the case of breach of the international peace and security, while the dispute in Darfur is not a case of a breach of international peace and security in accordance with the legal concept of the terms of international security and international peace, it is an internal conflict that does not apply to the threatening elements to the international peace and security and it can be resolved by negotiation and peaceful means, and for the Security Council should call for a peaceful solution in accordance with Article (33), paragraph (2) of the Charter of the United Nations. Here, it shows to us the violation of Security Council resolution 1593, Special to refer the dispute in Darfur to the International Criminal Court to the principles of international law.

Third: immunity of the head of state:

Decisions issued for the head of state of Sudan are a clear breach of the principle of the rule of law in general and the provisions of international law in particular, where is the Head of State in accordance with the provisions of international law is a symbol of state sovereignty, unity, and therefore enjoy full legal immunity and is not subject to any action or trial. Therefore, the decisions of the International Criminal Court are a violation of the principles and provisions of international law which govern the privileges and immunities of the head of state during his rule.

About this specific issue under the title: “Immunity of State Officials from foreign Criminal Jurisdiction”. We call for the adoption of a unified and integrated legal concept to decide the immunity of the officials of the States from foreign criminal jurisdiction based on the principle of sovereignty.

Mr. President, The Sudan on its part took all measures and fulfilled all necessary legal requirements necessary to secure justice regarding crimes committed in Darfur in line with the principle of fleeing from justice. A national investigation commission has been established and competent courts have initiated their works in Darfur. A number of accused have been produced before the Sudanese Courts which are marked with independence and neutrality. These found guilty have been sentenced.

Also a special public prosecutor was appointed for crimes in Darfur that is a clear indication of attention to the crimes occurred in Darfur during the war of all parties. He is working its works with complete independence and impartially which is assisted by a

number of prosecutors in this regard. He has taken legal action regarding some of the crimes committed in Darfur and then submitted to the Judiciary which is marked with independence, integrity and impartiality.

The Sudan is implementing its obligations under international law fully, therefore requests from the organization that we requested in previous meetings, is the need of organization to adopt the legal integrated view regarding the decisions of the International Criminal Court against Sudan in accordance with the bases and principles of international law that decide the principle of justice among nations and the application in the abstract.

Mr. President, pressures and decisions did not praised that I mentioned it that Sudan to adopt and implement the principles of the rule of law, good governance and principles of human rights internally, while it has implemented comprehensive peace agreement signed between the Government of Sudan and the Popular Movement for the Liberation of Sudan in full and fair way. As well as the free and fair elections has been implemented on its schedule in April of last year under the a neutral law of Elections of 2008, and it was fallowed by a referendum on the right to self-determination for citizens of South Sudan in accordance with the decision of the Comprehensive Peace Agreement, and the Act of Southern Sudan Referendum is also on its schedule with justice and transparency. The government of Sudan accepted the result of the referendum immediately after the announcement and the result has decided separation and announcement of State of South Sudan will be on its schedule of coming 9th July 2011.

Mr. President, as Sudan rejects the unjust resolution adopted against it, in the same manner and strength it also rejects the Israeli decisions, policies and actions against Palestinians. Israeli practices towards the Palestinians are a clear violation of the principles of international law and particularly the four Geneva Conventions of 1949. The Sudan considers that the Israeli practices against the Palestinians have reached a level where it has become a defiance of rules of International Law and Geneva Conventions. Perhaps the continuing settlement activity by Israel on Palestinian land is a clear indication of the unwillingness of Israel to achieve peace in the Middle East. The peace will only be achieved if Israel withdraws itself from Jerusalem and all the occupied territories.

Mr. President, Israel did not want to achieve peace in the Middle East and insists with great determination on exercise of racism against Palestinian citizens in all forms of and deprivation of them from fundamental rights. It is clear from that the adoption of Israel a number of racist laws in the period of September 2010 to March 2011 date of the end of the Israeli Knesset session, are following: -

Law of Land: which allows the sale of land confiscated from Palestinian citizens did not utilized the public interest.

The law of individual farms: related to the distribution of land confiscated from Palestinians among Jews only and not others.

Law which permits the courts to extend the detention of Palestinian prisoners without producing him before the court. And other racist laws such as the Law of calamity and Law of withdrawal of citizenship and also the drafts of racial laws are under consideration of Israeli Knesset such as law of imposing sanctions any one who calls for boycott of Israeli goods and law of punishment for not recognizing Israel as a Jewish and democratic state and other drafts of laws and racism unjust resolutions. This is all about we call for adoption of conference a perception demands from international community and international organization to apply the rules of international law against Israel in the abstract away from politicization and double standards.

Mr. President, The Sudan is very much interested in topic of human trafficking especially in women and children, taking it negation of humanity and human right and sees the importance of cooperation between the African and Asian countries in combating human trafficking in its different forms. Sudan has signed several bilateral agreements in this area, so the issue of human trafficking is a real threat to the principles of human rights and also is an obstacle in the way of getting peace and stability in Asia and Africa.

Assuring the conviction of Sudan the importance of combating human trafficking, the draft legislation has been prepared to combat human trafficking and is been discussed these days with all competent authorities and its Constitutional legislative procedures will be completed in coming days. The draft legislation has come in total harmony of provisions of international and regional agreements for combating human trafficking. On this issue, we call for activate the bilateral agreements between the members of the organization to establish cooperation in this field. I can assure you of valuation and appreciation of my delegation to all the issues and important topics on the agenda of this session, we will contribute effectively in its discussions with you hoping to reach decisions and understanding which may add its importance. Thank you.

President: Those who come to speak be as brief as possible and if there are extended version in written form it could be sent to us so that we can have it as a part of record. But then to initiate the discussion and try and see whether you can summarize whatever text you have when you make your presentation. Thank you very much. May I now call upon the Leader of the delegation from Bangladesh to make their statement.

The Leader of Delegation of Bangladesh: Thank you Mr. President.

Mr. President Honourbale Rauff Hakeem, the Distinguished Minister of Justice in the government of Sri Lanka, The Vice-President Madam Rita Njokanma; H. E. Prof. Dr. Rahmat Mohamad , Secretary General AALCO; Distinguished Heads of Delegation; Delegates from member and observer countries, Excellencies, ladies and gentlemen,

Let me first of all congratulate you Mr. President on assumption as President of the Fiftieth Annual Session of AALCO. I am sure that with your experience we will be leaded to a successful outcome of the conference. It gives me immense pleasure to address this distinguished gathering on behalf of the Bangladesh Delegation I would like to convey our heartfelt appreciation to the Government of Sri Lanka for hosting the

Fiftieth Annual Session of the Asian-African Legal Consultative Organization session. I thank them for the warm hospitality and excellent arrangements.

This session assumes significance as we celebrate the Golden Jubilee of the formation of AALCO. We hold it close to our hearts as AALCO evolved in 1956 as a direct outcome of the historic Bandung Conference of 1955.

Since its inception, AALCO has made positive contribution in the codification and development of laws in the following areas: International Law Commission, Law of Sea, Deportation of Palestinians and other Israeli Practices and related areas, Legal Protection of Migrant Workers, International Terrorism, Establishing cooperation against Trafficking in Women and Children, International Criminal Court, Environment and sustainable development, Effective international instrument against corruption, Work of UNCITRAL and other international organizations in the field of international trade law, Expressions of Folklore and its international protection, etc.

Bangladesh values its Association with AALCO. The objective and charters of AALCO is an instrument of faith for us. This is because one of the cardinal principles of our foreign policy is based on the concept of 'respect for international law'. Bangladesh is deeply committed to the fundamental state policy for promotion of international peace as Article 25 (1) of our Constitution as it states:

“The State shall base its international relations on the principles of respect for national sovereignty and equality, non-interference in the internal affairs of other countries, peaceful settlement of international disputes, and respect for international law and the principles enunciated in the United Nations Charter.....”

Bangladesh has acceded to many important international instruments on human rights which includes: the International Covenant on Economic, Social and Cultural Rights 1996, the Convention on the Protection and Punishment of the Crime of Genocide 1948, the Convention on the Political Rights of Women 1952, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage 1962, and the Convention against Torture and other Cruel, Inhuman or Degrading Punishment 1948. Other major international human rights instruments are Convention on the Rights of the Child (CRC) 1989, as a matter of fact Bangladesh Government enacted the Children Act, 1974, to consolidate, and amend the law relating to the custody, protection and treatment of children and trial and punishment of youthful offenders and Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) 1979 have long been ratified and acceded to and last year we have withdrawn two of our four reservations to the CEDAW. Also, the Government is actively considering accession to a number of other international human rights Conventions.

We are resolved to cooperate with AALCO to create an equitable and fair international law regime that would reflect the concerns of the developing countries. We believe that AALCO is of relevance to us as its members are linked by similar historical and cultural legacy.

We support the ongoing consultations in AALCO on the issue of Legal Protection of Migrated Workers. Bangladesh is one of the major sources of global migrated workers and these migrated workers have always been a priority of the government because of their contributions to the country's economy. Bangladesh has remained determined and committed to the promotion and protection of migrated workers and members of their families globally. This morning also Honourable Minister of External Affairs of Sri Lanka mentioned about the meeting which we had in Dhaka, which is known as the Colombo Process. In this context, I would like to add that Bangladesh recently hosted the Colombo Process Ministerial Level meeting in April 2011 which had come up with a landmark Dhaka Declaration. The Dhaka Declaration noted, among others, the impact of the global meltdown and the effects of the recent political unrest and conflict in certain parts of the world on labour migration.

With an objective of ensuring overall welfare and protection of the rights of migrated workers, the Dhaka Declaration under the Colombo Process produced a number of recommendations. These include: Emphasis on the development of employment and labor market policies and formulation of rules and regulations and procedures that are conducive to the pursuit of legal, humane and orderly labour migration.

We feel that prioritization by AALCO of the issue of cooperation against trafficking of women and children are right and timely. We are signatories to the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. As far as human trafficking is concerned, Bangladesh has taken concrete initiatives such as information sharing, stricter border controls, educational and motivational campaigns on rights and privileges of workers and deterrent punishments for unscrupulous agents. Bangladesh underscores, on one hand, the need for regular migration to keep its economy moving and on the other it is determined to curb human trafficking in all its forms and manifestations.

The issue of upholding respect for human rights including that of women and children is a top priority in the agenda of the present Government in Bangladesh headed by Prime Minister Sheikh Hasina. True to its commitment, the Government has already established a National Human Rights Commission. The enactment of Women and Child Repression Act of 1999 is an unprecedented step towards prevention of abuse and violence against women and children. The Government has put the cause of development and empowerment of people, in particular the vulnerable groups such as women and children at the top of the national agenda. Especially, the Prime Minister's commitment towards making a dent in poverty through women's empowerment programs is reflected in her policy on micro-credit

Excellency, we call upon the AALCO to further expand and broaden its deliberations and consultations on the core area of environment and sustainable development. We had great conferences by the UN on Environment and Sustainable Development since UNCED - 1982 in Rio. However we regret that the implementation level falls far short of the

commitments and obligations undertaken by the developed countries. The principle of Common but Differentiated Responsibilities remains rather a rhetorical term nowadays.

Bangladesh is one of the worst victims of climate change although it is least responsible for the global environmental degradation. To give you an idea of the gravity of the situation, we would like to present some scientific findings that reveal that with a mere 4.5 cm of sea level rise, about 10% of Bangladesh would be affected by salt water and with one meter rise, a fifth of Bangladesh will go under the sea. It further reveals that 40 million people in Bangladesh would lose their livelihood and 30 million would be displaced by 2050, if the climate change trend goes unchecked.

Bangladesh has acquired success in disaster preparedness, management and handling of post disaster crisis. We would like to share our experience and success stories in this critical area.

We are conscious of our responsibility towards ensuring a sustainable future, environmental protection and conservation of nature. The government has already adopted the Bangladesh Climate Change Strategy and Action Plan (BCCSAP) and National Adaptation Programme of Action (NAPA). The government has also created a national climate change fund and budgetary allocations to this particular head are being made regularly. Bangladesh has also adopted strategic energy plan to reduce its carbon emission, notwithstanding that it has no obligation to follow the low carbon path as an LDC.

Excellency, Bangladesh's position has been consistent and categorical in extending full support to the inalienable rights of the Palestinian People including their right to have a state of their own with Al Quds Al Sharif as its capital. Bangladesh accords support for the implementation of all relevant resolutions particularly Security Councils Resolutions 242, 338 and 425 and land for Peace Principle that envisages withdrawal of Israel from all occupied Palestinian and Arab Territories and the resolution for the return of the Palestinian Refugees to their own lands especially under resolution 237.

It was immediately after the admission of Bangladesh at the UN, our Father of the Nation Bangabandhu Sheikh Mujibur Rahman had forcefully raised the issue of Palestinian homeland in the august body of UN. Taking part in the relevant debate and sessions of the UN, the Bangladesh delegation had always expressed deep concern at the escalation of violence in the occupied territories and the excessive use of force against the Palestinian Civilians by Israeli troops.

It is time to take a stock of the situation and put forward a coherent, coordinated and bold strategy by the AALCO Member States to the international community in pursuit of a legitimate solution to this age-old international crisis.

Let me conclude by reiterating what Prime Minister Sheikh Hasina stated and I quote:

“...realizing our common endeavours to develop and expand cooperation among ourselves for the common benefit of our peoples and for global peace and

prosperity what we need now are extended hands of cooperation and not simply hand-outs.”

With these words I conclude and thank you.

President: Thank you very much. May I now call upon the Leader of delegation from Japan to make the intervention please.

The Leader of Delegation of Japan: Thank you. H.E. Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka and President of the Fiftieth Annual Session; H.E. Prof. Dr. Rahmat bin Mohamad, Secretary General of AALCO; Honorable Ministers and Attorneys General; Distinguished Delegates; Ladies and Gentlemen;

It is indeed my great pleasure and privilege to make general statement again before the honorable ministers and distinguished colleagues of AALCO Member States who are gathered here for this historic Fiftieth AALCO Annual Session. First of all, I would like to extend my sincere congratulation to H.E. Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka, for his election as President of this Annual Session. I would like to take this opportunity to express our great appreciation to the Government of the Democratic Socialist Republic of Sri Lanka for hosting this Annual Session of special significance and their gracious hospitality extended to us all. I would also like to congratulate Honourable Excellency Mrs. Ifeyinwa Rita Njokanma, Director, International Law Department, Federal Ministry of Justice, Nigeria for her election as Vice-President of this Annual Session. Our gratitude also goes to the AALCO Secretary-General, Deputy-Secretaries-General and all the staff for all of their hard work in preparing for this Annual Session.

Mr. President, fifty four years ago, in 1957, when the first Asian Legal Consultative Committee meeting was held in New Delhi for the first Annual Session, we were all just seven members including Sri Lanka and Japan. Today, the Bandung spirit has not just long lived but has grown strong and spread to many like-minded countries in the region. With forty seven Member States now, AALCO is the only international organization focusing on international law issues that represents Asian-African solidarity and has become a voice to be heard and a significant player in the international legal community. On behalf of the Government of Japan as one of the founding members of AALCO, I would like to extend my heartfelt congratulations on the great success of AALCO in achieving its objectives through its incessant strenuous activities under the leadership of the respective Secretary-Generals until today.

I am so pleased to note that in the present world, Asia and Africa are the two regions that are playing increasingly important roles. There is no doubt that the situation surrounding Asia and Africa is much better and more promising now than half a century ago. In the field of international law, however, one must concede that European or Western countries still have dominant influence. Looking towards the future, we ought to exert our influence over the process of progressive development of international law, so as to render the future international legal framework and regimes duly reflect the views of Asia and Africa, on par with the important roles the two regions are playing in the

international community. In this respect, we should utilize AALCO as a channel - through which we coordinate and accumulate our views.

Mr. President, during the last few months, Japan has truly felt the importance and preciousness of international solidarity and mutual support through its experiences. Soon after 11 March, when we were hit by the devastating earthquake and tsunami, we, on a both governmental and people-to-people level, received kind support and encouragement from around the world, and until today, we have had such kind offers of assistance from 161 countries and 43 international organizations, and actually did receive relief supplies, donations and emergency relief teams from so many countries, regions and organizations, which include a vast majority of AALCO Member States. I would like to take this opportunity to extend my profound appreciation to you all on behalf of the Government and the people of Japan. Japan will never forget that the world stood by us when we were most in need.

At the same time, we must admit that the accident at the Tokyo Electric Power Company (TEPCO)'s Fukushima Dai-ichi Nuclear Power Station caused great anxiety both at home and abroad. We firmly believe that we have taken measures using the best practicable means at our disposal under the circumstances, with due consideration for international law. The Government of Japan is resolved to achieve the highest standards of nuclear safety by drawing lessons from the accident. In this regard, we submitted the report outlining its preliminary assessment of the ongoing situation at the accident sites to the IAEA Ministerial Conference on nuclear safety on 20-24 June, thereby sharing lessons learned from the accident with international community. We will further continue such efforts to contribute in enhancing international nuclear safety but we sincerely apologize for the great anxiety caused. The Government intends to work together with Tokyo Electricity Power Company (TEPCO) to stabilize the reactors in a systematic manner in the next six to nine months. We will continue to provide the international community, with prompt and adequate information with maximum transparency.

In this context, there seems to be a misperception that there's overwhelming and wide-spread radiation contamination in Japan and such misunderstanding is causing states to restrict, and private entities and private citizens to refrain from, importing Japanese products or traveling to Japan. However, Japan remains "open for business and travel." We are grateful for the tremendous assistance we received from around the world. However, we would be more grateful if you can support us in our path towards the recovery through the most effective way, which is to promote business with Japan and encourage visiting Japan for pleasure or study just as before, or more so.

The Government and the people of Japan are all committed to overcoming the damages of disaster to re-emerge as a more attractive nation, and to be able to return the warm favors we have received from the world. People of Japan felt as never before that the prosperity of the country is ensured only if we stand in solidarity with the world. In this regard, as we strive to make a comeback, we will do so in strong cooperation with the world, and Japan is committed to continue strengthening our ties with AALCO and its Member States.

Mr. President, two years have passed since the Member States made the decision to revise the assessed scale of contributions, which had remained the same since 1993, at the Forty-eighth Annual Session of AALCO held at Putrajaya, Malaysia. I respect and appreciate the efforts made by the Secretary General and his staff in collecting arrears, cutting down the expenses and looking into various options for saving AALCO from its fiscal troubles. However, putting AALCO on a sound financial footing remains and continues to be our grave concern.

At the last Annual Session in Dar es Salaam, Tanzania, I called on all Member States to pay attention anew to the need to overcome the financial difficulties and mentioned that only two paths lay in front of us: either all the Member States contribute their own share of contribution to keep the current budget size, or concede realistically that AALCO can expect only seventy percent of contributions from its Member States each year, and hence acknowledge that that is the real budget for AALCO. I thought at the time and I still do believe that the latter is not a favored option to anybody, but looking at the reality before us, it increasingly seems that I might be wrong. And what it entails is that the Member States have a silent but collective will that AALCO should be downsized in terms of its activities and/or personnel, because otherwise the expenses and income will not be sustainably balanced. It is within such context that I hope there will be serious deliberations among Member States when we discuss organizational matters and the budget for 2012.

Mr. President, turning to the agenda items to be discussed during this Annual Session, Japan has proposed to discuss the United Nations Convention on Jurisdictional States and their Property as a part of our discussions on the work of the International Law Commission (ILC). I will leave the details to be discussed later, but here I would just like to mention that this important convention is a product of combined efforts of the ILC's hard work and difficult negotiations at the UN General Assembly which took so many years to culminate into its final form with Japan and other AALCO Member States having made various contribution in that process. Japan believes that setting and clarifying the rules concerning jurisdictional immunities of states is an important factor in ensuring stable state activities. Japan wishes to see more states take active interest and accede to the Convention so that it will take effect as soon as possible.

Mr. President, on another note, as I referred in my general statement last year, the year 2010 was the International Year of Biodiversity designated by a United Nations General Assembly resolution to be a milestone year in which a new strategy for biodiversity was to be set out for the next decade. Japan has hosted the 10th Meeting of the Conference of the Parties to the Convention on Biological Diversity (COP10) and the 5th Meeting of the Conference of the Parties Serving as the Meeting of the Parties to the Cartagena Protocol (COP-MOP5) in Nagoya. I am proud to report to you that COP 10 and COP-MOP5 concluded very successfully, thanks to the cooperation and collaboration of the delegations participated.

To be more precise, COP10 adopted the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS) and the Strategic Plan for Biodiversity 2011-2020, including Aichi Biodiversity Targets. In addition, the COP-MOP5 adopted the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress for damages resulting from living modified organisms. For the heavily debated Nagoya Protocol, Japan contributed to building consensus among the Parties toward the agreement by presenting a balanced President's draft text which reflected the interests of all the Parties at the meeting. Going forward, Japan will contribute to the conservation and sustainable use of biological diversity and proactively support the efforts of developing countries to achieve the Aichi Targets and implement the Nagoya Protocol by utilizing its knowledge and technology, taking into account the needs of developing countries.

Mr. President, Japan is committed to continue striving together with the international community to ensure stability of state relations and prosperity of the world in which we live. To that end, progressive development of international law and promotion of rule of law is indispensable, and AALCO has important roles to play both in promoting rule of law within our own regions and in making sure our voices are heard in the much broader process of development of international law. I very much look forward to engaging in active exchange of views with the distinguished delegates from the member countries during this annual session, both in and out of this conference room. Thank you very much.

President: Thank you very much. May I now call upon the Leader of delegation from People's Republic of China to make their statement.

The Leader of Delegation of the People's Republic of China: Honourable Mr. President, All Delegates, Ladies and Gentlemen;

Today, the Asian-African Countries, meet once again for the Fiftieth Annual Session of the Asian-African Legal Consultative Organization (AALCO). First of all, on behalf of the Chinese Delegation, I would like to warmly congratulate Your Excellency on your election as the President of this Annual Session. I believed that, with your wisdom, experience and talent, you will lead this session to a great success. I also wish to take this opportunity to extend our appreciation to Dr. Rahmat Mohamad, the Secretary-General of AALCO and his colleagues at the Secretariat for their outstanding work during the past year. We also wish to express our heartfelt thanks to our host, the government of the Democratic Socialist Republic of Sri Lanka, for their considerate arrangement for this annual session.

As the only intergovernmental organization among the Asian-African countries on legal affairs, AALCO has always devoted itself to studying international law issues of common concerns. It has played an important role in providing Member States with legal service and facilitating the Asian-African countries' participation in international law practices, and also made positive contributions to enhancing the cooperation and exchange on international law issues and other areas among its Member States. We are firmly

convinced that, as AALCO expands its activities in various fields, it will play a more significant role on the stage of international law development and international affairs.

Mr. President, currently, international relations are undergoing complex and profound changes. The cloud of global financial crisis is still lingering. The political situations in west Asia and North Africa are continuously under turbulence, where Libya and other countries are logged down in internal turmoil. Moreover, various non-traditional security threats are constantly rising.

Against such a backdrop, international law is playing an increasingly important role in addressing numerous global issues like international security, reform of the financial system and climate change. However, it is also facing significant opportunities and numerous challenges. The Asian-African countries should make good use of the important platform of AALCO, to promote further cooperation and build consensus in the field of international law to better reflect the interests and positions of the developing countries, and accordingly promote the building of a more just and equitable international political and economic order.

Mr. President, the Chinese government has always attached great importance to the work of AALCO, and highly appreciated the achievements made by the AALCO since its establishment. For decades, China has been encouraging and supporting AALCO to take more positive and effective measures, in order to boost its influence both in international affairs and in the development of international law.

With regard to the future development of AALCO, I would like to present the following views and suggestions:

Firstly, we hope that AALCO will continue to strengthen its cooperation with the UN legal organs and other international organizations, actively reflect the views and positions of Member States on issues concerned, and increase its influence steadily.

Secondly, AALCO needs to closely follow the major international issues and events and make in-depth analysis of the international law issues involved, thus helping the Member States to exchange views and reach consensus.

Thirdly, AALCO needs to conduct in-depth studies on new issues, trends and developments in all the areas of international law and make reports as appropriate, so as to enhance its academic influences.

Fourthly, AALCO should step up its efforts in recommending candidates from Member States to international legal organs.

Finally, we hope AALCO will strengthen its training, continue to enrich the scope and content of seminars and training programmes, and develop itself into a cradle of talents on international law for Asian and African countries.

Mr. President, we are confident that, AALCO will carry forward the Bandung Spirit of “Peace, friendship and cooperation”, and make continuous progress and due contributions

to peace, development and cooperation in the region and beyond. In conclusion, I wish the Fiftieth Annual Session a great success! Thank You.

President: Thank you very much. May I now request the Head of the delegation from Thailand to make the statement.

The Leader of Delegation of Thailand: Mr. President, Excellencies, Distinguished delegates, Ladies and Gentlemen; it a great pleasure and honour for my delegation to take part in this Fiftieth Annual Session of the Asian-African Legal Consultative Organization (AALCO). On behalf of the Thai delegation, I would like to take this opportunity to congratulate the Honourable Mr. Rauff Hakeem on his election as President of this session. Our sincere congratulations also goes to our Vice-President who would assist you in steering this Session towards successful conclusion. Additionally, my delegation wishes to thank the government of Sri Lanka for the warm hospitality and excellent preparation of this meeting in cooperation with AALCO. I would also like to extend the appreciation of my delegation to the Secretary-General of AALCO and the staff for their excellent work.

Mr. President, AALCO has come into existence to counter the Western influence on international law making. Thailand has attached great importance to the work of AALCO ever since our membership in 1961. We value the efforts of AALCO in developing mutual legal policies and positions of Asian-African states and strengthen our cooperation in the field of international law.

From our part, Thailand has been actively contributing to the issues of contemporary concerns raised by His Excellency the President of Sri Lanka this morning. On counter international terrorism, Thailand was the coordinator of the International Legal Cooperation stream of the Bali Ministerial Process on Counter International Terrorism set up after the Bali bombings in the year 2002 and comprising of some 27 States from four continents namely; Asia, Oceania, Europe and North America.

On people smuggling and human trafficking, Thailand is one of the 4 members of the Steering Group of the Bali Process on People Smuggling & Human Trafficking. Thailand's Anti-Human Trafficking in Persons Act of 2008 continues to be the most important legal framework for the protection of victims of human trafficking and the prosecution of the traffickers. 5th June of each year has been officially designated the National Anti-Human Trafficking Day in Thailand, thus bearing testimony to our commitment towards combating human trafficking.

On piracy, Thailand has joined the naval patrol in the Gulf of Aden and the Western Indian Ocean. Besides, Professor Murase of Japan and I were the 2 panellists at AALCO's seminar on "Piracy: International Legal Issues and Policies", held at the UN Headquarters in New York in March this year.

Since the last Session of AALCO, Thailand has become a State Party to 2 significant international legal instruments. Firstly, Thailand has become party to the 1982 UN Convention on the Law of the Sea since 14 June 2011. Even long before this, Thailand had made substantial contributions to the causes of developing States in the law of the

Sea matters, including the assumption of the Chairmanship of the Group of G77 of the Whole of the 9th Session of the Preparation Commission for the International Seabed Authority and the International Tribunal on the Law of the Sea.

Secondly, Thailand has become a State Party to the UN Convention against Corruption (UNCAC) since 31 March of this year. This affirms Thailand's strong commitment to participating in the global campaign against corruption. Thailand's Anti-Corruption Agreements Coordination Centre has recently been established. This Centre will be a key apparatus assisting Thailand in fulfilling its obligations under UNCAC.

Mr. President, building upon the "Inspire Project", Thailand, under the guidance of Her Royal Highness Princess Bajrakitiyabha Mahidol, has launched an initiative to uplift the treatment of women prisoners to international standards by proposing the United Nations resolution: "The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders", or the "Bangkok Rules", which was adopted by the UN General Assembly at its 65th session last December. The Bangkok Rules aim to supplement the existing standard of the 1955 United Nations Minimum Rules for the Treatment of Prisoners by introducing a female gender perspective.

Mr. President, at the forthcoming annual session of the UN General Assembly later this year, a Working Group will be set up to consider the issue of "Universal Jurisdiction", as proposed by several African States. The contribution of all AALCO Member States in the clarification and progressive development of international law on this matter would be most welcome.

Mr. President, in conclusion, my delegation wishes to reaffirm that the Royal Thai Government stands ready to support and collaborate with all AALCO Member States to achieve the common objectives and aspiration of AALCO.

In AALCO's 50 years of existence, Thailand has had the honour and privilege of hosting AALCO's annual sessions in 1966 and 1987. I am most pleased to inform this meeting that Thailand would be pleased to offer to be the next Asian host of AALCO's annual session.

Thank you very much for your kind attention.

President: Thank you. We must thank the Thai delegation for the suggestion to host the conference for the next time but it appears that the turn is for an African country. We take it as an offer to host the Annual Session in 2013 and then the Secretariat would take a note of it and do the necessary accordingly. Having said that we have now reached 4 o'clock and its time for a tea break. So after a very brief fifteen minutes tea break and get back here by 4.15 PM so that we can resume. It would be the turn of delegation of Saudi Arabia to make their statement. Thank you.

TEA BREAK

President: As I announced before the adjournment, I would now call upon the Head of the Saudi Arabian delegation to make his presentation.

The Leader of Delegation of Saudi Arabia³: Mr. President, Excellencies, Heads of Delegations and Ladies and Gentlemen, on my behalf and on behalf of the delegation of the Kingdom of Saudi Arabia, I extend my sincere thanks and respect to the Government of the Democratic Socialist Republic of Sri Lanka for extending a very cordial hospitality and facilities to all the delegations attending the fiftieth annual session and I also wish the friendly people of Sri Lanka more stability, progress and prosperity.

I am also pleased to convey to all of you the compliments of Government of the Kingdom of Saudi Arabia on the occasion of golden jubilee of AALCO which, since its establishment, has contributed enormously towards strengthening legal understanding of contemporary international issues, and has been of a great help to the governments and peoples of Asian and African Member States, which has fought legal battles for self-determination and preservation of their rights.

After fifty years of rich experience that AALCO has gained over the years, it is worth to make a review in depth of that experience in order to work for the future. You may agree with me that we need to make the work of the session which we convene annually more closer to legal technical work, we need to dedicate our efforts for finding accurate legal understanding of international legal agreement's projects, which aim to the codification of rules of customary international law, and define what we have to do as a member state of Organization, and what our repeated meetings can contribute of the recommendations and advisory decisions by which legislators and interested persons in law may be enlightened in our countries.

We are delighted in presenting the topics of agenda of the International Law Commission on the agenda of the annual session of our organization, and also happy to host experts of international law and giving them attention to hear their opinions and their views regarding some issues of international concern and knowledge of the experience of some Member States of Legislative Organization which found legal solutions of local and international issues.

It is worth mentioning that we should utilize this wonderful opportunity flowing from the organizing of these meetings through the efforts of the Secretariat of the Organization and the tremendous efforts of the Host Country to facilitate and make our annual meetings successful. We should dedicate this session towards understanding legal technical work, and work that avoids duplication with the work of our colleagues in the political sphere in international organizations, wishing success for our session. I Thank You.

President: Thank you. May I now call upon the Arab Republic of Egypt to make their statement.

The Leader of Delegation of Arab Republic of Egypt⁴: H.E. Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO, H E Mr. Rauff Hakeem, Minister of

³ Statement delivered in Arabic. Translation from the Translator's version.

⁴ Statement delivered in Arabic. Translation from the Translator's version.

Justice, Democratic Socialist Republic of Sri Lanka, and the President of Fiftieth Annual Session of AALCO, H. E. Mrs. Ifeyinwa Rita Njokanma, the Vice-President of Fiftieth Annual Session of AALCO, Excellencies Ministers, Heads of Delegations and its distinguished members, at the out set I, would like to extend my sincere thanks to the Government of the Democratic Socialist Republic of Sri Lanka and her people for the kind invitation that they have extended to the Egyptian Ministry of Justice to participate in the fiftieth annual session of the AALCO.

I, on behalf of myself, and also on behalf of the people of Egypt and the Egyptian government have the honor to be here on this prestigious land of the Democratic Socialist Republic of Sri Lanka to participate in this high-level regional forum, which includes a host of ministers, Ambassadors, Attorneys and experts. It also gives me great pleasure to participate in the meetings of this session, which is being held in the Democratic Socialist Republic of Sri Lanka which has had historic ties with Egypt extending to depths of history.

Excellencies, Ladies and Gentlemen, the rising of the Egyptian people during the revolution of the twenty-fifth of January 2011 is for freedom and human dignity and is an extension of the struggle of the Egyptian people through the centuries' long history against oppression, tyranny and the struggle led by the leader Ahmed Orabi and his fellow honest activists over the last century, who were given asylum in the best land of Sri Lanka during the years of the British occupation.

Today, the youths associated with the revolution of the twenty-fifth of January have led the revolution in a peaceful manner and by sacrificing their lives against the political, social and economic corruption, and towards building a bright future for modern Egypt which will be based on a number of things, namely, upholding the values and principles of human rights, the supremacy of law, democracy, social justice and national unity.

Let me assure you that Egypt is a state that abides to law and institutions, and is a place where no one is above the law. We will move forward to uphold all the values and principles for the glory and prosperity of the nation, God willing.

Excellencies, Ladies and Gentlemen, we meet today at a critical time when the world is passing through an increased and continuing tensions and instability, especially in light of the current situation and the complexity arising out of the Palestinian issue. In addition, some countries of Africa and Asia are currently witnessing revolutions, popular risings and internal conflicts that have resulted in the outbreak of war and the blood shedding of one people.

This is in addition to the continuing repercussions of the global economic crisis and its negative effects, which are still impacting on the economic stability of a large number of countries around the world. It also remains the fact that international community in general and many countries of the Africa and Asia are, in particular, suffering from the repercussions of poverty and marginalization, unemployment and poor economic and social conditions, desertification and scarcity of resources and poor development rates. In addition to other serious issues related to the absence and weak supremacy of law and absence of democratic systems based on respect of human rights, social justice, equality

and the spread of corruption, extremism and rising crime rates in the most serious forms, such as organized crimes, terrorism, human trafficking and drug cultivation, trafficking and other types of criminal destructive to the communities and Peoples.

Excellencies, Ladies and Gentlemen, in view of the seriousness of the aforesaid issues and the other major challenges that have become the key reasons behind international destabilization, high crime rates as well as their direct and negative impact on the maintenance of international peace and security, it has become the responsibility of decision makers and concerned people, especially the lawyers and the Judiciary to promote dialogue, understanding and solidarity towards finding solutions to these difficult challenges. In this regard, I have some ideas that I consider to be most important for finding solutions to the above-mentioned problems and that I would like to present before you:

First Point: Work to end the Arab - Israeli conflict

The continuation of the Palestinian issue is causing great tension in terms of stability and peace in the Middle East region in particular and the world in general. Therefore, the development of an urgent solution to the Palestinian issue based on a just and comprehensive peace while stopping the building of Israeli settlements and to respecting the legitimate rights of the Palestinian people to establish their independent state with Jerusalem as its capital on the basis of the 1967 borders, is necessary and important to the stability of the region.

It is worth to mention here that the success of the reconciliation between the Palestinian factions that was done under the Egyptian care after the revolution of the twenty-fifth of January, has united the Palestinians to find out basic solution of the Palestinian issue that include protecting the rights of the Palestinian people and to turn the pages of this serious conflict in the region, God willing.

Second Point: uphold and consolidate the principles of human rights, equality and the supremacy of law, democracy and social justice and ensure the freedoms of the individuals

This is to be achieved through working to respect and implement all the provisions of international conventions and relevant national legislation and also through staying away from all practices, whether legislative or applied that would cut down the freedom of expression, opinion and political participation, and forging the will of the people or to circumvent the legitimate demands or spread the spirit of division and fragmentation among the people of one nation and that make up the images of oppression, injustice, and increase the suffering of the people and lead to the demise of the aspirations and hopes of individuals, which becomes the root causes of extremism, violence and terrorism.

Third Point: fight against corruption in all its forms through the dissemination and transparency and integrity

It is worth mentioning in this regard about the evil effects which is caused by rampant corruption within the communities where it is practiced and it is to be noted that during the last period that the forms of corruption have varied between economic administrative

and political corruption. However, in spite of this difference in the forms of corruption and pictures, they are all leading to the loss of development opportunities and waste of resources and the looting public wealth and the denial of access to the best of this revolution and resources, increasing their suffering and pushing them to commit crimes and deviant social behavior.

From this point, it must be realized that the phenomenon corruption needs to be tackled with all firmness and the development of international and national mechanisms intended to curb it should be activated in order to reduce the spread of this dangerous phenomenon called corruption. In this context, I would like to emphasize the importance of the key role played by the United Nations Convention against Corruption as well as international and regional conventions existing in this area, including the Arab Convention against Corruption and the African Convention against Corruption.

I would also like to highlight the active role of international and regional organizations working on the formulation of policies and strategies for combating corruption, such as the United Nations Office on Drugs and Crime and the Conference of Arab Ministers of Justice and of course AALCO which looks forward to strengthening its role and activities in this important and vital field.

Despite all these international efforts intended to combat corruption and to promote the values of transparency and integrity, the responsibility of all the Authorities of States in this important regard are large and are as follows: the Role of these Authorities to take preventive measures, prevention, and making of effective legislation and imposition of deterrent penalties against corruption, Moreover, the importance of working on the effective enforcement of this legislation and strengthening the bonds of international cooperation in the fight against corruption and Recovery of funds, holdings contraband and the elimination of safe havens for the corrupt and the money diverted from the country in order to protect the funds of the people against the greed of corrupt.

However, these efforts can not be carried out by the government alone, and an effective partnership and coordination between the public sector and the non-government agencies is needed in the fight against corruption. This includes the latter sector, civil society and the private sector, individuals and other components of the non-government community within the State.

It is perhaps important to refer the Egyptian experience in the fight against corruption as Egypt has ratified the UN Convention against Corruption, as well as signed the Arab Convention against Corruption. Egypt has also established National Committees in this area: the first government committee for coordination between the authorities of the State. And the second for non-governmental committee which ensures the effective participation of civil society in the fight against corruption in Egypt, where both committees develop national policies and strategies in the fight against corruption and deal with this issue in a joint and coordinated way.

Fourth Point: combating extremism and promoting a culture of tolerance and giving up of violence and combating terrorism

I have seen the last period of time since the beginning of the sixties of the last century the huge development and dangerous phenomenon of terrorism and terrorist threats, which has escalated its pace to terrorize innocent people and harmed the interests of nations and peoples and has destabilized countries by even threatening international peace and security

Egypt was one of the first countries to have realized the seriousness of terrorism and appealed to the international communities for solidarity and cooperation against this brutal threat facing all societies and peoples without distinction with a view to prevent destruction, demolition and control of it.

We always emphasize that Egypt has developed an effective strategy aiming at drying up the sources of terrorism and cutting its roots before its devastating effects start damaging the interests of the country and its citizens. In light of the principles and gains of the revolution of the twenty-fifth of January, we believe that terrorism can only be fought through justice and by adhering to the rule of law and human rights.

Fifth Point: Working on to push the pace of development and Maximize the use of human and natural resources of States and peoples.

The optimal exploitation of natural resources and human potential and good management of them is a vehicle for successful development towards the growth and prosperity of nations. Issues of poverty and unemployment, employment, economic reform and attracting investment must be revised in the light of legislation and modern management systems which ensure job creation and provide incentives and guarantees for investment, whether it is foreign or national, and the distribution of gross national product of this economic reform and those investments on the basis of social justice and the observance of categories such as most-favored low-income children, women and others.

Allow me please at this juncture, to assure the importance of migration as an important means to assist States with heavy population to benefit from the added value of organized processes associated with migration, and flow of legal immigrants to the Diaspora, which certainly contributes to the construction of source countries by providing new opportunities to work abroad with the benefit of remittances of migrants and to use them in development activities which help the families of migrants in countries of origin.

This is a matter which puts the responsibility on countries of destination of the major developed countries and that is with cooperation to open more foreign workers markets, to reduce the restrictions of limited legal immigration and stay away from the operations of the brain drain migrant which is based on the selection of specific talents of immigrants, Moreover, the importance of cooperation between the sending countries of immigrants to open centers for training and skills development for the development and promotion of regular migration processes as well as the importance of respecting the rights of migrants as set out in the International Convention for the Rights of All Migrant Workers and Members of Their Families are very important. The fact that this Convention is not adhered to by many destination Countries is a concern for all of us concerned with migration.

Sixth Point: Crime Prevention and Criminal Justice

Both are very necessary, in order to deal with crime in all its forms in general and dangerous criminal phenomena particularly, such as human trafficking, especially children, women and illegal migration, piracy, illegal trafficking in drugs and Cultural property, cyber crime and other modern crime forms that have crept into our societies and has control on some weak people and landless will of the perpetrators of these crimes.

The spread of such crimes not only undermines the development efforts of States, but it also deteriorates communities to the time of slavery and makes human beings a commodity which can be bought and sold. Hence, all the countries and communities should reject these and work together to address it firmly with the assistance of activating the provisions of international conventions and international protocols existing in this area and also with the development of domestic laws. The need to establish and build the capacity of all concerned authorities either related to law enforcement or support international cooperation in order to reduce the incidence of these criminal phenomena, and confront these crimes and prosecute the perpetrators, is very important.

Let me please point out that Egypt has ratified the UN Convention against Organized Crime, as well as the Arab Convention against Organized Crime and two protocols attached with this, as well as some legislative updates introduced to fight against human trafficking, such as passing a law against human trafficking and the law regulating the trade in human organs and amendments to the laws of the Child, which all constitute a legislative reforms including addressing the crimes of human trafficking and to provide legal protection of children guided by the provisions of the Conventions and international conventions applicable in this regard.

Perhaps it is important in this respect to refer to some important issues relevant to the provisions of international law, which is at the same time issues of common interest between many Member States, namely: crimes of illegal trafficking of Cultural property and smuggling and make the recovery process of Items smuggled and combating cyber and Internet crimes. In fact, Egypt is looking to put these topics on the agenda of the Organization's work during its next session and they took particular attention what makes it an attack on the history and culture of nations and peoples, as well as a major threat to social and economic rights of the people.

Excellencies, Ladies and Gentlemen, those were some key and necessary points to develop an effective road map to strengthen social peace and to achieve international peace and security and the rule of law and respect for human rights which require the efforts of international organizations. States and community-based organizations and individuals need to cooperate to achieve them.

The AALCO is one of the international mechanisms that play a leading role in this area.

Since the establishment of the organization in 1956 after the Bandung Conference, the Organization has given its efforts and activities to help the Member States of the African and Asian continents to overcome the legal and practical challenges which they face in many of the topics mentioned above. Hence, the importance of Organization's role to

pave the way of an continuing dialogue and understanding between Member States on issues of common interest and their help to develop basic solutions of these issues.

Excellencies, Ladies and Gentlemen, I would like to extend my sincere thanks and respect to the people and the Government of the Republic of Sri Lanka for their warm reception and hospitality extended to all the delegates and I wish them further progress and prosperity. I also extend my sincere thanks to the Organization and its Secretariat and its work team for preparing and making it available all the documents pertaining to the Session in a timely manner under the wise and good leadership of Mr. Prof. Dr. Rahmat Mohamad.

The delegation of Egypt supports the proposal put forth by the Attorney-General of Malaysia and the Leader of the Delegation of Malaysia H.E. Tan Sri Abdul Gani Patail, for the continuation of His Excellency Mr. Prof. Dr. Rahmat Mohamad as the Secretary-General of AALCO for the second term.

In conclusion, I pray to God Almighty to make our efforts with success for the service of our people and the progress and prosperity of our nations and our societies to be all us in peace and good.

President: Thank you very much. May I now call upon the Honourable Head of Delegation from Kuwait.

The Leader of Delegation of State of Kuwait⁵ while appreciating the long journey of the AALCO since its inception and in meeting its aims and objectives emphasized that the AALCO requires the complete participation of its Member States in the activities of the AALCO. It was highlighted that strengthening co-operation in a peaceful manner supporting human foundation and human civilization was a must. The delegation condemned the occupation of the Palestinian territories by the Israeli forces. The issue of human trafficking which was on the agenda of the Session was identified as being very important and it was suggested that model legislation on same was essential to be drafted. In conclusion, they stated that the welfare and stability for all peoples should be the objective of the deliberations and efforts at the Session.

President: Thank you very much. Before I call upon the next delegation, I have a small announcement to make. The Drafting Committee will host its meeting tomorrow, Tuesday, 28th June at 3.00 PM in the Drafting Committee room. Delegates who are wishing to attend it may give their names to the Secretariat please. I hope you got my announcement correct. Drafting Committee will meet tomorrow at 3.00 PM and we would welcome delegates who wish to participate in the Drafting Committee to give their names to the Secretariat. Well now I would like to call upon our Vice-President who will address this Assembly on behalf of her delegation to make a statement on behalf of Nigeria.

⁵ Statement delivered in Arabic. Unofficial Transcription from the interpreter's version.

The Leader of Delegation of Nigeria: The Secretary-General of AALCO His Excellency Prof. Dr. Rahmat Mohamad; Excellencies; Ministers of various Member States of AALCO; Distinguished Ladies and Gentlemen;

My delegation wishes to congratulate H. E. Mr. Rauff Hakeem the Minister of Justice of the Democratic Socialist Republic of Sri Lanka on his election as the President of the Fiftieth Annual Session. My sincere appreciation goes to the Head of Delegation of China who proposed my nomination and delegation of Brunei Darussalam who seconded my nomination as the Vice-President of this historic session. Its an honour done to me as a person and Nigeria. I sincerely assure that I shall justify the confidence reposed in me and my country Nigeria with the President Mr. Rauff Hakeem, President of this session.

We also wish to express our deep appreciation to Honourable Celina Ompeshi Kombani (MP), President of the Forty-Ninth Annual Session for the wonderful and able manner she held forth in that position for the past one year.

My delegation notes with immense satisfaction, the excellent work of the AALCO Secretariat under the dynamic leadership of the Secretary-General Prof. Dr. Rahmat Mohamad and join other delegations in thanking him for the commitment and dedication brought to bear on the work of the Secretariat since assumption of office and his indefatigable work force. Nigeria joins other delegations in calling for the extension of the tenure of the Secretary-General for another term from the year 2012-2016, to enable him to continue the good work.

Excellencies, Distinguished Delegates, Ladies and Gentlemen; Nigeria has been involved with the work of AALCO for many decades and during this period, has come to appreciate the work and contribution of the organisation in global affairs particularly in the area of progressive development and codification of International law as evidenced by its contributions to the work of the International Law Commission. Nigeria had benefitted immensely particularly on the Exclusive Economic Zone from the work of AALCO.

My delegation appreciates the work of the Secretariat on the various items to be deliberated upon at this session and is pleased to make statements on the flowing items: The release of International Humanitarian Law Database on Treaty/Accession and National implementation by AALCO Member States, trafficking in Women/Children, Migrant Workers and the Protection of Children and The Deportation of Palestinians and other 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.

Nigeria notes with grave concern the increase in violent armed conflicts, civil strife and general unrest across the world especially in the developing world. The consequences on the weaker members of the society especially women and children are quite evident, as these sad developments underscore the need for rigorous implementation of the International Humanitarian Law (IHL) to ameliorate the heinous effect of those contrived human sufferings. Nigeria along with other West African countries in conjunction with International Committee of the Red Cross have individually constitutes National Implementation Committees of the IHL with a general peer review mechanism to

promote competitive implementation by the respective States. The release of the Database will no doubt serve as an impetus for Member States of AALCO to step up action on the implementation of the International Humanitarian Law.

Human trafficking in women and children, exploitation of Migrant workers and the protection of children are topical in international discuss of late. This is largely due to the world economic down turn and its attendant's negative effect on the quality of life of people. The youths, women and children are pushed to desperation in their quest for better life; particularly in the Emerging Economies. These sad developments had created an avenue of exploitation by opportunistic individuals and organised groups across national boundaries.

The elimination of these vices calls for putting in place an enabling effective legal and institutional framework based on International cooperation. Therefore, proposing this topic for discussion in this Session will no doubt provide opportunities for sharing experiences and ideas among Member States.

The Nigerian delegation commend the wisdom of the Secretariat for retaining the topic of the Israeli Palestinian conflict for continued discussion trusting that the resolution of this Historic conflict is of paramount importance to the achievement of the world peace especially in the Middle East. As a nation that upholds the application of the Rule of Law, this delegation calls for the invocation and compliance with the relevant United Nations Resolutions, the Fourth Geneva Convention of 1949 and other relevant international law.

My delegation hereby extends her goodwill and hope to the people of Japan. Nigeria shares her pain in the recent natural disaster and the breakdown in her nuclear reactor which caused so much destruction and loss of lives. As a friend of Nigeria and Africa we reiterate our prayers for her quick recovery with reinstating people's dynamism and zeal.

Excellencies, Nigeria is at a critical stage of her National development, where vital States institutions are being reinvigorated. Consequently, reforms are ongoing in virtually all sectors of the economy in line with the policy objectives of repositioning the country to meet the challenges of the 21st century. The enthronement of the Rule of Law in all facets of our national life is being championed by the Government. In tackling these challenges, Nigeria will continue to rely on the contributions and assistance she has enjoyed from AALCO over the years and especially the capacity building programmes initiated by the Secretariat. However the achievement of our collective dream can only be attained in the Global village community when there is peace.

Finally, Ladies and Gentlemen, Excellency's, hereby express our appreciation to the Government and good people of the Democratic Socialist republic of Sri Lanka for hosting the Fiftieth Session and the Secretariat for the hospitality extended to members of my delegation since our arrival at this beautiful Historic city of Colombo.

We wish all delegations fruitful deliberations. I thank you all.

President: It is now my pleasure to call upon the Head of Delegation from Republic of Korea to make their statement.

The Leader of Delegation of Republic of Korea: Mr. President, on behalf of my delegation, I would like to congratulate you on your assumption of the Presidency of the Golden Jubilee Session this year. I wish to extend my full support to you and the other members of the Bureau. I have every confidence that this Golden Jubilee Session in Colombo will prove to be a resounding success, not only in exchanging views on key issues in contemporary international law, but also in forging and nurturing friendship between the peoples of Asia and Africa.

I would also like to express my heartfelt appreciation to Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO and his Secretariat for their hard work in making this session a memorable and successful event. Let me also join other delegation in thanking for the warm hospitality and excellent arrangements extended to all of us by the people and government of the Democratic Socialist Republic of Sri Lanka.

Mr. President, Distinguished Delegates, we now have a broad array of agenda items before us, encompassing both organizational and substantive matters, ranging from the ILC to the International Criminal Court and World Trade Organization. I would like to take this opportunity to raise the two following items to be discussed during our special meetings: “Law of the Sea” and “Environment and Sustainable Development.”

The Law of the Sea, among others, is an area to which the AALCO has contributed greatly, by helping to incorporate new concepts for the governance of the oceans, including the Exclusive Economic Zones and the Archipelagic States, into *the 1982 United Nations Convention on the Law of the Sea*. With the number of States Parties to the Convention reaching 162 countries and the United States considering ratification of it, its authority and universality seems to be at its peak. However, we need to pay attention to the fact that the subtle balance reached at Montego Bay in 1982 is being challenged and that we may need to revisit the Convention in the near future. There are those dissatisfied with the lax enforcement under the current system and who emphasize the growing need for tighter enforcement at sea for the common good. Now, the world of today has a difficult task of balancing the freedom of the high seas and better governance at sea in the interest of community well-being in areas such as piracy, trafficking in drugs or people, conservation of the marine environment and fisheries etc.

There has also been an earnest discussion in the area of environment and sustainable development at the Sixteenth Meeting of the Conference of Parties to the UN Framework Convention on Climate Change and the Sixth Meeting of the Parties to the Kyoto Protocol, held in Cancun, Mexico last year. With international assistance, the Korean government launched the Global Green Growth Institute (GGGI) on June 16, 2010 in Seoul to support developing countries’ shift from traditional manufacture towards the “Green Growth” paradigm. On May 12, 2011, Korea formed the Green Growth Alliance with Denmark, while other nations including the United Arab Emirates and Japan also decided to support the GGGI. The Korean government appreciates their support and hopes that more nations will take part in this effort for sustainable development. In addition, the Korean government has committed to hosting the 18th Conference of the Parties to the UNFCCC in 2012 (COP 18) so as to contribute to the global agenda of climate change. Thanks to its experience of economic development harmonized with

environmental sustainability, I am confident that Korea is well suited to play a bridging role between developed and developing countries.

Mr. President, Distinguished Delegates, I would like to urge you to heed the current international issues in Asia and Africa, which have to be solved urgently. Now, we live in the globalized world, where international law serves as the core tool of global governance. However, the Asian and African Regions are not free from challenges to their peace and stability. And unstable factors seem to be on the rise. Territorial and maritime disputes remain serious problems in Asia and Africa, while ethnic friction is still causing deaths of numerous people. We should not miss the opportunity to use AALCO as regional fora to discuss these issues and find proper measure.

I notice that the issues on our agenda are responsive to the challenges to modern international law, which attaches increasing importance to the concept of culture, human rights and international cooperation. Against this backdrop, my delegation wants to urge the Members of AALCO to seriously consider these issues in international legal aspects and to take effective measure in order to solve these problems in peaceful ways in accordance with the norms of international law.

My delegation hopes that this session of AALCO will be a good opportunity to share the opinion of Asian and African nations on these urgent issues and to make their voices be heard, by exploring the common ground among us and speaking with a unified voice.

Mr. President, Distinguished Delegates, let me take this opportunity to reaffirm my government's commitment to AALCO. The Republic of Korea has been an active and ardent supporter of AALCO since becoming a full member in 1974. As I explained in the previous session in Dar es Salaam, Tanzania, the Korean Government is honored to have hosted the annual session twice in Seoul, in 1979 and, more recently, in 2003. My Government takes pride in the accomplishments of the two previous sessions it hosted, and is happy to see that the various initiatives, taken along with the AALCO Secretariat at that time, continue to contribute to more productive and efficient AALCO sessions.

Mr. President, Distinguished Delegates, I would like to conclude my general statement by reiterating, on behalf of my Government, our continued dedication to AALCO. I am sure that this will be a very constructive and enjoyable week for all of us here. I wish every success for this golden jubilee session. Thank you.

President: Thank you. Now it will be the turn of the Honourable Minister of Justice from Pakistan.

The Leader of Delegation of Pakistan: Mr. President Honourable Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka; Honourable Ministers, the Secretary-General, Excellencies, delegates, participants, Observers, Ladies and Gentlemen; it is a great pleasure and honour for me to be present and participate in the Fiftieth Commemorative Annual Session of the Asian-African Legal Consultative Organization. This Session is a special one as it would remind us of Bandung spirit of Afro-Asian solidarity.

Mr. President, please allow me at the outset of my statement on behalf of the delegation from the Islamic Republic of Pakistan to express heartiest appreciation to the Government of the Democratic Socialist Republic of Sri Lanka and its people for making the necessary arrangements to hold this session in a befitting and professional way in this beautiful city of Colombo.

Mr. President, on behalf of the Pakistan delegation I extend cordial congratulation to your election as the President of the Fiftieth Session. Our congratulation to Her Excellency Mrs. Ifeyinwa Rita Njokanna, on her election as the Vice-President of this session. I am sure, Mr. President, that by virtue of your wisdom, talent and experience this Session will be a complete success.

Mr. President, I would like to take this opportunity to convey our deep solidarity with the Government and people of Japan who have been ravaged by an earthquake and Tsunami. The devastation caused by the earthquake and Tsunami deeply shocked the world and brought them together. We hope and pray that our Japanese friends recover from this catastrophe with all their courage.

Mr. President, I would like to take the opportunity to congratulate the Secretary-General and also all other officers and staff of the Secretariat for great efforts exerted for the preparation for this Session particularly the Secretary-General for presenting comprehensive report divided into seven sections on the work of AALCO. We support the second term for His Excellency the Secretary-General.

Mr. President, AALCO has established as a major forum to deal with international law issues among the Asian and African countries. The Member States with a spirit of achieving common goals in the field of International law have contributed to the growing status of AALCO. However, it consists of countries with varied legal systems. AALCO has been effective to ensure that the position of the Asian and African States on matter of International law of common concern are purposeful within the Organization, which subsequently giving us the necessary inputs to have influence on the codification and progressive development of International Law. The AALCO serving as an advisory body to its Member States in the field of International Law is therefore laudable.

Mr. President, currently there are 16 items on the agenda of the session dealing with International law matters, which are of concern to the international community. Pakistan has noted the work and progress achieved on some of these items the same would be deliberated upon accordingly during the course of this session. I would, however, like to touch upon the two important items from Pakistan's point to view which are placed in the category of non-deliberated agenda items for this session. Moreover, as recommended by the Secretary-General we would provide to the Secretariat our written comments on these agenda items. The first one is concerning the International terrorism.

Mr. President, the need for all states is to work together in a coordinated and cooperative manner, to address the menace of International terrorism which constitutes one of the most pervasive threats we confront today. Pakistan is extending full support and active cooperation to the fight against terrorism. Our commitment to fight terrorism has been unswerving despite several casualties. We believe that terrorism is global challenge and

countering terrorism is a shared responsibility. We need to evolve a comprehensive strategy to eradicate this menace. Military option alone would not succeed. We must address the root causes that create conditions conducive to the spread of terrorism. These inevitably include political or economic injustices, desperation, sense of humiliation and helplessness. National Implementation and enforcement mechanisms including legislations are crucial in fight against terrorism. We have put in place legal framework giving effect to UNSC decision under the United Nations (Security Council) Act, 1948.

Mr. President, it is our view that the overall strategy for dealing with terrorism must be based on detailed analysis and studies of the factors promoting terrorism in Pakistan. These factors may be different in different parts of our country, requiring specific remedial measures. However, the following broad steps are to be considered:

1. Promotion of tolerance in the society through education and the media.
2. Creation of economic opportunities on an immediate basis in the areas particularly impacted by terrorism.
3. Payment of compensation to the victims of terrorism and efforts for the rehabilitation.
4. Strengthening of law enforcement and intelligence capabilities in the vulnerable areas.
5. Promoting a moderate vision of Islam that emphasizes on the social aspects, rather than political and punitive aspects.

Mr. President, the objective we all espouse, to make our world safe from terrorist violence, is essential for international peace and stability, for development and prosperity and for the promotion and respect for human rights.

The other issue of interest to us is the war against corruption. Pakistan is fully committed to fighting the menace of corruption. We have ratified to the UN Convention against Corruption in August 2007. We have also undertaking enormous work to implement the concept, principles and provisions of the convention and in certain cases the laws contain provisions with much wider scope. Pakistan has an Anti-Money laundering law in place. We believe that ultimately, the governments of the State parties to the Convention into action. Pakistan on its part remains in its resolve not only to combat but also to facilitate International cooperation against corruption.

Mr. President, in this context, we would like to stress the importance of Article 51, which clearly states that the return of assets is a fundamental principle of the Convention and that State Parties shall afford one another the widest measure of cooperation and assistance in this regard. We urge all states to facilitate recovery of assets to their legitimate owners, i.e., the government of the countries of origin.

Mr. President, the approved agenda of the Session is timely and relevant. My delegation is grateful to note that AALCO has focused on current challenges faced by us. These issues are of special interest to Pakistan. We look forward to fruitful deliberations this

week on all the items on the agenda for this session. We assure you of the cooperation of the Pakistan delegation to bring the work of this Session to a successful conclusion.

Thank you Mr. President.

President: Thank you. We have only two more delegations to make statements to make today that would be Nepal and Ghana and we have to conclude by 6.00 o'clock. If you can divide time for the next twenty minutes between the two, that would be ten minutes each, may I call upon the Head of Delegation from Nepal to make their statement.

The Leader of Delegation of Nepal: Mr. President, Your Excellencies, Ministers and Ambassadors, Mr. Secretary General Distinguished Delegates, Participants and Observers, Ladies and Gentleman; on behalf of the Nepalese delegation, and on my own, I would like to congratulate you on your unanimous election to the high office of President of the Fiftieth Session of the Asian African Legal Consultative Organization. I am confident that your vast knowledge, wisdom and insight will help to further strengthen and revitalize the Organization.

I would like to extend my sincere thanks and appreciation to the outgoing President, Celina Ompeshi Kombani for her valuable contribution to the Organization. I would also like to convey my warm felicitations and congratulations to Mrs. Ifeyinwa Rita Njokanma on her unanimous election as the Vice-President of this Session.

Mr. President, my special thanks also go to the Government of Sri Lanka for organizing this Session in the beautiful city of Colombo and for warm and cordial hospitality extended to me and my delegation. I deeply appreciate the job performed by the Secretary General and other AALCO staff. I appreciate the inspiring inaugural address by His Excellency Mahindra Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka. His inspiring words symbolize the importance attached by the Government of Sri-Lanka to this Organization and provide invaluable guidance for future direction of the Organization.

Mr President, this Session is to be considered as a Special Session to assess the works of the organizations and revisit the commitments made during last forty-nine sessions. AALCO is the only legal Organization that consists of Member States from both Asia and Africa. AALCO had made a significant contribution in the codification and progressive development of international law, through submitting its views to the General Assembly of the United Nations by collecting and consolidating the positions of its members on particular subjects under consideration of International Law Commission, General Assembly and its Sixth Committee. It had played important role in setting the norms and standards in various fields of international law. In order to ensure that its members have proper laws and regulations in new and emerging areas, it has developed and disseminated model laws and agreements. Its special study reports and year-books are important source of information on international law. Nepal has always attached great importance to the works of AALCO and appreciates its achievements made so far.

Mr. President, Nepal appreciates special agenda selected for this session which are very timely and pertinent especially the topic on trafficking in women and children; and

migrant workers and protection of children, which are the prime concerns of developing countries like Nepal. Trafficking in persons, women and children in particular pose serious challenge to humanity, human rights and development. It is the worst form of modern day slavery, and the trafficking of a girl child for prostitution is morally degrading and heinous crime.

Nepal is a party to almost all the international and regional Conventions relating to trafficking in persons. It is in the process of ratifying United Nations Convention Against Transnational Organized Crime and accession to its Optional Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children. UNODC in its recent report has revealed that Nepal's legal and policy frameworks are harmonious with international standards. It is making efforts to address the push factors like political, social, economic, cultural and personal but pull factors have been proved more challenging than others. In order to redress this problem, effective co-operation and co-ordination of efforts at the national, bi-lateral, sub-regional, regional and international levels, especially among countries of origin, transit and destination are required.

Migration can be regarded as a process that could enhance social progress in both the origin and destination countries. It is also one of the empowering processes of the migrants themselves. The main challenge of migration are smuggling in migrants, particularly the exploitation of irregular migrants. Within migration phenomenon, the situation of child migrants is more passive, vulnerable and exploited one. In order to resolve this problem, we need to take initiatives, first by the ratification of the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Convention on the Rights of Child and its two Optional Protocols, Optional Protocol to prevent, suppress and punish trafficking in persons, and International Labour Organization Convention No. 182 Against the Worst Forms of Child Labour. The Draft Regional Model Cooperation Agreement between States of Origin and States of Destination/employment within AALCO Member States would guide the Member States to move ahead.

Mr. President, similarly, the issue of climate change under environment and sustainable development has been one of the most critical issues of our time. The rapidly melting snow in the mountains, the barren lands in the hills and the rapidly depleting source of drinking water in the plains symbolize the seriousness of this problem to Nepal. I would like to emphasize on the august occasion that something concrete needs to be done immediately to save the life and livelihood of the people of Asian and African region.

Finally, I thank you for giving me the floor to put my delegation's views to this august gathering. Thank you.

President: Thank you. Now I call upon the Head of Delegation from Ghana to make their intervention.

The Leader of Delegation of Ghana: The President of the Fiftieth Session, the Secretary General of AALCO, Prof. Dr. Rahmat Mohamad, Colleague Ministers, Distinguished Ladies and Gentlemen, let me take this opportunity to congratulate the Leader of the Delegation of Sri Lanka, Hon. Rauff Hakeem, Minister of Justice of the Democratic

Socialist Republic of Sri Lanka on his election to the Chair of the Fiftieth Session. I am certain that your qualities and experience will be brought to bear on this Session and steer it to a successful conclusion. I also extend my heartfelt congratulations to the Vice President of the Fiftieth Annual Session H.E. Mrs. Ifeyinwa Rita Njokanma, Director, International Law Department, Federal Ministry of Justice, Nigeria and hope that she will assist the deliberations in an effective way.

I bring to the Government and the people of Sri Lanka greetings from H.E. President John Evans Atta Mills and the people of Ghana. His Excellency the President has also asked us to extend his warm greetings to you all, the delegates to this 50th Session. We also wish to thank the Government and people of Sri Lanka for the warm welcome and reception accorded to the Delegation of Ghana to this Conference.

We take this opportunity to express our sympathy and solidarity with the people of Japan as they commemorate over 100 days of the earthquake and tsunami that has affected lives and property across Japan. May we also mention here our delight at the re-election of Mr. Ban Ki-Moon as the Secretary-General of the United Nations for a second term. We have always admired the quiet and effective diplomacy of Mr. Ban Ki-Moon and it is our hope that the next five years will see the dividends of his brand of leadership.

Mr. President, the last six months have witnessed events that have challenged the foundations of many States and Governments. There have been wars, and rumours of wars in many places. There have been earthquakes, volcanic eruptions, diseases and fear of nuclear catastrophe in other places. In some other places, there have been violations of the lives and liberties of individuals with impunity in the name of religion. We have witnessed the rise of ordinary people against un-democratic governments, oppression, corruption and impunity in various countries around the world.

Whilst we acknowledge the right of people everywhere to democratic and constitutional rule; whilst we recognize the fundamental human rights and freedoms enshrined in such international instruments as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and many others, we in Ghana believe that the rules of engagement in international affairs must be on a plain and level playing field. The AALCO, we believe is the forum in which to begin the struggle for such equity.

It is the view of the Republic of Ghana that the basic principles and tenets of international law should be applicable to all manner of States and Governments equally. The UN Charter is very relevant to us today as it was 65 years ago. It is time for the international community “to reaffirm [our] faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, to practice tolerance and live together in peace with one another as good neighbours and unite our strength to maintain international peace and security” to solve international problems of an economic, social, cultural or humanitarian character. Even though most of the countries assembled here today were not in San Francisco in 1945, we can not overlook the lessons of history.

It has always been the position of the Government of Ghana that for international security concerns, there should be cooperation between states with regard to the development of nuclear energy for peaceful purposes. Accordingly, we believe that nuclear facilities should be made accessible to the international community, and especially the UN watchdog agency, the International Atomic Energy Agency [IAEA], to ensure that through its systems of inspection and control, nuclear energy would not be developed for uses other than peaceful. We therefore call on members of the AALCO family to abide by these international principles to ensure that peace will prevail in the world.

Finally, my Delegation wishes to express its appreciation to the Secretary-General and the staff of the AALCO for the enormous efforts put into organizing this beautiful Fiftieth Session in Colombo, Sri Lanka. Let me once again take this opportunity to wish all Delegates here successful deliberation. Thank you.

President: Thank you very much for your general statements.

The meeting was thereafter adjourned.

**VI. VERBATIM RECORD OF THE
SECOND GENERAL MEETING**

**VI. VERBATIM RECORD OF THE SECOND GENERAL MEETING
HELD ON TUESDAY, 28 JUNE 2011 AT 9.00 AM**

Her Excellency Mrs. Ifeyinwa Rita Njokanma, the Vice-President of the Fiftieth Annual Session in the Chair.

Vice-President: Today we are continuing with the “General Statements” and in the order of requests on my list we shall begin with India. Please India could we have your statement please. Distinguished delegates may I please request you to be brief as we have limited time. We have to vacate this hall at 3.00 PM on the dot. If you make your statements brief, you could hand over your statements to us and they will be duly published. So as much as possible if you can limit yourself to five minutes, so that everybody could be heard. Thank you.

The Leader of Delegation of India: Thank you Madam Vice-President. First of all allow me to join other Delegations in congratulating the President and you Madam Vice-President on your election to guide our deliberations. We are sure that with your wisdom, experience and expertise you will steer our deliberations to a successful conclusion. I also wish to thank the Government and people of Sri Lanka for hosting our Annual Session in this beautiful and historic city of Colombo. I would also like to thank them for the excellent arrangements which have been made for our Session and for the warm hospitality that has been extended to us since our arrival. I would also like to thank the President and the Foreign Minister of Sri Lanka for inaugurating this Session and delivering the keynote address, especially for highlighting the achievements of AALCO and the challenges that lie ahead.

Madam Vice-President I also thank the President of the Forty-Ninth Annual Session the Honourable Celina Kombani, Minister of Constitutional and Legal Affairs of the United Republic of Tanzania, for guiding the work of the Organization during the past year. I also express my appreciation to the Secretary-General and his staff for the excellent preparations they have made for our current Session, including the preparation of documents to help our consideration of the various items on our agenda.

Madam Vice-President all delegations have referred to the Bandung Conference and the origins of AALCO, and the phenomenal growth it has made from the original membership of 7 to a current membership of 47. I would like to recall that India was one of the seven founding members of AALCO. We continue to attach highest importance to AALCO and its work, and we are proud to be the host country of AALCO, since it was established. In order to help the Organization to function effectively we have provided them with the Headquarters premises in the prestigious diplomatic area of Chanakyapuri, in New Delhi. At this stage I would also like to recall the extensive contribution of Mr. B. Sen, the very first Secretary-General of AALCO, who laid the foundations of its growth and guided it through its formative years. Right from the time of its establishment until 1988 he functioned as the first Secretary-General and much of the success of AALCO is owed to him. His dedication and strong belief in the idea and purposes of AALCO is evidenced by the fact that he gave his services voluntarily and he did not take a salary

from the Organization, which has contributed greatly to the ability of AALCO to be able to function on a limited budget.

Madam Vice-President we have at this Session many important items on our agenda such as: The Law of the Sea, the Work of the International Law Commission, the Work of UNCITRAL, Human Trafficking especially Women and Children, and we hope that we will have very fruitful deliberations on these subjects. I will not refer to any of these subjects in detail now in view of your instructions that we limit our interventions at this stage. However, I would like to make special reference to the topic of “Jurisdictional Immunities of States and Their Property”. I would like to thank the delegation of Japan for raising this very important issue. This is a Convention which concerns all of our countries directly. The Convention was adopted after long negotiations, long discussions and in-depth consideration in the International Law Commission. Even after that it took several years in the Sixth Committee, before the Convention was finally adopted. I join the Japanese delegation in urging all Member States to ratify or accede to this Convention so that it enters into force at an early date. Here I would like to add that India has signed the Convention, we are now in the process of enacting legislation and as soon as that stage is over we would be in a position to ratify.

Madam Vice-President during the inaugural ceremony as well as in the general statements made yesterday by delegations, the contribution of AALCO was recalled, especially on matters relating to the law of the Sea. While this is a matter of great pride for all of us that AALCO was able to make an effective contribution and to project the views of its Member States in the drawing up of the United Nations Convention of the Law of the Sea, at the same time it's also a cause of concern. It's a cause of concern because no delegate was able to recall any significant achievement made after this Convention was adopted. It's nearly twenty years now that the Law of the Sea Convention was adopted, so what have we been doing in this period? Why is it that there are no significant achievements that AALCO can recall in the last two decades? I think this is a matter which all of us need to ponder over and seriously examine. Where have we gone astray on the initial good work which was done? I thank the Secretary-General for making an effort towards this end by setting up the EPG. I am honoured to be a member of this Group and we hope that we would be able to regain the past glory and to have further achievements to our credit. In this I would like to make one mention that possibly there is a need to reassess our methods of work. We need to assign more time to deliberations and discussions of the substantive agenda items and less time on procedural matters. On this aspect I would like to refer to one announcement that was made yesterday regarding the Drafting Committee and the resolutions to be adopted. I think this is a recent phenomenon in AALCO that we are spending more time on drafting efforts rather than on deliberations on substantive matters, I leave this thought with you and with other delegations. Thank you, Madam Vice-President.

Vice President: Kenya please.

The Leader of Delegation of Kenya: Thank you. Mr. President, Honourable Ministers and Attorney Generals, Secretary-General of AALCO, Excellencies, Distinguished Delegates, Distinguished Observers, Ladies and gentlemen.

Allow me on behalf of the Republic of Kenya and on my own behalf to thank the Government of the democratic Socialist Republic of Sri Lanka for the warm hospitality they have extended to me and members of my delegation since our arrival. This is indeed the Pearl of Asia. Permit me also to thank the Secretary-General of AALCO and the AALCO Secretariat for organizing this commemorative Annual Session which marks the Fiftieth Annual Session of the Organization in this beautiful venue in Colombo. I am pleased to note that the organizers of this meeting have ensured that in our programmes we shall all have the opportunity to visit some of the wonderful sights of this beautiful city. My delegation notes that this is the fourth time in the annals of AALCO that the Government of the Democratic Socialist Republic of Sri Lanka is hosting the Annual Session of AALCO having hosted the Third, Twelfth and Twenty-Second, Annual Sessions in Colombo, in 1960, 1971 and 1981 respectively.

I would like to congratulate you H.E. Mr. Rauff Hakeem, Minister of Justice of the democratic Socialist Republic of Sri Lanka and Mrs. Ifeyinwa Rita Njokanma, of Nigeria on your election as President and Vice-President respectively of the Fiftieth Annual Session of AALCO. On behalf of my delegation, we express our confidence in you and wish you the very best in your tenure.

I wish to also extend my appreciation to Hon. Celina Ompeshi Kombani, Minister of Constitutional Affairs of the United Republic of Tanzania, for her able stewardship as President of the Forty-Ninth Annual Session.

I want to take this opportunity to congratulate the Government and the people of the Democratic Socialist Republic of Sri Lanka for having overcome one of the biggest challenges to the sovereignty and territorial integrity of Sri Lanka. With peace restored, an enabling environment for development of the people has been created.

Distinguished Delegates, Ladies and Gentlemen, it is always a great honour and privilege for me to participate in meetings of this Organization.

One of the main objectives of AALCO which is dear to our hearts, is its role in serving as an advisory body to its Member States in the field of international law. AALCO's close relationship with the International Law Commission, the UN General Assembly and other international organizations indicates the importance of having these Annual Sessions to allow for a regular forum to formulate the positions we hold on the various legal issues. We owe it to ourselves and our future generations to continue working closely between the African and the Asian states in order to make an impact in the 21st Century.

We should not lose sight of what led to the founding fathers to form this Organization. As H.E. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka reminded us at the opening of this Session – law is an instrument of social engineering to

ensure economic and social development for all with each realizing his/her full potential. At the international level, we have to ensure that international law develops in a manner that takes into account the interests of third world countries.

Just like the third world countries came up with the concept of Exclusive Economic Zone in the Law of the Sea, we should on any subject under international law enrich the development of the law by our input. AALCO is the only Organization that can coordinate our efforts and help us to achieve that objective of ensuring that international law does not serve the rich and powerful but the poor and developing nations and the people of the world.

There are many areas which should be of particular interest to developing countries such as:

- * The universal jurisdiction of Domestic Courts.
- * International standards in the treatment of aliens.
- * The issue of environment and armed conflicts.
- * Investment laws including Most Favoured Nation Clauses and Dispute Resolution.
- * Legal Protection of the Atmosphere.
- * The responsibility of terrorists, armed groups or militia under international law.
- * Jurisdictional immunities of states.
- * Responsibility of international organizations; etc.

As we celebrate the Fiftieth Anniversary, we should re-examine the Statute of AALCO with a view to making it a strong but flexible organization able to effectively discharge the mandate. In this regard, Kenya would like to support the renewal of the current Secretary-General H.E. Prof. Dr. Rahmat Mohamad who is already suggesting some innovative ideas to rejuvenate and strengthen AALCO.

Distinguished Delegates, permit me on behalf of my Government and the people of Kenya to join the voices of other states in conveying our deepest sympathy to the people of Japan on the catastrophic and devastating earthquake and tsunami and the nuclear plant disaster that occurred earlier this year. We remain available to engage in activities that will assist Japan recover from this tragic event.

Ladies and Gentlemen, on 27th August 2010, Kenya marked the historic milestone when the New Constitution was promulgated after it had been endorsed by 70% of the votes cast by the people at the referendum. The new Constitution replaced the 1963 independence Constitution thereby marking the birth of the Second Republic. Some of the key changes that the new Constitution brought include the introduction of an upper house – the Senate; a Supreme Court and the independent and expanded Judicial Service Commission responsible for the appointment of Judges; devolution of power to two levels that is national and counties; a clear separation of powers between the Executive, the Legislature and the Judiciary; no longer will Cabinet Ministers be drawn from the elected members of Parliament. An innovative provision which is unprecedented anywhere in the world is the advertisement of the posts of the Chief Justice, Deputy Chief

Justice and Judges of the Supreme Court and interviewing the candidates publicly – and it was televised live.

Other gains attained through the new Constitution include an advanced Bill of Rights that goes beyond civil and political and includes socio-economic rights of the Kenyan citizens; the right to recall legislators; gender equity in the representation of elective bodies, that is, no more than two-thirds of members shall be from either gender in its make up. The Constitution also requires an Independent Ethics Commission to be set up that will monitor compliance with integrity in all government institutions and make investigations and recommendations to the necessary authorities; a Human Rights and Equality Commission that will have power to investigate and summon people involved in Human Rights abuses; Equitable Sharing of resources between the National government and the County government; an Equalization Fund to improve basis access to basic needs of the marginalized communities; and many other exciting provisions.

Ladies and Gentlemen, on 6 May 2009, the Republic of Kenya submitted to the Commission on the Limits of the Continental Shelf, in accordance with Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea, information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

We have found that there is lack of capacity among third world countries, including Kenya, in that area of preparing, submitting and defending submissions made to the Commission on the Limits of the Continental Shelf. In this regard, Kenya has proposed the establishment of a pool of experts in this field who may be called upon to assist the Commission in the discharge of its duties. Kenya has also requested the Division of Ocean Affairs and the law of the Sea (DOALOS) to come up with more programmes that will help build capacity in this technical field especially among developing countries.

The issue of piracy and armed robbery against ships at sea off the coast of Somalia remains a grave concern to Kenya. These activities have greatly affected trade and commerce in the entire East African region and beyond. Kenya appreciates the efforts made by the international community to combat piracy, including the establishment of a Contact Group on Piracy off the coast of Somalia, which has had some deterrent effect on piracy and armed robbery in the region. Kenya has played her role particularly in the area of prosecution of pirates. We have and are prosecuting more than one hundred pirates thereby holding a world-wide record in that record. However, the issue of the money obtained as a result of piracy must be addressed urgently. Such illegal money is finding its way to Kenya and increasing the price of property beyond the reach of Kenyans.

Ladies and Gentlemen, Kenya welcomes the Special meeting on Trafficking of Women/Children, Migrant Workers and Protection of Children to be discussed during this Session of AALCO.

In order to seal any loopholes through which human trafficking may take advantage of Kenyans, the Government of Kenya has enacted the Counter-Trafficking in Persons Act,

2010 to implement Kenya's obligation under the United Nations Convention against Transnational Organized Crime particularly its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Excellencies, Ladies and Gentlemen, it will be recalled that during the Forty-Ninth Annual Session Kenya reported that the process of setting up the Nairobi Regional Arbitration Centre was already on course. The new Constitution places importance on alternate dispute resolutions including arbitration as an important procedure in the justice system. The Arbitration Act has now been amended to take care of international arbitrations. The Judicature Act has been amended to provide for arbitration and mediation. We have reviewed the committee responsible for overseeing the process of establishing the regional arbitration centre and as part of capacity-building, we are sponsoring two officers to attend the Asia Pacific Regional Arbitration Group Conference 2011 to be held in Kuala Lumpur, Malaysia from 9th to 10th July 2011, as to afford an opportunity to benchmark for the proposed Nairobi regional arbitration centre.

Distinguished delegates, some of you may be aware that my tenure as the Attorney-General of the Republic of Kenya is coming to an end in August this year. I will thereafter not be attending future annual sessions as Attorney-General but hopefully in other capacities. For the past twenty years that I have been Attorney-General I have attended various Annual Sessions, and over the years I have seen AALCO activities grow and flourish immensely.

I would like to take this opportunity to appeal to those states in Africa and Asia who are not yet members to become members immediately. I remain grateful for your stimulating company and the enormous collection of shared experiences permanently etched in my memory.

I intend to do my utmost in following the saying by Bernard Baruch: "Age is only a number, a cipher for the records. A man can't retire his experience. He must use it" – and I intend to use it for as long as God gives me life on this planet.

I wish you all fruitful deliberations and hope this Annual Session will provide you with the unique opportunity to analyze the impact of various issues in the legal arena both regionally and internationally.

Once again let me thank the Government of the Democratic Socialist Republic of Sri Lanka and the AALCO Secretariat for having organized this meeting in Colombo and to commend each one of the officials for working tirelessly to ensure the success of this meeting. I wish you all a safe journey when you travel back to your countries. Thank you.

Vice-President: Thank you Kenya. May I please urge the distinguished delegates to understand our limitation of time and try to cut short your statements and please be very brief. In the course of deliberations on the agenda items you can make further statements on your experiences and share your ideas. Now I call upon Indonesia to make their statement.

The Leader of Delegation of the Republic of Indonesia: Madam Vice- President, Secretary-General of AALCO, Prof. Dr Rahmat Mohamad, Excellencies, and Distinguished Delegates.

First of all, I would like to convey my sincere appreciation to the Government of Sri Lanka for its warm welcome and generous hospitality in arranging this meeting. Furthermore I would also like to congratulate H.E. Rauff Hakeem, Minister of Justice of Democratic Republic of Sri Lanka for having been elected as the President of the Fiftieth Annual Session of AALCO. I have every confidence that under his chairmanship, along with the joint efforts of the delegations of Member States, this session will be a success and enhance AALCO's role as a valuable forum for legal consultation. Please accept the cooperation of the Indonesian Delegation in promoting a productive discussion. I also wish to take this opportunity to express my appreciation to the Hon. Celina Ompeshi Kombani, Minister of Constitutional and Legal Affairs of the United Republic of Tanzania, for the excellent job she has done over the past year.

Our delegation would also like to express our highest appreciation that this golden jubilee session of AALCO was inaugurated by a warm address by H.E. Mahinda Rajapaksa, President of Democratic Socialist Republic of Sri Lanka.

On this occasion, Indonesia would also like to extend its sincerest condolences and sympathies to the Government and People of Japan for the victims and damage caused by the Great East Japan Earthquake. In testament of our solidarity and most of all as a country also previously affected by similar natural calamities, Indonesia has already dispatched medical personnel, equipment and supplies as well as other basic essentials.

Madam Vice-President, Excellencies, Distinguished delegates, it is indeed a privilege for me to attend the Fiftieth annual meeting or golden jubilee session of the Asian-African Legal Consultative organization today in this beautiful country. Since its inception in 1956 as the Asian-African Legal Consultative Committee (AALCC) in 1956 as an important part of the outcome of the 1955 Asian-African Bandung Conference, the Organization has succeeded in establishing itself as a prominent organization representing the developing countries from Asia and Africa, serving as an advisory body to its Member States in the field of international law and as a forum for cooperation on legal matters among its Member States.

The Organization has made an important contribution to the development of international law. As we may recall, its early valuable contribution was in particular in the work on the Law of the Sea, in conjunction with the UN Third Conference of the Law of the Sea. It was in the Cairo Meeting in 1969 that the AALCO included in its agenda the Law of the Sea issues. The AALCO then commenced deliberations on the subject in the Colombo Meeting in 1970. The meeting discussed among others the issue of the water column beyond national jurisdiction and later developed into the regime of exclusive economic zones, as well as the archipelagic State principles that later became the regime of archipelagic States. It was an effective forum where Member States engaged in consultations, exchange of views and fostering coordinated efforts. The work of the

AALCO on the Law of the Sea issues in subsequent meetings helped Member States to formulate their respective positions on different issues on the Law of the Sea being considered in the Conference on the Law of the Sea. In this annual meeting, Indonesia welcomes the opportunity for us to discuss the Law of the Sea.

Madam Vice-President, Excellencies, Distinguished delegates, one of our biggest concern is the outstanding issue of Genetic Resources, Traditional Knowledge and Folklore (GRTKF). As we know, since a few years ago, the AALCO meeting has shown its serious concern about the progress achieved in the WIPO Intergovernmental Committee on GRTKF through discussion on the agenda item, Expressions of Folklore and its International Protection. In connection with this, Indonesia stressed the importance of strengthening our position in order to achieve at its conclusion an international legally binding instrument on the protection of GRTKF in the WIPO forum. Given the present situation, Indonesia took the initiative to organize Like Minded Countries Meeting (LMCM) as a complementary forum for discussion for some member countries that are like minded on GRTKF issues and with the purpose of facilitating the work of the Committee in establishing international Legal Instruments on the protection of GRTKF. Indonesia believes that the outcomes of the LMCM could be an alternative way to continue the effort to conclude international legally binding instruments on the protection of Traditional Cultural Expressions, Traditional Knowledge, and genetic Resources.

Madam Vice-President, Excellencies, Distinguished delegates, another issue that concerns us very much is the Palestine issue. This issue has been a fundamental and frequent topic in our discussions. In this matter, Indonesia has always been a supporter of a peaceful solution. We support the two-state vision where there will be a secure and internationally recognized border between Palestine and Israel. In relation to this, Indonesia underlines the need for directing all efforts to resuming the process leading towards a permanent settlement of the conflict under the relevant United Nations Security Council Resolutions. The path to peace and stability lies through the implementation of United Nations resolutions and working within the ambit of the international community.

The last very important issue for Indonesia is trafficking in persons. We would like to comment on this issue by informing you of our developments in combating this heinous crime and stress the importance of international cooperation in the fight against the crime since no country can ever fully succeed in combating this transnational crime without the assistance of other countries.

Finally, Indonesia, as an original founding member of AALCO, has always been a forefront supporter of cooperation between Asia and Africa. As our two great continents grow more prosperous, so too our responsibility as citizens of the world's mount. We are no longer spectators in the international forum, but are key players that will make or break future outcomes. I wish to reiterate the Indonesian Government's strong support for AALCO and its contribution to world legal affairs. Thank you.

Vice President: I thank you. Now I call upon Myanmar to make the statement.

The Leader of Delegation of Myanmar: Madam Vice-President, Honourable Ministers, Excellencies, the Secretary-General, Head of delegations, Distinguished Guests, Ladies and Gentlemen.

I would like to congratulate Mr. Rauff Hakeem, Minister of Justice of the Socialist Democratic Republic of Sri Lanka and you for the election as President and Vice-President of this historic Golden Jubilee Session of AALCO. We appreciate the Government of Sri Lanka for its warm hospitality extended to us since our arrival and National Organizing Committee of the 50th Annual Session. Our thanks also go to Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO and the Secretariat for the hard work and arrangements made for this session.

Myanmar attaches great importance to the AALCO as being the legal forum where many important legal issues in International Law are raised and discussed openly among the like minded members of the Organization. Myanmar appreciates the role played by AALCO in monitoring closely ILC in its work on the development of international law and its codification. We consider AALCO as an important hub for two continents, giving assistance to consolidate them at regional level. Specific transitional issues and problems had been identified and cooperated.

Myanmar is pleased to share its views on changing from old to new political system from the perspective of legal progressive development. These new legal developments mainly concern constitutional changes in Myanmar. Under the new Constitution of the country, which entered into force on 31 January 2011, the name of the country has changed from the Union of Myanmar to the Republic of the Union of Myanmar.

The Constitution embodies the basic principles and detailed basis principles laid down by the National Convention of 1993, 1996 and from and from 2004 to 2008. Common standards and legal values have already been established.

The referendum was held in May 2008 and it was unanimously supported by the entire people of Myanmar and was promulgated on 29 May 2008. In addition, a free and fair election was held in November 2010 and paved the way for the sitting of *Pyidaungsu Hluttaw* (National Assembly) which combines two parliamentary houses, *Pyithu Hluttaw* (Lower House) and *Amyotha Hluttaw* (Upper House). The *Pyithu Hluttaw* has 440 members, *Amyotha Hluttaw* with 224 members and *Pyidaungsu Hluttaw* with 664 members.

The National Assembly appoints the President and two Vice Presidents under the new Constitution. The President proposes its list of Cabinet Ministers for approval by the National Assembly. In the same way, members of the Judiciary are submitted by the President and approved by the National Assembly.

The Constitution contains provisions on Human Rights, national ethnic groups, promotion of literature and culture, promotion and protection of social economy in the least developed areas, promotion and protection of workers and peasants' rights. In

addition, provisions of the Constitution guarantee religious freedom and prohibit the penalties that violate human dignity. The judiciary has the power to issue the Five Writs, which are universally known to provide legal redress for the breach of human rights.

Madam Vice President, Myanmar has initiated a democratic transition. And the period of transition, it is obligatory to promote democratic practices in the country. Myanmar is committed to bringing about a democratic system.

At the core of new Government's desire for building a modern and developed nation lies economic growth of the nation.

For improvement of the economic infrastructure, we plan to carry out an in-depth analysis of the monetary policy, financial policy and investment policy sector wise to make amendment to the laws, regulations and procedures in the interest of the nation and the people.

In Myanmar, rural people who make up about 70% of the population are the main working force, and the majority of them engage in agriculture and livestock farming. Therefore, boosting production of goods and economic development of rural areas is the engine of national economic development. Only with economic development of rural areas will there be alleviation of poverty.

The world is facing many challenges as financial crisis, climate change, food security, rise in demand for energy, all forms of organized crimes, piracy and many environmental problems.

For Myanmar, an agro based country, development of agriculture and livestock breeding sector of rural areas, climate change, food security, higher incomes of rural people and poverty alleviation are the issues we have to address with all seriousness.

The government constructed a large number of dams, roads, bridges, designates 24 regions for special development and adopted its 5 rural development programmes, which are fundamental for rural development and alleviation poverty.

However, the social status of peasants, production costs are still unnecessarily high, profits remain unsatisfactory due to low productivity and poor quality, the population is growing and living costs are going up. It is difficult to meet the Millennium goals especially in eradication of poverty.

So, we have yet to overcome these hindrances to poverty alleviation of rural people. Many of rural people still live in poverty. Myanmar is planning to adopt some work programmes and plan to establish rural level cooperative societies.

ASEAN Inter Parliamentary Assembly (AIPA), which was held in Jakarta on 7 May, discussed continued cooperation between ASEAN and AIPA, bridging the economic

development gap between the ASEAN region, realization of UN Millennium Development Goals, food and energy security, risk management, protection of women and children, settlement of disputes in a peaceful way, cooperation in the issue to climate change and promotion of human rights in the ASEAN region.

Emergence of ASEAN Community in 2015, it is necessary to carry out programmes on education, creative industry and culture for the common interest of ASEAN nations. Cooperation between governments and social organizations in acquiring the obligations of 2015, ASEAN Community, development of human resources, job creation and promoting of health care and cooperation in important regional issues while facing the emergence of unconventional global challenges.

Myanmar, in its part, is pleased to share with AALCO in its endeavour to face all these challenges we are facing. Particularly, when it comes to the issue of illegal migration of people and trafficking in persons in various forms Myanmar has steadfastly taken necessary measures which include a national plan of action by providing mutual legal assistance and exchange of data and information among member countries. In fact, women, children owe a very special place in the hearts and mind of Myanmar society.

At an international level, we acceded to the UN Convention against Transnational Organized Crimes and the Protocol on Combating Trafficking in Women and Smuggling of Migrants. In addition, Myanmar is party to CEDAW and the Convention of the rights of the Child. Myanmar welcomes special half day meeting-section 1 of trafficking in women, children, migrant workers and protection of children and special half day meeting-section 2 of international commercial arbitration.

Besides, Myanmar's current regional cooperation in the areas of eradication of illegal migrants and combating human trafficking of women and children reinforce the measures taken by the AALCO Members under the guidance of the Secretary-General of the Organization. We believe that it is the time to protect folklore urgently with the close cooperation among the AALCO Member States.

Myanmar sincerely believes that all concerted efforts exerted by the Member nations of the AALCO will be crucial in settling of mutual concerns of legal protection of migrant workers.

Myanmar reaffirms its dedication to actively participate in the activities in seminar, workshops and training courses by the AALCO from time to time. We also appreciate the significant event in holding the first preliminary meeting of the EPG at this session.

Myanmar therefore wishes to renew its commitment to closely cooperate with the AALCO based on five principles of peaceful coexistence and continued cooperation in all legal matters and development of practical response to specify issues of common concern. I thank you.

Vice-President: I now call upon Palestine to make its statement.

The Leader of Delegation of Palestine¹: highlighted the illegal activities of Israel, including settlements in the Occupied Palestinian Territory. The delegation was of the view that whoever commits a crime should be brought to justice. The delegation recalled that despite scores of resolutions having been adopted by the UN General Assembly and the Security Council remained unimplemented on the ground. The delegation also sought the support of other Member States for the establishment of an Independent Palestinian State with East Jerusalem as its capital. The delegation also deplored human trafficking and highlighted the need for protection of women and children. The Delegation also stated that democracy cannot function for states under occupation.

Vice-President: Now I call upon South Africa.

The Leader of Delegation of the Republic of South Africa: Madam Vice-President, Secretary-General and Deputies, Heads of Delegations, Distinguished Guests, Your Excellencies, Ladies and Gentlemen.

On behalf of the Government of South Africa it is my honour to thank the Government of the Democratic Socialist Republic of Sri Lanka for hosting the Fiftieth Annual Session of AALCO. We are certain that this beautiful setting will provide inspiration for a successful session.

We would like to convey our sincere gratitude to the Secretary-General for the efforts in advancing the important work of AALCO, and we extend our appreciation to the Secretariat for their hard work in preparation for this session. We would also like to extend our gratitude for the hospitality we have received from the Government and people of the Democratic Socialist Republic of Sri Lanka. Madam Vice President please accept our congratulations for your appointment as Chairperson and Vice Chairperson for the AALCO's 50th Annual Session.

The Republic of South Africa is proud to be a Member State of AALCO since 2004, and to participate in this historic 50th Annual Session of AALCO. Allow me to make a few remarks on the issues to be discussed during this session.

The Republic of South Africa was involved in the deliberations on the United Nations Convention on Jurisdictional Immunities of States and Their Property from 2001, and my delegation supports the increased ratification of this Convention.

The 17th Session of the Conference of Parties (known as COP17) to the United Nations Framework Convention on Climate Change and the 7th Session of the Conference of Parties serving as the meeting of the Parties to the Kyoto Protocol is to be held from 28 November to 9 December in Durban, South Africa. In this regard the delegation of South Africa will suggest some minor changes in the draft resolution on Environment and Sustainable Development.

¹ Statement delivered in Arabic. Unofficial translation from interpreter's version.

Madam Vice-president, the South African Government takes interest in the deliberations on Expressions of Folklore. At line-function level, several State departments, including the departments of Cooperative Governance and traditional Affairs, Science and technology, and Trade and Industry, consider this issue important. We thus look forward to the discussion under this segment.

The South African delegation notes with regret that no convincing progress has been made in the Arab-Israeli peace process since it was rekindled on 2 September 2010. We wish to take this opportunity to, once more, urge all parties, including the Israeli Government, to negotiate with the leaders chosen by the Palestinian people. We believe the leadership on both sides should seize the moment, in an effort to establish a free and independent State of Palestine, which will live side-by-side in peace with the State of Israel.

Madam Vice-President, South Africa has noted with deep concern the increasing number in women and children trafficking. We also note the deteriorating conditions of migrant workers and protection of children. Certainly, we all agree that the United Nations and other international bodies need to do more to root out this problem from our society.

At the time that negotiations for the Rome Statute of the International Criminal Court were taking place, South Africa was in the process of finalizing its own democratic Constitution. Millions of South Africans suffered for generations the humiliation and human rights abuses associated with apartheid, and it was thus gratifying that the crime of apartheid was criminalized in Article 7(2) (h) of the Rome Statute as a crime against humanity.

Due to the destructive power of modern weapon systems, a major conflict would be destructive far beyond the scale of the two World Wars, and may put the survival of humanity and the planet in the balance. One way to address this danger is through cooperative regimes for arms control and disarmament, in which South Africa is actively engaged. However, we firmly believe that the scourge of impunity must also be addressed by keeping in place an effective system of individual criminal liability for the most serious crimes of concern to the international community, namely crimes of genocide, crimes against humanity, war crimes, and hopefully from 2017 the crime of aggression, thereby giving full effect to the prohibition of aggressive war in the Charter of the United Nations.

In this regard it is to be remembered that complementarity forms the cornerstone of the Rome Statute, and that the International Criminal Court will only intervene once it is clear that the national criminal jurisdiction will not proceed. In order to fight impunity where it begins, it is our challenge to assist each other to strengthen national jurisdictions to effectively investigate and prosecute these crimes. Then justice will not only be done but be seen to be done. Voluntary activities to assist each other to strengthen national jurisdictions, what we refer to as “positive complementarity”, will surely signal to victims our commitment to truly fight impunity.

The Delegation of the Republic of South Africa wishes to remind the AALCO Member States that the term of the current Prosecutor of the International Criminal Court is coming to an end, and that the Court will soon be moving into a new phase. Thus the delegation of South Africa calls on AALCO Member States who are also State Parties to the Rome Statute to support the African candidates in the forthcoming elections for the position of Prosecutor in the International Criminal Court.

Madam Vice-President, it is my delegation's pleasure to inform this Session that preparations for the 62nd International Astronautical Congress (IAC) that will be held in Cape Town from 3-7 October 2011 are progressing well. This is the first time that the IAC will be hosted by an African country and South Africa is encouraging AALCO leaders responsible for space and technology to attend and participate in the IAC. The first day of the Congress is envisaged to be an Africa Space Day, building on the programme of the African Leadership Conference on Space Science and Technology for Sustainable Development (ALC), which will precede the IAC in Kenya in September 2011.

It is also my delegation's pleasure to inform this Session that preparations for COP 17/CMP7 are proceeding well. South Africa is working with all Parties to the Convention and the Kyoto Protocol in a transparent and inclusive manner to ensure a party driven outcome in Durban that would be able to address climate change, with the full understanding that developing countries are the most vulnerable to the impacts of climate change and has the least capacity to adapt.

In conclusion, the South African delegation would like to express its ongoing commitment and support to this important institution. Thank you.

Vice-President: May I call upon the Islamic Republic of Iran.

The Leader of Delegation of the Islamic Republic of Iran: In the Name of God, the Compassionate, the Merciful, Madam Vice-President, Distinguished delegates, Ladies and Gentlemen, at the outset, allow me to join other speakers in congratulating the President and Vice-President for your election. My delegation wishes to express its deep appreciation to the Government and people of the democratic Socialist Republic of Sri Lanka for hosting the 50th Annual Session of the Organization.

The year 2011 marks the 50th Annual Session of the Organization and it is an opportune occasion to take a pause and reflect on the work of the Organization for the past half century as well as think about our expectations for future. The AALCO consists of 47 States across the two wide continents of Asia and Africa and as such it is expected to play a significant role in developing international legal norms, especially in areas of common concern or interest to the Member States. For the past 50 years the AALCO has managed to provide a workable forum for its constituency to contribute to codification and progressive development of international law, including through exchange of views on the latest developments in international law. As the unique forum for consultations among a large number of countries in a wide spectrum of international law, such as law

of the sea, international trade law, environmental law, intellectual property law and the right to development, the AALCO has been able to preserve its relevance and influential status for the Asian and African countries for the past five decades.

This encouraging fact should make us deliberate on how best we could revitalize our Organization and turn the AALCO into a more effective and productive forum in international law. Our common interests and challenges we all share and face, offer the necessary ground to promote interaction and cooperation within the AALCO. Moreover, the rich legal and cultural and historical legacies our countries enjoy provide valuable potentials to work on their basis and contribute to regional and international law making activities. In other words, we could tap into our diverse legal, cultural and political backgrounds in order to develop new norms we need in our modern life.

Madam Vice-President, the tragic situation in Palestine caused by decades of aggression, occupation, and suppression against the Palestinian people continues to pose the most immediate challenge to the region and beyond. The issue of Palestine has been in the agenda of the AALCO's annual sessions since 1988 and the Asian and African countries have followed the developments in the occupied Palestinian territories with utmost care and sensitivity. The reports of the United Nations organs on the subject highlight, among others, the obstacles created by the occupying power which hinder the achievement of a just and lasting peace in the region; the continuous Israeli regimes military operations in the occupied Palestinian territories, particularly in the Gaza Strip, in blatant defiance of international law and humanitarian law, has cost the lives of an increasing number of innocent Palestinians. The atrocious military actions accompanied by years of an all-out blockade of Gaza Strip-which has made the Strip the biggest prison on earth-are so grave, nothing short of serious crimes of international concern, including war crime and crimes against humanity. However, the occupying power persists in its criminal practices simply because it has been long enjoying impunity thanks to unconditional support extended to the Zionist regime by certain permanent members of the UN Security Council.

The Islamic republic of Iran reiterates its condemnation of the Zionist regime's heinous acts of violence and aggression against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and humanitarian law, including the 1949 Fourth Geneva Convention.

The Islamic Republic of Iran has ratified the 2004 United Nations Convention on Jurisdictional Immunities of States and Their Property on 29 September 2008. The Convention reinforces the immunity of the State and its property from the jurisdiction of the courts of other states. My delegation encourages the AALCO Member States to join this Convention.

Madam Vice-President, turning to the agenda item "the Law of the Sea", my delegation would like to underline the importance of Asian and African countries' active participation in the ongoing debates over different issues related to oceans and the law of the sea.

One of the important matters which has been under discussion for the past few years within the UN General Assembly, is the issue of preservation and exploitation of marine biodiversity and genetic resources in areas beyond national jurisdiction. The negotiations so far have borne little fruit mainly because of a gap between two groups of countries over the appropriate legal regime for exploitation of marine genetic resources in areas beyond national jurisdiction. While there is general agreement that the 1982 Convention on the Law of the Sea is the appropriate legal framework for regulating activities concerning the exploitation and conservation of marine biodiversity resources in areas beyond national jurisdiction, positions differ on what part of the Convention applies to this issue. The G77 and China stress that such resources are part of common heritage of mankind and should be regulated under Chapter XI of the Convention while the developed countries regard this issue as part of the legal regime of the high seas (Chapter VII of the Convention).

The Islamic Republic of Iran shares the view of the G77 and China and regards the principle of common heritage of mankind as part of customary international law codified by the Convention. We hope that the negotiations in New York will lead to a negotiating process through which the main block of States could come to a compromise solution including on the critical issue of legal regime.

The crucial situation of marine environment all around the planet earth is another issue which requires our attention. The Asian and African countries should play a more active role in relevant international processes concerning the marine environment. In this context I should make a reference to the ongoing negotiation process for establishment of a Regular Process for Assessment of marine Environment worldwide. We have to make sure that the new mechanism would take account of the Asian and African concerns, particularly the developing countries, especially the need for technical assistance and capacity building through transfer of marine technologies.

In this regard, I would like to inform you that the 4th Economic Cooperation Organization Ministerial Meeting on Environment was held on 9 June 2011 in Tehran, Islamic Republic of Iran. It was preceded by the Senior Officials Meetings (SOM) held on 7-8 June 2011. The participants in this meeting stressed on the need of prompt and closer cooperation among ECO Member States in the field of environment. In this respect, the meeting adopted the Framework Plan of Action on Environmental Cooperation and Global Warming for the period 2011-2015 and endorsed the Proposed Project Profile for Preparation of regional Programme for its Implementation. In addition, the Ministers/Heads of Delegation adopted the Tehran Communiqué on Cooperation in the Field of Environment in which they stressed the regional cooperation on environment and promotion of environmental awareness in the ECO region.

Madam Vice-President, improvement of interaction and cooperation between the AALCO, International Law Commission and Sixth Committee of the United Nations general Assembly and examining of the questions under agenda of the Commission in the Sixth Committee and making necessary coordination in this regard, is of great importance. My delegation welcomes initiative of holding the thematic debate on "Making AALCO's

Participation in the Work of the International Law Commission more Effective and Meaningful”.

My delegation would like to welcome initiative of AALCO Lecture Series in order to exchange views and ideas in different areas of international law. We suggest that the texts of the lectures be published in the Yearbook of the Asian-African Legal Consultative organization.

The Islamic Republic of Iran firmly supports any initiative to that end. In this context my delegation applauds the Secretary-General of AALCO for his important ideas and initiatives, including training and research programmes, to promote knowledge of international law among member countries and to facilitate the AALCO’s contribution to international law.

Madam Vice-President, I would like to point out that the financial issue of the Organization should be considered a key factor in any “Revitalization Plan”. We need to develop a financial policy that promotes financial discipline in the Organization plus “sustained financial resources”. It is suggested that during annual sessions, an open-ended working group be established to examine all aspects of the proposals and initiatives related to revitalization of the Organization and report its conclusions to the session for consideration and possible decision.

The Islamic Republic of Iran expresses its appreciation for the efforts and approach of the Secretary-General to improve financial situation of AALCO. We do sincerely hope that such efforts would bear positive results at earliest. Effective and further cooperation of Member States with the Secretary-General in order to fulfill their statutory and financial obligations to the Organization is necessary.

Before concluding the Islamic Republic of Iran holds that the Organization should encourage the Caspian Sea Littoral countries as well as African Francophone countries to join the Organization in order to reinforce collaborations between Asian-African countries. Thank you.

Vice-President: Now I call upon Republic of Iraq.

The Leader of Delegation of the Republic of Iraq² complemented the Government of the Democratic Socialist Republic of Sri Lanka for organizing the annual session very efficiently and the warm gesture extended to their delegation. The delegation mentioned that their Government had made efforts to strengthen national unity, establish democracy, and make progress in the re-construction process and in combating terrorism as well as dealing with the crime of human trafficking. On the issue of combating terrorism, their Government had adhered to all the United Nations Security Council Resolutions as well as the Four Geneva Conventions.

² Statement was delivered in Arabic. Unofficial translation from interpreter’s version.

Vice-President: Now I call upon the DPR of Korea this statement shall be delivered in Korean.

The Leader of Delegation of the Democratic People's Republic of Korea: Madam Vice-President, H.E. Secretary-General of AALCO, Distinguished Delegates, first of all, I would like to express my deep gratitude to the Government of the democratic Socialist republic of Sri Lanka for hosting this year's annual session and for making every possible effort for the success of the session. I hope this session will achieve great success under the able chairmanship of the president and the Vice-President.

The Asian-African Legal Consultative organization, as one and the only regional intergovernmental organization in the field of international law, has expanded its membership to 47 and made a remarkable contribution to the codification and the progressive development of the international law and has played a positive role in strengthening exchange and cooperation between Member States as an international legal forum to help Member States understand and coordinate their stands on important legal issues including regional issues of common concern.

I would like to take this opportunity to state the principled stands of DPR of Korea Government on some issues which are on the agenda of this session.

Member States including DPRK have been hindered in all areas of the national development such as politics, the economy, culture due to the unilateral sanctions and blockade imposed by the United States which are products of high handedness and arbitrariness.

The imposition of sanctions and blockade by an individual state against a third state especially selective states by invoking its domestic legislation is a violation of the general principles of international law which stipulate respect for sovereignty of states, non-interference in internal affairs of the other, equality and reciprocity and the right to free development of the state.

Every state has the right to achieve socio-political and economic development in a way which is consistent with the will and demand of its people and best suits its real situation and this right of a sovereign state cannot be deprived by the law of a specific state.

We should strive to establish the binding legal regime to prevent the extraterritorial coercive action by an individual state.

Today, acts of terrorism, frequently committed in all parts of the world are detrimental to the life of all mankind, stability of the society and international peace and security.

The DPRK Government, from its man-centered Juche Idea and the external ideas of independence, peace and friendship, has consistently adhered to the position of opposing to terrorism of all forms and any support to it.

We cannot but pay attention to acts of military intervention committed against the sovereign states under the pretext of combating terrorism. Politically motivated military interventions and mass-killings of civilians in Iraq, Afghanistan and Pakistan are the examples of state terrorism and extension of high-handedness and domination which causes the vicious circle of terrorism.

Therefore, the draft Comprehensive Convention on International terrorism under deliberation in the international law arena should stipulate the obligations of the states to establish the international relationship based on the sovereign equality, justice and fairness, to respect each other's ideology, system, culture and customs and to promote international cooperation to achieve common development and prosperity as well as the issue of eliminating terrorism by state army.

We support efforts to establish the international legal regime to combat terrorism and will cooperate with the AALCO to take effective measures for that purpose.

We believe that the pressing issue to be addressed in regard to the human rights, is to ensure the respect for the state sovereignty and the right to life, right to existence, right to education and cultural rights to all people and that the discussion of human rights deviating from the above-said issues is only an empty talk.

While fighting against acts of violation of human dignity and rights such as trafficking in persons and completing the legal regime to protect rights of women and children and provide their rights in society, all countries should refrain from interfering in internal affairs of other states over the issues of human rights. In this regard, we support the proposition put forth by the delegation of Malaysia which urges AALCO Secretariat to conduct a study on the legal aspects of imposing human rights standards based on the Western Values on Asian and African countries, considering that the above proposition reflects views and stands of AALCO Member States.

In future, we will observe the recognized principles of the international law and make efforts to establish the equal and fair international order. We will cooperate with AALCO in order to make its role in the progressive development of the international law more effective and meaningful and will help to promote the cooperative relations between Member States for the common interests.

Last but not the least, we hope that the historic 50th annual session of AALCO convened in the beautiful city of Colombo will achieve great success. Thank you for your attention.

The meeting was adjourned for tea/coffee break.

**VERBATIM RECORD OF THE SECOND GENERAL MEETING (Contd.)
HELD ON TUESDAY, 28 JUNE 2011 AT 10.45 AM**

His Excellency Mr. Rauff Hakeem, the President of the Fiftieth Annual Session in the Chair.

President: I welcome you back from the tea break. This morning we will continue with the general statements. First I would like to call upon the representative from the Observer delegation of the International Committee of the Red Cross.

The Observer Delegation of the International Committee of the Red Cross: Excellencies, distinguished delegates, ladies and gentlemen. At the outset I take this opportunity to thank the Asian-African Legal Consultative Organization and the Government of Sri Lanka for giving the International Committee of the Red Cross (ICRC) the opportunity to take part in its 50th Annual Session.

The ICRC has a mandate under international law to take impartial action for detainees, the wounded and the sick, and civilians affected by armed conflict and other situations of violence. In line with its mandate, the ICRC endeavours to prevent suffering caused by armed conflicts and other situations of violence, by promoting and strengthening international humanitarian law. Therefore, the ICRC's association with AALCO helps in the promotion of international humanitarian law, a task given to the ICRC by the States parties to the Four Geneva Conventions of 1949, including Member States of AALCO. It is towards strengthening this cooperation between the AALCO and ICRC that the two Organizations have undertaken the task of compiling a database on the ratification and national implementation of the core international humanitarian law treaties by AALCO Member States, a preliminary draft of which has been released earlier on which the ICRC solicits your comments and additions.

I take this opportunity to highlight some of the issues that are of significance for the protection of victims of armed conflicts and other situations of violence.

Thirty-four years ago the international community adopted Protocols I and II, and five years ago Protocol III to the 1949 Geneva Conventions. While the Geneva Conventions have been universally ratified, there are 171 State parties to Additional Protocol I, 166 to Additional Protocol II and 56 to Additional Protocol III. The ICRC welcomes this sustained progress in the participation of States in the Additional Protocols, which form part of the very foundation of international humanitarian law. It encourages States which have not yet done so to ratify the Protocols as soon as possible in order to enhance the protection of victims of armed conflicts, wherever they may be.

The protection of victims of armed conflicts is also enhanced by the adoption of new treaties aiming at preventing or mitigating the humanitarian consequences of armed conflict. For instance, in adopting the Convention on Cluster Munitions, which entered

into force in August of last year, States have taken a major step towards ending the suffering caused by these weapons.

The international community should indeed develop international humanitarian law whenever necessary in order to address contemporary legal and humanitarian challenges. The ICRC will continue, in accordance with its mandate, to consider any development of international humanitarian treaty law that could contribute to the protection of victims of armed conflicts.

In that respect, the ICRC has conducted a comprehensive internal study over the past three years to identify areas of potential development in international humanitarian law. In that study, the ICRC assessed the humanitarian concerns arising in today's armed conflicts, in particular non-international armed conflicts, with a view to addressing possible gaps or weaknesses in current treaty and customary law. Overall, the study concluded that international humanitarian law remains an appropriate framework for regulating the behaviour of parties to armed conflicts. If the core rules of international humanitarian law were properly respected by the parties concerned, most current humanitarian issues in conflict would not exist.

The ICRC intends to make concrete proposals in this regard at the next International Conference of the Red Cross and Red Crescent in November in Geneva. This will be a unique opportunity for all States to express their views on the legal framework protecting the victims of armed conflicts.

In November, at the Conference, the ICRC will first present a report and then propose the adoption of a resolution. The report to be submitted will summarize the main conclusions of the internal study and will also include the result of consultations conducted by the ICRC with a group of States over the last months on the conclusions of its study. These results were announced on the occasion of a second statement by the ICRC President to the Permanent Missions in Geneva on 12 May of this year. This statement is also available on our website, and copies are distributed here. States that engaged in the consultations confirmed the ICRC's overall conclusion that IHL remains relevant to ensure protection to all victims of armed conflict. Most States also pointed out that further work for strengthening IHL should focus as a matter of priority on two specific areas: a) the legal protection for persons deprived of their liberty and b) the implementation of IHL. This conclusion will form the basis for the ICRC's future action in the framework of the International Conference.

This report-currently being prepared by the ICRC – will serve as a basis for a debate amongst participants at the International Conference. It will be an occasion for all those interested, including those who did not participate in the initial consultations, to express their views. The conclusions of this debate will be included in a resolution on strengthening legal protection for victims of armed conflicts to be adopted by the International Conference. In this resolution, the ICRC would like to see reflected two ideas. The first idea is that, in most cases, what is required to improve the situation of victims of armed conflicts is greater implementation of and compliance with IHL. The

resolution should therefore reaffirm the obligation to “respect and ensure respect” for international humanitarian law in all circumstances.

The second idea is that there still exist gaps or weaknesses in IHL that must be addressed in order to provide improved protection for victims of armed conflicts. The resolution therefore should propose to further work with regard to the two specific areas considered as top priorities by consulted States i.e. the protection for persons deprived of liberty and the implementation of IHL.

Copies of the speeches made by our President have been made available here for interested persons. I further look forward to consultations with various States here at the AALCO Annual Session regarding our proposals for November.

The ICRC mandate also includes working for a better understanding of international humanitarian law. For example, the ICRC launched in August 2010 a new Database on customary international humanitarian law, which provides a means of following the application and interpretation of the law and much new state practice for over 100 states has been recently included. The ICRC study on customary international humanitarian law has been used as a legal reference by the ICRC, by States, by the United Nations as well as by international and national tribunals; it has now been made available on the internet, at our website, www.icrc.org.

Mr. President, these initiatives demonstrate the continued dynamism of international humanitarian law. However, lack of respect for applicable rules is the principle cause of suffering during armed conflicts. Today, it is worth recalling that States have the obligation under various treaties to harmonize their domestic legal framework and practice with humanitarian law. They can do so by adopting a wide range of national implementation measures, including legislation and administrative measures drawing up military manuals and proper training within the armed and security forces. As always, the ICRC stands ready to assist them in their efforts in this respect.

In this respect, the ICRC released a new document on implementing international obligations relating to children associated with armed conflict, including the 1977 Additional Protocols to the 1949 Geneva Conventions, the Optional Protocol to the Convention on the Rights of the Child related to children and armed conflicts, and ILO Convention 182 on the worst forms of child labour. The document entitled Guiding Principles for the Domestic Implementation of a Comprehensive System of Protection for Children Associated with Armed Forces or Armed Groups is available on our website.

Before concluding, I reiterate the ICRC’s appeal to the Member States of AALCO to send your comments, suggestions and additions to the Document that was released earlier containing the status of ratifications and the national implementation measures on international humanitarian law treaties. Thank you Mr. President.

President: Thank you we are happy that the ICRC delegation has briefed this conference about the latest efforts of ICRC with regard to Geneva Conventions and their latest

publications which deal with issues concerning IHL, thank you very much for your intervention. Now I call upon the Head of Delegation of the State of Qatar.

The Leader of Delegation of the State of Qatar³ congratulated the Secretary-General and his team for the efforts in organizing the Session in a very able manner. The delegation mentioned that the AALCO should possibly review the Organization's work and its activities in order to keep up with the pace of time. The Delegation informed that one of the functions of the AALCO was to bring co-operation between Member States on the international legal issues concerning them. In that regard, they mentioned that on the matters relating to the International Criminal Court, the AALCO had done a commendable job in gathering the views of Member States by organizing a Legal Expert Meeting before the Kampala Review Conference in Putrajaya.

President: Thank you very much for focusing on the Review Conference of the International Criminal Court in Kampala and the Meeting of legal Experts organized by our Organization prior to that in Putrajaya. We all know that many Member States have concerns regarding issues related to the ICC. Having said that I would like to move on to one important aspect of our agenda "**Release of AALCO Publications**" in this regard I would like to call upon the Secretary-General to make a few initial remarks.

Secretary-General: Thank you Mr. President. Excellencies, Distinguished delegates, Ladies and gentlemen, now we will proceed to our next agenda: "Release of AALCO Publications". We have four publications this morning for official release. Before I invite His Excellency Rauff Hakeem, the President of the Fiftieth Annual Session of AALCO to release the publications may I briefly make some introductory remarks as to the four publications. First, "**AALCO@50 : Some Reflections on International Law**", in continuation of the past practice to commemorate the historic sessions the AALCO has brought out this publication to mark the momentous occasion of the Fiftieth Session by the Centre for Research and Training. The publication covers a wide spectrum of current significant issues of international law and at the same time focuses on the contribution of AALCO in the progressive development and codification of international law. I am confident that this publication would not only serve the Member States by the simple understanding on the various contemporary topics of international law but also to add as a rich corpus of the vast literature on international law.

The second publication is, the "**Basic Facts about AALCO**" it provides an overview of the Organization's work programme, the Organizational structure, activities, publications, cooperation with other organizations and academic bodies. It has also annexed documents which contain some of the important documents pertaining to the Organization for the easy reference of Member States.

The third publication is the "**Yearbook of the Asian-African Legal Consultative Organization, 2010**" this is an important annual publication. The present yearbook covers the complete work of the Organization in the year 2010. It also covers the work programme of AALCO which includes both deliberated and non-deliberated agenda

³ Statement delivered in Arabic. Unofficial translation from interpreter's version.

items during its 49th Annual Session held in Dar es Salaam, United Republic of Tanzania. I wish this yearbook will be useful reference material not only for AALCO Member States but also for all those who are concerned with the study, research and dissemination of international law.

Finally, we have the publication entitled “**International Humanitarian Law Preliminary Database on Treaty Ratification, Accession and National Implementation by AALCO Member States**”. One of the important tasks that the AALCO Secretariat is pursuing currently is creating database of national legislation, implementing the obligations arising out of ratification/ accession of international treaties by AALCO Member States. This task is confined to topics currently on the agenda of AALCO and International Humanitarian Law, being an important branch of international law; AALCO has decided to bring out the database of national legislation in cooperation with the ICRC. This ongoing project will finally come up with a database comprising of relevant national legislation and case laws implementing IHL and is tentatively scheduled to be released in the year 2012. As a prelude to the final work the ICRC in cooperation with AALCO brings out this preliminary database comprising table of accession/signatures to international humanitarian law treaties and indicated lists of relevant national legislations and case laws, as they appear in the ICRC database, and recent AALCO resolutions on IHL. However, the AALCO Secretariat would like to highlight that the present publication is a preliminary work intended for seeking further information from Member States. Therefore, for any correction, modification or suggestion maybe forwarded to the AALCO Secretariat so as to get reflected in the final database. Now, may I have the honour to invite H.E. the President to release these publications.

President: I congratulate the Secretariat for bringing out these publications and I hope they will be useful for the Member States. With these words I believe we have finished the simple ceremonial function of releasing the AALCO publications. I believe that the publication AALCO@50:Some reflections on International Law, is a booklet that is a must read for all the delegates, simply to understand the work of this organization over the last 50 years. It carries important nostalgic memories of the past including the contribution by AALCO to the corpus of international law. It would certainly be very worthwhile publication that all of you would like to take back home. Among the other is this database on treaty ratification and accession to the Protocols of the IHL in conjunction with the ICRC, the Secretariat has brought out this preliminary database which seeks to compile an updated version in 2012 with more details and those details should be forthcoming from the Member States and hopefully you all will take serious note of this try and update the Secretariat with your efforts in bring in national legislation to comply with the accession details and what ever duties you domestically undertake.

The Leader of Delegation of the Arab Republic of Egypt: I congratulate the Secretariat for bringing out these important publications which will be useful to the Member States.

The Leader of Delegation of the Democratic Socialist Republic of Sri Lanka: Thank You Your Excellency, the Minister of Justice of Sri Lanka on your election as President of the 50th Annual Session of AALCO. I am confident that under your able guidance the 50th Session will achieve great success in its deliberations. Secretary-General of AALCO and distinguished delegates, it gives me great pleasure on behalf of the Sri Lankan delegation to welcome you all to Sri Lanka to the 50th Annual Session of the AALCO. We are honoured especially to host this Golden Jubilee Session of AALCO.

In 1956, seven Asian States namely Burma (now Myanmar), Ceylon (now Sri Lanka), India, Indonesia, Iraq, Japan and United Arab Republic (now the Arab Republic of Egypt and Syrian Arab Republic) formed a Legal Consultative Committee. Later, in April 1958 in order to include the participation of countries of the continent of Africa, its name was changed from Asian Legal Consultative Committee to Asian-African Legal Consultative Committee. At the 40th Session held in New Delhi in 2001 the name of the Committee was changed to Asian-African Legal Consultative organization (AALCO). Thus from the original seven States, it has now grown to an Organization comprising 47 States. This in itself reflects the importance of the Organization.

I wish to express our appreciation for the work done by AALCO in acting as an advisory body to Member States and for making a significant contribution towards the progressive development of international law. We value its role in bringing together experience and expertise from Asia and Africa. We value also the assistance given to member countries to help them prepare and participate in a variety of international law meetings, the organization of seminars and workshops on contemporary themes of international law and for its cooperation with the United Nations and its work with the International Law Commission.

The annual sessions of the Organization have always addressed diverse international legal issues and this session includes topical issues such as the law of the sea, environment, international commercial arbitration, and trafficking in women, children migrant workers and protection of children.

We look forward to sharing our views and experiences on these topics with you all. With regard to the half day meeting on International Commercial Arbitration and Trafficking in Women, Children, Migrant Workers and Protection of Children, Sri Lanka has taken a number of initiatives to combat trafficking in persons. We have a National task Force which comprises officials from all relevant Ministries and Departments. We have had success in prosecutions, This heinous crime must be stopped at all costs and we are encouraged by the successful prosecutions that have recently taken place. Since the nature of trafficking of women and children is transnational, no country can successfully combat trafficking without the assistance of other countries. It is therefore of the utmost importance to have collaboration among nations. Since success can only be achieved if there is collaboration by all affected parties be it the source, transit or destination country, Extradition and Mutual Assistance in Criminal Matters regimes would be of great assistance in this regard because if the source countries are not able or willing to prosecute the traffickers, the transit and destination countries can seek to prosecute them.

With regard to the law of the sea, issues with regard to maritime safety and security and the development of legal principles for the preservation and protection of the marine environment takes precedence.

We hope that AALCO will continue its role as a Consultative Organization on important international affairs and will continue to strengthen its cooperation with other international organizations especially the relevant legal bodies of the United Nations. We value the assistance given to member countries to help them to participate in a variety of international law meetings and conferences and the organization of specialized seminars and workshops on contemporary themes of international law.

I would like to thank the Secretary-General and the Secretariat for organizing the work of the present and previous sessions of AALCO.

Before I conclude I would like to thank the Secretary-General and the Secretariat for steering the work of the Organization with great efficiency. It is our hope that the aspirations of the Asian and African regions are articulated clearly and that the organization increases the cooperation and collaboration it has already commenced with other organizations and UN agencies. It is our hope that the international legal order that we all hope will be achieved through the efforts of AALCO, leading to a prosperous and peaceful world.

Mr. President, with your permission may I take a step out of my prepared text to highlight a point that is relevant to the observations made just a while ago, by the ICRC. There is a problem which is perennial to many nations around the world and I wish we divert our attention in our deliberations on this particular aspect of it because of the seriousness with which we are all engulfed in many states because of this problem. The problem that I wish to state is, what is the extent to which the international organizations and the comity of nations are capable of holding an influence on non-states parties embroiled in internal strife's in states to observe and respect IHL legal obligations. I think this is a question to which we should all be diverting our attention when we are evolving a system which we can help the people and the victims who are involved in a situation where there is an internal strife. With these comments I thank you Mr. President.

President: Thank you. Now I call upon the Leader of Delegation from the United Republic of Tanzania.

The Leader of Delegation of the United Republic of Tanzania: Your Excellency, the President of the 50th Annual Session, Your Excellency, the Vice-President, Your Excellency, Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO, Distinguished Heads of the delegations, Members of the delegations, Observers, Invited Guests, Ladies and Gentlemen.

On behalf of my delegation, I take this opportunity to, once again, congratulate you and the Vice-President for being elected as President and Vice-President of the 50th Annual

Session. On the same note, I wish to congratulate AALCO and Member States for marking a Golden Jubilee of the Organization.

Mr. President, from the time we arrived in this beautiful country, we have felt the warm reception extended to my delegation, by the Government and people of the democratic Socialist republic of Sri Lanka. This has made us to forget the past, when your country was for many years in conflict. We believe that, under the strong and able leadership of His Excellency Mahinda Rajapaksa, the President of this country, you will manage to concentrate on development programmes of the lives of the people of Sri Lanka.

Mr. President, distinguished delegates will recall that last year during the 49th session of AALCO, Tanzania reported that we would go for General Elections in October 2010. I wish to inform the distinguished delegates that, General Elections were conducted peacefully and successfully in which, the reigning President, H.E. Jakaya Mrisho Kikwete, was re-elected for the second term of five years. In Tanzania Zanzibar, H.E. Dr. Ali Mohamed Shein, was elected President of Zanzibar. The general elections in Zanzibar brought about the Government of the National Unity in which the Presidential Candidate from the major opposition Political Party became the First Vice-President. We wish also to inform the distinguished delegates that Tanzania has now embarked on a Constitutional Review whose objective is to come up with a New Constitution of the United Republic of Tanzania. Our goal is to ensure that, the next General Elections, slated for the year 2015 under the new Constitution.

Mr. President, while marking the Golden Jubilee of AALCO, we need to acknowledge the achievements this Organization has made in international law, and to our two continents. What we need to do now is to ensure that AALCO maintains the achievements attained and foster closer cooperation with other international and regional organizations in developing and promoting the international law jurisprudence. Towards that goal, we need to engage more in research work and expose our young lawyers to the international community on various legal aspects. Currently, AALCO has distinctively identified itself as an outstanding international organization endowed with well experienced lawyers that makes them highly rated in the world.

Mr. President, in echoing what other delegates have said, Tanzania believes that, the thematic areas included in the agenda, will enliven the discussions on topics that rank high in the current global agenda. Matters of common concern to which the United Republic of Tanzania would wish to exchange views are environment and sustainable development, expressions of folklore and its protection under international law. Tanzania commends the reports and work done by AALCO in the International Law Commission and UNCITRAL on areas related to international trade, law of the sea, international commercial arbitration and trafficking of women and children, as well as migrant workers and protection of children.

Mr. President, Tanzania has particularly taken deliberate measures in dealing with the threat posed by piracy, trafficking in women and children, migrant workers and protection of children, environment and sustainable development. Tanzania is working

with other Partner States of the east African Community (EAC), the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA) towards establishment of a Tripartite Free Trade Area.

Mr. President, the United Republic of Tanzania would like to support other delegations in recommending the re-election of H.E. Prof. Dr. Rahmat Mohamad, the current Secretary-General of AALCO, to the post of Secretary-General in recognition and appreciation of excellent work done by him.

Mr. President, last but not the least, on behalf of the Government of the United Republic of Tanzania, I wish to assure you Mr. President and all Member States of AALCO that Tanzania will continue to support the work of this Organization, and expect that the deliberations of the annual sessions will continue to add value to the international law jurisprudence both to our jurisdictions and the world at large. I thank you for your attention.

President: Thank you Tanzania, now I call on Uganda to make its statement.

The Leader of Delegation of Uganda: Dear Heads of Delegations, the Secretary-General of the Asian-African Legal Consultative Organization, His Excellency the incoming President of the Fiftieth Annual Session, all distinguished guests in your capacities, all protocol observed.

I am honoured to represent the government of Uganda on this auspicious occasion of the fiftieth Annual Session of the AALCO and I wish to convey to you warm greetings from the government and people of Uganda.

Uganda has been a Member of AALCO for the past 30 years, having joined AALCO in 1979. The benefits that have accrued from this membership are tremendous and have gone a long way to strengthen the application of international law to our different situations.

Uganda has indeed benefited from the different Annual Sessions and the general working relationship that it enjoys with the Organization. Our presence at this conference goes to reaffirm our belief and faith in this Organization.

I am delighted to note that the matters on the agenda for this session are of utmost importance to Uganda. Environmental and sustainable development issues, international trade law, Expressions of Folklore and its International Protection to mention but a few; pose issues of importance to Uganda and I am sure this session will present an excellent forum for exchange of views, opinions and ideas from which Uganda will benefit tremendously.

It should be noted that Uganda has already signed a protocol on the Protection of Traditional Knowledge and Expression of Folklore within the framework of the African Regional Intellectual Property Organization. This shows that steps have already been

taken to recognize the value of protecting Expressions of Folklore at the International Level.

In conclusion, the Ugandan Government wishes to assure AALCO of its continued support and participation. We hope to see this delegation in Kampala for the Annual meeting in the nearest future. Thank you for your kind attention.

Vice-President: Distinguished delegates on behalf of the delegations I thank the distinguished Attorney General of Uganda. We now come to a close of the General Statements. Is there any other Member State that wishes to make a general statement? In the absence of that we now take a short break of five minutes and then the Secretary-General will present his report.

**VII. VERBATIM RECORD OF THE
SECOND MEETING OF
DELEGATIONS**

**VII. VERBATIM RECORD OF THE SECOND MEETING OF DELEGATIONS
OF AALCO MEMBER STATES HELD ON TUESDAY,
28 JUNE 2011 AT 12.15 PM**

Her Excellency Mrs. Ifeyinwa Rita Njokanma, the Vice-President of the Fiftieth Annual Session in the Chair.

Report of the Secretary-General on Organizational, Administrative and Financial Matters

Vice-President: May I now invite the Secretary-General to make the introductory remarks on the report of the Secretary-General.

Secretary-General: Honourable President; Honourable Ministers; Excellencies, Distinguished Delegates; Ladies and Gentlemen, at the outset I would like to join the leaders of the delegation of Member States of AALCO in congratulating the President of the Fiftieth Session and the Vice-President of the Fiftieth Session and we look forward to work with you and stand to be guided by your wisdom. It is my privilege and honour to present the Report of the Secretary-General on the Work of the Asian-African Legal Consultative Organization (AALCO/50 /COLOMBO/2011/ORG 1). Before I deliver my statement, I take this opportunity to profoundly thank all the Member States of AALCO for their constant support and cooperation extended to me in discharging my duties. I would also like to extend my special thanks to Her Excellency Ms. Celina Ompeshi Kombani (MP), Minister for Constitutional Affairs and Justice, United Republic of Tanzania; and President of the Forty-Ninth Annual Session of AALCO for her guidance in steering the work of Organization. I would also like to thank the President of the Forty-Eighth Annual Session of AALCO His Excellency Tan Sri Abdul Gani Patail, Attorney-General of Malaysia, who had given their endless support to AALCO even after their tenure-ship at the Forty-Eighth Annual Session. Both of them have inspired and encouraged me to lead this Organization. I also thank the International Organizations and Bodies which collaborated with AALCO in organizing several inter-sessional events. My special appreciation to the Deputy Secretaries-General and the Secretariat staff for their sincere efforts.

Excellencies, ladies and Gentlemen, I would like to divide my statement to four parts. First, Implementation of the Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization; second, Activities undertaken since the Forty-Ninth Annual Session of AALCO; third, Financial Matters of AALCO; and last, Concluding Observations

1. Implementation of the Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization

It may be recalled that the Heads of Delegations of the Member States of AALCO at the Forty-Eighth Annual Session of AALCO had adopted the “Putrajaya Declaration on

Revitalizing and Strengthening the Asian-African Legal Consultative Organization”, on 20 August 2009. By virtue of this Declaration, Member States had *inter alia* reaffirmed their commitment to the Organization and recognized its significant contribution towards strengthening Asian-African solidarity, particularly in the progressive development and codification of international law. They had envisioned revitalizing and strengthening AALCO so as to ensure that it remains the “main centre for harmonizing the actions of Asian-African States in international legal matters”. Based upon this long-term policy objective laid down by the Putrajaya Declaration, in the following part, I seek to place for the kind consideration of Member States the measures that have so far been initiated, as also a few new proposals.

- Firstly, it may be recalled that at the Forty-Ninth Annual Session, I had suggested that an ***AALCO Eminent Persons Group*** drawn from group of highly distinguished and well respected persons from Asia and Africa, having a rich knowledge of international law and relations and/or should also have a rich experience in diplomacy as well as the functioning of international organizations. Subsequently, I received the mandate to invite personalities internationally renowned for their expertise on international law issues, to be part of the AALCO Eminent Persons Group. I am pleased to inform that the first very successful and productive EPG Meeting was held in Colombo on Sunday, 26th June 2011.
- Secondly, with the objective of making the seat of AALCO, in New Delhi, a vibrant centre for exchange of ideas in the discipline of international relations and law, an “***AALCO Lecture Series***” was initiated. It is hoped that this would also be conducive in strengthening the Asian-African solidarity of cooperation in international legal matters, as well as enhance AALCO’s profile in the diplomatic and academic community based in New Delhi.
- Thirdly, ***Capacity building programmes*** organized by the Secretariat of AALCO in cooperation with the Inter-governmental Organizations with whom it had signed Co-operation Agreements/Memorandum of Understanding to conduct regular capacity-building programmes, particularly in the area of international law-making and diplomacy. I will be dealing with this aspect in detail, later.
- Fourthly, in line with the idea that the AALCO Secretariat must utilize AALCO Experts, the Organization needs to work as a consultative forum on a regular and continuous basis and ensure that its work remains demonstrable to the wider world. To achieve this, it is my vision to promote the seat of AALCO Secretariat in New Delhi as the focal point, for Asian-African States in international law-making, as Geneva is considered to be for the International Law Commission of the United Nations. In this regard, I propose that the AALCO should also consider establishing smaller Expert Groups, keeping in view the law-making exercise taking place in the United Nations and other multilateral fora in which AALCO Member States have particular interest, during the Inter-Sessional period. In this context, I would like to highlight the importance of creating a ***Database of Legal Experts in various fields of International Law*** of AALCO Member States. The AALCO Secretariat is planning to create a data base of International Legal Experts from AALCO Member States on all its Agenda Items. The experts could be from the field of academics, diplomats and legal experts in the various ministries having specialization in the field of international law. Their role would

- be to assist the Secretariat in the research works and also contribute papers/present papers as well as participate in the inter-sessional meetings/seminars on topics of their expertise.
- Fifthly, it would be useful to bring out a ***Digest of national legislations on the topics that are on the work programme of AALCO***, such as national legislation pertaining to preventing trafficking in women and children or on international terrorism or environmental law. A digest of this kind would foster exchange of legal knowledge and sharing of experiences and in national legislative exercise Member States can benefit and draw upon from each other's experience. Such digests could also be posted on the website of the AALCO. The AALCO Secretariat has already started the preliminary research in this area and I take this occasion to request the Member States to forward their national legislations on the agenda items of AALCO to the Secretariat. In this context, I would like to highlight that currently AALCO is doing a project in collaboration with the ICRC, to develop a compilation (database) of national legislations of AALCO Member States, on the 28 international humanitarian law treaties. As a first step, we have brought out a "Preliminary Database" consisting of Ratification status of AALCO Member States on International humanitarian law treaties; and List of national legislation and case law of AALCO Member States on International humanitarian law. The AALCO Secretariat would like to highlight that the present publication is a preliminary work intended for seeking further information from Member States. Therefore, any corrections/additions/suggestions may be forwarded to the AALCO Secretariat so as to get reflected in the final database which is tentatively scheduled to be released in the year 2012. The Secretariat seeks the cooperation of Member States in this regard.

2. Activities undertaken since the Forty-Ninth Annual Session of AALCO

Excellencies, Distinguished Delegates, Ladies and Gentlemen, next, I would like to briefly deal with the activities undertaken since the Forty-Ninth Annual Session of AALCO.

The ***Annual AALCO Meeting convened on the sidelines of the annual session of the United Nations General Assembly*** took place at the UN Headquarters in New York on 1 November 2010. To ensure a theme based discussion, the meeting was organized in two segments, namely, the "Legal Issues Facing the Regions of Africa and Asia" and "Matters relating to the work of the International Law Commission". On behalf of the President of the Forty-Ninth Annual Session of AALCO; H. E. Mr. Ombeni Y. Sefue, the Permanent Representative of United Republic of Tanzania at the United Nations Headquarters in New York chaired the meeting. Under the first segment, statements were made by the President and myself. The meeting was also addressed by H.E. Judge Hisashi Owada, the President of the International Court of Justice; Ms. Patricia O' Brien, the Legal Counsel of the UN; Amb. Isabelle Picco, Chair, Sixth Committee; Amb. Hasan Kleib, Vice Chair, ASEAN, and Mr. Dire Tiadi, Legal Counsellor of the Republic of South Africa. Dr. Roy S. Lee, Permanent Observer of the AALCO to the UN Headquarters, New York also addressed the meeting.

The second segment of the meeting was devoted to ILC Matters. Following my presentation on the essence of the deliberations of the thematic debate held during the Forty-Ninth Session of AALCO; Amb. N. Wisnumurti, the Chair of ILC made a presentation on the work of ILC at its sixty-second session. The meeting witnessed wide participation and over 81 UN Member States attended it. Four members of the Commission including the Chairman also attended the meeting.

At the *Sixty-fifth Session of the United Nations General Assembly*, Dr. Roy S. Lee, the Permanent Observer of the AALCO to the UN headquarters in New York, delivered a statement on behalf of AALCO on 13 December 2010. The statement was made under the Agenda Item 122 (b) on “Cooperation between the United Nations and Regional and Other Organizations”. The Organization introduced a series of meetings at the United Nations Headquarters early in 2011 to introduce candidates from Asia and Africa for the elections of the International Law Commission and International Court of Justice.

In pursuance of the mandate received at our previous sessions, a *Workshop on Trafficking in Persons, Smuggling of Migrants and International Cooperation* was jointly organized by the Attorney General’s Chambers, Government of Malaysia and the Asian-African Legal Consultative Organization from 24-26 November 2010, Putrajaya, Malaysia. The Workshop was divided into three segments on Trafficking in Persons, Smuggling of Migrants and International Cooperation. At the Workshop, one of the proposals that came forward was to address the area of Mutual Legal Assistance in Criminal Matters and to draft an Asian-African Convention on Mutual Legal Assistance in Criminal Matters.

In addition to the above activities, Panel Discussions and Seminars are also organized as part of the regular activities of AALCO. To commemorate the 54th Constitution Day of AALCO on 15 November 2010, a *Panel Discussion was held on the topic “Asian-African States: Challenges in International Law in the 21st Century”* at AALCO Headquarters. The panellists for the Panel Discussion included High Commissioners/Ambassadors of the United Republic of Tanzania; People’s Republic of China; Malaysia; Sultanate of Oman; Iceland ; Mr. Narinder Singh, Joint Secretary and Legal Adviser, Ministry of External Affairs, Government of India; and myself. From the views presented by the eminent panellists, it was inferred that there were many contemporary topics on which AALCO could do meaningful work.

Commercial arbitration is a very important area in the present world as well as for AALCO Member States, AALCO Secretariat extended its support to the Construction Industry Arbitration Council (CIAC) based in New Delhi in organizing a two-day *International Conference on “Emerging Trends in International Commercial Arbitration”*. The conference took place in New Delhi on 18 and 19 December 2010. Also, The AALCO, in cooperation with the O.P. Jindal Global University, Sonapat, Haryana, had organized a *Seminar on “Corruption, Ethics and Good Governance”* at the AALCO Headquarters, New Delhi on 6 May 2011.

Excellencies, In the field of capacity building, the Centre for Research and Training of AALCO organized three training programmes with in the reporting period. A **regional training course on “Treaty Law and Practice”** was organized by Ministry of Foreign Affairs, Republic of Indonesia, and AALCO jointly with the United Nations Office of Legal Affairs (UNOLA), United Nations Office on Drugs and Crime (UNODC) and Office of the High Commissioner on Human Rights (OHCHR) in Jakarta, Indonesia from 13 to 15 October 2010. I take this opportunity to thank the Government of Indonesia for hosting the regional training course.

A five-day **training programme on International Humanitarian Law** was organized by the Centre for Research and Training (CRT) of AALCO in cooperation with the International Committee of the Red Cross (ICRC), Regional Delegation for South Asia, New Delhi from 17 to 21 January 2011 at the AALCO Headquarters, New Delhi.

A five-day **training workshop on the World Trade Organization** was organized by the Centre for Research and Training (CRT) of AALCO in cooperation with the Institute for Training and Technical Cooperation (ITTC), World Trade Organization from 28 March to 1 April 2011 at the AALCO Headquarters, New Delhi.

In addition to these programmes, one of the Centre’s activities is also to encourage the young students of law from the Member States to get familiarized with the functioning of an inter-governmental Organization and also to have a preliminary understanding of international law by way of short projects. During the period under review, nine students from India and Malaysia have successfully completed their **internship programme** at the AALCO Secretariat. As the internship programme is open throughout the year in the AALCO Secretariat, the Member States are requested to make use of this opportunity and thereby encourage the law students to undertake such internship programme with AALCO in New Delhi.

The AALCO Secretariat was indeed very privileged to host a number of dignitaries during this period, On 11 March 2011, **H. E. Y.A.B. Tan Sri Dato’ Muhyiddin Hj Mohd Yassin, the Deputy Prime Minister of Malaysia** delivered a talk on the topic of “Global Governance in the Twenty-First Century: Emerging Issues and Challenges” which was organized by the AALCO Secretariat. In his brilliant speech he highlighted that the paradigm of global governance ought to be people centric rather than state centric.

On 29 March 2011, a delegation from the Ministry for Constitutional Affairs and Justice of the United Republic of Tanzania headed by Her Excellency **Ms. Celina Ompeshi Kombani (MP), Minister for Constitutional Affairs and Justice and also the President of the Forty-Ninth Annual Session of AALCO** visited the AALCO Headquarters. Madam Kombani delivered a speech at the 309th Liaison Officers Meeting, 30 March 2011 held at AALCO Headquarters. The Organizational and substantive aspects of the Organization were discussed in the meeting pursued.

Further, AALCO Secretariat was privileged to host **high level officials from our Member States**. On 25 March 2011, Mr. Alireza Jahangiri, Director-General of Legal Department,

Ministry of Foreign Affairs from the Islamic Republic of Iran visited the AALCO Headquarters. On 28 March 2011, Mr. Masahiro Mikami, Director of International Legal Affairs Division, Ministry of Foreign Affairs, Japan visited AALCO Headquarters and On 1 April 2011, Dr. A. Rohan Perera, Member of the International Law Commission and Advisor on International Legal Affairs, Ministry of Foreign Affairs, Sri Lanka, also visited us. Discussions on cooperation with AALCO and the respective Member States and organizational and substantive matters were discussed in detail at those meetings.

Excellencies, bringing out publications is one of the important roles of the Centre for Research and Training. Apart from our publications, namely, Yearbook of AALCO, AALCO Quarterly Bulletin, and Newsletter; the Centre has brought out several publications. As a follow up of the Seminar on the Blockade of Gaza and its International Legal Implications, ***“The Blockade of Gaza and its International Legal Implications: Report of the Seminar and Select Documents”*** was released by the Ambassador of the United Republic of Tanzania on 15 November 2010 at the AALCO Headquarters, New Delhi.

It gives me immense pleasure to inform this distinguished gathering that I have authored a book entitled ***“Asian-African Perspectives on International Law in the Post Westphalian Era: Some Reflections”*** which was released by the H. E. Y.A.B. Tan Sri Dato’ Hj Muhyiddin Bin Mohd Yassin, the Deputy Prime Minister of Malaysia on 11 March 2011 in New Delhi. The book contains a collection of articles dedicated to the work of the Asian-African Legal Consultative Organization (AALCO) in the promotion of progressive development of international law since its inception in 1956.

A commemorative volume to mark the occasion of the 50th Annual Session of AALCO comprising of research articles on various branches of International Law authored by the Secretary-General, Deputy Secretaries-General, and Legal Staff of the AALCO Secretariat, entitled ***AALCO@50 : Some Reflections on International Law*** has been brought out. Also, a publication entitled ***“Basic Facts about the Asian-African Legal Consultative Organization”*** has also been brought out. The Basic Facts give a comprehensive understanding about the mandate and activities of the Organization.

3. Financial Matters of AALCO

Excellencies, Ladies and Gentlemen, now I will proceed to discuss the financial matters of AALCO.

It may be recalled that to improve the financial situation of AALCO and to place it on a firm footing, at the Putrajaya Session, I had submitted for the kind consideration of the Heads of Delegation an approach that included the following four measures: (i) Revision of Assessed Scale of Contributions; (ii) Action Plan to Collect Arrears; (iii) Voluntary Contributions; and (iv) Replenishment of Reserve Fund.

At the Forty-Eighth Annual Session, vide AALCO/RES/48/ORG 2 the ***“revised scale of assessed contribution of Member States”*** was adopted. Pursuant to that decision and in

response to AALCO/RES/49/ORG 2, until 1 May 2011, annual contribution from 32 Member States has been received. Thirty of them have been received on the basis of the Revised Scale. Two of the Member States have sent their contribution on the basis of the old scale. I have requested those Member States to kindly make their contribution on the basis of the Revised Scale. Further, as regards, the remaining Member States, the Secretariat is, on a regular basis, informing them through their Diplomatic Missions and Liaison Officers in New Delhi, the importance of fulfilling their statutory and financial obligations to the Organization. I am very hopeful that these efforts would yield results and by the end of this year, the annual contributions from these States would also be received.

Since the Forty-Ninth Annual Session, the AALCO Secretariat is pleased to inform the Member States that the Government of Sudan has partly cleared its outstanding arrears. The Government of the Republic of Iraq has also partly cleared its arrears on the basis of the *MOU* signed with the AALCO Secretary-General on 13 November 2009. The AALCO Secretariat profoundly thanks these Member Governments for their earnest efforts in clearing their outstanding arrears of contributions. Efforts are continuing with the Member States in arrears for more than ten years to conclude MoUs and clear their arrears expeditiously.

I am grateful to the Governments of Member States of Malaysia (before Forty-Ninth Annual Session) and Turkey (after Forty-Ninth Annual Session) for their *voluntary contributions* and would like to propose that any voluntary contribution made by a Member State should not be added to the regular budget of the Organization. It would be utilized for project specific action for which the Member State has made such voluntary contribution.

Rule 27 (3) of the Statutory Rules of the Organization authorizes the Secretary-General to maintain a reserve fund. To strengthen and firmly place the Organization, on a firm financial footing, it is essential that an adequate *Reserve Fund* is maintained by the Organization. The amount kept in the Reserve Fund should at least be enough so that it could meet the expenses of the Organization for at least a period of six months. With this objective, in mind, it is essential to replenish the Reserve Fund of AALCO. A contribution of USD 10,000 has been received from the Government of Malaysia to this fund. I once again urge upon the other Member States to send voluntary contributions to replenish the Reserve Fund.

Due to the current financial crisis, it is rather difficult to reserve some amount of money from the contributions received from the Member States and deposit it into the Reserve Fund.

Pertinent in this regard is to mention that the AALCO since its inception in 1956 has functioned only on the basis of financial contribution made by the Member States, and is often constrained in its functioning because of limited budget and non-payment of annual contribution by several Member States. The Secretariat has limitation in pursuing the States in arrears beyond a point, as the relatively technical nature of AALCO's work does

not attract enough attention within the political decision-making process in the Member States.

In this regard, possibly, based upon the experience of United Nations Foundation, that was started with a USD 1 billion donation by US philanthropist Ted Turner and since then it has received donations from several corporate groups as part of the corporate social responsibility have been contributing to the causes on which the UN works.

On similar model, an ***AALCO Foundation*** could be established. The AALCO Secretariat can built partnership with those corporate entities from the Member States that value and cherish the vision, mission and objectives of AALCO and possibly can make “no-strings” attached donation to the AALCO Foundation. The funds so received could be possibly utilized for:

- Providing financial support to the participants from capitals for the various training programmes, as also in arranging for resource persons from Asian-African scholarship, in addition to from the relevant Organization;
- Convening of the Young Jurist Conference;
- Internship Programme at the Secretariat;
- Building up the AALCO Library;
- Introducing e-learning courses;
- Enabling Secretariat Officials to participate in various international law-making Conferences; and
- Rendering support to the ILC Special Rapporteurs from Asian-African States by providing them with assistance by deputing Legal Officers from the AALCO Secretariat.

4. Concluding Observations

Excellencies, I would also like to high light some of the challenges and proposals for the year 2011-12 as my concluding observations.

- ***Increasing the Membership of the Organization*** and thereby bringing more strength to the organizational and substantive part of the Organization
- ***Improving the financial base of the Organization*** which include getting arrears from the Member States; voluntary contributions; replenishing the reserve fund; and Ways and means to generate income for AALCO other than the contributions received from its Member States, including AALCO Foundation.
- ***Creation of AALCO Database of Legal Experts and national legislation.***
- ***Legal Experts Meeting*** to assist the Member States to formulate positions at the international meetings/negotiations. More Seminars and Workshops with this aim is needed.
- ***Capacity building programmes*** with the cooperation of Member States and International Organizations.
- ***Strengthening the Secretariat with human and technical support from the Member States***

- ***Establishing cooperation with International and regional organizations and academic institutions.***
- ***Expanding Internship projects***
- ***Upgrading the website of AALCO***, making it more knowledge based, user friendly and interactive.
- ***Arabic version of the AALCO website*** and to upload Arabic translation of AALCO documents to further assist the Arabic speaking AALCO Member States and other Arab countries in the Asian-African region.
- ***Strengthening Library***
- ***Special Studies/Briefing papers*** on various specialized topics of international law

Before concluding, I once again thank all the Member States for their immense support and cooperation extended to me in discharging my duties. Thank you very much.

Vice-President: Thank you Prof. Rahmat Mohamad for that comprehensive report. For interventions on the report of the Secretary-General, I call upon the delegate from Thailand.

The Delegate of Thailand: Thank you very much Madam Vice-President for giving me this opportunity to make intervention on behalf of the delegation of Thailand. I have the honour to take this opportunity to bring to your attention and kind consideration the possible complementary role of Thailand on the capacity-building as to assist in the work of AALCO's Centre for Research and Training in the field of international law especially on the capacity-building that envisaged on the work programme of AALCO a moment ago.

Excellency, Thailand values AALCO's efforts in establishing the Center for Research and Training to organize specialized seminars and workshops on current issues of international law, and its interaction and continued cooperation with the United Nations and other inter-governmental organizations. The core value of education is to empower people with knowledge, skills and understanding so that they are able to response to the fast changing globalized world.

Unquestionably, capacity building in international trade law and policy is crucial for developing countries in preserving their interest. Garnering such a capability demands international assistance in training. Thailand is of the view that partnership with regional training centres with expertise in the field of international trade will achieve this goal. Therefore, Thailand wishes to propose partnership between AALCO's Center for Research and Training with the International Institute for Trade and Development (ITD), a prominent training centre on international trade in Bangkok, Thailand.

Organizing training in the field of international trade law is the core strength of the ITD. With its modern facilities and cutting edge training modules, the ITD will definitely be in the position to complement the role of AALCO's Center for Research and Training in responding to the needs of AALCO Members in this particular field.

Madam Vice-President, let me briefly introduce what the ITD is and what it does. The ITD is a government-supported public organization established in accordance with an agreement between the government of Thailand and the United Nations Conference on Trade and Development (UNCTAD). The ITD aims to:

- firstly, conduct educational training and promote research for personnel from various countries, particularly in the Asian region, in the area of international trade, finance, revenue, investment, development and other related topics;
- secondly, render assistance to developing countries, in particular the Asian region, in order to enhance capacity and ability in jointly setting appropriate economic policies and pursue legislative adjustments;
- thirdly, to promote and support regional economic cooperation and build unity through the exchange of experience and knowledge; and
- fourthly, to be a center for conducting training and capability enhancing activities.

During the past years, the ITD's training division conducted 273 training activities, conferences and seminars, with 15,052 participants from Asian countries and other regions. These training activities have also raised awareness of developing countries in economic development as well as their preparedness to handle impacts from trade liberalization and regional economic integration. All of the training courses offered by the ITD are designed to meet developing countries' needs in strengthening their capacity in international trade. In this respect, Thailand is certain that other developing Members of AALCO will similarly benefit from the ITD's extensive experience gained from organizing training courses for developing countries in the Greater Mae-Kong Sub-region (GMS) and other regions in Southeast Asia.

Madam Vice-President, Thailand strongly believes that the partnership between AALCO's Center for Research and Training and the ITD will be very promising in developing training modules and tools catered to meet their challenging missions in the study, research, and knowledge management in trade and development issues.

Thailand therefore wishes to take this opportunity to solicit support from AALCO's Members on the above proposed partnership. Should Members of AALCO welcome this proposal, the Ministry of Foreign Affairs of Thailand in conjunction with the Department of Treaties and Legal Affairs will be very pleased to assist in substantiating cooperation between these two organizations. Thank you very much.

His Excellency Rauff Hakeem, President of the Fiftieth Annual Session of AALCO in the Chair.

President: Thank you very much. Now we have the comments from Brunei Darussalam.

The Delegate of Brunei Darussalam: Assalamualaikum and good afternoon,

His Excellency Rauff Hakeem, President of the Fiftieth Annual Session, Her Excellency Madam Ifeyinwa Rita Njokenma Vice-President, His Excellency Secretary-General, Prof. Dr. Rahmat Mohamad, Deputy Secretaries-General, Distinguished delegates.

On behalf of the Brunei Delegation, I would like to congratulate Your Excellency Mr. President and Madame Vice-President on your election at this Fiftieth Annual Session. Your guidance and leadership in steering the meeting is very much appreciated. The Brunei Darussalam delegation would also like to thank the Government of the Democratic Socialist Republic of Sri Lanka for the excellent arrangement. We are privileged to attend and participate in this year's Fiftieth Annual Session.

At the outset, I would also like to convey the regrets of the Honourable Attorney-General who is unable to attend this Fiftieth Annual Session. However given the importance she attaches to this important event she still insisted that Brunei Darussalam should be represented for this event.

Brunei Darussalam would like to congratulate the efforts done the Secretariat in finding a pragmatic approach to tackle the financial situation of the Organization. The Secretary-General has been very creative in finding ways to collect arrears from the non-paying Member States as well as streamlining the budget. In this regard, we would like to encourage all Member States to continuously pay their annual contributions in order to ensure the survival and smooth functioning of this Organization.

Brunei Darussalam has become a Member State in 2003 during the Forty-Second Annual Session of AALCO held in Seoul. Within these eight years, we have to say that Brunei Darussalam has benefited a lot from AALCO especially through its capacity-building programmes organized or jointly organized by the Secretariat and Member States and not to mention the prestigious Annual Sessions.

Last year at the Forty-Ninth Annual Session the Honourable Attorney-General of Brunei Darussalam had assured the Organization of Brunei Darussalam's continuous support to the AALCO. In this regard, we are pleased to announce that Brunei Darussalam is planning to organize a joint seminar with the Secretariat sometime next year. This proposal will be further discussed with the Secretariat especially in deciding a topic of a common interest among Member States for the joint seminar. We will circulate the details as soon as we have finalized the arrangements. Thank you.

President: Thank you very much for that offer to assist withholding the seminar with the Secretariat and I hope it materializes soon. Having said that, the next intervention would be from the Kingdom of Saudi Arabia.

The Delegate of Kingdom of Saudi Arabia¹ appreciated the Report of the Secretary-General. The Delegation informed that their country had participated in the programmes

¹ Statement delivered in Arabic. Translation from the Translator's version.

in Jakarta and New Delhi. The delegation highlighted that they would benefit more from such programmes provided interpretation facilities were made available.

President: Thank you. Next intervention on the report of the Secretary-General would be from the delegation from Malaysia.

The Delegate of Malaysia: Thank you Mr. President. On behalf of my delegation, I would like to make some general remarks on the report of the Secretary-General made by the Honorable Secretary-General. First and foremost, that my delegation would like to congratulate the Secretary-General and his officials for having gone through an expensive thinking process to move forward AALCO in the way that it would benefit the objectives of the Member States. In that regard, we listen with interest the proposals and ideas that have been put forward by the Secretary-General for 2011 onwards. Indeed, it's a right step forward from the days that we have come together to revitalizing and strengthening AALCO in Putrajaya, Malaysia during the Forty-Eighth Annual Session and happy to note that from the Fiftieth Session onwards we probably are going one step further, which my delegation considers as a reform of AALCO. Indeed such efforts to strengthen, revitalize and reform AALCO requires funding and in allowing states to be convinced to provide more funding clearly a focus-approach is needed to steer the future work of AALCO. In that regard we applaud the initiative to set up the Eminent Persons Group (EPG) and we are most honoured to be the part of the EPG as well as the Working Group

Congratulations are also in order to the efforts by the Secretary-General in recovering arrears. Although it is still a daunting task, but we note that constant progress have been made. In that regard, we would like to share the Malaysian perspective, of how we thought of AALCO when we took the chairmanship during the Forty-Eighth Session in Malaysia. It was not difficulty to realize that having equipped in the Organization means we need to support their activities and their objectives. We would like to say that when we contributed a voluntary contribution of USD 50,000, we did not want to move away from the fact that operational costs of AALCO should be from the contributions from Member States. Hence, the opportunity was to fund the project specific activities that are of interest to us and where we think that AALCO Member States also would share the same interest. Hence, the funding of the Workshop which we did last year for the working group or workshop on trafficking in persons and people smuggling as well as the workshop on ICC Statute would be funded from that Statute. In that regard, Malaysia would like to urge Member States that we shall look into areas such as capacity-building, training, and development strategic areas of research would take the same steps to assist AALCO to move forward with its future activities. I notice that some Member States are happy to receive such reports.

Finally, on the efforts by the AALCO Secretariat to establish AALCO Foundation, as indicated in our statement earlier, generally we support the idea, however, we caution that it should not conflict the interests of AACLO as an inter-governmental organization and hence, we appreciate the efforts of Secretary-General to move forward cautiously. Lastly, on capacity-building we have already stated in our statement earlier Malaysia has offered to link up with AALCO in terms of research and capacity-building in the areas of

international law. Indeed, AALCO has taken up the offer of partnership of what we call as the International Centre on Legal Studies (I-CeLLS) that is organized and established in the Attorney-General's chamber in Malaysia. Thank you Mr. President.

President: Thank you Malaysia. May I now invite the delegate from Japan.

The Delegate of Japan: Thank you Mr. Secretary-General for your remarks which we note with great interest and appreciation. My delegation wish to make the following remarks on the financial situation of AALCO.

Mr. President, as I stated in my general statement yesterday, two years have passed since the Member States made a decision to revise the assessed scale of contributions and in the Putrajaya Declaration we confirmed our commitment to support and to revitalize AALCO. As a result of the strenuous efforts of the Secretary General we can see some improvement and I am encouraged by this. Having said that, there still remain a significant number of members which have not yet paid their contributions.

Under those circumstances, we regard that it is highly significant that on the initiative of the Secretary General a Sub-Committee to Look into the Administrative and Financial Matters of AALCO has been set up and that an examination of most appropriate size of the Secretariat is going to be conducted in due course. Japan supports the initiative of the Secretary General and will actively participate, together with the other members, in the discussions on this important question of reforming the Secretariat.

We also welcome the proposal of the Secretary General to explore "no-strings" attached donations from private entities in the Member States as such donations would certainly serve to ameliorate the financial situation and to reactivate the activities of AALCO. Japan values greatly such positive attitude of the Secretary General to explore various ways and means to overcome the financial difficulties of the AALCO.

With regard to the budget proposal for 2012, Japan will not be against its adoption at this Annual Session. However, at the same time, we would like to point out that in the light of the prospect for no substantial improvement in the total amount of payments of contributions by the Member States as a whole, it is essential that various reforms should be carried out urgently in one or two years time and, in particular, we hope very much that the afore-mentioned examination of reforming the Secretariat would be carried out with a specific time-frame.

I will continue to urge our financial authorities to keep Japan's contribution to AALCO, but please understand that it is becoming increasingly difficult to persuade them when so many other members do not honor their obligations, while Japan is in a very difficult financial situation. For this reason also, I would like to urge members to pay their assessed contributions as early as possible. Thank you.

President: Thank you very much and then we have intervention by delegate from India.

The Delegate of India: Thank you Mr. President for giving me the floor on this very important topic on our agenda. I would like to thank the Secretary-General for his detailed report on the work of the Organization and on his Plan of Action for the coming year. The report brings out very clearly the enhanced activity of the Secretariat in organizing workshops, training programmes and seminars and we welcome this initiative of the Secretary-General. We also welcome his plan of action for his activities and I thank the Secretary-General also for his statement regarding the Panel which has been established to look into the administrative affairs regarding the staff composition and as well as the working conditions of the staff. In this regard, I would like to point that the AALCO has a longstanding decision that the staff salaries are linked to the salary structure of the Government of India. The Government of India salaries were revised in January 2006 and five years have passed and it is high time the staff of the AALCO Secretariat also receives due benefits of salary revision both in terms of salary as well the retiral benefits. The Secretary-General mentioned that the Panel would submit a report next year but as far as salary revision of staffs are concerned this session must take a decision that salaries will be improved and maintained before that period because the officers who should have received the benefits of the revision have already retired and others may retire in this coming year and they should not be denied the fruits of their lifelong service to the Organization.

Mr. President, I also join other members who have spoken on the financial situation. We welcome the efforts of the Secretary-General in trying to recover the arrears and we would urge all Member States that they must pay their contribution in full and on time to enable the Secretariat to properly carry out the mandates which we entrust them. We also welcome the efforts of the Secretary-General to look for external funding for which I support the view expressed by Japan that this come with 'no-strings' attached and must be in line with the objectives and functions of the Organization and we must be very selective in looking for this external funding. I would also like to emphasize to other Member States that the funding for the Organization should primarily come from the Member States themselves. Thank you Mr. President.

President: Thank you very much for those comments. Now we will have a short intervention from Indonesia.

The Delegate of Indonesia: Mr. President, Mr. Secretary-General, Distinguished delegates, I think the recent report by the Secretary-General Prof. Rahmat Mohamad, the Indonesian delegation would like to place its highest appreciation to the efforts of the Secretary-General in order to improve activities of the Organization. Our delegation would like to support for the work programme and plan of action prepared by the Secretary-General in the years to come. Therefore, we wish our government would cooperate and collaborate on certain seminars and training programmes with AALCO in the future. Once again our delegation congratulates you for your efforts that have been dedicated to the AALCO. I thank you.

President: Thank you very much. It could be very helpful if others are also as brief as possible. Now we have Head of the delegation from Iran.

The Delegate of Islamic Republic of Iran: Thank you. Thanks to the Secretary-General for his informative and fruitful report on the activities of the AALCO and his productive ideas for the future of this Organization. First point I want to mention is regarding the resolutions of AALCO. Every year we have many resolutions, but we need to rethink what is the output of such resolution. Let me remind you that we as Member States should do our best to refer to the content of AALCO Resolutions in the policy papers and research documents that are published in the international courts and tribunals and so on. Reference to such resolutions by Member States without any doubt will be viewed as, what Secretary-General said, elements of customary international law that is state practice and opinion juris. I hope Member States would consider this very preliminary thought.

The second issue is the internship and research going on under the auspices of AALCO. I think there is a need for AALCO to provide access to the databases of legal and international law journals which refer to new books published every year. This will enhance the quality of research and encourages more young junior diplomats and university students to utilize this opportunity. Thank you very much.

President: Thank you so much. No we have the last intervention by Kenya.

The Delegate of Kenya: Thank you Mr. Chairman. I just wanted to make a very brief remark on Secretary-General on his report. First to concur with the Head of delegation of India on the issue of AALCO Foundation. That's an idea that must be aggressively pursued by taking into account that the main contributor is the Member States. Because in some organizations we are aware, the money that get is more than operational expenses but we can only check whether such funds are furthering the objectives of AALCO. I have a particular interest in the Regional Arbitration Centre and Nairobi is in the process of doing it. I would hope that in the future reports, it should be stating more of how many cases in the course of the year is filed, cases that have been referred, how arbitration cases have been dealt with and how many cases are pending in each Arbitration Centers be it Kuala Lumpur, Malaysia; Tehran, Cairo, and so on.

The third one, the longstanding issue about the terms and conditions about the salaries of the AALCO staff being tied to the salaries of the Government of India. I can see that it was decided long time ago, and at that time we had no choice but else to attach to the salaries of the host government. But I think the time has now come when we should now start looking at this very critically. Let me remind that the financial constraints also must be taken care, but various Organizations of this nature, their salaries are paid on the basis of the United Nations or international/inter-governmental bodies. Time has come when in order to give the AALCO the status based on the type of work it is doing, the terms and salaries should be paid more as of United Nations or international/inter-governmental bodies rather than of a government of our Member States. I just put that on the table for future consideration. Thank you.

President: Thank you very much, that was a worthwhile intervention. Now we move on to next item. I invite Secretary-General for presentation of budget.

Report on the Proposed Budget for the Year 2012

Secretary-General: Thank you Mr. President. May I now invite your attention to the Secretariat Report or Budget Document on the “Proposed Budget for the Year 2012” contained in document AALCO/50/COLOMBO/2011/ORG.2. The budgetary papers were adopted at the 311th Meeting of the Liaison Officers in accordance with Statutory Rules 24 (2) and are placed for final approval before this Annual Session as per Rule 24 (4) of the Statutory Rules of AALCO.

Excellencies, Distinguished Delegates, Ladies and Gentlemen;

The total amount of the proposed budget for the year 2012 is USD 570,268 (US Dollars Five Hundred and Seventy Thousand, Two Hundred and Sixty Eight) which is calculated as per expected assessed contribution of Member States which was revised and adopted during the Forty-Eighth Annual Session of AALCO held at Putrajaya, Malaysia in the Year 2009 vide resolution AALCO/RES/48/ORG.2.

During the Forty-Ninth Annual Session of AALCO held in United Republic of Tanzania in 2010, some Member States had urged the Secretary-General to prepare a realistic budget on the basis of actual contributions received. Therefore, the budgeted expenditure for the year 2012 has been divided into two parts, (i) the realistic budget of USD 501,621 on the basis of expected contributions from regularly paying Member States; and (ii) the remaining amount of USD 68,647 would fall under the heading ‘other projected expenditures’, which would be incurred depending upon contributions received from Member States in arrears.

The Proposed Budget could be divided into two main heads namely: (i) Expenses incurred in relation to maintenance of the Headquarters, Pay and Allowances to Secretary-General and Locally recruited Staffs, emoluments to Deputy Secretaries-General, expenses in relation to Annual Session and inter-sessional meetings printing, publication and so on amounting to USD 496,621 and (ii) Expenses under Centre for Research and Training (CRT) which is USD 5,000.

It may be recalled that to replenish Reserve Fund, during the Forty-Eighth Annual Session, the resolution adopted urged the Member States to ensure that it always has a six-month operational fund. As of May 2011, the total amount of the Reserve Fund is only for an operational period of three months.

Excellencies, Distinguished Delegates, Ladies and Gentlemen; certain measures were proposed to collect arrears from Member States who are in large amount of arrears. In this regard, I would like to inform the Member States and thank the Government of Iraq for having paid their first and second installment of arrears of contribution in compliance with the Memorandum of Understanding (MoU) signed with AALCO. The Government of Sudan also has paid their first installment of arrears of contribution based on the

calculations under the draft MoU. I hope other Member States who are in large amount of arrears would also follow suit.

The AALCO has received annual contribution from 36 Member States for the year 2010 until May 2011. Arrears of contribution have been received from 12 Member States in the year 2010. On these lines, I would like to urge Member States which have not paid their annual contribution and arrears to fulfill their financial obligations. I wish to emphasize that voluntary contributions from Member States is most welcome.

Excellencies, it is essential to assess an organization through its ongoing activities undertaken, which has repeatedly been the concern of AALCO Member States. In this regard, activities conducted and organized by AALCO in the Year 2010 and till this month of 2011 is a manifest evidence of the promotion of research and training. I would like to emphasize that there have been effective streamlining of the expenses, and the Secretariat staff needs to be appreciated in extending their full cooperation in reducing the expenses.

In the light of these facts, I would like to place before this august body the Proposed Budget for the Year 2012 for final approval. Thank you very much for patient hearing.

President: Well the budget has been presented and the comments from the Secretary-General have been made. If there are no comments can we have it adopted please. India wants to make a comment. Please.

The Delegate of India: Thank you Mr. President. I thank the Secretary-General for his presentation on budget. Just a few items on which I would like to make one or two comments. First, the Centre for Research and Training, we had an allocation of USD 73,000/- for 2011. Now this amount has been reduced in 2012 and it's only USD 5,000/-. At the time when we are considering increase in activities from the Centre for Research and Training and the other activities of the Organization, I wonder how those programmes would be implemented.

Secondly, just a small comment on the salaries of the local staff. If you look at page 6, the amount budgeted for 2011 and 2012 is identical in terms of US Dollars. However, if you look at the rate of exchange is Rs.46 for 2011 and Rs.45 for 2012. That means in terms there is actually a decrease in the amount which is budgeted for the salaries of the local staff. And this is in a situation where we are examining the questions relating to the local staff's salaries and benefits. So the amount is actually been decreased. May I have the explanations from the Secretary-General on that.

Secretary-General: Let me just respond to the second question, we have three retirees in the Organization and also leaving the Organization. So we have taken into account that amount. In fact the year before we had USD 73,000/- for the CRT, we thought that we would save that money for gratuity so on and so forth to the staff. So, because we have few vacancies and I have not opened the vacancies because we may not have budget for those vacancies in future. So, we have saved the emoluments for last year and this year.

Now, the activities, programmes and workshops we are lucky in the sense that some host countries host the workshop so we do not really use the budget that is provided under the AALCO training programme. We would appreciate very much if that could be arranged and taken care off by any Member State. So we don't really strain the budget to pay our staff and for maintenance. I must also inform the Member State that maintenance and repairs is very expensive. It is very grateful that the Government of India had given us the building, the Secretariat and Secretary-General's residence, however, in view of the current inflation the maintenance and repairs really use up for that purpose. Depreciation of India rupees is one another issue that AALCO is facing. We are going to look into that also. Thank you.

President: If there are no other intervention, can we have this budget as presented adopted please. I take it that the budget is adopted. Thank you.

Now we move on to other item, any other matter. Here we would like to hear from the Chairman elect of the EPG to make an intervention please.

Report of the Chairman of the Eminent Persons Group (EPG)

Chairman of the Eminent Persons Group (EPG): Mr. President Honorable Rauff Hakeem; Madam Vice-President; Mr. Secretary-General, Deputy Secretaries-General; Excellencies, Distinguished Delegates; it is a great pleasure to present the report of the preliminary meeting of the AALCO EPG. The preliminary meeting of the AALCO-EPG was convened on Sunday, 26th June 2011 at Hotel Cinnamon Lakeside, the venue of the Fiftieth Annual Session of AALCO being held in Sri Lanka. Present at this meeting were: H.E Dr. Abdullah Mohamad Said Al Saidi, Minister of Legal Affairs, Sultanate of Oman, Honourable Amos Wako, Attorney-General of Kenya and Member of International Law Commission (ILC); Dr. Rohan Perera, Member of ILC, Sri Lanka; Prof. Shinya Murase, Member of ILC, Japan; Mr. Narinder Singh, Member of ILC, India; Prof. Djamchid Momtaz, Former Chairman of ILC, Iran; Mrs. B. Kiondo, Liaison Officer of the United Republic of Tanzania (Representing Ms. Celina Kombani, Minister of Constitutional and Legal Affairs and the President of the 49th Annual Session of AALCO). The EPG was assisted by Prof. Dr. Rahmat Mohamad, Secretary-General, AALCO; Dr. Xu Jie, Deputy Secretary-General, AALCO; Dr. Hassan Soleimani, Deputy Secretary-General of AALCO². Several liaison officer's also participated at this meeting.

Prof. Dr. Rahmat Mohamad, the Secretary-General in his welcome remarks recalled that during the Forty-Eighth Annual Session, held in Putrajaya, Malaysia in 2009 the "Putrajaya Declaration on Revitalizing and Strengthening of the Asian-African Legal Consultative Organization was adopted on 20th August 2009. By virtue of that

² Besides the names of the Members referred above, the following persons were also present at the meeting as Observers; Ms. Sarah Al-Sharji, Sultanate of Oman; Neil D.B. Unamboowe, Deputy Solicitor-General, Sri Lanka, Mr. Indera Jaya Shamsu, Liaison Officer of the Brunei Darussalam. The AALCO Secretariat officials present at the meeting were: Mrs. Anuradha Bakshi, Assistant Principal Legal Officer, Mr. Mohamad Hussain, Senior Legal Officer and Mr. S. Pandiaraj, Legal Officer, who assisted the Members of the EPG.

Declaration, Member States had recognized its significant contribution towards strengthening Asian-African solidarity, particularly in the development and codification of international law. They had chartered out a blueprint for revitalizing and strengthening of AALCO, so as to ensure that it remains the “main centre for harmonizing the actions of the Asian-African States in international legal matters”.

He also recalled that the Forty-Ninth Annual Session of AALCO held in Dar es Salaam, United Republic of Tanzania in August last year, endorsed the proposal relating to the constitution of an AALCO Eminent Persons Group (AALCO EPG) .

After receiving that mandate, and based on the criteria envisaged in the background paper, eminent persons from the Asian-African region including eminent persons from the International Law Commission (ILC), having extensive experience in the field of international law, were invited to participate as Members in the Preliminary meeting of the AALCO-EPG.

He noted that the EPG would serve as an informal guidance mechanism, “Advisory Body”, for the Secretary-General to steer the work of the Organization. The aim of this group would be to suggest to the Secretary-General the short, medium and long term measures needed for the substantive work of the Organization.

He outlined that the primary task of the Eminent Persons Group would be; (i) how to enhance the profile and relevance of AALCO in the international arena; and (ii) how to contribute significantly to the substantive aspects of AALCO.

Election of the Chairperson of the EPG: Prof. Shinya Murase, Member of International Law Commission from Japan proposed Mr. Rohan Perera, Member of the ILC as the Chairman of the EPG. This proposal was seconded by Mr. Narinder Singh, Joint Secretary, Ministry of External Affairs, Government of India and Member, ILC and also supported by Prof. Djamchid Momtaz, former Chairman of the ILC, from the Islamic Republic of Iran. The nomination was also welcomed and supported by other Members of the EPG.

Upon election Mr. Rohan Perera, the Chairman of the AALCO- EPG profoundly thanked all the Members of the EPG for unanimously electing him as the Chairman and for the honour bestowed on his Country and himself. He noted that the Fiftieth Anniversary of the Organization was an important milestone in the evolution of the Organization, and provided an unique opportunity to draw from past experience and to charter the future course of the Organization. Furthermore, he expressed hope that by the active contribution of all its Members, the EPG would be able to achieve its aims and objectives in the best possible manner.

Thereafter, the agenda for the meeting was adopted. The Draft agenda included; (i) Adoption of the agenda, (ii) Welcome remarks by Prof. Dr. Rahmat Mohamad, Secretary-General, AALCO, (iii) Election of the Chairperson of the EPG, (iv) Discussion on Organizational Matters: Enlarging the membership of the Organization; Ways and means

to raise additional funds for the Organization, (v) Substantive Matters: Discussion on the current agenda of AALCO; Future agenda items that can be included on the work programme, and (vi) Any other matter.

I. As regards enlarging the Membership of AALCO, the Secretary-General noted that since his assumption of office, despite his best of efforts, he had not been able to persuade so far any other Asian-African State to become a Member of AALCO, be it the Francophone Countries or the newly independent countries of Central Asia. He however, added that his efforts were continuing and special attention was being paid to bring the Central Asian Group of States into the fold of AALCO.

Intervening on this point, Prof. Djamchid Momtaz pointed out that, the current Chairman of the ILC Mr. Maurice Kamto could help on this matter provided translation facilities are made available on the part of AALCO Secretariat to some of the African Francophone States wishing to become Members of AALCO. He also cautioned that it would have cost implications for the Organization financially. The Chair suggested that the Secretary-General could discuss this issue with the Chairman and other Members of the ILC during his forthcoming official visit to Geneva.

II. As regards the ways and means to raise additional funds for AALCO, the Secretary-General mentioned that the annual contributions from the Member States was the only source of income available to the Organization and that it was well-known that generally, the contributions were regularly paid by only 30-35 Countries. In view of this state of affairs, he remarked that, the Secretariat of AALCO was hard-pressed to find new and innovative ways of generating income so as to deal with the increasing activities of the Organization. While citing the example of other international organizations including the United Nations, he suggested that possibilities for project-based funding could be explored from corporate entities so as to generate additional incomes. He also cautioned that this suggestion might not be acceptable to some Member States.

Mr. Amos Wako, the Attorney-General of Kenya and a Member of the ILC, stated that the problem of arrears was a common problem faced by many international organizations and supported in principle the suggestion of project-based financing as suggested by the Secretary-General. However, he noted that a detailed proposal from the AALCO Secretariat indicating the areas in which such project-based funding could be undertaken was necessary in this regard, in order to explore the matter further.

Mr. Narinder Singh stated that the issue of arrears had always been an issue of concern for the Organization. While broadly agreeing with the suggestions proposed by the Secretary-General and Mr. Amos Wako, he however noted that, contributions from the Member States should be the primary source of income for the Organization and that, the proposed projects should be related to areas of common concern to the Member States and be beneficial for them.

Prof. Momtaz stated that voluntary contributions from the Member States could be more rigorously solicited in future. The Secretary-General mentioned that some Member

States namely, the Sultanate of Oman, Japan and Malaysia had made voluntary contributions and that efforts in this regard were being pursued by the Secretariat continuously to make Countries contribute voluntarily.

III. As regards the current agenda items of AALCO, the Secretary-General informed that currently there were 16 agenda items being pursued by AALCO, in addition to the agenda of the ILC and the Sixth Committee of the UN General Assembly. In view of the paucity of human and financial resources obtaining in AALCO, he added that it was difficult to focus on all these items and that the work of AALCO needed to be prioritized. While noting that the Secretariat of AALCO was not in a position to meet the mandates contained in the resolutions adopted at the annual Sessions, he added that Working Groups could be set up to look into certain specific areas of work of AALCO so as to receive a tangible outcome in the form of model laws, soft laws or guidelines. In this regard, he also suggested that the Secretariat could establish networks with various Universities and Think Tanks so as to facilitate in-depth research in areas of common concern to the Member States. The Chairman, while agreeing with these suggestions noted that the practice of AALCO in the 1970s and 1980s was to draft model laws and guidelines on various issues for Member States and this past practice could be revived.

Prof. Murase, while agreeing with the Secretary-General that 3 or 4 issues could be focused upon, stated that AALCO should only focus on legal issues and should not venture into the political terrain. It was supported by H.E. Dr. Said Al Saidi, the Minister of Justice of Oman. In this connection, Prof. Momtaz remarked that AALCO has already been doing this by making a distinction between deliberated and non-deliberated items. However, Prof. Momtaz pointed out that a distinction between legal issues and political issues was not always feasible and that many issues involved both elements. He added that AALCO should continue to monitor the agenda items on which the ILC has completed its work. While making his intervention on this issue Mr. Narinder Singh stated that it was indeed necessary to prioritize the work of AALCO and that the agenda items of the ILC should be given priority in this regard. He added that AALCO should continue to monitor those issues that have already been completed by the ILC and are being dealt with by the Sixth Committee until they are brought to their logical conclusions.

While agreeing with the general thrust of the suggestions proposed by the Members, Mr. Amos Wako remarked that the issues which are of critical concern to the developing countries as a whole, have to be given utmost consideration in any scheme for prioritization of the work. This was necessary taking into consideration the original purposes for which the Organization was set up, he added.

In this regard the Chairman stated that when the Secretary-General presents his report containing the viewpoints of its Member States at the Annual ILC Sessions, it should focus more on substantive issues. The Chairman stressed the importance of highlighting the key decisions taken at the Annual Session of AALCO, when the Secretary-General submits his Report to the ILC, leaving sufficient time for a productive interaction with

the Members of the ILC, which in turn, would be beneficial both to the Organization and the ILC.

IV. As regards the future agenda of AALCO, two topics, namely, (i) Protection of the Atmosphere and (ii) Model Rules of Decision-Making Procedures for International Conferences and Conference of Parties to Multilateral Conventions were proposed by Prof. Shinya Murase. He circulated background papers on each of the proposed items to all the Members for their consideration. The utility of exploring these proposed topics were welcomed by the Members of the EPG.

The Chairman of the EPG also made a suggestion that a third topic, namely, 'Contemporary Problems and Challenges in the field of International Investment law' could also be taken up by AALCO in future. As an example, the Chairman cited the on-going work being carried out in the Study Group on the MFN Clause in Investment Treaties in the ILC, to address uncertainties in the scope of application of the clause that had arisen due to inconsistent arbitral jurisprudence. He stressed that these issues would be of particular importance to developing host States of Asia and Africa keen on attracting investment. Attention was also drawn to other issues that have arisen in the context of the growth of FTAs and Regional Economic Integration Agreements. On the modalities it was agreed that Working Groups could be established on these areas to identify the current relevance and the future challenges that these topics present to the Member States of AALCO. However, as a first step detailed questionnaires on all the three proposed items could be prepared by the Secretariat under the guidance of the EPG and circulated to all Member States for inviting their comments, on each topics, he added.

In this regard, it was also suggested that the past as well as the future work of AALCO could be displayed in the website of AALCO. While fully agreeing with this suggestion, the Secretary-General pointed out that efforts in this regard have already been taken by him in an effort to make the website of the Organization more interactive.

The last issue that was discussed by the EPG pertained to the number of meetings to be convened. In this regard, it was pointed out that the official visits of the Secretary-General to both New York and Geneva could also be utilized to further deliberate upon the issues identified by the EPG, in addition to having the EPG Meeting on the sidelines of the annual sessions. It was felt that this modality, could lessen the financial burden of the EPG Members, and could also at the same time achieve impressive results.

The EPG kept the matters under and the meeting was adjourned thereafter.

Mr. President, I present the report for acceptance by the plenary and finally I wish to thank most sincerely all the Members of the EPG for their positive spirit of cooperation, the Secretary-General, the Deputy-Secretaries-General and the Secretariat staff for their invaluable support. They all contributed collectively to the success of the Preliminary Meeting of the EPG. I look forward to the continuing support of my colleagues in the EPG, Secretary-General and his staff in the future works, in the Group, with the common

objective of achieving the goals that the group had set for ourselves. I thank you Mr. President.

President: Thank you very much Mr. Chairman of the Eminent Persons Group. Infact the idea of the Eminent Persons Group and its preliminary session beginning along with this Fiftieth Annual Session is indeed a paradigm shift in our history towards the structure and the workings of this Organization session. Some valuable suggestions have already been made and that too at a short meeting before this annual sessions began on the 26th evening. The members who have gathered have been able to bring out their ideas in this concise form. So that they could facilitate the future projections of the work of the AALCO and I hope that the members have made note of these new ideas that have emanated from the EPG and I commend that the delegates endorse this report. Report in a verbatim form would be circulated later and subject to that can we have it adopted. Yes, thank you. Well, if you have any comments on the report subsequently could be carried out. Now, we have one more item before we conclude. We would request Mr. PG Indera Jaya Shamsu, the Liaison Officer of Brunei Darussalam as the Chairman of the Sub-Committee to look into the financial and administrative matters of the AALCO Secretariat, to present the report.

Report of the Sub-Committee for the Advisory Panel of Liaison Officers to look into the Administrative and Financial Matters of AALCO

Chairman of the Sub-Committee for the Advisory Panel of Liaison Officers to look into the Administrative and Financial Matters of AALCO: Thank you Mr. President.

The Sub-Committee for the Advisory Panel of Liaison Officers to look into the Administrative and Financial matters of AALCO was established at the Resumed 308th Meeting of Liaison Officers of AALCO Member States which was convened at the Headquarters of AALCO, on Wednesday, 1st December 2010. The sub-committee was entrusted with three main tasks, namely:

- i) Salary structure of the Staff;
- ii) 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.

In the Meeting Mr. Yu Peng, the Liaison Officer of the People's Republic of China at the outset expressed deep appreciation to the Secretary-General for the excellent work done. He said that as the only inter-regional legal consultative Organization AALCO had played a positive role in taking up legal issues of common concern in the Asian-African region. He said that the Government of the People's Republic of China had always supported the activities of AALCO and would always continue to support it in the future as well. He also supported the initiative of the Secretary-General to set up a sub-committee to look into the administrative and financial matters of AALCO. He proposed the name of Mr. PG Indera Jaya Shamsu, the Liaison Officer of Brunei Darussalam as the Chairman of the sub-committee in view of his vast diplomatic experience and long

association with AALCO. The Liaison Officers of the Islamic Republic of Iran, Malaysia and Indonesia raised their hands and supported the appointment of the Chairman.

The Secretary-General informed that the sub-committee would be open-ended and it would present its report to the Liaison Officers after three months and thereafter at the Annual Session in Sri Lanka. However, due to time constraints, the Sub Committee could not meet in the intervening period even though the first meeting was scheduled on 17 February 2011.

The Sub-Committee would be having meetings after the 50th Annual Session and hopefully report could be finalized and presented in the 51st Annual Session of AALCO. The sub committee has in hand challenging tasks which involves ascertaining the human resource requirement and planning and salary structure of the Secretariat Staff. This requires detailed study and research.

Another challenging task before the Sub-Committee is to suggest ways and means to generate income for AALCO other than the contributions received from its Member States. As we are aware, AALCO completely depends on the Annual contribution of Member States for meeting its budgetary expenses. However, there is a lot of difference between the expected contribution from Member States and actual contribution received.

For executing both these tasks successfully, the Sub-Committee needs the cooperation and assistance of all Member States and requests the Member States to actively participate in the Meetings, so that the Committee could come up with a productive report to be placed at the Fifty-First Annual Session. Thank you.

President: Thank you. That was a short report by the Chairman of the sub-Committee on Finance and Administrative matters. If you could kindly endorse that as well, then we can wind up this session. So, I take it as endorsed and with that we wind up for lunch and an evening of sight-seeing in Colombo. I have one more announcement that pertains to the first meeting of the Drafting Committee at 3.30 PM. So, we would like some of those committed delegates to forego your tour of Colombo and try to assist the Secretariat with the Drafting Committee meeting at 3.30 PM. With that request, may I wind up this session. Thank you.

The Meeting was thereafter adjourned.

**VIII. VERBATIM RECORD OF THE
THIRD GENERAL MEETING**

**VIII. VERBATIM RECORD OF THE THIRD GENERAL MEETING
HELD ON WEDNESDAY, 29 JUNE 2011 AT 10.00 AM**

Her Excellency Mrs. Ifeyinwa Rita Njokanma, Vice-President of the Fiftieth Annual Session of AALCO in the Chair.

Agenda Item: Report on Matters Relating to the Work of the International Law Commission at its Sixty-Second Session

Secretary-General: Thank you Madam Chair.

Madam Chair, Honourable Ministers, Vice-Ministers, Attornies-General, Excellencies, Ladies and Gentlemen,

It is indeed my privilege and honour to introduce the “Report on the Work of the International Law Commission at its Sixty-Second Session”, vide Secretariat Document No. AALCO/50/COLOMBO/2011/SD/S1.

As you all know, one of the statutory obligations of AALCO is to examine the questions that are under consideration of International Law Commission, and thereafter, to forward the views of its Member States to the Commission. In the discharge of this mandate, the Organization, since its establishment in 1956, has been regularly considering issues taken up by the ILC with a view to bringing Afro-Asian perspectives into the work of the ILC. Fulfillment of this mandate over the years has helped to foster closer relationship between the two organizations. It has also become customary for both the Organizations to represent each other during their annual session.

Madam Chair, last year at the Forty-Ninth Annual Session of AALCO held in Dar es Salaam, Tanzania, we had organized a thematic debate on the topic: “*Making AALCO’s participation in the work of International Law Commission (ILC) more Effective and Meaningful*”. The debate saw the participation of three Panelists, namely Prof. Shinya Murase, Member, International Law Commission from Japan; Dr. Roy S. Lee, AALCO’s Permanent Observer at the United Nations Headquarters in New York and who was a former Secretary of the ILC; and Professor V. S. Mani, a distinguished international law academic from India, who made their presentations. It was followed by deliberations in which a number of Member States of AALCO took an active part.

The Secretariat Report for this year covers the agenda items of the ILC as found in its Sixty-Second Session that took place from 3rd May to 4th June and 5th July to 6th August, 2010. There were as many as nine topics on the agenda of the aforementioned Session of the ILC. They were: Reservation to treaties; Expulsion of aliens; Effects of armed conflict on treaties; Protection of persons in the event of disasters; The obligation to extradite or prosecute (*aut dedere aut judicare*); Immunity of state officials from foreign criminal jurisdiction; Treaties over time; The Most-Favored-Nation clause and Shared natural resources.

In view of the paucity of time, I will only briefly mention, the way each of the topic mentioned above was dealt with by the Commission at its sixty-second session.

On the topic of “Reservations to Treaties”, the Commission had before it addendum 2 to the Fourteenth Report as well as the Fifteenth and Sixteenth Reports of the Special Rapporteur. The Commission provisionally adopted 59 draft articles together with commentaries. The Commission hence completed the provisional adoption of the set of draft guidelines. The Commission intends to adopt the final version of the Guide to Practice on Reservations to Treaties during its sixty-third session in 2011.

On the topic “Expulsion of Aliens”, the Commission had before it the document containing a set of draft articles on the protection of the human rights of persons who have been or are being expelled, revised by the Special Rapporteur. It also considered the sixth report of the Special Rapporteur on collective expulsion, extradition disguised as expulsion, the grounds for expulsion, detention pending expulsion and expulsion proceedings.

On the topic “Effects of Armed Conflict on Treaties”, the Commission had before it the first report of the Special Rapporteur containing his proposals for the reformulation of the draft articles as adopted on first reading, taking into account the comments and observations of Governments. The Commission also had before it a compilation of written comments and observations received from Governments. The Commission considered the Special Rapporteur’s report.

On the topic “Protection of Persons in the event of Disaster”, the Commission had before it the third report of the Special Rapporteur dealing with the humanitarian principles of neutrality, impartiality and humanity as well as the underlying concept of respect for human dignity. The Commission also adopted draft articles 1 to 5 together with commentaries.

On the topic “The Obligation to Extradite or Prosecute (*aut dedere aut judicare*) the Commission had reconstituted the Working Group on the topic and had discussions with the aim of specifying the issues to be addressed to further facilitate the work of the Special Rapporteur. It had before it a Survey of multilateral conventions which may be of relevance for the Commission’s work on the topic, prepared by the Secretariat of the Commission, and a working paper prepared by the Special Rapporteur containing some observations and suggestions based on the general framework proposed in 2009 and drawing upon the survey by the Secretariat of the Commission.

On the topic “Immunity of State Officials from Foreign Criminal Jurisdiction”, the Commission did not consider it in the course of its sixty-second session.

On the topic “Treaties over Time”, the Study Group on Treaties over time was reconstituted under the chairmanship of Mr. Georg Nolte. The Commission took note of the oral report of the Chairman of the Study Group on Treaties over time and approved the recommendation of the Study Group that a request for information be included in

Chapter III of the Commission's report and also brought to the attention of States by the Secretariat of the Commission.

On the topic "The Most-favoured-nation clause", the Commission took note of the oral report of the Co-Chairmen of the Study Group. The report considered papers on: (i) catalogue of MFN provision, (ii) the 1978 Draft Articles of the International Law Commission, (iii) MFN in the GATT and the WTO, (iv) the Work of OECD on MFN, (v) the Work of UNCTAD on MFN, and (vi) the *Maffezini* problem under investment treaties.

On the topic of "Shared Natural Resources", the Commission decided once more to establish a Working Group on Shared natural resources, chaired by Mr. Enrique Candioti. The Working Group had before it a working paper on oil and gas prepared by Mr. Shinya Murase. The Commission took note of the oral report of the Chairman of the Working Group on Shared natural resources and endorsed the recommendation of the Working Group.

Madam Chair, it is my pleasure to draw the attention of the delegates to the information requested by the Commission on all the agenda items. Inputs provided by the Member States of AALCO would be of immense significance to the ILC in formulating the future trajectory of its work. The feedback and information on the state practice of AALCO Member States would enable the Commission to take into consideration the views of diverse legal systems. Hence, I request that delegates submit specific comments and observations on the agenda items that could, in turn, facilitate the work of the Commission. Thank you.

Dr. A. Rohan Perera, Member of the International Law Commission: Thank you Madam Chairperson. Mr. Secretary-General, my colleague, Mr. Shinya Murase, Distinguished Delegates,

The Secretary-General has just given you an outline of all the topics that are before the Commission. What I intend to do is not to go into all these topics given the paucity of time. Instead, I, speaking in my personal capacity, will give you an update, somewhat, of what has happened during the first half of the current Session of ILC which will be resuming next week in Geneva, so that the delegations would be in a position to focus on some of the critical issues and when the time comes for the Sixth Committee consideration of the Report you will be in a position to make valuable comments on these matters.

The two topics on which I will make my comments are; one is a topic on which the ILC has completed the draft articles together with the Commentaries. Nevertheless this is an important topic on which, I think, State inputs/comments/observations would be very useful. The topic on "The Effects of Armed Conflicts on Treaties". The Special Rapporteur Mr. Lucius Caflisch presented the entire set of draft articles with Commentaries to the Commission when the Commission met in April this year. Some elements that I wish to flag is that the draft articles as a whole are reflective of the general

proposition that treaties are not in and of themselves terminated or suspended as a result of an armed conflict. This is the general principle that runs through the entirety of the draft articles. Another important aspect arose in the context of Article 2 on definitions which define the term treaty in line with the definition of the treaty found in Article 2 of the Vienna Convention on Law of Treaties of 1969. The term ‘armed conflict’ is designed to cover both resort to armed force between States as well as protracted armed force between government authorities and organized armed groups. In other words, both international and internal armed conflicts. Hence, the question may be posed what effect can an internal armed conflict have on an international treaty between States. The Commentary explains the rationale for covering internal conflicts within the scope of the draft articles on this topic. It was pointed out by the Special Rapporteur that contemporary developments have blurred the distinction between international and internal armed conflicts. Internal conflicts have increased in number and statistically more frequent than international armed conflicts.

In addition, in fact more importantly, it was also pointed out that many internal armed conflicts could include an external element. Although internal in character, it could have or could involve external elements such as the support and involvement by other States, third States to varying degrees, such as supplying of arms, providing training facilities and funds and so forth to private armed groups which gives it a certain foreign character or element. Accordingly, it is concluded that internal armed conflicts could affect the operation of treaties between States as much as, if not more, than international conflicts. The draft articles therefore include the effects on treaties of internal armed conflicts that is, “resort to armed force between governmental authorities and organized armed groups”. However it is also important to point out that the threshold requirement has been reduced in the definition by the use of the term ‘protracted’ in order to constitute the type of the armed conflict sought to be covered by the draft articles. This threshold requirement serves to mitigate the potential destabilizing effect the inclusion of internal armed conflicts within the scope of the term armed conflict in the present draft articles might otherwise have on the stability of a treaty regime.

Getting on to the Principles set out in the draft articles I refer to Chapter I “Operation of Treaties in the Event of Armed Conflicts” which consists of articles 3 to 7. These articles 3 to 7 are central to the operation of the entire set of draft articles. Draft Article 3 establishes the basic orientation of the set of draft articles of effects of armed conflicts on treaties, namely the proposition that armed conflicts does not *ipso facto*, terminate or suspend the operation of the treaties. The continuity or not of a treaty therefore would depend on the circumstances of each case. That is the general proposition governing the entire set of draft articles and draft article 3. Thereafter draft articles 4 to 7 seeks to assist the determination of the question whether a treaty continues in operation in an armed conflict. And, these articles are arranged in an order of priority. Accordingly, the first step is to seek an answer in the language of the treaty itself.

Therefore, draft article 4 provides then that an express provision within a treaty addressing the question of the continuity of the treaty in the context of an armed conflict, then that provision would prevail, that provision would govern the question of the

continuity of treaties. In the somewhat unusual situation of two Parties anticipating a future conflict and addressing the issue at the time when they conclude a treaty which I think would be a somewhat unusual occurrence, because at the time of concluding a treaty that would be furthest away from the minds of the Parties. But however, if they anticipate such an eventuality and include an express provision in the treaty itself then that provision prevails and that concludes the question whether that treaty would continue in operation in the event of an armed conflict. However, in the absence of an express provision resort would be next had to draft article 5. The draft article 5 provides for the established rules of treaty interpretation as we all know in Article 31 of the Vienna Convention on Law of Treaties so as to ascertain the fate of the treaty in the event of an armed conflict. Now, after recourse to article 4, that is, where there is an express provision, and resort to article 5 where the treaty is silent and you have recourse to principles of treaty interpretations, still if no conclusive answer is provided by the application of these two draft articles the inquiry then shifts to considerations extraneous to the treaty. You go outside the treaty now. First you try to find the answer within the treaty, you have not found an answer and now you move to considerations extraneous to the treaty. Accordingly, draft article 6 provides a number of contextual factors that may be relevant in making a determination one way or the other. Does the treaty continue in force in the event of an outbreak of an armed conflict? And this article refers to “all relevant factors”, including (a) nature of the treaty, in particular its subject matter, its object and purpose, its context, its content and number of Parties to the treaty and (b) the characteristics of the armed conflict such as its territorial extent, scale and intensity of the conflict, its duration and in the case of non-international armed conflict, also the degree of outside or external involvement. So article 6 provides for these extraneous considerations to be resorted to find an answer to the question does a treaty survive an outbreak of armed conflicts between the Parties.

Finally, the determination of this question is further assisted by draft article 7 which refers to an indicative list, I repeat, it is an indicative list and not a exhaustive list, on which the Commission deliberated for a long long time. Indicative list of treaties which is now contained in an annex, the subject matter of which provides an indication that the treaties continue in operation, the Parties would have intended these treaties to continue in operation in whole or in part even in times of armed conflict. This indicative list for example, includes treaties such as treaties creating permanent regimes, a maritime or land boundary treaty would not be likely considered to have been automatically terminated at the outbreak of an armed conflict. Because these are treaties creating permanent regimes and they survive the outbreak of an armed conflict between the Parties. Similarly among the other categories, human rights treaties and today it is accepted, both human rights and treaties involving the international humanitarian law continue to apply even in times of armed conflicts and IHL or international humanitarian law are designed to apply in times of armed conflict. Hence, such treaties dealing with human rights and IHL are deemed, because of their subject matter, to survive and to continue in operation even in times of an armed conflict. So it is an indicative list providing States some guidance as to the type of treaties, because of their subject matter, which are considered to be continuing in force notwithstanding the outbreak of an armed conflict. I thought I should flag this basic

structure of this draft articles, how they are designed to assist States in answering this question does treaty X survive despite the outbreak of an armed conflict.

My next comment would be on a very important topic, a topic which is of considerable contemporary relevance, on which the Commission had a very intensive debates. The Commission did not consider draft articles but on the approach to be adopted and this debate will continue when the Commission resumes its sittings next week. I refer to the topic of “*Immunity of State Officials from Foreign Criminal Jurisdiction*” the Special Rapporteur of which is Mr. Roman A. Kolodkin. There are two basic questions here. The first question is: Is there an exception to immunity in respect of what are called grave crimes under international law? Does immunity give way when it involves grave crimes under international law? This is the issue which received focus during the consideration of his Report during April-May. The second issue is: What is the scope or what are the categories of officials who are sought to be covered by the draft articles on “Immunity of State Officials from Foreign Criminal Jurisdiction”. Here we are dealing not with jurisdiction of international tribunals, which are governed by Statutes or other special instruments. Here we are dealing with immunity of state officials from foreign criminal jurisdiction, in other words, criminal jurisdictions of national courts of foreign States.

The Rapporteur’s report proceeds on the basis that immunity of State officials from foreign criminal jurisdiction was the norm, immunity is the norm and any exception to that principle of immunity must be proved or established. That is the basis on which the Third Report of the Special Rapporteur proceeded. As far as categories of officials were concerned, it was stated that former state officials who are no longer holding office, they enjoy immunity *ratione materiae* or immunity in respect of acts undertaken in an official capacity, during their term of office, but not for acts performed prior to taking up office. Hence, as far as former state officials are concerned, it is a limited form of immunity. Then we come to the concept of absolute immunity or immunity *ratione personae*, here we speak basically of what is called the Troika. It has been recognized by the International Court of Justice in the *Arrest Warrant Case* that the well-known Troika, namely the Head of State, Head of Government and the Minister of Foreign Affairs who is the intermediary between the State and the international community enjoy absolute immunity and this covers both acts performed in an official capacity as well as in a personal capacity and both while in office and prior thereto. Now the rationale for the theory of absolute immunity or immunity *ratione personae* is that with regard to these categories it is important that they enjoy this immunity for the performance of the independent and sovereign functions of the State because they personify the State. This led to the question: Are there any category of officials apart from the well-known Troika, who should enjoy immunity?

The point was made that today in the post WTO context Trade Ministers may be performing functions that may be as important as the Foreign Minister or the Defense Minister may be performing sovereign functions as much as the Foreign Minister. So, is there a need to go beyond the Troika and cover other high-ranking officials? Here, the views that were being expressed were that the Commission should look into very clear criteria, in other words, with respect to other officials there are strong views that this

must be restricted to the Troika. But even those supported extending beyond the Troika had this to say that the functions need to be closely linked to the conduct of foreign relations, international relations. And is foreign travel required to be performed by the officials as part of discharging the independent and sovereign functions of the State. The principle being that if you restrict that right you are undermining the very essence of not only of sovereignty but of the stability of international relations subjecting high-officials to the foreign jurisdiction of another state perhaps through politically motivated prosecutions. So because of these reasons, the Commission decided to address these to Member States to get a sense of direction when the matter goes before the UNGA Sixth Committee, these are essentially policy issues that there is a feedback particularly of Asia and Africa, these issues are being very hotly debated and which are controversial. And as far as the possible exceptions in respect of grave crimes, the Special Rapporteur proceeded on the basis that where it concerns persons enjoying absolute immunity, as the law stands today, the *lex lata*, there was no exception to immunity, even in respect of grave crimes, in respect of persons enjoying absolute immunity. His conclusion was that it was pertinent only in respect of other categories who enjoy immunity *ratione materiae* or limited immunity in the context of crimes under international law. So the Report adopted a cautious approach and the Special Rapporteur tended to veer towards restricting the task of the Commission towards codification on the basis of as the law exists or *lex lata* rather than going down the path of progressive development or *de lege ferenda*. Naturally the Report gave rise to much debate and discussions within the Commission, which it has not concluded as I said and which will resume. But I just highlight two broad trends that emerge from these debates which require the very close attention of the Member States of Asia and Africa when the Report is placed before the Sixth Committee in October this year.

The first trend was that the Members took the view that you must limit sovereignty and that you can not talk of absolute immunity where it concerned grave crimes under international law. It was argued that the principle of non-impunity for grave crimes under international law constituted a core value of the international community which needed to be considered when examining the question of immunity. In other words, it was presented in the context of the impunity Vs immunity. By granting immunity do we condone impunity and that action against impunity or the principle of non-impunity was a core value under international law. Those who supported this line of reasoning also preferred to a clash of hierarchical norms. For this they cited the judgment of *Al Adsani case* delivered by the European Court of Justice where the minority took the view that where there was a clash between the principle of immunity and the principle against impunity in respect of grave crimes, the latter being a principle of *jus cogens* prevails over the principle of immunity and therefore, the principle of immunity must give way to a higher norm which was the principle against impunity. That was the reasoning of the minority in the European Court of Justice but those who supported this approach against absolute immunity cited this theory of clash of hierarchical norms. Those who supported either the Special Rapporteurs' approach or those who favoured preserving the institution of immunity cited the fact that the principle of immunity is an important principle of international law, well-established in customary international law and that it is a principle which plays a critical role in ensuring the stability of international relations. If leaders are

to be subjected to foreign jurisdiction that could have the effect of destabilization of international relations and prejudices the effective discharge of State functions. It was pointed out that this too is a core value to the international community, because principle of immunity was based on international comity and it was imperative to remove the risk of politically motivated criminal proceedings and that the fact that undue limitation on immunity may lead to, what was called, a serious friction in international relations. So these were the dangers pointed out by unrestrained approach of whittling down the well-established principle of immunity could lead to international friction. So you can see two clear trends emerging through the ILC debate. Those who took a middle path noted in this regard that the challenge for the ILC is to strike a balance these two different possible stands. As I noted earlier, the ILC would resume the debate this month. When the Report goes before the Sixth Committee of the UN General Assembly, where we receive the political inputs of Member States, ultimately it is the Member States who must decide which path the Commission must travel in this regard. So therefore my appeal to Member States of Asia and Africa is to give this matter the most serious consideration and guidance to the ILC. This matter will go before the new Commission; this Commission is going out of office at the end of this year, the new Commission who will start work on this next year. Hence, when the new Commission meets let them have the political inputs of the Member States of the United Nations.

That is my opinion on this issue, but I thought I should highlight these factors to sensitize the distinguished delegates. Since we are running short of time I just want to highlight one more issue which is the Study Group on Most Favoured Nations Clause which was referred to by the Secretary-General which I had the privilege of co-chairing with my colleague from Canada Prof. Donald M. Mcrae. The reason why the Commission decided to venture on to this topic is due to the uncertainty that has been created by a series of arbitrary decisions which tended to give a very broad and expansive interpretation to the scope of application of the most-favored nation treatment which seeks to create a level playing field among the investors of different nationalities. The over expansive interpretation has led to a situation, where it has been possible to freely borrow provisions from third party treaties completely disturbing the negotiated package that Parties may have agreed on at the time they concluded the treaty. So a number of Papers have been prepared analyzing the recent arbitral awards the question whether MFN is limited only to the according of substantive treatment or does it even include dispute settlement provisions which are procedural in nature. This is the issue which arose in the famous *Maffezini case*. Prof. Murase has prepared a very interesting paper on the 1978 draft articles formulated by the ILC but not adopted by the UN General Assembly which only took note of that and that Prof Murase has explained in that paper why the situation has changed from 1978 to today, that was in the cold war context and today the importance of MFN has shifted from trade to investment with the proliferation of bilateral investment treaties. We had the WTO/GATT dispute settlement mechanism number of awards, so it is a very interesting analysis which I would recommend delegates to read.

This work again is continuing. The objective of the Commission is to underline the importance of the formulation of the MFN clause, because different formulations can

lead to different conclusions if the matters go into arbitration. Prof. Murase has recommended coming up with new draft articles, there are proposals to provide model clauses, guidelines or principles to assist States so that they know when they include a most favored nation clause in an investment treaty what are the precise implications depending on the way that you have formulated your treaty provisions. This is what the Study Group is attempting to do. That work has just commenced in the last two years and this again will filter into the new Commission that will be in place in the year 2012. I will stop at this point and Prof. Murase can explain it further. Thank You.

His Excellency Mr. Rauff Hakeem, President of the Fiftieth Session of the AALCO in the Chair.

President: Thank you very much Mr. Rohan Perera, the current Chairman of the Eminent Persons Group. He has made a presentation about the ILC's current topics under discussion, particularly this issue relating to the draft articles on the Effects of Armed Conflicts on Treaties. The issue arose in the case of *Tadic* decided by the ICTY wherein there was a succinct reference to how the effect takes place. But then the use of the term protracted armed conflict raises complications. Therefore these efforts by the ILC now to try and define this contentious issue is something of concern for all of us Member States and I am sure the delegates will pay sufficient attention to it. The other issue relating to the Immunity of State Officials from Foreign Criminal Jurisdiction is also important especially in the context of the attempts to expand it beyond the Troika and which is another developing area of international criminal responsibility. This too is a matter, I am sure, Member States would take note of and deliberate in future. The grave crime exception is another area where the Rapporteur is quite forceful to try and create a clear division between impunity and immunity. That again is something that Member States need to consider seriously so as to separate politically motivated prosecutions from the genuine ones and assist the ILC in its formulation on the issue. Then on the MFN, the draft articles that Prof. Murase is proposing is something that is worthwhile to study and reflect upon. Having said that may I now call upon Prof. Shinya Murase to deliver his remarks.

Prof. Shinya Murase, Member of the International Law Commission: Thank you Mr. Chairman. Speaking in my individual capacity as Member of the International Law Commission,

I would like to address two points; one is the future topics that the ILC should take on, and the other, the need to follow-up the work of the ILC.

With the conclusion of three big topics, namely (i) reservation to treaties, (ii) responsibility of international organizations, and (iii) effects of armed conflicts on treaties; we need to decide on new topics for the next quinquennium. Unless we have good topics, the ILC will not sustain.

Selection of topics for ILC is not an easy task. It is said that there are three criteria for the selection of new topics. The first is the practical consideration as to whether there is any pressing need in the international community as a whole; the second is the technical

feasibility, that is, whether the topic is ‘ripe’ enough in light to relevant State practice and jurisprudence; and the third being the political feasibility whether or not the proposed topic might or might not have political sensitivity. It has been stressed by the Commission that it should not restrict itself to traditional topics, but could also consider those that reflect ‘the new developments in international law and the pressing concerns of the international community as a whole’.

I have been proposing a new topic on the “protection of atmosphere”, which I believe satisfies those three feasibility tests. I believe that we need a comprehensive “framework convention” to address the whole range of atmospheric problems such as transboundary air pollution, depletion of Ozone layer and climate change. We could envisage a future convention which is similar to Part XII of the Law of the Sea Convention on the protection and preservation of maritime environment. I sincerely hope that the Sixth Committee will endorse this proposal so that the ILC can start working on it from next year.

This brings me to my second point on the relationship between ILC and the Sixth Committee. We need to follow-up the subsequent development of the draft articles produced by ILC.

In this context, I would like to draw your attention to the draft articles on the transboundary aquifer (groundwater) which was completed by ILC in 2008. This year, the Sixth Committee will decide on what to do with this set of draft articles.

In my personal opinion, the Sixth Committee should at least adopt a resolution in the form of a General Assembly “declaration” on the principles and rules applicable to transboundary aquifer so that the declaration will be the basis for a future framework convention on the subject.

We also need to promote ratification of the State Immunity Convention as many delegations have stated, another product of ILC. I am not going into this topic, because you will be discussing on the issue under the next agenda item. However, I would like to recall as a footnote that it was Ambassador Sompong Sucharitkul from Thailand who laid the ground for the Convention as the first Special Rapporteur on the topic. I was the member of the ILC Secretariat some 30 years ago and I was assigned to assist Ambassador Sucharitkul and I have nostalgic memories of those days. So, I believe that his contribution as well as Ambassador Motoo Ogiso, second Special Rapporteur, should be duly recognized when the Convention comes into effect with the necessary 30 ratifications. This is what I wanted to speak on. Thank you.

President: With that brief introduction of these matters under consideration by the ILC by Prof. Murase, I will now open the discussion to the floor. There have been few requests from delegates to comment on ILC topics. May I now call upon Islamic Republic of Iran to make their intervention.

The Delegate of the Islamic Republic of Iran: In the Name of God, the Compassionate, the Merciful,

Thank you Mr. President, for giving me the floor. I would like to take this opportunity to thank our Secretary-General Prof. Dr. Rahmat Mohamad for his comprehensive and lucid Report on the work of the ILC during its 2010 Session. I am sure that this Report would be very useful for our deliberations. I would like also to thank on behalf of the Islamic Republic of Iran, the representative of the International Law Commission Mr. Rohan Perera for his excellent presentation of the work of the Commission at its sixty-third session in 2011. I would also like to commend the effort of the members of the Commission for their contributions to the codification and progressive development of international law.

During the first part of the current session of ILC, as just reported by our colleague Mr. Rohan Perera, the drafting Committee concluded its work on a set of 18 draft articles on “Effects of Armed Conflicts on Treaties” and submitted its report to the plenary of the Commission with the recommendation that the draft be adopted by the Commission on second reading. My delegation would like to make some preliminary comments regarding the work of the Commission in this regard. I wish to express our gratitude to Mr. Lucius Caflisch, Special Rapporteur on the topic and appreciate his taking into account the comments made by UN Member States on this topic. The Islamic Republic of Iran submitted its written comments last year on this topic to the Commission. It is reflected in document A / CN.4 / 627 / Add.1.

As has been said by Mr. Perera, Article 2 includes an express reference to the applicability of the draft articles to non international armed conflicts. My Delegation continues to deem it inappropriate to include those armed conflicts. The Special Rapporteur had himself acknowledged that this could create problem. These possible effects that this category of conflicts might have on treaties are indeed governed by the provisions of draft articles on “International Responsibility of States” under circumstances precluding wrongfulness. We must also remember that Article 73 of the Vienna Convention on the Law of Treaties, which is the basis of the Commission’s work on the subject, refers exclusively to the effects on treaties of armed conflicts between States.

We understand, as pointed out by the Chairman of the Drafting Committee, that every conflict of non-international character would not affect the operation of treaties, rather only those such conflicts which “by their nature or extent” are likely to affect a treaty. In other words, only internal armed conflicts with outside involvement would be covered by the draft articles on the topic.

We appreciate that the list of treaties annexed to the draft articles includes those “declaring, creating or regulating a permanent regime or status or related permanent rights including treaties establishing or modifying land and maritime boundaries”. My delegation also welcomes the inclusion in the list of “treaties relating to international watercourses and related installations and facilities”, the category of treaties which

includes in our view treaties establishing river boundaries as well. There is no express reference to maritime or river boundaries in this annex. In our view, the list is only indicative and should be included in the draft articles after article 7 as proposed by the Special Rapporteur and not to be annexed to the draft article as it stands now.

However the applicability of this category of treaties could be undermined by the provision of the article 9 of the draft article dealing with notification of termination of a treaty or its suspension. In other words, such a provision appears to be applicable to all treaties, including treaties establishing borders. It can be interpreted, in our opinion, as a kind of invitation to the State engaged in an armed conflict and willing to change its border to invoke the facility that this provision offers. Wouldn't be more appropriate to restrict the scope of this provision by excluding those treaties? By so doing we will insure much more the territorial integrity of States involved in an armed conflict and will be in line with the basic orientation of the draft articles.

Mr. President, the saving clause of article 14 relating to the "effect of the exercise of the right to self-defense on a treaty", in the opinion of my delegation is welcome. We support also the saving clause regarding the "Prohibit of benefit to an aggressor State". Nevertheless, the Islamic Republic of Iran would prefer, as it has been proposed by some members of the Commission regarding this saving clause, a broader formulation referring to the resort to force in violation of Article 2 § 4 of the UN Charter instead of the reference to aggression within the meaning of the Charter of the UN and Resolution 3314 of the General Assembly defining act of aggression in the year 1974.

Finally, we have some doubt about the inclusion of a saving clause regarding the decisions of the Security Council. As it stands in article 16 of the draft, we prefer the first reading version of this provision limited to decisions of this organ (the Security Council) taken in accordance with chapter VII of the Charter. Regarding the Report of the International Law Commission on the work of its sixty-second session held in 2010, my delegation has some comments on Chapters V and VII of this report of the ILC submitted to the General Assembly last year. I want to remember you that Chapter V and VII of this Report are devoted respectively to the "Expulsion of Aliens" and the "Protection of Persons in the Event of Disasters".

Mr. President, the Delegation of the Islamic Republic of Iran has already explained its position regarding these two Chapters and I am not here going to repeat them.

Expulsion of aliens

I would like to congratulate Mr. Maurice Kampto, Special Rapporteur on the topic for his sixth report. The report reflects a careful study of national legislations on the subject of expulsion of aliens as well as the jurisprudence of both domestic and international law. This study has enabled the Special Rapporteur to identify the common denominators as a basis for the legislation by States to deport aliens who are within their territory and the right of those expelled.

Regarding the first point, there is little doubt that every State has the right to expel aliens living on its territory if they pose a threat to its national security or public order. Each State has the right to judge and determine, according to its national laws and the circumstances prevailing within its territory at the time, the components of these two concepts. It would therefore be pointless to try to list the grounds that could be invoked by a State to justify the expulsion of aliens. Nonetheless, two limitations exist on the sovereign right of the State to proceed with the expulsion of aliens: 1) mass expulsion and 2) expulsion in disguise. Regarding the first scenario, the only possible exception is during an armed conflict when aliens have shown hostility against the host State, an issue that we feel should be excluded from the draft.

Expulsion in disguise, to be distinguished from expulsion made by means of incentives and which is tolerated by international law, covers situations where a State abets or acquiesces acts committed by its citizens to provoke the forced departure of aliens. These acts are generally targeted at persons belonging to ethnic or religious minorities and are characterized by discrimination against them. Such conduct is contrary to the obligations of the host State and violates the international human rights law, since they lead in fact to mass expulsion of aliens.

Once decided, expulsion shall be conducted in a manner that the fundamental human rights would be fully respected. In our view, this deserves the full attention of the International Law Commission and the Special Rapporteur on the topic. The Commission should base its work on the provisions of relevant international human rights instruments which are universally accepted to identify the general principles applicable in that matter, without prejudice to the concepts and solutions admitted at the regional levels and which continue to be respected by the States concerned.

That being said, the International Covenant on Civil and Political Rights is of utmost relevance to this issue since the States parties undertake to respect towards all individuals within their territories, including foreigners residing legally therein, the rights granted by this document. The expulsion must be made with due respect for fundamental human rights of the deportees. They must be protected against any inhuman and degrading treatment. This applies even during the detention of aliens awaiting deportation. In all cases, the property rights of deportees should, as well, be respected and guaranteed by the authorities of the host State.

Protection of persons in the event of disasters

I congratulate at the outset Mr. Eduardo Valencia-Ospina, Special Rapporteur, for his third report on the topic. We thank him for reminding the general agreement reached by the Commission concerning certain aspects of the scope and content of the project. More specifically, the Special Rapporteur's right conclusion regarding the irrelevance of the new notion of "responsibility to protect" to the work on the "Protection of persons in the event of disasters" is welcome. This conclusion was endorsed by members of the Commission as well.

However, the discussions that took place during the sixty-second session of the Commission seem to have deviated from that conclusion. It appears indeed that the “rights based approach” continues to have adherents among members of the Commission. Such an approach implies that people affected by natural disasters are able to request international relief, which contravene the principles of State sovereignty and non-interference in internal affairs. In our opinion, the Commission should focus only on the rights and obligations of States. We do not share the sentiment that the refusal of a State to accept international aid could be characterized an “internationally wrongful act” if such refusal jeopardized the rights of victims of the disaster. It is for the affected State to determine whether receiving external assistance is appropriate or not, without his refusal triggering its international responsibility. Any suggestion to penalize the affected State would not only be expressly contrary to international law but also constitute an unprecedented misstep which could have adverse consequences for international relations and justify interventionist appetite.

Certainly, there is little doubt that the State affected by natural disasters is required to cooperate with other States and relevant intergovernmental organizations under international law. Such an obligation to cooperate is, however, limited only to the subjects of international law, excluding non-governmental organizations.

The obligation to cooperate does not oblige the State affected by the natural disaster to accept relief; the provision of humanitarian aid by other States and international organizations remains subject to the consent of the latter. Once granted, the affected State shall retain, in accordance with its domestic law, the right to direct, control, supervise and coordinate the assistance provided in its territory. Moreover, the humanitarian assistance should be provided in accordance with the principles of humanity, neutrality and impartiality. All practice and principles identified by the Red Cross and Red Crescent Movement, which have in turn been referred to by the International Court of Justice in 1986 and by the relevant resolutions of the UN General Assembly, could be applicable.

Mr. President, before concluding my intervention, I want to draw the attention of our colleagues to the set of draft articles on Responsibility of International Organizations adopted on second reading by the drafting committee during the first part of the present session of the International Law Commission held in 2011. The Islamic Republic of Iran would like to underline the importance of this document for our Organization AALCO. We recommend to the Secretary General, Professor Rahmat Mohammad, to undertake a study on this Report and to present it to the next Session of our Organization as a basis for some discussions during our next annual session.

In the end, I would also like to thank Prof. Murase for his remarks regarding new topics and we are going to consider with interest the proposal just made by Prof. Murase.

Thank you very much, Mr. President.

President: Thank you Iran for that statement. Following the example of Iran the delegates can make specific comments and can hand over their entire statement to the Secretariat so that we can conclude our meeting as fast as possible. Now, I invite the delegate of the People's Republic of China.

The Delegate of the People's Republic of China: Thank you Mr. President for giving the floor to me. Mr. President, the International Law Commission (ILC) is a major legal body of the United Nations, which makes important contribution to the codification and progressive development of international law. There are active interactions between the two institutions. Briefing of AALCO's work in ILC annual session helps the Commission to get a better view of the Organization. At the same the Secretariat of AALCO always keeps a close eye on the work of the Commission. The Chinese Delegation welcomes such cooperation between ILC and AALCO.

Mr. President, in its sixty-second session held last year, ILC considered agenda items such as reservations to treaties, protection of persons in the event of disasters, effects of armed conflicts on treaties, expulsion of aliens, shared natural resources, treaties over time, as well as the most-favoured-nation clause, and adopted a series of draft articles. The Chinese Delegation appreciates the arduous work of the Commission and important progress it has achieved. Meanwhile, we would like to take this opportunity to share our views with other delegations on two concrete questions in particular.

On "Effects of Armed Conflicts on Treaties", the Commission considered the first report of the Special Rapporteur Mr. Caflish and discussed 17 draft articles including the definition of armed conflicts. The Special Rapporteur proposed to take reference to the definition of armed conflicts in the Tadic case of ICTY, where prolonged armed conflicts between governmental entities and organized armed organization were included. The Chinese Delegation is of the view that the definition aforementioned provides inadequate restrictive conditions for the term of armed conflicts therein, thus may be easily construed to any use of force in this regard and adversely affects the stabilization of treaty relations.

On "Expulsion of Aliens" the Special Rapporteur Mr. Kamto especially dealt with the prohibition of extradition disguised as expulsion in his Sixth Report. The Chinese Delegation believes that the international community needs flexible and practical cooperation to combat transnational crimes. Therefore, nothing should stand in the way of extradition of an alien to a requesting state when all conditions for expulsion had been met and the expulsion itself did not contravene international or domestic law. We hope that the Commission will take into account the above-mentioned questions in the future considerations of relevant item.

Mr. President, this year will be the last year of the current term of ILC Members. The Commission has achieved fruitful progress at its 62nd Session and previous sessions, but still has a long way ahead. It is expected to finish the second reading of draft articles on the responsibilities of international organizations, and the drafting of the guidelines to

practice of the reservation to treaties, as well as drawing out plans for its future work. We wish the Commission a successful conclusion of its work in this term.

Mr. President, one third of the 34 current Members of the Commission are from Asian-African Countries. Their work assists the Commission in performing its mandate in more comprehensive perspectives. We encourage AALCO to further strengthen its cooperation with the Commission, reflect the concerns of Asian-African Countries, and contribute to the comprehensive and balanced development of international law. Thank you Mr. President.

President: Thank you. Now I invite the delegation from Malaysia.

The Delegate of Malaysia: Mr. President, the Honourable Secretary General and Distinguished Delegates, Malaysia has always considered the Report of the Works of the ILC as one of the most important item on the Agenda of the AALCO Annual Session. This is clearly stipulated by Article 1(d) of the AALCO Statute which provides that one of AALCO's functions is to examine subjects that are under consideration by the ILC and we shall forward our views on those subjects to the ILC. To this end, my delegation appreciates the Report prepared by the AALCO Secretariat which covers the works of the ILC at its 62nd session, the period covering 3 May-4 June 2010 and 5 July-6 August 2010.

Malaysia follows closely the deliberations of the ILC at its 62nd session on the 9 topics namely Reservations to Treaties; Treaties Over Time; Expulsion of Aliens; Effects of Armed Conflicts Over Treaties; Protection of Persons in the Event of Disasters; Obligation to Extradite or Prosecute; Immunity of State Officials from Foreign Criminal Jurisdiction; Most Favoured Nation Clause and Shared Natural Resources. Malaysia also is following closely the deliberations of the ILC at its current 63rd Session.

We had provided our views to the ILC on certain topics. In the interest of time, my delegation will provide a general overview of our positions with regards to the topics under discussion of the ILC and we had submitted our full written comments to the AALCO Secretariat.

Written Statement submitted to the AALCO Secretariat:

Mr. President, *Reservation to Treaties* is one of the most important and ambitious topics undertaken by the ILC. We have been following closely the development of the works of the ILC on this topic since its introduction on the agenda of the ILC in 1993, culminating in the submission of 16 reports so far by the Special Rapporteur Mr. Alain Pellet and the adoption of over 100 draft articles that deals with the formulation, communication and withdrawal of reservations, interpretative declarations and unilateral statements which constitute the Guide to Practice on Reservation to Treaties. We noted that the ILC had completed the provisional adoption of the draft guidelines at its 62nd session.

We are aware that the Guide to Practice is a non-binding instrument that serves to guide State practice with respect to reservations, interpretative declaration and unilateral

statements. However, due to its importance, we agree with the AALCO Secretariat's observation that as it would be the first time that States are able to scrutinize the complete set of draft guidelines since its provisional adoption in August 2010, the time provided for States to provide comments by January 2011 is not sufficient. Malaysia, however, had done what it possibly could to provide its preliminary views to the ILC, albeit beyond the stipulated time.

Malaysia wishes to share some of its concerns on certain key draft guidelines that were recently adopted by the ILC.

Mr President, Draft guideline 3.2 relates to the various modalities that may assess the permissibility of reservations to a treaty i.e. the Contracting State, Dispute Settlement Bodies and Treaty Monitoring Body.

Malaysia had requested for the ILC to clarify on certain issues on the proposal to allow for these 3 entities to determine the permissibility of reservations entered by States.

Malaysia is of the view that the proposal for Treaty Monitoring Body to take up this task can be given consideration. However, Malaysia cautions that the Treaty Monitoring Body shall not steer away from its pivotal purpose which is to monitor the compliance of the treaty under its competence.

Malaysia is further of the view that such Treaty Monitoring Body should comprise a body of experts, and not representatives of governments or countries. These experts should only be allowed to make legal findings. This could safeguard the Treaty Monitoring Body from being politically influenced by the representatives of governments or countries in its determination.

Malaysia has concerns on the draft guideline 3.2.5 with regard to the competence of Dispute Settlement Bodies (DSB) in determine the permissibility of reservations. We seek ILC's clarification if this draft guideline redefines the role of DSB.

Draft guideline 4.2.2 provides that a State that lodged reservation could be prevented from becoming one of the contracting states to the treaty when that reservation is opposed by another contracting state of that treaty.

States lodged reservations to treaties for various reasons, one of which is due to the States' internal policy, constitutional and legislative provisions, certain developmental gaps (which may be due to social, economic and political reasons) which would be inevitable for such States to make reservations in order to safeguard the national interest. As such we need to obtain further clarification from the ILC as to why such provision is included.

Malaysia notes that draft guideline 4.5.2 is intended to clarify the status of a State making a reservation deemed as invalid. Malaysia recommends that the guideline should provide

clearly that a State must express their intention of whether or not they intended to become contracting state of a treaty when their reservation is regarded as invalid.

Draft guideline 4.7.1 intends to provide the permissibility of an Interpretative Declaration based on its approval or opposition by other States.

In expressing consent to be bound by a treaty, States have in their mind certain understanding of the terms used in that treaty. Besides, the treaty calls upon its contracting parties to implement its provisions in their international relations between each other as well as in their own domestic affairs. Thus, it is necessary for the States to express its understanding and interpretation of the provisions of a treaty to enable it to apply and implement the provisions and meet their obligations.

Malaysia is of the view that to have approval and opposition determines the admissibility of interpretation proposed by the author state will hinder the implementation of treaty obligation by that State in its domestic and international affairs. For that reason, Malaysia is of the view that approval and opposition to Interpretative Declaration should not determine the weight to be given to interpretation proposed.

Malaysia is of the view that the uncertainty of the legal status of silence on a specific Interpretive Declaration could consequently lead to an undesirable result. For this reason, Malaysia is of the view that an inference should not be simply drawn from inaction of States as it will have effect on treaty interpretation. Malaysia is of the view that the term “approval” and “opposition” in draft guideline 4.7.1 must refer to express approval and opposition.

Draft guideline 5.2.4 provides that when a reservation formulated by a predecessor State is maintained by a successor State under draft guidelines 5.1.1 and 5.1.2, parties to the treaty may not object if they had not done so when the reservation was made by the predecessor State. Malaysia also notes that there are two exceptions to this rule laid down in paragraph (a) and (b) in the same draft guideline. Paragraph (b) of draft guideline 5.2.4 provides that a treaty party may object to a reservation maintained by a successor State even though the reservation was not objected when it was made by the predecessor State unless the territorial extension of the treaty *radically changes* the conditions for the operation of the reservation. Due to its importance, Malaysia seeks clarification as to the meaning of the phrase “radically changes” in paragraph (b) of draft guideline 5.2.4. Malaysia also seeks the ILC to clarify who would determine the scope of radical change for it to qualify as an exception to the rule laid down in draft guideline 5.2.4.

Malaysia wishes to reiterate its views which were raised at the 64th and 65th United Nations General Assembly sessions in relation to the inclusion of international organizations in these draft Guidelines. In this respect, since the power to make treaties by international organizations largely depends on the terms of the constituent instrument of the international organization and the mandate granted to the international organization, international organizations do not necessarily have similar authority or responsibility as States. Thus, Malaysia is of the view that a separate regime for

international organizations should be developed to address these entities and should not be made part of the draft guidelines at this juncture.

Malaysia reiterates that States must be provided with ample time to scrutinize and internalize the draft guidelines which are now available in its entirety, resulting from works spanning a period of 12 years. Therefore, although Malaysia had provided its comments to certain key provisions of the guidelines, the comments are provisional and we reserve the right to make further statements on all the draft guidelines.

Malaysia further believes that a universally acceptable set of guidelines can only be developed by the ILC if States play their part by providing actual instances around which the proposed guidelines would be applicable.

As such, Malaysia urges AALCO Member Countries to share your inputs in relation to this important matter. Unless we participate meaningfully by providing our views and comments to the ILC, we may miss the only opportunity available to us to partake in the development of a highly significant international law regime on reservation to treaties.

Mr. President, Malaysia expresses our gratitude to the Special Rapporteur, Mr. Lucius Caflish, for his First Report on the topic of *Effects of Armed Conflicts on Treaties*.

Malaysia notes that our concerns and suggestions highlighted during the Sixth Committee debate in 2008 and comments submitted to the ILC in May 2010 have been considered by the Special Rapporteur in his First Report.

Malaysia also noted that draft articles 1 to 17 have been submitted to the Drafting Committee, which had produced its latest report on these draft articles at the end of May 2011. Due to the proximity of the time of the release of that report and this AALCO Annual Session, Malaysia would share its preliminary views concerning some of these draft articles.

On draft article 1, Malaysia is of the view that the proposed inclusion of the saving clause to clarify the issue of the inclusion of treaties to which international organizations are parties can be given due consideration. Malaysia also agreed that it is not necessary to include express reference to the application of draft articles to non-international armed conflicts by nature or extent, as the definition of armed conflict is provided under draft article 2 sub paragraph (b) and the “nature or extent” element is covered by Article 6.

With regard to the definition of “armed conflict” under draft article 2, Malaysia notes and reiterates its support for the reformulation of the definition in line with the definition in the *Tadic* case as well as the combination of article 2 of the Geneva Conventions 1949 and article 1, paragraph (1), of the 1977 Additional Protocol II which would include the internal armed conflict on the more contemporary definition on the concept.

On draft article 6, Malaysia notes that the previous term “indicia” has been replaced with “factors” and the term “factors” should be viewed as “mere indications of susceptibility”

depending on the circumstances. Nevertheless, Malaysia agrees with the formulation would still be non-exhaustive.

In relation to draft article 14, Malaysia notes that, as per mandate from the Sixth Committee, the International Law Commission has drafted this Article based on draft article 7 of the Institute of International Law Resolution 1985. It now empowers the State to suspend in whole or in part of the operation of a treaty that would be incompatible with the exercise of its inherent right of self-defence under article 51 of the United Nations Charter. This is as opposed to a State that uses force as an aggressor State, in draft article 15, to receive no benefit if it suspends treaties.

On draft article 15, Malaysia notes that as per mandate from Sixth Committee, the International Law Commission has drafted draft article 15 based on the draft article 9 of the Institute of International Law Resolution 1985 with some adjustments, and Malaysia finds the adjustments acceptable. Malaysia's concern is on how to determine a State committing aggression within the meaning of the Charter of the United Nations and the General Assembly resolution 3314 (XXIX).

Mr. President, Malaysia takes note that the Report of the AALCO Secretariat on the topic of the *Protection of Persons in the Event of Disasters* covers the Third Report of the Special Rapporteur and the Report of the ILC at its 62nd session. Malaysia noted that the Fourth Report of the Special Rapporteur had been issued on 11 May 2011.

Malaysia notes that at its 62nd session the ILC had adopted draft articles 1 to 5 on this topic, together with commentaries. Malaysia further notes draft articles 6 to 9 as proposed by the Special Rapporteur in his Third Report were provisionally adopted by the Drafting Committee.

Malaysia appreciates the addition of these pertinent articles. We reiterate our position that all such offers of humanitarian assistance would have to respect the sovereignty, territorial integrity and political independence of the affected State, not be arbitrarily imposed on the affected State and not automatically applying concepts under international humanitarian law as the duty of protection differs from the context of disaster situations.

In relation to draft article 6 on "Humanitarian principles in disaster response", Malaysia agrees that it is vital for States to observe fundamental humanitarian principles in responding to disaster. Thus, the principles of humanity, neutrality, impartiality and non-discrimination, as envisaged in the article, should be central to any disaster response. With these principles in mind aid responders must refrain from the politicization of humanitarian aid or the conditioning of such aid on extraneous factors. Nor should such situations for other non-aid relief related purposes.

With reference to draft article 7 on "Human Dignity", Malaysia supports the proposal by the Drafting Committee in substituting the phrase "For the purposes of the present draft articles" with "In responding to disasters" to clarify the context in which the provision

applies and to give a sense of the continuing obligation to respect and protect the human dignity of affected persons throughout the duration of the response period.

Draft article 8 on “Human rights” reflects another fundamental principle that the human rights of persons affected by disasters should always be respected. However it is also recognized that certain of those human rights may need to be temporarily suspended in national interest in the prevailing circumstances where the saving of lives and alleviation of suffering should be the paramount duty of States.

On draft article 9 on “Role of the affected State”, Malaysia notes that the Drafting Committee has chosen the word “duty” over “responsibility” and “right” over “role”. Malaysia is of the view that the obligation to respond to a disaster and the provision of humanitarian assistance must always remain, first and foremost, with the affected State. This topic of protection of persons in the event of disasters cannot be discussed in isolation, without due regard to other international law principles, such as the State’s sovereign right to govern itself independently from any external interference.

Malaysia further notes that the Fourth Report introduces 3 new draft articles, namely Draft Article 10 (Duty of the affected State to seek assistance), Draft Article 11 (Duty of the affected State not to arbitrarily withhold its consent) and Draft Article 12 (Right to offer assistance).

With reference to draft Article 10, Malaysia is of the view that the decision on the necessity to seek external assistance whether from third States, the United Nations, competent intergovernmental organisations or relevant non-governmental organisations should be at the discretion of the affected State as it is in the best position to determine whether a disaster exceeds its natural response capacity.

With reference to draft Article 11, further clarification is required as to what would be considered the arbitrary withholding of consent in the context of this draft article as well as what criteria would be used to determine the inability and unwillingness of an affected State to consent to external assistance. Further clarification is also required as to who would be the arbiter to make such determination.

With regard to draft Article 12, Malaysia is of the view that it is unnecessary to confer a legal right on any third State, the United Nations, the intergovernmental organisations and the non-governmental organisations to offer assistance to the affected State. As has been prefaced in draft Article 12, the guiding principle for receiving disaster aid must always be the consent of the affected State. This is its sovereign right. In this regard Malaysia would suggest that further clarification also be provided on the phrase “shall have the right to offer.” Therefore, Malaysia is suggesting certain new phrase to be introduced into this Article.

Malaysia unequivocally reiterates that the affected State has the principal right, and indeed the obligation, for meeting the needs of victims of disasters within its own borders. The affected State holds the right to decide where, when and how relief

operations are to be conducted and possess the power to dictate the terms of the humanitarian response.

Mr President, Malaysia notes the AALCO Secretariat Report on the topic of *Most-Favoured-Nation Clause*, highlighting the progress of works undertaken by the Study Group led by Mr. Donald M. Mcrae and Mr. A. R. Perera. Malaysia also notes that further developments are expected from the current 63rd Session of the ILC which will end in August 2011.

Malaysia appreciates the efforts undertaken by the ILC to revive its work on this topic since 2007, in particular by revisiting the temporal relevance of the 30 draft articles on the MFN Clause adopted by the ILC on its first reading in 1978.

The consideration of this topic must be addressed within the context of the WTO Agreements and the plethora of regional economic agreements, customs unions, bilateral Free Trade Agreements, Bilateral Investment Treaties and Investment Guarantee Agreements.

It is also trite that MFN clauses are very much intertwined with the bilateral and regional interests of the States involved, is driven by domestic policies and issues of State sovereignty, is politically sensitive and technically and operationally complex.

Malaysia notes that the ILC's own realization of this has led to more focus being placed on developing interpretative guidelines for MFN clauses. As demonstrated by States' responses to the *Maffezini* case, this is already being handled by States in the re-drafting of their MFN clauses. Malaysia is also of the view that such interpretation should primarily be left with the State concerned and the dispute settlement tribunals they choose to refer to. Developing guidelines that are incongruent with States' practice does not contribute to the development of international law even if it may be more convenient.

Malaysia also observes that other trade-related bodies such as the WTO, UNCTAD and OECD are already undertaking studies on this matter. As such it would be incumbent on the ILC not to duplicate or overlap with the studies already underway and on which States have more direct participation and contribution.

Malaysia also takes this opportunity to highlight the ILC's own criteria for selecting a new topic/sub-topic which were elaborated by the ILC in 1997 and 1998.¹ The topic should reflect the needs of States in respect of the progressive development and codification of international law; the topic should be sufficiently advanced in stage in terms of State practice to permit progressive development and codification; and the topic is concrete and feasible for progressive development and codification. Along those lines, three feasibility tests were suggested for topic selection. Firstly, the practical consideration of whether there was any relevant pressing need in the international community as a whole; secondly, whether the topic was technically feasible, that is

¹ See Yearbook of the International Law Commission, 1997, Vol.II (Part II), para 238, Ibid., 1998, Vol. II (Part Two), para 553.

sufficiently ‘ripe’ in the light of relevant State practice and literature; and thirdly, related to the political feasibility of the topic – whether addressing it might or might not meet with strong political resistance on the part of States.

Malaysia therefore urges the ILC to measure the outcome of the studies undertaken by the Study Group and which are under discussion at the 63rd ILC Session against its own agreed criteria as enumerated above to determine the viability of its continued consideration of this topic at this time. Given the context of MFN Clause being negotiated and drafted in bilateral and regional agreements, it would seem impracticable to harmonise or standardize the interpretation and application of MFN Clause at the multilateral fora, in which such effort may well appear non-achievable.

Mr President, in relation to the topic *Shared Natural Resources*, Malaysia recalls the General Assembly Resolution 63/124 of 11 December 2008 regarding transboundary aquifers in particular on the inclusion of the item entitled “The law of transboundary aquifers” in the provisional agenda of the General Assembly’s sixty-sixth session in 2011, with a view to examining, *inter alia*, the question of the form that might be given to the draft articles². My delegation also recalls that States had been encouraged to make appropriate bilateral or regional arrangements for the proper management of their transboundary aquifers, taking into account the provisions of the draft articles³.

Malaysia is of the view that while acknowledging the importance of the topic of transboundary aquifers and taking into account the global water crisis, at present, the draft articles would be useful in the form of a guideline and not in a legally binding form. Malaysia is also of the view that States may enter into appropriate bilateral or regional arrangements for the proper management of their transboundary aquifers, as recommended by the ILC, subject to the capacity and resources of States to carry it out.

Malaysia fully concurs with the majority views expressed by States that the transboundary oil and gas issues are essentially bilateral in nature, as well as highly political and technical, involving diverse situations. Given that oil and gas reserves are often located on the continental shelf, consideration thereof must also necessarily involve maritime delimitation issues which involve the issue of sovereignty of States, which are both beyond the mandate and purview of the Commission.

With regard to the AALCO Secretariat’s suggestion that the ILC “*may consider surveying the practice of inter-State and private contracts in order to elucidate some general trends in practice under both public and private law*”, Malaysia is strongly of the view that the said proposal is not warranted and has no basis. This is in light of the views expressed by the majority of States which opposed the ILC to continue its works on the codification of law on transboundary oil and gas, a view shared by Malaysia. Apart from that, the proposed “survey” would require the disclosure of confidential information by State-owned and private entities, which would include highly technical data, politically sensitive issues as well as economic-related considerations.

² Operative paragraph 6 of the General Assembly Resolution 63/124 of 11 December 2008.

³ Operative paragraph 5 of the General Assembly Resolution 63/124 of 11 December 2008.

Mr. President, Malaysia notes that the Commission had proposed for its future work a topic relating to *international environmental law*. Malaysia is of the view that this topic needs to be seriously considered. International environmental law has now become part of the mainstream of international law and the ILC is able to contribute towards clarifying and redefining the basic principles and rules of international environmental law if the topic is placed under its work. Specifically, Malaysia is of the view that the Commission should consider taking up the topic of the atmosphere, as proposed by ILC member Professor Shinya Murase.

Mr. President, Malaysia supports any efforts to send young officers for attachment or internship programme at ILC. Therefore, it is proposed that the ILC Members from the Asia and Africa continent open their doors to accept attachment or internship on the recommendation of the respective Governments, subject to applicable ILC rules and procedure.

Finally Mr. President, Malaysia associates itself with the calls for the Report of the ILC to be made available at least one month before it comes up for consideration by the Sixth Committee. An early submission of the Commission's Report would facilitate in-depth deliberations at the Sixth Committee. Thank you very much.

President: Thank you very much the Honourable Attorney General of Malaysia. I think his comment is worthy of note, in fact the ILC's current work needs to be deliberated for more than one and a half hours that we have allocated, even perhaps one and half days. Since we have allocated so in this agenda, in future we would provide more time for substantive matters. Now I call upon the distinguished delegate from Indonesia.

The Delegate of Indonesia: Mr. President, Honourable Secretary-General of AALCO, Distinguished Delegates, first of all I would like to place on record our highest appreciation for the excellent works of Dr. Perera.

The Indonesian Delegation in this opportunity would like to make a few remarks relating to the Report of the International Law Commission's 62nd Session.

First, let me begin with issue of "*The expulsion of aliens*". Indonesia has been observing the Expulsion of Aliens subject, as stated in International Human Rights Law, particularly in lieu with the principles of sovereignty and non-intervention. International Human Rights Law placed some restrictions on when and how a State might exercise its power to expel persons from its territory and afforded three types of protection to such persons: substantive protection against return if the person would face grave violations of human rights, procedural safeguards during deportation procedures, and protection with regard to the methods of expulsion.

We do note that in addition to the general protection afforded to all foreigners, certain categories of foreigners, such as refugees and migrant workers, might be afforded

additional protection against expulsion and/or benefit from additional procedural guarantees.

Mr. President, Distinguished Delegates, the second issue that I would like to comment is the “protection of persons in the event of disaster” The Government of the Republic of Indonesia attached great importance to the topic of protection of persons in the event of disasters, particularly in the light of Indonesia’s experience following the recent natural disasters occurred in Indonesia, such as tsunami, earthquake, and volcanic eruption.

Humanitarian assistance should be undertaken solely with the consent of the affected country and with utmost respect for national sovereignty, territorial integrity, national unity, and the principle of non-intervention in the domestic affairs of States.

We view the humanitarian principles in disaster response, as stated in draft article 6, as a key provision of the draft articles, and considered neutrality, impartiality, and humanity to be core principles in humanitarian assistance efforts. It is also essential to respect the principle of non-discrimination and to take into account the needs of the particularly vulnerable, but those concerns must be seen as complementing the three core principles.

Furthermore, with regard to draft article 7, we concurred not to dwell on establishing human dignity as a right. As to the issue of primary responsibility of the affected State in draft article 8 proposed by the Special Rapporteur, we urge the Commission to uphold the principles of sovereignty and non-intervention. It is indisputable that the affected State has the primary duty to protect individuals in its territory. In addition to exploring the right of the international community to provide lawful humanitarian assistance, without characterizing it as a secondary responsibility, it is important to explore ways and means of improving the coordination, effectiveness and efficiency of such assistance, particularly by strengthening partnerships between affected States and the international community and developing proactive approaches to disaster management.

Mr. President, Distinguished Delegates, to sum up in conclusion, the Government of the Republic of Indonesia wants to stress once more that expulsion of aliens must only be done in circumstances when no other measurement is available.

Regarding the humanitarian assistance, for the sake of humanity, it plays a very vital role, but it also must be conducted in line with the principles of non-intervention, and undertaken with utmost respect for national sovereignty, territorial integrity, and national unity in the domestic affairs of States. I thank you.

President: Thank you very much. Now I call upon delegate from India.

The Delegate of India: Thank you Mr. President for giving me the floor on this very important subject on our agenda. Firstly, I thank the Secretary-General for the detailed and comprehensive introduction of the Report on the work of the International Law Commission at its 2010 Session. As the Secretary-General has highlighted, it is important that the ILC should receive the inputs/views and responses from the AALCO Member

States so that those views and ideas can be taken into consideration by the Commission while it formulates draft articles on the various topics on its agenda. There are various means by which the ILC seeks inputs: firstly, in the form of information before the topic is taken up for codification; secondly, by means of questionnaires either before it takes up a topic or even during its consideration of a topic and then, through comments on the draft articles which can be made at the Sixth Committee and also sometimes when the Commission has, separately, sought views of Member States on its work. The discussions on the Report of the ILC form a very important part of the agenda of AALCO's annual sessions and I agree with the distinguished Attorney-General of Malaysia that we must allocate sufficient time for that purpose.

Mr. President, I also thank Mr. Rohan Perera, Member of the ILC for his detailed report on the work of the Commission at the current session. And in particular I thank him for his detailed explanation of the work of the Commission on the two very important topics which are of immediate concern to all Member States of AALCO, namely the "Effects of Armed Conflicts on treaties" and the "Immunity of State Officials From Foreign Criminal Jurisdiction". I also thank Mr. Perera as well as Prof. Murase for highlighting the new topics which they have proposed for the consideration of the Commission.

Mr. President, as you are aware, in the first part of its session this year, the ILC has finalized, on second reading, the text of draft articles on three important topics: the Effects of Armed Conflicts on Treaties, the Responsibility of International Organizations, and the Reservations to treaties. During the second part of this year's session, the Commission will be adopting Commentaries on these draft articles. These will then be presented to the Sixth Committee and I would urge all Member States to participate effectively in this year's session at the Sixth Committee and to present their views on how to take the work forward on these very important topics.

Mr. President, I also thank Prof. Murase for drawing our attention to some other topics which have earlier been considered by the Commission and which would be taken up at this year's session of the Sixth Committee. The first of this is the Draft Articles on Transboundary aquifers for which Amb. Yamada of Japan was the Special Rapporteur when they were adopted and secondly, the Convention on Jurisdictional Immunities of States and Their Properties which Convention was adopted by the Sixth Committee of the UN General Assembly after extensive discussions in the ILC and also at the Sixth Committee. Mr. President, this is a very important Convention for all of us, all the Member States of AALCO. As you are aware there were long and difficult discussions, both in the Sixth Committee and the ILC, and we believe that the text which emerged and is now in the form of the Convention, represents a very balanced position between competing claims and between different views and it would be useful for all of us to ratify it. As I mentioned in the general debate, India has already signed and is in the process of implementing an enacting legislation which would allow us to implement this Convention. With that I thank you; I will not go into the details of the topics giving deference to your remarks Mr. President.

President: Thank you very much, now its turn for Japan. May I ask the Leader of the Japanese delegation to use this time to try and bring to the floor the issues concerning the Jurisdiction of Immunities of States and their property, the additional item that has been proposed so that the Members following him would also comment on that.

The Delegate of Japan: Thank you Mr. Chairman. First I would like to thank for the good introduction of the topic by Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO followed by very good summary by Dr. Rohan Perera followed by Prof. Shinya Murase on the future work of the ILC.

In the past, AALCO has made important contributions to the works by the ILC by providing valuable views of its Member States. The codification works by the ILC must be followed up by the UN General Assembly in order to give effect to the ILC's works. And for that, the States must take initiative. In this context, there are two subjects which Japan plans to take up at the forthcoming session of the UN General Assembly. One is the UN Convention on Jurisdictional Immunities of States and Their Property and the other is the Draft Articles on the Law of Transboundary Aquifers. Since our delegation will address the UN Convention on Jurisdictional Immunities of States and Their Property. Later, I would like to only refer to the Draft Articles on the Law of Transboundary Aquifers now.

Fresh water is an indispensable life supporting resource for humankind and there is no alternative resource to replace it. 97% of readily accessible fresh water is located underground in aquifers. Rapid expansion of exploitation of groundwater has been taking place since the 1950s. The groundwater is now the most extracted single raw material with the result of critical over-exploitation and pollution. In order to provide legal framework for the proper management of groundwater resources, the ILC formulated a set of 19 draft articles on the Law of Transboundary Aquifers in 2008, which were based on the texts drafted by Ambassador Chusei Yamada, Special Rapporteur on this topic. The UN General Assembly received the draft articles favourably and, by its Resolution 63/124, which was adopted by consensus, took note of the draft articles and decided to examine the question of the form that might be given to them in its forthcoming session this year. One form which could be given to the draft articles is to adopt them as a universal treaty at a diplomatic conference. Another form is to adopt the draft articles as a declaration, like the UN General Assembly Resolution of 1962 (XVIII), which was titled "Declaration of Legal Principles Governing the activities of States in the Exploration and Use of Outer Space". Towards the forthcoming session of the UN General Assembly this autumn, Japan wishes to consult with you as to how we can best proceed on this matter.

Mr. Chairman, with regard to the current work of the ILC, the ILC provisionally adopted a set of draft guidelines on reservations to treaties in its 62nd session last year after the consideration of the topic for 17 years since 1994 and requested the Member States of the United Nations to make comments and observations on the draft guidelines. Japan submitted its comments on the draft guidelines on reservations to treaties to the Secretariat of the ILC. If any Member State of the AALCO is interested in our comments, we are ready to share them with you. Japan also wishes that Member States of the

AALCO study the draft guidelines carefully in light of their respective practice and express their positions in the debate on the topic in the Sixth Committee of the UN General Assembly this autumn.

Mr. Chairman, I would like to turn now on to the proposal by Professor Shinya Murase, the Japanese member of the ILC, on “the protection of the atmosphere” as a possible future topic for the ILC. A sound atmospheric environment is indispensable for the survival of the mankind. While there have been a number of relevant conventions concluded for the protection of the atmosphere, they have left substantial gaps in terms of geographical coverage, targeted activities, or regulated substances. Thus there exist significant gaps in applicable principles and rules of international law. In his proposal on “the protection of the atmosphere”, Professor Shinya Murase attempts to depart from the piecemeal approach and to fill these gaps by codifying and progressively developing the relevant principles and rules of international law. This topic was formally included in the Long-Term Programme of Work for the Commission in 63rd session of the ILC this year. With an authorization of the Sixth Committee of the UN General Assembly, the ILC will embark on a project on this fascinating subject at the beginning of the next term. Japan is convinced that this proposal would provide a good opportunity to endeavour an elucidation of relevant principles and rules of international law in the related fields. Our delegation would like to request AALCO Member States to consider this proposal seriously and to agree to authorize this proposal as a new topic for the ILC at the coming session of the Sixth Committee of the UN General Assembly this autumn.

Mr. Chairman, lastly I would like to reiterate the proposal for the future work of the AALCO in relation to the ILC which our delegation made at the annual meeting of the AALCO last year. It is needless to say that the AALCO was established with the aim to have the views of Asian and African countries reflected in the work of the ILC, i.e. in the progressive development and codification of international law. It is therefore of critical importance to make substantive contributions from the Asian and African perspective to the work of the ILC. From this point of view, it is proposed that the AALCO Secretariat should make questionnaires of concrete questions relevant to each topic of the ILC, for example, “immunity of State officials from foreign criminal jurisdiction” or “expulsion of aliens”, and request the Member States of the AALCO to provide their answers to the questionnaires to the Secretariat. The AALCO Secretariat will then compile those answers and submit them to the Secretariat of the ILC. For this project to succeed, Member States of the AALCO need to cooperate with the Secretariat of the AALCO by submitting relevant information on their state and regional practices. The information provided by the AALCO to the ILC will be duly considered by the members of the ILC, including Special Rapporteurs on specific topics, who will analyse the state and regional practices provided and reflect them when drafting and elaborating draft articles on each topic. This exercise will gradually but certainly affect the formation and substance of customary international law in the international community. Japan believes that the implementation of this proposal may reactivate the work of the AALCO vis-à-vis the ILC and will bring tremendous benefits for Asian and African States from a long-term perspective.

UN Convention on Jurisdictional Immunities of States and their Property

Mr. Chairman, allow me to spend some more time on the issue of “UN Convention on Jurisdictional Immunities of States and Their Property,” which was adopted by the UN General Assembly in 2004. It took twenty-seven years since the drafting work was first started in the International Law Commission (ILC). The codification work by the ILC on jurisdictional immunity required thorough studies, taking 13 years. Ambassador Sompong Sucharitkul from Thailand was the first Special Rapporteur in charge of this topic, and with the second Special Rapporteur Ambassador Motoo Ogiso from Japan, ILC completed its drafting work and adopted the final text of the draft articles in 1991. Examination of the draft articles started in the Sixth Committee of the UN General Assembly in 1992 and the difficult negotiations took 14 years, and finally adopted in 2004 as a convention.

The Government of Japan was concerned about the situation of state practice in regards to State Immunities. It was an established fact that a state enjoyed immunities from the jurisdiction of the courts of another state in principle, but the principle of jurisdictional immunities underwent gradual but fundamental changes from the so called ‘absolute rules’ to the ‘restrictive rules’. The modalities of such ‘restrictive rules’ varied considerably depending on the forum states. For instance, some states already had domestic legislation or judicial precedents regarding the State immunities since 1970s. Such domestic legislation and judicial precedents, of course, were the implementation of principles of international law, as well as very significant contributions to the development of law for State Immunities, they were not the final solution to providing international standard on this issue.

Under these circumstances, the Government of Japan considered that it was important to establish basic rules of the modalities of State Immunities at the international level. Ambassador Chusei Yamada, as the Representative of the Government of Japan, took an active role to accelerate the negotiations during the examination of the draft articles in the Sixth Committee. Traditionally, Japan places importance on the codification of customary international law. Codification of customary international law is an important function of the UN. It is often difficult to ascertain precisely what the customary rules are and there also exist differences of interpretation of such rules among States. Furthermore there exist many lacunae in customary international law. In order to remove such ambiguity and to establish common understanding of customary international law, the UN has undertaken codification so far on many subjects on the basis of the works done by the UN International Law Commission. In the case of State Immunity, customary international law had largely developed as customary law. Codification of such customary law would certainly contribute to stable and equitable relations among states.

Mr. Chairman, while the process in the Sixth Committee was going on, at the proposal of the Government of Japan the subject was taken up for discussion in the AALCO. During the thirty-ninth Session (Cairo Session) of the AALCO in 2000, the Government of Japan prepared a background paper explaining that it was of utmost importance for the AALCO members to make an active and positive contribution in the work of the General

Assembly for codification of the subject. The subject was actively discussed during the Cairo Session. AALCO has made important contributions to the works by the ILC by providing valuable views of its Member States. The codification works by the ILC must be followed up by the UN General Assembly in order to give effect to the ILC's works. And for that, the States must take initiative.

The Convention provides that a State enjoys immunity from the jurisdiction of the courts of another State unless it has expressly consented to the exercise of jurisdiction by the court. The Convention provides certain exceptions concerning proceedings related to matters such as commercial transactions, contracts of employment, personal injuries and damage to the property, and a State cannot invoke immunities in proceedings which relate to such matters. In addition, according to the provisions of the Convention no measures of constraint, such as attachment, arrest or execution against property of a State may not be taken unless the State has expressly consented to the taking of such measures.

Japan signed the convention on January 11, 2007, enacted its implementing legislation in April 2009, and deposited its instrument of acceptance on May 11, 2010 with the UN Secretary-General. In Japan, the 'absolute rules' of State Immunities had been in force since 1928, but the 'restrictive rules' were in conformity with the current international standard. In order to achieve smooth transition to the restrictive rules, it was preferable for the Government of Japan to legislate its municipal laws to be consistent with the Convention.

Up until now, eleven States, including some of the AALCO Member States such as Iran, Saudi Arabia and Lebanon, became members of the Convention. In accordance with Article 30 of the Convention, it shall enter into force on the thirtieth day following the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession with the Secretary-General of the UN, and it might still take at least several more years before the 30th ratification is to be deposited. Japan would like to expedite this ratification process as the coming into force of the convention would contribute to secure justice and order as well as to settle disputes among States on the question of jurisdictional immunity. We sincerely hope that the Member States of AALCO consider early ratification of the convention. Japan is considering to take-up this matter at the forthcoming UN General Assembly, perhaps in a form of a draft resolution. In any case, we would like to discuss with you on an appropriate ways to move this issue forward. I apologize for taking such a long time. Thank you very much Mr. Chairman.

President: As there is no time to discuss this agenda item, the Member States are requested to submit their Statement in order to include it in the Report of the Session.

The Delegate of the Republic of South Africa⁴: Mr. President, the Republic of South Africa was from 2001 involved in the deliberations on the United Nations Convention on Jurisdictional Immunities of States and Their Property. In the Republic of South Africa this important issue is dealt with by the Foreign States Immunities Act of 1981 (as

⁴ The written statement was submitted to the Secretariat by the delegation.

amended in 1985 and 1988). This statute determines the extent of the immunity of foreign states from the jurisdiction of the courts of the Republic.

The UN Convention represents a workable solution for reflecting universal principles of State immunity in the various systems of the international community. My delegation therefore wishes to express our support for the statement made by the delegation of Japan, and recommends the increased ratification of this Convention. Thank you.

The Delegate of Republic of Indonesia⁵: Mr. President, Distinguished Delegates, on behalf of the Indonesian Delegation, allow me at the outset to extend my appreciation to Japan Delegation for raising this additional agenda. The Indonesian Delegation from the beginning had welcomed the adoption of the United Nations Convention on Jurisdictional Immunities of States and Their Property. The Convention represents a fair and delicate balance between the concerns expressed by Member States. The Convention also represents a common ground and consensus among States representing different legal system providing stability and predictability in corporate law, business practices and commercial transaction between States and private parties.

We believe that the Convention would enhance the rule of law and legal certainty, particularly in dealings of States with natural or juridical persons, and would contribute to the codification and development of international law and harmonization of practice in this area. The existence of a binding and generally acceptable legal instrument on Jurisdictional Immunities of States and Their Property would help to clarify the scope and nature of those immunities in proceedings concerning commercial activities of States.

We observed that the Convention was designed to save from harm the immunity of State and its property from the jurisdictional of the courts of another State, to define limits to the right of immunity for a State entering into commercial activities, and to ensure that States privileges and immunities be accorded traditionally-granted diplomatic activities. It showed that under the Article 2 of the Convention, the definition between private act (*acta jure gestionis*) and has been distinguished.

Mr. President, Distinguished Delegates, Modern international law recognizes two doctrines concerning the Privileges and Immunities of Diplomatic and Consular Missions, the Absolute and Restricted Privileges and Immunities. The absolute Privileges and Immunities falls within the ground that Diplomatic and Consular Missions are engaging foreign State's public function or performing action in the interest of a public service. The Restricted Privileges and Immunities are attached to Diplomatic and Consular Missions of Foreign States as they performing commercial transaction such as financial transaction, sale and purchase transaction and leasing transaction. The above mentioned doctrine are actually the reflection of two principles on foreign sovereign immunity comprising of *acta jure imperii* and *acta jure gestionis*. While *acta jure imperii* refers to State's public service activities, the *acta jure gestionis* corresponds between the two principles on foreign sovereign immunity *acta jure gestionis* and *acta jure imperii* has been distinguished.

⁵ The written statement was submitted to the Secretariat by the delegation.

Therefore, our delegation believed that this Convention is important for our interest. For any Diplomatic and Consular Mission which having legal status, would certainly create a conflict on applicable law as the Diplomatic and Consular Missions are considered having immunities and privileges, the Convention on Jurisdictional Immunities of States and Their Property would help to clarify the scope and nature of those immunities.

Mr. President, Distinguished Delegates, To conclude, my delegation would like to take this opportunity to convey that it is time to take concrete steps to disseminate as well as take into consideration to be part of this Convention. I thank you.

The Delegate of Republic of Kenya⁶: All Protocols Observed. It will be recalled that this agenda item on the UN Convention on Jurisdictional Immunities of States and their Property was discussed during previous AALCO Annual Sessions until 2006. Kenya therefore welcomes the proposal to have a short discussion on this Convention during this 50th Session of AALCO.

Distinguished Delegates, Some of us may recall that in 1977, the General Assembly recommended that the International Law Commission (ILC) should take up the study of the law of jurisdictional immunities of States and their property with a view to its progressive development and codification. The Convention, which was adopted by the United Nations General Assembly on 2 December 2004, therefore constitutes the result of 27 years of work within the ILC and the Sixth Committee of the General Assembly.

The Convention covers the immunity of foreign states and their property from the jurisdiction of the courts of a forum State and stipulates such cases as when States Parties cannot apply jurisdictional immunities to its own State and property in other States' courts. The Convention notably aims at harmonizing State practice for *acta jure imperii*, thus enhancing legal certainty for both States and private contractors in their – mostly economic – relations, considering that states no longer enjoy absolute, but only relative immunity.

The Convention will only enter into force after the deposit of the thirtieth instrument of ratification, acceptance, approval or accession. To date, the instruments of ratification that have been deposited fall so far below the required number to enable the Convention enter into force.

Kenya supports UN Convention on Jurisdictional Immunities of States and their Property and we are in the process of considering ratification of this Convention. As you are aware, our new Constitution provides that any treaty that Kenya is party to forms part of our laws meaning that before we ratify an instrument, we have to put in place necessary legislative and administrative measures to ensure that we comply with our Constitution.

Kenya therefore urges other Member States of AALCO to consider ratifying the UN Convention on Jurisdictional Immunities and their Property. I thank you.

⁶ The written statement was submitted to the Secretariat by the delegation.

President: Thank you very much. The Member States would take note of this Convention on Jurisdictional Immunities that needs the threshold of ratifications to be reached. Those who consider it relevant, as Japan has been saying that it took fourteen years for this Convention to be finally brought about and then for the lack of ratification it is being held up. Well, I would also thank the Japanese delegation for their suggestion on procedure about the questionnaire by the Secretariat on ILC topics which needs to be passed on to the Special Rapporteur so that when the Draft Articles are prepared they would be considered and rationale of each country would be better taken account of. Thank you. Now let me call upon delegate from Kuwait.

The Delegate of State of Kuwait⁷: Thank you Mr. President, My delegation would like to comment upon the topic “expulsion of aliens”, on the work of the International Law Commission at its Sixty-second session. On “expulsion of aliens”, the national legal provisions of State of Kuwait comes under two basic laws, Criminal Expulsion and Administrative or Organizational Expulsion.

Under criminal expulsion clause, the process of aliens’ expulsion or their deportation to their homes absolutely requires penal legislation containing permissive rule of deportation as a punishment which is complementary. However the rule of expulsion as well as its execution, both are preserved by deep-rooted legal linkage whose reference is available in the provision of article No. (66) of Kuwait Criminal Law No 16 for year 1960, which provides “ancillary and complementary penalties prescribed in this law for expulsion of alien from country.....”. For the reform of criminal expulsion measures, article No (79) came from previous law to contain provision for explanation of measures of this kind of expulsion, while the article provides all provision to detain alien, allows judge to order his expulsion from Kuwait after completion of his punishment, and that is without interference of administrative authority in the expulsion of all aliens according to the law.

When alien is sentenced to criminal punishment or punishment to confine the freedom based on the crime of moral turpitude or honesty, judge has decided on his expulsion from Kuwait after execution of punishment and after the execution of the sentence, should announce order of the judge to the administrative authority, which must implement it.

After extrapolating and analyzing text of the article No (79), it becomes clear that general reason in criminal expulsion, is the permissive complementary punishment, which is subject to its report and sentence to the discretion of the Judge (criminal) when the sentence is imprisonment for an alien.

But the Kuwaiti Legislator wanted to do away with this general reason for the those aliens sentenced with criminal punishment related to one of the crimes of moral turpitude or honesty, where he make the sentence of expulsion mandatory, out of the discretion of

⁷ Statement delivered in Arabic. Unofficial translations form the translator’s version.

the judge, and that is what the second paragraph of the afore-mentioned article states for.

Criminal expulsion is not the only one way for the expulsion of aliens, but the law prescribed the right of a special administrative authority, in expulsion of alien whenever law requires it (m 79 q 16/70). This type of expulsion is known as the administrative expulsion, whilst article No. (20) of aliens residential law (decree 59/17) stated that “expulsion of alien from Kuwait is subject to the ordinance of head of police and public security if he has not having residential permit or its validity got expired. He is allowed to return to Kuwait if he fulfills required conditions of entry according to this law”.

Meanwhile article No (24) from aliens’ residential law (decree 59/17) permitted to accept the reconciliation of alien who violated law and residential rules, after paying the imposed fine against the violation of the residential rules and its conditions inside State of Kuwait, perhaps above mentioned reconciliation is consider one of the mechanisms made for the interest of aliens against whom an administrative order for the expulsion has been issued.

Legal securities provided by nation to the foreign deportees: We find that the Constitution and national legislation has given to all... the right of challenge and appeal against criminal resolutions whether he is a citizen or alien, after that it is possible for criminally expelled alien to appeal against the criminal order which stated to expel him from the country.

It is worth mentioning that the constitution as well as Kuwaiti law, have provided appeal right for all people including right of challenge to criminal orders, as well as those who have been given complementary punishments, and including expulsion, as per article No. (166) of constitution which gives freedom of appeal, through below mentioned text “right of appeal is assurance for people, and the law states necessary measures and circumstances regarding practice of this right...”.

In this context, the Kuwaiti law of criminal decrees and measures has given (17/1960) several ways to challenge the criminal orders, which includes permission of opposition in the judgments by default, as the article No. 187 of law of criminal decrees and measures (q 17/60), stated that “convicted person sentenced in absentia in misdemeanors and felonies may appeal, and the appeal should be against the court issued the order in absentia”.

President: Now there are some Member States which would like to comment upon the UN Convention on Jurisdictional Immunities of States and their Property as proposed by Japan. But due to constraints of time, requests by Indonesia, South Africa and Kenya could not be accommodated as it stands, so I was wondering if these delegations would put it in writing and send it to the Secretariat so that we can include it in the report. Then, we have one more Member State, Kingdom of Saudi Arabia, which wants to make a statement on the topic of ILC at its 62nd Session. May I now invite the Kingdom of Saudi Arabia.

The Delegate of Kingdom of Saudi Arabia⁸: The Kingdom is following up work of International Law Commission and its effective efforts toward legislating the rules of customary international law. The key feature of Commission's work is that it presents the draft articles before the member countries to get their written remarks and opinions.

Regarding "effects of armed conflicts on treaties", we would like to mention that the draft article includes fundamental treaties and amended treaties. Regarding expulsion of aliens, the approach of draft articles should be in tune with international customary law with focus on aliens and not to affect the principle of sovereignty. There are countries suffering from cross-border aliens' infiltration, or not leaving the country after the expiry of their visa stating dates of legal presence.

Regarding humanitarian intervention to reduce natural disasters, it would be to take care of balance between sovereignty and helping the affected people.

We appreciate the efforts of the International Law Commission to legislate the principle of Most Favored Nation. This principle is clear in international trade agreement but it is not clear regarding the other international agreements. Thank you very much Mr. President.

President: Thank you. We now break up for tea and when we meet up, we take up next agenda item Law of the Sea. We reconvene in another fifteen minutes.

The Meeting was thereafter adjourned.

⁸ Statement delivered in Arabic. Unofficial translations from the translator's version.

**IX. VERBATIM RECORD OF THE
FOURTH GENERAL MEETING**

**IX. VERBATIM RECORD OF THE FOURTH GENERAL MEETING
HELD ON WEDNESDAY, 29 JUNE 2011 AT 11.35 AM**

His Excellency Mr. Rauff Hakeem, President of the Fiftieth Annual Session in the Chair

President: Now, we will move on to the next topic, The Law of the Sea, I would like to invite Dr. Xu Jie, the Deputy Secretary-General of AALCO to introduce the topic.

Agenda Item: The Law of the Sea

Dr. Xu Jie, Deputy Secretary-General of AALCO: Thank you Mr. President. It is a great pleasure for me to introduce the Secretariat's Report on the agenda item, "The Law of the Sea" vide Secretariat Document No. AALCO/50/COLOMBO/2011/S 2. The Report contains *inter alia*, information relating to the Status of the United Nations Convention on the Law of the Sea (UNCLOS) and its Implementing Agreements; Twenty-Fifth and Twenty-Sixth Sessions of the Commission on the Limits of the Continental Shelf (CLCS); Sixteenth Session of the International Seabed Authority (ISBA); and the consideration of the Oceans and the Law of the Sea issues at the Sixty-Fifth Session of the UN General Assembly.

Mr. President, the agenda item, "The Law of the Sea" was first taken up for consideration at the initiative of the Government of Indonesia in 1970, since then, this agenda item has been considered as one of the priority items at the successive Annual Sessions of AALCO. In the negotiations of United Nations Convention on the Law of the Sea (UNCLOS), 1982, particularly, the areas relating to the Exclusive Economic Zone (EEZ), Archipelago States and Rights of Land Locked States, the AALCO's contribution is well known at the international level.

Mr. President, the UNCLOS as the "Constitution of the Oceans" is fast moving towards universal participation and it could be hoped that all the Member States of AALCO would soon accede to the Convention and also to the two implementing agreements.

The increase in pirate attacks and armed robbery against ships at alarming rate has raised a serious threat to international commerce and maritime navigation. Recent reports suggest that piracy off the coast of Somalia and in the Gulf of Aden had expanded to areas along the Eastern African coast and into the Indian Ocean. In order to counter the menace of piracy, AALCO Member States should among other measures, consider enacting adequate national legislation to criminalize acts of piracy and armed robbery at sea, and associated crimes, as well as modern procedure laws, which are indispensable (*sine quo non*) for the effective suppression of piracy.

Mr. President, for the sustainable development of oceans, it is important to take necessary measures to protect the marine environment, halt pollution at sea and preserve all marine species. On the conservation and sustainable use of marine biodiversity, AALCO

Member States may consider taking a lead in formulating necessary legal framework in order to conserve, as well as sustainable use of marine biodiversity in areas beyond national jurisdiction. These are some of the issues on which the Member States may deliberate upon during the course of this Meeting today. I thank you Mr. President.

President: Thank you Deputy Secretary-General. Now the floor is open to Member States to make their statements. It is my pleasure to invite the Delegation of Japan to make the statement on the topic.

The Delegate of Japan: Mr. President, Japan attaches great importance to the roles that the ITLOS has been playing for the peaceful settlement of maritime disputes and the maintenance of legal order relating to the sea. In recent years, it is noted that the number of referrals of cases to the ITLOS is on the steady increase. This trend is a clear evidence of growing recognition of the role of the Tribunal on the part of the international community. We certainly welcome such expansion of the activities of the ITLOS.

With regard to the activities of the ITLOS, in February this year, the Seabed Disputes Chamber of the Tribunal rendered for the first time an advisory opinion (on the Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area) in which the Tribunal gave its judgment concerning the extent of liability of a State Party for protection and conservation of environment in the fragile deep seabed area. We consider it epoch-making and highly value it.

In Japan, we have a number of competent foundations and think-tanks relating to the sea which are contributing to international cooperation in the area relating to the sea and maritime activities. The Government of Japan fully supports the activities of the ITLOS under the leadership of President José Luis Jesus and intends to render cooperation to it using both personnel and financial resources.

The Commission on the Limits of the Continental Shelf (CLCS) is an organ, established in accordance with the United Nations Convention on the Law of the Sea (UNCLOS), in charge of the important task of examining and making recommendations on the submissions regarding the outer limits of the continental shelf beyond 200 nautical miles, by State Parties pursuant to UNCLOS. It is presently confronted with the serious “workload issue” caused by a large increase in the numbers of submissions which has been earnestly discussed by the State Parties of the UNCLOS. Consequently, the members of the Commission on the Limits of the Continental Shelf are called upon to participate in the meetings of the Commission for an increasingly longer period.

On June 14, Japan announced at the 21st Meeting of State Parties to the UNCLOS (SPLOS21) held in New York, that it would contribute approximately 211,000 US dollars (approx. 19 million yen) to the Trust Fund for the purpose of defraying the costs of participation of the members of the Commission from developing States in the meetings of the Commission.

As the said trust fund was established to support the CLCS members from developing countries who are facing financial difficulties to participate in the CLCS's meeting held in New York, through this contribution, it is expected that the participation of developing country members to the CLCS meeting will be encouraged, which in turn will facilitate the smooth and speedy examination of the submission regarding the outer limits of the continental shelf submitted by the State Parties including the AALCO Member States.

President: I thank the delegate of Japan for his statement. Now I invite the delegation from Indonesia to make his statement.

The Delegate of the Republic of Indonesia: Mr. President, Distinguished Delegates, Indonesia attaches great importance on the role of the Organization in the development of the law of the sea pertaining to the implementation and application of the 1982 United Nations Convention on the Law of the Sea (the Convention). Being the Constitution of the Ocean, as Ambassador Tommy Koh from Singapore put it out during the deliberations of the Third UN Conference on the Law of the Sea in 1982, the Convention has provided a balanced interest between the developed and developing countries. Moreover, it has laid down basic foundations for its States parties in order to develop the ocean's vast resources for sustainable use, and prosperity of their people.

Next year (2012) will mark the 30th Anniversary since the final act of the Convention was signed at Montego Bay, Jamaica after being negotiated for almost 30 years since the First Convention in 1958. At this particular juncture, Indonesia notes with appreciation and welcomes the Kingdom of Thailand, being a respective member of the Organization, as the latest member State to the Convention when they submitted their ratification on 15 May 2011. Thailand's admission as the 162nd State party to the 1982 UNCLOS, as of 31 May 2011, has demonstrated the Convention's universal application. Therefore, as a faithful party to the Convention, Indonesia wishes to invite all the other Member States of the Organization, who have not done so, to ratify it.

Mr. President, Distinguished Delegates, on the issue concerning the broad application and implementation of the Convention that is currently being discussed by this 50th Annual Session under the agenda item: "Law of the Sea", Indonesia would like to highlight our observations following the conclusion of the 21st Meeting of the States Parties to the 1982 United Nations Convention on the Law of the Sea (21st SPLOS), held at UN Headquarters in New York, 13-17 June 2011, as follows:

First, concerning the International Tribunal for the Law of the Sea (the Tribunal), Indonesia is delighted to note that the Tribunal has begun its consideration of the first ever maritime boundary dispute, brought before it by Bangladesh and Myanmar concerning the delimitation of the maritime boundary in the Bay of Bengal, and would like to commend both Bangladesh and Myanmar for doing so. We also note that the Tribunal has exercised its function to provide an advisory opinion, being the Tribunal's first ever, upon the request by the International Seabed Authority to the Seabed Disputes Chamber regarding "the responsibilities and obligations of States sponsoring persons and entities with respect to activities in the International Seabed Area", in 2009.

These two cases are a significant achievement of the law of the sea, given the fact that States Parties regularly resolve their disputes of similar nature at the International Court of Justice (ICJ). Therefore, we expect that other Member States of the Organization who are parties to the Convention, to make benefit of the Tribunal for dispute settlements which may arise regarding activities concerning the control, management, and use of the resources of the seas and oceans, protection and preservation of the marine environment.

Mr. President, Distinguished Delegates, Recently, the 21st SPLOS has elected 7 (seven) new judges for the Tribunal, 2 (two) among them represents our region, namely Judge Tafsir Malick Ndiaye of Senegal and Judge Zhiguo Gao of China. Indonesia would like to congratulate both judges and would like to see their assignment as a contribution from our region to the development of the law of the sea that would benefit us all.

In spite of that achievement, we note with regret that this region has not been able to win the election of 1 (one) floating seat for the Tribunal judge that was being contested only by the Asia, Africa and the Western European and Others Group (WEOG) during the 21st SPLOS.

Based on this development, Indonesia would like to request Member States of the Organization to consider putting forward the principle of Asia-Africa solidarity as enshrined in the Bandung Declaration 1955, for other upcoming elections of similar nature.

Second, on the issue of International Seabed Authority (the Authority), Indonesia continues to attach great importance to the roles and contribution of the Authority in promoting the fulfillment of objective of the Convention to ensure that the international community could benefit from activities in the Area, and that the results should be regarded as the common heritage of mankind.

In the context of future developments of the deep seabed mining, Indonesia believes that the Authority would play an important role to ensure that the marine environment is protected from any harmful effects which may arise during exploration and exploitation activities in the Area. We would also like to see positive results following the adoption of regulation for prospecting and exploration of polymetallic sulphides at the 16th Session of the Authority, 26 April 7 May 2010.

Third, and finally pertaining to the Report of the Secretary-General of the United Nations on issues of general nature that have arisen with respect to the Convention.

Bearing in mind that the report illustrates recent developments regarding the use of oceans and their implications for the existing legal framework of the Convention that ranges from the application of ecosystem approaches to the economic use of the ocean as a result of the advancement of marine technologies.

Therefore, Indonesia will continue to attach great importance to issues of common concern, particularly current developments in the waters off coast of Somalia involving the scourge of piracy and armed robbery. Other issues of equal importance should also be addressed accordingly, such as the growing number of criminal activities at sea i.e., trafficking of person, smuggling of goods and people, illicit transfer of arms and druges; environment related crimes i.e., illegal fishing, illegal logging, and marine pollution; and issues of increasing capacity building and transfer of technology to developing countries, as well as the work toward the sustainable use of ocean resources and its development as the common heritage of mankind.

President: Thank you. May I now invite the delegate from the People's Republic of China to make his statement.

The Delegate of the People's Republic of China: Mr. President, On behalf of the Chinese delegation, I would like to express my appreciation to the Secretariat for its comprehensive report on the law of the sea and in particular, for offering its comments and observations on the United Nations Convention on the Law of the Sea, safety and navigation of shipping, capacity building, sustainable development of oceans, workload of the Commission on the Limits of Continental Shelf, conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

Next year marks the 30th anniversary of the adoption of UNCLOS, therefore, it is very appropriate to include "The Law of the Sea" in the agenda of AALCO's annual meeting. UNCLOS is the result of years of negotiations. It takes into account the interests of the coastal States, flag States and landlocked States in a comparatively balanced manner, and gives due regard to the need for use and protection of oceans. UNCLOS has been further enriched and developed through such instruments as the 1994 Agreement relating to the Implementation of Part 11 of the UNCLOS, the regulations on the exploration of seabed resources adopted by the International Seabed Authority, the advisory opinion given by the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea on responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area.

As the capabilities of the international community to understand, use and protect oceans are improving, the implementation and development of the law of the sea are faced with new problems and new challenges. Nevertheless, UNCLOS remains an important basis for us to solve new problems of oceans.

Mr. President, Presently, the issues on sustainable development of oceans, safety and navigation of shipping, conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction have gained considerable attention. The Chinese delegation would like to share its views on these three issues.

1. Sustainable Development of Oceans

With the growing awareness and capabilities of marine use, the pressure for sustainable development of oceans from the influence of human activities is gradually on the rise. The United Nations has launched a regular process for global reporting and assessment of the state of the marine environment and initiated its first global integrated assessment in this regard which includes socio-economic aspects. China is of the view that such a process will be helpful to Parties in gaining knowledge of the state of the marine environment, and will provide important scientific references for Parties in formulating marine policies, reducing and controlling the negative impact of human activities to marine environment.

According to the UN General Assembly Resolution, the 12th Meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea will contribute to the assessment of progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development and addressing new challenges. China believes that sustainable development of oceans is a common goal of the international community, and an area with a lot of unresolved problems. The key to achieving this goal is to properly handle the relation between marine use and conservation. Overlooking one aspect by emphasizing the other will not help achieve sustainable development.

Capacity building should be a founding block for both marine use and marine conservation. China is aware that there are apparent discrepancies among the Parties in terms of capacity building, and that the capacities of developing countries in using and conserving the oceans need to be strengthened. Therefore, sustainable development of oceans should, as a matter of priority, address the issue of capacity building, rather than setting overly ambitious goals.

2. Safety and navigation of shipping

Piracy remains a major threat to safety of navigation. The issue of piracy is more severe especially in Asia and Africa. It hurts the interests of all countries. China believes that the main aspects for combating piracy and armed robbery against vessels through international cooperation have been covered by existing rules of international law, which comprise the definition of piracy and armed robbery against vessels, the obligation of all countries to establish universal jurisdiction on piracy and the obligation of administrative assistance and judicial cooperation. The sovereignty of coastal States, the freedom of navigation of flag States and other relevant issues have been stipulated in a balanced way. China supports to enhance, in conformity with UNCLOS and relevant international law, international cooperation in combating piracy, ensuring maritime safety and safeguarding the overall interests of the international community. To solve the root causes of piracy, China is willing to work with all countries in facilitating the peace process of relevant countries, and promoting their political stability, economic development and social order.

3. Conservation and Sustainable Use of marine biodiversity in areas beyond national jurisdiction

A consensus was reached during the 4th Meeting of the Ad Hoc Open-ended Informal Working Group on marine biodiversity in areas beyond national jurisdiction which was held in June 2011. The Working Group recommended that a process be initiated by the General Assembly to discuss the legal framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. The process includes the implementation of existing instruments and the possible development of a multilateral agreement under UNCLOS.

China is of the view that the development of new agreement is associated with complex scientific and legal issues, should therefore be pursued on the basis of adequate research and discussion, and in a step-by-step approach. It should take into account the concerns of all parties in a balanced manner, putting great emphasis on capacity building needs of developing countries. China supports that the recommendations of the Working Group be endorsed by the General Assembly, thereby initiating the relevant process. China is also willing to continue discussing the scientific, legal, social and economic aspects of marine biodiversity in areas beyond national jurisdiction, through this process and within the platform of the current working group, with a view to garnering international consensus.

China would like to cooperate with all parties to cope with major challenges faced by oceans within the framework of UNCLOS, construct and preserve harmonious order of oceans, achieve sustainable development of oceans and enable oceans to bring benefits to all mankind. Thank you Mr. President.

President: Thank You. I now invite the delegation from Thailand to present his views.

The Delegate of Thailand: Mr. President, I wish to thank the Secretariat for the Document: The Law of the Sea. I would like to refer to page 15 of the Document, on “Capacity Building” and Sustainable Development of the Oceans.

The 12th Meeting of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea, or ICP 12, was convened last week at the UN Headquarters in New York, to focus on what to do on ocean related matters at the Rio+20 Summit next year. There were 13 Panellists from developing and developed countries who made presentations and recommendations at ICP 12. I myself represented the Group of 77 as the Panellist on the issue of “Remaining gaps and challenges in capacity building and transfer of marine technology to implement the oceans-related outcomes of the major summits on sustainable development”.

Mr. President, I pointed out to ICP 12 that there were huge gaps in the transfer of advanced technology or equipment to developing countries for two main reasons. First of all, financial resources are not usually available for developing countries to acquire State-of-the-art technology. Secondly, proprietary rights of the owner of such technology need to be dealt with.

As a member of the Advisory Body of Experts of the Law of the Sea of the Intergovernmental Oceanographic Commission (or IOC) of UNESCO, I took part in drafting the IOC Criteria and Guidelines on Transfer of Marine Technology, which was adopted by the IOC Assembly in 2003, but which is not widely known or implemented. I, therefore, urged ICP 12 to seek the effective implementation of these Criteria and Guidelines.

Regarding funding and proprietary rights, I proposed that a chosen UN agency coordinate fund raising efforts and acquire technology for common use of developing countries. The balance between the respect for proprietary rights and the need of developing countries can be met by using the example of Annex II, Article 5 of UNCLOS 1982 on the transfer of technology to the International Seabed Authority for deep seabed mining in the Area, which may be applied *mutatis mutandis* to other cases as well.

I also touched upon the issue of fishery subsidies which should be permissible only in the case of developing fishing capacity of developing countries, especially those countries with artisanal or small-scale fisheries, and insofar as such subsidies would not undermine sustainable fishery management. Details of my panel presentation are available on the website of the Division on Oceans Affairs and the Law of the Sea (DAOLOS).

I am pleased to report that although Latin American countries and Small Island developing States were the most active at ICP 12, many AALCO Member States also participated actively in the deliberations at ICP 12. I recommend that all AALCO Member States consider the outcome document of ICP 12 as prepared by the two Co-Chairs, from Mauritius and New Zealand, and comment on it under the agenda “The Law of the Sea” at the forthcoming UN General Assembly Annual Session, so that out collective maritime interests can be enhanced at the Rio+20 Summit in June 2012.

President: I thank the delegate from Thailand. I now invite the delegate from Malaysia.

The Delegate of Malaysia: Mr. President, the Honourable Secretary General, Excellencies and Distinguished Delegates, Ladies and Gentlemen. The United Nations Convention on the Law of the Sea 1982 (UNCLOS) is well-recognized as the “constitution of the oceans” and “cornerstone of maritime order”. The breadth of its provisions even embraces issues such as the safety of navigation as well as the protection and preservation of the marine environment. Nevertheless, a written legal framework, no matter how robust, cannot of itself resolve jurisdictional issues arising from unresolved maritime boundaries. As amply demonstrated by recent events, unresolved jurisdictional issues pose a threat to maritime safety and security and hinder international cooperation to sustain and maintain the marine environment and its resources. This uncertainty is potentially destabilizing to the maritime community as a whole since incidents of piracy, for instance, affect navigational access of the international shipping community to international sea lanes through such disputed areas.

Piracy off the coast of Somalia

Although piracy is an age-old phenomenon, its latest incarnation off the coast of Somalia gives serious cause for concern. The concern arises in many facets – in the international victims be they ships, crew or cargo, in the expanding area of operations, in the increasing sophistication and organization of attacks, in the ransoms demanded and most importantly, in the increasing level of violence the pirates are prepared to use in carrying out their attacks. Malaysia, although more than 1000 nautical miles away, has not been immune having had three of its vessels hijacked and held to ransom by these Somali pirates within the period of 2010-2011.

Therefore, Malaysia welcomes the concerted and consolidated response plans initiated by the United Nations for Somalia through the Security Council's Chapter VII of the Charter of the United Nations-based resolutions, namely, Security Council Resolutions 1816, 1838, 1846, 1851 and 1897. Malaysia also commends the commitment of all the nations that contribute to its realization, including in particular the AALCO Member States such as the Republic of Korea and India. In this regard, Malaysia notes the careful balance crafted by the Security Council in its response to piracy off the coast of Somalia between the rights and obligations of States Parties to the UNCLOS and customary international law and the need for the most effective measures in the circumstances prevailing in Somalia.

However, the key to the success of the United Nations-led response to piracy and other maritime security offences does not lie in the use of force alone. Instead it hinges on upholding the rule of law through the prosecution of captured pirates. In this regard, it has been belatedly recognized since 2008 how far States lag in the specific criminalization of this universal crime by the law of nations, including Malaysia. Without the threat of criminal justice, pirates will operate with increasing impunity. Further, knowing that they will be released without punishment even if captured because enforcement States seriously lack the will to enforce the law against them increases their boldness to immeasurable cost to international commerce and the safety and security of maritime navigation.

Malaysia is only a small State with limited blue-water navy resources. But Malaysia is committed to its role in support of the relevant Security Council Resolutions, and has amply demonstrated it thus far. Aside from its operational contributions in the Gulf of Aden, Malaysia is in the process of prosecuting the seven Somali pirates captured by the Malaysian Armed Forces on 20 January 2011 off the coast of Oman in Malaysia.

Malaysia is also in the process of reinforcing its anti-piracy legislative framework with reference to the UNCLOS, the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention) and the 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (SUA Protocol) regimes.

In this regard, AALCO should once again come to the fore to provide the necessary technical assistance to its Member States as we all strive to deal with the need to enact specialized and comprehensive laws on piracy and other maritime security offences. A

comprehensive study and a legislative drafting workshop on anti-piracy legislation would be of utmost assistance to Member States at this time.

Malaysia therefore calls upon all AALCO member countries to take all necessary efforts to suppress acts of piracy. In this regard, Malaysia commends the actions taken by the Indian Government in deploying its naval force to patrol the Gulf of Aden and play a greater role in suppressing piracy in the said maritime area. The initiatives undertaken by the Republic of Korea since April 2009, in deploying its naval vessels in the Gulf of Aden and Indian Ocean as a member of Combined Task Force-151 (CTF-151), is also lauded. Malaysia also acknowledges both these Member States for the actions taken to prosecute the pirates captured by their armed forces.

Malaysia has also been following with interest the United Nations-led discourse and recent decision through Security Council Resolution 1976 adopted on 11 April 2011 whereby the Security Council has agreed to consider the plan to establish special courts to try suspected pirates off the Somali coast. In its unanimously adopted resolution, the 15-member Council agreed to urgently consider the establishment of specialised courts in a bid to boost the current anti-piracy effort, stressing the need for "a comprehensive response to tackle piracy and its underlying causes by the international community". Malaysia hopes that with the establishment of these special courts, whether on a national or regional basis in willing host countries like Kenya and the Seychelles, more pirates will be brought to justice to create an effective deterrent.

Malaysia would like to urge Member States to continue to keep abreast of the situation and the incidents of piracy in the Gulf of Aden which continue to affect Member States and the international shipping community as a whole. Therefore, Malaysia proposes that the issue of piracy be placed on AALCO's agenda for further deliberation at a special session at the Fifty-First session of AALCO. The special session could focus on the cooperative legal measures and actions that could be undertaken by AALCO Member States for the purpose of preventing and combating piracy.

Mr. President and Distinguished Delegates,

In the interest of time, the other issues relating to capacity building in the areas of ocean affairs and the law of the sea, preservation of marine environment and over-exploiting of marine resources are addressed in the written statement submitted to the Secretariat.

Capacity building in the areas of ocean affairs and the law of the sea

With regard to capacity building in the areas of ocean affairs and law of the sea, it is noted that lack of it could limit the ability of States to protect the oceans and their resources from marine pollution, maritime safety, maritime security and overexploitation. Capacity building is necessary in ensuring that States possess economic, legal, navigational, scientific and technical skills for the full implementation of the obligations and responsibilities relating to ocean affairs as provided under the UNCLOS.

The involvement of government and state departments as well as private sectors and all stakeholders would ensure a holistic approach in providing the right approach in facing challenges for achieving effective capacity-building in ocean affairs and the law of the sea.

Focusing on the issue of oceans affairs relating to maritime safety and security, among the steps that have been taken thus far vis-a-vis the Straits of Malacca are the implementation of the International Maritime Organization's (IMO's) Traffic Separation Scheme in 1981 and the introduction of a system named STRAITREP which came into force on 1 December 1998. The system was introduced following Resolution MSC 73(69) adopted by the IMO on 9 May 1998 making a ship reporting system mandatory for ships of certain categories when passing through the designated sectors along the Straits of Malacca.

At the same time Malaysia together with Indonesia and Singapore has developed the Marine Electronic Highway in 2005 so as to establish a marine electronic highway system in the Straits of Malacca and Singapore for enhanced maritime services, improved navigational safety, integrated marine environment protection and sustainable development of the coastal and marine resources of the three littoral States of Indonesia, Malaysia and Singapore.

Encouraged by the support received from the international community namely the user States, the shipping industry and other stakeholders Malaysia, Indonesia and Singapore had discussed with such communities with regard to establishing a cooperative mechanism relating to maritime security in the Straits of Malacca under the ambit of its Tripartite Technical Experts Group (TTEG).

As a result of such discussions, at the Singapore Meeting in 2007, the three littoral States presented the "Cooperative Mechanism between the littoral States and User States on Safety of Navigation and Environmental Protection in the Straits of Malacca and Singapore" in its entire detail.

A report of the Singapore Meeting 2007 was presented by the IMO to the 24th Extra-Ordinary Session of the IMO Council in 2007. The establishment of the Cooperative Mechanism represents a landmark achievement in co-operation between coastal States bordering a strait used for international navigation and user States as well as other stakeholders, and, for the first time, brings to realization the underlying spirit and intent of article 43 of UNCLOS.

In essence, the Cooperative Mechanism provides a framework for which littoral States and users of the Straits of Malacca and Singapore may promote cooperation. For the littoral States, the Cooperative Mechanism provides an opportunity to engage user States, shipping industry and other stakeholders to participate and share the responsibility of maintaining and enhancing the safety of navigation and protection of the marine environment in the Straits. For the user States, shipping industry and other stakeholders, the Co-operative Mechanism provides an opportunity to co-operate, contribute and play a

role in maintaining and enhancing the safety of navigation and protection of the marine environment in the Straits which is of strategic importance for regional and global trade.

Preservation of marine environment and overexploiting of marine resources

It is duly noted that Part XII of UNCLOS provides the framework for such preservation and protection of marine environment.

For areas beyond the national jurisdiction, as provided, *inter alia*, under Articles 211, 216, 217, 218, 219 and 222, the preservation and protection of the marine environment are imposed on the flag States. This is in cognizance of the fact that under Article 94(1) of UNCLOS “*every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag*”.

In view of the fact that UNCLOS contains only basic, general principles on the protection and preservation of marine environment, the provisions under Part XII of UNCLOS further emphasize the importance of cooperation between States on a global and regional basis be it directly or through the competent international organizations in formulating and elaborating international rules, standards and recommended practices and procedures consistent with UNCLOS.

Malaysia recognizes that there is a need to improve the implementation of and compliance with existing international rules and standards. In this regard, regional efforts play an important role to this effect.

President: Thank you. May I now invite the delegate from Tanzania to present his statement on the topic.

The Delegate of the United Republic of Tanzania: Mr. President, On behalf of the Government of the United Republic of Tanzania, I commend the work done by the AALCO on this agenda item and wish to make a short statement.

The United Republic of Tanzania signed and ratified the United Nations Convention on the Law of the Sea on 30th September 1985. The Convention is important instrument that put in place a more coherent management of the sea.

As a country, the United Republic of Tanzania stresses on the importance of maintaining international peace and security, sustainable use of ocean resources, and the navigation and protection of marine environment. During recent times, we have witnessed a great rise of acts of piracy. The hijacking of commercial vessels has escalated in the Indian Ocean and specifically in the Eastern African Coast. The scourge of piracy endangers the social and economic development of the coast of the Eastern African countries and other parts of the world. It is also posing a big problem to trade and security. Tanzania, and

indeed, the land locked countries which depend wholly on the use of the Indian Ocean for import and export of goods, is impacted by the high rise of related costs.

Tanzania, like other countries in the region has put in place mechanisms for the fight against piracy along the Eastern African Coast, in order to ensure the safety for ships plying the Eastern African Coast. In 2010, Tanzania amended its penal legislation in order to ensure that there is adequate and comprehensive legal mechanisms for combating crimes related to piracy. On the other hand, the Surface and Marine Transport Regulatory Authority (SUMATRA), works hand in hand with the International Maritime Organization (IMO) in the fight against piracy.

Despite Tanzania's efforts, the threat from piracy continues, largely because of the complex legal, diplomatic and administrative challenges. The difficulties range from the maritime forces involved in patrolling a larger segment of the sea, custody of culprits arrested, investigation and prosecution of culprits, resettlement of culprits acquitted, threat of reprisal and financial resources required for management of these issues. We appeal to the international Organizations and developed countries to join hands in the fight against piracy through provision of assistance in strengthening our institutions and providing necessary financial personnel and technical support.

Mr. President, Tanzania believes that the war against piracy will be won through close cooperation amongst countries in the region. As eloquently said by the UN Secretary-General, Ban Ki Moon, "Piracy is not water borne disease. It is a symptom of conditions on the ground". In this regard, the symptom can be removed or cured through comprehensive, concerted and international actions. As a country, Tanzania calls upon all affected and interested parties, Governments, private institutions and the international community to combine efforts in the fight against piracy.

Mr. President and Distinguished Delegates, briefly that's the end of our intervention from Tanzania regarding law of the sea and, we thank so much listening to me.

President: Thank You. I now invite the delegate from Kenya to make his statement.

The Delegate of the Republic of Kenya: All Protocols Observed. My delegation takes note of the recent addition of Thailand as the 162nd Member State of the United Nations Convention on the Law of the Sea (UNCLOS) on 15 May 2011 and wishes to congratulate and welcome Thailand to the international community of States Parties to the Convention.

Mr. President, At the 20th Meeting of States Parties held in 2010 decisions were taken on the Workload of the Commission on Limits of the Continental Shelf which are meant to speed up the work of the Commission. Amongst the proposals made, my country supported having a fulltime Commission working in New York for a given initial duration until such time when the workload reduces. This could then be amended periodically taking cognisance of the new and revised submissions including submissions

from new States Parties to UNCLOS and submissions from those States that have submitted Preliminary Information.

Kenya takes note of the compromise position adopted regarding the workload of the Commission on Limits of the Continental Shelf. The Resolution reads in part:

“the Commission and its sub-commissions meeting simultaneously as far as possible,(shall) meet in New York for up to 26 weeks but not less than an intended minimum of 21 weeks a year for the period of five years, distributed in such a way that the Commission determines to be the most effective, and that no two sessions be sequential.”

In essence, due to the increase in the number of working weeks by the Commission in New York from the current twelve to a maximum of twenty six, it is expected that there will be a significant reduction in waiting time for the examination and provision of recommendations of submissions on the limits of continental shelves beyond 200 nautical miles.

The States Parties to UNCLOS noted that this decision will have additional financial requirements and for that reason further recommended that any request for appropriate resources required by the Division of Ocean Affairs and the Law of the Sea to facilitate an increased number of working weeks by the Commission be presented to the General Assembly during its sixty sixth session. We wish to request this Meeting to support the request for additional funding when the same is presented at the said session of the United Nations General Assembly.

Mr. President, The issue of piracy and armed robbery against ships at sea off the coast of Somalia remains a grave concern to my country. Acts of piracy have continued to adversely affect the fishing, tourism and shipping industries in East Africa. These activities have also significantly contributed to the increase of cost of goods and services in the region. Indeed, Kenya’s revenues from fishing have fallen drastically owing to the insecurity in the waters of her EEZ on account of the fact that few commercial fishing vessels are willing to take up licenses and engage in commercial fishing around the affected area.

Kenya welcomes efforts made by the international community to combat piracy, including the establishment of a Contact Group on Piracy off the coast of Somalia, which has had some deterrent effect on piracy and armed robbery in the region.

We further welcome the recent development under the International Maritime Organization where Interim Guidance on the employment of privately contracted armed security personnel on board ships transiting the high-risk piracy area off the coast of Somalia and in the Gulf of Aden and the wider Indian Ocean was approved by IMO's Maritime Safety Committee (MSC) in May 2011. The Interim Guidelines provide that flag States may use privately contracted armed security personnel on board ships in the High Risk Area and further, ship-owners, ship operators, and shipmasters may also use

privately contracted armed security personnel on board ships in the High Risk Area. Both sets of guidance are aimed at addressing the complex issue of the employment of private, armed security on board ships as a temporary measure in combating piracy.

President: Thank you for that statement. May I now invite the delegation from the Islamic Republic of Iran to make his statement.

The Delegate of the Islamic Republic of Iran: In the name of God, the Compassionate, the Merciful, Mr .President, my delegation would like to express its appreciation to the Secretariat of AALCO for preparing the informative report on 'The Law of the Sea' as contained in document AALCO/50/COLOMBO/2011/SD/S2. My delegation has found the report as a useful and informative document which touches upon such a matter of high significance.

Mr. President, my delegation would like to reiterate the high importance it attaches to this agenda item. As indicated in the report of the Secretariat, over-exploitation of marine living resources, climate change and pollution from hazardous materials and activities, all pose a grave threat to the fragile marine environment. In addition my delegation would like to encourage the Member States to pay more attention to this part of the report that 'illegal, unreported and unregulated fishing constituted a serious threat to fish stocks and marine habitats to the detriment of sustainable fisheries as well as food security and the economies of many states particularly in developing countries'. So all of the States must exercise effective controls over their nationals in order to deter and prevent them from engaging in illegal fishing activities.

Mr. President, my delegation would like to express its appreciation to the UN General Assembly for its useful considerations about the issues relating to the law of the sea and sustainable fisheries, including through the 1995 Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (as my delegation is one of the Member States of the Agreement), in this respect my delegation would like to reiterate General Assembly's deep concern at the serious adverse impacts on the marine environment and bio-diversity, and highlighted the links between the health of the world's oceans and sustainable human development and called on all States to bolster their support for the United Nations framework established by the 1982 United Nations Convention on the Law of the Sea.

Mr. President, as indicated in the report the growth of the continuing problem of transnational organized crime committed at sea, including piracy has serious implications for the security of navigation and the safety of seafarers. It is now acceptable that maritime piracy and armed robbery against ships at seas now in threshold of 21st Century renewed his life despite of its reduction through previous centuries.

Mr. President, my delegation would like to express this fact that because of the significance of the Gulf of Aden and off the coast of Somalia in international navigation and the export of goods and oil resources between the countries, the Islamic Republic of Iran has deployed its military navy to the area. In addition to protecting commercial vessals in the region, The Islamic Republic of Iran has replied to all requests from states

to cooperate in combating pirate activities and fight against the impunity of pirates. My delegation urges Member States to criminalize acts of piracy and prosecute pirates. We welcome the actions taken by the United Nations aimed at strengthening and assisting the Transitional Federal Government (TFG) to improve the security situation in Somalia, which is essential for a better cooperation to fight piracy off the coast of Somalia.

Mr. President, my delegation would like to draw the attention of Member States to the question of over-fishing and the depletion of marine natural resources in the Indian Ocean and the pollution of the ocean by toxic waste. Furthermore the international community must be concerned about Conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. My delegation would like to emphasize that AALCO Member States shall take lead in formulating a legal framework in order to conserve as well as sustainable use of marine biodiversity in areas beyond national jurisdiction.

I thank you Mr. President.

President: Thank you for that statement. Now I invite the delegate from India to deliver his statement.

The Delegate of India¹: The delegate of India stated that the topic of the Law of the Sea was of great importance to India and the delegation recalled the significant contributions made by AALCO to that agenda item. The delegation also welcomed Thailand as a new Member to the UNCLOS. On the issues relating to piracy, the delegation stated that Indian crew and seafarers were victims of piracy and in order to combat piracy, the Indian Navy was cooperating with other countries in the region. The delegation also mentioned that their country was in the process of updating its law on piracy, and it would soon come up with new legislative measures. The delegation was of the view that as the fishery resources were depleting at the increasing rate and stressed on the need to utilize the fishery resources at a sustainable basis. In that regard, the delegation was of the view that coastal States must be given power to enforce the regulation of fishery resources not only in the territorial sea but also there was a need to have higher role in enforcing the conservation measures of fishery resources in high seas adjoining the Exclusive Economic Zone.

President: Thank you. Let me now invite the delegate from the Arab Republic of Egypt.

The Delegate of the Arab Republic of Egypt: The Delegate of the Arab Republic of Egypt expressed its concern on growing piracy and its threats to safe international navigation. The delegation highlighted that due to increased rate of piracy activities, the cost of navigation and insurance had increased and caused great challenge to international community. Then, the delegation condemned the Israeli action in the international waters against the humanitarian fleet carrying food and medicines for the besieged Gaza strip

¹ Due to the non-availability of the written texts of the Statements delivered by delegates from India, Arab Republic of Egypt and Pakistan, their statements have been taken from the Summary Report of the Fiftieth Annual Session and presented here.

and stated that UN and other Organizations should evolve necessary punitive actions. The delegation was of the view that it constituted clear violation of safety navigation and international law. The delegation observed that stern laws were required to suppress piracy and terrorism at Sea. In connection to it, the delegation recommended that AALCO should take up piracy as a priority item and incorporate the topic in the next Annual Session of AALCO and invited the Member States serious consideration on the issues related to piracy.

President: Thank you. Now I invite the delegation from Pakistan to deliver his statement

The Delegate of Pakistan: The Delegate of Pakistan highlighted its role in combating piracy and explained the recent actions taken against piracy thus saving people of different nationalities.

President: Now we have come to the end of our deliberations on the agenda item on the 'The Law of the Sea'.

The Meeting was thereafter adjourned.

X. VERBATIM RECORD OF THE FIFTH GENERAL MEETING

**X. VERBATIM RECORD OF THE FIFTH GENERAL MEETING
HELD ON WEDNESDAY, 29 JUNE 2011 AT 2.10 PM**

His Excellency Mr. Rauff Hakeem, President of the Fiftieth Annual Session in the Chair.

Agenda Item: 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.

President: I welcome you all back from the lunch break. This afternoon we will have a discussion on a very important agenda item namely: “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”. I will now call upon the Dr. Hassan Soleimani, the Deputy Secretary-General of AALCO to introduce this topic.

Dr. Hassan Soleimani, Deputy Secretary-General, AALCO: Hon’ble President, Hon’ble Ministers, Excellencies, Distinguished Delegates, Ladies and Gentlemen. I have the honour to introduce 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”. Following the mandate in the resolution adopted at the Forty-Ninth Session, AALCO/RES/49/S4, the Secretariat has prepared Document AALCO/50/COLOMBO/2011/S 4 related to this topic.

Excellencies, as we all are aware the Blockade of Gaza, a very critical aspect of the Israeli/Palestinian conflict, was put in place by Israel in June 2007. Unfortunately, on 15 June 2011 the Gaza Strip has entered the fifth year of a full blockade by land, air and sea. Since the blockade started, it has left more than 1.5 million Palestinian men, women and children trapped in the Gaza strip. The closure of all its borders, has in fact taken away from the Palestinian civilians their “right to seek refuge in other territories”, a situation that has the potential of acquiring yet another violation of human rights of Palestinian people. The blockade of Gaza is a form of “collective punishment”, and Israel’s continuing blockade of Gaza represents a flagrant violation of international law. The massive military operation in the occupied Gaza Strip has caused grave violations of international humanitarian law and the human rights of the Palestinian civilians therein. The illegal Israeli siege imposed on the occupied Gaza Strip, including the closure of border crossings and the cutting of supply of food, medicine and fuel, constitutes collective punishment of Palestinian people and has lead to disastrous humanitarian and environmental consequences.

The UN Relief and Works Agency for Palestine Refugees (UNRWA) has estimated an unemployment rate of 45.2 percent, one of the highest rates in the world. The agency also stated that refugees, who make up two-thirds of Gaza’s 1.5 million population were the worst hit. In this connection a UN official recently stated “it is hard to understand the logic of a man-made policy which deliberately impoverishes so many and condemns

hundreds of thousands of potentially productive people to a life of destitution”. (The Hindu, Wednesday, June 15, 2011, pg 17).

It may be recalled that a Seminar on “The Blockade of Gaza and its International Legal Implications” was convened at the AALCO Headquarters on 16 July 2010. Subsequently the AALCO Secretariat brought out a publication entitled “The Blockade of Gaza and its International Legal Implications: Report of the Seminar and Select Documents”. It was released by H.E. Eng. John Kijazi, the High Commissioner of the United Republic of Tanzania for India on the occasion of the 54th Constitution Day of the Organization on 15 November 2010.

Excellencies, for more than four decades now, the creation of Jewish Settlements has been a central component of Israel’s efforts to consolidate control over the Gaza Strip and the West Bank, including East Jerusalem. Israeli settlement construction has served not only to facilitate territorial acquisition and to justify the continuing presence of Israel armed forces on Palestinian lands, but also to limit the territorial contiguity of areas populated by Palestinians and thereby to preclude the establishment of a viable independent Palestinian State. Israel has been practicing its colonial settlement policy since 1967 which is aimed at settling the Jewish population in the Occupied Palestinian Territories (OPT) to make the local population a minority community and for other forms of subjugation¹.

These acts of settlement of Jewish population in OPT is in clear violation of article 49 of the Fourth Geneva Convention which says that ‘the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies’. These acts are intended to change the physical character and to bring demographic changes in the OPT. This policy is being continued by Israel despite its condemnation in unequivocal terms by the international community.²

Equally disturbing are the recent developments in East Jerusalem, including the increase in the number of demolitions. It maybe recalled that seven years ago on 9 July 2004 the International Court of Justice (ICJ) had issued its landmark Advisory Opinion confirming the illegality of building the wall in the West Bank and the illegality of building settlements in the Occupied Territory, it is deplorable that this historic ruling by the international community’s highest judicial organ has largely remained a dead letter and the Israeli Government has continued the construction of the wall in defiance of the

¹ See page 8 of AALCO/50/COLOMBO/2011/S 4

² For e.g., UN Security Council Resolution 465 of 1980 says:

“...all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel’s policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.”

Advisory Opinion and in violation of the Fourth Geneva Convention and the General Assembly resolutions.

Excellencies, in view of the gravity of these developments we need to reaffirm that the principal tool to redress the situation and uphold justice and compliance of international law as embodied in international legal instruments such as the Fourth Geneva Convention, the ICJ Advisory Opinion and the relevant United Nations resolutions. Thus, only compliance of international law will allow for the resumption of a genuine engagement with a view to resolve the Israeli-Palestinian conflict.

It is pertinent to mention here that in September 2011 the Question of the Statehood of Palestine will be discussed at the Sixty-Sixth Session of the United Nations General Assembly.

Excellencies, deliberations at the previous Annual Sessions of AALCO have consistently reaffirmed that the resolution of the Israeli-Palestinian conflict through negotiations should be firmly based on the principles of international law, including the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians. It is also very important to take into account the widely supported United Nations Security Council and UN General Assembly resolutions 242, 338 and 1515 which affirm the legal obligation of Israel to withdraw from Palestinian territories obtained in 1967.

Excellencies, with these introductory remarks, let me draw the framework for the deliberations, which will follow. Deliberations may focus on the violations of international law, particularly international human rights law and humanitarian law, committed by the Government of Israel in the Occupied Palestinian Territory (OPT), Fourth Geneva Convention, United Nations Security Council and General Assembly Resolutions, war crimes committed in Gaza by Israeli forces including the blockade of Gaza and the role of the international community to pressurize Israel to comply with its international obligations.

Thank You.

President: I thank Dr. Soleimani for his very informative statement. Now I take this opportunity to invite the Minister of Justice of the Palestinian National Authority to deliver his statement.

The Delegate of the State of Palestine: His Excellency Mr. Rauff Hakeem, the President of the Fiftieth Annual Session, Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO, dear guests, ladies and gentlemen.

I have come with a dream. Not a dream of an individual but a collective dream of a whole nation that is sick and tired of this ongoing conflict in the Middle East. More than six decades have passed and the agony continues.

We are an inseparable part of the global family of civilization. We have made a pledge to our people that the Israeli occupation of our land will soon disappear. We made a pledge that Israeli practices against our people will soon come to an end.

We made a pledge that the ongoing conflict, pain, bloodshed, instability, poverty, displacement and banishment of our people will no more exist in our region. It is clear to all of us that these hardships will end.

The international community through the United Nations General Assembly back in 1947 decided to partition Palestine into two states. The Jewish state has already been there since 1948. Not the time has come for the second half of the resolution to implement. Ladies and Gentlemen, it is your job to make this happen.

Deportation of Palestinians has started even before the creation of Israel in 1948. The objective has always been clear, at least for us, the Palestinians. It meant the displacement of our people with new comers, Jewish settlers, who have migrated into Palestine from all corners of the universe.

Dear all, the General Progress Report and Supplementary Report of the United Nations Conciliation Commission for Palestine, covering the period from 11 December 1949 to 23 October 1950 stated that 750,000 out of 900,000 Palestinian Arabs who lived in Palestine had either fled or were forced to leave because of the hostilities that preceded and followed the creation of Israel in May 1948.

While causes and responsibilities of this grandiose exodus of Palestinians remain subject for historians to debate, the matter of fact is that the Palestinian people have since been subjected to a systematic campaign of displacement either directly at the hands of Israel or indirectly as a result of the very difficult situation that has existed in our land for the past six decades and more.

A new flux of exodus hit the Palestinians during and after the June 1967 war. An estimated number of 330,000 Palestinians have fled or were forced to leave the Palestinian territories that were occupied by Israel i.e. the West Bank, East Jerusalem and Gaza Strip.

Moreover, Israel treats East Jerusalem Arabs as foreigners in their own land but allows them privileges of the so-called permanent residency. Yet those privileges are subject to summary revocation, denial, or severe restriction at any time for any reason by civil or military Israeli orders.

A Palestinian from East Jerusalem who lives out of the city for full seven years, even in the West Bank which is still under the overall Israeli Military control, can easily have

his/her status revoked and be deported out of the city. By contrast, Jews who live outside Israel for years and years are never questioned about their place of living. They enjoy an automatic and unrestricted right to return to the country. They are even encouraged by their government to return. If this is not ethnic cleansing and nation's displacement, what else can it be?

In the years that followed Israel's systematic deportation of Palestinians, Jewish settlers were given every government incentive to settle in privately owned or public land in the West bank, East Jerusalem and Gaza Strip, simply replacing the original owners. Today, the number of Jewish settlers who live in the West Bank is over half a million settlers living in some 470 Jewish settlements, all declared by the international community as illegal and even by the US Administrations as an obstacle to peace.

While Palestinians living in the Occupied Territories are subject to all sorts of Israeli movement restrictions, Jewish settlers enjoy free movement throughout the West Bank and Jerusalem.

In the past few years, Israel has set up new network of "Jews Only" roads known as bypass roads which Palestinians are not allowed to use. If this is not apartheid, what else can it be?

Ladies and Gentlemen, last but not the least, we are getting closer to September deadline when we intend to bring our cause to the UN. The UN is where the State of Israel was born in 1948. The UN we hope, where the independent State of Palestine will be born this September. It is a global interest to end this conflict. And it is a global duty that justice is finally served.

Embrace our future. Think of what you can do tomorrow in order to clear the agony of yesterday. I have come here with a hope of a wounded nation seeking justice and freedom. Don't kill our hope. Embrace it. Thank you all. I am looking forward to receiving you in the Independent State of Palestine.

President: I thank the Minister of Justice for his statement and now I request the delegation of Japan to make their statement.

The Delegate of Japan: On the issue of Palestine, since the day before yesterday, I have carefully listened to many previous speakers on this question and I share their concerns about the conditions in the occupied territories, particularly the Gaza Strip, Japan recognizes new measures announced by Israel regarding the admission of entry into Gaza of civilian goods, but we should keep an eye on their full and prompt implementation so that will lead to actual improvement in the social and living conditions of the Palestinian people. One good news is that Japan's six assistance projects in Gaza which had been suspended by Israel were recently admitted to restart. We are hoping that we can implement the six humanitarian projects as soon as possible.

Japan firmly supports a two-state solution whereby Israel and a future independent Palestinian State live side-by-side in peace and security, which will most probably be achieved based on 1967 lines, with mutually agreed swaps. At the same time, we are convinced that the best and only way to achieve this goal is through direct negotiation, based on the relevant UN Security Council Resolution, the Madrid Principles, the Road map, the agreements previously reached by the parties and the Arab Peace Initiative. I would like to ask AALCO Members to help create an environment conducive to such direct negotiations between the Palestinians and the Israelis. Thank you.

President: I thank the delegation of Japan and now invite the delegation of Pakistan to make their statement.

The Delegate of Pakistan: Mr. President, Excellencies, Ladies and Gentlemen, we are meeting today at a crucial time when the situation in the occupied Palestinian territories is experiencing substantial developments. However, the ceasefire, being a positive development, has created an atmosphere of relief. Hopefully it will persist and the situation in the Palestinian territories will improve to the satisfaction of the Palestinian people.

The hope that the Annapolis process had given us seems to be fading due to Israeli practices of continued illegal settlements, which Israel is pursuing unhindered and in total disregard of the relevant UN resolutions, international law and norms. Such moves that are aimed at changing the demographic structure of the areas are detrimental to the interests of the Palestinian population and its legitimate rights.

On the economic front the Donors Conference in Paris and the Investment Conference, were certainly encouraging. Both of these demonstrate the depth of international community's resolve on helping the Palestinian people at both the governmental and non-governmental levels. Such efforts should undoubtedly continue and be supported.

Pakistan denounces the Israeli practices of illegal settlements and desecration of the Al-Aqsa, which has immense spiritual importance for Muslims throughout the world. Such and other Israeli actions aimed at changing the legal status, demographic composition and character of Al-Quds Al-Sharif, are against the provisions of the international law, UN resolutions and voice of the international community, and will seriously jeopardize the recently invigorated peace process. We fully support the efforts of the international community on ending such Israeli violations and call on Israel to respect international humanitarian law, stop illegitimate activities, lift the siege on Gaza, and take all measures for preservation of the Holy places.

Excellencies, Ladies and Gentlemen, Pakistan has consistently extended unequivocal and unreserved support to the Palestinian cause, the fundamental elements of which are total withdrawal of Israel from occupied Arab Territories including Jerusalem and the restitution of inalienable rights of the Palestinian people including establishment of an independent homeland.

Pakistan supports the resolution of the Palestinian issue in accordance with UN Security Council Resolutions 242 and 338. Pakistan further supports the Arab peace Plan, which offers establishment of normal relations of the Arab world with Israel, implementation of UN resolutions 194, 242 and 338, with a State of Palestine with Al Quds Al Sharif as its capital; moreover we also support the Right of Return of the refugees. Pakistan supports all international efforts for peaceful resolution of the conflict. Thank you Mr. President.

President: I thank the delegate of Pakistan and now invite the delegate of the Democratic People's Republic of Korea to make his statement.

The Delegate of the Democratic People's Republic of Korea: Mr. President, despite the fact that a number of UN General Assembly and UN Security Council Resolutions were adopted for the purpose of putting an end to wanton violation of international law by Israel in occupied Palestinian territories, and international community is continuing its efforts to implement them, Israel is escalating acts of violation of international law particularly the principles enshrined in the UN Charter, the International Declaration on Human Rights, the Hague Conventions of 1907, the Fourth Geneva Convention of 1949 in Gaza Strip, the West Bank and East Jerusalem to the point that cannot be just looked on any more.

The Democratic People's Republic of Korea's delegation appreciates that AALCO, considering the Palestinian issue as an important regional issue having serious political and legal implications, included this item in the agenda from the 37th annual session and have been making contribution with constructive opinions in deliberations to this date. We also appreciate that AALCO have been representing the positions of its Member States in international arena like the UN on this issue.

It is a consistent position of the Democratic People's Republic of Korea government stated to the world that Israel should immediately stop its acts of terror against Palestinians, lift the blockade of Gaza Strip and withdraw from all the occupied Arabian territories.

The Delegation of Democratic People's Republic of Korea reaffirms the consistent support and solidarity of the government of Democratic People's Republic of Korea to the struggle of the Palestinian people for the restoration of their legitimate rights which includes the right of self-determination, right to return to the State and right to establish an independent state, and the struggle of Arabian people to achieve lasting peace in the Middle east. In future, we will strengthen our solidarity with other countries in the struggle to end the military occupation by foreign forces which is an obstacle for world peace and security. Thank you.

President: I thank the delegate of the Democratic People's Republic of Korea for his statement and now I call on the delegate of the Islamic Republic of Iran to make his statement.

The Delegate of the Islamic Republic of Iran: Mr. President, at the outset I would like to express my sincere appreciations to the Secretariat of the AALCO for preparing the document AALCO/50/COLOMBO/2011/SD/S4. My delegation has found the report as a useful and informative document which touches upon such a matter of high significance.

Mr. President, the catastrophic situation in the occupied Palestinian territory in recent years, resulted from the abhorrent carnage and the crimes perpetrated by the Israeli regime, is a clear magnification of a cold-blooded massacre of innocent civilians, most of them women and children.

Mr. President, the Islamic Republic of Iran with strong willing condemns the Israeli Authorities for breaching the International human rights and humanitarian law by preventing the international humanitarian aids from the people of Gaza Strip, attacking to Turkish peace ship to Gaza by Israeli authorities and preventing the homeless Palestinian refugees from returning to their own homes.

As the experts of Human Rights Council have confirmed, the Israeli political and military officials and the soldiers in the field as well have committed international crimes, in particular war crimes and crimes against humanity and even crime of genocide. The result of the investigations done by some regional and international organization, governmental or non-governmental, lead us to this fact that Israeli officials and soldiers are responsible for the committed crimes in Gaza. The crimes committed against Gaza population in many aspects are unique in history. Because of broad media coverage of the aggressions: the relevant facts of the committed crimes were in the public knowledge and the investigation process could be easier. My delegation would like to pose the question that what is our “shared responsibility” to react against these heinous crimes and what role this organization could play in this respect. The nation and government of the Islamic Republic of Iran on many occasions and in different forums announced that the Israeli criminals shall be brought into justice for their actions or omissions.

Mr. President, the Islamic Republic of Iran believes that the international community is currently confronting a situation, in which the governments and international community shall demonstrate that “all are equal before the law” and there is no privileged person or states. Furthermore all states, nations and international institutions are responsible to put an end to these human tragedies and prosecuting and punishing the Israeli accused persons.

My delegation would like to express that the world is under a historical examination to show its veracity and impartiality to confront the international crimes. It would be established for all that whether the culture of impunity has disappeared genuinely and with no exception in the international community or still there are some regimes and attributed organs who receive full immunity and protection and they would not be brought into justice even for their wild conducts.

Finally the Islamic republic of Iran firmly believes that the world community should in a united manner take urgent measures to stop the future criminal attacks which bear all the

trademarks of collective punishment, crimes against humanity and war crimes. In addition the international community must urge the occupying power to fulfill its obligations and pay due attention to the conclusions of the ICJ in its Advisory Opinion presented in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* which include the obligation to put an end to the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law and compensate the loss occurred by this construction. Thank you Mr. President.

President: Thank you very much with those comments there would be the next intervention from Egypt please.

The Delegate of the Arab Republic of Egypt³ said that the Israeli actions in the occupied Palestinian territories were in flagrant violation of all established principles of international law and were a grave threat to the peace and security of the Middle East and the world in general. Therefore it was vital that the international community cooperated to bring that dangerous situation to an end. For that it was necessary that Israel remove all the illegal settlements from the Palestinian Occupied Territories and remove the separation wall, which were the cause of major hardships to the people of Palestine. The delegation said that the new Government in the Arab republic of Egypt was doing its best to ease the situation in the Middle East. The delegation said that the Egyptian position had been made in many previous sessions of the Organization, and maintained that Israel should end its occupation of Palestinian territories and restore the 1967 borders, and arrive at a solution based on the principles of peace and justice.

President: Thank you. With that statement may I ask the Leader of Bangladesh to make their statement.

The Delegate of Bangladesh: Thank you Mr. President for giving me the floor. We have listened with due attention the presentation by the Hon'ble Minister of Justice of Palestine on the situation in Palestine.

We have also noted the contents of the reports by the AALCO Secretariat on the issue of 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.

My delegation is in alliance with the Draft Resolution of AALCO for the 50th Annual Session. We would call upon AALCO Member States to take necessary measures to implement the items contained in the draft resolution.

Mr. President, my delegation through our general statement has stated that Bangladesh position has been categorical and consistent extending full support to the inalienable rights of the Palestinian people including their right to have a State of their own with

³ Statement was delivered in Arabic. Unofficial translation from interpreter's version.

Jerusalem as their capital. Bangladesh fully supports the implementation of all relevant UN resolutions particularly the Security Council Resolutions 242, 338, 425 and UN General Assembly Resolutions on the formula of Land for Peace calling upon Israel to withdraw from all occupied Palestinian territories and also relevant resolutions on the return of Palestinian refugees to their own land.

Bangladesh extends full support to any development aimed at resolving the Arab-Israel dispute calling for a lasting and durable peace.

We would like to flag out some of the important issues that have to be taken into account by the international community:-

- 1) Inalienable rights of the Palestinian's return to their homeland.
- 2) Taking into account the pre-existing border before the 1967 Arab-Israeli war.
- 3) Recognizing the rights of the Palestinian people to have Jerusalem (Al Qurds Al Sharif) as its capital, and
- 4) At the top of all, Israeli settlements in all occupied territories in Palestine without rapid occupation of Israeli settlements, without this the Palestinian problem cannot be resolved.

Of course my delegation will follow the other developments as it evolves on this issue and maybe we would like to intervene at a later stage.

President: Thank you very much. May I now call upon Indonesia.

The Delegate of Indonesia: Mr. President, Distinguished Delegates, the Israeli-Palestinian conflict has been a fundamental and lasting dispute between Israel and Arab countries. A long unnecessary suffering for civilians and innocent people are cause by this violent conflict. Furthermore, the prolonged situation has a grave impact on the prospect for realizing regional and international peace and security. This issue is touching every principle of UN Charter that should not be violated for any reasons and by any States.

Many efforts to reach the peace are made but those efforts towards peace have been halted by the Israeli's accelerated establishment of illegal settlement and wall construction in the West Bank, including East Jerusalem, its frequent attack to Gaza Strip, and many other measures. This atrocity action undermines all efforts to restart peace talks between Palestine and Israel, jeopardizes the vision of two-state solution, and further complicates the conflict in the region.

Mr. President, Distinguished Delegates, the construction of wall coupled with the establishment of settlements is isolating the Palestinian people. The "violence of construction" is seen in the demolished homes, isolated villages, separated families and rotting agricultural lands left in its wake. This condition is creating a situation to further forced and displaced the Palestinians from their own land.

In addition, Israel's military onslaught and frequent attack against innocent civilians in Gaza including the blockade of that area worsen the already dire humanitarian situation there.

The international community is much aware of the ultimate objective of these illegal policies and measures. Israel is clearly aimed at altering the demographic composition, physical character, and status of the Occupied Palestinian Territory, including East Jerusalem. Israel constitutes grave breaches of international humanitarian law and violations of human rights law and United Nations resolutions.

In this backdrop, I would like to express, in the clearest manner possible, its outrage at and strong condemnation of Israeli crimes. Indonesia also demanded that Israel immediately and fully cease all these violations of international law.

Mr. President, Distinguished Delegates, Indonesia stressed the urgency of undertaking efforts to help advance a fair and credible peace process is must firmly based on the relevant UN resolutions, including Security Council resolutions 242, 338, 425, 1397, 1515 and 1850, the Madrid terms of reference, including the principle of land for peace, the Arab Peace Initiative and the Quartet Roadmap, bearing in mind the objective of achieving a peace settlement by September 2011.

The peace process also must ensure an end to the occupation of the Palestinian Territory and the other Arab territories occupied by Israel since 1967, including East Jerusalem; the exercise by the Palestinian people of their right to self determination in an independent, sovereign and viable State of Palestine, with East Jerusalem as its capital; and a just solution for the plight of the Palestinian refugees based on General Assembly resolution 194.

Mr. President, Distinguished Delegates, Indonesia believes that illegal Israeli actions in the Palestinian Occupied Territories can neither help the cause of peace, nor can Israel reasonably expect them to be allowed to stand unchallenged. It is time to halt all illegal policies that breed only hatred, violence, and tension, rather than peace and progress. I reaffirmed the permanent responsibility of the UN including the Security Council, to assume its responsibilities and act on the basis of its own resolutions to compel Israel to cease its illegal policies, respect international law and bring an end to its unlawful forty-four year occupation of the Palestinian and other Arab territories occupied since 1967.

In this connection Indonesia reiterates its support to the Palestinians for their legitimate struggle to establish their own State that should be based upon the vision of two states- Palestine and Israel- living side by side within a secure and internationally recognized border.

In line with the result of 16th Ministerial Conference and Commemorative Meeting of the Non-Aligned Movement held in Bali, Indonesia on 23-27 May 2011, I would like to urge the Members of AALCO that have not yet extended recognition to the State of Palestine to do so as soon as possible, consistent with the State-building efforts being undertaken

on the ground and as a positive contribution towards making a reality Palestine's independence on the basis of international law and UN resolutions. Last but not the least, I hope AALCO members remain at the forefront of support for the historic march of the Palestinian people to freedom and peace. I thank you.

President: We have another agenda item to discuss before the end of the day. However, we have two more delegations that have indicated their willingness to take the floor. I now call upon the delegation of the State of Qatar.

The Delegate of the State of Qatar⁴ said that the establishment of Israel was illegal and its atrocities against the unarmed people of Palestine were in flagrant violation of principles of international law. The delegation said that it was difficult to imagine the suffering of the people of Gaza who were denied access to all humanitarian and medical aid, and whatever aid was forthcoming it was blocked by Israel, therefore the delegation requested the members of AALCO to continue to give legal support to the people of Palestine.

President: Thank you for that intervention. Now I call upon the delegation of Malaysia to make their statement.

The Delegate of Malaysia: Mr. President, Madam Vice-President, H.E. the Secretary-General, Excellencies and Distinguished Delegates, Ladies and Gentlemen, Israel's occupation in Palestine has been an issue of concern at the international for a for a very long time. Almost every day we are exposed to news of the suffering and hardship being endured due to the grave breaches committed by Israel. These horrific acts of suicide bombing, torture, killing, deportation, migration and other crimes of aggression have been ongoing for far too long. All these acts of violence are against the Security Council Resolution 446 (1979) which calls upon Israel, as the occupying power, to abide by the Fourth Geneva Convention⁵ to reverse its previous measures and to stop from taking any action which would result in changing the legal status of the Arab territories occupied since 1967. These acts of violence have been constantly condemned by the world communities as being inhumane and amounting to grave breaches of the international law, particularly international human rights law and international humanitarian law (IHL).

The denial of rights of the Palestinian people and other Arabs in the occupied territories had worsened as a result of, *inter alia*, the expansion of illegal settlements, home demolitions, forced evictions, ongoing construction of the separation wall and the revocation of residency rights. Malaysia calls for the adherence of the Security Council Resolution 904 (1994) and the Security Council Resolution 1073 (1996) which were passed to call for measures to be taken to guarantee the safety and protection of the Palestinian civilians throughout the occupied territory, including, *inter alia*, a temporary international or foreign presence and also the Declaration of Principles on Interim Self-

⁴ The statement was delivered in Arabic. Unofficial translation from interpreter's version.

⁵ Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949.

Government Agreements⁶ of which the Parties to the Declaration agreed that “it is time to put an end to decades of confrontation and conflict, recognize their mutual legitimate and political rights, and strive to live in peaceful coexistence and mutual dignity and security and achieve a just, lasting and comprehensive peace settlement and historic reconciliation through the agreed political process”.

Mr. President, In spite of the statement made by Israel to reduce the blockade of Gaza, restrictions and obstacles remain in place which severely hinders the progress towards reconstruction in the Gaza Strip and hamper the movement of people. Under the established laws of naval blockade, the declaration or establishment of a blockade is prohibited if the sole purpose is to starve the civilian population or to deny it other objects essential for survival or if the damage to the civilian population is or may be expected to be excessive in relation to the concrete and direct military advantage anticipated from the blockade⁷. Further, a blockade may not be used to prevent passage of relief consignments according to the applicable rules of IHL, in particular Articles 23, 59 and 61 of the Fourth Geneva Convention. Malaysia notes that under the laws of naval warfare, neutral vessels believed, on reasonable and probable grounds to be breaching a legally established blockade, may be stopped and captured and if such vessels, after prior warning, clearly resist capture, they may be attacked as provided in Principle 5.2.10 of the Helsinki Principles⁸. However, the mere fact that a neutral vessel is armed (e.g. as defence against pirate attack) is no ground for attacking it.

The last time Israel lifted the blockade was in June 2008 but yet again, history repeats itself. The attack by Israel⁹ against the MV Mavi Marmara, being a humanitarian aid convoy on the high seas of the Mediterranean, that occurred about a year ago clearly goes against established principles of establishing a maritime blockade. In that case, the world communities have yet to see any legal ramifications being brought against Israel for its actions. Malaysia is of the view that Israel should bear the consequence of its actions and the international community must ensure that there is no impunity for this violent transgression of international law.

More recently, it has been reported of the Israeli naval forces attack on the Malaysian owned ship. “The Spirit of Rachel Corrie”¹⁰ in the “Palestinian Security Zone” which has been carrying aid for Palestine. “The Spirit of Rachel Corrie” was to highlight the effects of the illegally imposed Israeli siege and raise awareness of the human rights violations of the people of Gaza. Despite Israel’s continuous actions of preventing humanitarian aid and relief efforts from reaching the Palestinian people. Malaysia will continue in its efforts to reduce the predicament of the civilian Palestinian people and the condemnation of the attacks by Israel’s which is contrary to the Security Council Resolution 242 (1967).

⁶ Agreement signed between Israel and the Palestinian Liberation Organization (PLO), signed on the White House Lawn in September 1993.

⁷ Paragraph 102 San Remo manual on International Law Applicable to Armed Conflicts at Sea (the Manual was adopted on 12 June 1994 in Livorno, Italy and is a project sponsored by ICRC).

⁸ Helsinki Principles on the Law of Maritime Neutrality (1996).

⁹ Attack on the MV Mavi Marmara was on the 31 May 2010.

¹⁰ The Ship “The Spirit of Rachel Corrie” is officially known as the “MV Finch”.

Mr. President, the fundamental rights of the Palestinian people of self-determination and a sovereign State as provided in Article 1 of the Montevideo Convention¹¹ has remained unrealised for more than four decades despite Palestine's efforts to be recognized as a sovereign State. Palestine should be allowed to exercise its sovereignty within its own territory. There have been numerous General Assembly Resolutions and also Security Council Resolutions that have envisaged the establishment of an independent State of Palestine and for the right of Palestinian people to self-determination. Amongst them are the Security Council Resolution 1397 (2002) which affirms a vision of a region where two States, Israel and Palestine, live side by side within secure and recognized borders and the General Assembly Resolution 54/152 (1999) which reaffirms the right of the Palestinian people to self-determination, including the option of a State.

Regardless of these Resolutions. Israel continues to be in defiance of international law and continues imposing restrictions on the movement of the Palestinian people in the Occupied Palestinian Territory, which defeats the purpose of the said Resolutions. Malaysia notes that the general Assembly Resolution 52/250 (1998) confers upon Palestine additional rights and privileges of participation that had previously been exclusive to Member States. These include the right to participate in the general debate held in the start of each session of the General Assembly, the right to co-sponsor resolutions and the right to raise points of order on Palestine and Middle East issues. The resolution also changes the seating of Palestine to a location directly after non-Member States. Further, Palestine is presently categorised as an "Entity" which is between "Non-Member State and "International Organizations". What amounts to an "entity" in international law in this context is unclear. Hence, it is evident that States are beginning to recognize the existence of Palestine and its legal status and this will greatly contribute to the peace process of this conflict.

Thousands of Palestinians, including children, have been detained, over the years, by Israel and subjected to humiliating and degrading treatment or torture, which is a clear contravention of Israel's responsibilities under international criminal law. Among the recent grave breaches committed by Israel is the closure of the endurance to Khirbet a-Dier (a Palestinian town located ten kilometres south of Bethlam) which has caused more than 150 people to be deprived of any ability to access their neighbourhood.

The world communities have undertaken various efforts to broach the conflicts between both Palestine and Israel, including negotiations and cease of fire. Irrespective of the numerous resolutions that have been passed by the international communities, Israel's refusal of cooperate is clear through its continued acts of impunity. This can be seen through the Security Council Resolutions urging Israel to abide by the various Security Council Resolutions and to desist forthwith from persisting in the policy and measures affecting the character and status of the Holy City of Jerusalem. These resolutions will not be effective solutions unless and until both of the conflicting Parties determine to

¹¹ Article 1 of the Montevideo Convention on the Rights and Duties of States provides the requirements for a "State": (a) permanent population; (b) a defined territory; (c) government and (d) capacity to enter into relations with other States.

resolve the conflict through their willingness to make far-reaching unprecedented compromises in order to arrive at a workable and enduring agreement.

Mr. President, Malaysia urges the international community to compel Israel to end its inhumane and illegal practices immediately, including the building of settlements in the occupied territory. Indeed, the time has come for the international community to turn its words of support into tangible action, by bringing to a halt Israel's violation of Palestinian rights. There must be an end to the violence that has rampaged both Palestine and Israel and far too many innocent lives have been lost. Violence has undermined the foundation of the peace process between Palestine and Israel and the solution to this must be based upon compromise between both Parties and not on conflict and violence. Thank you.

President: Yes the delegate of the Arab Republic of Egypt.

The Delegate of the Arab Republic of Egypt: Thank you Mr. President. My delegation would like to give a suggestion. That since it is the first time that a power point presentation was presented during the session concerning the case of Palestine, so the Egyptian delegation proposes that this power point presentation should be included in the material of this session and to be posted on the website of the Organization.

President: May I say in conclusion that there have been a wide spectrum of comments on the prevailing situation in the occupied territories of Palestine, particularly the blockade of Gaza, and the immeasurable human suffering in that strip of land, the continuous violation by way of collective punishment on the hapless people of the occupied territories, the violation of international humanitarian law and human rights law, closure of the border and supply of food, medicine and fuel being obstructed, and it was a glaring fact that was brought out by the Honourable Minister of Justice from Palestine that the unemployment is at 45% in the Gaza Strip. Then again we had comments condemning the non implementation of various UN resolutions 242, 338, 237, 1315 etc. Of course on the illegal settlements we have had the condemnation from a variety of Member States who spoke on the issue of land for peace principles too. And to achieve a two-state solution to these continuous violations by Israel appears to be a big hindrance. Iran delegation went further in saying that Israel should be held accountable for war crimes, genocide and crimes against humanity, for continuing with this impunity and their atrocious conduct in occupied territories. Now, these comments that have been made would be part of the record.

Agenda Item: Expressions of Folklore and Its International Protection

President: We will now move on to another subject which we have to conclude before we conclude the session and that would be on "**The Expressions of Folklore and its International Protection**". I believe there are several delegations that wish to make statements; I would like them to be as brief as possible. May I call upon our Deputy Secretary-General Dr. Hassan Soleimani to make a small introductory statement

Dr. Hassan Soleimani, DSG of AALCO: Mr. President, Hon'ble Ministers, Attornies-General, Excellencies, Distinguished Delegates, Ladies and Gentlemen, It is my pleasure to introduce the agenda item "Expressions of Folklore and its International Protection", contained in Secretariat Document AALCO/49/DAR ES SALAAM/2010/S 14. It may be recalled that this topic has been on the agenda of the Organization since its Forty-Third Annual Session held at Bali, Indonesia in 2004.

Mr. President, Expressions of Folklore are considered to be an important aspect for developing countries in terms of identifying their community's history, cultural and social values. The matters relating to Expressions of Folklore are extremely important for the Asian-African countries because of the vast cultural and biological resources they own. Therefore, it is necessary to negotiate a legally binding instrument to prevent the misuse and misappropriation of folklore at international level.

The Secretariat Report on the agenda item which provides an overview of the work of the World Intellectual Property Organization (WIPO) Intergovernmental Committee (IGC) since its inception, focusing its attention on the recently concluded Seventeenth Session of the Committee and the documents circulated at the Sessions for the consideration of the Member States. The report also annexed with the Draft Articles of Open-ended Informal Drafting Group of the IGC noted at the Seventeenth Session for the ready reference to the Member States.

Mr. President, The WIPO IGC has so far convened Eighteen Sessions. The matters relating to Expressions of Folklore were considered at the Inter-sessional Working Group (IWG-1) established for that purpose, had discussed the possible text for an international legal instrument on the protection of Expressions of Folklore. The Inter-sessional Working Group had worked within the following mandates: *firstly*, to support and facilitate the negotiations taking place in the Committee, and *secondly*, to provide legal and technical advice and analysis, including where appropriate, options and scenarios, for consideration by the IGC.

After extensive and detailed deliberations in the plenary of Inter-sessional Working Group, an Open-ended Informal Drafting Group has considered the Working Group's Draft to further discuss, exchange and consolidate the various views expressed, and to propose streamlined text, including options. They made a real effort to refine text, and disagreements were revealed on several aspects in the form of different options, comments to the text, and questions on the state of play of protection and related institutions. The consolidated texts as prepared by the informal drafting group were commented on by the experts in the Inter-sessional Working Group and some experts added new options. There are currently 11 articles in the compilation text, some of which still needs to be discussed thoroughly. It was also decided to prepare a glossary of key terms and circulate it at the next Session.

Mr. President, In view of the importance of the agenda item, this Meeting shall deliberate on the issues such as:

- i. the Draft Articles of the Inter-sessional Working Group on TCEs/EoF; and
- ii. the Draft Articles of Open-ended Informal Drafting Group of the Inter-governmental Committee

Mr. President, As the matters relating to the adoption of a consensual international legal instrument on the protection of Expressions of Folklore is at the final stage, on behalf of the AALCO Secretariat, I would request the Member States to fully involve in the process of adopting such international legal instrument in a fair and effective manner for the benefit of the AALCO Member States.

Further, in order to discuss the final points before the formulation of an international legal instrument on Expressions of Folklore by the IGC along with Traditional Knowledge and Genetic Resources, a joint seminar or expert meeting on the protection of Expressions of Folklore would be pertinent at this juncture. In this regard, the AALCO Secretariat welcomes any such proposals from the Member States to organize such seminar or expert meeting in the near future. I thank you Mr. President.

President: I thank the Dr. Hassan Soleimani for that introductory statement and now invite the delegation of Sri Lanka for their intervention.

The Delegate of Sri Lanka: Mr. President, the ASIAN and AFRICAN countries have a rich culture and a heritage, of which a single identifiable element is folklore.

Folklore comprises of tangible and intangible forms of creativity. For an example, ancient practices, rituals, various forms of art, murals, designs, poems, folktales, different types and forms of beating of the drums & dances etc.

It is of paramount importance to provide protection against misappropriation and unauthorized commercial exploitation.

For the purpose of protecting the rights of the relevant sectors, it is of vital importance to develop a systematize mechanism or the creation of an instrument. In this endeavour I am of the fervent view that the following are to be considered favourably.

1. A committee be created constituting experts in the relevant field;
2. Identify tangible and intangible forms of folklore and compilation of a data base;
3. Formulate a scheme for benefit sharing in a fair and equitable basis;
4. Consider the creation of a system to prevent unauthorized misuse & misappropriation of folklore;
5. And finally I suggest that an effective method to be implemented to recognize the source of folklore.

I place these proposals before all of you for your kind consideration, whilst thanking Hon. Rauff Hakeem Minister of Justice of Sri Lanka and the President of the Fiftieth Annual Sessions of AALCO and H.E. Prof. Dr. Rahmat Mohamad, Secretary-General, AALCO for providing me the opportunity to take the floor.

President: I thank the delegation of Sri Lanka for their proposals and now invite the delegation of Indonesia to make their statement.

The Delegate of the Republic of Indonesia: Mr. President, Distinguished Delegates, the Indonesian Delegation on this occasion would like to make a few remarks on the issues related to Genetic Resources, Traditional Knowledge and Folklore (GRTKF).

We note that, since a few years ago, the AALCO Meeting has shown its serious concern about the progress achieved in the WIO Intergovernmental Committee on GRTKF (ICG-GRTKF) through discussions on the Agenda item, Expressions of Folklore and its International Protection. The AALCO Secretariat has provided an excellent report and analysis of progress in the AALCO document AALCO/50/COLOMBO/2011/SD/S 14, although it doesn't include recent developments in the 18th Session of the ICG-GRTKF WIPO meeting which were unable to reach an agreement on a draft Traditional Cultural Expressions (TCEs) document.

Mr. President, Distinguished Delegates, my delegation attaches great importance to the progress achieved in many areas of IPR protection which has developed considerably, while the most important interests of developing countries as well as the interests of the world at large, namely Genetic Resources, Traditional Knowledge and Folklore (GRTKF) have not received adequate attention or substantive outcomes.

In light of the priority given to the above issues, we follow closely the development which has been achieved so far such as the lists of core issues, gap analysis, objectives and principles which AALCO also includes in the AALCO/49/DAR ES SALAAM/2010/S 14 document. We are of the view that despite these achievements, the IGC was unable to reach a definite decision and to move forward toward the establishment of an international legally binding instrument or instruments. Unfortunately, these achievements could not bring the IGC to an agreement on the steps and measures which could lead toward the conclusion of international legally binding instrument or instruments as the final outcome of the ICG-GRTKF WIPO Meeting.

Noting the latest developments in the WIPO forum, my delegation would like to share its view that there is a need to anticipate that circumstances may remain the same in the Committee's next Session where the results of 18th Session will be discussed. Taking into account the time limit for the Committee's remaining sessions, it is important to provide the necessary time and forum for further consultations and opportunities, especially for developing countries to strengthen their positions on the outstanding GRTKF issues.

In relation to this, Indonesia, as a mega diverse country with a strong commitment to the effective protection of GRTKF, is hosting the 2nd Like Minded Countries Meeting which takes place at this time as we gather here from the 27th of June to the 30th June 2011 in Bali, Indonesia. The Like Minded Countries Meeting itself is a complementary discussion forum for some member countries that are like-minded on GRTKF issues and

with the purpose of facilitating the work of the Committee in establishing international legal instruments on the protection of GRTKF.

The Like Minded Countries Meeting is open to all Member countries having a common understanding of the effective protection of GRTKF and who are willing to adhere to the Meeting objectives enshrined in the present document. Taking into account its current position as the coordinator of the Development Agenda Group (DAG), Indonesia acknowledges the role of DAG in supporting development-oriented perspectives on GRTKF issues as well as promoting developing countries interests in all areas of the Committee's work.

Mr. President, Distinguished Delegates, To conclude, my delegation would like to take this opportunity to reaffirm our commitment to the efforts aimed at the establishment of a desired international legally binding instrument or instruments regarding the protection of Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions as a whole.

My delegation would like to recall the Bandung Declaration on the Protection of Traditional Cultural Expressions, Traditional Knowledge and Genetic Resources of 2007 that expressed the need to resolve and to take measures to prevent all forms of misuse, distortion, and misappropriation of Traditional Cultural Expressions, Traditional Knowledge and Genetic Resources.

Given this recent situation, my delegation would like to direct the attention of all AALCO Member States to the need to strengthen our position in order to achieve the conclusion of an international legally binding instrument on the protection of Traditional Cultural Expressions, Traditional Knowledge and Genetic Resources. My delegation would also urge all AALCO Member States to support the outcomes of the 2nd Like Minded Countries Meeting to be submitted in the 19th Session of the Committee that will take place in Geneva from the 18th of July to the 22nd of July 2011. Strong support will be needed by all of us in the 19th Session of the Committee, to continue the effort to conclude an international legally binding instrument on the protection of Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources.

In this regard, my delegation would like to urge this noble forum to issue an AALCO Resolution to support the outcomes of the 2nd Like Minded Countries Meeting in pursuing the conclusion of an international legally binding instrument on the protection of Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources. Thank you.

President: I thank the delegation of Indonesia for that comprehensive statement and now would like to invite the delegation of Japan for their statement.

The Delegate of Japan: Mr. President, Japan fully shares the importance of protection of traditional cultural expression/ folklore.

We welcomed the intensive discussions on the technical aspects which were conducted at the WIPO-IGC and its inter-sessional IWG meetings. Through those intensive discussions, however, we have not yet succeeded in forming an agreed view as to what should constitute the traditional cultural expression/ folklore to be legally protected. This very fact makes us feel how difficult the task is. Generally speaking, it would cause a legal instability and therefore would not be desirable to impose a legal obligation upon an object which we are unable to define precisely, because if we should do so, it would be detrimental to creative activity to foster culture.

Therefore, it is our view that, bearing in mind such difficulty of our task, we should continue our discussions at the WIPO-IGC to search for a ultimate solution on this question. Thank you.

President: Thank you Japan and now I invite the delegation of the Democratic People's republic of Korea for their intervention.

The Delegate of the Democratic People's Republic Korea: Mr. President, We support the inclusion of and the discussion on this issue in the annual sessions of AALCO, recognizing the importance of protecting national tradition such as folklore. Also, we appreciate that AALCO successfully represents the stands and interests of the Member States in establishing an international legal regime for the protection of folklore.

At present, many countries over the world have put it forth as an important task to protect their national traditions and are taking legislative measures to that end while strengthening cultural exchange and cooperation with other countries.

In DPRK, many cultural properties of the nation, which were endangered to extinction due to foreign occupation in the past, have been recovered and restored do successfully as to meet the demand of the times and desire of the people under the wise leadership of the great General Kim Jong II. Today, the DPRK Government has set it as its main policy to inherit and develop the national cultural heritage and is making strenuous efforts to develop and complete the domestic legislation to that end. Also, it is faithfully implementing its international obligations under the various multilateral treaties such as "Convention concerning the Protection of the World Cultural and Natural Heritage", and "Convention on the means of prohibiting and preventing the illicit, export and transfer of ownership of cultural property", which it is a party to and strengthening cultural exchange and cooperation with other countries.

Mr. President, Today the adverse effects of "Globalization" on the national cultural are getting more serious day by day, and national traditions such as traditional knowledge and folklore can't be protected by the efforts of any individual country alone. That's why establishing the international legal mechanism to protect the tradition like traditional knowledge and folklore is very important to all countries in the world, particularly to Asian and African countries.

In future, we all actively take part in the work of establishing international legal mechanism for the protection of tradition like folklore in close contact with Member States of AALCO. We will also strengthen the exchange and cooperation between States, and between nations. Thank you.

President: I thank the delegation of the DPR Korea for their intervention and now invite the Delegation of Malaysia for their comments.

The Delegate of Malaysia: Thank you Mr. President, the Honourable Secretary-General, Excellencies and Distinguished Delegates,

On behalf of the Malaysian Delegation, I would like to take this opportunity to express appreciation to the Deputy Secretary-General of AALCO and the Secretariat of AALCO for the comprehensive report on the work of the World Intellectual Property Organization (WIPO) Intergovernmental Committee (IGC) relating to the international protection of the expressions of folklore and its latest development.

Once again, the AALCO Secretariat has produced a comprehensive paper on the summary of deliberations on the Substantive Provisions on the Expressions of Folklore (EoF) and its protection.

Malaysia also welcomes and compliments the work done by the experts participating in the IGC inter-Sessional Working Group (IWG) as their participation had effectively support and facilitate the negotiation of the IGC.

In this regard, to further understand the work carried out in the IWG and IGC, Malaysia wishes to support the proposal of AALCO Secretariat that seminars or expert meetings on Expressions of Folklore should be organized to further facilitate the exchange of views by Member States on issues relevant to the protection of Expressions of Folklore.

Mr. President, Malaysia, through its Intellectual Property Corporation, will continue participating and monitoring with interest the developments of negotiations at the WIPO.

Malaysia also wishes to reiterate our commitment to support all efforts to deal with the misuse, misappropriation and commercial exploitation of expressions of folklore.

In conclusion, Malaysia shall continue to monitor and study this matter in light to Malaysia's domestic scenario to determine its acceptability and ensure that it will be beneficial to the local and indigenous communities. With this, I thank you.

President: Thank you Malaysia for that statement and now I request the delegation of Nepal to make their intervention.

The Delegate of Nepal: Thank you Mr. President for giving me the floor to speak on this pertinent issue. On behalf of my delegation, allow me, Mr. President, to express Nepal's sincere appreciation to the AALCO Secretariat and its staff for the comprehensive report

prepared on the expression of folklore and its international protection. I would also like to express my delegation's sincere appreciation of, and strong support for, the commendable efforts made by the WIPO Intergovernmental Committee (IGC) in preparing the necessary framework for the establishment of an international legal instrument to safeguard and protect the rights of expressions of folklore.

Mr. President, as a country with a history of thousands of years, various ethnicities and rich cultural heritage, Nepal has many types of folklore, traditional knowledge and belief systems. We, therefore, attach greater significance to the protection of folklore and traditional knowledge. We believe that reinforcing the protection of the folklore of our country will play an important role in prolonging the folklore for various ethnic communities of our country, and meanwhile make the folklore play a part in the development of our country at present, as well as in the future.

Mr. President, the recently adopted National Cultural Policy, 2011 of Nepal has also emphasized the protection of traditional cultural expressions of various ethnic communities living in the country. The said Policy has explicitly stated that the Government of Nepal will conduct a survey and study on the various forms of folklore of different ethnic communities and will adopt necessary measures to classify and protect them. It is also a declared policy of Nepal to protect and professionalize the original skills and technology used to produce traditional tangible folk arts and artifacts. Nepal's Ministry of Federal Affairs, Constituent Assembly, Parliamentary Affairs and Culture has recently formed a committee under the chairmanship of its Secretary to recommend necessary changes in its copyright legislation in order to accommodate all the pertinent issues including the protection of traditional cultural expressions within the ambit of copyright law.

Mr. President, While my delegation share the concern that folklore and traditional cultural expressions have been exposed to misappropriation and serious economic, psychological and cultural threats from alien sources, we find it equally challenging to devise an appropriate legal mechanism for the protection and safeguarding of folklore and traditional knowledge. The issues that have proven to be very difficult to address are the proper authentication or delineation of the content of folklore and traditional knowledge, the groups or communities who can assert property rights over them and the suitable compensation for appropriation and misuse of folklore and traditional knowledge.

Mr. President, Recalling that the first serious effort to devise an international mechanism for the protection of folklore and traditional knowledge was initiated by African countries, my delegation hopes that the Asian-African countries would be able to impress, through the platform of AALCO, upon the international community, in particular the Members of the WIPO, to adopt an appropriate international legal instrument on the issue of protection of folklore and traditional cultural expressions, so that the interests of Asian-African countries, who face common problems and share similar interest on this issue, could be safeguarded in a proper way. Thank you.

President: Thank you Nepal. Now I call upon the delegation of the Islamic Republic of Iran for their comments.

The Delegate of the Islamic Republic of Iran: In the name of God, the Compassionate, the Merciful. Mr. President, At the outset, I would like to express my sincere appreciation to the Secretariat of the AALCO for preparing the document AALCO/COLOMBO/2011/SD/S 14. My delegation has found the report as a useful and informative document which touches upon such a matter of high significance.

Mr. President, In the absence of the internationally binding rules for effective protection of Traditional Knowledge, Traditional Cultural Expressions (Folklore) and Genetic Resources, bio-piracy and misappropriation of the GRTKF for commercial benefit have become a prevailing phenomenon all over the world and particularly in developing countries. IP system, in the meantime protects indiscriminately inventions originated in misappropriations and piracy, irrespective of the consent of the authentic owners and the existence of an equitable profit – sharing agreement thereto. This rather unfortunate and rampant situation continues to deprive developing countries from greater leverage and revenues over the use of their potential resources and serves to undermine their sustainable development and competitiveness in international markets.

The only way to remedy this unfair situation is a paradigm shift in IP regime and establishing new international norms and binding rules to help developing countries to protect, utilize and commercialize GRTKF at the international level.

Establishment of the IGC by WIPO General Assembly in September 2000, gave rise to an unprecedented enthusiasm and hope for the extension of IP protection to the GRTKF. It is firmly believed that the effective protection of GRTKF could further improve the enabling environment for development in developing countries. However, in the past decade, IGC have seemingly failed to bear any tangible results, because of its unclear mandate, lack of focus, and unwillingness of certain countries.

The new mandate of IGC in 2009, to undertake text based negotiation with the objective of reaching agreement on the text of an international legal instrument or instruments which will ensure the effective protection of GRs, TK and TCEs, seems to have provided a new momentum for the fulfillment of this long – pending aspirations. As stipulated in the IGC mandate, we believe that the effective protection at the international level could only materialize by formulating legally binding international instruments. My delegation also wishes to echo the urgent need for the protection of ancient civilizations heritage, as a foundation and base for traditional knowledge and cultural heritage, through developing legally binding instruments.

Mr. President, to this end, my delegation believes that we should not lose sight of the fact that, the working documents on traditional knowledge and Traditional Cultural Expressions are a few giant steps ahead of that of the genetic resources. Therefore, the ongoing negotiations of the UN Convention on Biological Diversity, to establish an International Protocol on Access and Benefit Sharing, could assist and complement the

efforts in WIPO for ensuring the effective protection of genetic resources. I thank you Mr. President.

President: I thank the delegation of the Islamic Republic of Iran and now the last speaker on the list for this topic is the delegation of the People's Republic of China.

The Delegate of the People's Republic of China: Mr. President, Dear Colleagues, Expressions of Folklore, as an integral part of human civilization, is the emotional tie that holds a nation together and also the cultural foundation for national unity and social stability. It is well acknowledged that developing countries have numerous resources for Expression of Folklore. However, due to the disadvantages in political, economic and cultural aspects, Expressions of Folklore in relevant countries is suffering from encroachment and damages, and even facing the threats of misappropriation and misuse. We believe that, there is still a long way to go for the protection of Expressions of Folklore, which is not only the duties of the countries of origin, but also the common responsibilities of mankind.

Mr. President, the Intergovernmental Committee on Intellectual Property and genetic resources, Traditional Knowledge and Folklore (IGC) established by the World Intellectual Property Organization (WIPO) has done a lot of work to protect the Expressions of Folklore over the past ten years. Last year, the Inter-Sessional Working Group focused on discussing the topic of Protection of Expressions of Folklore and achieved positive results, which we highly appreciate.

Nevertheless, we should also bear in mind that Expression of Folklore still lacks common awareness and effective protection in many countries, particularly in developing countries. Since the international community cannot achieve substantial breakthrough in discussions on disputed matters such as protection standard and ownership of the right in the Protection of Expression of Folklore, there is not even a binding legal instrument in this regard at the international level by far.

The mandate granted to IGC is reaching an end, therefore, we welcome the renewal of this authorization and hope that IGC will continue to promote all the parties concerned to reach consensus in drafting an international legal instrument on this matter.

Mr. President, the Chinese Government has attached great importance to the protection of Expression of Folklore. The "Outline of the National Intellectual Property Strategy" promulgated by the Chinese government in 2008 stipulates that China will strengthen the protection of Expression of Folklore and promote their development, extensively explore and cultivate Expression of Folklore and set up a benefit sharing mechanism that will assure a reasonable balance between conservators of Expression of Folklore and those who use those resources to create new works, in order to protect the lawful rights and interests of individuals and communities. The Chinese government is now making studies on the pertinent legislation in order to shoulder responsibilities in due regard.

Since the establishment of IGC, China has always actively participated in the relevant conferences and negotiations, supported the reasonable appeals of developing countries. Asian-African countries are facing common problems and sharing similar interests and positions on the protection of Expression of Folklore. We do hope the Member States will strengthen communications and co-ordinations on this issue through the platform of AALCO, so that the interests of the interests of the Member States will be safeguarded in an even better way. Thank you, Mr. President.

President: With this statement we come to the end of the discussion on this topic. Thank you all for presenting us the views of your countries on this topic.

The Meeting was thereafter adjourned.

**XI. VERBATIM RECORD OF THE
HALF-DAY SPECIAL MEETING
ON TRAFFICKING OF WOMEN
AND CHILDREN/MIGRANT
WORKERS AND PROTECTION
OF CHILDREN**

**XII. VERBATIM RECORD OF THE HALF-DAY SPECIAL MEETING ON
“TRAFFICKING OF WOMEN AND CHILDREN/MIGRANT WORKERS AND
PROTECTION OF CHILDREN”
HELD ON THURSDAY, 30 JUNE 2011 AT 9.15 AM**

His Excellency Rauff Hakeem, President of the Fiftieth Annual Session of AALCO in the Chair.

President: May I invite our Secretary-General to introduce this session.

Secretary-General: Thank you Mr. President. Hon’ble Justice Shiranne Tilakawardane, Judge of the Supreme Court of Sri Lanka; Hon’ble Mr. Richard Danziger, Chief of Mission, International Organization for Migration (IOM), Sri Lanka; Hon’ble Mr. Ron Pouwels, Regional Advisor-Child Protection, UNICEF Regional Office for South Asia; Excellencies, Distinguished Delegates, Ladies and Gentlemen;

It is my pleasure to welcome you all here today to this Half Day Special Meeting on ‘Trafficking in Women/Children, Migrant Workers and Protection of Children’, hosted by AALCO in conjunction with the Fiftieth Annual Session of AALCO jointly organized by the Government of Sri Lanka, IOM, UNICEF, and AALCO. I also welcome our distinguished panelists for this special half-day meeting.

Over the decades, smuggling of migrants and trafficking in human beings, especially women and children, has been a perennial challenge faced by the international community. Organized criminal activities like trafficking in persons and migrant workers, has affected every region of the world and is recognized internationally as a major law enforcement, human security, and human rights issue. Smuggled migrants are vulnerable to life-threatening risks and exploitation; and unfortunately these exploitations are considered as modern form of slavery.

Trafficked persons like women and children need adequate protection measures through guaranteeing their fundamental rights and freedoms. Trafficking in human beings, particularly in women and children, constitutes a crime, and massively violates the human rights of the trafficked persons. Yet, millions of people around the world continue to be subjected to trafficking, forced labor and other contemporary forms of slavery, despite the fact that such abuses are prohibited by a considerable number of international legal instruments.

The majority of smuggled people are forced to be migrant workers. They generally seek to these extreme measures of livelihood in order to escape poverty and discrimination, improve their lives and send money back to their families. It is no coincidence, then, that the growth in the numbers of people who have been identified as trafficked for forced labour has taken place during a period where there has been an increasing international demand for migrant workers.

Mr. President, in the fight against trafficking the key challenges for countries around the world is to craft and implement sounder and more effective responses that produce meaningful results. We also know that a more sophisticated understanding of human trafficking is needed to improve the operational effectiveness of appropriate anti-trafficking laws, policies and practices. The complexity of the trafficking-migration nexus demands that we draw special attention to each and every aspects of this scourge so as to create appropriate legal and policy responses that address various aspects of trafficking that include - Prevention, Protection and Prosecution.

AALCO has been consistently working on this issue since fortieth Annual Session in 2001, when the Government of Indonesia proposed this topic to be considered. Special Half-day meetings on “Transnational Migration: Trafficking in Persons and Smuggling of Migrants” jointly organized by Government of Malaysia and AALCO during the Forty-Eighth Annual Session in 2009, and a Workshop on “Trafficking in Persons, Smuggling of Migrants and International Cooperation” in Putrajaya, Malaysia in 2010 were conducted in order to address this issue among the AALCO Member States.

Mr. President, to be effective in our fight against human trafficking, we should not content ourselves with island solutions. What we need is a profound understanding of all that human trafficking involves and of all that is required to counteract it. This is exactly what today’s meeting is designed to do.

This Half-Day Special Meeting is to be viewed as yet another step by the Member States of AALCO to carry out existing commitments and international obligations to curb human trafficking, particularly in women and children, in countries of origin, transit and destination. The issues that would be dealt by our distinguished panellists in this meeting would be (i) Legal framework on human trafficking, (ii) Combating Human Trafficking, the exploitation and abuse of migrants: A systemic approach; and (iii) Regional Perspectives on Combating Child Trafficking.

I wish you all excellent and productive deliberations. Thank you for your attention.

President: May I now have the pleasure of introducing our distinguished panelist who would make her presentation. She is Justice our Hon, ble Shiranee Tilakawardane. Justice Tilakawardane’s carrier in our legal system started with her joining our Attorney General’s department as a state council. Having served the Attorney General’s department with a remarkable carrier where she successfully prosecuted in many landmark cases and she ultimately was elevated to our High Court. From then onwards her steady rise in the judicial system up to the current position where she is one of the senior judges of our Supreme Court. She has, in her distinguished carrier established herself as a keen Judge and Jurist interested in engineering social change through innovative interpretations of the laws of our land and has to her credit many remarkable judgments which are too numerous for me to be mentioning here. Justice Tilakawardane is considered as a respected judge keenly interested in the arena of human rights, women rights and protection of children. Among her variety of her interests is also forensic science and I am indeed pleased to invite Justice Shiranee Tilakawardane to address you.

Justice Shiranee Tilakawardane, Judge, Supreme Court of Sri Lanka: They say there are three things that can never be recalled; the spent arrow, the spoken words, and the lost opportunity. It is indeed a wonderful opportunity and I thank the Organizing Committee for this fiftieth session of the Asian-African Legal Consultative Organization's deliberations. I know that we will make the maximum and optimize the time that we spend here in exchanging and having dialogue and above all building personal networks one with the other.

Mr. President and the Honourable Minister of the Asian-African Legal Consultative Organization, Distinguished fellow Panelists and probably more distinguished Ladies and Gentlemen, the topics that we will be deliberating perhaps for a little over half an hour now is the topic on the international legal framework on trafficking. I will start with the larger umbrella and then I will deal with certain aspects of the Asian and the African systems as well as some cases, in order that we can compare and contrast, the development, the interpretations through law. As you know there is no point in having all these Conventions, all these laws if at the end of it, we have papers and books and lots of files to take back home. It is more about using these laws for the very effective implementation to meet the objectives and purposes for which they have been formed and giving it a purpose in the interpretation.

Now, to appreciate the phenomenon of globalized crimes and this is where I would want you to understand, this is just part of a larger part of globalized crimes I would like your attention to be drawn to what is happening in globalized crime. At the end of it what I would want you to understand it is the fact that human trafficking as a globalized crime is happening everywhere in the world and even in our own countries. To appreciate the growing phenomenon of globalized crimes let's consider the following; the drug ecstasy manufactured in the Netherlands is trafficked to the United States by among others Israeli organized crime groups. Next, a computer virus designed and sent from Philippines causes computer in many US government agencies to be shut down as long as a week. A US bank discovered that it was being used by Russian Organized Crime to launder money. Look at the geographical distances; look at the boundaries that it has to traverse. A Columbian crime group reportedly checked via computer the bank accounts and stop drivers at road blocks to select rich kidnapping victims. These examples represent the new face of crimes, the extent of such illegal activity has increased enormously in the wake of we all know today to be the globalization. Those involved in it have no respect for loyalty of nations, boundaries or sovereignty. Meeting the bad challenges posed by the growth of globalized crimes, our policy must also include increasing resources devoted to fighting transnational crimes. This is the problem Asian and African countries have and I know our Minister also is very concerned about this. Reaching out to other nations, using this money, using these funds so that it becomes a policy decision to set aside resources for fighting transnational crime and reaching out to other nations to develop a global response, especially in our regions and maintaining a steadfast determination to use all available legal means to counter this threat. This is particularly true for the developing world and in countries with fragile economies in transition.

The Convention on the Transnational Organized Crime helps governments to prevent and combat transnational organized crime more effectively through a common tool kit of criminal law techniques, and through international cooperation. It requires State Parties to outlaw some of the most prevalent types of offenses committed by organized crime groups. International community recently took steps towards ensuring that the crime of trafficking receives a universal recognition.

Now let us deal with the crime of trafficking. Governments signing the new Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children agree that trafficking is a serious international problem and it is not the same as smuggling of migrants. The progressive modern view contained in the Protocol reflects the complicated reality of this crime. Trafficking involves all forms of documented and undocumented movement of people across or within borders by whatever means for the purpose of slavery forced labour or servitude in a multitude of Industries and sights. While the Trafficking Protocol represented a tremendous step forward, it does not fully incorporate international human rights standards guaranteeing all persons even undocumented victims of trafficking access to justice and basic things such as temporary shelter, medical care and food. All those who work with people who have been trafficked know the enormity of the problem of people who often are not considered in our criminal law, the problem of the victim. The provisions ensure some physical safety for trafficked persons to assist in prosecuting their traffickers but leaves the provision of services and protection to the discretion of governments. Often, governments who do not have sufficient resources and to whom this cannot be a priority even if the government has the adequate financial resources confiscated the assets of the traffickers. The Protocol does not require the governments to grant temporary visas or permanent residence to victims when traffickers in the whole country poses serious threat to their safety. This has not been considered by domestic legislations. Domestic legislations then must cure this serious failure by the international community to affirm the migrant victims of trafficking are entitled to basic human rights.

Around 200 years ago slave trade was abolished and it was universally accepted that all human beings are born free and equal in dignity and rights, every one of us when asked whether you want your position or your ability to be free would choose that wonderful thing called freedom. Today we gather as free men and women to reaffirm our commitment to re-abolish slavery and to continue our fight against human trafficking conceptualized as the modern day slave trade of the present century. In the long history of human wrongs the trade in human beings will go down as one of the greatest crimes ever committed against mankind. I am just going to take you very quickly to the statistics. It is important for you to look at the figures, 700,000 to 4 million women and children are trafficked and we find that according to the Reports of various Organizations and I quote them to show you that these statistics have been widely considered, compared and found to be correct. That human trafficking ranks amongst the top three highest illegal criminal industries along with illegal drugs and arms. We talk of illegal drugs and arms all the time, but remember that trafficking is amongst the top three. According to a report of the International Labour Organization (ILO) in 2002 the number of children trafficked is for forced labour and sexual slavery reported to be as alarmingly as 1.2 million. This is very

important because often people say this and indeed in the SAARC region we made this mistake initially that trafficking is about women and children. No, these are the percentages, males 12%, women 66% and children 23%. People who are trafficked into the Middle Eastern Countries for instance for forced labour have been known to be making continuous labour for as long as 16 hours without pay. It is common for such domestic helpers to be regularly subjected to starvation, sexual exploitation, coerced abortions and beatings by the owners often resulting in the death of the victims.

Now, I know this is something all governments are working towards it is the individuals who do this and governments are also having on their hands problems as to how do we mitigate the outcome of something that is profitable to our countries but will not harm the people of our nations. I would also like to touch on the next Protocol which is the Protocol to Prevent, Suppress and Punish in Human Beings specially Women and Children. This is one of the first Protocols on transnational crimes. In this I want to very quickly touch on certain issues. In trafficking there are certain things like the causes of trafficking, that is the push factor and the pull factor. At one glance you can understand this.

Push factors are lack of economic opportunities, social exclusion, and lack of awareness, gender discrimination, migration, poverty, illiteracy, dowry problems, natural disasters, landlessness and empowerment. These push factors push the people to look for employment elsewhere, pushes people into sex trade. What are the pull factors? The demand for services catering to men, urbanization, globalization, free market economy, economic solvency, better job opportunities, promise of employment and better marriage, influence of the mass media, and information technology. Lots of the Countries of origin are countries like Bangladesh, India, Nepal, Sri Lanka, Thailand, Philippines and the geographical location and routes of some of the countries may end up as a source country where they are found, that is the country of destination. Hong Kong, India, Japan, Kampuchea, Malaysia, Pakistan, Taiwan and the U.A.E. The procurement process can involve kidnapping, abduction, promises to marry, deceiving women and children, rape or sexually abusing women. The consequences to every single of what we are talking about are so many hundred thousands; we talked of figures of so many millions. Every one of them is a person and every one of them would go through psychological trauma, mental abnormality, unwanted pregnancies, sexually transmitted diseases, HIV Aids, social outcasts. What happens to these people? They come back to our countries and then they become a burden to the State and state has to find funds for their health care for reintegration into the society and for their additional burdens cast on the legal system. These people are of course involved in prostitution, domestic labour, bonded labour, begging, camel riding and some other things. And the possible future that we can really look forward to is to adopt prevention measures and awareness building which is the ground norm of the work that we are doing. It is not in our courts of law but only through sensitization and awareness building, rescue, rehabilitation and reintegration, legal support and advocacy at all levels.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, in its Article 3, mandates the States to criminalize trafficking in human

beings, attempting participating as accomplice in and organizing or directing others to commit the offence of trafficking. What is the definition the Protocol uses. It says that “trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. This includes, that is, exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and includes what is now becoming a very worrying factor, the removal of organs of victims. The consent of victims is irrelevant while criminal law defenses are preserved. A person is considered to have been trafficked even if he has given his consent to it and a child is anyone under 18 and can be considered trafficked if they have been recruited and transported into slavery like condition even when they have not been deceived using force and other measures. They do not understand, they do not want to get involved in this. Nevertheless when a child is taken out it is considered as trafficking.

International law is a powerful conduit in combating human trafficking. The most reputable and recent instruments of international law which had set the course as to how to define, prevent and prosecute human trafficking is the United Nations Convention against Transnational Organized Crime and its two related Protocols. The two related Protocols, and I have just touched on this, is to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children does not exclude men and infact at a SAARC meeting when we were trying to formulate the group got together and said that it’s all about women and children. We found that there are a lot of boys in Asia who have been trafficked so we say it has to involve the men. There are men who have been trafficked; it has to involve them in. So it is now the trafficking in persons.

Though trafficking in human beings is an age-old custom, it was not until the December 2000 that the international community reached a consensus on a common definition which was adopted in the UN Convention on Trafficking and its Protocols that I have mentioned. We will refer to it as a Palermo Protocol and I am sure you will hear it more and more. The Palermo Protocol, which entered into force in 2003, says that what trafficking is and it gives a very clear definition. I won’t bore you with my definitions, but my speech will be available and I think you can get it from the web site eventually. It also includes trafficking in children and there is a part of it that speaks about the assistance and protection of victims which is also involved. The definition of trafficking in children, I want to emphasize because it is important to know that the children are the most vulnerable, they are our future and concentrating on them means you and I invest in our own children and grand children. Trafficking in children shall mean ‘the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation’ and exploitation, at a minimum, would include the exploitation of the prostitution of the others, other forms of sexual exploitation, forced labor or services, practices similar to slavery, servitude and the removal of organs. Now the basic elements of trafficking are three fold; there is an objective action, there is means and there is a purpose. The process

is an objective action and it is not necessary that a border should have been crossed. The means could be threat or use of force or other forms of coercion such as abduction, fraud deception, abuse of power, or position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of parents having control over the other person. When people speak of Asian and African they talk of the horrible mothers and fathers who sell their children. What about the horrible people who buy these children? We sometime forget that it takes two parties and we subscribe to the stereotyping in thinking. Then the purpose must be for exploitation and as I told you what it involves is everything from slavery, servitude and the removal of organs. The statement of the purpose of the Protocol under Article 2 provides that the objective of the Protocol are to prevent and combat trafficking in persons, paying particular attention to women and children; to protect and assist the victims of such trafficking with full respect for their human rights; and to promote cooperation among States Parties to meet those objectives. This is why gathering together at one roof in different parts of the world is so important because quite apart from what you hear from these platforms, you have discussions, dinners and parties may be just having a morning cup of coffee and it is a time of exchange and fellowship that will help towards ultimately building up stronger body of laws to combat trafficking.

The UN Convention on the Elimination of All Forms of Discrimination against Women is also one of the other Conventions that can be used. Now we cannot take the most recent Convention what we have is the Palermo Convention by itself. We have to read it and now reinterpret some of the Conventions that have already been existing such as the Convention on the Rights of the Child, the UN Convention on the Elimination of All Forms of Discrimination against Women, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution 2002 and as I have told you at the moment we have formulated a new Protocol that we want to add to the Convention so that men could be included into this, the ILO Convention on the Worst Forms of Child Labour, and various other Conventions, the Jakarta Recommendation for Action recognizing the Protection and Empowering of Women, Migrants Workers in Asia, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child Pornography.

My dear friends the 22nd century problem is going to be pornography. Today I do a lot of work at the grass roots level; I go to different parts our country. Because of communications which have wonderful effects on the one hand, is also extremely destructive to the minds of children when the choice is there for them to download the pornography. More and more our Courts have to deal with it. Thanks to the Ministry of Justice, Mrs. Kamalini De Silva, IOM various organizations who came together to give programmes designed towards sensitization to judges, police officers and all those who are involved in offenses like trafficking, they are able to understand these offenses and they are able to relate it not as something that is purely punitive. But as a Judge something has to take more than passive role sand more than the kind of adversarial procedure to be the focus very much on combating trafficking. When the judges are facing these cases more and more children are being reported and produced before courts for some kind of minor sexual offenses at the age of eight, nine and ten. When they are

being investigated it is found that they carry pornographic material on their telephones on their laptops and everywhere else. I thought this was a problem in our poor developing countries. Recently I heard from somebody who had come in from Australia and who is an expert on trafficking told me that it is one of their biggest problem that they are having right now and that they have just realized that the amount of pornography that is there and how it discriminates and violates the rights of those who are already vulnerable, already who are being discriminated, so they are being doubly discriminated and they are women and children and also young boys. I have a little criticism. We have to take note of this criticism because we are the judges in the region who actually give effective enforcement to these Conventions and it becomes a reality in countries as you know that in the dualist system enabling laws needs to be adopted and applied and hence the Judges who are involved in the legal fraternity they have to give effect to these laws. Now we find that the Protocol has failed to address one of the most important aspects of the human trafficking the factors that maintain the demand on human trafficking such as poverty, something that affects most of our regions, unemployment, gender discrimination, cultural religion traditional practices, denial of access to education and others. I find that all our religions the purest sense of it is the highest protection in every religion and I have made a study of it I went to the Maldives as a consultant and at the invitation of the Commonwealth Secretariat and there I found it is amazing. We often think that Middle Eastern women are discriminated. But the Holy Quran has one of the wonderful protections of family and children in its purest sense. Now what they have done in Maldives is that they have codified the Shariah law. I think they are one of the early countries to do so conferring wonderful protections for the children. All our religions, all our cultures, in their purest sense always protect vulnerable and provide for the vulnerable. They are never intended to use discrimination or to take away the fundamental rights guaranteed by our charter of human rights that we all so freely enjoy without understanding the values of it. These values which are cherished in the Charter that are human dignity and human respect.

I would also now talk a little about the enforcement of international law domestic and regional legislations. I will not deal with the different instruments because it will be available to you. But I would like to take selective definitions on human trafficking in domestic legislations because after all that is what our countries are going to having to deal with. We deal with international law issues even though it has not been brought into as law domestically, so we have judge made law incorporating it. Also there are times when we have to be cautious about enforcing the laws. The US government has a broad definition of what trafficking means. It says 'sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or ... the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery'. I would like to point out that the term peonage is a nice new word not found in the laws of other countries. The term sex trafficking means recruitment, harbouring, transportations and obtaining of a person for the purpose of commercial sex act. It talks about commercial sex act.

Now the law sometimes is watered down. It also talks of severe trafficking in the definitions that have come out of it. What is severe trafficking? The US, which has taken the definition of trafficking from the UN instrument, focuses on exploitation rather than coercion and explicitly makes consent irrelevant to the determination of the trafficking of victim. Now, there is no distinction in the US law between trafficking domestically or within the boundaries of a single country and international or cross border trafficking. The US does not and has omitted reference the removal of organs as a severe form of human trafficking. What do we mean by the severe forms of trafficking? These are words when they come to the courts of law will trigger problems. Now China on the other hand adopts a much narrower definition and it says for the purpose of selling, the article does not include sexual abduction of people with no intention to sell, but for direct services like forced labour, sexual exploitation. It also refers to children as people less than 14 years, so 15 not a child, 16 not a child whereas the UN Protocol defines a child to be any one under the age of 18. China's criminal law states that, this is very interesting, not more than 3 years is the punishment and it talks of kidnapping of a women and child, enticing or forcing women to be trafficked by gang. There is very little focus on the normal individual day-to-day cases that we come across in our world. The law rather is very amorphous. I would think that the Chinese Judges will have a lot of problems in trying to interpret this in their courts of law.

In Sri Lanka I have to say, this is not something our particular minister has done, so the credit cannot be his alone, though he has helped. Consecutive Ministers of different governments have been working because of a wonderful team of people led by the Secretary Mrs. Kamalini De Silva working in conjunction with an NGO called IOM in Sri Lanka. We have probably one of the best laws in the region; I am not saying because I am standing here, I am saying it as a Judge who had done comparative analysis of the laws. That is because the Amendment Act 16 of 2006 provides a broad comprehensive definition of human trafficking. It says it includes, because very often lawyers stand up in what we call adversarial systems and say that but the law does not say this and they try to minimize the law. As an activist Judge I can tell you we really had to work a lot to make this an inclusive provision. Here the definition which is inclusive says that buying selling bartering or abetting the sale, very simple, very broad recruitment, transferring or receipt of persons for the purposes of trafficking is also punishable. In 2006 an Amendment Act criminalizes the multiple forms of trafficking and exploitation including forced or compulsory labour, slavery, servitude, organ removal, sexual exploitation or any other act. We do not know what sexual deviance is going to lead up to, what the exploitation of human beings is going to end up as. This is a wonderful very broad interpretation.

On conviction the prescribed penalty for trafficking is no less than 2 and no more than 20 years rigorous imprisonment. It can also be combined with the fine. This is very important, because Judges sometimes use the fine and give it as compensation to the vulnerable victim before them. For an offence involving a child less than 18 years of age, the minimum penalty is enhanced to 3 years of rigorous imprisonment. In addition under the 2006 amendment of the Penal code in addition to debt bondage, forced or compulsory labour, slavery, recruitment of children to be used in armed conflicts, this is something missing in most countries, certainly it is not there in the USA, illicit forms of adoption,

solicitation of a child for sexual abuse. The 2006 Amendment also requires the computer service providers to take necessary steps to prevent child abuse and imposes a general duty to inform the police of those premises that are knowingly being used for child abuses. We can see the difference and I told you already that I do not like to boast about our law. But I am truly satisfied with the law here. Laws in other countries do not have these features. Let us now touch Bangladesh, because Bangladesh is doing wonderful work. In fact many of the meetings of SAARC are held in this Country and in South Asia, their laws are a very good role model. They have redeveloped a lot of basic infrastructures to accommodate better systems to combat trafficking and of course we are all third world developing states so there are limitations. We took the Palermo Protocol virtually in verbatim. We have gone for other definitions. I think that has to do with the sensitivity with the religious problems that they have bringing women and children from aboard or sending them out of country. So women are not able to go out, dealing in the purchase and sale of women or children or hiring them over for torture or other similar purposes, keeping women and children in possession or custody for some purpose. Indeed the Article 1 of the SAARC Convention defines trafficking as ‘the moving, selling or buying of women and children for prostitution within and outside a country’, because you must remember one of the biggest problems these countries have which are around sister India, as we would like to say is the fact that sometimes young girls are tricked or seduced for monetary or other considerations with or without the consent of the person and finally end up in brothels of Bombay, Delhi and places like that. It is not that we do not have, all our countries, if we are honest with ourselves, we have this problem of exploitation of human beings. Due to the reasons that domestic laws carrying varying definitions for human trafficking international conferences prepared for different stakeholders the definition for human trafficking has been of practical significance for the fight against human trafficking. There are just a few cases that I would like to touch on.

In one of the landmark judgments in this area came out of Russia. This concerned the death of Axana on the basis of an action brought by her father. Axana moved from Russia to Cyprus and started to work as a cabre artist. These are the cases we must focus on. As usual it was widely known that these were the places where they were in practice mostly girls working as prostitutes. I would like to give these details because you know sometimes we live in echelons of power and would not know really what is happening. It was mostly known that these artists were most widely practicing as prostitutes. Within a few weeks she left the place where she worked but was traced by her employer who brought her back to the police and with the aim of extraditing her so that he could employ someone else. The police noted that she was not illegally staying in Cyprus but had a work permit, but that is the minute narrow focus of the police. What they did was saying her to go back. Later that night she tried to escape from her apartment where her employer was keeping her and in doing so fell of the balcony and died. In spite of the mysterious circumstances of the death the context of a possible human trafficking was never looked into by the authorities.

Then there is another landmark case from Australia where the charges related to women who are purchased from Thai recruiters for about \$ 20, 000 each from Thailand to work in a Melbourne Brothel. Under the terms of recruitment, agreement and purchase, each

women owed a debt between 40, 000 and 45, 000, by the time she ended in Australia. The debt involved expenses supposedly incurred in transporting the women to Australia and resulted accommodation and incidental expenses as well as a profit margin. In order to pay off the debt the women were required to work six nights a week servicing clients at the respondent's brothel. Although the women were provided with accommodation and food they earned nothing for them until their debt was paid. However, magnanimously the women were given the option of working on the free seventh day of each week and were able to retain any earnings made on those days. They were taken into custody and the Supreme Court gave a very nice judgment extending definition of trafficking. In Bangladesh in the famous case of Abdul Kafi Vs Secretary, Ministry of Foreign Affairs a very good judgment came out. It was a case in which a girl who was abducted by traffickers and was sold and brought to India and subsequently residing in state-run shelter in West Bengal. Her father requested from the government of Bangladesh to take steps for her repatriation. But the government failed to take any decision. He filed a writ petition requesting the court to direct the Bangladesh government to take the necessary steps. The father of the girl argued that the victim is a citizen of Bangladesh, who has been abducted from Bangladesh and taken to Calcutta and now detained in custody and that the victim was legally entitled to get the protection of the law. In this case the Supreme Court of Bangladesh clearly recognized the right of repatriation as a fundamental right of citizens where such persons were subjected to cross border trafficking. It also emphasized on the state's responsibility in ensuring repatriation.

Then a case which was heard in France a Chinese couple bought a property that they intended to open as a restaurant. At that time these men had hired this restaurant was an open and unfinished construction site. The men lived there had nothing but a mattress on which to sleep. They ate on the ground because there was no table, no bathroom or hot water. They had to work 12-13 hours a day every day and including the weekends. They were paid irregularly and the amount of pay was disputed. The Court found that there was trafficking conditions were present. What is important to know here is that the handful of crimes to which the law of nations attributes is the individual liability such as state action not required. And in the district court it was noted at the end of it that this was modern day slavery.

I also want to touch on an important point before I end, that pertains to the issue who are the stakeholders. The general public has to be drawn in through sensitization and awareness, especially health care workers, religious institutions and community organizations. They can assist in locating victims of trafficking simply by being aware and knowing which questions to ask. Individuals can be alerted for signs of abusive conditions when they visit the homes of businesses, or persons who use unskilled or low skilled immigrant labour. Fortunately it is necessary to use caution, conducting and law enforcement because in many countries corruption plays a central role in enabling traffickers to operate. Reporting with the authorities about trafficking should only be done after consultations with NGOs that are knowledgeable in the trafficking situation of the Country. Public Officials also play an especially important role in detecting trafficking. Consular employees, immigration officers, housing inspectors, labour

inspectors, emergency medical team, health workers, police officials and prosecutors from the Attorney General's department.

At the end of the day we are all looking for peace. Do you see that little child that is cuddled in the arms of his mother? What is the intrinsic one factor that brings about peace? Peace is not an event. Peace is a journey. The backdrop of that journey must and where there is trafficking, where there is exploitation, we are poor countries having little resources there cannot be harmonious conditions. And that is what we have to earn for. I do know that some of the actors who are in this meeting that all our countries are poor. We would like to have wonderful infrastructure, beautiful services, we would like the police to be perfect, we like to pay very high salary so that people would not involve in corruption, we like all that. Sometimes when you are taken to the American court houses the Canadian court houses, countries which are developed the feeling is that we are like flowers and the type of justice that emanates from the country, the types of actions that are done by the people of our country is not second best to anywhere in the world. I would like to think that the power of the judicial forces, the power of the administrative system of justice, maybe we have our problems but to most of us the poverty does not matter. It is the fire that burn within us that we want to make a difference. We would encourage you like lotus flower so that you would really make a difference in relation to the horrible crime called trafficking. May god bless you and I thank you.

President: Thank you very much Her Ladyship Shiranee Tilakawardane for that passionate and articulate presentation on the subject. As a matter of fact and let me move away from my hat as the President and try and say a little bit about the work that we have been doing in our Ministry of Justice. We have set up an anti human-trafficking task force under my Ministry where we bring in all the agencies connected with all the departments dealing with immigration, police, criminal investigation department, labour department, child and women welfare, all these different agencies are brought together as the anti human rights trafficking task force. This has resulted in us being able to coordinate in agencies like the International Organization for Migration, UNICEF and various others and they have been assisting us tremendously. this has resulted in some landmark achievements and only three months ago we were able to successfully prosecute the case of human trafficking where two unfortunate victims, Uzbekistan women who were considered as victims and we were able to prosecute successfully and conclude that case. That has become a landmark case in this country which in fact would certainly pave the way for us to continue in dealing with this modern day slavery issue which has become a serious international menace. With those comments and before we hear out our next panelist, we will have a break and I am sure that Justice Tilakawardane will be kind enough to stay behind. And yes she has kindly consented to stay behind. I thank you very much.

Tea Break

President: After the tea break, we have our next speaker Mr. Richard Danziger. He assumed the office as Chief of Mission for the IOM in Sri Lanka in mid-July 2010. Prior to this, he was the Head of Mission of the International Organization for Migration

(IOM) Counter-Trafficking Division based in Geneva, since 2004. His work entails in developing IOM's overall policy on combating trafficking in persons and advising the Organization's Member States on their own anti-trafficking Statutes. He was also responsible for administering IOM's global database on victims of trafficking and the global assistance fund which provides assistance and protection to victims of trafficking around the world. Mr. Danziger also held the positions of IOM's regional representative for West and Central Asia, Chief of Mission in Afghanistan, Indonesia and Pakistan and was assigned as Senior Technical Adviser to the Palestinian authority, in the year 2000. Mr. Danziger was the IOM's original focal point for the Bali Process on People Smuggling and Trafficking in Persons and its relation to transnational crimes. He was the founding member on the Steering Committee of the United Nations Global Initiative to fight Human Trafficking (UN.GIFT) and is currently chair of the World Economic Forum on Global Agenda Council on Illicit Trade. I have the pleasure of calling upon Mr. Richard Danziger to address this session. Thank you.

Richard Danziger, Chief of Mission for IOM Sri Lanka: The Title of the topic: "Combating Human Trafficking, the exploitation and abuse of migrants: a Systemic Approach".

Excellencies, Honourable Ministers; Chair of this session Mr. Rauff Hakeem; Excellency Prof. Rahmat Mohamad, Secretary-General of AALCO; Hononourable Ministers, Justices and Judges and Dear Colleagues; it is a pleasure to be here speaking at this Fiftieth Annual Session of AALCO. I think I should say that I am not a lawyer but I would be focusing on legislations. I would like to start with a short instance that happened in Afghanistan when I was there in 2003. This was right after the United States war against Afghanistan. There was money pouring in from various development agencies in the country. A CNN-IBN reporter went up to this old man in Kabul, and asked how he saw the situation. The old man replied would you like to have a short answer or a long answer. The reporter said he wanted a short answer and the old man goes 'good'. This wasn't really much for the evening news so the reporter asked for a long answer, to which the old man replied 'not good'. I think this is very much we are today when it comes to human trafficking.

When we look at the situation today and the work many of us have done over the past 20 years or so, we can say with some satisfaction that the situation is positive: a large number of states have ratified the United Nations Protocol; there are national action plans and referral systems; there are regional action plans and bilateral MoUs, a multitude of shelters, a number of law enforcement units dedicated to fighting human trafficking and so on and so forth. But having achieved all this, have we actually made any impact?

If we look at the estimates of the number of individuals trafficked, these have hardly changed over the past ten years. One could take to task the methodologies used in calculating these estimates, but a number of dedicated activists and practitioners believe that if anything the problem may have become worse.

What then has gone wrong? Why, with all the progress that has been made in establishing protection and prosecution systems, does the problem remain much as it was ten years ago? We could start by asking ourselves whether the Protocol has provided a viable road map to combat trafficking. From a migration angle I would have to venture a “no”. I say this based on experience in the field where one of IOM’s primary roles is to provide assistance and protection, not just to victims of trafficking, but more generally to migrants in a situation of distress.

The definition of human trafficking is extremely complex and can be interpreted in any numbers of ways. This lack of clarity as to what constitutes human trafficking cascades down to the level of the person or institution tasked with identifying victims. In 2009, IOM undertook a four country comparative study of trafficking legislation and procedures in Austria, Belgium, Italy and the United States, and the principal conclusion was that the provision of protection often comes down to an arbitrary decision: that of whether or not an individual is a victim of trafficking. If the decision goes against the individual, not only will they not receive protection but they may be liable to prosecution under criminal or immigration law. IOM staff and others regularly come across abused and exploited migrants in this unenviable situation. In IOM we increasingly use the terms “abused” and “exploited”, because the term “trafficked” in the legal sense is often little more than an arbitrarily decided administrative category that excludes a vast number of vulnerable migrants in need of protection. This situation which some have described in terms of a hierarchy of suffering, indicates that there is something fundamentally wrong with the current system. The Protocol – and the way it is used by governments as the international legal instrument of reference when it comes to exploited and abused migrants in general -- has contributed in a large way to this confusion.

Faced with the frustrating lack of progress made in combating human trafficking, rather than re-examine the reigning framework and strategies governed by the Protocol, there has been a tendency toward an emotional response typified by increasing reference to slavery rather than trafficking. The language of slavery is the language of good and evil. It is part of a pre-modern vocabulary that reflects a simpler era; it leads to powerful but futile condemnation of the phenomenon as “shameful”, “egregious” and “horrific”. This linguistic simplification mirrors the general treatment of human trafficking with its tendency to lock the phenomenon into a Manichean box and try to address it as a stand-alone issue without taking into account the broader, complex and often politically sensitive factors that provide an enabling environment in which human trafficking can flourish.

Migration is the most obvious phenomenon we need to look at in order to provide context for an analysis of human trafficking. The number of migrants worldwide today is over 200 million, and while it is impossible to predict the realities of future decades, if global social and economic disparities persist, and current demographic trends continue, the stock of international migrants in 2050 could be as high as 415 million. Faced with new and complex global phenomena that pose enormous challenges, there is a tendency for governments to opt for a securitization approach (much as others, as mentioned above, retreat into the vocabulary of good and evil.) In the case of the growth in irregular

migration this means that the favoured policy is that of tightening visa and immigration regimes and strengthening border controls. But this approach does nothing to alter the fact that changing demographics require industrialized countries to find workers to replace their aging populations. Regrettably though, this is not a truth that can easily be told by politicians who wish to be elected by increasingly anti-immigration and sometimes xenophobic constituencies. The result is a growing market and increasing opportunities for human traffickers and smugglers who can assist migrants in bypassing migration controls, and a consequent increase in migrant vulnerability.

In the context of globalization and the liberalization of markets, it is often said that capital can be separated from its owner and whizz around the world at the speed of light, whereas labour cannot be separated from its owner and therefore cannot obey the same laws of the free market. But labour is being separated from its owner, be it by traffickers or unscrupulous employers who see migrant workers as cheap, unprotected and exploitable labour. It is a form of alienation that even Marx did not envisage: hundreds of thousands of individuals transported across often great distances to situations where their labour is separated from their humanity and any semblance of community and family or social support and protection. And while governments are busy trying to develop new migration policies (that regrettably focus too little on safeguarding the rights of migrant workers), many are at the same time tolerating the exploitation of migrant labour which can be tantamount to subsidizing whole sectors where this form of labour abounds.

Irregular migration – and I do not make the distinction here between human trafficking and smuggling both of which, as we have seen, can result in an exploitation outcome – can be seen as one component of the broader phenomenon of illicit trade. The World Economic Forum Global Agenda Council on Illicit Trade, a grouping of academics, business leaders and NGO and IO representatives, has defined illicit trade as “money, goods or value gained from illegal or commonly viewed to be unethical activity, and which generates economic, social, environmental or political harm.” It encompasses *inter alia* natural resources, arms, human beings, narcotics, counterfeiting and tax evasion. It is estimated that 8-10% of global trade (or some 650 billion USD annually) is illicit which is not far off the percentage of transnational migrants estimated to be irregular (10-15%).

As with the exploitation of migrants, much (although by no means all) of the harm caused by illicit trade falls on developing countries. This can take the form of depletion of human or natural resources, the flight of capital (an estimated 1.3 trillion USD has been illegally transferred out of developing countries) and even the collapse of fragile states.

But why, you may ask, do I wish to further complicate an already complex problem by bringing in to the equation an apparently quite different issue? For most States, managing migration in a comprehensive way poses a challenge. Policies that deal with specific migration issues are often isolated from other policies and, owing to political implications, are often short sighted and reactive, concerned primarily with addressing immediate short-term challenges. The same is true in the area of trade where one corporation’s efforts to eliminate illicit trade from its business, or one government-led

effort to eliminate illicit trade in a particular sector, will generally have limited impact on the broader problem. For one thing, the criminal groups involved in illicit trade have the built-in flexibility to move from one trade to another (including the trade in human beings) depending on the risks and opportunities involved.

A systemic approach that incorporates the whole panoply of illicit trade is warranted, and not just because of the varieties of trade but, even more importantly, because of its inter-linkages with major global risks such as corruption (both a driver and consequence of illicit trade), terrorism (which is partly fueled by profits from illicit trade), fragile states (massive illicit trade often being their cause and nearly always an important consequence) or economic disparities (which contribute to and are exacerbated by illicit trade.)

A systemic approach to addressing the problem also requires the engagement of all concerned parties, namely private sector, governments and civil society, all of which have a stake in the elimination of this phenomenon that harms business, society and state sovereignty. All also have key roles to play whether in developing and enforcing regulatory frameworks, monitoring supply chains and eliminating illicit trade components, or raising social awareness.

While we need to guard against the commodifying of migration and the consequent risk of underestimating the motivations, experiences and rights of individual migrants, if we are to build a safer global migration framework we need to view migration as a form of exchange much like international trade. A global trade regime that is both free and fair requires a strong regulatory framework that leaves little space for the operators of the shadow economy to engage in illicit trade. The same holds true for an international migration management framework. Similarly, practices such as agricultural subsidies in Europe and North America that upset the whole notion of free and fair trade, have negative consequences for migrants and potential migrants. The subsidies that prevent farmers in developing countries from marketing their produce often push them into migrating irregularly for work to the country where the subsidy is in place (and where, ironically, they may end up working in substandard conditions on a farm.)

Migration, whether legal or irregular and just like the trade in goods, obeys the laws of supply and demand. As long ago as 1997, a pair of researchers, John Salt and Jeremy Stein, wrote: "Today, it (migration) is better regarded as a diverse international business, with a vast budget, providing hundreds of thousands of jobs world-wide, and managed by a set of individuals and institutions, each of which has an interest in how the business develops." This is even truer today in 2011 when the world has felt the full force of globalization. Just as migration has profound consequences for human rights so does international trade, and if we are to find long-term solutions to the question of protecting the rights and well-being of migrants both actual and potential, we need to do so within the framework of realizing the civil, economic and social rights of all individuals. A first step could be to start considering migration and trade policies together with the aim of establishing an international, development-oriented trade and migration framework that benefits both individuals and states. Thank you very much

President: Thank you very much. Our next speaker is Mr. Ron Powels. He worked for Dutch Section of Defence for Children International in the Netherlands from 1993-1995, and at the Centre for Children's Rights, Kuleana, Tanzania from 1996-1999. From 1999-2002, he worked as Associate Protection Officer in UNHCR, Ethiopia, and in 2002-2003 as Regional Child Protection Officer in Kenya and from 2003-2004 in Zimbabwe as Project Officer Child Protection. From 2004-2009 he also served as Senior Adviser for Refugee Children at UNHCR Headquarters in Geneva. I have pleasure in calling upon Mr. Ron Pouwels to address this assembly. Thank you.

Mr. Ron Pouwels, Regional Advisor-Child Protection, UNICEF Regional Office for South Asia: Mr. President, Secretary-General, Honorable Ministers and distinguished delegates, it is an honour for me to speak at the Fiftieth Annual Session of the Asian-African Legal Consultative Organization and I would like to congratulate for the golden jubilee and I am very pleased to speak on the issue of child trafficking. In my presentation I would focus on child trafficking in Asia so I apologize to the delegates from the Middle East and Africa since my presentation will only cover the trends in one specific region and just briefly on the experience of UNICEF in this area. We have been working in the area of child trafficking for over ten years, looking at prevention and looking at these issues. I will come back to the details later. We have been working with governments, with NGOs, with IOM and different other UN agencies in a number of countries in this region where we focused on a number of issues including advocacy and provision of technical support to governments related to the Palermo Protocol and the UN CRC commitments. As well as we have been focusing on development and enforcement of laws and policies on bilateral and multilateral agreements between countries on universal and targeted prevention and again I will come back to that later and strengthening social welfare services and social behavioral change. We have looked over very early this morning the definition of trafficking under international law which is mentioned in the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children. It is important to note here that the Convention follows the definition of the Convention on the Rights of the Child and states that child shall mean any person less than 18 years of age. When we look at the definition of trafficking under international law, the Palermo Protocol has the most comprehensive legal definition of human trafficking and it distinguishes between adult and child trafficking. It also requires state parties to assist and protect the victims of trafficking, taking into account the special needs of child victims. It is also important to note that since not all States have ratified the Palermo Protocol, it is necessary to look at the Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and the Child Pornography. In the latter, you would see an overlap between trafficking and sale of children meaning that the child transferred by any person to another for remuneration or any other consideration for the purpose of exploitation constitutes both. It is also important to note that the CRC has an article that focuses on prevention and states that State Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or trafficking in children for any purpose or in any form. The CRC, having been almost universally ratified, needs to be kept in mind as well when we are working on child trafficking.

What are the key differences between child and adult trafficking? There are two: first of all children cannot legally consent to exploitation in general and secondly, it is not necessary for coercion, deception, or abuse of power to have taken place. Now we can see that here in these slides when we are looking at the key elements of trafficking in relation to adults there is a process, the means and the purpose as was already mentioned clearly in the presentation made by the Hon'ble Judge Shiranee Tilakawardane. When we are looking at trafficking of children the means are no longer relevant, we are looking purely at the process for the purpose of exploitation. If you are looking at the regional trend which is the focus of my presentation we see that we have a number of challenges. First of all, the statistics on the prevalence of the phenomenon are elusive and unreliable due to several reasons. One, there is a limited definition or different definition of trafficking under national laws. There is an uncoordinated data collection between different entities within governments but also within other agencies or entities that deal with the issue of trafficking. There are distortions through data management and of course as very often with child protection related issues including issues of abuse, exploitation, we see that there is underreporting of cases. What do we see in the region in terms of the purposes? What we see are men, women, boys and girls for bonded and exploitative labour, domestic service, factory work, construction sites, fishing boats, begging, women, and boy's and girls into sexual exploitation. We also very often see there is a disproportionate focus of research and emphasis on this particular area very often forgetting that there are so many other areas of exploitative work where children or women are ending up in. We see trafficking in terms of women and girls for marriage, for illicit adoption, and in some areas in this region for involvement in armed conflicts as well as we have seen in the Palermo Protocol for the transfer and sale of organs. Just looking at issues around vulnerability particularly in relation to children, what we see is we have individual vulnerabilities. We need to look at these vulnerabilities particularly if you want to look at addressing the issues of the root causes, if you want to look at issues related to prevention so as individual many children have experienced violence and abuse, dropped out of school, they may lack citizenship or relevant citizenship related documentation, may have lack of access to law on safe migration, may lack life skills, we see trafficking in women and girls in terms of marriage, for illicit adoption, and in some areas in this region for involvement in armed conflicts as well as we have seen in the Palermo Protocol for the transfer or sale of organs.

At a family level, we very often see a breakdown experience of domestic violence within the family or neglect and abuse. It is also related to what is the status and role of children within the family. If you are looking at the vulnerability factors related to socio-economic side, we see that there is very often in families where trafficking is happening due to poverty, lack of education and viable employment, discrimination, wage differentials and lack of labour protection. Again these areas have been mentioned in the earlier presentation. But it is important to emphasize those if we are looking at the area of prevention. And of course in relation to trafficking, there is a demand for child labour, a demand for sex with children, illicit or poorly regulated adoption, and a demand for young brides. Now this is a very complex picture as you will see. These are some of the trafficking routes that exist. And it is to be noted here that when we look at the issue we have to concede the complexities of trafficking. In this picture that we see there are many

complex issues such as the internal trafficking, we see trafficking between countries, we see destination countries, we see countries that are countries of origin, and countries of transit.

Looking at a specific region the greater Mekong sub-region where UNICEF and a number of UN agencies have worked together to address the issues of trafficking. You see here again the different trafficking routes that exist. If you are looking at South Asia again the complexity of source and origin country destination and internal trafficking with some countries just being source countries, with others being both, countries facing internal trafficking, trafficking across borders, being a source country, destination country or a transit country in the region. But as you will see that there is no country that is not being affected by this issue. Some dynamics and I won't go through all the details here. But some of the dynamics of trafficking in East Asia and South Asia, just to mention a few, what we see for ex, in relation to Cambodia is internal trafficking of children, and women for sexual exploitation and domestic work. We see cross border trafficking to Thailand for sexual exploitation and labour exploitation, to Vietnam in relation to begging and to Malaysia for domestic work, for Indonesia there is internal trafficking as well as cross border trafficking to Malaysia, Singapore, Japan, Saudi Arabia, Kuwait, Syria and Iraq. We see both internal and external trafficking from Myanmar in relation to forced or hazardous labour, in relation to forced marriage and sexual exploitation as well as forced labour. In now PDR we see internal trafficking, cross border trafficking as well as transit through the country to Thailand. This trafficking is mainly related to labour exploitation or sexual exploitation. There is trafficking in and from Thailand as well as in and from Vietnam, the Philippines, China and Malaysia.

For South Asia we see trafficking in Bangladesh both internal trafficking for sexual and labour exploitation, cross border trafficking to India and Pakistan and we see trafficking in and from Nepal both internal as well as cross border trafficking and also in Sri Lanka. We have to remember that as was mentioned by the Hon'ble Justice this morning that behind every statistic is a human being. We are talking about children who are being exploited and forced to go through terrible situations in the region through trafficking that is happening. Just to refer to some of the work that has been done in the region some good examples include the bilateral cooperation for example, between India and Bangladesh where quite a lot of work has gone into making sure that there are good case managements and referral systems and there is rescue recovery, repatriation and integration work going on. We have persisted with that with two of our publications that focus on these areas. We have also done research within South Asia looking at prevention and responding to trafficking with a child rights based perspective as well as looking at certain initiatives that have taken place within the region. For South Asia, there has been an assessment in 2008 covering China, Indonesia, Lao PDR, Malaysia, Philippines, Thailand and Vietnam which had its objectives to review, achievements, weaknesses and lessons learnt and also to establish the future directions of our work¹. Some of the key

¹ The publication is entitled: "*Reversing the Trend: Child Trafficking in East and South East Asia*", [Unicef, 2009] available at: www.unicef.org/eapro. Other publications of the UNICEF in relation to child trafficking as it exists in South Asia include: *South Asia In Action: Preventing and Responding to Child Trafficking- Summary Report*, [UNICEF, Innocenti Research Center; 2008]; *South Asia In Action:*

findings which are not necessarily limited to the region and we will see that also in South Asia. But if we are looking for example, law and policy development and reforms, we see in terms of the legal framework as how trafficking is defined narrowly or inconsistent with the Palermo Protocol. We also notice that child rights to protection and services are inconsistently covered and there are no prohibitions against institutional detention of children who are victims of trafficking. In terms of the policy framework, most the Countries have numerous legal and policy frameworks on trafficking, there are even national plan of action against trafficking and as regards national plan of action which are more general and holistic mention may be made particularly about Indonesia which has a comprehensive national plan of action that is leading to integrated solutions and it is more cost-effective. It links to the issue of ensuring a systematic approach against trafficking. Within this scheme, prevention is extremely important, as you recall I drew your attention to CRC where the focus is on prevention, but what we see in the region is that prevention strategies are often weak. They may be driven by priorities of individual agencies, organizations are donors. Most efforts are focused on short-term awareness raising campaigns and small-scale vocational training not bringing into a larger scale and covering more children that is necessary. There is also a need for strengthening social welfare systems for children and families, which as I mentioned earlier addressed the vulnerability factors in child protection in general. There is also a need to recognize the fact, as we have seen before, that some children are more vulnerable due lack of documentation, there is a need to promote birth registration and access to citizenship as a means of prevention. We need to look more at campaigns based on evidence although as I said it is very get to get the statistics. But we are able to gather evidence in relation to the root causes which would help us to target the prevention activities. We have seen some innovative partnerships in the region such as vocational training for at least children who are in the hotels in Philippines and Indonesia. And we see some promising practices in Malaysia through education such as the school campaigns in the Philippines.

Also in the area of victim identification and protection, there is a lack of clear or specific national guidelines and accountability mechanisms which leave the identification at the hands of the discretion of the individual officials or sometimes even the NGOs. Again no systemic approach to victim identification and protection is followed. We have seen an endorsement by ASEAN of Guidelines for Responding to Child Trafficking Victims and it is important that the countries in the region are working on the implementation of that. There is an uneven the recognition of child victims. As I said earlier there is very much focus on sexual exploitation, there is not much of a focus on boys or those trafficked for non-sexual purposes. There is a lack of clear distinction between victims of trafficking and irregular migrants. When we are looking at the fourth element of child trafficking with regard to recovery, return and reintegration, there is a need for community based integration services such as standard for quality service delivery, capacity building for social workers, and also strengthening in general, the number of social workers that exist. There is a lack of and insufficient access to necessary services. Again very often children end up in detention centers or centers where they are mixed

Preventing and Responding to Child Trafficking- Child Rights-Based Programme Practices [UNICEF, Innocenti Research Center; 2008]; *South Asia In Action: Preventing and Responding to Child Trafficking: Analysis of Anti-Trafficking Initiatives in the Region* [UNICEF, Innocenti Research Center; 2009].

with adults. So it is important have available safe accommodation, medical care, psycho-social support and legal aid.

As I mentioned earlier, we have to abide by the principle of the best interest of the children which is mentioned in Article 3 and one of the four general principles of the CRC. This principle is often overridden by criminal justice goals leading to long placements in shelters and sometimes the holding of children against their will. And finally, social welfare systems are not in partnership with justice efforts. For example we do not see that there is sufficient focus on early identification of risks, joint assessments between the different sectors, also in relation to family tracing, best interest determinations and the reception of children. What is needed here as was mentioned in the earlier presentations as well, there is a need for systemic approach to address this issue that looks at the different areas with an initial focus and the primary focus on the issue of prevention making sure that we finally understanding why this is happening and addressing the reasons for this to happen. We should not, of course, forget the victims of trafficking and looking at the issue of providing them with the necessary protection and support, providing them with recovery, return and reintegration in their best interest. I thank you.

President: Thank you very much for that elaborate presentation. May I also take this opportunity to thank the IOM and the UNICEF for graciously consenting to co-sponsor the session along with our Secretariat. I thank you very much for that. Thanks are also due for the lucid presentations that both of you made and I would now call upon the delegations to comment on the topic. May I now request the leader from Thailand to make his presentation.

The Delegate of Thailand: Mr. President, Excellencies, Ladies and Gentlemen, trafficking especially in women and children and smuggling of migrant workers have become a transnational issue. Poverty is a major root cause of the problem, luring women and children into the business of sexual exploitation and slave trade. However, at present, we can observe that young boys are becoming the victims to pedophiles and illegal workers are susceptible to slave labour. These are violations of human rights and the degradation of human dignity.

Thailand has long been affected by and has been very active in combating human trafficking and smuggling of migrant workers. On 11 May 2010, the Thai government announced that fight against human trafficking is a national priority and launched the National Action Plan for the year 2015 to tackle the issue. This Action Plan encompasses new elements such as campaign on and publicizing safe factors for migration and the risk factors leading to trafficking of human and migrant workers. The National Operation Centre on Human Trafficking under the Ministry of Social Development and Human Security has been entrusted with the task of intra-agencies coordination in order to facilitate decision making among policy makers on how to prevent the problem and address the issues at national, provincial and international levels. Moreover, the National Action Plan emphasizes that anti-human trafficking and migration regime cover for inter-related elements “4Ps”, which comprises policy measures, preventive measures,

protection measures and prosecution measures. The 4Ps serves as a guideline for concerted attempt to capture the complexity of the problems and provide effective response in all areas including the justice system.

In Thailand, there are a number of government agencies that operate independently according to their expertise and authoritative power. Some of them are suppression agencies. Others coordinate intra-agency networks of officials in the area of information exchange, capacity building and integrated activities and projects. For example, the Centre Against International Human Trafficking (CAHT) under the Office of the Attorney General has been functioning since May 2007. The Ministry of Labour has set a hotline number 1546 to receive reports on abuse of labour by employers. Likewise the Bureau of Anti-Human Trafficking and the Department of Immigration under the Royal Thai Police are responsible for the suppression of human trafficking and smuggling of labour. Further, the Department of Special Investigation (DSI) under the Ministry of Justice has set up Bureau of Protection and Suppression of Human Trafficking. At the moment, the Ministry of Justice is in the process of amending the Special Case Investigating Act of 2004 to include human trafficking as an offence under the DSI's jurisdiction. These agencies collaborate under the umbrella of the National Action Plan mentioned above.

With strong commitment to reform in the judicial system to be more responsive to and effective in prosecuting the offenders of human trafficking and smuggling of migrant workers, several laws have been enacted to serve as effective tools for law enforcement officers, for example, the Anti-Prostitution Act, the Child Protection Act, the Immigration Act, and the Prevention and Suppression of Trafficking in Women and Children Act. Also, on 5 May 2008, the Prevention and Suppression of Human Trafficking Act of 2008 came into effect and, 5 May has become Thailand's National Anti-Human Trafficking Day.

On 8 June 2011, the Cabinet gave a financial donation to the UN Voluntary Trust Fund for Victims of Trafficking in Persons especially Women and Children. This is an assurance to the global community that our commitment to the Convention against Transnational Organized Crime and its Supplementary Trafficking and Smuggling Protocols remains strong. Besides, at a bilateral level, Thailand has been actively seeking cooperation in this respect with our immediate neighbouring countries. At a regional level, Thailand works closely with Japan under the Joint Task Force on Counter Trafficking in Persons. Additionally, Thailand has initiated the multilateral cooperation framework known as the Coordinated Mekong Ministerial Initiative against Trafficking or the COMMIT Process and coordinating support from the UNODC through the PATROL Project. We are also coordinating support from the UNODC through the Trafficking in Persons Project (ARTIP), an initiative funded by the Australian Agency for International Development (AusAID), and working closely with ASEAN Member States under the ASEAN Meeting on Transnational Crime and the Bali Process.

Distinguished delegates, the protection of witnesses and remedy for the victims including women, children and migrant workers regardless of nationality are also of great concern

for Thailand. Measures designed to protect witness are provided by the Witness Protection Act of 2003 while the compensation measures guided by the Victim Compensation and Restitution for the Accused Persons Act of 2001. Lastly, the rehabilitation measure is well taken care of by the Ministry of Social Development and Human Security, the Ministry of Public Health, and the Ministry of Education. Thailand is obliged to protect the rights and provide safety for affected persons, based on humanitarian basis.

Thailand has been consistent in our position regarding the prevention and suppression of trafficking in persons especially women and children as well as migrant workers for the purpose of sexual exploitation and slave labour. We hereby reaffirm our commitment to provide them with effective protection and rehabilitation measures. Thank you very much.

President: Thank you. May I now call upon Tanzania for the next statement.

The Delegate of the United Republic of Tanzania: Mr. President, Distinguished Delegates, with the permission of the Head of delegation of the United Republic of Tanzania, we wish to commend the Secretariat for the comprehensive and informative Report on the Trafficking in Women and Children, Migrant Workers and Protection of Children and the eloquent presentations made by the panelists on this subject.

Trafficking in persons is one of the global challenges in the 21st century. The United Republic of Tanzania is, like other countries, facing this challenge. Both women and children are trafficked within the country for forced labour on farms, mines and the informal business sectors. Women and children migrate from rural areas to urban centres for domestic works, commercial sex and hawking.

Human trafficking from rural to urban areas is conducted in a manner which makes it so difficult to discover or identify the culprits, victims or the modus operandi. In dealing with this scourge the United Republic of Tanzania enacted the Anti-Trafficking in Persons Act in 2008. The law prohibits all forms of human trafficking, including but not limited to, transporting or receiving any person for the purpose of slavery, sexual exploitation, forced labour, pornography and debt bondage. A person convicted of an offence under this Law is liable to a maximum sentence of twenty years imprisonment.

The main challenge in the fight against human trafficking is the ignorance on the part of the victims of trafficking and the communities from where women and children are drawn. To address this challenge, public awareness is necessary to enable women and children to understand and appreciate the problem and its negative impact to our nations. We all know that this has always been a challenge to realize this objective for reasons of shortage of funds.

At international level, a response to preventing and combating trafficking in women and children, communities are facing challenges not only because of the extent and nature of

the problem, but rather the difference on the capacities across countries and regions to address the challenge.

For this reason, strengthening capacity at the national level is necessary so that AALCO Member States could develop institutional and technical capacity to develop, implement and assess their own anti-human trafficking policies and strategies. AALCO Member States, could agree to start by strengthening their capacity to analyse and develop national policies and strategies for the implementation of the United Nations Trafficking Protocol, in support by national inter-agency coordination mechanisms in consultation with the civil society.

Likewise, Member States should be able to develop and carry out inter alia, information and awareness-raising programmes for policy makers and criminal justice practitioners, border and immigration authorities, labour inspectors, workers and employers organization, health and social workers, in order to effectively prevent and combat trafficking in women and children globally.

Mr. President, once again trafficking in persons is a global problem, and as a transnational crime, requires international cooperation against it. However, the same cooperation is facing some challenges in criminal justice responses. For instance Criminal laws, law enforcement agencies, prosecution services and courts are typically structured and often only operate within the confines of national borders. This dichotomy presents a significant challenge to the ability of countries to effectively investigate and prosecute cases of Trafficking in Persons.

Understanding the increasing challenges facing the Member States while fighting against women and children trafficking, the United Republic of Tanzania encourages the identification of more areas in which cooperation is needed from AAALCO Member States for better success. Thank you.

President: Thank you very much. May I now give the floor to People's Republic of China.

The Delegate of the People's Republic of China: Thank you Mr. President.

Mr. President, I'm pleased to make some observations at this special meeting. Trafficking in person is brutal violation of human rights and an affront to human dignity. As an international felony, it has undermined the economic development and public order of every country. Trafficking of women and children in particular exerts extreme damages, and terribly impairs the physical and psychological well being of women and children, thus causing a series of social problems.

The Chinese government has always attached great importance to suppressing trafficking in person and protecting the rights and interests of women and children, and has made considerable progress in this respect. At the policy level, in order to effectively prevent and severely combat the criminal activities of trafficking in women and children, the State Council of China promulgated *China National Plan of Action on Combating*

Trafficking in Women and Children (2008-2012) in 2007, covering prevention, combating, rescuing, repatriation and rehabilitation of victims and international cooperation, clarifying the responsibilities of 28 ministries in this endeavour. At the legislation level, China acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (hereafter TIP) in 2010, and actively fulfilled its responsibility in accordance with TOC and TIP. To comply with the definition of human trafficking in Article 3 (a)², China twice amended the criminal law, which criminalizing the acts of organizing minors for illegal activities violating public order, organizing selling of human organs and assisting organizing of prostitution. At the judicial and law-enforcement level, China's Supreme People's Court, Supreme People's Court Procuratorate, Ministry of Public Security and Ministry of Justice jointly issued *Opinions concerning Punishment of Trafficking of Women and Children*, which addressed issues concerning jurisdiction, filing, evidences, type of crimes, conspiracy, international crimes and other matters in due regard. Chinese public security organs launched numerous campaigns against trafficking in persons, and established a DNA database to cross-examine and confirm the parents of the Children trafficked. Moreover, the Chinese government has actively implemented the children first development strategy, consistently improved the legislation for the protection of rights for children, and safeguarding their rights to survival, development, being protected and so on.

Mr. President, attaching great importance to cooperation with foreign countries in fighting against human trafficking, Chinese government has signed 110 treaties on legal assistance and extradition with more than 50 countries. Based upon these treaties and mutual benefit, China has carried out cooperation with other countries on a number of specific cases. It has signed bilateral agreements on combating trafficking in person with relevant countries. Chinese public security organs have also carried out in depth and extensive cooperation with countries concerned, especially countries in the Mekong sub-region, through police cooperation channels in this respect. Meanwhile, the Chinese government has established and improved the organisational institutions of local governments at all levels for children related work, and incorporate the protection of children into the general plan for national economy and social development.

Mr. President, trafficking in person is a felony that endangers international community. The trans-national nature of trafficking in person determines that the suppression and elimination of such a crime cannot be accomplished in isolation from the cooperation of all countries. Political and legal differences shall not become the barrier between countries. Only through joint efforts, close cooperation, reduction of demand and punishment of supply among origin, transfer and destination countries, can we effectively reduce the occurrence of crimes in this regard. The TIP provides us with a sound basis of

² "Trafficking in Persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force, or other forms of coercion or abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs.

cooperation combating human trafficking. We hope that countries concerned will make full use of TOC and TIP, actively conduct cooperation including extradition and legal assistance. The developed countries should offer more technical assistance according to the requirements of developing countries.

Mr. President, facing the severe challenge of human trafficking, we call on states, on the basis of mutual respect for sovereignty, equality and mutual benefit, to enhance international exchanges and cooperation, and further develop domestic legal systems against human trafficking, in a joint effort to address this severe challenge. Thank you.

President: Thank you very much. May I now call upon delegate from Ghana.

The Delegate of Ghana: Mr. President, in furtherance of its commitments under the various international conventions such as the Convention on the Rights of the Child, the Convention for the Elimination of All Forms of Discrimination against Women, Ghana in 2001 established a Ministry of Women and Children's Affairs to coordinate and champion the cause of women and children in the country. In 2005, Ghana enacted the Human Trafficking Act, with the Ministry of Women and Children's Affairs as the focal Ministry to coordinate anti-human trafficking activities, particularly against women and children.

The Act seeks to prevent, suppress and punish persons engaged in human trafficking and initiate interventions to promote the protection and welfare of victims of human trafficking. The Human Trafficking Act reinforces the Children's Act and the Criminal Offenses Act, which dealt with the prevention and prosecution of offences against women and children.

Since 2005, the Ministry has set up a Secretariat which has, in collaboration with institutions such as the Commission on Human Rights and Administrative Justice, the security agencies, and NGOs, achieved following milestones in the fight against human trafficking:

- Between 2008 and 2010, the capacities of over 150 law enforcement officers, prosecutors and Judges have been built to acquaint them with emerging issues related to human trafficking.
- Between 2002 and 2010, over 12,268 persons have received some form of training in prevention, protection and prosecution of human trafficking cases.
- Between 2005 and 2010 there have been prosecutions in 10 human trafficking cases.
- About 625 victims of human trafficking have been reintegrated into their communities by being provided formal education, vocational skills training, and the grant of micro-credit as start-up capital.
- About 100 community child protection committees have been formed throughout the country to serve as surveillance groups against acts relating to human trafficking.

- Awareness is being created on the nature and hazards of human trafficking through community sensitization and advocacy activities and to solicit support from families and communities in addressing human trafficking.
- About 9 anti-human trafficking units have been set up between 2009 and 2010 by the Ghana Police Service in some regions of the country to deal expeditiously with human trafficking cases. There are also anti-human trafficking desks in the Attorney-General's Department and the Ghana Immigration Service.
- Establishment of a National Database on Human Trafficking in 2010 which documents relevant information on the nature and trend of human trafficking and intervention on tackling such activities.

Just before we left home for this Conference, we received a proposal from the Government of Republic of Mali to enter into a cooperation Agreement for the purposes of developing appropriate measures to combat cross-border trafficking between the two countries.

The Agreement will ensure that child trafficking is tackled between the two countries regardless of its purpose or form and that the interest of the child will be paramount in issues of trafficking.

It is our hope that these and other efforts will create the necessary awareness and thereby reduce, if not, eradicate human trafficking activities in the country. Thank you.

President: Thank you. I now invite Uganda for their intervention.

The Delegate of Uganda: Mr. President and Hon'ble delegates, allow me to commend AALCO for introducing this important topic. Uganda like many other states in the world has been affected by this problem. The social and economic situation and the inadequacy of appropriate legislation have provided the breeding ground for the problem. As a result of the Aids scourge that has left many children as orphans and women as widows and as well as a result of the economic situation which makes it impossible contrary for their relatives to look after the orphaned children, many children have become vulnerable, abandoned in hospitals, on streets, left at peoples gates or thrown into pit latrines.

On the other hand very many people especially from the western world have travelled in droves to adopt children in Africa especially in Uganda. There is no doubt that many of these people are genuine.

Adoption in Uganda is regulated by the Children Act. Section 46 of the Act provides that; in order for a foreigner to adopt a child, he/she must have stayed in Uganda for a period of three years and fostered the child for a period of three years under the supervision of the probation and social welfare officer. This makes it very difficult for a foreigner to adopt a child. What courts have done is to go around this provision by appointing the intending adopting parent as the legal guardian of those children allowing migration of the children out of their country of origin to that of the intending adopting parent. Although the courts have the obligation to take in account the best interest of the child

based on the welfare principle, there is no clear machinery of vetting these parents and yet these children need a home.

Legal guardianship is not regulated by any law. Although the court order granting guardianship may direct the intending adopting parent to make periodical reports on the progress of the child, there is no follow up in order to ensure that the reports are filed and if they are filed, they reflect the right situation of the children. As a result, genuine parent are denied the opportunity to do so, or the children are left at the mercy of the adopting parent. The Hague Convention which for the coordination between the country of origin of the child and that of the adoptive parent, is not adhered to by many countries.

The Convention aims at protecting children and their families against the risks of illegal, irregular, premature or ill-prepared adoption abroad. It does so by establishing principles for countries to follow that focus on the need for inter-country adoption to occur only where it is in the best interests of the child and with respect for his or her fundamental rights. The Convention also focuses on the need for countries to work to prevent the abduction, sale, or trafficking of children. It is therefore necessary for AALCO to look into this matter.

In as far as migrant workers are concerned; the economic situation in Uganda has led to the migration of workers to certain countries to look for jobs. We have evidence that on reaching there, passports are removed from them so that they don't return to their country, they are not paid salaries as promised, women are used as sex workers and also raped, etc. We have all these documented.

Mr. President, my delegation therefore requests AALCO to investigate and look into this matter seriously with a view of handling a lasting solution. We are willing to provide details in case it is needed. Thank you.

President: Thank you very much for brief intervention. Now I call upon Arab Republic of Egypt. They wish to make a very short power-point presentation.

The Delegate of Arab Republic of Egypt: Thank you Mr. President. First of all I find it an important chance for Arab Republic of Egypt to share the experiences and challenges and the problems facing human trafficking and also the solutions which we have developed in Egypt concerning this vital and important criminal phenomena. So, I would be so much focused on the challenges. Infact in Egypt we have found that we have several challenges in facing this problem starting from the legislative framework, role of the stakeholders, and the best practices and experiences.

One of the most important challenges is the effective legislative framework fighting and combating human trafficking; prevention is also very important aspect in this regard. In Egypt our legislative framework is based on international commitments and national legislation. So we have ratified the Palermo Convention, the CEDAW Convention, the Convention on the Rights of Child, as well as the Slavery Convention of 1926 and this indicates that Egypt has started very early to deal with anti-trafficking measures.

Moving on to our national framework under which we have dealt with several challenges and problems, and hence we have recently passed a specialized law in human trafficking. We found that it is very important to deal with some supplemental legal problems, like for example, for regulating removal of human organ transplants so we have published new law in 2010 and also have made amendments to child laws, penal code and the labour law and the anti-money laundering law.

Moving to the role of Egyptian stakeholders and the importance of coordination and cooperation on the national level, between all the stakeholders we have developed a national strategy that include starting from the government, executive authorities like the Ministry of Justice in dealing with health, education., information; and local enforcement agencies. When I mean the role of the law enforcement, I refer to the police and the judicial authorities. And there is also an important role played by the civil community focusing on the role of the civil society in helping face and combat these crimes. We have developed a three-year strategic comprehensive plan to prevent and combat human trafficking; and to protect the society; and to assist and protect victims which is one of the most important pillars of our strategy where we deal with victims as an absolute victim and not as one involved in criminal activities. Our strategy also involves increasing relevance of laws and promoting domestic and international cooperation. The Egyptian Action Plan are contained in the grassroots of the problems dealing with enhancing public awareness and promoting the capabilities of the law enforcement agencies and protection of the society focusing on the rights of the victims and how to rehabilitate them and integrate them back to the society and also focusing on the activities relating to the rule of law and role of criminal justice as well as enhancing national and international dialogues and understanding between countries.

The role of the Ministry of Justice in fighting human trafficking in Egypt is crucial where central authority is vested with them. I would like to elaborate this point. In Egypt we have a central authority within the framework of Ministry of Justice which deals with the UNCTOC and the three Protocols called Palermo Protocol. The central authority provides the widest measures with other authorities with different countries on mutual legal assistance, protection of the victims, extradition, transfer of sentenced persons as well as it works as helpline for foreign individuals and embassies of other countries. We also cooperate with different international organizations like the IOM and UNODC. The strategy and competence of the central authority is very efficient. We cooperate with other countries on treaties, international courtesy and reciprocity. We do technical reviews at the request of assistance and we work 24/7 and so on.

After our deep analysis of how to deal with the phenomena of human trafficking in Egypt, there are four main challenges – works towards solving the root causes including poverty, and enhancing the rule of law, fighting criminal behaviors, bring a constructive dialogue between the law enforcements and the judiciary of the same state and also between the different states, fighting the abuse of cyberspace for the propaganda of human trafficking and child pornography and finally recognizing the status of the trafficking persons as victims and providing them with widest measures like assistance and protection. Thank you very much.

President: Thank you. I am sure that common areas identified by Egypt are common to all of us. Now we move on to request from United Arab Emirates.

The Delegate of the United Arab Emirates³: Thank you. Mr. President, Assalaam o Alaikum, for the first time that I deliver a speech, please allow me first to convey to your friendly country our regards and appreciation for the warm welcome and generous hospitality, and congratulate you for your presidency of this important session of the Golden Jubilee Session, I would also like to congratulate the Vice-President and the Secretary-General for his valuable and outstanding leadership of the Secretariat of the Organization. Many thanks to the previous President and congratulations for all their efforts during the presidency of the Forty-Ninth Session.

Mr. President, at the outset we give thanks for organizing this special meeting to review this important topic at the international level. I would like to thank the speakers who have presented their papers and that we listened to them with great interest.

I would like to make clear that my Government is one of first countries that has given this matter the utmost attention and realized that adopting an active policy to improve standards and legislation which will have a positive impact on the level of fighting human trafficking and labour issues, therefore, it has issued Federal Law No. 51 of 2006 on combating human trafficking in the line with federal laws in force and related to the entry and residence of foreigners and regulation of labour relations and the Criminal Procedure and the Penal Code. The law covers all forms of trafficking in human beings in terms of recruitment, transportation, transfer or receiving them by the threat or use of force or other forms of coercion, as well as includes all forms of sexual exploitation. The law provides severe penalties ranging from life imprisonment and fines ranging between 100 thousands Dirham to one million Dirham. As well as punishing the legal person such as a natural person.

In 2007, Council of Ministers has issued a resolution to establish the National Committee to combat human trafficking to support and apply law and to provide a body for the coordination of efforts against human trafficking at all levels of the seven emirates of the state.

In this context, the Commission is working in cooperation with the competent authorities of the State to implement a strategy based on four pillars are: Development of legislation and laws related to issues of human trafficking, and to Enable the concerned authorities to apply deterrent and preventive measures, and ensure the protection and support for those affected by this type of crime, and expand the horizons of bilateral and international cooperation to combat these crimes.

Mr. President, as part of the national and international strategies to combat human trafficking, the United Arab of Emirates has ratified the Convention on Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in

³ Statement was delivered in Arabic. Unofficial translation from translator's version.

Persons, especially women and children attached with the Convention and the National Committee to combat human trafficking is now finalizing the amendment of some provisions of law regarding combating human trafficking to go in tune with the Protocol, which acceded to the State. The Committee also issued its resolution 7 / 18 for the year 2010 on the regulatory procedures for dealing with victims of human trafficking between the relevant authorities in the State where the resolution is working to support and protect victims of human trafficking by the relevant authorities in the State while dealing with them in all stages, both at the level of police and public prosecutors in the investigation stages of the investigation or shelters when the victim's access to them and generally these procedures work to ensure the protection of victims of human trafficking and help them with full respect of their legal and humanitarian rights.

The reports indicate that in 2008 the number of cases of human trafficking reached to 15 cases and the number of accused in it 42, and in 2009 the number of cases reached to 43 cases and the number of accused 125 and the number of victims, 96 and in 24 cases the convictions issued ranging sanctions where the imprisonment for 10 years and life imprisonment, and this indicator is not on the increase of these crimes, but to increase awareness among law enforcement officer in detection of these crimes in implementation of the efforts made by the State at all levels, whether in contract workshops, international participations and international cooperation.

However, Dubai Foundation for Women and Children was established as one of the important initiatives taken to assist victims of human trafficking which can be considered as the first step towards the institutionalization of activities to support and assist victims of human trafficking according to the international standards in addition to the Women and Children Shelter's Centre victims of human trafficking in Abu Dhabi which is a non-profit organization working under the umbrella of the UAE Red Crescent and specialized in providing safe shelter for victims of human trafficking of women and children, and Centre of the same has been opened in the Emirate of Sharjah and the Emirate of Ras Al Khaimah.

Mr. President, UAE government worked to put forward a series of actions that began impacting positively on the environment of work in the State, and passed legislation to protect the rights of all parties of production (worker - employer). Among the measures taken to protect workers are: the protection of wages system, an electronic system that provides the Ministry of Labour database and information on payment of wages for workers in the private sector and the commitment of enterprises to pay wages on time, in addition to the prohibition of work at noon during the months of July and August, and field inspection visits and conditions of providing Workers' housing and launching the second phase of the pilot project, which began in 2009 on the development of contractual work and the rights of workers to strengthen the bonds of cooperation with two of the most important partners that provides labour which are the Republics of India and the Philippines. As well as the formula of standard employment contract has been imposed since 2007, which regulates the rights and duties of labour to work in the State. During the past two years, UAE signed agreements with a number of countries sending labour to organize the flow of labour for the completion of all procedures of work contracts by the

ministry or labour offices in the sending countries in order to protect workers from fraud and private employment agencies and practice of human trafficking as that seen in the UAE crimes of human trafficking directly linked to the reasons inherent in employment issues at the sending countries.

Mr. President, in conclusion, I assure my Government's commitment to occupy a leading position in the global efforts to combat human trafficking, as well as its determination to combat this scourge, both at home and abroad in cooperation with all parties and international partners. Thank you.

President: Thank you. May I now call upon Kuwait.

The Delegate of State of Kuwait⁴: Mr. President, at the outset, I would like to convey my appreciation to the Secretariat of AALCO for its Report on “Establishing Cooperation against Trafficking in Women and Children”. As regards the efforts of Kuwait in this area, it is worth mentioning the fact that the Kuwaiti legislators have decided to provide punitive protection within the framework of the Kuwaiti Penal Code No (16) of the year 1960 and its amendment in order to guarantee the anti human trafficking and the protection of rights of those who fall prey to it, especially women and children, during their stay on the territory of the State of Kuwait. Indeed, the Penal Code is full of texts and provisions that definitely provide for an umbrella type of punitive protection for rights and freedom of employment, and some of these provisions include: report of rigorous punishments, for the crime is been committed in this regard as: murder, violence, kidnapping, detention and slave trade, etc of punitive prohibitions, and it is clear that it extends to the protection of aliens and residents in a fair and effective form. The Kuwait Penal Code, by virtue of article No (185) as well, prohibited the human entry and exit (smuggling) for slavery, as well as all those who buy or offer to sale or to gift a person as a slave, the legislator went through the text of article, punishments imprisonment and a fine against those who commits any of these acts.

The Ministry of Justice has established the draft legislation regarding human trafficking and smuggling of migrants, and has submitted it to the Council of Ministers for adoption, which has in turn forwarded it to the legislative committee of National Assembly and has been accepted unanimously. The approval process is undertaken by the Kuwaiti National Assembly and will be ratified by His Highness the Emir of the State, in accordance with Constitutional procedures established in this regard (Article 79 of Constitution).

The draft law has covers various issues including: the definition of crime of human trafficking, smuggling of migrants, definition of transnational crime, report of rigorous punishments of up to life imprisonment for the perpetrators of these crimes and text for the confiscation of the tools and the things seized and used in the committing of these crimes. Moreover, the draft law has mentioned a number of guarantees and special services for victims of trafficking in persons and smuggling of migrants, like providing medical and social care for them, or send them into an accommodation center allocated by the State for this purpose.

⁴ Statement was delivered in Arabic. Unofficial translation from translator's version.

The State of Kuwait has provided temporary residence to receive the foreign workers, until the permanent place would be provided to accommodate the number of 700 workers, and internal regulation has been prepared organizing the procedures for receiving inmates in center and their stay in this and the services provided to them until providing their settlement in accordance with the law.

While the tentative current residential arrangements do contain a number of services that the State provides to workers by establishing offices created in residence of workers shelter for all concerned authorities, wherein the male and female social and legal researchers are conducting social and psychological research and doing health care procedures and investigations, for the workers residing in the center, and offices of some embassies, and all requirements of accommodation center have been met like bedrooms, living rooms, restaurant and breaks for workers. This has been supplemented by taking into account all necessary and entertainment needs which have been provided along with security personnel and guards, and all meals and living requirements have also been provided in addition to all humanitarian services, including curative and preventive services.

Two special departments have been established to activate anti trafficking measures and they are: Department of Immigration Issues and the Department of Domestic Workers both of which conduct inspection and exercise control on the offices of services and domestic workers employment, in addition to the General Department of inspection and control, that deal with the complaints referred relating to violation of human rights committed by people of general authority against aliens and foreign workers in general.

The Department of Labors Inspection conducts periodic and surprise inspections on work sites to ascertain the application of law and ministerial decisions on terms of obtaining employment, whether male or female, for all their labor rights and financial dues, as well as to ensure the validity and safety of working conditions, through receiving labor complaints for examination and investigation of them, in order to give everyone his rights.

Mr. President, I would also draw the attention of the distinguished delegates to the fact that Kuwait has ratified several conventions related to human trafficking confirming the keenness of the State of Kuwait to strengthen the frameworks and mechanisms to protect the rights of women and children and combating trafficking in human, we indicate that the State of Kuwait has ensured the development plan for the years 2010/2011-2013/2014, issues by Law No. 9 of 2010, a set of policies, which includes:

1. Regarding woman, the National Development Plan pointed out a number of targets to be achieved, including:
 - A. Push forward social empowerment for Kuwaiti women and that through supporting their political rights and enhancing their role in decision making centers, and expanding their social participation and removing the obstacles for woman to achieve more legitimate gains.

- B. Development of an institutional mechanism to follow up the issues of women, youth and family and monitor the progress and failures.
 - C. Revision of all legislations which guarantee the civil and social rights of women to achieve social justice for all group of society.
 - D. Create a housing fund for women.
2. For children, the Kuwaiti Development Plan included a series of laws that will strengthen and protect the rights of children in all its forms, among this:
- A. A new law to protect children from violence and exploitation.
 - B. A special juvenile law.
 - C. A special law for family protection.

Mr. President, we have taken enough measures to tackle the menace of trafficking in women and children by virtue of adopting a lot of measures and laws, some of which I have mentioned above. I thank you.

President: Thank you Kuwait. May I now call upon the delegate from Japan.

The Delegate of Japan: Mr. President, the Japanese Government considers that the trafficking in persons is a serious crime and a grave violation of human rights and dignity, and that as a result of globalization and widening of economic gaps among countries, it has become a serious cross-border problem and the international community as a whole is required to tackle with the problem.

From such standpoint, in December, 2009, the “Comprehensive National Action Plan 2009 for comprehensive measures to combat trafficking in persons” was adopted to prevent and eradicate trafficking and to protect victims in Japan. More specifically, the said Action Plan includes such measures as protection of victims by use of the mother tongue; care extended by female staff; the utilization of multi-linguistic hot-lines, strict enforcement of anti-child sex exploitation and prohibition of child pornography.

Japan makes financial contribution every year to IOM and intends to contribute a substantially increased amount (US\$288,152) for the current fiscal year, with a view to facilitating the return to home countries and society of victims of human trafficking.

In addition, since 2004, Japan sent governmental consultative survey missions totally to 20 countries. Most recently, in March this year, we sent such a mission to Thailand and Cambodia and had consultation with the respective government agencies, international organizations and NGOs concerned. In Bangkok, on the occasion of the visit of that mission, the third meeting of Japan-Thailand joint task-force was held and a Standard Operating Procedures (SOP) was agreed upon to deepen the mutual understanding of the procedures of protecting the victims, and furthermore, an action plan was made, and an active exchange of information on the measures for prevention, law-enforcement and protection was conducted.

On this question, we intend to implement the further measures necessary in Japan and to strengthen cooperation with other countries concerned. Thank you.

President: Thank you very much. Now I call upon the delegate from Oman.

The Delegate of Sultanate of Oman⁵: Thank you very much. Mr. President, Human trafficking has evolved as one of the most dangerous crimes of this time and fastest growing. There is now an urgent need to combat it through all methods, particularly for Asian and African countries for whom a not insignificant portion of their people fall victim to this crime.

The Sultanate of Oman has continued its efforts at combating human trafficking, since the issuance of its Law on Combating Human Trafficking in 2008. It established a national plan for combating human trafficking which aims at sensitizing various sections of society to the seriousness of this crime and how to address it through real partnerships. There was also a focus on providing care to the victims. For this purpose, Oman established a shelter for victims of human trafficking that receives victims and provides with the necessary care such as medical and psychological care, housing, legal aid and other assistance to mitigate the effects of their exposure to abuse. In several cases, the Sultanate also covered their travel expenses to their home countries.

The National Committee for Combating Human Trafficking collaborated with several entities in the implementation of the National Plan for combating Human Trafficking through raising awareness among the community about the forms of trafficking and informing the groups targeted by traffickers of the procedures and measures available to them in the event of trafficking, in addition to providing legal aid, medical assistance and shelter in cooperation with the public Prosecution, The Royal Oman Police, The Ministry of Social Development and the Ministry of Health. In order to facilitate and encourage victims to report human trafficking, a hotline was launched that operates around the clock and is manned by trained professionals who speak several languages. The committee has also collaborated with the Ministry of Manpower to monitor cases of forced labour.

On this occasion, it is important to note that the efforts of all countries should be concerted so that the country receiving foreign labour is not held fully responsible for what is sometimes referred to as the abuse of foreign labour, since the reality has shown that foreign labour is maltreated in their own countries, particularly by the agencies responsible for their expatriation that charge these labourers extortionate amounts that sometimes exceed a full year's salary. For this reason, all countries should cooperate in their efforts to combat this phenomenon.

The Sultanate of Oman, for example, introduced labour laws that protect and safeguard the rights of workers. The Laws in Oman also do not differentiate between men and women, as women in Oman enjoy rights and privileges which are not enjoyed by even

⁵ Statement was delivered in Arabic. The Secretariat would like to acknowledge the delegation for submitting the written statement in English.

women in developed countries. Omani women occupy positions of ministers, undersecretaries, ambassadors and members of the State Council.

The Sultanate of Oman is keen for its efforts in this regard to be in line with international standards to counter this scourge which threatens vulnerable groups made up of women and children. Oman continues to cooperate with various countries and organizations to find solutions to the problem of trafficking. More coordination is needed between the countries that source and receive victims of trafficking as well as transit countries to combat this phenomenon. We call on the Member States to strive to combat human trafficking, if not in compliance with international law then out of respect for humanity. Thank you, Your Excellency.

President: Thank you. Now I call upon Indonesia for their intervention.

The Delegate of Republic of Indonesia: Mr. President, Distinguished Delegates, Before I start my delegation view about this important matter, I would like to give my appreciation and thanks to the resource persons for sharing us substantial information which will be very to us in coping this problem.

Mr. President, Distinguished Delegates, throughout the world men, women and children are being trafficked into a form of modern day slavery. Mainly women and small children are being forced to perform physical labour including prostitution in several countries. Many victims forced into this cruel industry are coming from our region. We have to stop and combat this crime by various tireless efforts. In this regard, Indonesia maintain her commitment to eliminate trafficking in persons by strengthening the national law and its enforcement altogether with widening international cooperation.

At domestic level, Indonesia has enacted anti-trafficking law to address the country's problems pertaining to trafficking in persons, since then there have been a significant increase in the record of prosecutions, convictions and sentences in connection with this heinous crime.

Indonesia also has strengthened its legal instruments by ratifying the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons and also Protocol against Smuggling of Migrants in 2009. Indonesia also has new law on immigration which serves as an effective legal framework for combating trafficking and people smuggling.

Furthermore, eradication of trafficking in persons in Indonesia has become increasingly efficient with the establishment of the Task Force for preventing and Handling Trafficking in Persons with its main duty of preventing trafficking, enforcing the law, and providing health and social care for the trafficking victims including their repatriation and social reintegration.

Mr. President, Distinguished Delegates, Indonesia emphasizes the importance of bilateral, regional and global cooperation on fighting this crime. Bilateral cooperation is

needed particularly in establishing direct contact between institutions that handle the eradication of trafficking in persons in the two countries, such cooperation will become significant effort in prevent and process relevant matters in dealing with this issue rapidly.

Moreover, Indonesia also initiated regional cooperation at regional level by encouraging the process of establishment of a legal framework for ASEAN cooperation on trafficking in persons while at wider Asia-Pacific region Indonesia organized “Bali regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crimes” or better known as Bali Process.

Regarding the Bali Process, allow me to share a highlight about it. The Bali Process is a forum that brings participants together to work on practical measures to address people smuggling, trafficking in persons and related transnational crimes in the Asia-Pacific region and beyond. This forum participated by over 50 countries and numerous international agencies. I am delighted that the exchange of view, data-sharing, and exchange of information gained from such activities have been very useful to the region.

At multilateral level, UN Convention on Transnational Organized Crime should be a basis for wider and stronger cooperation among its state parties. In this regard, Indonesia wish to call AALCO Member States which are already a party to this Convention and its Protocols could implement them fully and persuade upon AALCO Member States to consider to ratifying or acceding as a matter of priority.

Mr. President, distinguished delegates, Indonesia remains steadfast in our efforts to combat trafficking in persons. Our approach is multi-pronged. It involves legal enforcement, social-economic development as well as strive for gender equality and international cooperation.

In this regard, I recognize that trafficking in persons is an issue of ongoing concern to many countries in the region. We share some problem in this so we have to support each other in efforts and measures to prevent trafficking in persons and to investigate and punish perpetrators. This situation leads me to wish AALCO members have same vision as Indonesia that there is a big need to enhance increasing the capacity of states to address the issue of trafficking in persons in Asia and Africa. I thank you.

President: Thank you Indonesia. May I now call upon India for their statement.

The Delegate of India: Mr. President, at the outset, I would like to thank all the Panelists for their presentations including the wealth of informations they provided on the scope and extent of the problem and on the actions being taken to address these issues. Mr. President, the scale of the problem and the causes have already been highlighted by the Panelists and I will not go into that.

Trafficking in people is a modern-day version of slavery. Thousands of people are transported across countries, many of them women and children, and forced or

surrendered into prostitution with no protection of their rights. Some are simply abducted, others are sold by their close relatives, and still others are lured by jobs and hopes of a better future, only to find themselves in bondage. At the root of all such situations is poverty. The desire to provide for their families or to migrate in search of a more secure future is exploited by traffickers for their own criminal purposes, and the victims find themselves in extremely vulnerable situations.

The Government of India has formulated a 'National Plan of Action' to combat trafficking and commercial sexual exploitation of women and children. The strategy for combating trafficking focuses on income generation, literacy, and skills upgradation including enforcement of laws and regulations as well as rehabilitations of the victims of trafficking.

Mr. President, India is a Party to a number of international Conventions which provide for cooperation among countries in combating this growing menace. These include the Optional Protocol to the Convention of the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. We are also a Party to the UN Convention Against Transnational Organized Crime and also its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against Smuggling of Migrants by Land, Sea and Air. We are also a Party to the SAARC Convention on the subject.

Apart from drawing up a National Plan of Action and constituting National Advisory Committee to combat trafficking, State Advisory Committees have been appointed in a number of States to draft state-wise policies and action plans, those more concerned with trafficking, either as 'recipients' or 'suppliers' of victims of trafficking networks, are moving ahead noticeably more rapidly. Actions include finalizing 'rescue' policies, as well as state-level consultations on trafficking and exploitation of children for commercial sex, especially on measures to improve law enforcement.

Initiatives with NGOs are ongoing, principally in community-based programmes for resettlement of victims of trafficking, especially children. These also include a range of activities for creating social awareness – from making people aware not only of the dimensions of trafficking, but also how to be vigilant against traffickers, to making them sensitive to the plight and needs of victims of trafficking. Some states are linked to national anti-trafficking networks such as the Action Against Trafficking and Sexual Exploitation of Children (ATSEC), which work closely with the police and the state departments of welfare.

Guidelines on dealing with trafficking have been circulated among all state (provincial) governments. In addition to stipulating the appointment of special police officers briefed to tackle trafficking, the guidelines also lay down that the police should be assisted in this task by an advisory board of social workers and NGOs.

Inter-state cooperation has got underway with the directive to all state government on formulating action plans against trafficking. Alongside, consultation is underway regarding the formation of a nodal agency to monitor trafficking, with representatives

from Union and state governments, inter-state law enforcement agencies, including officers of the police and judiciary, and NGOs.

Efforts at rehabilitating and resettling victims of trafficking and commercial sexual exploitations, while most are long-standing, are being reviewed. The inputs from victims is beginning to inform such activity as much as the amendments to the law. We look back with some satisfaction at the various initiatives, which have been taken, but we are also concerned that there are many tasks that are still not accomplished and renew our commitment to fight this social menace.

Mr. President, hence, even while we are happy to note that these initiatives are beginning to produce results, we are aware of the scale of the problem and that a great deal still needs to be done for which we look forward to cooperating with all countries around the world including in our region. I thank you Mr. President.

President: Thank you India. May I now call upon the delegate from Kenya.

The Delegate of Kenya: Thank you Mr. President. Kenya welcomes the Special meeting on Trafficking of Women/Children, Migrant Workers and Protection of Children to be discussed during this session of AALCO.

Kenya is facing the increasing challenge of trafficking of women and children for the purposes of sexual exploitation and forced labour. Some of the main reasons for upsurge in trafficking include the following reasons: prostitution, illegal adoption, sale of organs, sexual exploitation or for immigration benefits such as housing.

As we reported in our general statement at the opening session, our new Constitution of 2010 prohibits any form of slavery or forced labour; inhumane treatment, or torture whether physical or psychological. The Constitution further prohibits any form of inhuman and degrading manner, which would be brought about in human trafficking.

Kenya has also enacted the Counter-Trafficking in Persons Act, 2010 to implement Kenya's obligations under the United Nations Convention on the Elimination of All Forms of Discrimination against Women which requires State Parties to take all appropriate measures, including legislation, to suppress all forms of traffic in Women and exploitation of prostitution of women. The Act further implements Kenya's Obligations under the United Nations Convention against Transnational Organized Crime particularly its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

The Counter-Trafficking in Persons Act also makes provision for offences relating to trafficking in persons, trial of offenders and remedies for victims of trafficking in persons. The Act further makes provision for the establishment of an advisory Committee which shall advise the Minister on inter-agency activities aimed at combating trafficking and the implementation of preventive, protective and rehabilitative programmes for

trafficked persons. The Act also establishes a National Assistance Trust Fund to assist victims affected by trafficking in persons. I thank you.

President: Thank you. Now I call upon Bahrain for their intervention.

The Delegate of Bahrain⁶: Mr. President, the Kingdom of Bahrain is doing hard and continuous work to promote, respect and protect the human rights, including those relating to women, children and foreign workers and that the basis of that work is informed by its national laws and contents of its international obligations affirmed by the reform project of His Majesty the King, May God protect him.

The Kingdom of Bahrain has enacted laws and legislation that ensure control, the exploitation of women and children. Therefore, the Government of the Kingdom of Bahrain established a hotline around the clock to receive reports of any violation, and starts investigation by adhering to confidentiality of the women and children's exposure to risk, however the Kingdom of Bahrain suffered from the exploitation of children in political matters, that violates the UN Convention on the right of the Child and the Fourth Geneva Conventions of 1949.

In this context, the delegation also wishes to indicate that the Supreme Council is established for women which is headed and patronaged by Her Royal Highness Princess Sbaika daughter of Ibraheem Khalifa, she is wife of His Majesty. The Supreme Council continues its work regarding women since its establishment within the framework of its power, on the development of Bahrain women' status and strengthening their position and active participation either in formal institutions of state or institutions of civil society, as well as the council continues its cooperation with Arab Women Organization, United Nations, especially its development programme, Economic and Social Commission for West Asia, Industrial Organization and Arab Gulf Programme for United Nations Development Organizations.

Regarding the rights of the child, the Kingdom of Bahrain has joined the United Nations Convention for the Rights of the Child and has developed legislation and laws that preserve all rights of children. With regard to the giving of legal protection to the child, the legislative authority is considers, currently, to prepare a draft on an integrated law on the rights of child.

Regarding the rights of migrant workers, the Kingdom of Bahrain has enacted legislation and laws to ensure protection of the worker and building relationship between the employer and the workers and prevent the exploitation of foreign workers by employers.

Regarding the cancellation of sponsor system, the delegation would like to point out that it has allowed free movement of foreign workers between employers within the framework of the rules dealing it, and in this regard was also said, about the issuance of law No (1) for the year 2008 on combating trafficking in persons which as stipulated, to establish a national committee to combat trafficking in persons, which specializes in:

⁶ Statement was delivered in Arabic. Unofficial translation from translator's version.

1. Programs on preventing and combating trafficking in persons and protecting victims of trafficking from revictimization.
2. Encourage and support the preparation of research and media campaigns and social and economic initiatives to prevent and combat trafficking in persons.
3. Coordination with the state bodies with respect to information relating to trafficking in persons.
4. Participation of the competent authorities in the preparation of reports submitted to the international bodies concerned on the measures taken to combat trafficking in persons.
5. Follow up the implementation of the concerned government agencies with the recommendations and guidance contained in the conventions and protocols related to combating trafficking in persons, in which the Kingdom is a party.

Mr. President, His Majesty, the King of the Kingdom of Bahrain issued the Royal Decree yesterday to establish an independent commission to probe the facts about unfortunate events that Kingdom of Bahrain passed through in the months February and March, and it was formed under the chairmanship of Dr. Mahmoud Cherif Bassiouni with other members, Judge Philippe Kirsch, and Nigel Rodley, and Dr. Mahnoush Arsanjani, and Dr. Badria Al-Awadi, and they belong to the elite club in the field of human rights. The commission has the ability to get to the facts and shall submit its report to His Majesty the King in a deadline by 30/10/2011, as the Kingdom of Bahrain believes to go ahead in reform projects adopted by the King since he took power in 1999. Thanks Mr. President for your kind attention.

President: Thank you very much Bahrain. I now invite Bangladesh to make their statement.

The Delegate of Bangladesh: Mr. President and Distinguished delegates, we would like to place our deep appreciation and special thanks to Hon'ble Justice of Supreme Court of Sri Lanka, Ms. Shiranee Tilakawardane, who has, in her presentation, not only appreciated Bangladesh's efforts in combating trafficking but also described the country's efforts as role model.

Mr. President, Bangladesh government maintains zero tolerance for the perpetrators in persons and related crimes. Upholding and protecting the rights of women and children, is at the top of the agenda of the Government of Bangladesh. The Constitution of Bangladesh also guarantees that all citizens are equal before law and are entitled to equal protection of law. The government is watchful to protect its citizens who fall victims of trafficking-fraudulent and forced labour in any forms.

The government of Bangladesh, under the leadership of Prime Minister Sheikh Hasina, has been making sincere efforts to combat trafficking in persons, in particular, trafficking in women and children. The measures include reactivating the judicial system, strengthening of law enforcing agencies, advocacy and awareness raising programmes for parents and communities, promotion of girl's education, sexual and reproductive health programmes, micro-entrepreneurship development schemes and enhancing other

economic activities for poor families. In addition, more sensitive programmes to address the issue of safe return, which include repatriation, rehabilitation and reintegration, have been undertaken.

Mr. President and Distinguished delegates, Bangladesh stands ready to ready cooperate internationally, regionally as well as multilaterally, the United Nations in particular, to combat trafficking in persons. Bangladesh is a signatory state of several international/UN instruments concluded in this regard. Regionally, Bangladesh is a state party to the SAARC Convention on Prevention and Combating Trafficking in Women and Children for prostitution.

Mr. President, Bangladesh has developed a National Action Plan in 2008 to combat human trafficking. The Government, while acknowledging the gravity of the problem, is committed to enforcing and strengthening the existing laws related to trafficking. Counter-Trafficking Committees (CTCs) at different tiers of the government have been formed to strengthen state prevention measures. Efforts are underway to enact a Human trafficking Prevention Act 2011 covering trafficking of men, women and children to strengthen the legal framework to combat all forms of trafficking.

Mr. President and Distinguished delegates, as regards migrated labour welfare, Bangladesh delegation has highlighted in its general statement the measures/initiatives taken by the government for the promotion and protection of migrated workers. This had well been manifested in the successful hosting of Colombo Process Ministerial Level Meeting in April this year in Dhaka which ended with a remarkable document “Dhaka Declaration”. The major points of the Declaration are spelt out in our general statement. Bangladesh underscores, on one hand, the need for regular migration to keep its economy moving and on the other it is determined to curb human trafficking in all its forms and manifestations. Thank you very much.

President: Thank you. May I now ask the delegation from Myanmar to make their intervention please.

The Delegate of Myanmar: Thank you Mr. President. Thank you all the panelists for the comprehensive presentations. We have taken all necessary measures against human trafficking in women and children which include a national plan of action, legislation and cooperation at bilateral and multilateral level and institution awareness campaigns. Myanmar enacted anti-human trafficking law in 2005 and also strengthened strict enforcement of immigration rules and regulations. Our 2005 law prescribes heavy penalty of ten years minimum sentence to a maximum of life imprisonment. We actively participated in various regional cooperative measures. We acceded to UNCTOC and Protocols, CEDAW and the Convention on the Rights of the Child. In the cross-border cooperation, we are of the view that forms of assistance such as executive powers of search and seizure, or examination of checks and sites are crucial. Our domestic law supports mutual legal assistance with great caution that we requests procedures and outcomes should not amount to violation of human rights.

Though we are not party to ASEAN, we facilitate the assistance request and whenever we receive any request, we give high priority to the matter. And also give investigation done in Myanmar. We received back 348 victims during 2010 as with joint efforts by the UNICEF, IOM, and Royal forces of Myanmar and ASEAN Member States. We also took action against many corporates, and troops.

Myanmar systematically receives victims at border areas by opening reception camps for rehabilitation with assistance of INGOs and UN Agencies concerned. With a view to start a new life, occasional training courses are conducted and also provide fund for income-generating small business. Educational and social campaigns are conducted in vulnerable towns and villages across the country, mostly in the slum areas. Myanmar would like to share challenges and set backs we have faced while we are taking measures. The problems like delay in establishing border liaison officers between implementing states, protracted stay of the victims waiting for extradition and proper exchange of victims by social organizations on timely manner in accordance with international norms and standards and process of reunion with their families.

We successfully completed implementing 81 work plan for 2010 and we proudly promulgated the national guidelines and standard operating procedures and world publication of 10 code of conduct as long and completed transaction of special protection measures to women and children. Women and children play a very special place in the heart of Myanmar society. In this time, Myanmar is not implementing prevention but also rehabilitation, reintegration and protection measures we strongly believe the globalised system, a coordinated and cooperative measure is required by the entire international community. Thank you Mr. President.

President: Thank you. May I now ask Malaysia please.

The Delegate of Malaysia: Mr. President, His Excellency the Secretary-General, Distinguished Speakers,

On behalf of the Malaysian delegation, I thank the Distinguished speakers for sharing their thoughts on these topics.

Malaysia is fully aware that the crime of trafficking in persons is substantively different from the crime of smuggling of migrants. This distinction is clearly reflected in the recent amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007.

Mr. President, Malaysia had also provided protection regime for victims of Trafficking in Persons and People Smuggling, especially on women and children. Malaysia's punishment is among the most stringent albeit criticized as most inhumane by certain sectors.

Despite our continuous efforts taken and our comprehensive legislative, judicial, administrative and policy measures, we remained at the Tier Two Watch list in the

recently published United States Department of State Trafficking in Persons report. Some of the main reasons for finding Malaysia not fulfilling the “minimum standards” are as follows:

- (i) Labour trafficking and debt bondage;
- (ii) 68% acquittal rate; and
- (iii) Excess recruitment by Malaysian “outsourcing companies”.

One would notice that these are not attributable to the Government per se but rather, the industry and also the judiciary to which Government should not interfere.

The Report also recommended the Malaysian Government, among others, to apply stringent criminal penalties to those involved in fraudulent labour recruitment or forced labour and renegotiate Memorandums of Understanding with source countries to incorporate victim protection and remove authorization to confiscate passport.

The United States Department of State Trafficking in Person Report on Malaysia presents the views argued by Malaysia all along. The problem must be shouldered by the sending, transit and destination countries equally. Malaysian is not a sending country. We have done and will continue to do all we could to deal with these problems. But source countries must take higher responsibility to deal with their domestic problems that lead to the problems on Trafficking in Persons and People Smuggling. Perhaps AALCO could start looking into on how to deal with source countries. In this context, Malaysia is in agreement with the findings of the secretariat that the main root causes for the rampant proliferation of the crime of trafficking in women and children are *inter alia*, poverty and lack of education including lack of awareness of the potential victims to the consequences and repercussions of the crime of trafficking in persons namely in the sex trade and prostitution, to the victim’s physical, mental and emotional well-being.

Mr. President, Malaysia has taken and will continue to take stringent measures towards the prevention of the crime of trafficking in women and children and prosecution of the offenders of said crime and ensuring the victims receive the requisite protection and counselling as provided under the law and human rights principles. Malaysia had recently signed a protocol with Indonesia to amend the MoU on Domestic workers. Among others, this Protocol would now allow domestic workers from Indonesia in Malaysia to hold their own passports. Malaysia is also currently negotiating an arrangement with Australia to deal with the transfer of refugees as part of our regional efforts to deal with the problem of Trafficking in persons and people smuggling. We are working closely with IOM and UNHCR in this effort.

Our experiences proved that to achieve the objective of dealing Trafficking in Persons and People Smuggling effectively, Malaysia cannot stand and work alone. We require cooperation and honest commitment of other governments to deal with this gargantuan task. We must have honest commitment from the sending countries to deal with this problem. I thank you.

President: Thank you. May I now invite delegate from Republic of Korea.

The Delegate of Republic of Korea: Mr. President, Distinguished delegates, it is an honor for me to have an opportunity to express my government's policy and opinion on this critical issue, to which all the Member States of AALCO are much concerned.

On behalf of my delegation, I want to mention some of the efforts of the Republic of Korea to ensure the rights of migrant workers.

The Republic of Korea participates in the effort of the international community for the protection of human rights including those of migrant workers. By acceding to major international human rights conventions and protocols, such as International Convention on Civil and Political Rights (ICCPR) and International Convention on Economic, Social and Cultural Rights (ICESCR), the Republic of Korea endeavors to protect migrant workers.

In addition, the Republic of Korea ratified four out of eight core conventions designated by the International Labor Organization (ILO). One of the core conventions ratified by the Republic of Korea is the Convention No. 182, which prohibits harsh labor of children. The Republic of Korea also ratified the Convention on the Rights of the Child (CRC), of which the article 35 provides that State Parties should prevent the abduction of, the sale of or traffic in children. In addition, my government also ratified the second optional protocol of the CRC.

Mr. President, Distinguished delegates, on behalf of my delegation, I want to stress the fact that the Republic of Korea established the framework to protect the rights of the migrant workers through various domestic laws. Some examples include Employment of Foreign Workers Act, Standard Labor Act, Minimum Salary Act, Industrial Safety and Health Act and Labor Relations Act, which provide that migrant workers should be treated equally with Korean workers.

Mr. President, Distinguished delegates, the Republic of Korea, one of the destinations of migrant workers, is of the view that migrant workers should be protected basically with domestic laws, which guarantee their health, safety and employment. Thank you.

President: Thank you. DPR Korea please.

The Delegate of the Democratic People's Republic of Korea: Mr. President, trafficking in women and children, an act of crime which is closely associated with trans-boundary organized crime is a serious infringement on human rights of women and children, laying an obstacle to the implementation of the goal of putting an end to exploitation of man by man, enshrined in the UN Charter and international human rights law. For the present age, it is an unquestionable obligation of all states to take legislative and administrative measures to protect the human rights of all people especially women and children.

The DPRK from the very first day of foundation has been paying close attention to protecting rights of women and children. In my country, it is clearly stipulated in the

Constitution that the social status and rights of women and children shall be respected and protected and that the state shall be responsible (to) provide for the (growth) and education of children.

Also, we are constantly strengthening the legal regime for providing women and children with proper rights by enacting, amending and elaborating the sectoral laws. Recently, “Law on the provisions of women’s rights of the DPRK” and “Law on Children’ rights of the DPRK” were promulgated on 20th December, 2010 thus providing legal regime for the measures to thoroughly protect women’s rights of socio-political, economic and cultural natures and those in their own body and property and to ensure children’s rights in the field of society and education, public health, family and justice.

We support the ongoing work of criminalization of trafficking in persons as well as the protection of victims of trafficking, before, during and after the criminal proceedings undertaken by the AALCO Secretariat and will actively take part in this work. Thank you for your attention.

President: Thank you. Now is the turn of Nepal please.

The Delegate of Nepal: Thank you Mr. President. My delegation appreciates the views put forward by the distinguished panelists. Mr. President, Nepal is party to all the international and regional conventions relating to women and children trafficking. It is in the process of ratifying United Nations Convention against Transnational Organized Crime (UNTOC), which is under consideration of legislative Parliament. Nepal’s recent legal and policy measures are harmonious with international standards. It is making efforts as a source country to address the push factors like political economic, social and cultural factors within the country. But pull factors have been proved to be more challenging than others. In order to address this problem effective cooperation and coordination at national, bilateral, sub-regional, regional and international level especially among the countries of origin, transit and destination are required.

Mr. President, my delegation considers that migration can be regarded as a process of enhancing social progress both the country of origin and destination. The main challenges of migration are smuggling of migrants, particularly the exploitation of migrant workers. In order to solve this problem we need to take initiatives, first by the ratification of the UN Convention and second by protection of the rights of all migrant workers and members of their families and ILO Conventions by all states. Thank you.

President: Thank you very much for that brief intervention. Now may I ask Nigeria please.

The Delegate of Nigeria: Thank you very much Mr. President and the distinguished fellow delegates. Nigeria would like to commend the wisdom of the Secretariat for giving this topic the prominence it rightly deserved. Nigeria’s intervention will be more of solicitating support from AALCO Secretariat and the fellow delegates. Nigeria has domesticated the Child Rights Convention as part of our national laws but faces

challenges in the area of general acceptance through other countries. Nigeria practices federalism with various composite federal states having to domesticate this law before they are applied by all the states but some of the states have very different divergent religious and cultural practices. So Nigeria would like to solicit the assistance of AALCO on the application of this law in multi-cultural and religious states like Nigeria. Thank you very much.

President: Thank you. I am sure the Secretariat would take note of that. Now the final intervention would be by the Kingdom of Saudi Arabia.

The Delegate of Saudi Arabia⁷ said that combating trafficking in women and children in all its manifestations at every level was very essential. The delegation then highlighted the laws formulated by their country to combat the issue, which includes rigorous punishment. The labour laws of the country prohibit employment of persons under the age of eighteen years. However, some organizations export or send workers for illegal material gains by manipulating their age. All care and facilities were given to the victims because that menace affects the human dignity and relates to violence against a person.

The Delegate of Iraq⁸ mentioned that the Ministry of Human Rights has conducted inspection of the prisons to take stock of the condition of prisoners and urged the judicial authority to expedite that trial with full justice. Also, the national coalition government of Iraq has introduced the subject of human rights in the curriculum of the Iraqi Universities.

The Delegate of Qatar Mr. President, apart from putting in place strict laws to curb human trafficking and exploitation of women and children, the State of Qatar has joined a number of relevant international conventions. Also, it has set up local departments and committees with the aim of combating this menace.

President: Thank you very much for all the interventions. I do not want to say a conclusion but to say that there must be concerted effort by all the member countries in combating this menace of the time and there are so many similarities as well. With that comment may I also regret our inability to incorporate interventions' on the folklore protection issue which was concluded yesterday. So, I request delegations wishing to make their statements to please submit in the written form to the Secretariat so that we can include it in the report. Having said that we will conclude this session for lunch and I would kindly request you to be back at your seats by 1.45 PM so that we can take the process forward on the report of UNCITRAL. Thank you.

The meeting was adjourned thereafter.

⁷ Statement was delivered in Arabic. Unofficial translation from interpreter's version.

⁸ Due to the non-availability of the written texts of the Statements delivered by delegates from Iraq and Qatar their statements have been taken from the Summary Report of the Fiftieth Annual Session and presented here.

XII. VERBATIM RECORD OF THE SIXTH GENERAL MEETING

**XII. VERBATIM RECORD OF THE SIXTH GENERAL MEETING
HELD ON THURSDAY, 30 JUNE 2011 AT 3.00 PM**

His Excellency Mr. Rauff Hakeem, President of the Fiftieth Annual Session in the Chair

Agenda Item: Report on the Work of UNCITRAL in the Field of International Trade Law

President: Good afternoon Ladies and Gentlemen, now we begin our Sixth General Meeting and now I would call upon Dr. Xu Jie, the Deputy Secretary-General to introduce the Secretariat Report on UNCITRAL.

Dr. Xu Jie, Deputy Secretary-General, AALCO: Mr. President, Hon'ble Ministers, Vice-Ministers, Attornies-General, Excellencies, Distinguished Delegates, Ladies and Gentlemen, it is my great privilege and honour to introduce the "Report on the Work of the UNCITRAL and Other International Organizations in the Field of International Trade Law" vide Secretariat Document No. AALCO/50/COLOMBO/2011/SD/S12. The issues concerning 'International Trade Law' were first included in the agenda of the AALCO at the Third (Colombo) Session in 1960. This topic was actively discussed with an establishment of Trade Law Standing Sub-Committee in 1970. Subsequently, in 2004 at Bali Session, the present title was given so as to focus more upon the work of UNCITRAL.

The Secretariat's Report primarily focused upon the UNCITRAL's deliberations at its Forty-Third Session on three major topics: *Firstly*, the Finalization and Adoption of a Revised version of the UNCITRAL Arbitration Rules, 2010. The Rules are considered to be a welcome development in the area of international commercial arbitration. It consists of a number of innovative features whose aim is to enhance procedural efficiency of the whole regime. The revision would ensure that the UNCITRAL Arbitration Rules would continue to be relevant, despite changing circumstances, the preferred means for international commercial arbitration.

Secondly, the Finalization and Adoption of a Draft Supplement to the UNCITRAL Legislative Guide on Security Transactions with Security Rights in Intellectual Property. This Guide would help the Member States in assessing the economic efficiency of their security transaction regimes as well as their intellectual property regimes, and

Thirdly, the Finalization and Adoption of Part Three of the UNCITRAL Legislative Guide on Insolvency Law on the Treatment of Enterprise Groups in Insolvency. The Legislative Guide would provide for guidance to the Member States in developing and improving the administration of the insolvency of enterprise groups, both domestically and in the cross-border context.

Mr. President, The AALCO Secretariat sincerely hopes that the Member States will continue to support and actively participate in the work of UNCITRAL and its Working

Groups. In order to promote uniformity and consistency in the international trading system, it is very much important to study the UNCITRAL's legal instruments in this field. Towards increasing the awareness on the work of UNCITRAL and its importance for the Asian-African region, the AALCO Secretariat, jointly with an AALCO Member State is presently working with UNCITRAL for convening a joint programme in the first quarter of 2012, in order to introduce the UNCITRAL related legal instruments to the AALCO Member States. As the talks are in preliminary stages, the AALCO Secretariat would inform the Member States as and when it gets finalized.

Mr. President, apart from examining UNCITRAL related developments, the report also trace the developments of other international trade law Organizations, such as, United Nations Commission on Trade and Development (UNCTAD); International Institute for the Unification of Private Law (UNIDROIT); and Hague Conference of Private International Law (HCCH).

One of the major focuses on the work of UNCTAD is working towards sustainable recovery after the global economic and financial crisis. In this regard, the platform of AALCO may be utilized to share the experiences of the Member States of AALCO, such as their strategies and regulatory mechanisms and this would be useful for States who would deal such situations in the future.

The AALCO Member States should also closely monitor the developments at the UNIDROIT and Hague Conference on Private International Law (HCCH) in order to build upon their domestic legislation on the issues relating to private international law which is increasingly influencing the AALCO Member States in the present times. Thank you all for a patient listening.

President: Thank you Dr. Xu Jie for that report on UNCITRAL. Now let us ask the delegations who have indicated their willingness to speak. First may I call upon the Indonesian Delegation to make its presentation.

The Delegate of Indonesia: Thank you Mr. President, Distinguished Delegates, at the outset, Indonesian delegation would like to express its appreciation to the Secretary-General of AALCO as well the Government of Sri Lanka, for organizing this very important meeting.

At the beginning of this new century, international trade can have a profound and powerful impact as an engine of growth in all countries, including developing nations. As in its past accomplishments, international trade, in terms of development and the eradication of poverty, has played an important role. We believe the UNCITRAL's role in building a better and more just order in international trade is undeniable.

Indonesia reiterates its support for the UNCITRAL's mandate in the codification and development of international trade law, while taking into consideration the interests and needs of developing countries. Indonesia delegation is gratified by the report of AALCO including AALCO/50/COLOMBO/2011/SD/S 12 in the development of the system

established by UNCITRAL especially for possible future work in various ways that will be considered important for international trade law in the future.

Mr. President, Distinguished Delegates, Indonesian delegation commends the work of the Commission and the Secretariat for the progress made on various items on its agenda which has included the UNCITRAL Model Law on international commercial arbitration, privately financed infrastructure projects, the insolvency law, the transport law, microfinance, security interests and recently possible future work in the areas of electronic commerce and online dispute resolution.

With regard to the topic of electronic commerce and online dispute resolution, Indonesian delegation again supports the widely held view of future work to be undertaken on these main areas by UNCITRAL given rapid development in this field efforts in relation to electronic contracting and online dispute resolution would all be beneficial to the international community and we are appreciative of the attention accorded to them by UNCITRAL and its Working Groups.

In relation to these matters, Indonesia as a developing country, stressed that the procedural rules in the areas of electronic commerce and online dispute resolution must be in accordance with conditions in most developing countries which have not been able to provide electronic or online legal systems equal to those in developed countries. We express our hope that AALCO in the future will also be able to provide developing countries with programmes which provide training, technical assistance, and capacity building to close the gap between developing countries and developed countries in this particular area and we earnestly hope that these efforts will be sustained and further enhanced.

Mr. President, Distinguished Delegates, until now, Indonesia has not been a member of UNCITRAL, or has remained as an observer. Notwithstanding the rights and obligations of each observer relative to the member countries, including the right to attend or be invited and entitled to express opinions or intervene in all session, the difference only that we have no voting rights when decisions or resolutions are adopted through a vote. In this matter, Indonesia will continue to consider its membership in UNCITRAL taking into account the importance of involvement in the development of international trade law and international trade procedures.

On the issues of the expansion of the membership of UNCITRAL, Indonesian delegation's position is widely known. Along with other Asian States and the like, Indonesia is in favour of the expansion of the membership of UNCITRAL. We believe it is timely and as a United Nations body, UNCITRAL's membership should take into consideration the principle of equitable distribution. Thank you.

President: Thank you very much. Now I call upon the delegate from the People's Republic of China to make his statement.

The Delegate of People's Republic of China: Mr. President, UNCITRAL is a major legal body of the United Nations, which makes important contributions to the progressive development of international trade law. The Chinese delegation is pleased to see that the issue of UNCITRAL remain to be the agenda item of AALCO.

Mr. President, the 43rd Session of UNCITRAL held in 2010 adopted the revision of the UNCITRAL Arbitration Rules, a draft supplement to the UNCITRAL Legislative Guide on Secured Transactions dealing with security rights in intellectual property and the UNCITRAL Guide on Insolvency Law on the treatment of enterprise groups in insolvency. These documents will contribute to the coordination and integration of international trade law and promote the development of the international trade.

In the mean time, the 43rd session of UNCITRAL set new issues for the working group of procurement, insolvency law, and security interest and established a new working group for online dispute resolution in cross-border electronic commerce transactions. The new issues reflected the problems which need urgent coordination among countries and regions in the international trade fields.

Mr. President, the issues of UNCITRAL have realistic significance for China. The Chinese Government has participated comprehensively in the drafting work of the legislative documents of UNCITRAL working groups and refers to the relevant model law of legislative guide of UNCITRAL in domestic legislation. We have made active efforts to raise the public awareness of UNCITRAL work. The Chinese government will continue to follow closely and take part in the work of UNCITRAL, and make joint efforts with other Member States to promote the integration of the international trade law and the development of the international trade.

In the process of the implementation of UNCITRAL instruments, the instruments sometimes cannot be adapted to domestic law to be implemented because of the big differences between instruments and relevant domestic systems. In order to guarantee the practical effects of the integration process of international trade law rules and ensure the instruments be adopted by more countries, especially the developing countries, the differences of economies and laws of different nations, should be taken into consideration in the process of drafting and discussing the relevant documents. With a view to establishing the universally adopted integrated rules, the disputes should be reduced and solved based on considering the concerns from different parties. Thank you Mr. President.

President: Thank you very much. May I now have the comments from the delegation of Pakistan.

The Delegate of Pakistan: Mr. President, I would like to take this opportunity to convey my delegation's appreciation for the report on the work of the UNCITRAL and other International Organizations in the field of International Trade Law contained in document AALCO/50/Colombo/2011/SD/S 12. As a member of the Commission and its Working

Groups over the years, Pakistan has full recognition of efforts put in by Member States and Secretariat of UNCITRAL for fruitful negotiations and their outcome.

We believe that international trade on the basis of mutual benefit is an important element in promoting friendly relations among States. There is a strong linkage between the continued efforts at harmonizing the international trade law, focusing on substantive legislative work of the issues of development. It is in this spirit that we welcome the technical cooperation and assistance activities undertaken by the Secretariat following the 40th Session of the Commission. We agree with the point made in the report that legislative technical assistance for developing countries is as important as the drafting of harmonized rules itself.

Mr. President, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards has played an important part in the development of international trade law. We reiterate our support for efforts to promote a uniform and flexible interpretation of the Convention. The work undertaken by the Working Group II (Arbitration and Conciliation) provides a valuable method for harmonization of the law of international trade. We hope that the UNCITRAL Arbitration Rules as revised in 2010 will go a long way in enhancing the efficiency of arbitration and improving the methods of settling international commercial disputes.

Mr. President, we appreciate the finalization and adoption of a supplement to the UNCITRAL Legislative Guide on Secured Transactions dealing with Security Rights in Intellectual Property. We recognize the decision made by the Commission to highlight States need for guidance as to how the recommendations of the UNCITRAL Legislative Guide on Secured Transaction would apply in the area of intellectual property rights. Certain adjustments will also be required in domestic laws of States to avoid inconsistencies between secured transactions law and intellectual property law. The Secretariat of UNCITRAL would be in the position to properly publicize the text of supplement to the UNCITRAL Legislative Guide on Secured Transactions dealing with security rights in intellectual property among Governments and other relevant bodies.

Mr. President, we welcome the decision of the Commission on adoption of part three of the UNCITRAL Legislative Guide on Insolvency Law. We agree with the assessment that effective insolvency law encourages economic development and investment, fosters business activity, and preserves employment. The efficient conduct of insolvency proceedings brings predictability to the future of enterprise groups whose failure has been established.

We have taken note of the efforts of the Working Group on Procurement and appreciate the efforts towards revising the Model Procurement Law. We reiterate that there are many issues regarding the credibility, applicability and comprehensiveness of use of electronic means of communication in the procurement process.

Mr. President, it is important to facilitate cross-border e-commerce with global on-line dispute resolution mechanisms. The appropriateness of drafting procedural rules for

online dispute resolution mechanisms, the idea of maintaining single database for authentic online arbitrators and the issue of enforcement of awards made through online dispute resolution process under the international conventions have already been discussed. We want to underline that the debate on the online dispute resolution system must take into account the digital divide in the world. The views of developing countries on modalities of online dispute resolution mechanism need to be heard carefully in the debate on this issue.

Mr. President, Pakistan shall continue to work in coordination with other Member States and Organizations towards the common goal of harmonized international trade law. I thank you Mr. President.

President: Thank you. May I now invite Japan to deliver his statements.

The Delegate of Japan: Mr. President, in view of the time constraints I would be very brief. Japan believes that UNCITRAL has been playing an important role for unification and harmonization of international trade law and values highly that a Revised Version of Arbitration Rules and other instruments were finalized and adopted at the 43rd Session of UNCITRAL. We will continue to contribute actively to the activities of UNCITRAL and other international Organizations in the field of international trade law. Thank you.

President: Thank you very much for that very brief and succinct statement. May I now invite the delegation from Kuwait.

The Delegate of Kuwait¹ appreciated the Report prepared by the appreciated the Report prepared by the AALCO Secretariat for the benefit of Member States. While explaining a general view on the work of UNCITRAL related matters, the delegation stated that the finalization and adoption of draft supplement to the UNCITRAL legislative guide on security transactions with security rights in intellectual property which would help the Member States in assessing the economic efficiency of their security transaction regimes as well as their intellectual property regimes. The delegation mentioned that the State of Kuwait had a national legislation namely, law of general tenders. Further, the delegation informed the Member States about the law of general tenders.

President: Thank you. May I now invite the delegate from Thailand to present his statement.

The Delegate of Thailand: Mr. President, Distinguished representatives of AALCO Member States, International trade law play a very significant role in enhancing economic growth in almost every country. Rule-based legal mechanisms bring the stability and predictability anticipated by all trading countries. Thailand recognises the necessity and importance of harmonisation of national laws to conform with international legal standards. We, therefore, attach great importance to the international business law models developed by UNCITRAL. Thailand has been participating in this international

¹ Due to the non-availability of the written texts of the Statements delivered by delegates from Kuwait their statement has been taken from the Summary Report of the Fiftieth Annual Session and presented here.

legal forum along with other Member States to deliberate on appropriate frameworks and code of conduct for international business transactions which have significant impact upon the economic well-being for our countries.

Mr. President, Ladies and Gentlemen, the works of UNCITRAL have been followed with great interests by our relevant government agencies. This, as a result, pushes forward progress in domestic law development. In this respect, Thailand has adopted several UNCITRAL model laws, harmonised along the Thai legal context. For instance, the Electronic Commerce Transaction Act of 2001 is based on the UNCITRAL Model Law on Electronic Commerce. Moreover, the Arbitration Act of 2002 is formulated along the line laid down by the UNCITRAL Model Law on International Commercial Arbitration. Presently, Thailand is in the process of considering the enactment of a specific law on international sales of goods, modeled after the United Nations Convention on Contracts for the International Sale of Goods (CISG).

Mr. President, Ladies and Gentlemen, as a developing country, Thailand envisages that AALCO would become a reliable legal forum where lawyers from developing countries in Asia and Africa can work together in order to formulate common positions or coherent policies that ensure our mutual interest on legal development under the purview of UNCITRAL. To achieve that end, Thailand hopes to encourage AALCO Member States to work collectively to fortify our position in UNCITRAL. Thank you.

President: Thank you. Now I invite the delegate from Malaysia to make his statement.

The Delegate of Malaysia: Mr. President, Mr. Vice-President, His Excellency the Secretary-General, Excellencies, Distinguished Delegates, Ladies and Gentlemen, Malaysia conveys its appreciation for the continued efforts of the AALCO Secretariat in keeping the Member States informed of developments in the United Nations Commission on International Trade Law (UNCITRAL) and other international organisations in the field of international trade law.

Mr. President, Malaysia notes that the work of UNCITRAL has progressed even further following the 43rd UNCITRAL Commission held in New York from 21 June 2010 to 9 July 2010. Malaysia notes that the forthcoming 44th Commission Session in Vienna from 27 June to 8 July 2011 will involve, inter alia, consideration of progress reports of various Working Groups on matters under their respective mandates. Malaysia has actively participated in the work of these Working Groups, particularly Working Group II (International Arbitration and Conciliation) and is looking into the issues raised in discussions held by Working Group III (Online Dispute Resolution).

With regard to the previous outcome from UNCITRAL Working Group II resulting in the Revised UNCITRAL Revised Arbitration Rules, 2010, Malaysia would once again like to implore that the AALCO Member States and the various Arbitration Centres under the auspices of AALCO should study the Revised UNCITRAL Arbitration Rules for future implementation within their arbitral systems in order to stay relevant with the progress and development in the resolution of disputes.

Malaysia would like to express its support for the work of UNCITRAL Working Group II but emphasise that certain reservations should be in place. In this regard, any provision on transparency should be subject to the parties will or conditions as appropriate. Further, the form in which the work of UNCITRAL Working Group II on this matter should be decided once the substantial discussion on policy and substance of the provisions has been agreed upon. Malaysia is also of the view that the principles of State sovereignty and party autonomy should be preserved and an emphasis should be expounded on party consent to the application of transparency at the procedural, hearing and documentation levels. Further, Malaysia is of the view that the application of the rules on transparency should not extend to existing treaties. Malaysia takes note of the concern on the need for uniformity and the need to update the numerous existing treaties. Malaysia is of the view that a concluded investment treaty or chapter is an outcome of negotiation between the Contracting States, including matters with regard to transparency. The legitimacy of investor-State dispute settlement mechanism is therefore derived from the consent or agreement of the Contracting Parties in the investment treaty. Thus, the rules on transparency developed in UNCITRAL Working Group II should not be automatically applied to existing treaties at this forum, without an express consent of the Contracting Parties.

Mr. President, In relation to the work of UNCITRAL Working Group III pertaining to online dispute resolution, Malaysia notes that at its 43rd Session in 2010, the Commission agreed that a Working Group should be established to undertake work in the field of ODR relating to cross-border electronic commerce transactions, including business-to-business (B2B) and business-to-consumer (B2C) transactions. It was also agreed that the form of the legal standard to be prepared should be decided after further discussion on the topic.

In accordance with the said decision by 43rd Session of the Commission, UNCITRAL Working Group III commenced its work on the preparation of legal standards on online dispute resolution for cross-border electronic commerce transactions at its 22nd session to address the absence of an agreed international standard on ODR, and that a need existed to address in a practical way disputes arising from the many low-value transactions, both in B2B and B2C. UNCITRAL Working Group III continued its work at its 23rd Session this year.

Malaysia has considered with much interest the issues raised in the discussions of UNCITRAL Working Group III and will continue to deliberate on those issues thoroughly. Malaysia at this juncture supports the views of many delegations that traditional dispute resolution mechanisms, including litigation through the courts, were inappropriate for addressing these types of disputes, being too costly and time-consuming in relation to the value of the transaction. The view was also expressed that enforcement of awards cross-border was difficult if not impossible in light of the lack of treaties providing for cross-border enforcement of awards in B2C transactions. There was general agreement that any standard considered by UNCITRAL Working Group III

should become, as appropriate, consistent with existing UNCITRAL standards in arbitration, conciliation and electronic commerce.

With regard to the scope of work, it was concluded that the focus of UNCITRAL Working Group III should be on resolution of high-volume, low-value disputes and that any rules devised would likely affect consumers but should not infringe their rights under consumer protection laws. It was also widely agreed that the aim should be to formulate simple, user-friendly generic rules that reflected the low-value of claims involved, the need for a speedy procedure, and that emphasized conciliation since the majority of cases were resolved at that stage.

Mr. President, Malaysia notes that the discussion and end product resulting from UNCITRAL Working Group II would stand to be the new international legal standard to be applied for the issue of transparency for investor-State arbitration and perhaps even possibly being adopted into other Arbitration Rules dealing with investor-State Disputes. As for the work of UNCITRAL Working Group III, the fast growth, adoption and development of cross border electronic commercial transaction worldwide signals its importance as growing beyond the perception of a mere tool but as a staple means of commerce between States. In this regard, Malaysia calls for all AALCO Member States to pay heed and contribute to the discussions at UNCITRAL Working Group II to voice their concerns and ensure that a balance is reached between protecting national interests and that of the interest of foreign investors as well as to keep abreast and participate actively at the discussions of UNCITRAL Working Group III. At the same time, Malaysia is of the view that AALCO Secretariat should undertake study of these issues of transparency for investor-State arbitration and online-dispute resolution in collaboration with the UNCITRAL and other interested stake holders, which may contribute in shedding light to AALCO Member States on the way forward in implementing and enforcing such practices.

Mr. President, Malaysia further notes and acknowledges the reports done by the United Nations Conference on Trade and Development. Malaysia would like to reiterate its view that the inclusion of the reports on the works of the International Institute for the Unification of Private Law (UNIDROIT) and work of the Hague Conference on Private International Law (HCCH) may fall outside the general scope of this paper and proposes for it to be placed under a more appropriate heading. Thank you.

President: Thank you. Since there are no other interventions, we have taken note of the concerns that have been expressed by various delegations on the revised versions on the UNCITRAL Arbitration Rules. Indeed the progressive development of the trade law is being assisted by AALCO's interventions is a matter of record. We will certainly work on this team. Tomorrow we have a special session in the morning where there will be an expert Panel discussing the developments in the area of commercial arbitration, particularly the Model Law and its development. With those comments may I now move on to the other subject for this afternoon concerning environment and sustainable development. May I request our deputy Secretary-General to introduce the Report of the Secretariat on the agenda item.

Agenda Item: Environment and Sustainable Development

Dr. Hassan Soleimani, Deputy Secretary-General of AALCO: Thank you Mr. President, Excellencies, Distinguished Delegates, Ladies and Gentlemen;

First of all, may I invite you all to an important agenda item “Environment and Sustainable Development” as contained in the Secretariat document AALCO/50/COLOMBO/2011/SD/S 10. The Organization has been following the developments on Environment and Sustainable Development since 1975 with the contemporary focus being on the implementation of the three Rio Conventions namely, the: United Nations Framework Convention on Climate Change, 1992; Convention on Biological Diversity, 1992; and United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994; and Follow-Up on the progress in the Implementation of the outcome of World Summit on Sustainable Development, 2002.

The present Secretariat report contains developments in the area of International regime on Climate Change, 1992; International Regime on Biological Diversity; and Follow-Up on the progress in the Implementation of the outcome of World Summit on Sustainable Development.

Excellencies, as you all are aware, on climate change issues the international community has been engaged in various rounds of negotiations for elaborating on a framework of action after 2012, when the Kyoto Protocol’s first commitment period expires. It may be recalled that in December 2007, negotiators meeting at the United Nations Climate Change Conference in Bali had approved the Bali Action Plan and Roadmap setting the Fifteenth meeting of Conference of Parties in December 2009 at Copenhagen as the deadline for agreeing on a framework for action after 2012. The plan laid out the four-fold action roadmap for climate change action – mitigation, adaptation, technology and finance. It was essentially a mandate to finalize two things: one, the emission reduction commitments of industrialized countries for the second phase of the Kyoto Protocol, and two, the global goals for long-term cooperative action until 2050. Although, these negotiations were to conclude at Copenhagen, the Conference failed to achieve the requisite breakthrough.

However, at the Sixteenth Conference of Parties of the United Nations Framework Convention on Climate Change held in Cancun, a balanced package of decisions known as “Cancun Agreements” was adopted. The call for countries to list under the Climate Change Convention the emission reduction targets and actions which they announced in 2010, is described as forming the collective basis for the largest mitigation effort the world has ever seen. It was also agreed to build a comprehensive system of mutual accountability towards these goals. However, the issue of the legal form of the agreement was not resolved in Cancun and will be discussed over the coming year in Durban. The term of the Ad Hoc Working Group on Long Term Cooperative Action has been extended for one year and should continue to discuss the “legal options with the aim to

complete an agreed outcome”. This means that Parties still need to decide whether to adopt a legally binding agreement that complements the Kyoto Protocol, an inclusive legally binding agreement for all country that would replace the Kyoto Protocol, or another option where Parties cooperate through Conference of Parties decisions rather than a new treaty.

Excellencies, in the field of biological diversity protection, the adoption of Nagoya Protocol on Access to Genetic Resources and Benefit Sharing, 2010 and Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress, 2010 by the Tenth Conference of Parties to the Convention on Biological Diversity and Fifth Meeting of Parties to the Cartagena Protocol on Biosafety are significant developments towards enhancing the international commitment to protect biological diversity. These instruments hold several implications, for biologically diverse countries while dealing with the ‘liability and redress’ and ‘access and benefit sharing’ options. Implementation of these instruments would be difficult, if they are not signed and ratified by biotech rich countries.

There exist many criticisms of the Nagoya Protocol on Access and Benefit Sharing which could be considered as crucial for indigenous communities within the developing countries. To add on, obligation for compliance for countries with users in their jurisdiction to establish ‘effective, appropriate and proportionate measures’, requires state parties to be well equipped to deal with issues regarding access and benefit sharing of genetic resources. Therefore, AALCO Member States which are parties to these Protocols may consider taking effective, appropriate and proportionate measures taking into account the biologically rich and diverse environment.

Excellencies, the world is moving towards preparing for the Rio+20 Summit commemorating 20 years of Rio Conference and 10 years of World Summit on Sustainable development. Since 1972 Stockholm Conference, the environmental summits have played a crucial role in bringing sustainable development on international political agenda. Many of the countries have changed their national policies favouring green economy which would in future be beneficial for protection of environment and ensuring sustainable development for succeeding generations. It is essential that countries take adequate efforts for protection of the environment besides safeguarding their national interests. Thank you Mr. President.

President: Thank you Dr. Hassan Soleimani for that introductory remarks. May I now call upon Mr. Masa Nagai, Deputy Director of the UNEP in Nairobi, Kenya for his presentation.

Mr. Masa Nagai, Acting Deputy Director, UNEP, Nairobi, Kenya: Mr. President, Distinguished Delegates, Ladies and Gentlemen;

It is my honour to be with you at this conference on behalf of the United Nations Environment Programme (UNEP). I would like to very briefly introduce our “Initiatives for Strengthening Rule of Law in Environmental Sustainability”. First of all, we would like to look at the challenges we face in this planet Earth or environmental sustainability

challenges, which is (i) Threats to global environmental sustainability and the (ii) Need to strengthen implementation of international commitment and enforcement of national environmental law. This is a common agenda or foundation of our making progress and development in economic and social context as well. There are number of initiatives in terms of legal frameworks and UNEP has supported progressive development in the field of international environmental law. And we are now heading to support government for preparing for Global Convention on Mercury. We also welcome the work of the International Law Commission on atmosphere and would support on the scientific and other means in this regard. We support the implementation of multilateral environmental agreements which governments are committed to implement on very important issues which are foundations of the society like climate change, biodiversity, wildlife conservation, ozone layer, hazardous chemicals and wastes, regional seas, etc.

Likewise, another important issue is the strengthening of capacity of countries to develop and enforce national environmental law. So these are the areas in which we would like to support the governments as well. I would like to briefly mention the four initial phase of information and relevant for this Conference. First one is the Asia – Africa cooperation to advance environmental law. We have this project with the support and funding by the Government of Japan which is primarily focusing on supporting the government's efforts to strengthen law enforcement at national level in the field of environment. We hope to have the support to strengthen networks of Asian and African countries and share the experiences and good practices in environmental law, to help strengthen environmental law enforcement experiences between the two regions in relation to environmental law enforcement.

Second subject is very much relevant to the topic discussed this morning. You had a discussion on human trafficking involving organized crime. The same issue is happening in the field of environment too and we are addressing the issue of combating transnational environmental crime in a very holistic way. It is of great concern on issues like illegal traffic in wildlife/wildlife products, natural resources (e.g. timber, fish), Hazardous wastes, Hazardous chemicals, etc. We would like to bring and bridge partnership together with INTERPOL, WCO, UNODC, multilateral environmental agreements secretariats, various international enforcement networks, to make enforcement very effective in addressing this very prominent issue.

Thirdly, environmental justice is the area; we have been supporting governments through programmes that try to enhance environmental awareness and capacities of the judiciary through - UNEP Judges Programme since 1995. About ten years ago, we had Global Judges Symposium alongside the World Summit on Sustainable Development (WSSD) and follow up that dealt with the establishment of environmental courts in Asia. We are now expanding our involvement in the area of capacity-building by engaging prosecutors and legal stakeholders and we would welcome your participation in these. Governing Council of the UNEP adopted two Guidelines last year for strengthening national legislation: (i) Liability and compensation, and (ii) Access to justice, public participation in decision making access to environmental information. Now we are coming to the phase of using this guidelines and we also look forward for your support.

Finally, about Rio + 20 on the UN Conference on sustainable Development (UNCSD), a World Congress on Justice, Governance and Law for Environmental Sustainability in Rio de Janeiro, Brazil, 1 - 3 June 2012, would be held. For this Congress, we would invite the Attorneys-General, Chief Prosecutors, Auditors-General, Senior Judges, and Parliamentarians from around the world. And we hope to have a very fruitful dialogue which would be beneficial for not only UNEP but for the world on justice, governance and rule of law that would ensure the capacity-building on the sustainability of the environment. Thank you Mr. President.

President: Thank you for the brief intervention about the programme organized by the UNEP on this subject. And now I invite intervention from member countries. Oman Please.

The Delegate of Sultanate of Oman²: Thank you Mr. President.

Mr. President, my country attaches great importance to the issues of the environment and sustainable development. It has developed a national strategy for the protection of the environment aimed at achieving a balanced and sustainable development that gives equal weight to economic, social and environmental considerations. It has also prepared a national plan to combat drought and desertification. The Sultanate has put together an integrated system of natural reserves in the country, besides developing environmental laws to be in line with the requirements of environmental protection from the dangers of pollution emanating from requirements of environmental activities, as well as raising awareness amongst citizens and residents of the importance of the conservation of natural resources in the achievement of the principles of sustainable development.

Omani Environment Day, which falls on January 8th of every year, is considered a national event that confirms the importance given to the environment in Oman. The issuance of Royal Decree 90/2007 on 9th September 2007 establishing the Ministry of Environment and Climate Affairs concern the human being and the environment surrounding him.

The Sultanate of Oman established a national centre for field research in the field of the conservation of the environment on 6th October 2009 by virtue of Royal Decree 54/2009. this centre aims at organizing and promoting field research in the field of the conservation of the environment, and encouraging Omani practitioners, researchers, specialists and scholars in the environmental field and highlighting their scientific abilities and potential, as well as publishing their research locally and internationally.

We confirm that the Sultanate of Oman looks forward to integrating its efforts with international efforts in the field of training, the transfer of technology and the exchange of information, and informing of new scientific discoveries in the environmental field.

² Statement was delivered in Arabic. The Secretariat would like to acknowledge the delegation for submitting the written statement in English.

In conclusion, we look forward to the resolutions that this session will result in on this subject, and hop your esteemed organization will find an effective mechanism that ensures the exchange of information in the environmental field amongst Member States. Thank you, Your Excellency.

President: Thank you. May I now call upon Pakistan.

The Delegate of Pakistan: Thank you Mr. President. I would like to first thank the Deputy Secretary-General of AALCO for his report and also the Acting Deputy Director of UNEP for his lucid presentation. Pakistan has been reasonable long-term economic growth, averaging 2.6 percent since 1960. Pakistan's economy has also shown great resilience even in the wake of natural and man calamities such as droughts, the devastating earthquake of 2005, floods and wars resulting in massive inflow of refugees as well as rising oil and food prices. However, this remarkable growth has also been accompanied by depleting natural resource base, poverty and inequality, particularly due to transient poverty of internally displaced persons, and high burden of diseases. Together these factors are threatening to undermine prospects of sustainable development. Hence the urgency of addressing the issues of sustainable development related to environmental, economic and social dimensions have probably never greater in Pakistan than today.

According to conservative estimates the environmental degradation costs the country atleast 6 percent of GDP, or about Rs.365 billion per year, and these costs fall disproportionately upon the poor. The number of poor has also multiplied to as high as 40 percent of the population in the pursuit of a strategy that was in favour of eventual, 'trickle down', that did not happen. There is a dire need therefore to amend these policies of capital-driven growth and focus on policies that give due cognizance to 'capitals' that sustain the human well-being – including natural, human and socio-cultural capital. A pointer for likely success by following such policies comes from the international experiences, based on which, the global conference have convincingly recommended that the development effort must incorporate environmental; as well as 'social' dimensions along with economic dimension in order to make the development sustainable.

Mr. President, with this consideration in mind, the National Sustainable Development Strategy (NSDS) of Pakistan stresses framing and implementation of complementary policies that address environmental as well as social issues while facilitating economic growth to capture the maximum development dividend of this growth. Pakistan has a recommendable record of efforts to promote conservation and long-term sustainability, from the National Conservation Strategy of 1992 through to the adoption of a National Environment Policy in 2005. Lack of their implementation, however, failed to achieve the desired results. NSDS preparation is a major step forward in promoting sustainable development in Pakistan and a landmark achievement of the National Year of Environment 2009. The preparation of the Strategy, however, is only the first step. A major challenge lies in its implementation, especially because it is a multi-sectoral venture. Its effective implementation would require transforming its strategic goals into time bound targets and achieving these within the existing institutional set up albeit by adopting innovative mechanisms that should give due cognizance to complementarities of

policies, R&D, incentives and accountability, empowerment, enforcement, and knowledge management as well as monitoring and reporting.

The NSDS is a product of teamwork. Ministries and Departments, Provincial Governments, Sustainable Development Policy Institute, Universities, NGOs and members of civil society provided significant analytical inputs.

Mr. President, the Government of Pakistan also drafted a comprehensive and permanent legislation on environment replacing Environmental Protection Ordinance, 1983 with the Pakistan Environmental Protection Act, 1997. The National Environmental Standards (NEQS) were approved in 1993 for liquid, solid and gaseous emissions. NEQS were approved reviewed and revised in late 1990s in consultation with the industry, environmental experts and other stakeholders to facilitate the implementation of these standards in Pakistan effectively. Some other major achievements and initiatives of the Government included the development of policies and strategies like National Environmental Policy, National Sanitation Policy, Clean Development Mechanism Strategy, Draft National Forest Policy and Energy Conservation Policy, etc. I thank you.

President: Thank you very much. Therefore may I ask delegates to restrict their statements to 5 short minutes due to paucity of time. May I now call upon People's Republic of China.

The Delegate of People's Republic of China: Thank you. Mr. President, global climate change is a common concern of mankind. Climate change arises out of development, and should thus be solved in the process of development. The problem of climate change should be dealt with though promoting sustainable development so as to achieve a win-win outcome of pursuing economic development and addressing climate change. Sustainable development is both the means and the end for effectively addressing climate change. Within the overall framework of sustainable development, environmental protection, economic development and poverty eradication should be considered in a holistic and integrated manner to safeguard the basic rights of developing countries for development.

Mr. President, climate change is a matter of human survival and bears on the well-being of all countries, and is also a matter of the fairness and justice of the world. China has taken an active and constructive part in the negotiation and international cooperation on climate change. China holds that climate change should be addressed in the context of sustainable development and under the principle of "common but differentiated responsibilities". Equal emphasis should be placed on both mitigation and adaptation. To address climate change, China relies on the advancement and innovation of science and technology, takes practical national actions and conducts extensive international cooperation.

Thanks to the concerted efforts of the international community, including China, the Cancun Conference in 2010 has reached positive outcomes. The Cancun Agreement has locked in the crucial consensus among the parties as regard to long-term goals, quantified

emission reduction commitments of developed countries, transparency, finance and technology, thus providing the political foundation for future negotiations.

Mr. President, to help reach positive outcomes at the Durban Conference, South Africa, the future negotiations should, on the basis of the outcome of Copenhagen and Cancun Conferences, continue to make comprehensive progress in promoting the “Bali Road-Map” dual-track negotiation, especially on the work of AWG-KP (the Ad-hoc Working Group on further commitments under the Kyoto Protocol). To be more specific, firstly, deeper quantified emission reduction targets should be set for developed countries for the second commitment period under the Kyoto Protocol, and those developed countries that are not Parties to the Kyoto Protocol should also take comparable emission reduction commitments. Secondly, effective institutional arrangements should be established to ensure that developed countries fulfill their commitments to provide technology, financing and capacity building support to developing countries. Thirdly, in the context of sustainable development, developing countries should take nationally appropriate mitigation and adaptation actions, supported by technology, financing and capacity-building assistance from developed countries.

It is important for the international community to rebuild mutual trust now. China wishes to see an active and constructive role played by the international community in this regard, by further pushing the developed countries to faithfully fulfill their obligations and carry out pragmatic cooperation with developing countries. China views developing countries as a major and positive force in the cooperation for addressing climate change, and is ready to expand consensus by enhancing dialogues and make joint efforts to bring about the positive results at the Durban Conference. China is willing to enhance its pragmatic cooperation with all countries in the area of energy saving and clean energy. Thank you, Mr. President.

President: Thank you. May I now ask Indonesia to make their statement.

The Delegate of Indonesia: Thank you Mr. President. Mr. President, Distinguished Delegates, as we witnessed very clearly in Copenhagen, the climate negotiation process is facing a difficult uphill battle. From Copenhagen, Cancun, Bangkok, to Durban, success is not guaranteed. But we must stay the course in our common endeavours to complete the implementation of the Bali Action Plan as set out in 2007.

We must also do all we can to continue to push for real progress on all fronts, inch by inch. This is precisely what we are doing here: wasting no time in pushing for a breakthrough in resolving a balanced, comprehensive legally binding instrument that would be able to achieve positive outcome for the Bali-Road Map Negotiations.

Mr. President, our meeting here today is important because we cannot afford to wait for negotiations on a balanced, comprehensive international legally binding instrument under the United Nations Framework Convention on Climate Change to be concluded.

This process cannot be allowed to stand still. We must push it forward, based on the principle of common but differentiated responsibility and respective capability.

I welcome the Agreements made in Cancun which are expected to move international action on climate change forward. Yet, the issue of the legal form of the agreement was not resolved in Cancun and we have to be optimistic that it will be resolved over the coming year in the lead up to Durban.

Mr. President, finally, let me now share with you a few important points:

Firstly, we need to build on the Copenhagen Accord. We may have views on what happened in Copenhagen but its overall message is clear: we must build momentum to achieve a balanced, comprehensive legally binding instrument as the certain legal basis upon which to implement the environment and sustainable development agenda. The two Working Groups, Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) and Ad Hoc Working Group on Long Term Cooperative Action (AWG-LCA), must complete their tasks in time for Durban at the end of this year.

Secondly, Durban must produce a robust and workable decision. In this regard, the legal form of the agreement and a decision on Reducing Emissions from Deforestation and Degradation (REDD) + could bring about the immediate action that we need to take.

Thirdly, we have to address the trust deficit by building an open, transparent and inclusive process so we can create a conducive environment to the achievement of our goals in Durban.

Our meeting here today is a good start to make sure that all AALCO members know about the process and what our common goals are. I thank you.

President: Thank you Indonesia. May I now ask Malaysia to make their statement.

The Delegate of Malaysia: Thank you Mr. President.

Mr. President, the Honourable Secretary General, Excellencies, Distinguished Delegates, Ladies and Gentlemen; Malaysia firstly take note of the Cancun Agreements reached by the Parties during the Sixteenth (16th) session of the Conference of Parties to the United Nations Framework on Climate Change (UNFCCC) and the Sixth (6th) Meeting of Parties to the Kyoto Protocol held from 29 November to 10 December 2010 at Cancun, Mexico.

It is Malaysia's observation that, although the Cancun Agreements keep hope alive for a legally binding international climate change instrument from the standpoint of the twenty-year negotiations, but the Cancun Agreements fall short of ensuring the survival of the Kyoto Protocol.

In the context of the future negotiations on climate change, Malaysia is aligned to the principle "common but differentiated responsibilities" whereby developed countries must

assume a leadership role, and developing countries, supported through technological, financial and other assistance, should continue to implement their sustainable development policies.

Mr. President, Malaysia wishes to take this opportunity to share with other distinguished delegates that the Malaysian National Biodiversity Strategy and Action Plan has been introduced in 1998 with the objective to ensure that biodiversity in Malaysia will be conserved and utilized in a sustainable manner to eventually to transform Malaysia into a centre of excellence for conservation, research and sustainable use of tropical biodiversity by the year 2020.

Apart from formulating the National Biodiversity Strategy and Action Plan, Malaysia has also continuously formulated and revises its sectoral policies and national legislations on biodiversity conservation.

Mr. President, last but not least, Malaysia takes note that The Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety is now opened for signature by Parties to the Convention on Biological Diversity. As a party to the Convention on Biological Diversity, Malaysia is now considering to sign the said Supplementary Protocol. Thank you, Mr. President.

President: Thank you very much. May I now request Nepal to make their statement.

The Delegate of Nepal: Thank you Mr. President. Climate change and its serious adverse affects upon the lives and livelihood of millions of poor people living in Asia and Africa, are of grave concerns for the Member States of AALCO. It is more so to the people of Nepal, as we are witnessing an alarming rate of snow melting in the world's highest mountains, drying rivers and a rapid depletion of the sources of drinking water in the plains. We are also expressing the full force of the natural calamities caused by the change in climate.

Mr. President, the Government of Nepal shares and understands the seriousness of the problem of climate change and emphasize the need to take immediate and concrete actions to minimize the rate of climate change and to mitigate its adverse impact. Nepal has participated in all international efforts to address the issue of climate change. We are a party to UN Framework Convention on Climate Change as well as to its Kyoto Protocol. We have also expressed our agreement on the principles of Copenhagen Accord and Cancun Agreement. Nepal's strong commitment to the cause of environmental protection is evident from its ratification of, or accession to, almost all the major international treaties and conventions related to environment protection.

Mr. President, in order to fulfill its international obligations on climate change, in line with Bali Action Plan, Nepal has prepared and adopted a national action plan on adaptation and mitigation. However, implementing that Action plan in practice has proved to a challenge for us because of the lack of necessary resources, expertise and technology. My delegation believes that the time has come for the developed world to

live their promises and fulfill their assurances to extending technical and other assistances to the developing countries in their efforts to minimize and mitigate risks of climate change. More importantly, my delegation considers that developed and industrialized developing countries must make quantified emission reduction targets for the second commitment period under the Kyoto Protocol.

Mr. President, my delegation hopes that the countries of Asia and Africa can frame a common opinion and views as regard the policies and actions to be taken immediately in order to reverse process of climate change as well to mitigate its adverse impact, particularly, on the poor countries of Asia and Africa. Thank you.

President: Thank you very much. Before I call upon the next delegation, may I remind the delegations present that the Drafting Committee would be meeting at 4.00 PM today as well and those who have been assisting them please take note of this. Thank you. May I now call upon Japan.

The Delegate of Japan: Thank you Mr. President. It is Japan's firm belief that the environmental issues are very critical problems facing the international community today. As you are aware, Japan is currently making utmost efforts to recover fully from the devastating Great Disasters we have ever experienced. At the same time, however, we are determined to continue to actively participate in the international efforts to cope with the climate change and to search for our best contribution Japan could make for our common global interests.

Japan is aware that there still exist some differences among states as to important issues but is resolved to make further efforts, on the basis of Cancun Agreements at COP 16, for the ultimate objective of earliest possible adoption of a new single undertaking or comprehensive legal instrument for a truly fair and effective international framework for the climate change question, in which all major countries concerned will participate. Japan wishes to cooperate with all countries for the success of the COP 17 which is going to be held in Durban, South Africa later this year. Thank you very much.

President: Thank you very much. May I now call upon Bangladesh please.

The Delegate of Bangladesh: Thank you Mr. President for giving me the floor. Due to time constraints, I will be very brief. We have noted with interest the presentation by the UNEP representative. In the presentation, he emphasized on formulating binding environmental laws and regulations. However, you have to be very direful while formulating rules relating to international environmental governance. The questions that have to be asked is: (i) whether we can have a comprehensive and binding environmental laws, (ii) who will assume the responsibility of international environmental governance and whether it will be generally acceptable to all.

Bangladesh as a least developed country has been adversely impacted by climate change. However, we are a victim of adverse climate due to unsustainable production and consumption pattern mainly practiced in the developed countries. Due to environmental

degradation, loss of biodiversity and ecosystem loss, Bangladesh has been experiencing adverse climatic changes like drought, excessive flood, heavy rainfall, storms and cyclones. Therefore, as a country worst affected by the climate change, we call upon the developed countries to fulfill their pledges and commitments made at various Multilateral Environmental conference (MEC) like the World Summit on Sustainable Development.

Bangladesh has been advocating for a new climate change regime embedding the principles of responsibility, differentiated capacity to pay and equity. In terms of climate change funding, Bangladesh has made its viewpoint clear that the financing has to be in the form of grants and in addition to ODS and it (financing) has to be binding, well-designated, easily accessible, stable and predictable and it has to be disbursed through the UNFCCC. Thank you.

President: Thank you very much. May I now call upon the delegate from South Africa to make their intervention.

The Delegate of Republic of South Africa: Thank you Mr. President, allow me to express my appreciation for the AALCO report under this segment.

The 17th Session of the Conference of Parties (Known as COP 17) to the United Nations Framework Convention on Climate Change and the 7th Session of the Conference of Parties serving as meeting of the Parties to the Kyoto Protocol (CMP) is to be held from 28 November to 9 December in Durban, South Africa. In this regard the delegation of South Africa would like to suggest some minor changes to the draft Resolution on Environment and Sustainable Development.

As you are aware, negotiations in this sector are very sensitive. The South African delegation is concerned that the text of the draft Resolution under this segment as it currently reads may disturb the delicate balance between the Bali Road-Map and the Cancun Decisions. South Africa believes the Resolution under this segment as agreed on at the recent Bangkok session should be preserved. In order to keep the delicate balance between the Bali Road-Map and the Cancun Decisions. The Bali Road-Map and the Cancun Decisions must proceed together and the one cannot be highlighted above the other.

Consequently, we respectfully suggest the following small changes to the draft resolution, mostly by deleting references to the Bali Road-Map. Thank you.

President: Thank you very much for the suggestion. May I now call upon Republic of Korea.

The Delegate of Republic of Korea: Mr. President, Distinguished Delegates, it is an honor for me to have an opportunity to state about the efforts of the Republic of Korea to preserve the environment and to achieve sustainable development, which is essential for the human beings.

First of all, on behalf of my delegation, I want to comment about Korea's interest in the 16th Conference of the Parties to the UN Framework Convention on Climate Change, or COP16, which was held in Cancun, Mexico last year.

The Republic of Korea is of the view that with the Cancun Agreement, the COP 16 established an important milestone for the COP17 to be held in Durban, South Africa. Even though the Copenhagen Accord was not adopted as the COP decision, the Cancun Agreement specified and developed the Copenhagen Accord.

Mr. President, Distinguished Delegates, my government has the view that in order to draw genuine transformation in the measures against the climate change, "common but differentiated responsibilities" are needed. Based on this principle, my delegation wants to urge the Member States of AALCO to act together to achieve the goal of sustainable development.

In order to take appropriate measure against the climate change, the Republic of Korea considers that the difference in positions between developed and developing countries should be narrowed in terms of core issues such as the Second Commitment period for the Kyoto protocol.

In addition, my government basically supports the two-track negotiation system, which divides developed countries' duty and developing countries' action to reduce greenhouse effect gases.

Mr. President, Distinguished Delegates, on behalf of my delegation, I want to introduce you Korea's effort to achieve sustainable development; Low-Carbon Green Growth.

My government established the Global Green Growth Institute (GGGI) in June 2010 in order to produce concrete measures and to support other nations to achieve Low-Carbon Green Growth by supporting developing countries' shift from traditional manufacture towards the green growth paradigm.

In 2010, when the GGGI was established, the institute was aimed to the following three objectives; consolidating the headquarters in Korea, supporting developing countries to build green growth plan, and establishing cooperation with other countries.

In 2011, the Republic of Korea started speeding up its program of supporting developing countries' green growth, based on the favorable results produced in 2010.

More specifically, Ethiopia, Indonesia, and Brazil have been participating in the program of support for the developing countries, while Denmark, the United Arab Emirates, Australia, and Japan have decided to support the GGGI with financial means. Especially in the case of Denmark, in May 2011, Seoul and Copenhagen formed the "Green Growth Alliance," and Denmark established the first local office of the GGGI in its territory.

Mr. President, Distinguished Delegates, before concluding the presentation, my delegation wants to remind you that the Republic of Korea determined to invest 2% of its gross domestic product in Low-Carbon Green Growth Project. Achieving economic growth and green growth at the same time, the Republic of Korea is suited to play a bridging role between developed and developing countries. The Republic of Korea appreciates the participation in the GGGI by Japan and the United Arab Emirates, and Indonesia and hopes that other AALCO Member States will participate in the GGGI.

Mr. President, Distinguished Delegates, against this backdrop, my delegation wants to remind you that the Republic of Korea wishes to host the COP 18 in 2012. Hosting the international convention for sustainable development, my government wants to provide a fora for establishing measure against the climate change. On behalf of my delegation, I want to request all the Member States of AALCO to give warm support for the Republic of Korea in hosting the COP 18. Thank you for listening.

President: Thank you. Tanzanian delegate please.

The Delegate of United Republic of Tanzania: Thank you Mr. President. On behalf of the Head of Delegation, the United Republic of Tanzania wish to commend the Deputy Secretary-General and AALCO Secretariat for the job well done in preparing the Report on Environment and Sustainable Development. We also wish like to congratulate the Acting Deputy Director of UNEP for providing a brief background on UNEP's activities within the region. The climate change is one of the greatest challenges to development in developing countries; the United Republic of Tanzania takes note and appreciates efforts made globally to overcome challenges posed by the threat of climate change.

It is indeed, against this background that, the United Republic of Tanzania recognizes the importance of the United Nations Framework Convention on Climate Change of 1992 (UNFCCC) and its Kyoto Protocol of 1997 (KP) as the principal means by which, the international community expresses commitments on measures to address the global environmental issues in the context of sustainable development.

Mindful of the importance of Environment and Sustainable Development agenda, Tanzania participated in the Copenhagen Climate Change Conference of 2009. The Conference discussed in detail the state of global warming and an Accord was reached to curb the rise of the global temperature and to reduce emission of harmful waste. Towards that end, the Conference underscored the need for international community to raise funds that would be used by developing world to mitigate the effects of global warming.

On Biodiversity Conservation, the United Republic of Tanzania has undertaken several measures to conserve the environment. Some of the measures taken are: finalization of Environmental Impact Assessment (EIA) regulations and Guidelines; review of relevant sector policies to incorporate management of biodiversity issues; involvement of communities through establishment of Wildlife Management Areas and Community Forest Inter Sectoral Wetlands Steering Committee (NAWESCO) and National Wetlands

Working Group (NWWG) for the implementation of the Tanzania Wetland Management Plan.

Tanzania expresses concern over the failure by the international community to reach a consensus on a legally binding instrument at the Copenhagen. It is unfortunate that the Cancun Conference in 2010 could not come up with a legally binding instrument. We are aware that another United Nations Climate Change Conference is scheduled to take place in Durban, Republic of South Africa from 28th November to 9th December 2011. The main objective of the Conference is to discuss the implementation of the Convention and its Kyoto Protocol, as well as the Bali Action Plan, agreed at COP 13 in 2007, and the Cancun Agreements, reached at COP 16 in 2010.

Tanzania hopes and urges COP 17 and CMP 7 to work within the framework agreed in Bali and more specifically the meetings should address the work programme agreed in Cancun and the agenda agreed in Bangkok, with a view to complete the mandate of the Bali Road-Map.

Mr. President, we would like to take this opportunity to inform the Distinguished Delegates that the United Republic of Tanzania will participate fully in the Durban Conference and hopes that the Conference will come up with an agreed form of legally binding instrument. Thank for very much.

President: Thank you. May I now invite the Egyptian delegation to perhaps wind up this topic.

The Delegate of Arab Republic of Egypt³: Honorable President, Ladies and Gentlemen, Distinguished Delegates of the Member States, this topic is of great interest of Egypt and the Egyptians since the seven thousand years. The philosopher Herodotus said "Egypt is the gift of the Nile" expressing the link Nile River with Egypt. The Nile is secret of life of Egypt and Egyptians.

Egypt is one of the first countries that woke up early to the attention of environmental problems and keen to protect the internal environment, as well as preserving natural resources, renewable and non renewable.

The Egypt took upon itself the principle of comprehensive development, in which a human beings constitute the basis. Hence, for more than twenty years, the first step was to create Egyptian Environmental Affairs Agency as a structural architecture to take care of Environmental Affairs in the line with the interests of the world and follow the latest solutions to preserve the environment. In the context of concern for the preservation of the environment, it has issued a number of important laws and resolutions in order to improve the level of Egyptian environment and most important of them is as follows:-

- Law No. 48 of 1982 known as the law for the protection of environment.
- Law No. 4 of 1994 which is the most comprehensive environmental law in Egypt.

³ Statement was delivered in Arabic. Unofficial translation from translator's version.

In 1997, the Ministry of State for the Environment was established that is restricting pollution sources and working to combat it. The ministry is extending its support to competent authorities, and NGOs working in the field of environment.

As a culmination of the efforts to protect the environment from pollution and preserve it, and protecting it a national duty, an article was added in the Egyptian Constitution by way of amendment in 2007 which states that "environmental protection is a national duty. The law regulates the necessary measures to preserve the environment", which led to start a review of laws on the environment.

The Ministry of Environment created the National Commission for Sustainable Development, which sets strategy and national action plan for sustainable development in Egypt, the work of the Commission has been completed at the end of 2007. Therefore, Egypt is the first Arab and African country that adopted sustainable development with a scientific approach.

Perhaps it is important to shed light on the most important international challenges that we believe the international community and Member States are facing in the field of environmental issues and sustainable development, are:-

1. Problems of climate change and global warming.
2. Globalization and the trends of modern liberalism and some of which could adversely affect the preservation of the environment.
3. The absence of the active role of civil society in helping the government's efforts in environmental issues as a key partner of the government in development efforts.
4. Authorities not carrying out the enforcement of environment law, as per their required role because of the lack of the possibilities and the need of its members for training and capacity building.

Therefore, it is important to take up effective solutions to tackle these challenges and problems through the following steps:-

1. Development of effective legislative organization to deal with the environment and protect against any attacks.
2. Expansion in the use of clean technology environment friendly.
3. Prohibit the use of dangerous agricultural chemicals.
4. Taking into account the environmental dimension in all development projects in the States.
5. Environmental awareness and a culture of energy use environment-friendly and Conservation of natural resources.
6. Attention to the training of law enforcement officers, judiciary and other brilliant tackle crimes related to the environment.

Perhaps it is important, the reference to the latest efforts of the Ministry of Justice in this regard, namely;

1. The establishment of competent courts of environment in Egypt.

2. To establish a scale of national experts in the field of environment to assist the judges in the proper absorption of the Technical Environment Disputes.
3. Promoting the Egyptian role in the application of the rule of law in the field of environmental conservation.
4. Provide Curriculum and specialized training to the judiciary and Egyptian prosecutors in the field of rules and the environment legislation.
5. Finally, establishment of a specialized department at the Ministry of Justice for the following up all legal aspects of environmental issues and develop a legal national vision coordinated in this field.

Honorable President, Ladies and Gentlemen, Distinguished Delegates of the Member States, there is no doubt that the efforts to preserve the environment and promoting sustainable development is based mainly on the legal aspects of one hand and on the technical aspects on the other hand, which are two sides of one coin, in order to serve at that issue, the awareness to provide clean and healthy environment for the Egyptian citizens. Thank you.

President: Thank you very much. That's brings to conclusion this debate and session on environment and sustainable development. We would now close the session since we have to make way for hotel authorities to use this hall for some other function. We will break now for tea and I am asked to make an announcement regarding the dinner today hosted by our Attorney-General at Water's Edge and delegates are kindly requested to assemble at the foyer of the Hotel by 7.00 PM to leave for the dinner. Thank you very much.

The Meeting was thereafter adjourned.

**XIII. VERBATIM RECORD OF THE
HALF-DAY SPECIAL MEETING
ON INTERNATIONAL
COMMERCIAL ARBITRATION**

**XIII. VERBATIM RECORD OF THE HALF-DAY SPECIAL MEETING ON
“INTERNATIONAL COMMERCIAL ARBITRATION”
HELD ON FRIDAY, 1 JULY 2011 AT 9.00 AM**

His Excellency Mr. Rauff Hakeem, President of the Fiftieth Annual Session in the Chair

President: Now we begin with the Half-Day Special Meeting on “International Commercial Arbitration”. I invite the Secretary-General to make his introductory remarks.

Prof. Dr. Rahmat Mohamad, Secretary-General, AALCO: Mr. President, Hon’ble Ministers, Excellencies, Distinguished Delegates, Ladies and Gentlemen, It is indeed an honour and privilege for me to introduce this morning’s Special Meeting on the theme, “International Commercial Arbitration”.

Mr. President, International Commercial Arbitration has enjoyed a long history which predates the existence of organized systems of State’s courts in different forms. Even though international commercial arbitration as a method of settling disputes has been known and employed by the global commercial community for centuries, there is now an increasing awareness that when parties are desirous of a binding decision – other than by way of litigation - and at the same time, wish to have a structured, full and fair legal process, arbitration is the preferred and plausible alternative to litigation.

Following the global trend in dispute resolution, arbitration has in recent years been elevated as the preferred method of alternative dispute resolution within the Asian-African region, particularly where international commercial transactions are concerned.

Mr. President, AALCO’s association with this area goes back to 1970’s where there were hardly any permanent arbitral institutions in the Asian-African region. This unsatisfactory situation prompted AALCO to realize the need to develop and improve the procedure for international commercial arbitration, the necessity for institutional support, develop necessary expertise and create environment conducive to conduct arbitration in the Asian and African regions. This, it was expected, would process and guide the future of international commercial arbitration in a manner which led to the creation of a ‘*lex mercatoria*’ which took into account the needs and concerns of developing countries.

Accordingly, AALCO has adopted its “Integrated Scheme for Settlement of Disputes” in 1978 at Doha (Qatar) Session, with a view to creating stability and confidence in economic transactions with the countries of the region. This Scheme envisaged the development of national arbitration institutions, establishment of Regional Centres under the auspices of the AALCO and making available the services of the specialized arbitration institutions to the countries of the Asian-African region within the framework of the ‘Integrated Scheme’.

Mr. President, Pursuant to the scheme, the Regional Centres for Arbitration at Kuala Lumpur, Malaysia for the Asian region and at Cairo, Arab Republic of Egypt for the African region were established in 1978 and 1979 respectively. Later two more such Centres were established in Lagos (Nigeria) in 1989 and Tehran (Islamic Republic of Iran) in 2003. AALCO has 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. In this regard, I would take this opportunity to invite the attention of the Government of Kenya to speed up the process of operationalizing the Nairobi Regional Arbitration Centre.

Mr. President, the Regional Arbitration Centres are unique because they represent an effort on the part of developing countries at an inter-governmental level, to provide for the first time, a dispute resolution system on an integrated pattern with respect to international transactions of a commercial nature in the Asian-African region. The Arbitration Centres are also organising seminars, workshops and training programmes to promote arbitration culture and expertise in the two continents.

Mr. President, As the theme symbolizes vital importance to the Member States, in my term, I would like to press upon the revitalization of the Arbitration Centres on their effective functioning in order to cater to the needs of Asian-African region.

I would also like to invite the attention of the Directors of the Regional Arbitration Centres to have more coordinated approach among the AALCO Regional Arbitration Centres. In this regard, in rotation, they may consider hosting biannual arbitration Conferences involving other Regional Arbitration Centres of AALCO.

In order to strengthen the Regional Arbitration Centres of AALCO, the Member States are requested to support and utilize the Centres effectively.

Mr. President, It is my pleasure to inform you that the former Director of the Cairo Regional Centre for International Commercial Arbitration (CRCICA), Dr. Nabil Elaraby has become the Minister for Foreign Affairs in the Interim Government of Arab Republic of Egypt and also he has been elected as the Secretary-General of the Arab League very recently, he is due to take over this position in July 2011. AALCO feels truly privilege for having been associated with Dr. Elaraby during his tenure as the Director of the Cairo Centre. On behalf of the AALCO Secretariat, I wish him all the success in his new positions. Dr. Abdel Raouf has been appointed as the Acting Director of the Cairo Centre. While placing my wishes, I take this opportunity to welcome him to the family of AALCO.

Mr. President, In today's theme, there is a scholarly panel to discuss some of the pertinent issues relating to the intricacies of international commercial arbitration; matters relating to the Regional Arbitration Centres of AALCO; and sharing of experiences on the subject matter in the Asian-African region.

I sincerely hope that this Special Meeting would not only lead the Member States to a

conclusive thought on the subject matter, but also it would guide AALCO, the effective ways and means to strengthen the Regional Arbitration Centres of AALCO in the future. Thank you Mr. President.

Working Session I

President: I thank the Secretary-General for those lucid remarks on the subject matter that is to be discussed on this special session on the Fiftieth Annual Session. May I without much delay proceed to the next item which would be presentation by one of the Panelist on the subject “Recent Developments of UNCITRAL: New York Convention on the Rules of Arbitration”. This subject would be presented by a distinguished Panelist hailing from Sri Lanka, Honourable Justice Salim Marsoof. Justice Marsoof is a sitting judge of the Supreme Court of Sri Lanka and is the former President of the Court of Appeal. Prior to the joining the judiciary, he has served the chamber of the Attorney-General’s department for nearly three decades. He is currently a member of the Faculty Board of Law Faculty of the University of Colombo and a Member of the Board of Management of Judge’s Institute. Justice Marsoof holds the Bachelor of Law Degree awarded by the University of Ceylon, Colombo. He was awarded Master of Laws Degree in Administrative Law by the University of Colombo and he also holds Master of Laws Degree in International Trade Law from the University of San Diego, California, USA. He is a Nuffield Fellow of the Institute of Advanced Legal Studies, University of London, United Kingdom. Apart from the landmark judgments Justice Marsoof has delivered from time to time, he is also the author of several books, book chapters and articles which have enriched our jurisprudence. He had been for sometime the Chairman of the Board of Examiners of the International Centre for Commercial Law and Practice-Arbitration centre. Justice Marsoof has been very much at the centre for Law Reforms and Chairman of the Committee appointed by the Minister of Justice to consider amendments to the Arbitration Act. I have much pleasure in calling upon Justice Marsoof to make his presentation.

Justice Salim Marsoof, Judge, Supreme Court of Sri Lanka: Thank you. Your Excellency, Rauff Hakeem, the President for this session; Excellency Prof. Dr. Rahmat Mohamad, Secretary-General of the AALCO, the other distinguished panellists at the head table, Your Excellencies, Distinguished Delegates, Ladies and Gentlemen, a very good morning to you all and hope you are enjoying the hospitality extended by Sri Lanka.

I have taken the liberty of adjusting my title of presentation. Pardon me for doing so. As the “Recent Developments of UNCITRAL: The UNICTRAL Rules of Arbitration and the New York Convention on the Enforcement and Recognition of Foreign Arbitral Awards”. During my tenure traversing three decades as a State Counsel in Sri Lanka, which gave me the opportunity of getting involved in several important national and international arbitrations, including the famous *Mihaly* case before ICSID¹, I was also able to participate in several annual sessions of the Asian-African Legal Consultative Committee (as it was then named). I was also fortunate that I was able to visit the Cairo Centre for

¹ *Mihaly v Sri Lanka* (2002) 17 ICSID Review FILJ 142; (2002) 41 ILM 862. The author was the Senior Srilankan Counsel representing Sri Lanka in the hearings held in London and Washington, D.C.

International Commercial Arbitration in Egypt and the Regional Centre for Arbitration in Kuala Lumpur, Malaysia, which are two out of the five arbitration centres of the Asian-African Legal Consultative Organization, the other three being the ones in Lagos, Tehran and Nairobi, which has just joined the arena. These opportunities have helped me to keep abreast of developments in arbitration, particularly in the area of international commercial arbitration which is so very important for international trade.

The United Nations Commission on International Trade Law (UNCITRAL) which was established by the United Nations in 1966,² with a mandate to unify and harmonise international trade law, has played a major role in strengthening the infrastructure for the effective resolution of international commercial disputes through arbitration. In 1976, after extensive consultation with arbitral institutions and centres of international commercial arbitration, it adopted the UNCITRAL Rules³ with a view of harmonizing rules of *ad hoc* arbitration for international commercial disputes. These Rules have been further revised, and we now have the UNCITRAL Rules 2010.⁴

The UNCITRAL Rules are now adopted in a vast majority of international commercial arbitrations and even a fair proportion of investor-state arbitrations.⁵ With the objective of encouraging States to introduce uniform laws relating to arbitration, UNCITRAL also introduced in 1986 and revised in 2006, the UNCITRAL Model Law on International Commercial Arbitration,⁶ which has been adopted by many nations. The Sri Lankan Arbitration Act has adopted many, but not all, of the provisions of the 1986 Model Law. This effort of UNCITRAL has provided some amount of uniformity and consistency in national arbitration legislation the world over.

As we all know and appreciate, the concept of “party autonomy” is the hallmark of arbitration, and is deeply enshrined in the provisions of the UNCITRAL Model Law as well as the UNCITRAL Rules of Arbitration. Accordingly, the parties select the arbitrators, the seat or place and mode of arbitration, the procedures for arbitration including the languages in which proceedings will be conducted, the applicable law of arbitration and all related matters without any hindrance or limitations from any source, whatsoever. The non-interventionist approach of the Courts towards the arbitral process, which is a manifestation of the concept of “party autonomy”, is reflected in Article 5 of the UNCITRAL Model Law,⁷ which declares that-

In matters governed by this Law, no Court shall intervene except where so provided in

² By UN General Assembly Resolution No. 2205 (XXI) of 17 December 1966.

³ UNCITRAL Arbitration Rules, 1976 – Resolution 31/98 adopted by the UN General Assembly on 15th December, 1976 (hereafter referred to as the ‘UNCITRAL Rules’)

⁴ See, Justice Clyde Croft, *The Revised UNCITRAL Arbitration Rules of 2010 – A Commentary*, which may be accessed at: <http://www.austlii.edu.au/au/journals/VicJSchol/2010/12.html>

⁵ In the absence of any procedure to register arbitration proceedings following the UNCITRAL Rules, *supra* note 3, it is not possible to estimate the number of such arbitrations. However, according to UNCTAD statistics, as of November 2005, 219 treaty-based claims were known, with three-quarters of these filed since 2002. Of these, 65 had been arbitrated under the UNCITRAL Rules. See, *Investor-State Disputes Arising From Investment Treaties: A Review*, February 2006, UNCTAD/ITE/IIT/2005/4, at 5, available at http://www.unctad.org/en/docs/iteiit20054_en.pdf.

⁶ UNCITRAL Model Law on International Commercial Arbitration, 1985 – UN doc. A/40/17, Annex 1 (hereafter referred to as the ‘UNCITRAL Model Law’).

⁷ Art. 5 of UNCITRAL Model Law, *supra* note 6.

this Law.

Although at first sight, this is a striking declaration of independence, it must be emphasised that the Model Law does not seek to exclude the participation of what it calls the “competent Court” in carrying out certain functions of arbitration assistance and supervision. In fact, it is noteworthy that at least 10 out of the 36 articles of the Model Law recognise a possible role for the national Court.⁸

The UNCITRAL Rules,⁹ on the other hand, do not contain any explicit declaration of policy relating to judicial intervention, but it is possible to infer from their tenor that they generally do not envisage or encourage Court intervention. Nevertheless, there are, at least two clear provisions of the UNCITRAL Rules which appear to permit national Courts to intervene in arbitration proceedings. The first of these is Article 1(2) of the UNCITRAL Rules which provides that:

“where any of these Rules is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.” This provision seeks to recognise the mandatory rules of the *lex arbitri*.

The second, is Article 26(3) which provides that:

“A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.”

These provisions recognise the need to reconcile policy and pragmatic considerations with the concept of ‘party autonomy’ which is so fundamental to international commercial arbitration, and emphasise that striking the proper balance in a myriad of competing considerations is the key to the development of a positive judicial attitude towards the arbitral process.

Although the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention)¹⁰ was adopted by the United Nations eight years prior to the establishment of UNCITRAL, the promotion of the Convention has also become an integral part of the Commission's programme of work. The New York Convention, which has been described as “the single most important pillar on which the edifice of international arbitration rests,”¹¹ took the concept of “party autonomy” even further and by requiring Courts of contracting States to give effect to an agreement to arbitrate when seized of an action in a matter covered by an arbitration agreement and to recognize and enforce awards made in other States, subject to specific limited exceptions, such as public

⁸ See, for example, Art. 11 of UNCITRAL Model Law, *supra* note 6 (appointment of arbitrator), Art. 13 (challenge of arbitrator), Art. 16 (appeal against the decision of the arbitral tribunal on the issue of jurisdiction), Art. 27 (Court assistance in taking of evidence) and Articles 34 to 36 (ensure challenge to the arbitral award, or to its recognition and enforcement). See further, Schlosser, “*The Competence of Arbitrators and of Courts*” (1992), *ARBITRATION INTERNATIONAL* No. 2 at 189 and Kerr “*Arbitration and the Courts: the UNCITRAL Model Law*”, 34 (1985) *I.C.L.Q.* 1.

⁹ UNCITRAL Arbitration Rules, *supra* note 3.

¹⁰ The United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10th June 1958).

¹¹ Wetter, *The Present Status of the International Court of Arbitration of the ICC: An Appraisal* (1990) 1 *AMERICAN REVIEW OF INTERNATIONAL ARBITRATION* 91 at 93.

policy and unarbitrability. In fact, it is the facility of easy enforceability that has given arbitration the edge over litigation, as the recognition and enforcement of foreign judgments has been riddled with problems and difficulties from time immemorial. Sri Lanka, which realized the importance of the global enforcement of arbitral awards early, was one of the original signatories to the New York Convention, and while the Convention has increased in popularity and at present 145 nations have become parties to it, the most recent entrant to the community is the Fiji Islands, which ratified the Convention on 27th September, 2010.¹²

While UNCITRAL has played a significant part in popularising international commercial arbitration, several other factors have also contributed to its popularity. Arbitration has earned its modern impetus thanks to the great technological advances of the twentieth century including the internet. In fact, the internet has surpassed the radio, the telex, the telephone, the television and the telefax in propelling the phenomenon of globalisation and facilitating easy movement of goods, services and funds. This in turn has generated an unprecedented surge in international commercial activity, which needless to say, has also given rise to a large volume of disputes which by their very nature demand speedy resolution. These developments and the need to face the challenges posed by them, kept the UNCITRAL working groups on their toes, so to speak, during the last decade or so.

At the thirty-first session of UNCITRAL held in New York from 1st to 12th June, 1998 to coincide with the fortieth anniversary of the New York Convention, the Commission considered that it would be useful to engage in a discussion of possible future work in the area of arbitration. It requested the Secretariat to prepare a note that would serve as a basis for the consideration of the Commission at its next session. At its thirty-second session held in Vienna, in 1999), the Commission had before it a note entitled “Possible future work in the area of international commercial arbitration”¹³, which turned out to be a useful guide in the years to come. It is important to note that the various working groups of UNCITRAL have almost simultaneously carried out extensive studies and made useful strides in many areas of importance such as the requirement of written form for arbitration agreements, arbitrability, sovereign immunity, interim measures, consolidation of cases before arbitral tribunals, raising of claims for the purpose of set off, confidentiality, liability of arbitrators, power of tribunals to award interest, cost of arbitral proceedings, enforceability of interim measures of protection and the possible enforceability of an award that has been set-aside. Time constraints prevent me to go into details of all the useful work done by the working groups, except to say that tremendous progress has been made in most of these areas, while a great deal more has to be done.

It is however, necessary to focus in greater detail on the important work of revising the UNCITRAL Arbitration Rules of 1976. At its thirty-ninth session held in New York from 19th June to 7th July 2006, the Commission agreed that the topic of revising the UNCITRAL Arbitration should be given priority. The Commission noted that, as one of the early instruments elaborated by UNCITRAL in the field of arbitration, the

¹² See, http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention_status.html, accessed on June 30, 2012.

¹³ A/CN.9/460

UNCITRAL Arbitration Rules were recognized as a very successful text, adopted by many arbitration centres and used in many different instances, such as, for example, in investor-State disputes. In recognition of the success and status of the UNCITRAL Arbitration Rules, the Commission thought that any revision of the UNCITRAL Arbitration Rules should not alter the structure of the text, its spirit, its drafting style, and should respect the flexibility of the text rather than make it more complex. It was suggested that the Working Group should undertake to carefully define the list of topics which might need to be addressed in a revised version of the UNCITRAL Arbitration Rules.¹⁴ A related issue concerned the question of online dispute resolution. It was suggested that the UNCITRAL Arbitration Rules, when read in conjunction with other instruments, such as the UNCITRAL Model Law on Electronic Commerce and the Convention on Electronic Contracts, already accommodated a number of issues arising in the online context, but it was essential to develop the law and procedure further. At its fortieth session held in Vienna from 25th June to 12th July 2007, the Commission again noted the importance of revising the Rules, which had not been amended since their adoption in 1976 and stressed that the review should seek to modernize the Rules and to promote greater efficiency in arbitral proceedings. The Commission generally agreed that the mandate of the Working Group to maintain the original structure and spirit of the UNCITRAL Arbitration Rules should remain unchanged. Since broad support had been expressed in the Working Group for a generic approach that sought to identify common denominators that applied to all types of arbitration irrespective of the subject matter of the dispute, in preference to dealing with specific situations, the Commission decided that the extent to which the revised UNCITRAL Arbitration Rules should take account of investor-State dispute settlement or administered arbitration remained to be considered by the Working Group at future sessions.

The work that led to the ultimate adoption of the UNCITRAL Rules of Arbitration, 2010 were momentous, and the new Rules deserve the attention of all in the arena of arbitration. The Revised Rules, which were adopted by UNCITRAL on 25th June 2010 came into effect on 15th August 2010. Although the revised Rules were not intended to significantly depart from the ‘structure’, ‘spirit’, or ‘drafting style’ of the 1976 version, there are several significant modifications, amendments and adjustments have been made in a number of important respects. Viewed simply from a quantitative basis, however, it appears that little has changed: the revised Rules have 43 articles as opposed to 41 in the 1976 Rules. Nonetheless, in practice, approximately half of the articles of the 1976 Rules have been revised in the 2010 Rules. Although the scope of these revisions were somewhat limited, it is no doubt true that the revised Rules offer significant modifications from the 1976 Rules. The Rules of 2010 contain more elaborate provisions dealing with appointing authorities and designated authorities, multiple parties arbitration, interim measures and the procedure to object to experts appointed by the arbitral tribunal. A number of innovative features contained in the Rules aim to enhance procedural efficiency, including revised procedures for the replacement of an arbitrator, the requirement for reasonableness of costs and a review mechanism relating to the cost of arbitration.

¹⁴ *Official Records of the General Assembly, Sixty-first Session, Supplement No. 17 (A/61/17)*, para. 184.

It is significant that UNCITRAL has been in the forefront of making arbitration, which is only a private system of dispute resolution, even more officious than the State apparatus for public justice, both from the perspective of cost and time. Party autonomy, which is the hallmark of arbitration, has been carried forward by UNCITRAL, through its Model Laws, Rules of Arbitration and other initiatives, which have helped to keep arbitration ahead of most other means of dispute resolution. These efforts are indeed praiseworthy, as they help to maintain the credibility and global acceptability of arbitration in the realm of world trade and politics, and make it easier for courts of law to give the arbitration the respect it deserves and encourage them to intervene in the arbitral process only for the purpose of facilitating and supporting arbitration without in anyway hindering the arbitral process.

In conclusion, let me thank the AALCO for inviting me to share my experience and thoughts with Your Excellencies on this important session of AALCO and may I take this opportunity of wishing the deliberations all success and also wishing all the delegates and Excellencies all the very best in Sri Lanka and your journey back home. Thank You.

President: Thank you very much Justice Marsoof for that very elaborate presentation on the recent developments of UNCITRAL with New York Convention on the Rules of Arbitration. We move on to the presentation by next panelist who will speak to us on the “Current Role and Functions of AALCO’s Regional Arbitration Centres: The Revitalization Process”. This topic would be presented by Mr. Sundra Rajoo who was appointed as the fifth Director of the Kuala Lumpur Regional Centre for Arbitration from 1 March 2010. He is a chartered arbitrator, an advocate and solicitor of the High Court of Malaya and has earlier practiced as an architect and town planner. He has been appointed as Chairman Co-arbitrator of three-men Panel and sole arbitrator in various ad hoc as well as institutional international and domestic arbitration. Some of the institutional arbitration includes those such as International Chambers of Commerce, the Chinese International Trade and Arbitration Commission, Singapore International Arbitration Centre, Kuala Lumpur Regional Centre for Arbitration and the Palm oil Refineries Association of Malaysia. Thus far, he has over 150 appointments as arbitrator. Mr. Sundra Rajoo was a visiting Associate Professor with the University of Technology, Malaysia. He is the founding President of the Society of Construction Law, KL and Selangor. Past Chairman of the Institute of Arbitrators and Past Council Member of the Malaysian Institute of Architects. Mr. Sundra Rajoo is the author of Law, Practice and Procedure of Arbitration 2003, the Malaysian Standard form of Building Contract (The PAM 1998 Form), Second Edition 1999, Lexis Nexis and Halsbury’s Laws of Malaysia, 2002. He has also co-authored two books entitled the “Arbitration Act 2005 - The UNICTRAL Model Law as applied in Malaysia 2007”, Sweet and Maxwell, Thomson and The PAM 2006 Standard Form of Building Contract, 2010, Lexis Nexis. I have pleasure in calling Mr. Sundra Rajoo to present the next topic.

Mr. Sundra Rajoo, Director, Kuala Lumpur Regional Centre for Arbitration: Thank you Mr. President. Your Excellency Secretary-General of AALCO, Distinguished Panelists, Ladies and Gentlemen;

The topic that I have been given is to talk about Revitalization of the Regional Arbitration Centres of AALCO. I suppose the reason that I am given that is because I was asked to do the same thing with the Regional Arbitration Centre, Kuala Lumpur. So without much delay, I would get into the topic.

Introduction

Since the dawn of 21st century, we have seen huge shifts and transformation in the way people think and what people want. We hear screams of equality, fairness and due process of justice at every corner of the world. People rebel against and overthrow government in search of true leaders. Changes and transformation vibrates at faster scale than ever before. From the time of invention of world internet web, we now see massive transformation in global economy and it is becoming one world. This is the time where arbitration and other alternative dispute resolution mechanism becomes attractive because of its ability to transcend national boundaries, parties to dispute regains control on the procedures, the choice of the arbitrator, the efficiency of cross border enforcement and many other positive attributes.

We see major shifts in international arbitration in Asia with centers and institutions coming out of their localities of set up and actively promoting their rules and facilities to the larger pool of international trade community. In the last decade, international arbitration begins to pulse in the Middle East. The international perception of arbitration as a viable means of dispute resolution in the Middle East has been bolstered by the establishment of regional arbitration institutions, including Cairo Regional Centre for International Commercial Arbitration, the Abu Dhabi Commercial Conciliation and Arbitration Centre, the Bahrain Arbitration Centre and the Dubai International Arbitration Centre (“DIAC”). The accession of several Middle Eastern states to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) also demonstrates a shift in the region’s arbitration culture.

The revitalization process is on-going in all the regional centers under the auspices of AALCO only at different pace, scale and experience. It is now probably the time to share those experiences amongst member institution and in the spirit of togetherness under the shades of AALCO, shape the arbitration in this region to meet the global standards.

I will now continue with touching briefly on the set up of the AALCO’s Regional Centres and its roles and functions and then go into the revitalisation process where I will share with member institution today the experience of KLRCA in these very recent years.

Regional Centres under auspices of AALCO, its role and functions

The Asian-African Legal Consultative Organization (AALCO), originally known as the Asian Legal Consultative Committee (ALCC) was constituted on 15 November 1956. It is considered to be a tangible outcome of the historic Bandung Conference, held in Indonesia, in April 1955. Seven Asian States, namely Burma (now Myanmar), Ceylon (now Sri Lanka), India, Indonesia, Iraq, Japan, and the United Arab Republic (now Arab

Republic of Egypt and Syrian Arab Republic) are the original Member States. Later, in April 1958, in order to include participation of countries of the continent of Africa its name was changed to Asian-African Legal Consultative Committee (AALCC). At the 40th Session, held at the Headquarters of AALCC in New Delhi, in 2001, the name of the Committee was changed to Asian-African Legal Consultative Organization (AALCO). It might seem to be a small nomenclature change; however, it has great symbolic significance reflecting the growing status of the Organization and the place it has secured among the family of international organizations.

One of the major achievements of AALCO in its programme in the economic field was the launching of its Integrated Scheme for Settlement of Disputes in the Economic and Commercial Transactions in 1978. Pursuant to that Scheme, AALCO decided to establish Regional Arbitration Centres under its auspices, which would function as international institutions with the objectives to promote international commercial arbitration in the Asian-African regions and provide for conducting international arbitrations under these Centres. This is one of AALCO's major contributions to public international law and international commercial dispute resolution.

Currently AALCO has Four Regional Arbitration Centres, the first to be established was in Malaysia, in 1978, the Kuala Lumpur Regional Centre of Arbitration (KLRCA). Subsequently two other AALCO Regional Arbitration Centres were established, respectively in Egypt in 1979, the Cairo Regional Centre for International Commercial Arbitration (CRCICA), and in Nigeria, in 1989, the Lagos Regional Centre for International Commercial Arbitration (LRCIC). The other Centre was established in Tehran, for which an Agreement was concluded between AALCO and Islamic Republic of Iran in 1997 and the President of the Islamic Republic of Iran has ratified the Agreement for implementation on 10 June 2003. The fifth such Centre is in the process of establishment in Nairobi, Kenya.¹⁵

The AALCO Regional Centres for International Commercial Arbitration is formed through Agreements between AALCO and the Host Governments. The Agreements recognise the status of the Centres as intergovernmental organizations and conferred certain immunities and privileges for their independent functioning. Their functions include:-

- (a) Providing for arbitration and ADR under their auspices where appropriate;
- (b) Promoting international commercial arbitration in Asian and African regions;
- (b) Coordinating and assisting the activities of existing arbitral institutions, particularly among those within the two regions;
- (c) Rendering assistance in the conduct of Ad Hoc arbitrations, particularly those held under the UNCITRAL Arbitration (and Conciliation) Rules; and
- (d) Assisting in the enforcement of arbitral awards.

The Host Governments offers suitable premises, financial grants and necessary staff to run the Centres. The Centres adopts UNCITRAL Arbitration Rules with suitable

¹⁵ <http://www.aalco.int/ADR-PAPER22may2011.pdf>

modifications and offered their services to any party whether within or outside the region for the administered arbitration and facilities for arbitration whether ad hoc or under the auspices of any other institution.¹⁶

Although in the beginning, the promotional activities of AALCO's Regional Arbitration Centres were primarily carried out by the AALCO, in view of experience accumulated over the years and the contacts established by these centres with Governments, governmental agencies and international institutions, such promotional activities are now mainly carried out by the Centres themselves. Such promotional activities are highlighted in the Reports of the Directors of the respective Centres.

The way I see it, the revitalisation process requires commitment and involvement at 3 levels, one the regional centre itself, then the host government and finally AALCO.

Road Map to Revitalisation of Regional Centres

1. Revitalisation of Regional Centre

As well said by Alan Redfern and Martin Hunter in their book (Law and Practise of International Commercial Arbitration, 2nd Edition, London: Sweet & Maxwell 1991, pg 155) that "An established and well organised arbitral institution can do much more to ensure the smooth progress of an international arbitration even if parties themselves... or their legal advisors... have little or no practical experience in the field".

I totally agree and belief that an institution plays a huge role in shaping the arbitration practices and well it is with such realisation that AALCO set up arbitral institution in strategic parts of the Asian African regions in the first place.

I am of the opinion that the revitalisation objective should be the evolution of the regional centres from the current low keyed institution catering for local domestic needs towards a true regional arbitral provider and then evolve to the scales of international centres in the likes of Hong Kong International Arbitration Centre (HKIAC), International Chamber of Commerce (ICC) and Singapore International Arbitration Centre (SIAC).

Some of the initiatives to be considered would be:-

i. Uniformity of Rules in all Regional Centres - Adoption of UNCITRAL Arbitration Rules 2010

The first vital step to revitalisation at Regional Centre level would be the adoption of the UNCITRAL Arbitration Rules 2010 (UNCITRAL Rules), with or without alteration or modification. The UNCITRAL Rules has a lot of objective merits and should also be supported and encouraged, at least for the sake of international consistency and harmony. It has the advantages of age and objectively high quality and has been tested in diverse jurisdictions and institutions internationally. More so, they were formulated under the auspices of the United Nations- made-up of states of all geographical regions of the globe- and, thus, available in all the languages of the United Nations. This is necessary step to be taken for centres wishing to attract and instill confidence and trust in arbitration as well as to facilitate trade and investment, both domestically and internationally.

¹⁶ <http://www.aalco.int/content/arbitration-centres>

In our own experience, KLRCA was the first to adopt the UNCITRAL Rules and embodied with minimal modification into its Arbitration Rules (as revised in 2010) on the 15 August 2010. In the broad perspective, the 2010 Arbitration Rules not only ensure less scope for the abuse of the arbitration process, with arbitrators having the necessary discretion in key areas to ensure that the proceedings are conducted efficiently, fairly and in the most cost-effective way possible, the rules also provide good balance of the interests of both the users and the operators of international arbitration, with certain provisions increasing the accountability of arbitrators (such as in the areas of costs), and other provisions conferring immunity on the members of the tribunal.

Uniformity in the procedure of the Regional Centres will hopefully be followed by the harmonization of the applicable substantive dispute resolution norms.

- ii. Offer range of products in terms of rules to cater for both the domestic and international trade requirement within its set up

I share the experiences of KLRCA where the centre introduced range of products to cater for specified needs of industries. For example, KLRCA introduced the Fast Track Rules 2010, Mediation / Conciliation Rules 2011 and KLRCA Rules for Islamic Banking and Financial Services Arbitration 2007.

Fast Track Rules 2010 was drafted in collaboration with the Malaysian Institute of Arbitrators to maintain arbitration as the preferred and premier method of alternative dispute resolution. It is aimed at providing an expedited arbitral procedure, enhance confidence in the arbitral procedure and settle disputes and produce the award within a short time frame. It is intended to be cost effective by offering competitive fixed fees. It targets disputes involving smaller quantum (less than RM1 million).

Mediation / Conciliation Rules 2011 adopt the UNCITRAL Conciliation Rules 1980 with modifications.

KLRCA Rules for Islamic Banking and Financial Services Arbitration 2007 provides a customized mechanism for the resolution of disputes in the Islamic financial services sector. KLRCA is one of the first arbitration centers in the region to provide institutionalized Islamic Banking and Financial Services Arbitration based on specialized rules.

KLRCA now has embarked into working closely with the Central Bank of Malaysia to revise the 2007 Rules and the new set of Rules is expected to be ready by the end of the year. With this, KLRCA will position itself as the first centre in the world to cater for Islamic banking and financial arbitration rules with which the centre plans to encourage references of arbitration from the Middle Eastern market.

With such initiative, KLRCA contributes to the government in its effort of internalisation of its capital market. Malaysia has had a head start in Islamic Finance and today it offers comprehensive coverage of Islamic financial services across banking, takaful and the capital market. The internationalisation of the capital market is a necessary pre-requisite

to strengthening Malaysia's Islamic Capital Market which is expected to increase almost threefold from RM1.1 trillion in 2010 to RM2.9 trillion in 2020.

- iii. Promotional Activities - Packaging of products, training, road shows and participate in regional conferences with other centres.

Another KLRCA's interesting experience worth sharing is the active promotion undertaken by the centre. KLRCA packaged all the products i.e the rules and begins its active promotional activities and as a matter of great satisfaction, there were resulting spike in the statistics of cases registered with the centre thereafter.

KLRCA has organised various training courses, namely:

- Mediation Course held in collaboration with the Pepperdine University
- Diploma in International Commercial Arbitration Course held in collaboration with the Chartered Institute of Arbitrators and the University of New South Wales
- Arbitration Course held for the Senior Officers' of the AG's Chamber's Office
- Arbitration Course held for the Associated Chinese Chambers of Commerce (ACCCIM).

KLRCA will be playing host to the Asia Pacific Regional Arbitration Group Conference to promote the centre and also position Malaysia as a preferred venue for alternative dispute resolution. This year, KLRCA also have organised road shows in China and Hong Kong with the objective of promoting the centre and bring back case references from the countries.

- iv. Centres to enter into cooperation agreement and memorandum of understanding with other centres, commercial organisations and conglomerates and promote the use of Model Clause.

This is one other effective ways to promote institutionalised arbitration by going to the roots setting out the arbitration agreement itself. Not only that KLRCA promotes the use of Model Clause, but also in its cooperation agreements and memorandum of understanding with industry player and other centres encourage the use of the model clause in all the contracts.

With this, whenever there is dispute, there will be uniformity in the process and the institution will benefit in increased number of arbitration registered cases.

Again as an example, KLRCA signed a Memorandum of Understanding (MOU) with the Associated Chinese Chambers of Commerce (ACCCIM) on 27th January 2011 wherein there will be nationwide road show for ACCCIM's 17 constituent members to reach out to more members in enhancing their knowledge on ADR as well as creating awareness on the benefits ADR as the preferred dispute resolution mechanism.

2. Revitalisation through Host Governments and organised private sectors

The Regional Centres need the support and goodwill of governments especially their host governments and of the organised private sectors within their regions, as well as those of international governmental and non-governmental bodies and institutions. The hosts Governments are required to continue their support through the provision of

favourable environment for the activities of the Regional Centres, e.g. adequate legal frameworks and infrastructures, financial backup and providing good facilities.

The Hosts Governments should continue to work along with AALCO, in faithfully carrying out their respective international obligations under the Headquarters Agreements pertaining to each Regional Centre.

In Malaysia the judiciary promotes arbitration and encourages court assisted mediation by virtue of Practice Direction No. 5 from the Chief Justice of Malaya which came into effect on 16th August 2011 to reduce back log of cases.

The government generously agrees to provide new premises for KLRCA which will be developed to provide state of the art facilities to attract foreign parties to arbitrate and mediate in Malaysia.

The Malaysian Government also encourage the use of the KLRCA's rules and facilities by issuing out directives for the same to government linked companies which inadvertently will spread to other commercial organisation and private sectors that associate with the government linked companies.

A notable example would be something a kin the Year 2000 Bilateral Investment Treaty (BIT) between Nigeria and Egypt (Article 6), on Settlement of Investment Disputes, which provides that for the purpose of solving disputes with respect to investments between a Contracting Party and nationals and companies of the other Contracting Party, consultations will take place between the parties concerned with a view to solving the case amicably and where these consultations do not result in a solution within six months from the date of request for settlement, the nationals or company may submit the dispute, at its choice, for settlement to the competent court of the Contracting Party in the territory of which the investment has been made; or The International Centre for Settlement of Investment Disputes (ICSID) provided for by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington, D.C. on 18th March, 1965; or an ad-hoc arbitral tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

For the organized private sector, their patronage and support for the AALCO Regional Centres are indispensable to the activities of those Centres and others. This could be done again by adopting in contracts the Model clauses of the Regional Centres or in using their facilities for ad hoc arbitration and otherwise. The hitherto unnecessary inconvenience involved in arbitrating in far off venues with all its negative economic and psychological implications for parties from developing states will be reduced if, in future, private and governmental parties in the Asian-African Region persistently utilize the opportunities afforded by the existence of the Regional Centres in strategic locations within the region.

3. Revitalisation through AALCO

For international governmental and non-governmental bodies and organizations concerned, e.g. The World Bank, MIGA, ICSID, UNCITRAL, UNCTAD, UNITAR, UNIDO, ITC, PCA, etc, their support and goodwill for these Regional Centres should be more visible, more tangible and unqualified. Furthermore, more publicity should be given to the activities of the Regional Centres and to the rationale for their establishment. This I believe requires AALCOs' intervention.

One means of doing this would be through more lectures, seminars, short courses and workshops by, on and in, the Regional Centres. Also their establishment, rules, organization, status, activities and jurisprudence, should be given more attention in the academic programmes of universities, other institutions of higher learning and professional organizations and associations all over the globe- not just in the Asian-African regions.

One reason the arbitral and ADR processes are undeveloped in most developing continents is the general lack of knowledge on, and information about, those processes, their attributes, potentials and instances of actual use and potency. The publication of arbitral awards contributes to the development and diffusion of the arbitral process, its attributes and potentials. Finally, more links and cooperation are needed between the Regional Centres themselves and other arbitral institutions, e.g. sponsoring or co-sponsoring and organizing periodic seminars or conferences in their joint names and alternately at their respective locations where they could exchange information and share experiences, whilst allowing the participation, association or attendance of other interested parties, institutions or organizations.

For instance, ICSID and the AALCO should hasten to conclude Co-operation Agreements with respect to ICSID proceedings and those of the AALCO Regional Centres, for those AALCO Regional Centres not yet covered by the existing Co-operation Agreements between these international legal persons (i.e. those at Lagos, Tehran and, when established, Nairobi). The existing Agreements, as earlier suggested, should also be considered for publication in the web sites of ICSID, of the AALCO and of the AALCO Regional Centres. Most learned practitioners and scholars are unaware of the existence and practical utilities of those Agreements.

AALCO's proposal for the respective Regional Arbitration Centres to hold International Arbitration Conference biennially, by rotation in each of the Centres, with the support of Member States will be a good platform for regional centres to share literature, experiences and cross market.

Conclusion

In conclusion I wish to express that I have but merely touched the surface of what the Revitalisation Process of Regional Centres will entail and limited to the experience of KLRCA. I am sure more and more viable methods have been and would be made available in future to develop the Regional Centres in the Asian-African region as providers for international dispute resolution.

Last but not least, it is hoped that we at KLRCA together with other Regional Centres under the auspices of AALCO will eventually be able to create a regional resolution for a global solution surrounding arbitral issues.

President: Thank you so much Mr. Sundra Rajoo. His presentation dealing with the revitalization process of AALCO's Arbitration Centres and happy story of Malaysia may not be repeated in the similar end because this particular compliant about the lack of host government supporting the centres in carrying on with the work on promoting the centres is something that we will hear only from rest of the Panelist hereafter. Then on a happy note we have taken note Mr. Sundra Rajoo's suggestion of the strategic location of Sri Lanka. I have already fixed a meeting with Sri Lankan Arbitration centre at 2.00 o'clock this afternoon to meet with us and I would be if Mr. Sundra Rajoo could also be associated with us in the discussion to persuade our government to join this family of AALCO Centres. Having said that there is one more housekeeping announcement, which is the Drafting Committee will be meeting at tea break on this final day. Those delegates wishing to present may please take note of it. We will now take the tea break and we will try meet in 15 minutes because delegates would like to attend the Friday Prayers. Thank you.

Working Session – II

President: Ladies and Gentlemen, now we will get on with the session. We will now have the presentation on the subject "The Arbitration experience in the Asian-African Region". The presentation would be made by the Director of the Lagos Regional Arbitration Centre Mrs. Eunice Oddiri. Mrs. Oddiri is a Solicitor and Advocate at the Supreme Court of Nigeria for 32 years. She is the Director of the Federal Ministry of Justice and doubles as Director for Regional Centre for International Commercial Arbitration (RCICAL) in Lagos. She is a member of the Nigerian Bar Association, the International Bar Association, the Chartered Institute of Arbitration. As Director for Regional Centre for International Commercial Arbitration, Lagos, Mrs. Oddiri has continued to present papers on various aspects of international commercial arbitration across the globe and constantly represents the Centre at the United Nations Working Group's session on Arbitration. I have the pleasure to now invite Mrs. Eunice Oddiri to present her viewpoints.

Mrs. Eunice Oddiri, Director, Regional Centre for International Commercial Arbitration (RCICAL): Mr. President of the Fiftieth Annual Session of AALCO, His Excellency the Secretary-General of AALCO, Distinguished delegates, Ladies and Gentlemen; the topic I have for today's paper is "The Arbitration experience in the Asian-African Region" and I have segmented this paper into two major sub-divisions, namely; measures aimed at promoting arbitration in Africa, and challenges faced in achieving those measures.

Arbitration has experienced rapid transformation in terms of activities within the past two decades. Vigorous activities has been seen in the areas of establishment of

arbitration infrastructure, reformation of arbitration laws, training of arbitration practitioners and service providers, increase in the volume of commercial and investment transactions giving rise to arbitrable disputes and more and more growing interests among young practitioners and students in the field of arbitration as well as challenges in a difficult economic global environment. The Regional Centre for International Commercial Arbitration, Lagos will engage distinguished delegates on this Arbitration half-day to the 50th Session of AALCO by sharing its experiences in the field of arbitration in Africa.

Measures aimed at Promoting Arbitration in Africa:

1. Enactment of Modern Arbitration Law preceding UNCITRAL Model Arbitration Law

Djibouti, a former French colony, was one African State with a modern and comprehensive law on international commercial arbitration prior to the UNCITRAL Model Law in 1985, having enacted a code of international arbitration in 1984.

Djibouti is a commercial bridge between Africa and the wider Arab world as well as a suitable Arbitral venue in Africa.

2. Adaptation of UNCITRAL Model Law and UNCITRAL Arbitration Rules

African countries have since adapted the UNCITRAL Model Law and Arbitration Rules. Nigeria and Egypt for instance were among the first African countries to adapt the UNCITRAL Model Law on Arbitration. It should therefore benefit from its advantages.

According to Sir Michael Kerr, a former Honourary President of the London Court of International Arbitration (LCIA), in commenting on the benefits of the UNCITRAL Model Law said:

“First and mainly, it provides confidence within the international community that arbitration can be conducted in any jurisdiction which has enacted the UNCITRAL Law, with little or no risk of interference from local courts. This confers a general benefit on any state which adopts it, since there is considerable competition to provide acceptable and popular venues for international arbitrations, and the enactment of the Model Law demonstrates a willingness to co-operate in the present process of international arbitral harmonization and modernization.

Secondly, the acceptance of the Model Law should be particularly useful to developing countries, since it should make it easier for them to insist on arbitrations in their own territories vis-à-vis their foreign supplier/investors, who are presently often extremely reluctant to arbitrate anywhere other than in one of the traditional ‘western’ countries, such as London, Paris, New York, Switzerland, Sweden etc.

Assuming that the mere adoption of the UNCITRAL Model Law by African countries, such as Nigeria, is not a guarantee to make Africa attractive to international arbitration, in the case of South Africa, the South African Law Commission Report on Arbitration has gone a step further to include the development of practitioners skilled in modern international arbitration practice in addition to the adoption of the UNCITRAL Model Law.

3. Updating of Arbitration Laws

Nigeria is currently updating its arbitration law to take cognizance of new developments that took place after the enactment of the UNCITRAL Model Law. The Lagos Centre provided logistic support to the law drafting committee set up by government to review the Arbitration Law in 2006. Thereafter, the Centre is working closely with the Nigerian Legislature in its public debates and committee work on the Bill for the enactment of a new arbitration law for Nigeria.

Similarly many African countries are parties to the all important New York convention and other pertinent treaties on arbitration. No less than thirty-one African countries have signed the New York Convention as at 24th June, 2011.

Furthermore, there is continuous training of the Bar, the Bench and other practitioners in Arbitration over the years.

4. Availability of Institutional Arbitration Infrastructure

Institutional and administrative facilities for holding international arbitrations are now available in Africa.

Nigeria, Egypt and South Africa all have excellent facilities of international standard for holding any form of arbitration-even multi-party arbitration. In support of the facilities at the Lagos Centre and other arbitral institutions the UNCITRAL Notes On Organizing Arbitral Proceedings (1996), states in relation to choice of venue/destination for international arbitration that the following should play a prominent role:

- a. “suitability of the Law on arbitral procedure of the place of arbitration;
- b. whether there is a multi-lateral or bi-lateral treaty on enforcement of arbitral awards between the states where the arbitration takes place and the states where the award may have to be enforced;
- c. convenience of the parties and the arbitrators, including the travel distances;
- d. availability and cost of support services needed, and
- e. location of the subject-matter in dispute and proximity of evidence”.

Quite a number of African and Asian states, notably Nigeria, Egypt and South Africa have met the above criteria.

5. Availability of International Arbitration Rules

The Centre launched its current arbitration rules on 1st July, 2008. These Arbitration Rules embody some of the roles earlier mentioned; such as providing arbitration under fair, inexpensive and expeditious procedure; rendering assistance in the conduct of ad hoc arbitration proceedings and assisting in the enforcement of arbitral awards. The Rules also contain the international Conciliation/Mediation Rules of the Centre.

The said Rules were revised to take effect from 1st July, 2008; prior to this, the Centre operated Arbitration Rules made in 1999 which were based entirely on the UNCITRAL Arbitration Rules of 1976.

Over time it became necessary to bring some provisions of the Centre's Rules in line with more current developments in international arbitration; more so when UNCITRAL itself was in the process of revising its Arbitration Rules.

The revised UNCITRAL Arbitration Rules have been released and took effect from August 15, 2010.

(a) Forward Looking Arbitration Rules

The Lagos Centre Rules are proactive because they are geared towards actively initiating change in anticipation of future developments, rather than merely reacting to events as they occur.

Similar provisions which are in the newly revised UNCITRAL Rules already form part of the Centre's rules, even before the UNCITRAL Revised Rules were launched on August 15, 2010.

Some other provisions in the Centre's Rules are in *pari materia* with the Rules of other major Arbitration Centres, such as LCIA, the ICC as well as WIPO Rules.

An example would be the similarity in making the existence of an International panel of arbitrators, part of the each organizations' Arbitration Rules including that of the Centre.

(b) Arbitration under Fair and Efficient Procedure

From experience in arbitrations over the years coupled with the need to facilitate fair and efficient conduct of arbitral proceedings, the Lagos Centre inserted the provisions of **Article 12.2** in its revised Rules and this states that:

“No arbitrator shall act in the arbitration as advocates for any party. No arbitrator, whether before or after appointment shall advise any party on the merits or outcome of the dispute”.

(c) Provisional Timetable (Article 18.2)

At an early stage of the arbitration proceedings and in consultation with the parties, the Arbitral Tribunal shall prepare a provisional timetable for the arbitration proceedings which timetable shall be provided to the parties and to the Centre.

(d) Power of Arbitral Tribunal to fix Time Limits (Article 28.3)

The Arbitral Tribunal shall have authority to establish time-limits for hearings or any part thereof.

(e) Written Witness Statement (Article 28.7)

Evidence of witnesses may also be presented in the form of written statements signed by them. Any party may request that a witness, on whose testimony another party seeks to rely should attend for oral questioning at a hearing before the Arbitral Tribunal. If the Arbitral Tribunal orders that other party to produce the witness and the witness fails to attend the oral hearing without good cause the Arbitral Tribunal may place such weight on the written testimony (or exclude the same altogether) as it considers appropriate in the circumstances of the case.

(f) Impartiality of Experts (Article 30.5)

Experts to the Tribunal shall be and remain impartial and independent of the parties throughout the arbitration proceedings.

(g) Award may be made in any currency (Article 35.3)

The Award may be expressed in any currency. The Arbitral Tribunal may order that simple or compound Interest shall be paid by any party on any sum awarded at such rates as the Arbitral Tribunal determines to be appropriate.

(h) Waiver of libel and slander actions (Article 46)

The parties and the Arbitral Tribunal agree that any statements or comments whether written or oral made or used by them or their representatives in preparation for or in the course of the arbitration shall not be relied upon to found or maintain any action for defamation, libel, slander or any related complaint; and this Article may be pleaded as a bar to any such action.

(e) Less expensive Arbitration at the Centre

Arbitrations held at the Centre are relatively cheaper when compared to those held in other Arbitration institutions within the African region.

Costs of arbitration include a nominal registration fee payable by any party that institutes arbitration at the Centre, administrative fee as well as payment for facilities and services used by the parties. Any unused balance is usually returned to the parties; and Arbitrators' fees are paid to the Arbitrators by the parties through the Centre.

Arbitrators' fees is based on a low percentage of the amount of claim involved in the arbitration. The reason for the low fees charged at the Centre is because the Centre is a not-for-profit organization.

(f) Ready for use Arbitration Agreement

The Centre's Model Arbitration Agreement were drafted with consideration to the UNCITRAL Model Clause and the needs of arbitration users. The models are therefore

need-driven and user-friendly. The first one is a Model Arbitration Clause for future disputes; that is where parties make provision for arbitration in their contract where no dispute has yet arisen. The second is submission agreement; that is where a dispute has already arisen, but there is no existing arbitration clause provided in the contract.

In the case of Nigeria, its Federal Government has since 2003 adopted the Centre's Model Arbitration Clause in all contracts involving the *Government of Nigeria*. *Some State Governments as well as private companies are also doing the same.*

Model Clause

(1) Future Disputes

Where parties to a contract wish to have future disputes referred to arbitration under the Arbitration Rules of the Regional Centre for International Commercial Arbitration-Lagos, the following clause is recommended:-

The words spaces in square brackets should be deleted/completed as necessary:-

“Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Arbitration Rules of the Regional Centre for International Commercial Arbitration-Lagos, which Rules are deemed to be incorporated by reference into this clause.

The number of arbitrators shall be [one or three].

The place of arbitration shall be [City and or Country:].

The language to be used in the arbitral proceedings shall be [].

The governing law of the contract shall be the substantive law of []”.

(2) Existing Disputes

Where a dispute has already arisen but there is no agreement between the parties to arbitrate or if the parties wish to vary a dispute resolution clause so as to provide for arbitration under the Rules of the Regional Centre For International Commercial Arbitration-Lagos, the following clause is recommended:-

Words spaces in square brackets should be deleted/completed as necessary:-

“A dispute having arisen between the parties concerning [insert the nature of the dispute], the parties hereby agree that the dispute shall be referred to and finally resolved by arbitration under the Rules of the Regional Centre for International Commercial Arbitration-Lagos.

The number of arbitrators shall be [one or three].

The place, of arbitration shall be [City and or Country]

The language to be used in the arbitral proceedings shall be []

The governing law of the contract [is/shall be] the substantive law of []”.

6. The Uniform Act on Arbitration of OHADA

The acronym 'OHADA' stands for 'Organisation pour l'Harmonisation en Afrique du Droit des Affaires' (Organisation for the Harmonisation of Business Law in Africa, occasionally referred to in English as 'OHBLA').

The OHADA Treaty was signed by 14 Francophone African States in Port-Louis (Mauritius), on October 17, 1993, and today, there are 16 member-states, namely: Benin, Burkina Faso, Cameroun, the Central African Republic, Chad, the Federal Islamic Republic of the Comoros, Congo, Ivory Coast, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Niger, Senegal and Togo. The Democratic Republic of Congo (DRC) has signified its Intention to join the OHADA states and is taking steps to actualise its admission into Ohada. OHADA created four institutions namely :

- the Council of Ministers,
- the Permanent Secretariat,
- the Common Court of Justice and Arbitration and
- the Regional High Judiciary School.

By the provisions of Article 10 of the OHADA Treaty, the Uniforms Acts, (which constitute the OHADA Laws), are directly applicable and binding on Member States. One of such uniform Acts so far made by OHADA is the Uniform Act on Arbitration Within the Framework of the OHADA Treaty.

Scope of Application

The uniform Act on Arbitration applies to any arbitration case when the seat of the Arbitral tribunal is in one of the Member States.

The Common Court of Justice and Arbitration (CCJA)

The CCJA is located in Abidjan, Ivory Coast. It comprises seven judges elected for a seven-year period renewable once and one Chief Registrar.

Functions

It is mainly in charge :

- of giving advice on the draft Uniform Acts before they are adopted by the Council of Ministers and ruling on the interpretation and implementation of these Act
- ruling on the decisions pronounced by national courts and appealed against,
- ensuring an orderly progress of arbitration proceedings. CCJA does not settle the disputes itself. It appoints or confirms the arbitrators, is informed of the progress of the case and examines draft awards in accordance with article 24 of the OHADA Treaty.

Overriding Jurisdiction of CCJA

Article 23 of the OHADA Treaty provides that any national court of a Contracting State hearing a case wherein the parties have agreed that the matter to be resolved by arbitration shall hold itself as lacking jurisdiction to hear the case and if necessary, refer the matter to Arbitration Proceedings.

Effectively the sixteen African countries that are now signatories to the OHADA Treaty have established a viable arbitration regime under the Uniform Act for Arbitration within the Member States.

Challenges

Arbitration in Africa until recently has been neglected. Foreign scepticism born out of mistrust, ignorance, lack of information and materials is rife. In fact the first deliberate effort to entrench an international arbitration institution became a reality only in 1980 when AALCO established the Cairo Regional Centre for Arbitration.

In domestic transactions in Africa, arbitration, where it is used, is practiced irregularly and usually as part and parcel of standard legal practice. Arbitration is normally seen, though erroneously, as the exclusive preserve of lawyers and as an extension of courtroom litigation. The reported court cases on the law and practice of arbitration in Africa show that recourse to arbitration is still modest even in domestic transactions. Statistical data may be harder to come by due to the privacy of arbitral proceedings and the confidentiality of most awards. However, a majority of court cases arising out of arbitration and reported in the *Africa Law Reports (Commercial Series)* and other notable law reports in Africa relate mainly to the insurance industry or dealt with the enforcement of arbitral agreements.

Lack of positive publicity of arbitration work so far done in Africa:

Developing states, particularly those in Africa, are not regularly selected as venues for international arbitral proceeding either by arbitral institutions, or by the disputing parties (including Africans) or by arbitrators, who are mainly not from developing states and who consider their schedules, personal convenience and comfort when asked to make a choice of venue. Demoralising arguments may also be advanced and repeated to the effect that the legal frameworks for arbitration and foreign investment are poorly developed in developing states and that their courts are lacking in a tradition of independence and impartiality. When a positive arbitral development occurs in a developing states. It may be glossed over.

The governments of most African and other developing states may not be assisting matters by their patterns of appointment or in their non-participation in appointing arbitrators as well as in their choice of counsel and venues. Nevertheless, it is not expected that countries such as Switzerland, the UK, France and the Netherlands will readily appoint a qualified and experienced African as arbitrator, conciliator or counsel, even in a minor arbitration. But the general situation does need to be changed.

It is not implied by the above observations that an arbitrator who is an African will invariably render an award in favour of an African party or be more favourably disposed to that party in arbitration. Nor is it the contention that an African counsel would be more prone to argue a case for African, than for non-African, parties, or that non-Africans, either as arbitrators or counsel, would not objectively assess contentious matters involving African parties. The crucial point is only one of substantive and

effective participation by Africans in international arbitration as arbitrators, representatives or otherwise.

Competition in Arbitration:

Of the arbitration institutions established before 1945, none is as influential and as well known as the ICC. Thus, all strictures as well as glories rightly or wrongly belong to it.

The ICC is a household name in international business circles and has featured or appeared in some contested litigation arising out of international commercial arbitration in some jurisdictions.

Its long history, the quality of its adjudication, the direction of trade as well as the nature of the political association between Africa and Europe, ensured that some commercial contracts concluded by parties and standard forms used in particular trades or industries in these regions stipulate that any disputes arising shall be submitted to the arbitration of the ICC in Paris.

Due to the lack of alternative and well-developed dispute resolution institutions in Africa, the European parties, who invariably have a stronger bargaining power and who normally proffer the draft contracts, insist on including clauses relating to arbitration institutions well known to them as a condition of entering into transactions. This may be oppressive and unfair especially when rules written into standard and other contracts are not readily available to contracting parties from Africa. Opting for such clauses might have some implications not contemplated by an ignorant party.

It is also well known that not many lawyers and other qualified persons from Africa have represented parties in major international arbitration. What obtains in the existing international arbitral order is rather a generally cyclical trend, whereby a person from a developed state will, in one instance, sit as an arbitrator in a forum outside Africa in a dispute involving an African state and, in another instance, reappear and argue a case, or act as a consultant for an African state, in Paris, London, Geneva or elsewhere in Europe. The rules and practice of the game are fossilised as the diversity of perspectives compatible with economic development objectives and imperatives diminishes.

As a result, a few arbitral institutions became dominant due to the lack of alternative and viable dispute resolution for Africa. In such a situation, the dominant institutions and actors will reinforce their dominance. There are rarely opportunities for the few qualified scholars or practitioners from African and other developing states to sit as arbitrators to the extent that arbitrators from developed states have done, to establish a balance in this area. In most major disputes requiring a tribunal of three, it is even rarer to see Africans sitting as chairmen or presidents.

Competitors are aware of AALCO's objective in introducing and retaining arbitrations in the Sub-region; so that the Centre's efforts in retaining arbitration in the Sub-region is being challenged by certain measures being introduced by arbitration institutions in the

west. For example multi-national companies with headquarters in the west insist that arbitration must be held in the west.

Reason:

- (i) Distrust of local arbitration legislation;
- (ii) Hostile court system that do not enforce foreign awards;
- (iii) Lack of competent local personnel; and
- (iv) Insecurity.

Fallacies in the reasons above

Majority of foreign arbitral awards are enforced in Africa. So far in Nigeria, only one foreign arbitral award has been refused enforcement under the New York Convention on the ground that the New York Convention was not enforceable in Nigeria at the time the time enforcement proceedings was commenced in the Nigerian court.

This is the case of **Murmansk State Steamship Line vs Kano Oil Millers Ltd; (1974) NNSCC Vol. 9 590**. The Claimant in this case is a Russian company which sought to enforce an arbitral award of a Moscow arbitral tribunal against the Respondent Nigerian company in the Nigerian Courts under the the New York Convention.

The arbitral award was refused enforcement by the Nigerian Supreme Court on the ground that Nigeria had not domesticated the New York Convention at at February 1972 when the enforcement proceedings was commenced in Nigeria; notwithstanding that Nigeria became a party to the Convention in March, 1972.

It is noteworthy that it was only in 1988 that Nigeria finally domesticated the New York Convention in Nigeria.

Alleged Lack Competent Local Personnel

On lack of competent local personnel, Africa has many arbitration training organizations including universities who now teach arbitration courses to their students at both the undergraduate and postgraduate level. Even the modest effort of the Centre in encouraging arbitration training in the universities will not be over-emphasized. It has also been reported that the Nigerian branch of the Chartered Institute of Arbitrators (one of the reputable trainers of Arbitrators in the world) is the fastest growing branch in the world. So lack of personnel cannot be a sustainable reason to deny our local practitioners arbitration work.

Insecurity of Persons

Allegations of insecurity posed to arbitrators who come to Africa for arbitration is not sufficient reason to take away arbitrations from the region because, in the first instance, the same parties to a dispute that give rise to arbitration live and do business in the same region they allege is insecure. It is only when a dispute arises that they fly the kite of insecurity in order to take the arbitration out of Africa .

Frustration experienced by potential arbitrators:

Frustration is experienced by our potential arbitrators in the hands of some western countries in order to keep our practitioners as second fiddle. A good example is the deliberate refusal of visa to participants in international competitions as recently experienced by students-sponsored by the Lagos Centre to attend the Williem Vis International Arbitration Competition in Vienna-Austria.

High Cost of Arbitration in Foreign Venues:

Also, the cost of arbitrating in cities in developed states are exorbitant for parties from developing states especially when administrative fees are determined by the amount in dispute and required to be pre-paid within a stipulated duration. It entails a great drain on capital needed for development into traditional arbitral venues.

In the case of a lengthy arbitration, the selection of a developed (state's) forum can impose large costs on the parties in terms of paying for the hearing room, housing of lawyers, parties and arbitrators, over and above the already high costs of lawyers who charge at the market rates of European capitals or the United States. These costs have to be paid as the matter progresses, which may put a strain on a party that lacks easy access to large quantities of foreign exchange.

This state of affairs operates to the prejudice of parties from developing states. Most of them, due to the state of their economies, find it difficult to secure the necessary foreign exchange for timely and effective representation, whether as claimants or respondents, in far-off lands.

At times, threats of expensive and protracted arbitration in far-off venues have been made in order to blackmail weaker and poorer parties into acceding to inequitable concessions.

That prospect, as well as the possibility of a negative arbitral award with its often considerable visibility, loss of face and reputation, have been advanced as effective means of avoiding disputes and protecting foreign investors.

Conclusion

A lot of disputes still emanate from Africa as a result of increased commercial and investment activities; yet arbitrations arising from them are mainly conducted under the rules of arbitration of institutions outside Africa such as the International Chamber of Commerce (Paris) and London Court of International Arbitration, and other western venues as chosen by parties.

It has been observed that local personnel involved in the negotiation of the arbitration clause lack good negotiating skills.

In the choice of venues for arbitration, the negotiating strengths of the parties and the nature of the transaction play a major role in determining where arbitration shall take place.

A forum to train local personnel on international contract negotiation with emphasis on negotiating arbitration clauses may be appropriate.

Support for the arbitral system by the Nigerian courts is growing daily. Nigeria now has the necessary infrastructure to deal with international arbitrations;-international arbitration Centres, Lawyers, accountants and so on. Nevertheless, this is not enough. What is needed now is international support garnered from especially Asian and African states to adequately publicise the available infrastructure, but more importantly to patronize these centres and stem the continued outflow of arbitration from these states to western nations; while being mindful of the competition posed by these western arbitral institutions in the international arbitration space.

International Character of AALCO Regional Centres for Arbitration

Finally in closing, permit me to draw attention to the issue of AALCO ensuring that the international character and neutrality of each of its regional centre for arbitration is honoured by their host governments.

In this regard, I draw the attention of this august body to the particular predicament that faces the Regional centre in Lagos; wherein the Law domesticating the Headquarter's agreement in relation to that centre has erroneously classified the centre as an organization (a parastatal) belonging to the host government of Nigeria.

This erodes from the international character of the centre and creates in the minds of the global arbitrating community a conflict as to the true nature of the Centre which cannot be both an institution belonging to the government of Nigeria and at the same time remain an international organization.

May we request therefore that AALCO take steps to renegotiate the Headquarters agreement in relation to the Lagos Centre with the host government of Nigeria in order to rectify this existing Misnomer. Thank you for listening.

President: Thank you very much Mrs. Oddiri for the detailed presentation. Now we will call upon Dr. Abdel Raouf, who is the Acting Director for the Cairo Regional Centre for International Commercial Arbitration and lecturer at International Commercial Arbitration and the Institute of International Business Law, Cairo University - Paris I Sorbonne; the English Section of the Faculty of Law, Cairo University; and the French Section of the Faculty of Law, Ain Shams University. He is an Attorney at law (non-practicing since 2009) at Abdel Raouf Law Firm, Cairo-Egypt. He specializes in international commercial arbitration and ADR as well as in commercial, business and investment laws.

Dr. Abdel Raouf is a holder of a Ph.D. in private law from the University of Montpellier I, France. Topic of thesis was "The International Arbitrator and State Contracts". Prior to this, he obtained a Diploma, DEA en Droit des Contrats d'Affaires, Montpellier Business Law School, University of Montpellier I, France as well as a Master's degree in

International Business Law (LL.M), Institute of International Business Law (IDAI), Cairo University.

He is the author and co-author of several legal publications on arbitration (in Arabic, English and French), including the Chapter on Egypt of the World Arbitration Reporter (WAR). He has also spoken at several international conferences and seminars. An approved Tutor at the Chartered Institute of Arbitrators (CI Arb - London), a Resource Person in International Investment Agreements and Investment Disputes, the United Nations Conference on Trade and Development (UNCTAD), an Expert in ISDS, the Organization for Economic Co-operation and Development (OECD), a member of the Editorial Board of the Journal of Arab Arbitration issued by the Arab Union of International Arbitration, in addition to being one of the founders of the Egyptian Arbitration Forum (EAF). I have pleasure in calling upon Dr. Mohamed Abdel Raouf, to be the next panelist to present his paper on “Sharing of Experiences by other Arbitration Centres”.

Dr. Abdel Raouf, Director, Cairo Regional Centre for International Commercial Arbitration (CRCICA): Thank you very much Mr. President. His Excellency the Secretary-General of AALCO, Distinguished delegates, I am really proud and privileged to start my tenure as new Director of the Cairo Regional Centre for International Commercial Arbitration today by addressing you and trying to share the experience of the Cairo Regional Arbitration Center regarding arbitration. Before sharing this experience, allow me first to respond to certain messages that were delivered very keenly by my colleagues before me. First, in order for any country to be the host of the seat of International Arbitrations, there are certain elements which we call the necessary infrastructure that should be there in order for that country to attract arbitrations. Let me emphasize on the importance of this infrastructure for any country. Let me give you an example, Dubai in the United Arab Emirates has everything and it wanted to be seat of international arbitration. Until the adoption of the 2005 New York Convention for the Recognition and Enforcement of Foreign Awards and its ratification, Dubai was not a suitable seat for arbitration, so they had a centre, law, financial resources and funds but certain elements were missing for having this infrastructure. As my colleague has mentioned in Egypt we are proud to have the necessary infrastructure to be a seat for international arbitration. We have a Model law on arbitration which was enacted in 1994 based on the UNCITRAL Model Law. Egypt is also a party and ratified all relevant arbitration conventions including the New York Convention and the ICSID Convention. We have also very user-friendly judiciary; I am talking about the Ministry under the control of our colleague from the Ministry of Justice. We believe that the Egyptian judiciary has done its job to be more user-friendly way to enforce the awards and also during the setting aside of the arbitral awards. Also one of the important elements is the existence of seat in the country of the international arbitration centre which is credible and independent (sometimes we have filed cases against the host government). This is the case in Cairo.

Now I would like to turn to share the experiences of the Cairo Regional Arbitration Centre during the last year very briefly. The most important element that happened this

year was the adoption of our New Arbitration Rules. We, as you know have adopted the UNCITRAL Rules which were adopted in 1976. We have certain amendments, the last of which was in 2008. I personally attended most of the UNCITRAL Sessions, followed them thoroughly in order to modify and amend our Rules accordingly. This happened in March this year. The New Arbitration Rules have been adopted in March 2011 and they shall apply to arbitral proceedings commencing after this date. We have modified certain elements of such Rules in order to suit the institutional arbitration also to afford our role as an appointing authority. Very quickly, salient features of our new Rules are of course available on our website, serves four basic purposes. First, we intend to guarantee collegial decision-making with respect to several vital procedural matters, including the rejection of appointment, as well as the removal and the challenge of arbitrators. Second, it seeks to modernize the Rules and to promote greater efficiency in arbitral proceedings. Third, it fills in a few holes that we have discovered during the application and interpretation of certain provisions of arbitration Rules. Finally, and this was extremely important to accord cheapest arbitration in the worldwide which required to adjust the original tables of costs to ensure more transparency in the determination of the arbitrator's fees. In a comparative study it was said that we were the cheapest arbitration centres, and to tell you the truth cheapest does not mean the best in delivering better services. So, we received complaints from our users in order to try to adjust our section on costs, which we have done after much efforts and work done in this field. We are very proud of the feedback that we have received from the same people who have considered us to be the cheapest, now they consider our Rules and adjustment costs to be smart move because we have considered that certain disputes which do not exceed 3 million USD should be treated in a different way than disputes exceeding 3 million USD. And by that we expect to maintain our case laws and to attract more international arbitrations and arbitrators.

According to this comparative study, we are still the cheapest for disputes reaching 1 million USD and above; and we are like all other arbitration institutions. As I have told you, we have received a very positive feedback about amendments of our Rules, certain papers were published recently in the Transnational Disputes Management online review in which they mentioned that certain provisions of the Cairo Regional Arbitration centre are even more clear than the provisions of the UNCITRAL when it comes to decision-making, multi-party arbitration and so on. I am also extremely proud of the Arabic version of our Rules. Here in AALCO, we have Arabic speaking states and I should say that we have not confined ourselves to translating or adopting the Arabic version of UNCITRAL and we told the UNCITRAL that we would be doing this. We have an original Arabic version which I believe can be easily adopted by other Arab speaking countries and arbitral institutions. So, it is no more a replica of the Arabic version of the UNCITRAL. the reason for that is the fact that majority of our arbitration takes place in Arabic which is known and used by everyone.

Regarding our caseloads, in 2010 and until May 2011 we have 756 cases. In 2010 we were about to reach our record of 67 cases and against 51 cases in last year. When compared to 2009, a 35% annual increase. Till yesterday, in 2011 we have 35 new cases. Of course, it is important to follow the case laws during 2011, because this is a year of

revolution in Egypt and we have also increased arbitrator's fees so that we can follow this very thoroughly.

There are different types of contract. Mainly, it is noteworthy that construction types still rank on top embracing 47% of CRCICA's arbitration cases in 2010 and also other types of contract like hotel management, petroleum, manufacturing, marketing, real estate, social insurance and so on. In 2011 also the construction contracts score as the most important types of disputes. One important element that would confirm the tradition of arbitration in Egypt is that we are seeing more and more increasingly reference to arbitration in small and medium contract like lease contract, and interestingly in attorney's contracts. So, lawyers now they refer to arbitration in the contract signed with the clients.

As for Nationalities of Parties in 2010, we had parties in addition to multinational corporations, from all over world, from Canada, Egypt, Cayman Island, Germany, India, Italy, Japan, Jordan, and so on. Despite these demonstrations, in 2011, the parties involved from different countries including Lebanon, USA, Saudi Arabia, Cyprus, Germany and UK. As for arbitrators, it is extremely important that being international arbitration centre to have arbitrators from different nationalities. We do not impose names in our Panel to be appointed by the parties. The parties are totally free to appoint the arbitrators without any interference from the centre but the centre acts as the appointing authority which should stick to the names of the approved listed arbitrators in our Panel. In 2012, we had arbitrators from Egypt, Columbia, Belgium, France, Austria, Germany, Jordan, Kuwait, Libya and USA. So they belong not only to Asian and African countries.

As for our events, we have hosted "FIDIC Contracts" in January this year and we intend to continue a very important programme regarding training on arbitration agreement which would be one week training programme for whole arbitration process. We have already started the training programme on arbitration agreement for four days by the end of this month and we would continue with the appointment of arbitrators to terminate arbitration proceedings by the end of this year by the drafting of the arbitral award. We continue, as Mr. Sundra Rajoo has mentioned about having new market and progress and Mid-Asia is becoming extremely important in our region. And we need to now move on with this process. We have partnership with the International Finance Corporation (IFC) which is an organ of the World Bank which has been there for two years now. We have managed to accredit with mediators the very important service provider in England Centre for Effective Dispute Resolution (CEDR) and now we have new 27 accredited mediators who can help promote mediation in our country. We have also very important partnership with the American Bar Association in order to services to training programs to improve advocacy skills in arbitration matters, legal writing and legal drafting. It has been extremely important and very successful for the past two years.

We are also members of the IFCAI, which is the International Federation for Commercial Arbitration Institutions. I have the privilege to be elected as an officer last month of IFCAI and I suppose this message would be useful for all AALCO's Regional Arbitration

centers to join the IFCAI to deal with all major arbitral situations to share the experiences and problems in interpreting and applying the Rules. We are proud of being partners in the Sino-African First China-Africa Legal Forum (the First FOCAC Legal Forum) programme which has started in Cairo and continued in Beijing, China and shall continue in Africa next year.

We have signed cooperation agreement with China International Economic and Trade Arbitration Commission (CIETAC) in China in May 2010. In February 2011, we signed another one with the countries in the Gulf which is Kuwait Mediation and International Arbitration Chamber of the Kuwait Society of Engineers. We are also extremely proud of that. In African region also we have signed an agreement with the Arab Centre for Arbitration in Sudan (ACAS) in June 2011. I am extremely proud, I have received this message three days ago that the CRCICA has been officially appointed as “CAS Alternative Hearing Centre”. CAS is the Court of Arbitration for Sports. We were candidates for the decentralized office and the CAS has agreed that the CRCICA can host CAS Hearing for disputes insports. This is one of the projects which has been launched his year, which is very important for them considering the dispute settlement in sports. African region would also be beneficiary along with Gulf and Arab world. We intend to facilitate the services within the region.

Finally, regarding publications, we are one of the rare institutions that publish arbitral awards, of course which consists of the nationality of the parties. This year in January we published the Second Volume of Arbitral Awards prepared in Arabic by Dr. Mohi-Eldin Alam Eldin, CRCICA’s Senior Legal Counsel. We have published in English special issue dedicated to the Construction Arbitral Awards rendered under the Auspices of CRCICA. We also continue to publish our periodical biannually two volumes in June and December every year of the Journal of Arab Arbitration during the 2010 and 2011. We have already published two volumes – volumes 14 and 15 of the same. Volume 16 of the Journal is with the publisher.

On future events and projects of the CRCICA, we have an important project which is extremely important for country Egypt, namely Pan Regional Conference on Inter-Arab Investments and related Disputes. We have seen now increasing number of arbitrations filed by Arab investors against certain Arab States and we intend to discuss in a Pan Regional Conference. It would take place from October 10-12 this year, which would be hosted in the League of Arab States. As you all know, our former Director Dr. Nabil Elaraby was nominated last March as Foreign Minister of Egypt and less than three months later he was unanimously elected as the Secretary-General of the League of Arab States. He would provide full support to this Conference. In addition to such projects and activities, we are proud to provide State Law Suits Authority in Egypt with some support in order to help them in defending the Egyptian government in certain international cases. We were called upon by the Egyptian Ministry of Justice in order to participate and contribute to the reforms of the Egyptian Arbitration Law which was enacted in 1994 and we intend to cooperate with the Ministry of Justice in Egypt in this important field. Also as in other parts of Africa we are proud to contribute to a very important book that would be published by the end of this year by Kluwer, it is called the Arbitration in Africa. We

will draft an important chapter on Egypt in this important book. We are also intending to publish Guidelines to CRCICA Arbitration Rules for the first time in the history of the centre and also a specially dedicated book on the setting aside of arbitral awards.

I would like to inform you coming from a very important country that has witnessed revolution that change brings new opportunities. And CRCICA is determined to meet such opportunities. Thank you very much for your attention.

President: Thank you. I thank the two panelists for giving us account of the work they are engaged in and indeed it is a matter of pride for AALCO that these two centres have developed their own system and also have marketed their abilities to their prospective plans in this fashion. Having said that may I now move on to the comments by Member States and here if I may have your permission to try and accommodate Muslims Member Countries first because they have commitment to go for offering Friday prayers this afternoon. So I hope it does not matter for others. May I now call upon Arab Republic of Egypt.

The Delegate of the Arab Republic of Egypt: Your Excellency Mr. President, distinguished Ladies and Gentlemen of the AALCO delegations. First and foremost, I would like to thank the two panelists who gave us very good idea about the Arbitration centres. Specially also I must thank Dr. Mohamed Abdel Raouf who gave us a valuable information and detailed about the Regional Centre for International Commercial Arbitration in Cairo. I would like to add some remarks to what it deals. With regard to the vital and efficient role of the Cairo Regional Centre as one of the important and active arbitration centres whom we the Ministry of Justice continues to support and promote the Centre with all the necessary means as the Ministry of Justice is the government body which has signed and established the treaty of the Cairo Regional Centre for International Commercial Arbitration. The Egyptian delegation would like to seize the opportunity to congratulate His Excellency Dr. Nabil Elaraby for his remarkable leadership for the centre, wishing him all the best wishes in his new position as the Secretary-General of the Arab League. The Egyptian delegation would like also to congratulate the Dr. Mohamed Abdel Raouf for his new position as the new Director for the Cairo Regional Centre for Arbitration and wish him all success in his new post.

In fact, Egypt is one of the pioneers State which recognize the importance of commercial arbitration as a vital way to solve commercial and civil law disputes through a reliable and efficiently held procedures. In this context, Egypt has enacted in 1994 a comprehensive arbitration legislation Law No. 27 of the year 1994 which is currently under professional review by the experts of the Egyptian Ministry of Justice as well as the stakeholders to introduce the new legislative provisions which quote the modern legal requirement. Indeed the establishment of the Cairo Regional Arbitration Centre and hosting in Egypt is considered a giant's leap towards enhancing the role of commercial arbitration in Egypt and the whole region. The Centre played a crucial role during the previous period which is worth mentioning that 756 cases, as mentioned by Dr. Raouf just now, have been filed before the Centre until May 2011. On the other hand, Egypt has ratified most of the international arbitration treaties. Furthermore, the Egyptian Ministry

of Justice is taking all the possible measures and efforts to enhance the commercial arbitration in Egypt through the followings:

- (i) Establishment of an Arbitration Working Group within the Ministry of Justice which include different technical and judicial calibers to deal with the issues relating to commercial arbitration. The department with the international cooperation with the Ministry follows and engages in all the relevant works, for example the UNCITRAL. Also we are keen to provide Egyptian judges with all the training and capacity-building in arbitration field so as to improve the judicial understanding and relation of all the legal aspects of the commercial arbitration.
- (ii) Finally, we established a new conciliation system with the Egyptian Economic Courts which have established recently in Egypt in 2008 when a Judicial Conciliation Panels have been established within the framework of those new Economic Courts chaired by Judges aiming to settle disputes through means of conciliation.

Your Excellency Mr. President, distinguished Ladies and Gentlemen, Egypt has come a long road in establishing efficient arbitration system in Egypt in which we have a strong faith and belief in its role and added values. Hence, we are committed to keep our support to the system where national efforts and international efforts with the AALCO and its Member States. Thank you very much.

Her Excellency Mrs. Ifeyinwa Rita Njokanma, Vice-President of the Fiftieth Annual Session in the Chair.

Vice-President: Thank you very much the Head of Delegation of Egypt. I personally was seriously thrilled by Egypt's achievements. Well done. Shall I call upon the Head of delegation from Bahrain.

The Delegate of Kingdom of Bahrain¹⁷: Thank you Madam Vice-President. Excellency, the Kingdom of Bahrain attaches great importance to the agenda item, the international commercial arbitration, especially in the light of growing and increasing volume of international trade and expanding its relations with the outside world, where the parties of international trade are always looking for dynamic mechanisms to settle their disputes such as arbitration, conciliation, mediation and other alternative means of resolve trade disputes.

The Kingdom of Bahrain was the first Arab countries that have adopted the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration in 1985, as Decree Law No. 9 of 1994 with respect to the issue of the law of international commercial arbitration.

The Kingdom of Bahrain has many centers and institutions of arbitration in addition to the Commercial Arbitration Center for the States of the Gulf Cooperation Council

¹⁷ Statement was delivered in Arabic. Unofficial translation from translator's version.

(GCC). The system of Center was approved during the 14th summit of GCC, held in Riyadh in 20/12/1993, and the Center has started works officially in March 1995.

Hosting the G.C.C. Commercial Arbitration Center by the Kingdom is considered one of the positive signs on the pursuit of the kingdom to assume a leading regional and international center for arbitration, rehabilitation and training of arbitrators.

Excellency, the Kingdom of Bahrain is seeking to create a favorable economic environment for investors in its strong systems and effective mechanisms for the government and companies and institutions that take into account the proper basis of work, such as property rights and other necessary factors for proper market economies, which is possible only through the adoption of commercial arbitration and dealing with its provisions due to its active role, orderly and motivating the economy being one of the legislation to support private sector growth and protect the rights of investors.

The Kingdom has witnessed a significant positive transformation in the judicial, legislative and executive government institutions as well as the civil society institutions. These transformations are witnessing that the Kingdom is a beacon of freedom, urban renaissance and economic and social development.

Underlining the importance of the above mentioned commercial arbitration and its role in the Kingdom of Bahrain, the Bahrain Center for Dispute Resolution has been established under the decree No (30) 2009. Its most important objectives is to find quick and fair solutions for the commercial problems in addition to the cheap cost for the litigants.

Excellency, the Kingdom of Bahrain is looking with great interest to the process of revising the rules of international arbitration, as part of the United Nations Commission on International Trade Law. Delegation of my country participated actively in all meetings of 2nd Working Group of the United Nations either in New York or Vienna. The Kingdom of Bahrain supports the results of this team during its tenure, where it continued its study and review for approximately 4 years. These amendments as a whole have covered all the views and aspirations of Member States and evaluation for development of arbitration rules in light of huge and wide development in this area. Thank you very much.

Vice-President: Thank you Bahrain. Now I call upon Sultanate of Oman.

The Delegate of Sultanate of Oman¹⁸: attached great importance to the agenda item and congratulated the AALCO Secretariat for organizing such a Special Meeting on the agenda item. The delegation stated that Arbitration as an alternate dispute resolution system commenced in their country in mid eighties. A much more comprehensive enactment was brought in the year 1997 by the Royal Decree No. 47/97 which derived most of the provisions from UNCITRAL law. The delegation mentioned that the Law of

¹⁸ Due to the non-availability of the written text of the Statement delivered by the delegate of Oman their statement has been taken from the Summary Report of the Fiftieth Annual Session and presented here.

Arbitration in Civil and Commercial Disputes recognized the enforcement of foreign arbitral decisions in the Sultanate. Further, the delegation stated that they recognized the existence of AALCO Regional Arbitration Centres and their work in the field of international commercial arbitration.

Vice-President: Thank you Oman. May I now call delegate from Thailand.

The Delegate of Thailand: Thank you Madam Vice-President.

Madam Vice-President, as international trade activities have increased, disputes between states could be expected. If such disputes are not properly managed or addressed, such disputes could develop into obstacle to trade and business transactions.

Excellency, UNCITRAL Model Law on International Commercial Arbitration has been successful in addressing such concerns. A number of countries have adopted to Model Law into their domestic applications, leading to predictability and clarity of the arbitration system. With regard to newly revised UNCITRAL Arbitration Rules, the Rules have been adopted not only in international and domestic commercial contracts between private persons, they are also incorporated into many existing bilateral investment treaties and free trade agreements which contain investment protections provisions as a choice for investor-state dispute settlement. The Rules have been used to supplement other existing arbitration rules such as ICSID.

Currently, UNCITRAL is considering the drafting of a legal standard on the transparency in treaty-based investor State arbitration. This is in response to the need of ensuring transparency in treaty-based investor-State arbitration in the context of foreign direct investment as a tool for long-term sustainable growth of developing countries. In addition, ensuring transparency and a meaningful opportunity for public participation in treaty-based investor-State arbitration constitute some important means to promote the rule of law, good governance, due process, fairness, equity and rights to access information, as well as an important step to respond to the increasing challenges regarding the legitimacy of international investment law and arbitration as such.

My delegation considers that such rules would be useful in providing more options for BIT/FTA negotiators, and would provide modernized and practical rules for arbitral proceedings, while maintaining simplicity, consent-based, and general nature. Thank you very much.

Vice-President: Thank you very much. I now call upon delegate from Indonesia.

The Delegate of Republic of Indonesia: Thank you for giving me the floor.

Madam Vice-President, Excellencies, Distinguished Delegates, The Government of Indonesia attaches great importance to arbitration, in particular, international commercial arbitration. As it is commonly understood, arbitration is a means to settle disputes outside the courts by the disputing parties concerned by appointing a neutral and independent arbitrator whose decision will be final and binding on the parties concerned.

Business people, in particular those who are engaged in international or cross border trading, prefer to settle their disputes through arbitration rather than the courts. They would like commercial disputes to be dealt with in a speedy and professional way.

In 1999, Indonesia enacted a new arbitration law (Law no. 30/1999) which repeated the provisions on arbitration contained in the First Section of Chapter III of the Law on Civil Procedure of 1847 which was inherited from the Pre-War colonial administration. The new arbitration law is intended to cope with the development of the domestic/national and international trade as well as the development of Law in general. It regulates arbitration in general and includes general provisions regarding other forms of alternative dispute resolutions (ADR) such as negotiation, mediation, conciliation and technical evaluation.

Excellencies, Distinguished Delegates, the law provides rule pertaining to the recognition and enforcement of international arbitration awards (Chapter VI Articles 65 to 69). These provisions are related to the rules of the Convention on the Recognition and Enforcement of Foreign Arbitration Awards of 1958 (The New York Convention). Under the New York Convention, a foreign arbitration award is an arbitration award made in the territory of a State other than the State where recognition and enforcement of the award is sought.

Under the Indonesian Arbitration Law, an international arbitration award is defined as an award which is issued by an arbitration institution or ad hoc arbitrator (s) outside the jurisdiction of the Republic of Indonesia or an award issued by an arbitrator (s) which is deemed to be an international arbitration award under Indonesian Law. It should be noted that the Indonesian Arbitration Law uses the term international arbitration award to refer to foreign arbitration awards under the New York Convention. The Law does not provide special rules for conducting international arbitration; however, this does not mean that international arbitration cannot be conducted in Indonesia. In fact, international arbitration can be conducted anywhere, in any place and refer to any law or jurisdiction as agreed to by the parties concerned.

Excellencies, Distinguished Delegates, We are aware that the term, international arbitration (as well as international arbitration award) is used to refer to arbitration which has foreign elements as is defined under the UNCITRAL Model Law. These foreign elements can take the form of the nationality or domicile of the parties, the nature of the dispute or the pluralism of the procedural law applied in the arbitration.

In regards to the implementation and enforcement of the foreign arbitral award in Indonesia, the Supreme Court of Indonesia in March 1990 has issued the Supreme Court Regulation to regulate the procedure for the enforcement of foreign arbitral award.

Excellencies, Distinguished Delegates, Indonesia recognizes the existence of the various regional arbitration centres which have been established under the AALCO cooperation scheme. Since 1977, Indonesia has had a national arbitration centre, called the BANI Arbitration Centre which administers domestic arbitration and international arbitration, as

well. BANI has cooperation agreements with arbitration centres in various countries. This cooperation includes exchanges of views and information, joint training programs and exchanges of listed arbitrators. Besides this, BANI is an active member of the Regional Arbitration Institutes Forum (RAIF) and the Asia-Pacific Regional Arbitration Group (APRAG).

We look forward to this cooperation also be able to be entered into between the BANI Arbitration Centre and the Regional Arbitration Centres, such as RACKL in Kuala Lumpur, the Cairo Regional Centre, the Lagos Regional Centre and the Tehran Regional Centre. I thank you.

Vice-President: Thank you very much Indonesia. I would like to call upon Islamic Republic of Iran for their intervention.

The Delegate of Islamic Republic of Iran: In the name of God, the Compassionate, the Merciful. Excellency, my delegation would like to express its appreciation to the Secretariat of the AALCO for preparing the informative report on “The AALCO’s Regional Arbitration Centers”, as contained in the document AALCO/50/COLOMBO/2011/ORG 3. My delegation has found the report as a useful and informative document which touches upon such a matter of high significance.

Excellency, my delegation would like to reiterate the high importance it attaches to this agenda item. The Islamic Republic of Iran appreciates the work of the AALCO’s regional arbitration centres, especially Tehran Regional Arbitration Centre (TRAC). As indicated in the report of the Secretariat, TRAC is an independent international institution established pursuant to an agreement signed on 3 May 1997 between the Islamic Republic of Iran and the Asian-African Legal Consultative Organization (AALCO) and is functioning under its auspices.

Excellency, TRAC is now quite well-known between specialists in the Region. The insertion of TRAC arbitration clause has gained momentum in various type of contracts pertaining to general trade, oil well drilling both on-shore and off-shore and related services, bank guarantees, etc.

Considering its central position in the South West Asia and the Persian Gulf area, TRAC is confident that it shall become a major instrument for a fair and independent settlement of disputes. As indicated in the Secretariat’s Report, three arbitration cases were initiated on the basis of TRAC’s arbitration clause and were referred to the Centre. The cases involved parties of different nationalities and concerned disputes with respect to contracts concluded with respect to oil services, telecommunications and construction. Moreover, a number of entities have contacted TRAC inquiring about the possibilities of referring their disputes to TRAC Rules.

Tehran Regional Arbitration Centre, in pursuance of one of its objectives, i.e., promotion of international commercial arbitration and enhancing legal experts knowledge and their practical skills in issues related to international contracts has provided the opportunity for

legal advisors of companies in different sectors and legal experts to participate in more than 30 workshops and seminars which have been held at TRAC in Tehran on related issues.

Excellency, the Islamic Republic of Iran attaches great importance to the work of the United Nations Commission on International Trade Law, as the core legal body within the United Nations system in the field of international trade law with a mandate to further the progressive harmonization and unification of the law of international trade, bearing in mind the interests of all peoples, in particular those of developing countries, in fostering international trade.

My delegation regards the finalization and adoption of a revised version of the UNCITRAL Arbitration Rules as one of the important achievements of the Commission. Based on the mandate given to it by the Commission at its Thirty-Ninth Session, in 2006, the Working Group II (Arbitration and Conciliation) managed to revise the UNCITRAL Arbitration Rules. The revised rules should be read, as was instructed by the Commission, in a manner that would not alter the structure or the spirit of the original 1976 Arbitration Rules or their flexible character.

Concerning the future work in the field of settlement of commercial disputes, my delegation believes that the adoption of new topics should be in line with the character and function of the institution of arbitration. My delegation is of the view that the issue of transparency in treaty-based investor-State arbitration needs to be further examined, taking into account the nature and mandate of the Commission. We fully concur with the prevailing view in the Commission that it is too premature to make any decision on the form and scope of a future instrument on treaty-based arbitration.

The adoption of new rules and legislative guides is necessary to keep up with the latest developments in technologies which affect, in one way or another, the international trade. In that sense, the Commission has proved to be able to do such an important job. However, this should not be an end in itself. The new rules and guides need to be aptly applied in diverse jurisdictions, including in developing countries. Taking into account, that all developing States are not member of this organ, it even more crucial for the UNCITRAL to reach out to such countries in order to familiarize their relevant institutions with the work of the Commission and to enable developing countries to benefit the advanced mechanisms for promoting their international trade. I thank you Your Excellency.

Vice-President: Thank you Iran. May I now call upon People's Republic of China.

The Delegate of the People's Republic of China: Thank you Madam Vice-President. Excellency, on behalf of the Chinese delegation, I would like to express appreciation to the Secretariat for offering the opportunity to share the experiences of international trade arbitration among AALCO Member States. Now, I would like to introduce the work of two important arbitration institutions in China.

The first one is the China International Economic and Trade Arbitration Commission (CIETAC). CIETAC was established by the China Council for the Promotion of International Trade (CCPIT) in April 1956 on the approval of the State Council in 1954. It is the best-known arbitration agency of China and one of the leading permanent arbitration agencies in the world. The Headquarter of CIETAC is located in Beijing with branches in Shanghai, Shenzhen, Chongqing and Tianjin. In order to satisfy the industry arbitration need of parties, CIETAC takes the lead to provide the distinguishing industry disputes settlement service to render parties in different industries the arbitration legal service which fits their need. For example, food industry disputes, commercial disputes, engineering construction industry disputes, financial disputes and woolen disputes settlement, etc. CIETAC provides the domain name disputes settlement service and actively explores online disputes settlement of electronic commerce. Concerning the need of quick settlement of the electronic commerce disputes and other economic trade disputes, CIETAC formulated the Online Arbitration Rule which stipulated the “summary procedure” and “fast procedure” according to the amount in controversy besides the “general procedure” to adapt to the need of settling the economic disputes online quickly.

In the past 55 years, CIETAC made prominent contributions to the formulation of China’s Arbitration Law and the development of China’s arbitration cause with its arbitration practice and theoretical research. CIETAC maintains friendly cooperation with the leading arbitration agencies in the world and enjoys high reputation at home and abroad its independence, fairness and high efficiency.

The number of cases CIETAC accepted is in the front in the international arbitration fields. In 2010, CIETAC accepted 1352 cases with the amount in controversy of more than 2 billion US dollars. CIETAC concluded 1382 cases in 2010. The parties of the cases are from more than 50 countries and districts, including US, UK, Japan, South Korea and etc.

The second is Chinese Maritime Arbitration Commission (CMAC). CMAC is a permanent arbitration agency which accepts the maritime dispute cases from home and abroad. CMAC settles the maritime disputes, maritime commerce disputes, logistics disputes and other contractual or non-contractual disputes independently and fairly to protect the legitimate interest of parties and to promote the development of international and domestic trade and logistics.

The Headquarter of CMAC is in Beijing with a branch in Shanghai. CMAC has set up offices in major port cities including Tianjin, Dalian, Ningbo and Guangzhou. The network of maritime arbitration is initially built up. CMAC has logistic dispute settlement center, fishery disputes settlement center and maritime mediation center.

From the date of birth, CMAC has arbitrated a large volume of cases to protect the legitimate rights and interests of parties from China and foreign countries adhering to the principles of taking the fact as the basis and the law as the criteria, referring to the international practices, respecting contract, settling the maritime disputes independently

and fairly. It has gained reputation in shipping, insurance, trade, legal fields at home and abroad and promoted the economic and trade contacts between China and other countries and regions in the world.

In 2010, CMAC accepted 54 cases. The parties were from mainland China, Japan, Cambodia, Panama, Turkey, St. Vincent, and Hong Kong SAR. The cases involved ship contract, ship collision, ship repairing, ship sales, bareboat chart, voyage charter and etc. CMAC concluded 58 cases in 2010. Thank you Madam Vice-President.

Vice-President: Thank you China. I now call upon Uganda please.

The Delegate of Uganda: Thank you very much. Uganda supports the idea of international commercial arbitration. We have made tremendous development in this area of litigation, by amending our former Arbitration Ordinance dating from 1939 replacing it with the Arbitration and Conciliation Act CAP 4 Laws of Uganda, based on the UNCITRAL Model Law. However, Uganda chose to diverge on certain points. For instance, a sole arbitrator shall be appointed if the parties have not stipulated the number to be appointed. English is in principle the language of arbitration. Regarding the rules applicable to the substance of a dispute, failing a choice by the parties, the tribunal shall apply those considered appropriate in light of the circumstances.

The Act establishes a body known as the Center for Arbitration and Dispute Resolution (CADER), which is intended to fulfill various functions defined elsewhere in the Act. The Center also devises rules for the implementation of arbitration, conciliation and ADR processes, establishes a code of ethics for and maintains a list of qualified arbitrators, conciliators and experts, sets fees for arbitrators, and facilitates certification, registration and authentication of arbitral awards and conciliation settlements.

A further feature of this Act is a set of model forms for use by the parties or the arbitrator at different stages of arbitral proceedings. They include an agreement to submit to arbitration following the occurrence of a dispute, an agreement on the appointment of a single arbitrator and a form relating to the extension of time allowed for the arbitrator to make his award.

Since the world is now a one global village in terms of doing business, international commercial arbitration should be encouraged.

Vice-President: Thank you very much. I now call upon delegate from Japan.

The Delegate of Japan¹⁹: stated that they attached great importance to the agenda item and expressed their appreciation to the Secretariat for organizing the Special Meeting on the important subject.

¹⁹ Due to the non-availability of the written texts of the Statements delivered by delegates from Japan, Ghana, India, Nigeria, their statements have been taken from the Summary Report of the Fiftieth Annual Session and presented here.

Vice-President: Thank you. I now call upon Sri Lanka for their intervention.

The Delegate of Sri Lanka: stated that the time was opportune to consider revising the grounds on which award could be refunded. Sri Lanka incorporated and passed in a law in 1995, the Arbitration Act (No. 11 of 1995). One of its objects was to make “comprehensive legal provision” for the conduct of arbitration proceedings and the enforcement of arbitral awards. The second object was to make legal provision to “give effect”, to the principles of the Convention on the Recognition and Enforcement of Foreign Awards of 1958 (the New York Convention). There were several grounds on arbitral awards which were found in UNCITRAL Model law, a party was objecting was enforcement, as a catch hole clause to refuse enforcement. The time had come whether in addition to what New York Convention there could be other grounds, for setting aside an award. Sri Lankan experience was nowhere statutorily noted down and could not be brought under any head and it was incompatible in Sri Lanka’s policy, the delegation remarked. Further, the delegation stated that there was a challenge of consensual nature of arbitration itself. It was the time to look at all the aspects of the arbitration. Sri Lanka had two main arbitration centres and from their side, steps were taken to amend the existing laws which could be made, so that the arbitration process could be expedited.

Vice-President: Thank you very much. I now call upon the delegate from Ghana.

The Delegate of Ghana: profoundly thanked the Panelists for their effective presentations. The delegation thanked the Director of the Lagos Arbitration Centre for ably providing the scenario in the region. The delegation stated that international commercial arbitration had become very topical in African region. Each of the countries in the region had domesticated the arbitration process. The delegation extended his Government’s support to the Lagos Arbitration Centre. Further, he stated that the current legal regime governing enforcement of foreign commercial arbitration in Ghana was the Alternative Dispute Resolution Act, 2010 (Act 795). The Act had made significant changes to the enforcement of foreign arbitral awards in Ghana. Prior to 2010, the arbitration act, 1961 governed enforcement of foreign commercial arbitration awards in Ghana.

Vice-President: Thank you Ghana. May I now call upon India for their intervention.

The Delegate of India: at the outset, expressed appreciation to the Secretariat for organizing the Special Meeting on a very important agenda item. The delegation mentioned that India was a party to the New York Convention and played an active role in formulating UNCITRAL Model law and based on that amended its national law, the Indian Arbitration and Conciliation Act, 1996. Further, he pointed out that while operationalizing the Act, they found difficulties and were in the process of reviewing it. The delegation also mentioned that they were using the rules in bilateral investment agreements.

Vice-President: Thank you very much. May I now call upon the delegate from Nigeria.

The Delegate of Nigeria: stated that they were aware of the rules and functions of the Lagos Arbitration Centre and always supported the activities of the Centre. As regards the lacunae with respect to domestication, the delegation assured that they would take all necessary steps to remove the lacunae and expressed support to the Lagos Arbitration Centre in its independent functioning.

Vice-President: Thank you. That was the final intervention by Member States on this topic. May I now invite Dr. Xu Jie, the deputy Secretary-General of AALCO for delivering the vote of thanks.

Dr. Xu Jie, Deputy Secretary-General of AALCO: Thank you Madam Vice-President. It is my privilege and honour to propose a vote of thanks at the end of stimulating and thought provoking presentations made by eminent panelists.

At the outset, I would like to thank Honourable Prof. Dr. Rahmat Mohamad, Secretary-General of AALCO, for his introductory remarks which have given an impetus for strengthening and revitalization of Regional Arbitration Centres of AALCO in order to serve the Asian-African countries with much more vigour and strength.

I would also like to thank the Honourable Justice Marsoof, for his excellent presentation dealing with the technicalities of UNCITRAL rules of arbitration and its revised version, which was recently adopted by the UNCITRAL. I have the privilege to share the information that the Revised UNCITRAL Rules of Arbitration was first adopted by AALCO's Kuala Lumpur Regional Arbitration Centre (KLRCA).

Then, I take this opportunity to thank Mr. Sundra Rajoo, Director of the KLRCA for his thoughts on revitalization process of the AALCO's Regional Arbitration Centres. His ideas were reflected with a solid understanding of how the Arbitration Centres are functioning and what are all the possible ways to strengthen the Centres further, in order to serve the Asian-African region very effectively.

Next, I would like to thank the Mrs. Oddiri, Director, Lagos Regional Arbitration Centre and Dr. Abdel Raouf, Acting Director, Cairo Arbitration Centre of AALCO for sharing their experiences on the arbitration culture in the Asian-African region.

Excellency, I am particularly thankful to the Member States for their fruitful discussions. I am sure that all the ideas which have emanated from the discussions would be very revitalizing the AALCO Regional Arbitration Centres.

Finally, I thank the Government of Sri Lanka for readily agreeing to the idea of hosting jointly the special day meeting which is of great importance to both the Member States as well as the Regional Arbitration centres of AALCO. I thank you Madam President.

Vice-President: Thank you very much.

The Meeting was thereafter adjourned.

**XIV. VERBATIM RECORD OF THE
THIRD MEETING OF
DELEGATIONS
(CONCLUDING SESSION)**

**XIV. VERBATIM RECORD OF THIRD MEETING OF DELEGATIONS OF
AALCO MEMBER STATES (CONCLUDING SESSION)
HELD ON FRIDAY, 1 JULY 2011 AT 5.30 PM**

His Excellency Mr. Rauff Hakeem, President of the Fiftieth Annual Session in the Chair

Agenda Item: Report on the AALCO's Centre for Research and Training

President: I now invite the Deputy Secretary-General of AALCO Dr. Xu Jie to introduce the item on “The Report on the Centre for Research and Training of the AALCO”.

Dr. Xu Jie, Deputy Secretary-General: Mr. President Hon'ble Ministers; Excellencies, Distinguished Delegates, Ladies and Gentlemen, it is my privilege and honor to introduce the “Report on the Centre for Research and Training of AALCO” vide Secretariat Document No: AALCO/50/COLOMBO/2011/SD/ORG.4. In my statement I would give a brief overview of activities of CRT in the period under review.

Mr. President, the Centre for Research and Training (CRT) of AALCO, evolved from the AALCO's “Data Collection Unit”, which was established based on the proposal made by the Government of Republic of Korea at the Twenty-Eighth Session of AALCO in 1989. It was renamed as the Centre for Research and Training in the Fortieth Annual Session of AALCO in the Year 2001. This marked, a new chapter in the efforts of the Member States towards undertaking research activities, as well as training programmes, within the AALCO. The mandate was further strengthened at the Abuja Session, Nigeria in the Year 2002.

Mr. President, one of the primary objectives of the AALCO is to undertake activities for the promotion and wider dissemination of international law and strengthen international law expertise in the Asian-African region. Pursuant to this object, CRT has over the years undertaken various activities, including organizing Training Programmes, Workshops and Seminars on various international law themes for the Member States. A Regional Training on Treaty Law and Practice was jointly hosted by the Ministry of Foreign Affairs, Republic of Indonesia and AALCO, in collaboration with the Treaty Section of the United Nations Office of Legal Affairs, United Nations Institute for Training and Research (UNITAR), United Nations Development Programme (UNDP) and United Nations Office on Drugs and Crime (UNODC) in Jakarta in October 2010. The workshop was attended by over 40 participants from 14 AALCO Member States.

A five-day Training Programme on International Humanitarian Law was organized by CRT of AALCO in cooperation with the International Committee of the Red Cross (ICRC), Regional Delegation for South Asia, New Delhi from 17th to 21st January 2011 at the AALCO Headquarters, New Delhi. The training programme was attended by 48 participants from 23 countries, and three international organizations.

Further, a five-day Training Workshop on the World Trade Organization was organized by CRT of AALCO in cooperation with the Institute for Training and Technical Cooperation (ITTC), World Trade Organization from 28th March to 1st April 2011 at the AALCO Headquarters. The training programme was attended by 40 participants from 11 countries.

I would like to mention that a Panel Discussion on “Asian-African States: Challenges in International Law in the 21st Century” to commemorate the 54th Constitution Day of AALCO was held on 15 November 2010 at the AALCO Headquarters. A Workshop on Trafficking in Persons, Smuggling of Migrants, International Cooperation, was organized jointly by AALCO and the Government of Malaysia from 24 to 26 November 2010 in Putrajaya, Malaysia. Further, a Seminar on “Corruption, Ethics and Global Governance” was jointly organised with O. P. Jindal Global University on 6 May 2011 at the Headquarters of AALCO.

One of the major event of AALCO was the Talk delivered by H. E. Y.A.B. Tan Sri Dato’ Haji Muhyiddin Bin Mohammed Yassin, Deputy Prime Minister of Malaysia on “Global Governance in the 21st Century: Emerging Issues and Challenges” on 11 March 2011 in New Delhi.

In the field of publications, the CRT has brought out several publications. (i) “The Blockade of Gaza and its International Legal Implications: Report of the Seminar and Select Documents” which contains the proceedings of the Seminar on “The Blockade of Gaza and its International Legal Implications” which was held on 16th July 2010 at AALCO Headquarters and major documents relating to Palestine was released on 15th November 2010. (ii) A book authored by Prof. Dr. Rahmat Mohamad entitled “Asian-African Perspectives on International Law in the Post Westphalian Era: Some Reflections” was released by the Deputy Prime Minister of Malaysia on 11 March 2011 in New Delhi. (iii) A commemorative volume to mark the 50th Annual Session of AALCO comprising of research articles on various branches of International Law authored by the Secretary-General, Deputy Secretaries-General, and Legal Staff of the AALCO Secretariat, entitled-“AALCO@50: Some Reflections on International Law” was also released at the session. (iv) These publications are in addition to the regular publications, namely, Yearbook of the Asian-African Legal Consultative Organization; AALCO Quarterly Bulletin and Newsletter of AALCO.

One of the Centre’s activities is to encourage the young students of law from the Member States to get familiarized with the functioning of inter-governmental Organization and also to have a preliminary understanding of international law by way of short projects. During the period under review of this Report, nine students from India and Malaysia have successfully completed or undergoing their internship programme at the AALCO Secretariat. As the internship programme is available throughout the year in the Secretariat, the Member States are requested to make use of this opportunity and thereby encourage law students to undertake such internship programme with AALCO in New Delhi.

Upgrading the website of AALCO, is another role entrusted on the CRT. The upgradation is in the process to make the website more user friendly, interactive and knowledge based. We are also in the process of creating an Arabic version of the website.

Mr. President, in the period 2011-2012, the AALCO Secretariat intends to further strengthen the existing programmes and introduce new programmes. Some of the proposed programmes are: Training Programme in international law issues organized at the Headquarters (New Delhi)/any interested Member State(s); Regional Workshop on Treaty Law and Practice; Expert Group Meetings/Workshops on International Law; Workshop/Seminar on UNCITRAL and Young Jurist Conference.

The Secretariat is intending to formulate a database on the national legislations of the Member States of AALCO on the various fields of international law. Towards that objective, AALCO is presently preparing a database of the Member States on the area of International Humanitarian Law (IHL) jointly with ICRC. The preliminary database has been released at the session, the AALCO Secretariat is planning to bring more such database in the near future.

Mr. President, the Funding of the Centre is from the regular budget and because of the budgetary constraints it is difficult to expand its activities. To promote and strengthen Research and Training under the CRT, and to provide a sustainable financial base to the Centre to undertake its mandated activities, any Member State of AALCO could provide voluntary contribution to the “Research and Training Fund”. The Fund will be exclusively devoted to research on international law issues of common interest to Member States and for the training of the officials of Member States.

To conclude, I once again thank all the Member States for their immense support and cooperation. Thank you Mr. President.

President: Thank you Dr. Xu Jie for that lucid statement. Now I invite the Chairman of the Drafting Committee to present her Report.

Ms. Sriyangini Fernando, Chairperson of the Drafting Committee: Thank you Mr. President. The main task that was entrusted to the Drafting Committee was to look into the documents prepared by the AALCO Secretariat for the Fiftieth Annual Session which included the draft resolutions on organizational and substantive matters, the summary report and a text containing a Message of Thanks to His Excellency Mahinda Rajapaksa, the President of the Democratic Socialist Republic of Sri Lanka. With a view to facilitate the adoption of the draft documents by the Plenary Meeting, the Members of the Drafting Committee have done their best to prepare the draft resolutions in such a way that it was acceptable to all the delegations and also that the resolutions reflected the ideas and views commonly shared by the delegations.

In that regard, I take this opportunity to thank my able co-chair Ms. Indika de Silva, and all the delegates who participated and enriched the discussions and deliberations that took place during the Drafting Committee proceedings. I also extend my sincere appreciation

to all the delegates for the maximum flexibility shown during the deliberations so that documents could be adopted as smoothly as possible. I also note with appreciation the excellent cooperation and assistance of the AALCO Secretariat firstly, in preparing all the aforementioned documents and secondly, coordinating the smooth functioning of the Drafting Committee.

President: I thank the Chairperson of the Drafting Committee for her Report. Now I invite the Secretary-General of AALCO Prof. Dr. Rahmat Mohamad to deliver his Message of Thanks to H.E. Mahinda Rajapaksa, the President of the Democratic Socialist Republic of Sri Lanka.

Message of Thanks : The Secretary-General of the Asian African Legal Consultative Organization Prof. Dr. Rahmat Mohamad delivered the following 'Message of Thanks' addressed to His Excellency Mahinda Rajapaksa , the President of the Democratic Socialist Republic of Sri Lanka .

“Excellency,

On behalf of all the Delegations of the Member States and Observers attending the historic Fiftieth (2011) Annual Session of the Asian-African Legal Consultative Organization (AALCO), I would like to extend the following message as a token of our heartfelt gratitude and respect to the Government and people of the Democratic Socialist Republic of Sri Lanka:

“We, the participants in the Fiftieth 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 the Democratic Socialist Republic of Sri Lanka for hosting the Fiftieth Annual Session of AALCO in this beautiful capital city of Colombo. Excellency, I thank the Government of Sri Lanka, on behalf of AALCO, and on my own behalf, for hosting this historic Session.

Your Excellency, we are aware that Sri Lanka as one of the founding members of AALCO. It attaches great importance to the Organization and it has always actively participated in the activities and work programme of the Organization be it substantive, administrative or financial matters. Sri Lanka has previously hosted in this very city three Annual Sessions of AALCO, namely the Third Annual Session (1960), Twelfth Annual Session (1971), and Twenty-Second Session (1981). Besides this, Sri Lanka has always taken keen interest in the deliberations during the Annual Sessions and has undertaken to strengthen the agenda and the role of the Organization among the comity of nations.

Your Excellency, at this Fiftieth Annual Session of AALCO as a new era in the history of our Organization begins; we witnessed true spirit of constructive deliberations and cooperation amongst attending delegations. Active participation by our Member States has enabled us to take crucial decisions on the organizational as well as substantive matters. Among many factors which paved

way for the success of the conference, one of the prime ones was the excellent cooperation from the Government of Sri Lanka, which contributed significantly towards the excellent achievements of our deliberations.

In this beautiful city named “pearl of Indian Ocean” famous for its picturesque harbour, exotic beaches and serene beauty, we the delegates of the Fiftieth Annual Session of AALCO would like to place on record our sincere gratitude for full cooperation that the Government of Sri Lanka had extended to AALCO and its Member States for hosting the Annual Session with warm gesture and great ability.

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

Thank You.

Adoption of the Resolutions:

The following resolutions were adopted at the Third Meeting of the Delegations of AALCO Member States on 1st July 2011. All the resolutions were adopted unanimously.

AALCO/RES/50/ORG 1 Report of the Secretary-General on Organizational, Administrative and Financial Matters

AALCO/RES/50/ ORG 2 AALCO’s Budget for the Year 2012

AALCO/RES/50/ ORG 4 Report on the Centre for Research and Training of the AALCO

AALCO/RES/50/S 1 Report on Matters Relating to the Work of the International Law Commission at its Sixty-Second Session (Deliberated)

AALCO/RES/50/S 2 The Law of the Sea (Deliberated)

AALCO/RES/50/S 3 The Status and Treatment of Refugees (Non-Deliberated)

AALCO/RES/50/S 4 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)

AALCO/RES/50/S 6 Extra-Territorial Application of National Legislation: Sanctions Imposed Against Third Parties (Non-Deliberated)

AALCO/RES/50/S 7 International Terrorism (Non-Deliberated)

AALCO/RES/50/S 9 International Criminal Court: Recent Developments (Non-Deliberated)

AALCO/RES/50/S 10 Environment and Sustainable Development (Deliberated)

AALCO/RES/50/S 11 Challenges in Combating Corruption: The Role of the United Nations Convention Against Corruption (Non-Deliberated)

AALCO/RES/50/S 12 Report on the Work of the UNCITRAL and Other International Organizations in the Field of International Trade Law (Deliberated)

AALCO/RES/50/S 13 WTO as a Framework Agreement and Code of Conduct for World Trade (Non-Deliberated)

AALCO/RES/50/S 14 Expressions of Folklore and its International Protection (Deliberated)

AALCO/RES/50/S 16 Managing Global Financial Crisis: Sharing of Experiences (Non-Deliberated)

AALCO/RES/50/SP 1 Resolution on Half-Day Special Meeting on “Trafficking of Women/Children, Migrant Workers and Protection of Children”

AALCO/RES/50/SP 2 Resolution on Half-Day Special Meeting on “International Commercial Arbitration”

Consideration of the Summary Report:

The Draft Summary Report of the Fiftieth Annual Session of the Asian-African Legal Consultative Organizations was placed for consideration of the Member States.

Venue for the Fifty-First Session:

Since no State from the African region was in a position to answer this issue affirmatively, it was decided that the communication regarding the same could be transmitted to the Secretariat of AALCO as early as possible.

SEVENTH GENERAL MEETING AND CONCLUDING SESSION

President: Now we move on to the Seventh General Meeting of the Session and also to the closing of the Session. May I now ask the Asian Member State to propose the vote of thanks. For that, I invite the distinguished representative from Iran to propose the vote of thanks on behalf of the Asian States.

Statement by the Leader of Delegation of Islamic Republic of Iran:

Mr. President, Hon'ble Ministers, Attornies-General, Excellencies, Distinguished Delegates, Ladies and Gentlemen, it is a great honor and privilege to be called upon to propose the vote of thanks on behalf of the Asian Member States of AALCO to the gracious host of the Fiftieth Annual Session of AALCO. I express my profound gratitude and appreciation to the H.E. Rauff Hakeem, the President of the Fiftieth Annual Session of AALCO for inviting us to this historic city of Colombo to attend AALCO's historic Fiftieth Annual Session. I also deeply appreciate the warm hospitality accorded to us by the government and the people of Sri Lanka.

Mr. President, we salute you for the excellent manner in which you have steered the course of the proceedings of this Fiftieth Annual Session with your expertise and guidance. Without your expertise and guidance this Session would not have been a success.

I would also like to express my warm and deep gratitude to the Vice-President of this Fiftieth Annual Session Her Excellency Mrs. Ifeyinwa Rita Njokanma for extending her support and guidance to all the delegates during the deliberations of this Session.

The National Organizing Committee of the host government deserves our special appreciation for all the arrangements that they have made with great care and efficiency which ensured that the Session's proceedings were smoothly conducted.

Allow me commend the determined efforts of the Secretary-General of AALCO Prof. Dr. Rahmat Mohamad for excellent leadership shown by him in order to promote the Asian-African solidarity and the initiatives that he has taken towards that end. I wish His Excellency the very best for all his future endeavours and efforts to keep up AALCO's flag high. I thank his able Deputy Secretaries-General Dr. Xu Jie and Dr. Hassan Soleimani for their constant support throughout the Session.

I am also very pleased to extend my sincere and heartfelt appreciation for all the staffs of the Secretariat of AALCO for all their valuable efforts making our work easier. Their efficiency and professionalism must be appreciated. I also thank the interpreters for performing their job with considerable skill and professionalism. The Drafting Committee too deserves our appreciation for the meticulous work that it has done.

Finally, I would like to thank all of Your Excellencies, the Ministers, Ambassadors, the heads of Delegations, and all the Delegates, your presence has been invaluable and without any doubt has helped make this Session a great success. Thank You.

President: Thank you very much for those kind words. May I now call upon the African Member State to propose a vote of thanks on behalf of the African States. I invite the delegation from Kenya to propose his vote of thanks on behalf of African States.

Statement by the Leader of Delegation of Kenya: Mr. President, Hon'ble Ministers, Attornies-General, Excellencies, Distinguished Delegates, Ladies and Gentlemen, as we

come to the end of this historic Fiftieth Annual Session of AALCO, I deem it a great honour and privilege to propose a vote of thanks on behalf of the African Member States of AALCO to the host government. I express my profound gratitude and sincere appreciation to Hon, ble, Mr. Rauff Hakeem, the Minister of Justice of the Democratic Socialist Republic of Sri Lanka and the President of the Fiftieth Annual Session of AALCO for inviting us to this historic city of Colombo to attend AALCO's Fiftieth historic Annual Session. I express my heartfelt gratitude to the government and the people of this great country the Democratic Socialist Republic of Sri Lanka for the warm and exceptional hospitality that you have accorded us since our arrival. We shall take home very warm memories from this Country.

Mr. President, you personally deserve our heartfelt applause for the articulate manner in which you have admirably guided and conducted the proceedings of this Annual Session. The successful culmination of this Session owes much to your guidance and wisdom.

By the same token, I would also like to express our very sincere gratitude to the Vice-President of the Fiftieth Annual Session of AALCO Her Excellency Ms. Ifeyinwa Rita Njokanma, for her leadership which has inspired us all. The comments and interventions that both of you had made were indeed critical and insightful.

An event like this cannot take place overnight. The wheels start rolling months before. It requires meticulous planning and an eagle's eye for details. We have been fortunate enough to be backed by the Members of the National Organizing Committee who have made all the possible efforts and worked with great dedication to make this Session a resounding success. We, indeed, owe you a very special debt of gratitude to you.

I would also like to extend our warm appreciation to the Secretary-General of AALCO Prof. Dr. Rahmat Mohamad for his vision and commitment towards the cause of the third world which has been steering AALCO in the right direction. We stand ready to work closely with you and your team in all your future endeavours.

I also wish to express my deepest appreciation to the staff of the Secretariat of AALCO for working so hard and earnestly to produce a lot of documents which were very useful for our debates and deliberations.

We note the commendable job accomplished by the Drafting Committee with considerable skill and professionalism. The interpreters also deserve our heartfelt appreciation for the way they have done their job with utmost care and great efficiency.

Finally, the success of this Annual Session would not have been possible without the goodwill, co operation and understanding of all our delegates and participants. Thank you all for your active participation and insightful interventions. We wish you all a happy journey as you depart for your various destinations. I Thank you.

President: I thank you very much for your kind sentiments. May I now invite Mr. Christopher Harland who is from the International Committee of the Red Cross to propose the vote of thanks on behalf of the international organizations.

Statement of the Representative of the ICRC: Mr. President, Hon'ble Ministers, Attornies-General, Excellencies, Distinguished Delegates, Ladies and Gentlemen, at the outset I extend my congratulations and thanks first to you the Hon'ble President of the Fiftieth Annual Session of AALCO Mr. Rauff Hakeem, the Minister of Justice of the Democratic Socialist Republic of Sri Lanka and secondly, to the President of the Fiftieth Annual Session of AALCO, secondly, to the Vice-President, Hon' ble Ms. Heyinwa Rita Njokanma, for steering the deliberations of this historic Fiftieth Annual Session of AALCO with commendable professionalism. This was instrumental in the successful running of the Session.

I also thank the government of the Democratic Socialist Republic of Sri Lanka and all the members of the National Organizing Committee for all the tireless efforts that they have put in into making all of us comfortable and fro the excellent administrative arrangements done by them as well. I also extend my heartfelt gratitude to the people of Sri Lanka for their warmth and very friendly hospitality. It was indeed a pleasure to be here for this Session.

I appreciate the many efforts undertaken by the Secretary-General of AALCO in his leadership he has shown in steering the Organization towards new heights.

I also thank all the staffs of the Secretariat of AALCO for their commendable efforts in preparing the documents and making it readily available at such short time to all the delegations. I also thank the interpreters for accomplishing a demanding and grueling job so wonderfully during the session.

Finally, I extend my sincere thanks to all of you who have come here to participate in this Annual Session for taking your valuable time to honour us with your presence and for sharing your thoughts on various issues that we have discussed over the course of these days. I thank you all.

President: Thank you for those kind words. Now it would be my turn to make few closing remarks. It gives me great pleasure indeed to formally bring this session to an end with a few words of appreciation to all who have worked for its success. To start with, may I take the pleasure of thanking my predecessor Hon'ble Celina Ompeshi Kombani who has passed on the baton having been the host of the previous Session in Tanzania. Indeed for the last one year, this Organization has been able to conduct its Fiftieth Session here. Once again I thank her and her delegation for the dedicated efforts they took in carrying on with the mantle for the last year. And, then, of course, it is my responsibility to thank Hon.ble Prof. Dr. Rahmat Mohamad, the Secretary-General and his two able Deputies along with their efficient staff who had left no stone unturned in making sure that his historic Fiftieth Session being held in Colombo would be the success

it is. Our thanks are due to the Hon'ble Secretary-General and his able and efficient team for having assisted us with the conduct of the Session.

Then it is my turn to thank the National Organizing Committee, here a person who is absent from amongst us, His Lordship Mr. Priyasath Gerald, DEP who is presently a member of our Supreme Court, who in his capacity as the Solicitor-General was heading the National Organizing Committee and had put in many hours of hard work along with the rest of the Members. I should thank him profusely for the efforts that he has taken in getting together this National Organizing Committee which comprised members from his own department many of whom are among us and who have been here for the last five days. And then my able Secretary Suhada Gamalath for having taken over from him the mantle of leadership assisted by another Member of my staff, a veteran of AALCO, Mrs. Kamalini De Silva and the others in my Ministry. It has taken many hours of hardwork in making this the success it is. It is also my duty to thank the Hon. G.L Peiris my co-host, the Minister of Foreign Affairs and his team of officials and others who have put in many hours of hard work. Thanks are also due to the Chief of Protocol division for having assisted in conducting this important international conference in Colombo. Thanks are also due to the Inspector General of Police the Ministerial Security division, who provided us the necessary and security. The hotel staff, the General Manger of the Cinnamon Lakeside and their efficient staff for having worked many long hours in making sure that our deliberations are conducted in orderly fashion.

I hope I have not missed out others in this. I must also thank the Heads of Delegations and Members representing Member States who have joined us at this historic session and have contributed immensely having participated in every deliberation putting forth their country position so that we make these deliberations so rich and varied in its content. It is my fervent wish that AALCO in its Fiftieth year would turn a new leaf in having a paradigm shift in the matters which we would be handling beyond this Golden Jubilee Session. I am sure we will try and bring the necessary structural changes to make our deliberations more meaningful when we reach the Fifty-first Session hopefully when we are able to conduct it in the African Continent. You will definitely be dealing with all our rest of the traditional functions working along with our international partners, particularly the International Law Commission and all others and observers in trying to enrich the capacity of the Member States in dealing with AALCO functions. I hope during the coming year I will get the assistance from the Member Countries to work along with the able Secretary-General in delivering to all of you what AALCO is capable of delivering and which it has traditionally been doing for the last 50 years with much distinction. I hope our profile will improve and we will definitely be respected in the international fora for the work that we are doing in order to contribute towards the corpus of international law and its rich contents.

With those comments I take this opportunity also finally to thank our hard working interpreters. Though I do not have their names here, I know they have been put through much hassle and have very ably discharged their duties in providing their services to our Member delegations. With those comments, Ladies and Gentlemen, I once again thank all of you and wish we would be meeting in an years time again, and in between

hopefully, meet at various seminars and workshops and bilateral visits where we would try and build on this wonderful bond and friendship that we have been able to build here and I am sure all of us would cherish it. With those comments may I say in true traditional Sri Lankan style *Ayubowan, Vanakkam and Aslamu Allaikum*.

Now we will close the Session officially. I thank you all.

**XV. TEXTS OF DOCUMENTS
ADOPTED AT THE FIFTIETH
ANNUAL SESSION**

A. SUMMARY REPORT

**XV. TEXTS OF THE DOCUMENTS ADOPTED AT THE
FIFTIETH ANNUAL SESSION**



AALCO
Asian-African Legal Consultative Organization
Fiftieth Annual Session
27 June to 1 July 2011
Colombo, Democratic Socialist Republic of Sri Lanka

**A. SUMMARY REPORT
OF THE FIFTIETH ANNUAL SESSION
OF THE
ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION**

1. Introduction

- 1.1 Thirty-two Member States of the Asian-African Legal Consultative Organization (the AALCO) participated in the Fiftieth Annual Session (hereinafter "the Session") namely, Arab Republic of Egypt, Kingdom of Bahrain, Bangladesh, Brunei Darussalam, People's Republic of China, Ghana, India, Republic of Indonesia, Republic of Iraq, Islamic Republic of Iran, Japan, Jordan, Republic of Kenya, Democratic People's Republic of Korea, State of Kuwait, Malaysia, Myanmar, Nepal, Nigeria, Sultanate of Oman, Pakistan, Palestine, State of Qatar, Republic of Korea, Kingdom of Saudi Arabia, Republic of South Africa, Democratic Socialist Republic of Sri Lanka, Sudan, United Republic of Tanzania, Thailand, Uganda and United Arab Emirates.
- 1.2 Representatives of the following Regional Arbitration Centres of AALCO were also present: Cairo Regional Centre for International Commercial Arbitration (CRCICA), Kuala Lumpur Regional Centre for Arbitration (KLRCA), and Regional Arbitration Centre for International Commercial Arbitration, Lagos (RCICAL).

1.3 In accordance with Rule 18 (1) of the Statutory Rules the following observers were admitted to the Session:

(i) Representatives from the following non-Member States: D.R. Congo, Republic of Kazakhstan and Russian Federation.

(ii) Representatives of the following International Organizations: International Court of Justice (ICJ), International Committee of the Red Cross (ICRC), Indian Ocean Marine Affairs Cooperation (IOMAC), International Organization for Migration (IOM), United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), United Nations Children's Fund (UNICEF) and Saudi Fund for Development

2. Inaugural Session

2.1 The Session commenced on 27 June 2011 by the Master of Ceremonies welcoming all the Delegations to the Democratic Socialist Republic of Sri Lanka for the Fiftieth Annual Session. His Excellency Mr. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka lit the traditional oil lamp and thereafter the distinguished dignitaries were invited to the dais.

2.2 **His Excellency Prof. Dr. Rahmat Mohamad, Secretary-General of the Asian-African Legal Consultative Organization (AALCO)** welcomed all the delegates to the Session and thanked His Excellency Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka, and the people of Sri Lanka for hosting the Fiftieth Annual Session of AALCO. He stated that Sri Lanka was one of the seven founding members of the AALCO, which was established in 1956 and since then had actively contributed to the work of the AALCO. The fact that the Fiftieth Annual Session was the fourth Annual Session hosted by Sri Lanka demonstrated her continued interest and commitment to the AALCO's objective of increasing the Afro-Asian influence in the progressive development and codification of international law. The earlier sessions hosted in Sri Lanka were the Third Session in 1960, Twelfth Session in 1971 and Twenty-second Session in 1981. Prof. Dr. Mohamad highlighted the significance of the activities of the AALCO in the contemporary world, taking into account the current practice of international law making. He emphasized that the role and range of activities required to be undertaken by the AALCO had multiplied several folds, therefore it was imperative that the Organization remained on a strong ideological foundation and enjoyed firm financial support from its stakeholders- the Member States. He then invited the Chief Guest to deliver the inaugural address and officially inaugurate the Fiftieth Annual Session of AALCO.

2.3 **Inaugural Address by His Excellency Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka.** In his inaugural address, His excellency stated that choosing Sri Lanka as the venue of the Fiftieth Annual

- Session of the AALCO, was all the more significant considering the rich contribution the Organization has made towards development of the laws and legal systems of two continents. At a time when Sri Lanka turns a new and exciting page in the process of nation-building, putting their country on the fast track to economic and social development, hosting this session had become especially appropriate. Revamping institutions in every sector and reframing laws and the agencies through which they were to be applied for the well-being of the community had become necessary. Resort to both domestic and international law as a source of protection was very important to bring the nation into the process of reconciliation. Emphasizing the growth in the economy in Sri Lanka that placed the country in the category of most rapidly developing economies in Asia, the President was of the opinion that economic development must not be confined to mere statistics but must reflect in the lives of the people. In order to witness the fruits of progress, transformation of the legal systems and legal cultures along with the mindset of the nation was essential to attain social equity and access to opportunity, especially of the communities that had been deprived in the past.
- 2.4 At international level, issues like trade related matters, international terrorism, environment and sustainable development, global warming and climate change, organized criminal activities reformation of the international financial architecture and so on were important challenges that required to be addressed. In accelerating progress, the Government of Sri Lanka gave utmost priority to development of infrastructure and public-private partnership. The member countries of AALCO belonged to Asia and Africa where rich traditions of legal culture and civilizations existed, therefore the President wished that the deliberations during the session would reflect the interests of the people and their well-being. He wished every success for the deliberations during the Session.
- 2.5. **Hon. Celina Ompeshi Kombani (MP), Minister of Constitutional and Legal Affairs, United Republic of Tanzania and President of the Forty-Ninth Annual Session of AALCO** in her address thanked the Government of Sri Lanka for hosting the historic Fiftieth Annual Session of AALCO and expressed deep solidarity with the Government and people of Japan who were affected by earthquake and tsunami. Madam Kombani stated that as developing countries from Asia and Africa, they recalled the spirit of the 1955 Bandung Conference, which required them to join hands and exert their energy to contribute in finding solutions to the current world challenges. Armed conflicts, piracy, terrorism and other forms of organized crimes remained to be the challenges of the contemporary world. It was mentioned that much had to be attained by the Organization and Member countries in addressing common challenges, which could be achieved by the AALCO as a legal consultative organization which had continued to discharge its obligations by broadening its participation in international legal matters especially those with economic dimension. Expressing concern on the financial situation of AALCO and acute shortage of funds, Madam Kombani said that in order for the smooth functioning of AALCO, Member States could at the 50th Session honor their financial obligations to the Organization. On

behalf of her Government, she extended full support to the Secretary-General in carrying forward the activities of AALCO and meeting its objectives. She also thanked the Secretariat for extending her the necessary support during her Presidency.

- 2.6 **Hon. Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka and the incoming President of the Fiftieth Annual Session of AALCO** in his address, thanked the outgoing President and welcomed all the distinguished delegates to the Annual Session. He highlighted the longstanding relationship that Sri Lanka had with AALCO as one of its founding members. He mentioned that it was Sri Lanka's honour and privilege to host the historic Fiftieth Annual Session of AALCO and that since the three previous occasions when the Annual Sessions were hosted in Colombo, Sri Lanka; very significant changes had happened to the Organization, such as attaining permanent stature from its initial five-year term of functioning. He commended the work of AALCO in the areas of Law of the Sea, Vienna Convention on the Law of Treaties and so on. He further stated that the Fiftieth Annual Session would be known for the establishment of the AALCO Eminent Persons Group (EPG), which held its preliminary meeting on 26th June 2011. He reiterated that it was a matter of pride for Sri Lanka to host the Session at a historic juncture, when Sri Lanka was undergoing transformation and was engaged in nation-building, national reconciliation and resurgence. He hoped the Annual Session would be a great success.
- 2.7 **Hon. Hisashi Owada, President of the International Court of Justice (ICJ)** in his address thanked the Secretary-General for having extended an invitation to the International Court of Justice (ICJ) to participate at the Fiftieth Annual Session of AALCO. Justice Owada said that AALCO had during the past half century provided an important forum for the regions of Asia and Africa in the field of international law. The Organization had successfully fulfilled indispensable functions of disseminating information, conducting consultations and formulating recommendations on issues of international law from the regional perspective. Applauding the role of AALCO in the field of international law, he said it had been successful in developing a truly universal international law, through norm-making and norm-enforcement aspects. He also highlighted the increasing participation of Asian and African countries in developing the jurisprudence of the ICJ. Justice Owada cited various cases and instances where the jurisdiction of the ICJ was sought by the AALCO Member States. In conclusion, he saluted the AALCO for its contribution and achievements over the years and wished it the very best for the next fifty years. He also thanked the Government of Sri Lanka for having given him the opportunity of addressing the Fiftieth Annual Session of the AALCO.
- 2.8 **Hon. G.L. Peiris, Professor of Law and Minister of External Affairs, Democratic Socialist Republic of Sri Lanka** in his Keynote address stated that the hosting of the Fiftieth Annual Session was a milestone development both in the history of the AALCO and Sri Lanka. He further stated that the agenda items

enumerated for deliberations at the session were of high political relevance for the countries in Asia and Africa. Issues like law of the Sea, piracy, organized criminal activities, etc., were very significant. Sustainable development vis-à-vis economic development, required to be addressed taking into account solutions based on harmony with values. He mentioned that like most of the developing countries, Sri Lanka too attached importance to the problems of migrant workers because they remit a huge amount of foreign exchange. Trafficking in women and children had been a persistent problem in many of the societies. Legal values on which restructuring was required to achieve social equity, would essentially depend on revamping of the criminal justice system. He also mentioned that the legal culture should reflect compassion and care for the society; laws must reflect people-oriented approach and justice must not be denied. He concluded the address by wishing for fruitful deliberations that would be beneficial for all the peoples of Member States of AALCO.

- 2.9 **Hon. Tan Sri Abdul Gani Patail, Attorney General of Malaysia and President of the Forty-Eighth Annual Session** proposed a Vote of Thanks on behalf of the Member States of AALCO to the Government of the Democratic Socialist Republic of Sri Lanka for hosting the Golden Jubilee Annual Session of AALCO. Stating that the occasion was a momentous one, he observed that it was a clear testimony of the important role played by AALCO in meeting the expectations of its Member States despite the challenges it faced since its inception in 1956. The presence of His Excellency Mahinda Rajapaksa, President of Sri Lanka added credence to the significance of the AALCO in advancing the causes of the Member States in the two continents. He thanked the President of the Forty-Ninth Annual Session of AALCO for her able leadership. He also thanked Prof. Dr. Rahmat Mohamad and the Secretariat officials and staff for their untiring efforts in carrying out the objectives of AALCO during the last few years by continuously finding solutions to address both administrative and financial constraints. He added that the Member States of AALCO would undertake necessary action to protect the interest and viability of AALCO in carrying out the mandate set out in the Putrajaya Declaration. He reiterated that it was of utmost importance that Member States of the AALCO should enhance its co-operation and stand united to speak with one voice, in order to safeguard the interest of our nations at international fora.

3. First Meeting of the Delegations of AALCO Member States

- 3.1 Her Excellency Celina Ompeshi Kombani (MP), Minister of Constitutional and Legal Affairs, United Republic of Tanzania and President of the Forty-Ninth Annual Session, called the Meeting to order.
- 3.2 **Agenda:**

The meeting adopted the following agenda for the Fiftieth Annual Session:

I. Organizational Matters

1. Consideration and Adoption of the Agenda
2. Election of the President and the Vice-President
3. Admission of Observers
4. Report of the Secretary-General on the Work of AALCO
5. Proposed Budget for the Year 2012
6. Preliminary Report of the Sub-Committee on the AALCO Secretariat's Human Resources and Financial Matters
7. Report on the AALCO's Centre for Research and Training (CRT)
8. Venue of the Fifty-First Session

II. Matters under Article 1 (a) of the Statutes: Matters Referred to the Organization by Member States

1. 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
2. Law of the Sea

III. Matters under Article 1 (b) of the Statutes: Matters of Common Concern having Legal Implications

1. Expressions of Folklore and its International Protection
2. Environment and Sustainable Development

IV. Matters under Article 1 (d) of the Statutes: Matters Relating to the International Law Commission

1. Report on matters relating to the International Law Commission at its Sixty-Second Session

V. International Trade Law Matters

1. Report of the UNCITRAL and Other International Organizations in the Field of International Trade Law

VI. Two half-day Special Meetings

1. Special Meeting on "Trafficking of Women and Children/Migrant Workers and Protection of Children"
2. Special Meeting on "International Commercial Arbitration"

VII. Any Other Matter

- 3.2 ***Adoption of the Provisional Agenda and Tentative Schedule of Meetings:*** The President placed for consideration the Provisional Agenda and Tentative Schedule of meetings during the course of the Fiftieth Annual Session of AALCO. There being no comments and observations from the participating delegations, the same were declared adopted.
- 3.3 ***Admission of Observers:*** The Admission of Observers to the Session, pursuant to Statutory Rule 18, was unanimously approved.
- 3.4 ***Election of President and Vice-President:*** The President of the Forty-Ninth Annual Session, Her Excellency Ms. Celina Ompeshi Kombani (MP) invited the Member States to propose candidates for the posts of President and the Vice-President of the Fiftieth Annual Session of AALCO. The **Leader of the Delegation of Kenya** proposed the name of **His Excellency Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka to be the President of the Fiftieth Annual Session of the AALCO**. The proposal was seconded by the **Leader of the Delegation of Japan**. With regard to the position of **Vice-President, the Leader of the Delegation of the People's Republic of China** proposed the name of **Her Excellency Mrs. Ifeyinwa Rita Njokanma, Director, International Law Department, Federal Ministry of Justice, Nigeria**. The proposal was seconded by the **Leader of Delegation of Brunei Darussalam**. The Member States unanimously elected with acclamation, His Excellency Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka and Her Excellency Mrs. Ifeyinwa Rita Njokanma, respectively as the President and the Vice-President of the Fiftieth Annual Session of AALCO.
- 3.5 The Outgoing President, Her Excellency Ms. Kombani in her farewell remarks thanked the Member States for the co-operation extended to her in the discharge of her duties as the President of AALCO. She also expressed her gratitude to the Secretary-General of AALCO and the Secretariat for faithfully observing the mandate entrusted to them by the Forty-Ninth Annual Session of AALCO. The outgoing President called upon the Member States to render full support to the Secretariat so as to enable it to perform the responsibilities entrusted to it in an efficient manner. Commending the electees for the posts of the President and Vice-President, the outgoing President stated that there could not have been a better choice than those elected for those positions.
- 3.6 Thereafter, the newly elected President and the Vice-President assumed their positions on the dias.
- 3.7 The newly elected President in his opening speech thanked the Member States for the support extended to him in his election to the post of President. His Excellency appreciated the agenda of the Fiftieth Annual Session and hoped that with the co-operation of the participating delegations the deliberations would be conducted in a friendly spirit to achieve consensus. He also warmly welcomed the Delegates to the historic city of Colombo and hoped that they would find time

during their hectic schedule to see some places of historical and tourist interest in Sri Lanka. The President applauded the National Organizing Committee and the AALCO Secretariat for their efforts in preparing for the Fiftieth Annual Session and stated that the presence of delegations from several Member States was ample testimony to such efforts.

- 3.8 The newly elected Vice-President in her opening remarks thanked the delegations for the support extended to her on her election to the post of Vice-President.
- 3.9 **Establishment of the Drafting Committee:** The President announced the establishment of an open-ended Drafting Committee to prepare the drafts of Resolutions, Summary Report and the Message of Thanks to the President of the Democratic Socialist Republic of Sri Lanka. Ms. Sriyangini Fernando, Former Additional Legal Draftsman and Current Consultant to the Ministry of Justice, Democratic Socialist Republic of Sri Lanka and Mrs. Indika Demuni de Silva, Deputy Solicitor-General, Attorney General's Department, Democratic Socialist Republic of Sri Lanka were appointed as Chairperson and Co-Chair respectively of the Drafting Committee to steer its activities.

4 First and Second General Meetings

- 4.1 The Delegations from the following Member States made General Statements during the First and Second General Meetings: **Malaysia, Sudan, Bangladesh, Japan, People's Republic of China, Thailand, Kingdom of Saudi Arabia, Arab Republic of Egypt, State of Kuwait, Nigeria, Republic of Korea, Pakistan, Nepal, Ghana, India, Kenya, Republic of Indonesia, Republic of the Union of Myanmar, Palestine, Republic of South Africa, Islamic Republic of Iran, Republic of Iraq, Democratic People's Republic of Korea, State of Qatar, Democratic Socialist Republic of Sri Lanka, Uganda and Bahrain.** The Observer delegation from the **International Committee of the Red Cross (ICRC)** also made a general statement.
- 4.2 The delegations congratulated His Excellency Mr. Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka, on his election as President of the Fiftieth Annual Session of the AALCO. Delegations also congratulated Her Excellency Mrs. Ifeyinwa Rita Njokanma, Director, International Law Department, Federal Ministry of Justice, Nigeria, on her election as the Vice-President of the Fiftieth Annual Session of the AALCO. The delegations also thanked the Government of Sri Lanka and the AALCO Secretariat for their warm hospitality and the excellent preparations for the meeting.
- 4.3 The **Delegation of Malaysia** stated that in compliance with the mandate received by the Secretary-General of the AALCO from the Forty-Ninth Annual Session of the AALCO to constitute an open-ended Committee of Experts to conduct a study on ways and means to enhance mutual legal assistance in criminal matters, the Attorney-General's Chambers had hosted a "*Workshop on Trafficking in*

- Persons, Smuggling of Migrants and International Co-operation*” in collaboration with the AALCO Secretariat in Putrajaya in November 2010. At the conclusion of the Workshop, Malaysia proposed to begin work on the elaboration of an international instrument on international cooperation, particularly toward formalizing mutual legal assistance channels amongst the AALCO Member States. The delegation further stated that incidents of piracy in the Gulf of Aden that affected navigational access of the international shipping community to international sea lanes, continued to be a threat to the good order of the sea. In that regard, the delegation suggested that the AALCO Member States should strive to enact specialized and comprehensive laws on piracy and the delegate proposed that the issue of piracy should be deliberated at the next session of the AALCO. The delegate also informed that in pursuance of the mandate received from the Forty-Ninth Annual Session of the AALCO to convene a Workshop in collaboration with the International Criminal Court (ICC) in Kuala Lumpur specifically for the AALCO non-State Parties to the Rome Statute of the ICC, a workshop entitled “Meeting of Legal Experts on the Rome Statute of the ICC” has been tentatively scheduled for 19 and 20 July 2011 in Putrajaya, Malaysia.
- 4.4 The delegation mentioned that Malaysia supported the establishment of the AALCO Foundation. However, the delegation cautioned that the AALCO Foundation’s process of garnering financial support either through “*no-strings attached donations*” or through strategic collaboration with corporate entities should be both transparent and void of any conflicts of interests. It was also announced that the Attorney General’s Chambers of Malaysia had set up an International Centre for Law and Legal Studies (I-CeLLS), dedicated to legal research and capacity-building through collaboration and strategic partnerships with leading international institutions of learning, regional and international organizations, and legal practitioners. In that regard, the delegation thanked the Secretary-General for accepting the offer to enter into a collaborative partnership with I-CeLLS.
- 4.5 The delegation of Malaysia noted that the term of the current AALCO Secretary-General, His Excellency Professor Dr. Rahmat Mohamad would be ending in 2012 and placed on record Malaysia’s intention to take necessary steps to formally place a request for the extension of the term of the present Secretary-General for another term if a Member State has not put forward any nomination for the post. The delegation hoped to receive support and consensus of the AALCO Member States for the extension of the term of Professor Dr. Rahmat Mohamad as the Secretary-General of AALCO.
- 4.6. The **Delegation of Sudan** stated that the international regime should be committed to the implementation of the concept of supremacy of the law in a plain and just way on the basis of equality and non-discrimination among the countries of the world irrespective of their economic, political or military status. The delegation emphasized the need to uphold the principles of sovereignty, justice and equality as envisaged in the UN Charter. The delegation stated that the

decisions of the International Criminal Court against the State of Sudan constitute a fundamental violation of the principles of sovereignty and principles of international law because of several key issues: firstly, Sudan not being a signatory to the Rome Statute of the International Criminal Court, hence, it was not applicable to Sudan based on the provisions of the Vienna Convention on the Law of Treaties. Secondly, the contradiction between the decisions of the ICC and the Charter of the United Nations. The delegation stated that the situation in Darfur was an internal dispute and not a case of breach of international peace and security. The perpetrators of the crimes would be prosecuted nationally and would also be punished if found guilty. The delegation observed that the AALCO should adopt a resolution on the immunity of State Officials based on the principle of sovereignty and also integrated legal vision regarding decisions of the ICC in harmony with the foundations of international law. The delegation denounced the illegal Israeli practices in the Occupied Palestinian Territories. The delegation also deplored human trafficking and observed that bilateral agreements could be entered into to combat trafficking.

- 4.7 The **Delegation of Bangladesh** commended AALCO for its positive contribution in the codification and development of laws in pertinent areas of international law, such as International Law Commission, Law of the Sea, Deportation of Palestinians and other Israeli Practices and related areas, Legal Protection of Migrant Workers, International Terrorism, Establishing Cooperation against Trafficking of Women and Children, International Criminal Court and so on. The delegation extended their cooperation to AALCO to create an equitable and fair international law regime that would reflect the concerns of developing countries, as it binds members linked by similar historical and cultural legacies. The delegation elaborated the relevance of the recent Dhaka Declaration under the Colombo Process for the protection of migrant workers and listed a number of recommendations. The delegation briefly highlighted the measures taken by their government to tackle the menace of trafficking in persons, especially women and children. The delegation also stated the efforts of their government towards mitigating climate change, environment protection and extending support to the Palestinian people in the occupied territory. The delegation reiterated the need to effectively deal with the peace process on the Palestinian issue and work towards common endeavours to develop and expand cooperation among themselves for the common benefit of their peoples and for global peace and prosperity.
- 4.8 The **Delegation of Japan** highlighted the increasing participation and role of countries from Asia and Africa in the field of international law which was always Eurocentric or West oriented and still had a dominant influence on the making of international law. The delegation extended their profound appreciation to all the Member States on behalf of the Government and the people of Japan for the support and solidarity extended during the natural disaster that struck the nation in March 2011. The delegation stated that the government had taken all measures in the best practicable means under international law to resolve the nuclear power

station accident at Fukushima Dai-ichi, and informed that Japan was open for business and travel. It was also reiterated that the Member States should comply with their financial obligation of paying the full annual contribution for the effective functioning of the Secretariat. Mention was also made about the adoption of Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS) and the Strategic Plan for Biodiversity 2011-2020, including Aichi Biodiversity Targets at the 10th Meeting of the Conference of the Parties to the Convention on Biological Diversity (COP10) and the 5th Meeting of the Conference of the Parties Serving as the Meeting of the Parties to the Cartagena Protocol (COP-MOP5) in Nagoya. It was pointed out that the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress was adopted during that meeting.

- 4.9 The **Delegation of the People's Republic of China** was fully convinced that, as the AALCO expands its activities in various fields, it would play a more significant role on the stage of international law development and international affairs. The delegation stated that the Asian-African countries should make good use of the important platform of AALCO, to promote further co-operation and build consensus in the field of international law, in order to jointly ensure the development of international law to better reflect the interests and positions of the developing countries, and accordingly promote the building of a more just and equitable international, political and economic order. With regard to the future development of AALCO, the delegation presented the following views and suggestions: firstly, the delegation hoped that AALCO would continue to strengthen its cooperation with the UN legal organs and other international organizations and actively reflect the views and positions of its Member States on issues concerned, and increase its influence steadily. Secondly, AALCO needs to closely follow the major international issues and events and make an in-depth analysis of the international law issues involved, thus helping the Member States to exchange views and reach consensus. Thirdly, AALCO needs to conduct in-depth studies on new issues, trends and developments in all the areas of international law and make reports as appropriate, so as to enhance its academic influences. Fourthly, AALCO should step up its efforts in recommending candidates from Member States to international legal organs; and finally, AALCO should strengthen its training, continue to enrich the scope and content of seminars and training programs and develop itself into a cradle of talents on international law for Asian and African countries.
- 4.10 The **Delegation of Thailand** stated that Thailand had always attached great importance to the work of the AALCO ever since she joined the Organization in 1961. Further, it had the honour and privilege of hosting the AALCO's Annual Sessions in 1966 and 1987 and informed that Thailand would be pleased to offer to be the next Asian host of the AALCO's Annual Session. The delegation explained Thailand's updates on the issues of people smuggling and human trafficking, countering international terrorism and piracy. The delegation informed that since the last Session of the AALCO, Thailand had become a State

- Party to the UN Convention on the Law of the Sea 1982 and UN Convention against Corruption. It was further revealed that Thailand had launched an initiative to uplift the treatment of women prisoners to international standards by proposing the United Nations resolution: “*The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders*”, or the “*Bangkok Rules*”, which were adopted by the UN General Assembly at its 65th session last December. The Bangkok Rules aims to supplement the existing standard of the 1955 United Nations Minimum Rules for the Treatment of Prisoners by introducing a female gender perspective.
- 4.11. The **Delegation of the Kingdom of Saudi Arabia**, having congratulated the President and the Vice-President of the Fiftieth Annual Session of the AALCO on their election, mentioned that throughout its existence, the AALCO has always been a great source of support to its Member States and their people. The delegation opined that after having contributed significantly to the progressive development and codification of international law for the past fifty years, it should focus on finding ways and means to further make effective contributions on issues of common concern to the Asian-African States. Commenting on the agenda items found in the Fiftieth Annual Session of AALCO, the delegation stated that they were indeed of critical relevance to the Members and that they were eager to listen to the experts of international law on those areas.
- 4.12 The **Delegation of the Arab Republic of Egypt** identified a host of issues which in their opinion were the focal points of their statement. The first issue being the struggle of the people of Palestine, it was stated that the continuation of the Palestinian issue posed a threat to the stability and security of the Middle East in particular, and the world in general. The delegation emphasized the need to find an early solution to that issue based on comprehensive and just peace was of immense significance. However, the delegation added that the creation of an Independent State of Palestine based on the borders of 1967 should form an integral part of any such solution.
- 4.13 The second point that the delegation stressed pertained to the need to uphold the fundamental principles of human rights, social justice, rule of law and freedom of individuals in all societies. The failure to adhere to these basic principles, they added, would not only increase the suffering of the people, but also trigger violence and extremism.
- 4.14 As regards the third point, being the need to combat corruption, the delegation pointed out that corruption resulted in the wastage of opportunities for development, wastage of precious resources and the looting of people’s wealth. It was pointed out that in this regard, Egypt had already ratified the United Nations Convention Against Corruption and implemented the necessary domestic measures to accelerate the fight against corruption. While briefly outlining these measures, they noted that the Government of Egypt had established two National Commissions for fighting corruption. The first being the Government

- Commission for Fighting Corruption. while, the second being the NGO Commission for Fighting Corruption which guaranteed the participation of civil society. Furthermore, the delegation opined that corruption could not solely be eliminated by the efforts of Governments alone and that, an active and co-ordinated response from the non-governmental sectors also was needed to tackle the menace of corruption.
- 4.15 The fourth point related to the issue of terrorism and it was remarked that acts of terrorism constituted a threat to international peace and security. It was further pointed out that Egypt had laid down a wide variety of strategies aimed at dismantling the sources of terrorism. The delegation emphasized that terrorism, which affected a whole range of issues, including justice, supremacy of law and human rights, needed to be tackled in an effective manner.
- 4.16 Speaking on the fifth issue which related to the prevention of crimes and the implementation of criminal justice system, they stated that acts of human trafficking and smuggling, piracy, trafficking of drugs and internet crimes should be treated very seriously by the international community and that, the spreading of these evils adversely affected the development prospects of States. Commenting on the efforts that their Country had taken on some of these issues, they informed that Egypt had ratified the United Nations Convention on Transnational Organized Crime and that adhering to the provisions of international legal instruments that dealt with these issues was of utmost importance in order to make a dent on these problems.
- 4.17 Finally, the delegation pledged their Country's support to the proposal made by Tan Sri Abdul Gani Patail, the Attorney General of the AALCO, that the Secretary-General of the AALCO, Prof. Dr. Rahmat Mohamad be given the second term as the Secretary-General of AALCO.
- 4.18 The **Delegation of Kuwait** while appreciating the long journey of the AALCO since its inception and in meeting its aims and objectives, emphasized that the AALCO requires the complete participation of its Member States in the activities of the AALCO. It was highlighted that strengthening co-operation in a peaceful manner supporting human foundation and human civilization was a must. The delegation condemned the occupation of the Palestinian territories by the Israeli forces. The issue of human trafficking which was on the agenda of the Session was identified as being very important and it was suggested that a model legislation on same was essential to be drafted. In conclusion, they stated that the welfare and stability for all peoples should be the objective of the deliberations and efforts at the Session.
- 4.19 The **Delegation of Nigeria** highlighted the contribution of the AALCO to the global affairs, particularly in the area of progressive development and codification of International Law as evidenced by its contributions to the work of the International Law Commission. Nigeria had particularly benefitted from the work

of the AALCO in the area of Seabed Authority under the Law of the Sea and the Exclusive Economic Zone. The enthronement of the Rule of Law in all facets of our national life was being championed by the Nigerian Government. In tackling those challenges, Nigeria would continue to rely on the contributions and assistance she had enjoyed from the AALCO over the years and especially the capacity building programmes initiated by the Secretariat. The delegation expressed their views on the release of the International Humanitarian Law Data base on Treaty /Accession and National implementation by the AALCO Member States, Trafficking in Women/Children, Migrant Workers and the Protection of Children and 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. Nigeria joined other delegations in calling for the extension of the tenure of the Secretary-General for another term to enable him to continue with the good work.

- 4.20 The **Delegation of the Republic of Korea** in their statement touched various topics. The delegation stated that the Law of the Sea is an area to which the AALCO had contributed greatly, by helping to incorporate new concepts for the governance of the oceans, including the Exclusive Economic Zones and the Archipelagic States, as evidenced by the 1982 United Nations Convention on the Law of the Sea. The delegation emphasized the need to pay attention to the fact that the subtle balance reached at Montego Bay in 1982 was being challenged and as such there may arise a need to revisit the Convention in the near future. They also pointed out that there were those who were dissatisfied with the lax enforcement under the current system and emphasized the growing need for tighter enforcement at sea for the common good. In the area of environment and sustainable development, the Korean government launched with international assistance, the Global Green Growth Institute (GGGI) on June 16, 2010 in Seoul to support developing countries' shift from traditional manufacture towards the "Green Growth" paradigm. On May 12, 2011, Korea formed the Green Growth Alliance with Denmark, while other nations including the United Arab Emirates and Japan also decided to support the GGGI. The Korean government appreciated their support and hoped that more nations would take part in that effort for sustainable development. In addition, the Korean government had committed to host the 18th Conference of the Parties to the UNFCCC in 2012 (COP 18) so as to contribute to the global agenda of climate change. The delegation observed that territorial and maritime disputes remained serious problems in Asia and Africa, while ethnic friction was still causing the death of numerous people. The delegation highlighted the use of the AALCO as a regional fora to discuss those issues and find proper solutions.
- 4.21 The **Delegation of Pakistan** highlighted the delegation's point of view on two items which were placed in the category of non-deliberated agenda items for the Annual Session. In the area of International Terrorism the delegation identified certain broad steps, namely, promotion of tolerance in the society through

- education and the media; creation of economic opportunities on an immediate basis in the areas particularly impacted by terrorism; payment of compensation to the victims of terrorism and efforts for their rehabilitation; strengthening of law enforcement and intelligence capabilities in the vulnerable areas; and promoting a moderate vision of Islam that emphasized on the social aspects, rather than political and punitive aspects. On the topic of corruption, the delegation stressed the importance of Article 51, which clearly stated the return of assets is a fundamental principle of the Convention and that State Parties should afford one another the widest measure of co-operation and assistance in this regard. The delegation urged all States to facilitate recovery of assets to their legitimate owners – the government of the countries of origin. The delegate extended full support to H. E. Prof. Dr. Rahmat Mohamad on behalf of his government, for second tenure to the position of Secretary-General of AALCO.
- 4.22 The **Delegation of the Nepal** at the out set noted that that the Fiftieth Session of AALCO should be considered as a special session and hence should be used to revisit the commitments made during last forty-nine sessions. He stated that the AALCO has made significant contributions towards the codification and progressive development of international law, through submitting its views to the General Assembly of the United Nations by collecting and consolidating the positions of its members on particular subjects under consideration of the International Law Commission, General Assembly and Sixth Committee. AALCO has played an important role in setting the norms and standards in various fields of international law, he added. While noting that AALCO had developed and disseminated model laws and agreements in order to ensure that its Members have proper laws and regulations in new and emerging areas, he went on to add that the Special Studies and Yearbooks prepared by the AALCO Secretariat constituted an important source of information on international law issues.
- 4.23 Commenting on the special meeting on *Trafficking in Women and Children and Migrant Workers and Protection of Children*, he pointed out that trafficking, which was an important concern of almost all the developing countries, including Nepal, posed a serious challenge to humanity, human rights and development, besides being the worst form of modern day slavery. While noting that Nepal is a party to almost all the international and regional Conventions relating to trafficking in persons, the delegation informed that his government was in the process of ratifying the United Nations Convention Against Transnational Organized Crime and acceding to its Optional Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children. He also brought attention to the recent report published by the UNODC which revealed that Nepal's legal and policy frameworks were harmonious with international standards.
- 4.24 While noting that migration can be regarded as a process that could enhance social progress in both the origin and destination countries, he pointed out that the

main challenges of migration were smuggling in migrants, particularly the exploitation of irregular migrants. He stated that within the migration phenomenon, the situation of child migrants was more passive, vulnerable and exploited one and that to resolve this problem what was needed was to take initiatives, first by the ratification of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention on the Rights of the Child and its two Optional Protocols, Optional Protocol to Prevent, Suppress and Punish Trafficking in persons and International Labour Organization Convention No.182 Against the Worst Forms of Child Labour. In that regard, the delegation added that *'The Draft Regional Model Cooperation Agreement between States of Origin and States of Destination/employment within AALCO Member States'* prepared by the AALCO Secretariat would be useful in guiding the initiatives of the AALCO Member States to move ahead. On the problem of climate change, after noting that this has been a serious problem for Nepal, the delegate added that something concrete needed to be done in this regard immediately to save the life and livelihood of the people of the Asian and African region.

- 4.25 The **Delegation of the Republic of Ghana** while making remarks on the current developments that have taken place in the international arena, stated that the recent rise of ordinary people in some parts of the world against un-democratic governments, oppression, corruption and impunity, acknowledged the right of people everywhere to democratic rule and the fundamental human rights and freedoms which were embodied in various international human rights instruments. While noting that the basic tenets of international law should be applicable to all the States equally, they pointed out that the UN Charter was as relevant as ever in the current era, and that it was time for the international community *"to reaffirm its faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small"*. As regards the development of nuclear energy for peaceful purposes, they were of the view that there should be co-operation between States and that nuclear facilities should be made accessible to the international community, especially to the International Atomic Energy Agency to ensure that through its system of inspection and control, nuclear energy would not be developed for uses other than peaceful purposes.
- 4.26 The **Delegation of India** noted that all the delegations had referred to the Origin of the Organization as a tangible outcome of the Bandung Conference. It had seen a phenomenal growth in its membership from 7 founding members to a strong membership of 47 Member States. The delegation added that India was one of the founding members and had gifted the AALCO its Headquarters in the prestigious diplomatic area of Chanakyapuri. Mr. Singh recalled the extensive contributions made by Mr. B. Sen, the first Secretary-General of the Organization, who had worked tirelessly to lay the strong foundations for the AALCO. He highlighted that Mr. B. Sen believed in the noble work of the Organization and had served it voluntarily, which was the primary reason that the AALCO could work on a

limited budget. Having said that the delegation referred to the timely agenda for the Session and specially referred to the topic, UN Convention on Jurisdictional Immunities of States and their Property, which had been proposed by the Delegation of Japan. It was pointed out that this Convention was of particular interest to the Asian-African States and urged the Member States to ratify it at the earliest. India, it was said, had ratified it. Referring to the contributions made by the AALCO in the progressive development and codification of International law, the delegation mentioned that although earlier it had made a significant contribution in the area of the Law of the Sea, no significant contribution had been made thereafter. Therefore, it was time that the Organization reassessed its method of work and give more time towards discussing substantive matters. It was also pointed out that referring the documents of the Session to the Drafting Committee was a recent phenomenon, which had increased the procedural work and left that thought for the consideration of the delegations.

- 4.27 The **Delegation of Kenya** congratulated the Government and the people of the Democratic Socialist Republic of Sri Lanka for having overcome one of the biggest challenges to the sovereignty and territorial integrity of Sri Lanka. With peace restored, an enabling environment for the development of the people has been created. The delegation recalled that one of the main objectives of the AALCO was its role in serving as an advisory body to its Member States in the field of international law. The AALCO's close relationship with the International Law Commission, the UN General Assembly and other International Organizations indicated the importance of having annual sessions to allow for a regular forum to formulate the positions on the various legal issues. The delegation stated that the AALCO should not lose sight of the factors that led to the founding fathers to form this Organization. As H.E. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka had reminded at the opening of this Session – *“law is an instrument of social engineering to ensure economic and social development for all with each realizing his/her full potential”*. At the international level, it had to be ensured that international law developed in a manner that took into account the interests of third world countries.
- 4.28 The delegation added that just as the third world countries came up with the concept of Exclusive Economic Zone in the Law of the Sea, the Organization should, enrich the development of the law on any subject under international law by its input. The AALCO was the only organization that could co-ordinate its efforts to achieve the objective of ensuring that international law does not serve the rich and powerful but the poor and developing nations and the people of the world. They identified many areas which should be of particular interest to developing countries such as: The universal jurisdiction of Domestic Courts, International standards in the treatment of aliens, the issue of environment and armed conflicts, Investment laws including Most Favoured Nation Clauses and Dispute Resolutions, Legal protection of the atmosphere, the responsibility of terrorists, armed groups or militia under international law, Jurisdictional

- immunities of states and Responsibility of international organizations; etc. Thus, the delegation opined it was timely to re-examine the Statute of the AALCO with a view to making it a strong but flexible organization able to effectively discharge its mandate. Kenya also supported the renewal of the term of office of the current Secretary-General H.E. Prof. Dr. Rahmat Mohamad who had already suggested some innovative ideas to rejuvenate and strengthen the AALCO.
- 4.29 The Delegation mentioned that on 27 August 2010, a new Constitution was promulgated in Kenya which replaced the 1963 independence Constitution thereby marking the birth of the Second Republic. The delegation also enumerated the key changes made by the new Constitution. Further, the delegation informed that on 6 May 2009 Kenya had submitted to the Commission on the Limits of the Continental Shelf, in accordance with Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea, information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea was measured. They stated that there was lack of capacity among the third world countries, including Kenya, in the area of preparing, submitting and defending submissions made to the Commission on the Limits of the Continental Shelf and in this regard Kenya had proposed the establishment of a pool of experts in that field who could assist the Commission in the discharge of its duties. Kenya had also requested the Division of Ocean Affairs and the law of the sea to come up with more programmes that would help build capacity in that technical field especially among developing countries. The delegation added that piracy and armed robbery against ships at sea off the coast of Somalia remained a grave concern for Kenya. The Leader of Delegation also stated that Kenya was in the process of setting up the Nairobi Regional Arbitration Centre. In conclusion, the delegation added that this was his last Annual Session before demitting office and in view of his experience in the Organization appealed to those states in Africa and Asia who were not yet members to become members immediately.
- 4.30 The **Delegation of the Republic of Indonesia** recalled the significant contribution in the work of the Law of the Sea and stated that it helped the Member States to formulate their respective positions on different issues on the Law of the Sea when considered at the Conference of the Law of the Sea. However, the delegation claimed that at present their concern related to the outstanding issue of Genetic Resources, Traditional Knowledge and Folklore. Recounting the initiatives taken by Indonesia to organize the Like Minded Countries meeting on GRTKF issues, which was held in Bali, Indonesia from 27th to 30th June 2011, he stated that its purpose was the facilitation of the work of the Committee in establishing International legal Instruments on the protection of GRTKF. Another issue of concern was the Palestinian issue and in that regard Indonesia supported a peaceful solution as expressed in the Outcome Document of the XVI Ministerial Conference and commemorative meeting of Non-Aligned Movement which took place from 23rd to 27th May 2011, and which called for an Independent State of Palestine. Lastly, the delegation mentioned that trafficking in

persons was a heinous crime and stressed the importance of international co-operation in the fight against such crime, as no country could fully succeed in combating transnational crime without the assistance of other countries.

- 4.31 The **Delegation of Republic of the Union of Myanmar** informed that their country attached great importance to the AALCO in its work on the development of international law and its codification. She added that it was an important hub for the two continents giving assistance to consolidating their legal issues at the regional level. Sharing Myanmar's experience on changing from the old to a new political system, from the perspective of legal progressive development, the delegation claimed that the new legal developments mainly concerned the constitutional changes in Myanmar. The Constitution also contained provisions on Human Rights, national ethnic groups, promotion of literature and culture, promotion and protection of social economy in the least developed areas and promotion and protection of workers' and peasants' rights.
- 4.32 The judiciary, had the power to issue the Five Writs, which were universally known to provide legal redress for the breach of human rights. The delegation also spoke about the measures required for the improvement of the economic infrastructure and plans to carry out an in-depth analysis of the monetary policy, financial policy and investment policy sector wise to make amendment to the laws, regulations and procedures in the interest of the nation and the people. Thereafter, the delegation highlighted that it was important and necessary to carry out programmes on education, creative industry and common interest of ASEAN nations. Thereafter, the Delegation highlighted the important agenda items on the work programme of AALCO and renewed its commitment to closely cooperate with it based on the five principles of peaceful coexistence and continued cooperation in all legal matters and development of practical response to specific issues of common concern.
- 4.33 The **Delegation of Palestine** highlighted the illegal activities of Israel, including settlements in the Occupied Palestinian Territory. The delegation was of the view that whoever commits a crime should be brought to justice. The delegation recalled that despite scores of resolutions having been adopted by the UN General Assembly and the Security Council remained unimplemented on the ground. The delegation also sought the support of other Member States for the establishment of an Independent Palestinian State with East Jerusalem as its capital. The delegation also deplored human trafficking and highlighted the need for protection of women and children. The Delegation also stated that democracy cannot function for states under occupation.
- 4.34 The **Delegation of the Islamic Republic of Iran** stated that the AALCO played a significant role in developing international legal norms, especially in areas of common concern or interest to the Member States. The delegation stated that for the past 55 years, the Organization had provided a workable forum for its Member States and this encouraging fact could make the Member States deliberate on how

- best it could revitalize the Organization and turn it into a more effective and productive forum in international law. It was also emphasized that the common interests and challenges shared and faced, offered the necessary ground to promote interaction and cooperation within AALCO.
- 4.35 Thereafter, the delegation shared their views and concerns regarding the occupation of Palestine which continued to pose the most immediate challenge to the region and beyond. The blockade of Gaza was deplored, which caused immense suffering and hardships for the people. Mentioning that the Islamic republic of Iran had ratified the important UN Convention on Jurisdictional Immunities of States and Their Property encouraged other Member States to join the Convention. They also mentioned the differing positions of states on the application of the 1982 Convention on the Law of the Sea, in areas of marine biodiversity and genetic resources in areas beyond national jurisdiction, which was mainly because of the gap between two groups of countries over the appropriate legal regime for exploitation of marine genetic resources in areas beyond national jurisdiction. The Islamic Republic of Iran shared the view of the G77 and the People's Republic of China and regarded the principle of common heritage of mankind as part of customary international law codified by the Convention
- 4.36 The Delegation mentioned that another area which required attention related to the marine environment and felt that Asian and African countries should play a more active role in the relevant international processes concerning the marine environment. In that regard the delegation informed about the holding of the 4th Economic Co-operation Organization Ministerial Meeting on Environment that was held in Tehran on 7 and 8 June 2011. The delegation was of the view that co-operation between the International law Commission and Sixth Committee should be strengthened. The delegation welcomed the various initiatives undertaken by the Secretariat and said that the lectures delivered should be published in the AALCO Yearbook. In conclusion they stated that a Revitalization Plan was needed to deal with the financial issues of the AALCO with a view to developing a financial policy based on financial discipline and sustained financial resources. In this regard, the delegation suggested the establishment of an open-ended working group to examine all the aspects of the proposals and initiatives related to the revitalization of the AALCO and table the possible conclusions at the next Annual Session.
- 4.37 The **Delegation of the Republic of Iraq** complemented the Government of the Democratic Socialist Republic of Sri Lanka for organizing the annual session very efficiently and the warm gesture extended to their delegation. The delegation mentioned that their Government had made efforts to strengthen national unity, establish democracy, and make progress in the re-construction process and in combating terrorism as well as dealing with the crime of human trafficking. On the issue of combating terrorism, their Government had adhered to all the United Nations Security Council Resolutions as well as the Four Geneva Conventions.

- 4.38 The **Delegation of the Democratic People's Republic of Korea** mentioned that due to the unilateral sanctions and blockade imposed by the United States, progress of DPRK and other Member States had been hindered in respect of their national development, politics, the economy and culture. The delegation remarked that imposition of sanctions and blockades by an individual State against a third State especially selective States by invoking its domestic legislation was a clear violation of the general principles of international law which stipulate respect for sovereignty of States, non-interference in internal affairs of the other, equality and reciprocity and the right to free development of the State. On the matters relating to terrorism, their Government had consistently adhered to the position of opposing all forms of terrorism and any support to it. They extended their Government's support for the AALCO to take measures in the establishment of an international legal regime to combat terrorism. The delegation also supported the Government of Malaysia's proposal directing the AALCO Secretariat to conduct a study on the legal aspects of human rights standards based on the western values on Asian and African countries.
- 4.39 The **Delegation of the State of Qatar**, congratulated the Secretary-General and his team for the efforts in organizing the Session in a very able manner. The delegation mentioned that the AALCO should possibly review the Organization's work and its activities in order to keep up with the pace of time. The Delegation informed that one of the functions of the AALCO was to bring co-operation between Member States on the international legal issues concerning them. In that regard, they mentioned that on the matters relating to the International Criminal Court, the AALCO had done a commendable job in gathering the views of Member States by organizing a Legal Expert Meeting before the Kampala Review Conference in Putrajaya.
- 4.40 The **Delegation of Democratic Socialist Republic of Sri Lanka** expressed appreciation for the work done by the AALCO as an Advisory Body to the Member States and for making a significant contribution towards the progressive development of international law. On the issue of trafficking in persons, the delegation informed that their country had established a National Task Force which comprised officials from all relevant Ministries and Departments. With regard to the Law of the Sea, the delegation mentioned that the issues relating to maritime safety and security and the development of legal principles for the preservation and protection of the marine environment would take precedence. Further, they hoped that the AALCO would continue its role as a Consultative Organization on important international legal affairs and would continue its cooperation with other international Organizations, especially the relevant legal bodies of the United Nations.
- 4.41 The **Delegation of the United Republic of Tanzania** informed that in her country, the general elections were held peacefully in October, 2010, where His

- Excellency, Jakaya Mrisho Kikwete, was re-elected as the President for a second term of five years. Further, it was informed that the country had embarked on a Constitutional Review with the objective of drafting a new Constitution of the United Republic of Tanzania. As regards the work of AALCO, the delegation called upon the Member States to acknowledge the achievements of the AALCO in the field of international law and stressed that there was a need to engage more in research work and train young lawyers on international legal aspects. They informed that they would like to exchange their views on the agenda items relating to environment and sustainable development, expressions of folklore and its protection under international law during the course of deliberations.
- 4.42 The Delegation mentioned that their country had taken appropriate measures in dealing with the threat posed by piracy, trafficking in women and children, migrant workers and protection of children, environment and sustainable development. They were working with other partner States of the East African Community (EAC), the Southern African Development Community (SADC), and the Common Market for Eastern and Southern Africa (COMESA) towards the establishment of a Tripartite Free Trade Area. The Delegation supported the recommendation made by some other delegations, on the re-election of H.E. Prof. Dr. Rahmat Mohamad as the Secretary-General of AALCO in recognition of his excellent work.
- 4.43 The **Delegation of Uganda** stated that since joining the Organization, the delegation benefitted from the various Annual Sessions and the general working relationship that it enjoyed with the AALCO. The delegation noted that the matters relating to the Environment and Sustainable Development, UNCITRAL and other international trade law Organization related issues, and Expressions of Folklore and its International Protection were some of the issues of importance that the delegation would like to deliberate upon. The Delegation informed that their country had signed a Protocol on the Protection of Traditional Knowledge and Expressions of Folklore within the framework of the African Regional Intellectual Property Organization, which itself indicate that the country was already acknowledged as having recognized the value of protecting Expressions of Folklore at the international level.
- 4.44 The **Delegation of the Kingdom of Bahrain** commended the work of the AALCO and extended their support to all its activities. The delegation also mentioned that the AALCO should look forward to working closely with regional organizations like the Arab League.
- 4.45 The **Observer Delegation of the International Committee of the Red Cross (ICRC)** at the outset thanked the AALCO and the Government of Sri Lanka for providing the ICRC the opportunity to take part in its Fiftieth Annual Session. The Observer delegate mentioned that the ICRC had a mandate under international law to take impartial action for detainees, the wounded and sick, and civilians by armed conflict and other situations of violence. The Observer

delegation observed that the ICRC's association with the AALCO had helped in the promotion of international humanitarian law, a task given to the ICRC by the States Parties to the Four Geneva Conventions, 1949, which include the Member States of AALCO. Towards that, the two Organizations undertook the task of compiling a database on the ratification and national implementation of the core international humanitarian law treaties by the AALCO Member States. A preliminary draft of which had been released during the Session would require the comments of the Member States for further improvement of the publication.

During the presentation, the delegation highlighted some of the issues that were of significance for the protection of victims of armed conflicts and other situations of violence.

5 Second Meeting of Delegations of AALCO Member States

5.1 ***Release of AALCO Publications and International Humanitarian Law: Preliminary Database on Treaty Ratification/Accession and National Implementation by AALCO Member States:*** The following AALCO publications were released by H.E. Rauf Hakeem, President of the Fiftieth Annual Session of AALCO.

1. *AALCO@50: Some Reflections on International Law*
2. *Basic Facts about the Asian-African Legal Consultative Organization*
3. *Yearbook of the Asian-African Legal Consultative Organization (2010)*

5.2 Also, a joint AALCO-ICRC publication entitled **International Humanitarian Law: Preliminary Database on Treaty Ratification/Accession and National Implementation by AALCO Member States** was also released.

5.3 ***Report of the Secretary-General on Organizational, Administrative and Financial Matters:***

5.4 The Secretary-General at the outset profoundly thanked all the Member States of AALCO for their constant support and cooperation extended to him in discharging his duties. He extended special thanks to Her Excellency Ms. Celina Ompeshi Kombani (MP), Minister for Constitutional and Legal Affairs, United Republic of Tanzania; and President of the Forty-Ninth Annual Session of AALCO for her guidance in steering the work of Organization and also to H.E. Tan Sri Abdul Gani Patail, Attorney-General of Malaysia and President of the Forty-Eighth Session of AALCO for giving unwavering and endless support to AALCO and himself. He also thanked the International Organizations and institutions which collaborated with AALCO in organizing several inter-sessional events. He extended special appreciation to the Deputy Secretaries-General and the Secretariat staff for their sincere efforts.

5.5 The Secretary-General's statement was divided into three parts. First, it focused on the implementation of the Putrajaya Declaration on Revitalizing and

- Strengthening the Asian-African Legal Consultative Organization; secondly, Activities and projects undertaken since the Forty-Ninth Annual Session of AALCO; and thirdly, Plan of Action for the coming year. He recalled the Putrajaya Declaration adopted at the Forty-Eighth Annual Session of AALCO and explained the measures taken for the implementation and meeting the target of Putrajaya Declaration in the organizational and substantive matters.
- 5.6 While discussing the financial matters of AALCO, the Secretary-General informed that the Republic of Iraq and Sudan had partly cleared their arrears. He also thanked the Government of Malaysia and Turkey for their voluntary contributions and proposed that any voluntary contribution made by a Member States would not be added to the regular budget of the Organization. He also touched on the revised scale of assessed contribution of Member States and the AALCO Reserve Fund. Regarding the Secretariat matters, he informed that a “Sub-Committee had been established to look into the Human Resources and Financial Matters of AALCO”. The Secretary-General also reviewed the work done by AALCO so far. He also explained the rationale for the establishment of the Eminent Persons Group (EPG) and its mandate.
- 5.7 While dealing with the activities and programmes of AALCO, the Secretary-General highlighted seven key areas in his presentation, which included: AALCO Meetings in New York and ILC; capacity building programmes; research and publication; developing data base of legal experts; seminar and lecture series; internship programs; and visit by high level dignitaries to the AALCO Secretariat.
- 5.8 The Secretary-General further explained how AALCO could be developed as a knowledge organization. He also made a proposal regarding an AALCO Foundation and its proposed activities. He emphasized that based on the experience of United Nations Foundation; “no-strings” attached, AALCO Foundation could seek project based donations from corporate entities. This fund could be used, among others, for various capacity building exercises.
- 5.9 In his concluding observations, the Secretary-General highlighted some of the challenges and proposals for the year 2011-12. The issues identified were, increasing the Membership of the Organization; improving the financial base of the Organization; creation of AALCO Database of Legal Experts and national legislation; Legal Experts Meeting; capacity building programmes; strengthening the Secretariat with human and technical support from the Member States; establishing cooperation with international and regional organizations and academic institutions; expanding internship projects; upgrading the website of AALCO; Arabic version of the AALCO website; strengthening the library and special studies/briefing papers on various specialized topics of international law.
- 5.10 In the ensuing deliberations on the report on the work of the Organization, the Leaders of the Delegations from **Thailand, Brunei Darussalam, Kingdom of Saudi Arabia, Malaysia, Japan, India, Indonesia, Islamic Republic of Iran**

- and Kenya** participated. The activities of the Secretariat in pursuance of the mandate given by the Forty-Ninth Annual Session were appreciated by the Member States and they applauded the efforts exerted by the Secretary-General in that regard.
- 5.11 The **Delegation of Thailand** emphasized that the role of capacity building in international trade law and policy was crucial for developing countries in preserving their interests. Garnering such a capability demands international assistance in training. The delegation was of the view that partnership with regional training centres with expertise in the field of international trade would achieve this goal. Therefore, the delegation proposed partnership between AALCO's Center for Research and Training and the International Institute for Trade and Development (ITD), a prominent training centre on international trade in Bangkok, Thailand. The ITD was a government-supported public organization established in accordance with an agreement between the government of Thailand and the United Nations Conference on Trade and Development (UNCTAD). The delegation also explained the aims of ITD.
- 5.12 The **Delegation of Brunei Darussalam** congratulated the efforts made by the Secretariat in finding a pragmatic approach to tackle the financial situation of the Organization. The delegation was of the view that the Secretary-General had found creative ways to collect arrears from the non-paying Member States, as well as streamlining the budget. The delegation stated that Brunei Darussalam has benefited a lot from AALCO especially through its capacity building programmes and also the Annual Sessions. The delegation recalled the assurance of the Hon. Attorney-General of Brunei Darussalam for its continuous support during the Forty-Ninth Annual Session. The delegation announced that their country was planning to organize a joint seminar with the AALCO Secretariat sometime next year. The proposal would be further discussed with the Secretariat especially in deciding a topic of common interest among Member States for the joint seminar.
- 5.13 The **Delegation of the Kingdom of Saudi Arabia** appreciated the Report of the Secretary-General. The Delegation informed that their country had participated in the programmes in Jakarta and New Delhi. The delegation highlighted that they would benefit more from such programmes provided interpretation facilities were made available.
- 5.14 The **Delegation of Malaysia** was of the view that the Secretary General of AALCO had successfully steered the Organization to a direction as mandated by the Member States of AALCO, in line with the *Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization* which was adopted on 20 August 2009 during the 48th Annual Session of AALCO. The activities and programmes which had been charted and undertaken by the Secretary-General and his Secretariat had inevitably and significantly contributed towards ensuring and implementing the visions and aspirations of the Member States for a revitalized and strengthened AALCO, as

the main centre for harmonizing the actions of Asian-African States in international legal matters. The delegation was pleased to note that many of the programmes implemented by the Secretariat had benefitted the legal fraternity in both the Member States of AALCO and non-Member States. Malaysia in particular, had gained a great deal from the activities and programmes initiated by the AALCO Secretariat. The delegation also commended the AALCO Secretariat for its Capacity Building Programmes and initiating the Eminent Persons Group. The delegation also took note on the update by the Secretary-General on measures that he and his office had undertaken in order to improve the financial situation of AALCO. Malaysia also welcomed voluntary contributions to AALCO by the Member States in order to secure a solid financial footing for AALCO. Malaysia noted the Secretary General's proposal that any voluntary contribution made by a Member State should be utilized for project specific action for which the Member State had made such voluntary contribution. While Malaysia generally supported the establishment of the AALCO Foundation, the delegation cautioned that the AALCO Foundation's process of garnering financial support either through "*no-strings attached donations*" or through strategic collaboration with corporate entities should be both transparent and void of any conflicts of interests. The delegation was also of the view that the spirit of cooperation and mutual assistance between AALCO and I-CeLLS would spur both institutions to greater heights.

- 5.15 The **Delegation of Japan** stated that two years had passed since the Member States made a decision to revise the assessed scale of contributions and in the Putrajaya Declaration they confirmed their commitment to support and to revitalize AALCO. As a result of the strenuous efforts of the Secretary-General they could see some improvement. The delegation also reminded that there still remained a significant number of members which had not yet paid their contributions. Under those circumstances, the delegation regarded that it was highly significant that on the initiative of the Secretary General a Sub-Committee to Look into the Human resources and Financial Matters of AALCO had been set up and that an examination of most appropriate size of the Secretariat was going to be conducted in due course. Japan supported the initiative of the Secretary-General and would actively participate, together with the other members, in the discussions on this important question of reforming the Secretariat. The delegation also welcomed the proposal of the Secretary-General to explore "*no-strings attached donations*" from private entities in the Member States as such donations would certainly serve to ameliorate the financial situation and to reactivate the activities of AALCO. Japan valued greatly such positive attitude of the Secretary-General to explore various ways and means to overcome the financial difficulties of the AALCO. With regard to the budget proposal for 2012, he said that Japan would not be against its adoption at this Annual Session. However, at the same time, the delegation pointed out that in the light of the prospect for no substantial improvement in the total amount of payments of contributions by the Member States as a whole, it was essential that various reforms should be carried out urgently in one or two years time and, in particular,

- the delegation hoped very much that the afore-mentioned examination of reforming the Secretariat would be carried out with a specific time-frame. The delegation also stated that it was becoming increasingly difficult to persuade the financial authorities in Japan when so many other members did not honor their obligations, while Japan was in a very difficult financial situation. For this reason also, the delegation urged members to pay their assessed contributions as soon as possible.
- 5.16 The **Delegation of India** appreciated the efforts of the Secretary-General for establishing the AALCO Sub-Committee on human resources and financial matters, with the mandate to look into working conditions of the staff. He stated that AALCO has a longstanding relationship with Government of India because they host the Headquarters of AALCO and for that reason salary structure of the locally recruited staff was based on the Government of India rules and standards. Due to the increased inflation and other reasons, Government of India had revised the scale of salary according to the Sixth Pay Commission. However, for the past five years, AALCO has not paid retirement benefits and other monetary benefits to its staff. The delegate emphasized that at the present Session, a decision addressing those issues must be endorsed. He reiterated that Member States who had not paid their annual contribution must make prompt payment of full annual contribution and in that regard, India also joined hands with Japan in supporting the creation of the AALCO Foundation Fund with 'no-strings' attached directives, provided it must be within the objectives of AALCO.
- 5.17 The **Delegation of Indonesia** thanked the Secretary-General for a comprehensive statement and also applauded the efforts in enhancing the activities of AALCO.
- 5.18 The **Delegation of Islamic Republic of Iran** stated that it was essential to rethink on the outcome of the adopted resolutions, whose contents must reflect in policy papers so as to formulate customary international law and *opinio juris*. He also welcomed the proposal of internship projects in AALCO which would be a platform for young students and diplomats working within the field of international law.
- 5.19 The **Delegation of Kenya** informed that their Government was aggressively pursuing the establishment of Nairobi Regional Arbitration Centre. He also raised concern about the salaries of the locally recruited staff being given as per Government of India rules, but rather stated that the salary must be paid as per the standards of International Organizations, like the United Nations.
- 5.20 **Adoption of the Proposed Budget for the Year 2012:** The **Secretary-General** introduced the Proposed Budget for the Year 2012 contained in document AALCO/50/COLOMBO/2011/ORG.2. He informed that the budgetary papers were adopted at the 311th Meeting of the Liaison Officers in accordance with Statutory Rules 24 (2) and were placed for final approval before the Annual Session as per Rule 24 (4) of the Statutory Rules of AALCO. He explained that

- the total amount of the proposed budget for the year 2012 was USD 570,268 (US Dollars Five Hundred and Seventy Thousand, Two Hundred and Sixty Eight) which was calculated as per expected assessed contribution of Member States as per the revised and adopted scale of annual contribution of Member States during the Forty-Eighth Annual Session of AALCO held at Putrajaya, Malaysia in the Year 2009 vide resolution AALCO/RES/48/ORG.2.
- 5.21 The Secretary-General explained that during the Forty-Ninth Annual Session of AALCO held in United Republic of Tanzania in 2010, some Member States had urged the Secretary-General to prepare a realistic budget on the basis of actual contributions received. Therefore, the budgeted expenditure for the year 2012 had been divided into two parts, (i) the realistic budget of USD 501,621 on the basis of expected contributions from regularly paying Member States; and (ii) the remaining amount of USD 68,647 would fall under the heading ‘other projected expenditures’, which would be incurred depending upon contributions received from Member States in arrears. The Proposed Budget could be divided into two main heads namely: (i) Expenses incurred in relation to maintenance of the Headquarters, Pay and Allowances to Secretary-General and Locally recruited Staffs, emoluments to Deputy Secretaries-General, expenses in relation to Annual Session and inter-sessional meetings printing, publication and so on amounting to USD 496,621 and (ii) Expenses under Centre for Research and Training (CRT) was USD 5,000.
- 5.22 He recalled that to replenish the Reserve Fund, during the Forty-Eighth Annual Session, the resolution adopted had urged the Member States to ensure that it always had a six-month operational fund. As of May 2011, the total amount of the Reserve Fund was only for an operational period of three months. With regard to collection of arrears from Member States who were in large amount of arrears, certain measures were proposed. He thanked the Government of Iraq for having paid their first and second installment of arrears of contribution in compliance with the Memorandum of Understanding (MoU) signed with AALCO. He also said that the Government of Sudan had also paid their first installment of arrears of contribution based on the calculations under the draft MoU. The Secretary-General hoped that other Member States with large amount of arrears should also follow suit. He stated that the AALCO had received annual contribution from 36 Member States for the year 2010 (until May 2011). Arrears of contribution were received from 12 Member States in the year 2010. On those lines, he urged Member States who had not paid their annual contribution and arrears to fulfill their financial obligations. He also thanked the Secretariat staff for effective streamlining of the expenses and for extending their full cooperation in reducing the expenses.
- 5.23 The **Delegation of India** raised three pertinent issues on the Proposed Budget. Firstly, on reduction of allocated budget for activities under the Research and Training for the year 2012 from USD 73,000 to USD 5000 that would it not affect the activities of AALCO. Second, why was the pay and allowances to the locally

- recruited staff identical in 2011 and 2012 and third, how to resolve the issue of fluctuating dollar rates.
- 5.24 To those queries, the **Secretary-General** responded that, the budgeted amount for research and training activities has been reallocated for paying off the retiral benefits for the staff. The salaries of the Secretariat Staff remained identical because there was a decline in the staff strength. He also mentioned that activities of AALCO had been convened due to full sponsorship by certain Member States of AALCO.
The **President** then declared that the Draft Budget for the Year 2012 was adopted.
- 5.25 **Report of the Chairman of the AALCO-Eminent Persons Group (EPG) Meeting:** The preliminary meeting of the AALCO-EPG was convened on Sunday, 26th June 2011 at Hotel Cinnamon Lakeside, the venue of the Fiftieth Annual Session of AALCO being held in the Democratic Socialist Republic of Sri Lanka. Present at the meeting were: H.E Dr. Abdullah Mohamad Said Al-Saidi, Minister of Legal Affairs, Sultanate of Oman; Hon. Amos Wako, Attorney-General of Kenya and Member of ILC; Dr. Rohan Perera, Member of ILC, Sri Lanka; Prof. Shinya Murase, Member of ILC, Japan; Mr. Narinder Singh, Member of ILC, India; Prof. Djamchid Momtaz, Former Chairman of ILC, Islamic Republic of Iran; Mrs B. Kiondo, Liaison Officer of the United Republic of Tanzania (Representing Ms. Celina Kombani, Minister of Constitutional and Legal Affairs and the President of the Forty-Ninth Annual Session of AALCO); Prof. Dr. Rahmat Mohamad, Secretary-General, AALCO; Dr. Xu Jie and Dr. Hassan Soleimani, Deputy Secretaries-General, AALCO¹.
- 5.26 **Prof. Dr. Rahmat Mohamad**, the Secretary-General in his welcome remarks recalled that the Forty-Ninth Annual Session of AALCO held in Dar es Salaam, United Republic of Tanzania in August last year, endorsed the proposal relating to the constitution of an AALCO Eminent Persons Group (AALCO EPG). He also noted that the EPG would serve as an informal guidance mechanism, an “Advisory Body”, for the Secretary-General to steer the work of the Organization. The aim of this group would be to suggest to the Secretary-General the short, medium and long term measures needed for the substantive work of the Organization, he added.
- 5.27 He outlined that the primary task of the Eminent Persons Group would be; (i) how to enhance the profile and relevance of AALCO in the international arena; and (ii) how to contribute significantly to the substantive aspects of AALCO.

¹ Besides the names of the Members referred above, the following persons were also present at the meeting as Observers; Ms. Sarah Al-Sharji , Sultanate of Oman; Neil D.B. Unamboowe, Deputy Solicitor-General, Sri Lanka, Mr. PG Indera Jaya Shamsu , Liaison Officer of the Brunei Darussalam. The AALCO Secretariat officials present at the meeting were: Mrs Anuradha Bakshi, Assistant Principal Legal Officer, Mr. Mohammed Hussain K.S., Senior Legal Officer and Mr. S. Pandiaraj, Legal Officer, who assisted the Members of the EPG.

- 5.28 ***Election of the Chairperson of the EPG:*** Mr. Rohan Perera, Member of the ILC, who was unanimously elected by the Members of the EPG as its Chairman, expressed hope that by the active contribution of all its Members, the EPG would be able to achieve its aims and objectives in the best possible manner.
- 5.29 As regards **enlarging the Membership of AALCO**, the Secretary-General noted that since his assumption of office, despite his best of efforts, he had not been able to persuade so far any other Asian-African State to become a Member of AALCO, and that his efforts were continuing and special attention was being paid to bring the Central Asian Group of States into the fold of AALCO.
- 5.30 As regards the **ways and means to raise additional funds for AALCO**, the Secretary-General mentioned that the annual contributions from the Member States was the only source of income available to the Organization and that it was well-known that generally, the contributions were regularly paid by only 30-35 Countries. In view of this state of affairs, he remarked that, the Secretariat of AALCO was hard-pressed to find new and innovative ways of generating income so as to deal with the increasing activities of the Organization.
- 5.31 **Mr. Amos Wako**, the Attorney-General of Kenya and a Member of the ILC, stated that the problem of arrears was a common problem faced by many international organizations and supported in principle the suggestion of project-based financing as suggested by the Secretary-General. However, he noted that a detailed proposal from the AALCO Secretariat indicating the areas in which such project-based funding could be undertaken was necessary in this regard, in order to explore the matter further.
- 5.32 **Mr. Narinder Singh**, while broadly agreeing with the suggestions proposed by the Secretary-General and Mr. Amos Wako, however noted that, contributions from the Member States should be the primary source of income for the Organization and that, the proposed projects should be related to areas of common concern to the Member States and be beneficial for them.
- 5.33 As regards **the current agenda items of AALCO**, the Secretary-General informed that, in view of the paucity of human and financial resources obtaining in AALCO, it was difficult to focus on all the 16 agenda items of AALCO, and hence, the work of AALCO needed to be prioritized. While noting that the Secretariat of AALCO was not in a position to meet the mandates contained in the resolutions adopted at the annual Sessions, he added that Working Groups could be set up to look into certain specific areas of work of AALCO so as to receive a tangible outcome in the form of model laws, soft laws or guidelines. The Chairman, while agreeing with this suggestion noted that the practice of AALCO in the 1970s and 1980s was to draft model laws and guidelines on various issues for Member States and this past practice could be revived.

- 5.34 **Prof. Murase**, while agreeing with the Secretary-General that 3 or 4 specific issues could be focused upon, stated that AALCO should only focus on legal issues and should not venture into the political terrain. In this connection, Prof. Momtaz remarked that AALCO has already been doing this by making a distinction between deliberated and non-deliberated items. However, Prof. Momtaz pointed out that a distinction between legal issues and political issues was not always feasible and that many issues involved both elements. While making his intervention on this issue Mr. Narinder Singh stated that it was indeed necessary to prioritize the work of AALCO and that the agenda items of the ILC should be given priority in this regard. He added that AALCO should continue to monitor those issues that have already been completed by the ILC and are being dealt with by the Sixth Committee until they are brought to their logical conclusions.
- 5.35 While agreeing with the general thrust of the suggestions proposed by the Members, **Mr. Amos Wako** remarked that the issues which are of critical concern to the developing countries as a whole, have to be given utmost consideration in any scheme for prioritization of the work. This was necessary taking into consideration the original purposes for which the Organization was set up, he added.
- 5.36 In this regard the Chairman stated that when the Secretary-General presents his report containing the viewpoints of its Member States at the Annual ILC Sessions, it should focus more on substantive issues. The Chairman stressed the importance of highlighting the key decisions taken at the Annual Session of AALCO, when the Secretary-General submits his Report to the ILC, leaving sufficient time for a productive interaction with the Members of the ILC, which in turn, would be beneficial both to the Organization and the ILC.
- 5.37 As regards the **future agenda of AALCO**, two topics, namely, (i) Protection of the Atmosphere and (ii) Model Rules of Decision-Making Procedures for International Conferences and Conference of Parties to Multilateral Conventions were proposed by Prof. Shinya Murase. He circulated background papers on each of the proposed items to all the Members for their consideration. The utility of exploring these proposed topics were welcomed by the Members of the EPG.
- 5.38 The Chairman of the EPG also made a suggestion that a third topic, namely, 'Contemporary Problems and Challenges in the field of International Investment law' could also be taken up by AALCO in future. He stressed that this issue would be of particular importance to developing host States of Asia and Africa which are keen on attracting investment. On the modalities it was agreed that Working Groups could be established on these areas to identify the current relevance and the future challenges that these topics present to the Member States of AALCO. However, as a first step detailed questioners on all the three proposed items could be prepared by the Secretariat under the guidance of the EPG and

circulated to all Member States for inviting their comments, on each topics, he added.

- 5.39 The last issue that was discussed by the EPG pertained to the number of meetings to be convened. In this regard, it was pointed out that the official visits of the Secretary-General to both New York and Geneva could also be utilized to further deliberate upon the issues identified by the EPG, in addition to having the EPG Meeting on the sidelines of the annual sessions. It was felt that, this modality, could lessen the financial burden of the EPG Members, and could also at the same time achieve impressive results, it was felt.
- 5.41 The **President** then declared the Report of the Chairman of the AALCO-EPG as adopted.
- 5.42 ***Preliminary Report of the Sub-Committee for the Advisory Panel of Liaison Officers to Look into the Human Resources and Financial Matters of AALCO:*** Mr. PG Indera Jaya Shamsu, the Liaison Officer of Brunei Darussalam and the Chairman of the Sub-Committee presented the preliminary report. In his report he informed that the sub-committee was established at the Resumed 308th Meeting of Liaison Officers of AALCO Member States which was convened at the Headquarters of AALCO, on Wednesday, 1st December 2010. The sub-committee was entrusted with three main tasks, namely: (i) salary structure of the Staff; (ii) 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. The Chairman informed that in the Meeting Mr. Yu Peng, the Liaison Officer of the People's Republic of China at the outset expressed deep appreciation to the Secretary-General for the excellent work done. He said that as the only inter-regional consultative Organization AALCO had played a positive role in taking up legal issues of common concern in the Asian-African region. He said that the Government of the People's Republic of China had always supported the activities of AALCO and would always continue to support it in the future as well. He also supported the initiative of the Secretary-General to set up a sub-committee to look into the administrative and financial matters of AALCO. He proposed the name of Mr. PG Indera Jaya Shamsu, the Liaison Officer of Brunei Darussalam as the Chairman of the sub-committee in view of his vast diplomatic experience and long association with AALCO. The Liaison Officers of the Islamic Republic of Iran, Malaysia and Indonesia raised their hands and supported the appointment of the Chairman. The Secretary-General informed that the sub-committee would be open-ended and it would present its report to the Liaison Officers after three months and thereafter at the Annual Session in Sri Lanka. The Chairman informed that due to time constraints, the Sub Committee could not meet in the intervening period even though the first meeting was scheduled on 17 February 2011. The sub-committee would hold its meetings after the fiftieth Annual Session and hopefully report could be finalized and presented in the 51st Annual Session of AALCO. The Chairman explained that the sub-committee had in hand challenging tasks which involved ascertaining the human resource

requirement and planning and salary structure of the Secretariat Staff. He stated this required detailed study and research.

- 5.43 Another challenging task before the Sub Committee was to suggest ways and means to generate income for AALCO other than the contributions received from its Member States. It was well known that AALCO completely depended on the Annual contribution of Member States for meeting its budgetary expenses. However, there was a lot of difference between the expected contribution from Member States and actual contribution received. For executing both these tasks successfully, the Chairman stated that the Sub Committee needs the cooperation and assistance of all Member States and requested the Member States to actively participate in the Meetings, so that the Committee could come up with a productive report to be placed at the Fifty-First Annual Session. The Preliminary Report of the Sub Committee was endorsed by the Annual Session and the meeting was thereafter adjourned.

6. Third General Meeting

Agenda Item: Report on the Matters relating to the Work of International Law Commission at its Sixty-Second Session

- 6.1 The **Secretary-General**, while introducing the agenda item, noted that one of the statutory obligations of AALCO was to examine the questions that are under consideration of the International Law Commission, and thereafter, to forward the views of its Member States to the Commission.
- 6.2 While giving a brief overview of the work of the Commission on its Sixty-Second Session, he stated that there were as many as nine topics on the agenda of the aforementioned Session of the ILC, namely, Reservation to Treaties; Expulsion of Aliens; Effects of Armed Conflict on Treaties; Protection of Persons in the Event of Disasters; The Obligation to Extradite or Prosecute (*aut dedere aut judicare*); Immunity of State Officials from Foreign Criminal Jurisdiction; Treaties over time; The Most-Favored-Nation clause and Shared Natural Resources.
- 6.3 After briefly highlighting the progress under each of the topic mentioned above, he remarked that inputs provided by the Member States of AALCO would be of immense significance to the ILC in formulating the future trajectory of its work, and that the feedback and information on the state practice of AALCO Member States would enable the Commission to take into consideration the views of diverse legal systems.
- 6.4 **Mr. A. Rohan Perera, Member of the International Law Commission (ILC)** and current Rapporteur, speaking in his personal capacity, expressed his appreciation for the Report presented by the Secretary-General of AALCO that outlined the work of the ILC at its Sixty-Second Session held in 2010. He remarked that, in view of paucity of time, he would focus only on two key topics, viz., “The Effects of Armed Conflicts on Treaties” and “Immunity of State Officials from Foreign

Criminal Jurisdiction” that were specifically dealt with in the first half of the Sixty-Third Session of ILC that took place from 26th April to 3rd June, 2011. The comments/viewpoints on these two items on the part of Member States would be of extreme importance to the work of the Commission, he added.

- 6.5 As regards the topic “The Effects of Armed Conflicts on Treaties”, he pointed out that the text of draft articles on that issue along with the commentaries thereto, were adopted by the Commission at its first part of its Sixty-Third Session held in 2011. Giving a bird’s eye view of the provisions of the draft articles, he informed that the draft articles have been structured into 3 parts. The first was entitled ‘Scope and Definitions’. The second which was entitled ‘Principles’ contained two Chapters, and that the third part pertained to ‘Miscellaneous’. The draft articles are followed by an annex related to draft article 7, he explained. He noted that these draft articles as a whole reflected the general proposition that armed conflicts, *ipso facto*, does not terminate or suspend the operation of treaties, and that this rationale ran through the entire set of draft articles adopted on that issue. As regards the determination of whether a treaty survives an armed conflict or not, he noted that firstly, recourse should be made to the language of the treaty itself as provided for in the draft article 4 and that, in the absence of an express provision, resort would next be had under draft article 5 to the traditional rules of treaty interpretation contained Article 31 of the Vienna Convention on the Law of Treaties. If no conclusive answer was found following the application of these draft articles, the enquiry would then shift to a consideration of matters extraneous to the treaty as provided for in draft article 6, he added. He clarified that draft article 7 contained an indicative list of treaties that included *inter alia*, treaties creating permanent regimes such as land and maritime boundary, and treaties on human rights and international humanitarian law which were, on the basis of their subject matter, deemed to survive even in times of armed conflict.
- 6.6 As regards the topic “Immunity of State Officials from Foreign Criminal Jurisdiction”, he revealed that the Second Report of the Special Rapporteur on that subject was considered at the first part of the Sixty-Third Session of ILC. Explaining the difficulties contained in framing the boundaries of that topic, he pointed out that there are two questions that needed to be addressed in a concrete way for progress to take place on this issue. The first in his view was: Is there an exception to immunity in respect of what are called grave crimes under international law? The second was the question of the precise categories of persons apart from the well-known troika (the Heads of States, the Heads of Governments and the Minister of Foreign Affairs), who would be considered to enjoy immunity *ratione personae*. In that regard, he explained that the crux of the Report of the Special Rapporteur on this issue was that immunity of state officials from foreign criminal jurisdiction should be the norm and that, any exception thereto needed to be proved. In summarizing the main trends of the debate, he noted that there were two streams of thought that informed the entire debate on the topic. According to one view, sovereignty must be limited, and that one could not talk of absolute immunity when grave crimes are committed. The principle of

non-impunity was a core principle, and that one could not speak of absolute immunity where grave crimes are committed even by high-ranking officials. According to another view, the principle of immunity, which was well-established in international law, including the international customary law, does not brook any infringement and that, it was critical in preserving the stability of international relations. The challenge for the Commission, he added, lied in striking a proper balance between the two schools of thought. He also made a plea that the Member States of AALCO should give their most serious consideration to this topic when the Report on that issue was before the Sixth Committee during the forthcoming United Nations General Assembly. It was important for the future work of the ILC to receive the views and policy guidance of Member States of AALCO on the sensitive issues which arise in the consideration of these topics, he added.

- 6.7 **Prof. Shinya Murase, Member of the International Law Commission**, also speaking in his personal capacity, focused his address on two points, namely, future topics that the International Law Commission should take up, and the need to follow-up the work of ILC. He mentioned that ILC had concluded its work on three of its topics and therefore new topics were to be chosen for the next quinquennium. Selection of the topics was based on practical, technical and political feasibility of the topic, moreover the work had to reflect the new developments in international law and the pressing concerns of the international community as a whole. Prof. Murase, had made a proposal to include ‘Protection of Atmosphere’ as a topic and prepare a comprehensive convention to address the whole range of atmospheric issues such as transboundary air pollution, depletion of ozone layer and climate change which could be similar like Part XII of the Law of the Sea Convention on the protection and preservation of maritime environment. He hoped that the Sixth Committee would endorse this proposal. In relation to the relationship between ILC and the Sixth Committee, the need to follow-up developments of draft articles was required. He recalled that the conclusion of draft articles on transboundary aquifers completed in 2008, which could adopt a resolution in the form of a General Assembly ‘declaration’ on the principles and rules applicable to transboundary aquifer, which could be a basis for future a framework convention. On the UN Convention on Jurisdictional Immunities of States and their Property, he recalled the contribution of the Special Rapporteur Amb. Sompong Sucharitkal and expressed his belief that his contribution would be duly recognized when the Convention comes into force with the necessary ratifications.
- 6.8 The **Delegation from the Islamic Republic of Iran** thanked the representative of the ILC Dr. A. Rohan Perera for his excellent presentation on the work of the ILC at its Sixty-third session. On the work of the Commission on ‘Effects of Armed Conflicts on Treaties’, the delegation stated that Article 2 includes express reference to the applicability of the draft articles to non-international armed conflicts. The delegation stated that it continue to deem it inappropriate to include those armed conflicts. The possible effects that this category of conflicts might

have on treaties were indeed governed by the provisions of draft articles on “International Responsibility of States” under circumstances precluding wrongfulness. Further, article 73 of the Vienna Convention on the Law of Treaties, which is the basis of ILC’s work on the subject, refers exclusively to the effects on treaties of armed conflicts between states. On the topic “Expulsion of Aliens” the delegation was of the view that the expulsion must be made with due respect for fundamental human rights of the deportees. On the topic “Protection of Persons in the Event of Disasters”, the delegation observed that it was for the affected State to determine whether receiving external assistance in the event of disaster is appropriate or not. Any suggestion to penalize the affected States would be contrary to international law. The delegation underlined the importance on the set of draft articles on Responsibility of International Organizations adopted on second reading by the drafting committee during the present session of the Commission and recommended that the AALCO Secretariat could undertake a study on it and present to the next Annual Session a comprehensive report on the subject.

- 6.9 The **Delegation of People’s Republic of China** at the outset welcomed the long-standing and mutually-beneficial cooperation existing between the ILC and AALCO. As regards the topic “The Effect of Armed Conflicts on Treaties”, he stated that the definition of armed conflict provided inadequate restrictive conditions that could easily be construed to any use of force and that this in turn could affect the stabilization of treaty relations. As regards the topic “Expulsion of Aliens”, he noted that nothing should stand in the way of extradition of an alien to a requesting State when all conditions for expulsion had been met and the expulsion itself did not contravene international or domestic law. He expressed hope that the Commission would pay sufficient attention to the concerns raised by his delegation in its future consideration of the topic.
- 6.10 The **Delegation of Malaysia** noted that their delegation considered the work of ILC as one of the important agenda items of the AALCO and appreciated the Secretariat report prepared on the topic. The delegation mentioned that the topics on which they would like to have deliberations were on Reservation to Treaties, Expulsion of Aliens, Effects of Armed Conflicts over Treaties, Protection of Persons in the Event of Disasters, Obligation to Extradite or prosecute, Immunity of State Officials from Foreign Criminal Jurisdiction, Most-Favoured Nation Clause and Shared Natural Resources. The delegation supported the proposed topic “International Environmental Law” as the Commission would be able to contribute effectively towards clarifying and redefining the basic principles and rules of international environmental law. The delegation also favoured the topic proposed by Prof. Shinya Murase on the ‘Protection of Atmosphere’. The delegation also supported any efforts to send young officers for attached or internship programme at ILC. The delegation proposed that the ILC Members from the Asia and Africa continent open their doors to accept attachment or internship on the recommendation of the respective governments, subjects to applicable ILC rules and procedure. The delegation also proposed to make

available the report of the ILC at least one month before it came up for consideration by the Sixth Committee. They also made a suggestion that AALCO should devote one full-day to the deliberations of the agenda items on the ILC so that in-depth discussions could take place.

- 6.11 The **Delegation of Indonesia** emphasized on the following topics, namely; expulsion of aliens and protection of persons in the event of disasters. On expulsion of aliens, the delegation mentioned that their country had observed the topic as stated in the international human rights law, particularly in consonance with principles of sovereignty and non-intervention. It was noted that in addition to the general protection afforded to all foreigners, certain categories of foreigners, such as refugees and migrant workers, could be afforded additional protection against expulsion and other procedural guarantees. According, utmost importance to the topic protection of persons in the event of natural disasters, the delegation mentioned that humanitarian assistance should be undertaken solely with the consent of the affected country and with utmost respect for national sovereignty, territorial integrity, national unity and the principle of non-intervention in the domestic affairs of States.
- 6.12 The **Delegation of India**, after thanking the Secretary-General for presenting a detailed and comprehensive introduction to the work of ILC at its Sixty-Second Session, remarked that the ILC should receive views/comments from the Member States of AALCO while formulating the draft articles. The delegation pointed out that there are three ways for the Commission to obtain the opinions of the Member States. The Commission could seek the opinion before the topic was taken up, and secondly, it could elicit the view points of States by means of circulating questionnaires to them, and finally, it could also seek opinions through comments on the draft articles that it adopts. The delegation urged the Member States of AALCO to respond to these requests, and also to participate in the Sixth Committee's consideration of the ILC report so that their views and positions could also make an impact on the outcomes of the ILC's work. While agreeing with the suggestion made by the Leader of Delegation of Malaysia that the Annual Session of AALCO should devote one full day for deliberating the agenda item on ILC, the delegation added that it would enable the delegates to have in-depth discussions on the items on the agenda of the ILC. Commenting on the work of the ILC at its Sixty-Third Session, the delegation pointed out that the first part of the session of ILC that took place from April to June 2011, focused on the second reading of the text of the draft articles on three issues namely, effect of armed conflicts on treaties, responsibility of international organizations and reservations to treaties. The delegation added that the second part of the ILC Session would focus on adopting commentaries on these draft articles. In that regard, the delegation urged the Member States of AALCO to send their comments to the Commission. As regards the UN Convention on Jurisdictional Immunities of States and Their Property of 2004, the delegation informed that India had already signed the Convention and was in the process of adopting a national law on the subject before finally ratifying the Convention. The delegation

- also urged other Member States of AALCO to ratify this Convention which was adopted after in-depth consideration in the ILC and in the Sixth Committee, and represented a fair balance between the different views on the subject.
- 6.13 The **Delegation of Japan** at the outset expressed his appreciation for the introductory statement made by the Secretary-General on the agenda item. The delegation remarked that in the past AALCO had made important contributions to the works of the ILC by providing valuable inputs and views of its Member States. While noting that the codification works undertaken by the ILC must be followed up by the UN General Assembly in order to give effect to the works of ILC, the delegation stated that Japan was planning to take up two subjects at the forthcoming session of the UN General Assembly. They were, the UN Convention on Jurisdictional Immunities of States and Their Property and the Draft Articles on the Law of Transboundary Aquifers. As regards the law of transboundary aquifers, the delegation highlighted that the ILC, in an effort to provide a legal framework for the proper management of groundwater resources, had formulated a set of 19 draft articles on the issue based on the texts drafted by Ambassador Chusei Yamada, the Special Rapporteur on the topic. The delegation reminded that the draft articles were received favorably by the UN General Assembly, and that it decided to examine the question of the form that might be given to them in its forthcoming session this year. In this regard, he suggested that the draft articles could either be adopted as an universal treaty at a diplomatic conference or as a Declaration of the UN General Assembly. As regards the topic “Reservation to Treaties”, the delegation noted that Japan had submitted its comments on the draft guidelines on the item to the Secretariat of AALCO and that Member States should study the draft guidelines carefully in the light of their respective practice and express their positions in the debate on the topic in the Sixth Committee of the UN General Assembly.
- 6.14 While expressing support for the proposal made by Prof. Shinya Murase, Member of ILC from Japan that the ILC study the “Protection of the Atmosphere” as a possible future topic, the delegation remarked that the proposal was made essential by the fact that there existed significant gaps in the applicable principles and rules of international law on this issue. In this regard, the delegation requested the Member States of AALCO to consider the proposal seriously and to agree to authorize this proposal as a new topic. While stressing the need for the Asian-African States to make a substantial contribution towards the work of ILC, the delegation suggested that AALCO Secretariat could make questionnaires on each topic that is dealt with by the Commission and, in this regard, made a request that the Member States of AALCO provide their answers to those questionnaires. The AALCO Secretariat, could, then, compile those answers and submit them to the Secretariat of ILC. Such exercise, in their view, would gradually but certainly affect the formation and substance of customary international law.

- 6.15 The **Delegation of Kuwait** stated that their delegation gave more importance to the topic relating to the Expulsion of Aliens. The delegation explained in detail the laws governing expulsion of aliens in Kuwait.
- 6.16 The **Delegation of the Kingdom of Saudi Arabia** remarked that the ILC has made substantive contributions to the codification and progressive development of international law over the years. As regards the topic “The Effects of Armed Conflict on Treaties”, he stated that the work of the Commission in this area was commendable. As regards the topic of Expulsion of Aliens, the delegation noted that it should be based on the application of draft articles and of the conventional international legal principles. Finally, the delegation appreciated the work of ILC on jurisdictional immunity.
- 7. New Proposal made by Japan: UN Convention on Jurisdictional Immunities of States and their Property**
- 7.1 The **Delegation of Japan** stated that the UN Convention on Jurisdictional Immunities of States and Their Property was adopted by the UN General Assembly in 2004. It took twenty-seven years since the drafting work was first started in the International Law Commission (ILC). The codification work by the ILC on jurisdictional immunity required thorough studies, taking 13 years. The ILC completed its drafting work and adopted the final text of the draft articles in 1991. Examination of the draft articles started in the Sixth Committee of the UN General Assembly in 1992 and the difficult negotiations took 14 years, and finally adopted in 2004 as a convention.
- 7.2 The delegation noted that the Government of Japan was concerned about the situation of state practice in regards to State Immunities. It was an established fact that a state enjoyed immunities from the jurisdiction of the courts of another state in principle, but the principle of jurisdictional immunities underwent gradual but fundamental changes from the so called ‘absolute rules’ to the ‘restrictive rules’. The modalities of such ‘restrictive rules’ varied considerably depending on the forum states.
- 7.3 In view of the fore going circumstances, the Government of Japan considered that it was very important to establish basic rules of the modalities of State Immunities at the international level. Ambassador Chusei Yamada, as the Representative of the Government of Japan, took an active role to accelerate the negotiations during the examination of the draft articles in the Sixth Committee. Traditionally, Japan placed importance on the codification of customary international law. Codification of customary international law was an important function of the UN. In order to remove such ambiguity and to establish common understanding of customary international law, the UN had undertaken codification so far on many subjects on the basis of the works done by the UN International Law Commission. In the case of State Immunity, customary international law had largely developed

- as customary law. Codification of such customary law would certainly contribute to stable and equitable relations among states.
- 7.4 The delegation informed that while the process in the Sixth Committee was going on, at the proposal of the Government of Japan the subject was taken up for discussion in the AALCO. During the thirty-ninth Session (Cairo Session) of the AALCO in 2000, the Government of Japan prepared a background paper explaining that it was of utmost importance for the AALCO members to make an active and positive contribution in the work of the General Assembly for codification of the subject. The subject was actively discussed during the Cairo Session. The delegation added that, AALCO had made important contributions to the works by the ILC by providing valuable views of its Member States. The delegation emphasized that the codification works by the ILC should be followed up by the UN General Assembly in order to give effect to the ILC's works. And for that, reason the States must take initiative. Thereafter, the delegation highlighted the salient features of the Convention and why it was important to ratify it at the earliest. The delegation informed that Japan signed the convention on January 11, 2007, enacted its implementing legislation in April 2009, and deposited its instrument of acceptance on May 11, 2010 with the UN Secretary-General. In Japan, the 'absolute rules' of State Immunities had been in force since 1928, but the 'restrictive rules' were in conformity with the current international standard. In order to achieve smooth transition to the restrictive rules, it was preferable for the Government of Japan to legislate its municipal laws to be consistent with the Convention.
- 7.5 The delegation stated that until now, eleven States, including some of the AALCO Member States such as Iran, Saudi Arabia and Lebanon, had members of the Convention. However, it would enter into force on the thirtieth day following the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession with the Secretary-General of the UN, and it could take at least several more years before the 30th ratification was to be deposited.
- 7.6 The **Delegation of Republic of Indonesia**, at the outset extended their appreciation to Japanese Delegation for proposing the agenda. The delegation pointed out that the Convention represents a fair and delicate balance between the concerns expressed by Member States. It also represents a common ground and consensus among States representing different legal system providing stability and predictability in corporate law, business practices and commercial transaction between States and private parties. They believed that the Convention would enhance the rule of law and legal certainty, particularly in dealings of States with natural or juridical persons, and would contribute to the codification and development of international law and harmonization of practice in that area. Further, the delegation believed that the Convention was of their interest. For any Diplomatic and Consular Mission which were having legal suits, would certainly create a conflict on applicable law as the Diplomatic and Consular Missions were considered having immunities and privileges, the Convention on Jurisdictional

Immunities of States and their Property would help to clarify the scope and nature of those immunities.

- 7.7 The **Delegation of the Republic of South Africa** pointed out that their country since 2001 had been involved in the deliberations on the UN Convention on Jurisdictional Immunities of States and Their Property. The delegation mentioned that in South Africa that important issue was dealt with by the Foreign States Immunities Act 87 of 1981(as amended in 1985 and 1988). The delegation was of the view that the UN Convention represented a workable solution for reflecting universal principles of State immunity in the various legal systems of the international community. The delegation therefore supported the statement made by Japan and recommended the increased ratification of the Convention.
- 7.8 The **Delegation of Kenya** welcomed the proposal to have a short discussion on the Convention at the Session due to its importance. The delegation mentioned that the Convention covered the immunity of foreign States and their property from the jurisdiction of the courts of a forum State and stipulates such cases as when States Parties could not apply jurisdictional immunities to its own State and property in other States' courts. The delegation supported the UN Convention on Jurisdictional Immunities of States and their Property and they were in the process of considering ratification of the Convention. Further, they urged other Member States of AALCO to consider ratifying the UN Convention on Jurisdictional Immunities and their Property.

8. Fourth General Meeting

Agenda Item: Law of the Sea

- 8.1 **Dr. Xu Jie, Deputy Secretary-General of AALCO**, introduced the Secretariat's Report on the agenda item. The DSG recalled that the agenda item was taken up for consideration at the initiative of the Government of Indonesia in 1970. He mentioned that the United Nations Convention on Law of the Sea, 1982 was fast moving towards universal participation and he hoped that all the Member States of AALCO would soon accede to the UNCLOS as well as its two implementing agreements. Further, he highlighted the increase in pirate attacks and armed robbery against ships at alarming rate had raised a serious threat to international commerce and maritime navigation. He called on the Member States to take adequate measures to curb the menace of piracy by enacting adequate national legislation to criminalize acts of piracy and armed robbery at sea. The DSG also highlighted the importance of protecting the marine environment as well as preserving marine species. In that regard, he invited Member States to consider formulation of necessary legal framework on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.
- 8.2 The **Delegation of Japan** informed that their country attached great importance to the role played by the International Tribunal for the Law of the Sea (ITLOS) on

- the peaceful settlement of maritime disputes and the maintenance of legal order relating to the sea. The delegation welcomed the expansion of activities of the ITLOS in the recent years. On the matters relating to the Commission on the Limits of the Continental Shelf (CLCS), the delegation observed that CLCS was confronted with the serious ‘workload issue’ caused by a large increase in the numbers of submissions which had been earnestly discussed by the State Parties of the UNCLOS. They also informed that at the 21st Meeting of State Parties to the UNCLOS held in New York, their Government had announced to contribute US dollars 211,000 to the Trust Fund for the purpose of defraying the costs of participation of the members of the Commission from developing States in the meetings of the Commission. They hoped that would facilitate the more number of participation of developing countries in the CLCS meetings in the future.
- 8.3 The **Delegation of Republic of Indonesia** stated that they attach great importance on the role of the Organization in the development of the law of the sea in particular to the implementation and application of the 1982 UNCLOS. The delegation mentioned that the year 2012 would mark the 30th Anniversary of the Convention. The delegation also noted with appreciation and welcomed the Kingdom of Thailand for joining as a Member to the UNCLOS recently in the month of May. They wished to invite all other Member States of AALCO to ratify or accede the Convention soon. The delegation also informed that their country hosted the 35th Annual Conference on the Law of the Sea and Ocean Policy in Bali. The said Conference was attended by 115 participants from 14 countries aimed at sharing their experiences *inter alia*, in maritime border diplomacy. They expressed great concern on the issues relating to pirate attacks and armed robbery in the waters off the coast of Somalia.
- 8.4 The **Delegation of the People’s Republic of China** expressed appreciation to the Secretariat for its comprehensive report on the Law of the Sea item. The delegation pointed out that in view of the 30th Anniversary on the adoption of UNCLOS, the Organization should deliberate upon that agenda item at its next Annual Session. He also elaborated upon three key issues, namely, i) issues relating to sustainable development of oceans, ii) safety and navigation of shipping, and iii) conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. While discussing the issues relating to safety and navigation of shipping, the delegation stressed that piracy remains a major threat to safety of navigation. The issue of piracy was more severe especially in Asia and Africa. To solve the root causes of piracy, they would be willing to work with all countries in facilitating the peace process of relevant countries, and promoting their political stability, economic development and social order.
- 8.5 The **Delegation of Thailand** thanked the Secretariat for preparing the document on the agenda item. The delegation informed that he himself represented Group of 77 (G 77) at the 12th Meeting of the UN Open-Ended Informal Consultative Process on Oceans and Law of the Sea (ICP 12), as a panellist held at the UN Headquarters in New York which was focused on ocean related matters which

- would be due to the Rio+20 Meeting in 2012. The delegation mentioned that at the ICP 12, many AALCO Member States actively participated in the deliberations of ICP 12. The delegation further recommended that the AALCO Member States to consider the outcome document of ICP 12 prepared by two co-chairs from Mauritius and New Zealand, and comment on it under the agenda “the Law of the Sea” at the forthcoming UN General Assembly session, in order to enhance their collective maritime security interests at the Rio+20 Summit in June 2012.
- 8.6 The **Delegation of Malaysia** stated that UNCLOS was well recognized as the “constitution of the oceans” and “cornerstone of the maritime order”. The breadth of the Convention’s provisions embrace issues such as the safety of navigation as well as the protection and preservation of the marine environment. Nevertheless, the Convention could not resolve jurisdictional issues arising from unresolved maritime boundaries, the delegation remarked. On the issue related to piracy, the delegation mentioned that although it was an age-old phenomenon, its latest incarnation off the coast of Somalia poses grave cause of concern. The delegation welcomed the concerted and consolidated response plans initiated by UN through Chapter VII of the Charter of the United Nations. In order to counter the menace of piracy, they were in the process of reinforcing its anti-piracy legislative framework with reference to the UNCLOS, the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) and SUA Protocol. In that regard, the delegation stated that AALCO should come forward to provide necessary technical assistance to its Member States to deal with the need to enact specialized and comprehensive laws on piracy and other maritime security offences. Further, AALCO should explore the possibility of bringing out a comprehensive study and a legislative drafting workshop on anti-piracy legislation in order to assist the Member States on the subject matter.
- 8.7 Further, the delegation of Malaysia proposed that the issue of piracy be placed on AALCO’s agenda for further deliberation at a special session at its Fifty-First Session of AALCO and the Special Session could focus on the cooperative legal measures and actions that could be undertaken by AALCO Member States for the purpose of preventing and combating piracy. The delegation also pointed out issues relating to the capacity building in the areas of ocean affairs and the law of the sea and preservation of marine environment and overexploiting of marine resources.
- 8.8 The **Delegation of the United Republic of Tanzania** mentioned that their country signed and ratified the UNCLOS in 1985 and they consider that it was an instrument which was put in place for a more coherent management of the sea. The delegation stressed on the importance of maintaining international peace and security, sustainable use of ocean resources and the navigation and protection of marine environment. The delegation raised concern on the issue of piracy which posed a big problem to trade and security. In order to check the menace of piracy,

their Government amended its penal legislation in order to ensure that there were adequate and comprehensive legal mechanisms for combating crimes related to piracy.

- 8.9 The **Delegation of the Republic of Kenya** at the outset welcomed Thailand as the 162nd Member State of the UNCLOS. As regards the workload of the CLCS was concerned, the delegation supported to have a full time Commission working in New York for a given initial duration until such time when the workload reduces. The delegation noted with grave concern on the issue of piracy and armed robbery against ships at sea off the coast of Somalia. Acts of piracy had adversely affected the fishing, tourism and shipping industries in East Africa. In that regard, they welcomed efforts made by the international community to combat piracy, including the establishment of a Contact Group on Piracy off the Coast of Somalia which had some deterrent effect on Piracy and armed robbery in the region. The delegation also welcomed the recent interim guidance by the International Maritime Organization (IMO), on the employment of private contract armed security personnel on board ships transiting the high risk piracy area off the coast of Somalia and in the Gulf of Aden and the wider Indian Ocean was approved by IMO's Maritime Safety Committee in May 2011.
- 8.10 The **Delegation of the Islamic Republic of Iran** while reiterating the high importance it attached to the agenda item, expressed its deep appreciation to the UN General Assembly for its useful consideration about the issues relating to the law of the sea and sustainable fisheries, including the 1995 Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and called upon all the Member States to bolster their support for the United Nations framework established by the 1982 United Nations Convention on the Law of the Sea. The delegation stated that it was now acceptable that maritime piracy and armed robbery against ships at sea now in threshold of 21st century which renewed its life despite of its reduction in the through previous centuries. The delegation urged the Member States to criminalize acts of piracy and prosecute pirates. The delegation also emphasized that AALCO Member States should take lead in formulating a legal framework in order to conserve as well as sustainable use of marine biodiversity in areas beyond national jurisdiction.
- 8.11 The **Delegation of India** stated that the topic of the Law of the Sea was of great importance to India and the delegation recalled the significant contributions made by AALCO to that agenda item. The delegation also welcomed Thailand as a new Member to the UNCLOS. On the issues relating to piracy, the delegation stated that Indian crew and seafarers were victims of piracy and in order to combat piracy, the Indian Navy was cooperating with other countries in the region. The delegation also mentioned that their country was in the process of updating its law on piracy, and it would soon come up with new legislative measures. The delegation was of the view that as the fishery resources were depleting at the increasing rate and stressed on the need to utilize the fishery resources at a sustainable basis. In that regard, the delegation was of the view that coastal States must be given power to enforce the regulation of fishery resources not only in the

- territorial sea but also there was a need to have higher role in enforcing the conservation measures of fishery resources in high seas adjoining the Exclusive Economic Zone.
- 8.12 The **Delegation of the Arab Republic of Egypt** expressed its concern on growing piracy and its threats to safe international navigation. The delegation highlighted that due to increased rate of piracy activities, the cost of navigation and insurance had increased and caused great challenge to international community. Then, the delegation condemned the Israeli action in the international waters against the humanitarian fleet carrying food and medicines for the besieged Gaza strip and stated that UN and other Organizations should evolve necessary punitive actions. The delegation was of the view that it constituted clear violation of safety navigation and international law. The delegation observed that stern laws were required to suppress piracy and terrorism at Sea. In connection to it, the delegation recommended that AALCO should take up piracy as a priority item and incorporate the topic in the next Annual Session of AALCO and invited the Member States serious consideration on the issues related to piracy.
- 8.13 The **Delegation of Pakistan** highlighted its role in combating piracy and explained the recent actions taken against piracy thus saving people of different nationalities.

9. Fifth General Meeting

Agenda Item: 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

- 9.1 **Dr. Hassan Soleimani, Deputy Secretary-General of AALCO** introduced the agenda item and Excellencies, said that the Blockade of Gaza, a very critical aspect of the Israeli/Palestinian conflict, was put in place by Israel in June 2007. On 15 June 2011 the Gaza Strip has entered the fifth year of a full blockade by land, air and sea. Since the blockade started, it had left more than 1.5 million Palestinian men, women and children trapped in the Gaza strip. The closure of all its borders, had in fact taken away from the Palestinian civilians their “right to seek refuge in other territories”, a situation that had the potential of acquiring yet another violation of human rights of Palestinian people. He added that the blockade of Gaza was a form of “collective punishment”, and Israel’s continuing blockade of Gaza represented a flagrant violation of international law. The massive military operation in the occupied Gaza Strip had caused grave violations of international humanitarian law and the human rights of the Palestinian civilians therein. The illegal Israeli siege imposed on the occupied Gaza Strip, including

the closure of border crossings and the cutting of supply of food, medicine and fuel, constituted collective punishment of Palestinian people and had lead to terrible humanitarian and environmental consequences. Recently the UN Relief and Works Agency for Palestine Refugees (UNRWA) had estimated an unemployment rate of 45.2 percent, one of the highest rates in the world.

- 9.2 Thereafter, he that the Israeli settlement of Jewish population in OPT was in clear violation of article 49 of the Fourth Geneva Convention. These acts were intended to change the physical character and demographic changes in the OPT. The delegation added that equally disturbing were the recent developments in East Jerusalem, including the increase in the number of demolitions. The DSG recalled that in July 2004, the International Court of Justice (ICJ) had issued its landmark Advisory Opinion confirming the illegality of building the wall in the West Bank and the illegality of building settlements in the Occupied Territory, and deplored that the historic ruling ICJ remained a dead letter and the Israeli Government had continued the construction of the wall and building settlements in defiance of the Advisory Opinion and in violation of the Fourth Geneva Convention and the General Assembly resolutions. The DSG mentioned that in September 2011 the Question of the Statehood of Palestine (UN Resolution 377, “Uniting for Peace”) would be discussed at the Sixty-Sixth Session of the United Nations General Assembly. Thereafter he noted that deliberations at the previous Annual Sessions of AALCO reaffirmed that the resolution of the Israeli-Palestinian conflict through negotiations should be firmly placed on the principles of international law. It was also very important to take into account the widely supported United Nations Security Council and UN General Assembly resolutions 242, 338 and 1515 which affirm the legal obligation of Israel to withdraw from Palestinian territories obtained in 1967.
- 9.3 The Delegations of **Palestine, Japan, Pakistan, Democratic People’s Republic of Korea, Islamic Republic of Iran, Arab Republic of Egypt, Bangladesh, Republic of Indonesia, State of Qatar, and Malaysia** presented their statements on the topic.
- 9.4 The **Delegation of Palestine** made a power point presentation wherein the delegation traced the history of the Israeli-Palestine conflict since the 1967 war and the subsequent developments that had adversely affected Palestine in all aspects. The delegation decried the continuing colonial settlement put in place by Israel in violation of the principles of international law, humanitarian law and the human rights law. The delegation emphasized that they had come to participate at the Fiftieth Annual Session of AALCO with a collective dream of a whole nation which was sick and tired of the ongoing conflict for more than six decades and unfortunately the agony continued. The delegation said that the international community through the United Nation’s General Assembly in 1947 decided to partition Palestine into two States. The Jewish State had been in existence sine 1948 and the time had come that the Palestinian people got their independent State. Deportation of Palestinians, the delegation said, had started even before the

- creation of Israel with the objective of displacing the Palestinians with Jewish settlers and since then the Palestinian people has been subjected to a systematic campaign of displacement either at the hand of Israel or indirectly as a result of the difficult situation that existed. Therefore the time had come to address the issue of the displaced Palestinians. In conclusion the delegation hoped that when the matter was taken up at the forthcoming Sixty-Sixth Session of the UN General Assembly, their aspirations would be met. In that regard, the delegation sought the support of Member States of AALCO.
- 9.5 The **Delegation of Japan** shared the concerns expressed by many delegations about the conditions in the occupied territories, particularly in the Gaza Strip. The delegation recognized new measures announced by Israel regarding the admission of entry into Gaza of civilian goods, but would keep an eye on their full and prompt implementation so that it would lead to actual improvement in the social and living conditions of the Palestinian people. The delegation was glad to inform that six humanitarian assistance projects in Gaza, undertaken by Japan which had been suspended by Israel were recently admitted to restart.
- 9.6 With regard to the Israeli settlement activities in the West bank, including East Jerusalem, Japan had repeatedly called Israel to completely freeze those activities. Having said that, the delegation added that Japan firmly supported a two-state solution whereby Israel and a future independent Palestinian State live side-by-side in peace and security, which would most probably be achieved based on 1967 lines, with mutually agreed swaps. At the same time, the delegation was convinced that the best and only way to achieve that goal was through direct negotiation, based on the relevant UN Security Council Resolutions, the Madrid Principles, the Road Map, the agreements previously reached by the parties and the Arab Peace Initiative. The delegation requested AALCO members to help create an environment conducive to such direct negotiations between the Palestinians and the Israelis.
- 9.7 The **Delegation of Pakistan** stated that presently the situation in the occupied Palestinian territories was experiencing substantial developments. The ceasefire was a positive development which had created an atmosphere of relief, and hoped that the situation in the Palestinian territories would improve to the satisfaction of the Palestinian people. On the other hand the hope that the Annapolis process had given seemed to be fading due to the continued illegal settlements being pursued by Israel, in total disregard of the relevant UN resolutions, international law and norms were aimed at changing the demographic structure of the areas and were detrimental to the interests of the Palestinian population. However, on the economic front the Donors Conference in Paris and the Investment Conference were encouraging.
- 9.8 The delegation added, that Pakistan denounced the illegal practices of settlements and desecration of the Al-Aqsa, which has immense spiritual importance for the Muslims throughout the world. Such and other Israeli actions aimed at changing

- the demographic composition and character of Al-Quds Al-Sharif, were against the provisions of international law, UN Resolutions as well as the voice of the international community and would seriously jeopardize the peace process. Pakistan supported the international efforts of the international community on ending such Israeli violations and called on Israel to respect international humanitarian law and stop the illegitimate activities, lift the seizure on Gaza and take all measures for preservation of the Holy places. Finally, the delegation supported the resolution of the Palestinian issue in accordance with the relevant United Nations Security Council and UN General Assembly resolutions, with Al Quds Al Sharif as its capital.
- 9.9 The **Delegation of the Democratic People's Republic of Korea** said that despite the number of UN Security Council and General Assembly resolutions adopted to end the violation of international law by Israel in the occupied Palestinian Territories on the well established principles of international law yet there was no solution in sight to the plight of the people of Palestine. The delegation appreciated the fact that AALCO had since a long time deliberated on the important issue and represented the positions of its Member States in other international fora like the United Nations. The delegation reaffirmed their country's support and solidarity to the struggle of the Palestinian people for the restoration of their legitimate right including the right of self-determination; right to return to the State, the right to establish an independent State and the struggle of Arabian people to achieve lasting peace in the Middle East.
- 9.10 The **Delegation of the Islamic Republic of Iran** appreciated the document prepared by the AALCO Secretariat on the topic. The delegation condemned the Israeli Authorities for breaching the International human rights and humanitarian law by preventing the humanitarian aids from the people of Gaza strip. The delegation added that the experts in the Human Rights Council had confirmed that Israeli political and military officials had committed international crimes, in particular war crimes and crimes against humanity and the crime of genocide. The result of investigations done by some regional and international organizations lead to the fact that Israeli officials and soldiers were responsible for committing those crimes in Gaza. These facts the delegation added were in full public knowledge and in that regard posed a question, what was the "shared responsibility" to react against those heinous crimes and what role the organization could play in that respect.
- 9.11 The delegation added that the Government of Iran on many occasions and in different forums had announced that the Israeli criminals should be brought to justice for their actions or omissions. The delegation believed that currently the international community was confronted with a situation, in which all the governments as well as the international community could demonstrate that "all are equal before the law" and to show its veracity and impartiality to confront the international crimes. Finally, the delegation said that Islamic Republic of Iran believed that the world community should in a united manner take urgent

- measures to stop future criminal attacks which bore all the trademarks of collective punishment, crimes against humanity and war crimes. In addition the international community must urge the occupying power to fulfil its obligations and pay due attention to the conclusions of the ICJ Advisory Opinion presented in the case concerning the “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory”.
- 9.12 The **Delegation of the Arab Republic of Egypt** said that the Israeli actions in the occupied Palestinian territories were in flagrant violation of all established principles of international law and were a grave threat to the peace and security of the Middle East and the world in general. Therefore it was vital that the international community cooperated to bring that dangerous situation to an end. For that it was necessary that Israel remove all the illegal settlements from the Palestinian Occupied Territories and remove the separation wall, which were the cause of major hardships to the people of Palestine. The delegation said that the new Government in the Arab republic of Egypt was doing its best to ease the situation in the Middle East. The delegation said that the Egyptian position had been made in many previous sessions of the Organization, and maintained that Israel should end its occupation of Palestinian territories and restore the 1967 borders, and arrive at a solution based on the principles of peace and justice.
- 9.13 The **Delegation of Bangladesh** appreciated the report prepared by the AALCO Secretariat on the topic and agreed with the draft resolution annexed therewith and accordingly called upon AALCO member countries to take necessary measures to implement the items contained in it. The delegation through their General Statement had stated that Bangladesh position had been categorical and consistent in extending full support to the Palestinian people including their right to have an independent State of their own with Jerusalem as its capital based on the various principles of international law, the four Geneva Conventions and the implementation of the relevant United Nations Security Council resolutions particularly 338, 425 and 242 and General Assembly resolutions on the formula for peace calling upon Israel to withdraw from all occupied Palestinian territories and also relevant resolutions on the return of Palestinian refugees to their own land . Bangladesh also extended full support to any development aimed at resolving the Arab-Israeli dispute calling for a lasting and durable peace. The following important issues were flagged which had to be taken into account by the international community: (i) inalienable rights of the Palestinian’s return to their homeland; (ii) taking into account the pre-existing border before the 1967 Arab-Israeli war; (iii) recognizing the rights of the Palestinian people to have Jerusalem (Al Quds Al Sharif) as its capital and (iv) Israeli settlements in all the occupied Palestinian territory must be stopped.
- 9.14 The **Delegation of the Republic of Indonesia** said that the Israeli-Palestinian conflict had been a fundamental and lasting dispute between Israel and the Arab countries due to which a long suffering had been caused to the innocent civilian people. Many efforts to reach peace had been made but they had been halted by

- Israel's accelerated establishment of illegal settlement and wall construction in West Bank including East Jerusalem. The delegation felt that that atrocity undermined all efforts to restart peace talks between Palestine and Israel, jeopardizes the vision of the two-state solution and further complicates the conflict in the region. The delegation stressed the urgency of undertaking efforts to help advance a fair and credible peace process based on the relevant UN resolutions, including the UNSC resolutions 242, 338, 425, 1397, 1515 and 1850, the Madrid terms of reference, including the principle of land for peace, the Arab Peace Initiative and the Quartet Roadmap, bearing in mind the objective of achieving a peace settlement by September 2011.
- 9.15 Indonesia believed that illegal Israeli actions in the Palestinian Occupied Territories could neither help the cause of peace, nor could Israel reasonably expect them to be allowed to stand unchallenged. The delegation added that it was time to halt the illegal policies that breed hatred, violence and tension. The delegation reiterated their governments support to the Palestinians legitimate struggle to establish their own state based upon the vision of two states living side by side in peace and harmony. Lastly, in line with the result of the 16th Ministerial Conference and Commemorative Meeting of the Non-Aligned Movement held in Bali, Indonesia on 23-27 May 2011, the delegation urged the Members of AALCO that had not yet extended recognition to the State of Palestine to do so and hoped that AALCO members would remain at the forefront of support for the historic march of the Palestinian people to freedom and peace.
- 9.16 The **Delegation of the State of Qatar** said that the establishment of Israel was illegal and its atrocities against the unarmed people of Palestine were in flagrant violation of principles of international law. The delegation said that it was difficult to imagine the suffering of the people of Gaza who were denied access to all humanitarian and medical aid, and whatever aid was forthcoming it was blocked by Israel, therefore the delegation requested the members of AALCO to continue to give legal support to the people of Palestine.
- 9.17 The **Delegation of Malaysia** stated that Israel's occupation of Palestine had been an issue of concern at the international fora for a very long time. The delegation maintained that these atrocities in Palestine had been going on for a long time and these acts of violence were against the Security Council Resolution 446 (1979) which called upon Israel as the occupying power to abide by the Fourth Geneva Convention of 1949. These acts had been condemned by the world community being inhuman and amounting to grave breaches of international law particularly human rights law and international humanitarian law. The denial of rights to the Palestinian people had worsened due to the continuous illegal settlements. The delegation also condemned the blockade of Gaza which severely hindered the progress towards reconstruction in the Gaza strip and hamper the movement of people. The delegation said that even though Israel had lifted the blockade the attack by Israel on MV Mavi Marmara, a humanitarian convoy went against principles of international law. Lastly, the delegation urged the international

community to compel Israel to end its inhuman and illegal practices immediately; including the building of settlements in the occupied territories and the time had come for the international community to turn the words to tangible action by bringing to halt Israel's violation of Palestinian rights. The delegation added that violence had undermined the foundation of the peace process between Palestine and Israel and the solution to that must be based upon compromise between both Parties and not on conflict and violence.

10. Agenda Item: Expressions of Folklore and Its International Protection

- 10.1 **Dr. Hassan Soleimani, Deputy Secretary-General of AALCO** introduced the Secretariat's Report on the agenda item. The DSG recalled that the topic had been on agenda of the Organization since its Forty-Third Annual Session held at Bali, Indonesia in 2004. The DSG mentioned that Expressions of Folklore were considered to be an important aspect for developing countries in terms of identifying their community's history, cultural and social values. The matters relating to Expressions of Folklore were extremely important for the Asian-African countries, as they own vast cultural and biological resources. Therefore, it was important to negotiate a legally binding instrument to prevent the misuse and misappropriation of folklore at the international level. Further, he pointed out that the World Intellectual Property Organization's Inter-governmental Committee on Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions (WIPO-IGC) had convened eighteen sessions till then. As an update, he informed that the matters relating to Expressions of Folklore were considered at the Inter-sessional Working Group I (IWG 1) to discuss the possible text for an international legal instrument on the protection of Expressions of Folklore. In that regard, the DSG called on Member States to fully involve themselves in the process of adopting international legal instrument in a fair and effective manner for the benefit of the AALCO Member States. Further, he invited Member States to consider a joint seminar or expert meeting in cooperation with AALCO on the agenda in order to formulate such legal instrument on Expressions of Folklore.
- 10.2 The **Delegation of Democratic Socialist Republic of Sri Lanka** stated that they attached great importance to the agenda item. The delegation mentioned that it was of paramount importance to provide protection against misappropriation and unauthorized commercial exploitation. In order to protect the rights of relevant sectors, the delegation endeavoured to consider following: i) To create a Committee constituting experts in the relevant field; ii) identify tangible and intangible forms of folklore and compilation of a database; iii) formulate a scheme for benefit sharing in a fair and equitable basis; iv) consider the creation of a system to prevent unauthorized misuse and misappropriation of folklore; and v) suggest an effective method for implementation as well as to recognize the source of Folklore.

- 10.3 The **Delegation of the Republic of Indonesia** made few remarks on the issues related to the Genetic Resources, Traditional Knowledge and Folklore (GRTKF). The delegation noted that AALCO meeting had shown serious concern about the progress achieved in the WIPO IGC meetings. They attached great importance to the progress achieved in many areas of intellectual property which had developed considerably, but not the issues relating to GRTKF where the developing countries had interest at large. Further, the delegation informed that they were hosting 2nd Like Minded countries Meeting from 27th June to 30th June 2011 in Bali, Indonesia. It was a complementary discussion forum for some Member States that were like-minded on GRTKF issues and with the purpose of facilitating the work of the Committee in establishing international legal instruments on the protection of GRTKF.
- 10.4 The **Delegation of Japan** shared the importance of protection of traditional cultural expressions/folklore. The delegation welcomed the intensive discussions on the technical aspects which were conducted at the WIPO-IGC and its inter-sessional IWG meetings. They were concerned that even after the intensive discussions, there were no agreed views on what should constitute the traditional cultural expressions/folklore. It would cause a legal instability and therefore would not be desirable to impose a legal obligation upon an object which they were unable to define precisely, therefore, it would be detrimental to creative activity to foster culture.
- 10.5 The **Delegation of Democratic People's Republic of Korea** at the outset supported the agenda item which was included in the deliberations of Annual Session of the Organization. They appreciated AALCO's work and thereby represent the stand and interests of the Member States in establishing an international legal regime for the protection of folklore. To protect the culture in their country, they formulated policies to inherit and develop the national cultural heritage and were making strenuous efforts to develop and complete the domestic legislation to that end.
- 10.6 The **Delegation of Malaysia** appreciated the comprehensive report on the agenda item by the AALCO Secretariat. The delegation welcomed the work done by the experts participating in the IGC Inter-sessional Working Group as their participation had effectively support and facilitate the negotiation of the IGC. In order to further understand the work of IWG and IGC, the delegation proposed the AALCO Secretariat to organize seminars or expert meetings on Expressions of Folklore to facilitate the exchange of views by Member States on issues relevant to the protection of Expressions of Folklore. They also reiterated their commitment to support all efforts to deal with the misuse, misappropriation and commercial exploitation of expressions of folklore.
- 10.7 The **Delegation of Nepal** expressed their sincere appreciation to the Secretariat Staff for the comprehensive report prepared on the agenda item. Their country had many types of folklore, traditional knowledge and belief systems. Therefore,

- they attached great importance to the protection of folklore and traditional knowledge. He mentioned that the recently adopted National Cultural Policy, 2011 of Nepal had emphasized the protection of traditional cultural expressions of various ethnic communities living in the country. They also formed a Committee to recommend necessary changes in the copyright legislation in order to accommodate all the pertinent issues including the protection of traditional cultural expressions within the ambit of copyright law.
- 10.8 The **Delegation of the Islamic Republic of Iran** stated that in the absence of the internationally binding rules for effective protection of traditional knowledge, expressions of folklore and genetic resources, bio-piracy and misappropriation of the GRTKF for commercial benefit had become a prevailing phenomenon all over the world and particularly in developing countries. The delegation stressed the need for the protection of ancient civilizations heritage, as a foundation and base for traditional knowledge and cultural heritage, through developing legally binding instruments. Further, the delegation said that the working documents relating to traditional knowledge and traditional cultural expressions were a few giant steps compared to that of the genetic resources, so one should not lose sight because of that. In that regard, the delegation pointed out that the negotiations pertaining to the UN Convention on Biological Diversity, to establish an International Protocol on Access and Benefit Sharing could assist and complement the efforts in WIPO for ensuring the effective protection of genetic resources.
11. **Half-Day Special Meeting on “Trafficking in Women/Children, Migrant Workers and Protection of Children” Jointly Organized By Government of Sri Lanka, AALCO, International Organization for Migration (IOM) and United Nations Children’s Fund (UNICEF)**
- 11.1. A Half-Day Special Meeting on the Trafficking in Women/Children, Migrant Workers and Protection of Children” in conjunction with the Fiftieth Annual session of AALCO was jointly organized by the Government of Sri Lanka, AALCO, IOM and the UNICEF. The meeting deliberated upon a wide range of issues pertaining to trafficking, its nexus with migration, effects of trafficking on women and children and child trafficking in Asia and others.
- 11.2. **Prof. Dr. Rahmat Mohamad, Secretary-General** in his introductory statement stated that over the decades, smuggling of migrants and trafficking in human beings, especially women and children, remained a perennial challenge faced by the international community. Organized criminal activities like trafficking in persons and migrant workers, has affected every region of the world, and was recognized internationally as a major law enforcement, human security, and human rights issue. Smuggled migrants were vulnerable to life-threatening risks and exploitation; and unfortunately those exploitations were considered as modern form of slavery. Trafficking in human beings, particularly in women and children, constituted a crime, and massively violated the human rights of the

- trafficked persons. Yet, millions of people around the world continued to be subjected to trafficking, forced labour and other contemporary forms of slavery, despite the fact that such abuses were prohibited by a considerable number of international legal instruments.
- 11.3. The Secretary-General opined that in the fight against trafficking the key challenges for countries around the world were to craft and implement sounder and more effective responses that produced meaningful results. A more sophisticated understanding of human trafficking was needed to improve the operational effectiveness of appropriate anti-trafficking laws, policies and practices. The complexity of the trafficking-migration nexus demanded special attention to each and every aspects of that scourge so as to create appropriate legal and policy responses that address various aspects of trafficking which included: Prevention, Protection and Prosecution.
- 11.4. The President then invited the Panellists to make their presentations on their respective topics. While delivering her key note address on “The Legal Framework on Human Trafficking”, **Hon’ble Justice Shiranee Tilakawardane, Judge of the Supreme Court of Sri Lanka** remarked that the overwhelming majority of those trafficked are women and children and that, it has become a highly attractive business for criminal groups all over the world. While trying to identify the gaps contained in the international legal instruments on trafficking, she pointed out that the Palermo Protocol of the UNTOC Convention had a number of structural weaknesses in that, they failed to deal with poverty, unemployment, gender discrimination through cultural and religious factors and the denial of access to education. Addressing all these factors, she added, would go a long way in making a significant dent on the trafficking of women and children. As regards the definition of trafficking contained in domestic laws around the world, she pointed out that Sri Lanka, when compared to many other countries, had one of the best laws in the region on the issue of trafficking. It has a broad comprehensive (inclusive) definition of the term ‘trafficking’ encompassing a lot of situations.
- 11.5. **Mr. Richard Danziger, Chief of Mission, IOM, Sri Lanka**, made a presentation on “Combating Human Trafficking, the Exploitation and Abuse of Migrants: A Systemic Approach”. The Panellist stated that a systemic approach incorporating the whole panoply of illicit trade was warranted, and not just because of the varieties of trade but, even more importantly, because of its inter-linkages with major global risks such as corruption (both a driver and consequence of illicit trade), terrorism (which was partly fuelled by profits from illicit trade), fragile states (massive illicit trade often being their cause and nearly always an important consequence) or economic disparities (which contribute to and are exacerbated by illicit trade.) On those lines, a systemic approach to address the problem also required the engagement of all concerned parties, namely private sector, governments and civil society, all of which had a stake in the elimination of that phenomenon that harms business, society and state sovereignty. These

- stakeholders had key roles to play whether in developing and enforcing regulatory frameworks, monitoring supply chains and eliminating illicit trade components, or raising social awareness. Guarding against the commodification of migration and the consequent risk of underestimating the motivations, experiences and rights of individual migrants, were essential tools for building a safer global migration framework wherein migration should be viewed as a form of exchange much like international trade. The panellist said that global trade regime which was both free and fair required a strong regulatory framework that would leave little space for the operators of the shadow economy to engage in illicit trade.
- 11.6. **Mr. Ron Pouwels, Regional Advisor-Child Protection, UNICEF Regional Office for South Asia**, while giving a brief account of the work of UNICEF in the area of child trafficking remarked that targeted anti-trafficking efforts have been undertaken in a number of Asian Countries that include: Bangladesh, Cambodia, People's Republic of China, India Indonesia, Lao PDR, Malaysia, Mongolia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam. That included, he noted, the advocacy and the provision of technical support to various Governments to help them meet obligations arising from the Palermo Protocol and the UN Convention on the Rights of the Child.
- 11.7. In the ensuing deliberations the delegations from **Thailand, United Republic of Tanzania, People's Republic of China, Ghana, Uganda, Arab Republic of Egypt, United Arab Emirates, State of Kuwait, Japan, Sultanate of Oman, Republic of Indonesia, India, Kenya, Bahrain, Bangladesh, Myanmar, Malaysia, Republic of Korea, Democratic People's Republic of Korea, Nepal, Nigeria, Kingdom of Saudi Arabia, Republic of Iraq** and **State of Qatar** made their statements.
- 11.8. The **Delegation of Thailand**, while noting that their Country had long been active in combating human trafficking and smuggling of migrant workers, pointed out that on 11 May 2011, the Thai government had announced that the fight against human trafficking was a national priority and accordingly, launched the National Action Plan for the year 2011 to 2015 to tackle the issue. Dwelling on that Action Plan, the delegation stated that the plan which emphasized anti-human trafficking and migration regime covered four inter-related elements "4Ps" that included; Policy measures, Preventive measures, Protection measures and Prosecution measures.
- 11.9. Commenting on the government agencies operating on that issue in their country, the delegation remarked that the Centre Against International Human Trafficking (CAHT) operating under the Office of the Attorney General has been functioning since May 2007 and that the Ministry of Labour has set up a hot line number 1546 to receive reports on abuse of labour by employers. Likewise, the Bureau of Anti-Human Trafficking and the Department of Immigration under the Royal Thai Police were responsible for the suppression of human trafficking and smuggling of labour. The delegation also added that at the moment the Ministry of Justice

- was in the process of amending the Special Case Investigation Act of 2004 to include human trafficking as an offence under the Department of Special Investigation's jurisdiction and that these agencies collaborate under the umbrella of the Nation Action Plan.
- 11.10 While pointing out the need to reform the judicial system in prosecuting the offenders of human trafficking, the delegation stated that several laws have been enacted to serve as effective tools for law-enforcement officers that included; the Anti-Prostitution Act, the Child Protection Act, the Immigration Act, and the Prevention and Suppression of Trafficking in Women and Children Act. The delegation added that on 5 May 2008 the Prevention and Suppression of Human trafficking Act of 2008 came into effect and accordingly May 5 has been designated as Thailand's National Anti-Human Trafficking Day.
- 11.11 The **Delegation of the United Republic of Tanzania** stated that trafficking in persons was one of the global challenges in the 21st century. Their country also faced that challenge and increasingly both women and children were trafficked within the country for forced labour on farms, mines and the informal business sectors. Women and children migrate from rural areas to urban centres for domestic works, commercial sex and hawking.
- 11.12 In order to deal with that scourge, the Government has enacted the Anti-Trafficking in Persons Act in 2008, which prohibits all forms of human trafficking, including but not limited to, transporting or receiving any person for the purpose of slavery, sexual exploitation, forced labour, pornography and debt bondage. Also any person convicted of an offence under the Law was liable to a maximum sentence of twenty years of imprisonment.
- 11.13 The delegation reiterated that the main challenge in the fight against human trafficking was the ignorance on the part of the victims of trafficking and the communities from where women and children were drawn. To address such challenges, public awareness was necessary to enable women and children to understand and appreciate the problem and its negative impact to countries. At the international level, a response to preventing and combating trafficking in women and children, communities were facing challenges not only because of the extent and nature of the problem, but rather the difference on the capacities across countries and regions to address the challenge. For that reason, strengthening capacity at the national level remained necessary so that AALCO Member States could develop institutional and technical capacity to develop, implement and assess their own anti-human trafficking policies and strategies. It was also mentioned that AALCO Member States, could agree to start by strengthening their capacity to analyse and develop national policies and strategies for the implementation of the United Nations Trafficking Protocol, in support by national inter-agency coordination mechanisms in consultation with the civil society.

- 11.14 It was also suggested that Member States of AALCO could be able to develop and carry out *inter alia*, information and awareness-raising programmes for policy makers and criminal justice practitioners, border and immigration authorities, labour inspectors, workers and employers organization, health and social workers, in order to effectively prevent and combat trafficking in women and children globally. The delegation stated that understanding the increasing challenges facing the Member States while fighting against trafficking in women and children, their country encouraged the identification of more areas in which cooperation was needed from AALCO Member States for better success.
- 11.15 The **Delegation of People's Republic of China**, at the outset noted that trafficking in persons amounted to a brutal violation of human rights and led to the impairment of the physical and psychological well-being of women and children. While detailing with the anti-trafficking efforts of their government, the delegation remarked that the Chinese government had always attached great importance to suppression of trafficking in persons and protecting the rights and interests of women and children and made significant progress in that respect. Explaining it further the delegation pointed out that at the policy level, the State Council of China had promulgated China National Plan of Action on Combating Trafficking in Women and Children (2008-2012) in the year 2007. At the level of legislation, the delegation pointed out that China had acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime (TOC) in 2010 and actively fulfilled its responsibility in accordance with it and the above mentioned Protocol. To comply with the definition of human trafficking as contained in Article 3 (a), China had twice amended criminal law. At the Judicial and law-enforcement level, the delegation informed that China's Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security and Ministry of Justice had jointly issued Opinions concerning Punishment of Trafficking of Women and Children.
- 11.16 Stressing the importance of forging cooperation in the fight against human trafficking the delegation stated that Chinese government has signed 110 treaties on legal assistance and extradition with more than 50 countries and on that basis their government had carried out cooperation with other countries on a number of specific cases. The delegation also went on to add that political and legal differences should not become a barrier between countries in extending cooperation with one another in the fight against human trafficking and smuggling. The need on the part of the developed countries to extend technical assistance to the developing countries was stressed by the delegation.
- 11.17 The **Delegation of Ghana** remarked that in furtherance of its commitments under various international conventions such as the Convention on the Rights of the Child, the Convention for the Elimination of All Forms of Discrimination Against Women, Ghana had established a Ministry of Women and Children's Affairs in 2001 to coordinate and champion the cause of women and children in their

- country. In 2005, Ghana had enacted the Human Trafficking Act with the Ministry of Women and Children's Affairs as the focal Ministry to coordinate anti-human trafficking activities, particularly against women and children, the delegation informed. Explaining the details of the Act, the delegation stated that the Act sought to prevent, suppress and punish persons engaged in human trafficking and initiate interventions to promote the protection and welfare of victims of human trafficking. The delegation also pointed out that the Human Trafficking Act reinforced the Children's Act and the Criminal Offences Act, which dealt with the prevention and prosecution of offences against women and children.
- 11.18 Stressing the cooperation needed to combat trafficking, the delegation informed that the government of Ghana had just received a proposal from the Government of the Republic of Mali to enter into a Cooperation Agreement for the purposes of developing appropriate measures to combat cross-border trafficking between the two countries. The Agreement would ensure that child trafficking was tackled between the two countries regardless of its purpose or form and that the interest of the child would be paramount in issues of trafficking, the delegation added.
- 11.19 The **Delegation of Uganda**, while noting that Uganda was affected by the malaise of trafficking in women and children, stated that adoption in Uganda was regulated by the Children Act. Explaining the procedures involved in the adoption of an Ugandan child by a foreigner, the delegation clarified that Section 46 of the Children Act allowed a child to be adopted only when the foreigner has stayed in the Country for three years and fostered the child for three years under the supervision of the probation and social welfare officer. That in their view made the adoption process very difficult. As regards the issue of guardianship, the delegation remarked that legal guardianship was not regulated by any law and that though the Court order granting guardianship may direct the intending adopting parent to make periodical reports on the progress of the child, there was no follow-up in order to ensure that the reports are filed and if they are filed, they reflect the right situation of the children. In that regard, the delegation noted that the Hague Convention which provides for the coordination between the country of origin of the child and that of the adoptive parent was not adhered to by many countries. Since the Convention also focused on the need for countries to work to prevent the abduction, sale or trafficking of children, the delegation felt that it was necessary for AALCO to look into that matter.
- 11.20 The **Delegation of Arab Republic of Egypt** stated that Egypt has addressed the issues dealing with trafficking through measures including legislative framework, role of stakeholders, and best practices and experiences. Effective legislative framework on combating human trafficking includes international legal instruments and national legislations. Major international instruments dealing with these issues had been ratified by their country. Recently their country in 2010, has passed a specialized law on human trafficking which addressed the entire gamut of predicate offences of human trafficking. There had been

amendments to penal laws, labour law, child rights law and anti-money laundering law.

- 11.21 On the role of stakeholders and the importance of cooperation and coordination, the delegation said that they had adopted a national strategy to include stakeholders starting from government, the executive authorities like Ministry of Justice, etc., including the role of the law enforcement like the police and the judicial authorities, in that field. Role of civil society in combating these crimes could not be undermined and they played an important role in Egypt. The delegation added that Egypt had developed a three-year strategic plan to prevent and combat human trafficking to assist and protect victims of human trafficking. Increasing public awareness and strengthening the law enforcement agencies focusing on the rights of the victims were very pertinent issues. The delegation also explained the role of Ministry of Justice in fighting human trafficking in their country.
- 11.22 The **Delegation of the United Arab Emirates** narrated their country position in addressing the issue of human trafficking. In 2006, a regulation combating human trafficking with other laws of Emirates was framed. It regulated the entry of foreigners and migrant workers into their country those who could potentially fall victims of human trafficking. Those foreigners or migrant workers were transported through threat or use of force for involving them for sexual exploitation.
- 11.23 A national committee had been established to support and implement the law to combat trafficking in all manifestations. Under national and international strategy, their country had signed various international legal instruments dealing with that issue. Legislators have been working towards finalizing certain provisions of law for measures to protect victims of trafficking. Twenty-four cases for prosecution of perpetrators have been conducted. The punishment included 10 years of imprisonment; however the intent would be to increase the support to the victims. Various institutes and collaboration with academic bodies to increase public awareness and protect victims, particularly women had been initiated. Series of measures taken by the government were also highlighted by the delegation.
- 11.24 The **Delegation of State of Kuwait** informed that the law-makers of their Country had enacted the Kuwaiti Penal Code No: 16 of 1960 and its amendments thereto, in an effort to tackle the issue of human trafficking and to guarantee the protection of the rights of women and children who are victims of trafficking. The Penal code, which has got a number of punitive protections for the victims of trafficking, also has provisions to protect the rights and freedoms of workers. The Penal code also contained a number of provisions dealing with various issues such as murder, violence, abduction, detention and slavery, the delegation further clarified. As regards the issue of slavery, the delegation informed that Article 185 of the Kuwaiti Penal Code prohibited the buying and selling of human persons for slavery purposes and that it also regulated the issues of entry and exit of aliens.

- 11.25 As regards the laws and institutions that function in the area of anti-trafficking in their country, the delegation pointed out that the Ministry of Justice had prepared draft legislation on the situation of human trafficking and migrant smuggling and sent it to the Council of Ministers. The legislation which was sent to the Legislative Committee of National Assembly for its approval was unanimously accepted by it, the delegation pointed out. On the institutions dealing with that issue, the delegation stated that two special departments, viz., Department of Immigration Issues and the Department of House Workers, had been created by their government in order to monitor and investigate cases of trafficking, particularly in women and children. The delegation also noted that a General Department had also been established to tackle complaints regarding violations of human rights of workers and aliens in general.
- 11.26 The **Delegation of Japan** mentioned that the Japanese Government considered trafficking in persons as a serious crime and a grave violation of human rights and dignity, and that as a result of globalization and widening of economic gaps among countries, it has become a serious cross-border problem for the international community as a whole was required to tackle the problem. On that standpoint, Japan in December 2009, adopted the “Comprehensive National Action Plan 2009 for comprehensive measures to combat trafficking in persons” to prevent and eradicate trafficking and to protect victims in Japan. Their government also financially contributes every year to IOM and intends to contribute a substantially increased amount (US\$288,152) for the current fiscal year, with a view to facilitating the return to home countries and society of victims of human trafficking.
- 11.27 In addition to that, since 2004, Japan has sent governmental consultative survey missions totally to 20 countries. In Bangkok, on the occasion of the visit of that mission, the third meeting of Japan-Thailand joint task-force was held and a Standard Operating Procedures (SOP) was agreed upon to deepen the mutual understanding of the procedures of protecting the victims, and furthermore, an action plan was made, and an active exchange of information on the measures for prevention, law-enforcement and protection was conducted. The delegation extended on behalf of their government full cooperation with other countries concerned.
- 11.28 The **Delegation of the Sultanate of Oman** stated that human trafficking has evolved as one of the most dangerous crimes of that time and fastest growing. The Sultanate of Oman continued its efforts at combating human trafficking, since the issuance of its Law on Combating Human Trafficking in 2008. It established a national plan for combating human trafficking which aims at sensitizing various sections of society to the seriousness of that crime and how to address it through real partnerships. There were also focuses on providing care to the victims. For that purpose, the delegation mentioned that Oman has established a shelter for victims of human trafficking that receives victims and provides with the necessary

- care such as medical and psychological care, housing, legal aid and other assistance to mitigate the effects of their exposure to abuse. In several cases, the Sultanate also covered their travel expenses to their home countries.
- 11.29 The delegation informed that the National Committee for Combating Human Trafficking collaborated with several entities in the implementation of the National Plan for combating Human Trafficking through raising awareness among the community about the forms of trafficking and informing the groups targeted by traffickers of the procedures and measures available to them in the event of trafficking, in addition to providing legal aid, medical assistance and shelter in cooperation with the public Prosecution, The Royal Oman Police, The Ministry of Social Development and the Ministry of Health. The need to address the issue of abuse of foreign labour was also raised. National labour laws and measures to deal with rights of workers were also highlighted. The Sultanate of Oman was keen for its efforts in those regards to be in line with international standards to counter that scourge which threatens vulnerable groups made up of women and children. The continued cooperation by the Oman government with various countries and organizations to find solutions to the problem of trafficking was also affirmed.
- 11.30 The **Delegation of Republic of Indonesia** at the outset maintained their country's commitment to eliminate trafficking in persons by strengthening its national law and its enforcement along with widening international cooperation. As regards the domestic efforts that Indonesia has taken to tackle that issue, the delegation stated that it had enacted anti-trafficking law to address that issue and that it has also strengthened its legal instruments by ratifying the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons and also Protocol against Smuggling of Migrants in 2009. Indonesia has also enacted new law on immigration which served as an effective legal framework for combating trafficking and people smuggling. In that regard the delegation highlighted that eradication of trafficking in persons in Indonesia had become increasingly efficient with the establishment of the Task Force for Preventing and Handling Trafficking in Persons.
- 11.31 Commenting on the importance of bilateral, regional and global cooperation in the fight against trafficking, the delegation stated that bilateral cooperation was needed particularly in establishing direct contact between institutions that handle the eradication of trafficking in both the countries. Indonesia has also initiated cooperation at the regional level by encouraging the process of establishment of a legal framework for ASEAN cooperation on trafficking in persons, while at wider Asia-Pacific region, it had organized "Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and related Transnational Crimes", the delegation added. Explaining the Bali Process the delegation informed that it was forum that brought participants together to work on practical measures to address people smuggling, trafficking in persons and related transnational crimes in the Asia-Pacific region and beyond that fifty countries, along with numerous

- international agencies, did participate in the process. The delegation also highlighted that the efforts to combat trafficking in Indonesia which are multi-pronged, involved legal enforcement socio-economic development and international cooperation.
- 11.32 The **Delegation of India** at the out set thanked all the Panellists for their excellent presentations which provided a wealth of information on the scope and extent of the problem and on the actions taken to address them. Commenting on the strategies pursued by their government on that issue, the delegation pointed out that the Government of India had adopted a National Plan of Action to combat trafficking and commercial sexual exploitation of women and children. The strategy for combating trafficking focused on income generation, literacy, and skills up gradation including enforcement of laws and regulations as well as rehabilitation of the victims of trafficking, the delegation added.
- 11.33 Commenting on the international instruments existing in the area of trafficking, the delegation remarked that India was a Party to a number of international conventions that provide for cooperation among countries in combating the growing menace of trafficking. These include, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, the United Nations Convention on Transnational Organized Crime and its Protocols to prevent trafficking in persons, especially women and children and the Protocol against smuggling of migrants, the delegation pointed out. The fact that India was also a Party to the SAARC Convention on the subject was also highlighted by the delegation.
- 11.34 As regards the institutions operating at the state level, the delegation stated that apart from drawing up National Plan of Actions, State Advisory Committees have also been appointed in a number of States to prepare state-wise plans and action policies and action plans which are concerned with the issue of trafficking. Initiatives with the NGOs are on-going and that community based programmes for resettlement of victims of trafficking, especially women and children were being given priority. These include a range of activities starting from creating social awareness to informing the public as to how to be vigilant about traffickers, to pay attention to the preventive aspects of the issue, the delegation explained. While expressing satisfaction with the results obtaining in these efforts, the delegation also cautioned that a great deal still needed to be done and that in that regard, India was looking forward to cooperating with all Countries around the world, including in their region.
- 11.35 The **Delegation of Kenya** welcomed the Special meeting on Trafficking of Women/Children, Migrant Workers and Protection of Children discussed during the session of AALCO.
- 11.36 The delegation stated that Kenya was facing the increasing challenge of trafficking of women and children for the purposes of sexual exploitation and

- forced labour. Some of the main reasons for upsurge in trafficking include the following reasons: prostitution, illegal adoption, sale of organs, sexual exploitation or for immigration benefits such as housing. Referring to their new Constitution of 2010, the delegation said that any form of slavery or forced labour, inhumane treatment, or torture whether physical or psychological was prohibited. The Constitution further prohibited any form of inhuman and degrading manner, which would be brought about in human trafficking.
- 11.37 Kenya has enacted the Counter-Trafficking in Persons Act, 2010 to implement Kenya's obligations under various international conventions dealing with protection of women and children. The Act makes provision for offences relating to trafficking in persons, trial of offenders and remedies for victims of trafficking in persons. Many other measures adopted by the Act were also described by the delegation.
- 11.38 The **Delegation of the Kingdom of Bahrain** stated that their Country has been taking continuous efforts to promote respect and protection for human rights, including those relating to women, children and foreign workers and that the basis of those efforts were the national laws and the contents of its international legal obligations as affirmed by the reform project of His Majesty the King.
- 11.39 The Delegation indicated that their Country had established the Supreme Council which was charged with the protection of the rights of women and children and which was headed and patronaged by Her Royal Highness Princess Sabeeka bint Ibrahim Al Khalifa, the wife of His Majesty the King of Bahrain. The supreme council continued its work regarding women since its establishment within the framework of its power, on the development of Bahrain women's status and strengthening their position and active participation either in formal institutions of state or institutions of civil society, as well as the council continues its cooperation with Arab Women Organization, United Nations, especially its development programme, Economic and Social Commission for West Asia, Industrial Organization and Arab Gulf Programme for United Nations Development Organizations, the delegation clarified. As regards the protection of children, the delegation pointed out that, the Kingdom of Bahrain has ratified the United Nations Convention for the Rights of the Child and has developed legislation and laws that preserved all the rights of the children. The delegation added that, in an effort to enhance the legal protection available to children, the legislative authority, considered, the adoption of a draft integrated law on the rights of the child.
- 11.40 On the situation of the rights of migrant workers, the delegation informed that the Kingdom of Bahrain has enacted legislation and laws to ensure protection of the worker and the building of the relationship between the employer and the workers and to prevent the exploitation of foreign workers by employers. Drawing attention to the cancellation of the sponsor system and the allowing of free movement of foreign workers between employers within the framework of the

- rules dealing with it, the delegation pointed out that the issuance of law No (1) for the year 2008 on combating trafficking in persons had established a National Committee to Combat Trafficking in persons, which specializes in a number of issues.
- 11.41 The **Delegation of Bangladesh** at the out set expressed their deep appreciation and special thanks to the Hon'ble Justice Shiranee Tilakawardane, Judge of the Supreme Court of Sri Lanka who, in her presentation on the topic not only had appreciated the efforts of Bangladesh in combating trafficking but also termed its anti-trafficking efforts as representing a 'role model'. Explaining their country's position on the issue of trafficking the delegation remarked that Bangladesh maintained zero tolerance for the perpetrators in persons and related crimes and that upholding and protecting the rights of women and children was at the top of the agenda of their government. The Constitution of Bangladesh also guaranteed that all citizens are equal before law and are entitled to equal protection of law, the delegation added.
- 11.42 Outlining the measures that Bangladesh has been taking in its fight against trafficking, the delegation remarked that, the government of Bangladesh, under the leadership of Prime Minister Sheikh Hasina has been making sincere efforts to combat trafficking in persons, in particular, trafficking in women and children. The measures included; reactivating the judicial system, strengthening of law enforcement agencies, advocacy and awareness raising programmes for parents and communities, promotion of girls education, sexual and reproductive health programmes, expanding the scope of micro-credit programmes, micro-entrepreneurship development schemes and enhancing other economic activities for poor families, the delegation pointed out.
- 11.43 As regards the cooperation needed to combat trafficking, the delegation stated that the government of Bangladesh was ready to cooperate internationally, regionally as well as multilaterally including with the United Nations in particular to combat trafficking in persons. While noting that Bangladesh was a Signatory State of several international/UN instruments concluded in that regard, the delegation also pointed out that regionally, Bangladesh was a Party to the SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution.
- 11.44 Commenting on the laws and regulations existing on that issue, the delegation remarked that Bangladesh had developed a National Action Plan in 2008 to combat human trafficking and that Counter-Trafficking Committees have also been formed at different tiers of the government in an effort to strengthen preventive measures aimed at combating trafficking. The delegation also noted that efforts were underway to enact a Human Trafficking Prevention Act 2011 that would cover the trafficking of men, women and children to strengthen the legal framework to combat all forms of trafficking. As regards the welfare measures adopted to take care of migrated labour, the delegation pointed out that the initiatives of their government towards the protection and promotion of the

- rights of migrant workers had been spelt out in their general statement. In that regard, the delegation also made a brief reference to the “Dhaka Declaration”, which resulted from the successful holding of Colombo Process Ministerial level Meeting held in April 2011 and which signified the commitment of their government to the protection of migrant workers rights.
- 11.45 The **Delegation of Myanmar** stated that they had taken all necessary measures against human trafficking in women and children, which included national plan of action, legislation and cooperation at bilateral, multilateral levels and instituted awareness campaigns. Myanmar had formulated a Human Trafficking Act in 2005 and also strict rules and regulations relating to emigration. The 2005 law prescribed heavy penalty of minimum 10 years of imprisonment and maximum of life imprisonment. The delegation mentioned that they have acceded to various UN conventions dealing with these crimes. In the cross-border cooperation, they were of the view that forms of assistance such as executing powers of search and seizure, information exchange were very crucial. Their domestic law supported mutual legal assistance with great caution that procedures and outcomes should not be a violation of human rights. Their legal system gave priority to the victims in terms of assistance and rehabilitation. They received 48 victims in 2010 with cooperated efforts with UNICEF, IOM and so on to address their concerns.
- 11.46 With a view to start a new life, vocational training courses had also been initiated as well as for small income-generated businesses for victims as a measure of rehabilitation. Educational and social awareness campaigns were conducted across the country in vulnerable villages and mostly in slum areas.
- 11.47 The **Delegation of Malaysia**, while making a distinction between the crime of trafficking in persons and the crime of smuggling of migrants, noted that that distinction was clearly reflected in the recent amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007. While pointing out that the punishment accorded to the crime of trafficking in Malaysia was very stringent, the delegation stated that despite their continuous efforts taken and comprehensive legislative, judicial and administrative and policy measures, Malaysia was on the Tier Two Watch List in the recently published United States Department of State Trafficking in Person Report. Explaining the main reasons for finding on Malaysia not fulfilling the “minimum standards” were, in their opinion; labour trafficking and debt bondage; 68% acquittal rate and excess recruitment by Malaysian ‘outsourcing companies’.
- 11.48 While noting that the US Department of State Trafficking in Person Report on Malaysia concurs with the views that Malaysia had on that issue all along, the delegation stated that the problem must be shouldered by the sending, transit and destination countries equally. Reminding that Malaysia was not a sending country, the delegation stressed that source countries must take higher responsibility to deal with their domestic problems that lead to the problems on trafficking in persons and people smuggling. Expressing their agreement with the

findings of the Secretariat, the delegation reaffirmed that the main root causes for the rampant proliferation of the crime of trafficking in women and children are *inter alia*, poverty and lack of education including lack of awareness of potential victims to the consequences and repercussions of the crime of trafficking in persons, namely in the sex trade and prostitution, to the victim's physical, mental and emotional well-being. As regards the measures taken by their government on that issue, the delegation highlighted that Malaysia had recently signed a Protocol with Indonesia to amend the MOU on Domestic Workers. Among others, the Protocol would now allow domestic workers from Indonesia in Malaysia to hold their own passports. The delegation also informed that Malaysia was currently negotiating an arrangement with Australia to deal with the transfer of refugees as part of their regional efforts to deal with the problem of Trafficking in persons and people smuggling. The delegation also noted that Malaysia was working closely with the IOM and the UNHCR in that effort.

- 11.49 The **Delegation of Republic of Korea** mentioned some of the efforts of the Republic of Korea to ensure the rights of migrant workers. The Republic of Korea has participated in most of the efforts of the international community for the protection of human rights including those of migrant workers. The delegation stated that they had ratified four out of eight core conventions designated by the International Labor Organization (ILO), especially Convention No. 182, which prohibits harsh labour of children.
- 11.50 Various domestic laws establishing the framework to protect the rights of the migrant workers were also highlighted. Being one of the destinations for migrant workers, it was essential to guarantee their health, safety and employment through provisions in domestic laws.
- 11.51 The **Delegation of the Democratic People's Republic of Korea** noted that trafficking in women and children which represented an act of crime, constituted a serious infringement of their human rights and presented an obstacle to the implementation of the goal of putting an end to exploitation of man by man as enshrined in UN Charter and international human rights law. It also represented an unquestionable obligation on the part of States to take legislative and administrative measures to protect the human rights of all persons, especially women and children.
- 11.52 On the domestic laws existing in their country on the issue of trafficking, the delegation pointed out that its Constitution stipulated that the social status and rights of women and children shall be respected and protected and that the State shall be responsible and provide for the education of children. He also added that their Country was constantly strengthening the legal regime for providing women and children with proper rights by enacting, amending and elaborating the sectoral laws. As an example, the delegation cited the enactment of the "Law on the Provision of Women's Rights of the DPRK" and "Law on Children's Rights of the DPRK" which had been promulgated on 20th December 2010. The delegation

- added that these two laws provided a legal regime for the measures to thoroughly protect women's rights of socio-political, economic and cultural nature.
- 11.53 The **Delegation of Nepal** said that Nepal was in the process of ratifying the UN Convention against Transnational Organized Crime. Nepal being a source country was concerned about various push factors political, social and economic factors that lead to human trafficking. But pull factors, are more problematic. In order to address that issue, Nepal has cooperated with bilateral, sub-regional, regional and multilateral level, especially among the countries of origin, transit and destination were required.
- 11.54 Migration should be considered as a process of economic betterment, but poses challenges when smuggling of migrants involves exploitation of migrant workers. In order to solve, there was a need to take initiatives by ratifying relevant international legal instruments and then by implementing them at national level.
- 11.55 The **Delegation of Nigeria** solicited cooperation from AALCO Secretariat and Member States towards cooperation. Nigeria had ratified Child Rights Convention but faced challenges in the area of general acceptance through other countries. Nigeria practices federalism with various states and some of the states has very different divergent religious and cultural practices. The delegation solicited AALCO's support on the application of that law in multi-cultural and religious states.
- 11.56 The **Delegation of the Kingdom of Saudi Arabia** said that combating trafficking in women and children in all its manifestations at every level was very essential. The delegation then highlighted the laws formulated by their country to combat the issue, which includes rigorous punishment. The labour laws of the country prohibit employment of persons under the age of eighteen years. However, some organizations export or send workers for illegal material gains by manipulating their age. All care and facilities were given to the victims because that menace affects the human dignity and relates to violence against a person.
- 11.57 The **Delegation of the Republic of Iraq** mentioned that the Ministry of Human Rights has conducted inspection of the prisons to take stock of the condition of prisoners and urged the judicial authority to expedite that trial with full justice. Also, the national coalition government of Iraq has introduced the subject of human rights in the curriculum of the Iraqi Universities.
- 11.58 The **Delegation of the State of Qatar** said that apart from putting in place strict laws to curb human trafficking and exploitation of women and children, the State of Qatar had also joined a number of relevant international conventions. Also, it has set up local departments and committees with the aim of combating the menace.

12. Sixth General Meeting

Agenda Item: Report on the Work of UNCITRAL and other International Organizations in the Field of International Law

- 12.1 **Dr. Xu Jie, Deputy Secretary-General of AALCO**, in his introductory statement stated that the topic, international trade law was first included in the agenda at the Third (Colombo) Session in 1960. The DSG informed that the Report of the Secretariat covered mainly three areas which were namely: i) the finalization and adoption of a revised version of the UNCITRAL Arbitration Rules, 2010, ii) the finalization and adoption of a draft supplement to the UNCITRAL legislative guide on security transactions with security rights in intellectual property, and iii) the finalization and adoption of part three of the UNCITRAL legislative guide on insolvency law on the treatment of enterprise groups in insolvency. The DSG hoped that the Member States would continue to support and actively participate in the work of UNCITRAL and its Working Groups. The DSG also called on Member States to closely monitor the developments at the UNIDROIT and Hague Conference on Private International Law (HCCH) in order to build upon their domestic legislation on the issues relating to private international law which was increasingly influenced the AALCO Member States in the recent times.
- 12.2 The **Delegation of the Republic of Indonesia** believed that the UNCITRAL's role in building a better and more just order in international trade were undeniable. The delegation generally supported the UNCITRAL's work on the Model Law on international commercial conciliation, privately financed infrastructure projects, insolvency law, transport law, microfinance, security interests and recently possible future work in the areas of electronic commerce and online dispute resolution. The delegation further hoped that AALCO would provide developing countries with programmes which provide training, technical assistance and capacity building to close the gap between developing countries and developed countries on the subject matter. The delegation stated that their country was not a member of UNCITRAL and remained as an Observer. They would continue to consider its membership in UNCITRAL taking into account of the importance of involvement in the development of international trade law and international trade procedures. They also suggested expanding the membership of UNCITRAL based on the principle of equitable distribution.
- 12.3 The **Delegation of the People's Republic of China** stated that their delegation was pleased to see that the issues of UNCITRAL remained on the agenda item of AALCO. Their Government would continue to follow closely and take part in the work of UNCITRAL, and make joint efforts with other Member States to promote the integration of the international trade law and development of international trade. The delegation pointed out that in the process of implementation of UNCITRAL instruments, the instruments sometimes could not be adapted to domestic law to be implemented, because of the big differences between instruments and relevant domestic systems.

- 12.4 The **Delegation of Pakistan** expressed appreciation for the Secretariat's Report on the work of UNCITRAL and other International Organizations in the Field of International Trade Law. The delegation informed that the Convention on the Recognition of Foreign Arbitral Awards had played an important role in the development of international trade law. The delegation also appreciated the finalization and adoption of a supplement to the UNCITRAL Legislative Guide on Secured Transactions dealing with security rights in intellectual property. The delegation mentioned that it was important to facilitate cross-border e-commerce with global online dispute resolution mechanisms. The delegation wanted to underline the debate on the online dispute resolution system must take into account the digital divide of the world. The views of developing countries on modalities of online dispute resolution mechanism need to be heard carefully in the debate on the issue.
- 12.5 The **Delegation of Japan** stated that UNCITRAL had been playing an important role for unification and harmonization of international trade law and values highly that a revised version of arbitration rules and other instruments were finalized and adopted at the 43rd session of UNCITRAL.
- 12.6 The **Delegation of Malaysia** said that on the issues relating to the Revised UNCITRAL Arbitration Rules, 2010, the AALCO Member States and the Regional Arbitration Centres of AALCO should study the Revised Arbitration Rules for future implementation within their arbitral systems in order to stay relevant with the progress and development in the resolution of disputes. On the issue of investor-State arbitration, the delegation called upon the AALCO Member States to pay heed and contribute to the discussions at UNCITRAL Working Group II to voice their concerns and ensure that a balance was reached between protecting national interests and that of the interest of foreign investors. Further, the delegation was of the view that AALCO Secretariat should undertake study of those issues of transparency for investor-State arbitration and online-dispute resolution in collaboration with the UNCITRAL and other interested stakeholders, which would contribute in shedding light to AALCO Member States on the way forward in implementing and enforcing such practices.
- 12.7 The **Delegation of the State of Kuwait** appreciated the Report prepared by the AALCO Secretariat for the benefit of Member States. While explaining a general view on the work of UNCITRAL related matters, the delegation stated that the finalization and adoption of draft supplement to the UNCITRAL legislative guide on security transactions with security rights in intellectual property which would help the Member States in assessing the economic efficiency of their security transaction regimes as well as their intellectual property regimes. The delegation mentioned that the State of Kuwait had a national legislation namely, law of general tenders. Further, the delegation informed the Member States about the law of general tenders.

- 12.8 The **Delegation of Thailand** stated that it was undeniable that international trade law played a significant role in enhancing economic growth in every country. The delegation mentioned that the Government Agencies in their country had been following with great interest the work of UNCITRAL. Their country had adopted several UNCITRAL Model Laws, harmonized along with Thai legal context. As a developing country, Thailand envisaged that AALCO would be a reliable legal forum where lawyers from developing countries in Asia and Africa could work together in order to formulate a common position or coherent policy that assured their mutual interest on legal development under the purview of UNCITRAL. To achieve that end, their country hoped to encourage AALCO Member States to work collectively to fortify the position in UNCITRAL.

13. Agenda Item: Environment and Sustainable Development

- 13.1 **Dr. Hassan Soleimani, Deputy Secretary-General (DSG) of AALCO** introduced the agenda item “Environment and Sustainable Development”. The DSG said that the Organization had been following the developments on Environment and Sustainable Development since 1975 with the contemporary focus being on the implementation of the three Rio Conventions namely, the: United Nations Framework Convention on Climate Change, 1992; Convention on Biological Diversity, 1992; and United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994; and Follow-Up on the progress in the Implementation of the outcome of World Summit on Sustainable Development, 2002. While referring to the Secretariat document prepared for the Fiftieth Annual Session, he mentioned that it contained developments in the area of International Regime on Climate Change, 1992; International Regime on Biological Diversity; and Follow-Up on the progress in the Implementation of the outcome of World Summit on Sustainable Development.
- 13.2 On climate change issues, the DSG mentioned that the international community has been engaged in various rounds of negotiations for elaborating on a framework of action after 2012, when the Kyoto Protocol’s first commitment period would expire. The DSG requested Member States to recall that in December 2007, negotiators meeting at the United Nations Climate Change Conference in Bali had approved the Bali Action Plan and Roadmap setting the Fifteenth meeting of Conference of Parties in December 2009 at Copenhagen as the deadline for agreeing on a framework for action after 2012. The plan laid out the four-fold action roadmap for climate change action – mitigation, adaptation, technology and finance. It was essentially a mandate to finalize two things: one, the emission reduction commitments of industrialized countries for the second phase of the Kyoto Protocol, and two, the global goals for long-term cooperative

- action until 2050. Although, those negotiations were to conclude at Copenhagen, the Conference failed to achieve the requisite breakthrough.
- 13.3 It was informed that at the Sixteenth Conference of Parties of the United Nations Framework Convention on Climate Change (COP) held in Cancun, a balanced package of decisions known as “Cancun Agreements” were adopted. The call for countries to list under the Climate Change Convention the emission reduction targets and actions which were announced in 2010, was described as forming the collective basis for the largest mitigation efforts the world had ever seen. It was also agreed to build a comprehensive system of mutual accountability towards those goals. However, the issue of the legal form of the agreement was not resolved in Cancun and would be discussed in 2012 in Durban, Republic of South Africa. That meant that Parties still need to decide whether to adopt a legally binding agreement that complements the Kyoto Protocol, an inclusive legally binding agreement for all country that would replace the Kyoto Protocol, or another option where Parties cooperate through Conference of Parties decisions rather than a new treaty.
- 13.4 In the field of biological diversity protection, the adoption of Nagoya Protocol on Access to Genetic Resources and Benefit Sharing, 2010 and Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress, 2010 by the Tenth Conference of Parties to the Convention on Biological Diversity and Fifth Meeting of Parties to the Cartagena Protocol on Biosafety were significant developments towards enhancing the international commitment to protect biological diversity. Those instruments held several implications, for biologically diverse countries while dealing with the ‘liability and redress’ and ‘access and benefit sharing’ options. Implementation of those instruments would be difficult, if they were not signed and ratified by biotech rich countries. The DSG informed that there existed many criticisms of the Nagoya Protocol on Access and Benefit Sharing which could be considered as crucial for indigenous communities within the developing countries. To add on, obligation for compliance for countries with users in their jurisdiction to establish ‘effective, appropriate and proportionate measures’, required state parties to be well equipped to deal with issues regarding access and benefit sharing of genetic resources. Therefore, AALCO Member States that were parties to those Protocols could consider taking effective, appropriate and proportionate measures taking into account the biologically rich and diverse environment.
- 13.5 In conclusion, the DSG stated that while preparing for the Rio+20 Summit commemorating 20 years of Rio Conference and 10 years of World Summit on Sustainable development, it was essential that countries take adequate efforts for protection of the environment besides safeguarding their national interests.
- 13.6 **Mr. Masa Nagai, Acting Deputy Director and Senior Legal Officer, United Nations Environment Programme**, made a short presentation on “Initiatives for strengthening the rule of law for environmental sustainability”. The speaker

- mentioned that there was a need to strengthen implementation of international commitment and enforcement of national environmental law. The presentation focused on the legal frameworks for environmental sustainability, such as supporting progressive development of international law in the field of environment, implementation of multilateral environmental agreements, and strengthening capacity of countries to develop and enforce national environmental law. Asia-Africa cooperation to advance environmental law, he added needs to be promoted. Other challenges that were to be addressed related to combating transnational environmental crime as illegal traffic in wildlife/wildlife products; illegal exploitation of natural resources; hazardous wastes and chemicals, and so on. Advancing environmental justice through enhancing environmental awareness and capacities of judiciary; guidelines for strengthening national legislation, etc., were crucial in the area of promoting rule of law in international environmental law. Looking Forward to Rio+20, the speaker said that participation of Member States of AALCO was very essential.
- 13.7 The **Delegation of the Sultanate of Oman** stated that their country attached great importance to the environment and its sustainable development. The Omani Government was in the process of its comprehensive development, as the protection of the environment and human health from all types of pollutants, as well as laying the foundations for a balanced and sustainable development with equal economic, social and environmental considerations were some of the main objectives of the Sultanate of Oman.
- 13.8 The delegation mentioned that it has also prepared a national plan to combat drought and desertification. The Sultanate has put together an integrated system of natural reserves in the country, besides developing environmental laws to be in line with the requirements of environmental protection from the dangers of pollution emanating from requirements of environmental activities, as well as raising awareness amongst citizens and residents of the importance of the conservation of natural resources in the achievement of the principles of sustainable development.
- 13.9 The **Delegation of Pakistan** briefly outlined the strategies and measures adopted by their Government to mitigate issues relating to climate change, environmental degradation, and so on. The delegation mentioned that their country had witnessed reasonable long-term economic growth, amidst natural calamities. It was reiterated that there was a dire need to amend policies of capital-driven growth and to focus on policies that gave due cognizance to ‘capitals’ that sustained human well-being including natural, human and socio-cultural capital. The delegation also highlighted the details of the National Sustainable Development Strategy (NSDS) of Pakistan that stressed the framing and implementation of complementary policies that address environmental as well as social issues while facilitating economic growth to capture the maximum development dividend of that growth.

- 13.10 The **Delegation of the People's Republic of China** raised concerns about the climate change issues. In order to achieve economic development, sustainable development must be kept as a priority. Sustainable development was both the means and the end for effectively addressing climate change. Within the overall framework of sustainable development, environmental protection, economic development and poverty eradication should be considered in a holistic and integrated manner to safeguard the basic rights of developing countries for development. Equal emphasis had to be given to mitigation and adaptation and principle of common but differentiated responsibility. The delegation applauded the Cancun Agreement for providing a political foundation for future negotiations.
- 13.11 The delegation mentioned that due importance must be accorded to the forthcoming Durban Conference to formulate second commitment period under the Kyoto Protocol. Three important concerns that were addressed were: (i) deeper quantified emission reduction targets should be set for developed countries for the second commitment period under the Kyoto Protocol, and those developed countries that are not Parties to the Kyoto Protocol should also take comparable emission reduction commitments. (ii) Effective institutional arrangements should be established to ensure that developed countries fulfill their commitments to provide technology, financing and capacity building support to developing countries. (iii) In the context of sustainable development, developing countries should take nationally appropriate mitigation and adaptation actions, supported by technology, financing and capacity-building assistance from developed countries. The delegation stated that their country was willing to enhance pragmatic cooperation with countries in the area of energy saving and clean energy.
- 13.12 The **Delegation of the Republic of Indonesia** said that the climate change negotiation process ranging from Copenhagen, Cancun, Bangkok to Durban, had all been intended to make the Bali Action Plan adopted in 2007 a success. The delegation reiterated the need to push forward the process based on common but differentiated responsibility. Three important points were made: first, need to build on Copenhagen Accord; second, Durban negotiation must have a workable decision; and third, addressing the trust deficit by building an open, transparent and inclusive process for achieving goals at Durban.
- 13.13 The **Delegation of Malaysia** took note of the Cancun Agreements reached by the Parties during the 16th session of the COP to the UNFCCC and the 6th MOP to the Kyoto Protocol held in 2010. In the context of the future negotiations on climate change, Malaysia was aligned to the principle "common but differentiated responsibilities" whereby developed countries must assume a leadership role, and developing countries, supported through technological, financial and other assistance, should continue to implement their sustainable development policies. The delegation briefly narrated the biodiversity strategy and action plan introduced by their country. The delegation also took note that The Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena

Protocol on Biosafety was now opened for signature by Parties to the Convention on Biological Diversity, and as a party to the Convention on Biological Diversity; Malaysia was considering to sign the said Supplementary Protocol.

- 13.14 The **Delegation of Nepal** raised concerns of climate change issues having adverse effects on lives and livelihood of the peoples living in Asia and Africa. Nepal had been on the receiving end of the climate change calamities. The delegation mentioned that their Government, understanding the seriousness of that problem had been continuously participating in all the international negotiations and has made all efforts to implement measures for complying with its obligations under the legal instruments.
- 13.15 The **Delegation of Japan** said that environmental issues were critical problems faced by the international community. The delegation stated that their country was making all efforts to recover from the recent disasters, earthquakes, tsunami, the worst ever experiences faced by Japan and at the same time, the country was determined to continue its active participation in international efforts to mitigate climate change. In that regard, the delegation confirmed its support towards adopting a new single undertaking or comprehensive legal instrument for addressing climate change issue in the forthcoming negotiation in Durban, South Africa.
- 13.16 The **Delegation of Bangladesh** thanked the representative from the UNEP for a detailed presentation. Commenting upon the presentation which emphasized on formulating binding environmental laws and regulations, the delegation said that one must be cautious while formulating the rules of international environmental governance. The questions that had to be asked were: (i) whether a comprehensive and binding environmental laws was possible, (ii) who would assume the responsibility of international environmental governance and whether it would be generally acceptable to all.
- 13.17 The delegation said that Bangladesh being a least developed country (LDC), has been adversely impacted by climate change. However, they were a victim of adverse climate due to unsustainable production and consumption pattern mainly practiced in the developed countries. Due to environmental degradation, loss of biodiversity and ecosystem loss, Bangladesh had been experiencing adverse climatic changes like drought, excessive flood, heavy rainfall, storms and cyclones. Therefore, as a country worst affected by the climate change, the delegation called upon the developed countries to fulfill their pledges and commitments made at various Multilateral Environmental conference (MEC) like the World Summit on Sustainable Development.
- 13.18 It was further mentioned that Bangladesh has been advocating for a new climate change regime embedding the principles of responsibility, differentiated capacity to pay and equity. In terms of climate change funding, Bangladesh made its

- viewpoint clear that the financing had to be in the form of grants and in addition to ODS which has to be binding, well-designated, easily accessible, stable and predictable. Also, it has to be disbursed through the UNFCCC.
- 13.19 The **Delegation of the Republic of South Africa** informed that the 17th Session of the Conference of Parties (COP-17) to the United Nations Framework Convention on Climate Change and the 7th Session of the Conference of Parties serving as the meeting of the Parties to the Kyoto Protocol would be held in Durban, South Africa from 28 November to 9 December 2011. In that regard, the delegation suggested some minor changes to the AALCO draft resolution on Environment and Sustainable Development held in April 2011. The delegation added that the resolution adopted at the recent Bangkok Session must be preserved, in order to keep the delicate balance between the Bali Road-Map and the Cancun Decisions. Also that both the negotiations must be read together and one could not be highlighted over the other.
- 13.20 The **Delegation of the Republic of Korea** commented on Korea's interest in the 16th Conference of the Parties to the UN Framework Convention on Climate Change, or COP16, which were held in Cancun, Mexico last year. The delegation was of the view that with the Cancun Agreement, the COP 16 established an important milestone for the COP17 to be held in Durban, South Africa in December 2011. Even though the Copenhagen Accord was just taken note of, the Cancun Agreement specified and developed the Copenhagen Accord. In order to draw genuine transformation in the measures against the climate change, "common but differentiated responsibilities" were needed. In order to take appropriate measure against the climate change, the delegation considered that the difference in positions between developed and developing countries should be narrowed in terms of core issues such as the Second Commitment period for the Kyoto protocol. In addition, two-track negotiation system, which divides developed countries' duty and developing countries' action to reduce greenhouse effect gases, must be supported. The delegation then gave an overview of the measures adopted by their country to mitigate climate change. Against that backdrop, the delegation reminded that Republic of Korea wished to host the COP 18 in 2012. The delegation requested all the Member States of AALCO to extend support for the Republic of Korea in hosting the COP 18.
- 13.21 The **Delegation of the United Republic of Tanzania** took note of the developments at the Cancun negotiations. The delegation summarized the measures undertaken by their country to deal with climate change issue and biodiversity conservation problem, like finalization of Environmental Impact Assessment (EIA) regulations and Guidelines; review of relevant sector policies to incorporate management of biodiversity issues; involvement of communities through establishment of Wildlife Management Areas and Community Forest Inter Sectoral Wetlands Steering Committee (NAWESCO) and National Wetlands Working Group (NWWG) for the implementation of the Tanzania Wetland Management Plan.

- 13.22 Further, on the forthcoming Durban Conference, it was mentioned that main objective was to discuss on the implementation for the UNFCCC and Kyoto Protocol. The delegation hoped to work within the framework of Bali Road-map.
- 13.23 The **Delegation of the Arab Republic of Egypt** highlighted the challenges faced by the Member States of AALCO, namely climate change. The delegation expressed deep concern on the recent calamities that occurred in Japan and extended solidarity with peoples of Japan. The problems of globalization and liberal trend negatively impacted on the environment, active role of civil society in dealing with issues relating to environment along with the governmental authorities was very essential. In that regard, expanding environmental friendly products and sustainable development are major steps on those lines.
- 14. Half-Day Special Meeting on “International Commercial Arbitration” Jointly Organized by the Government of Sri Lanka and the AALCO**
- 14.1 Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO made introductory remarks on the theme ‘International Commercial Arbitration. In his remarks, he stated that AALCO’s association with the subject went back to 1970’s where there were hardly any permanent arbitral institutions in the Asian-African region. AALCO adopted the Integrated Scheme for Settlement of Disputes in 1978 at Doha Session, with a view to creating stability and confidence in the economic transactions with the countries of the region. The said scheme envisaged the development of national arbitral institutions under the auspices of AALCO. Pursuant to the scheme, the AALCO Regional Arbitration Centres were established in Kuala Lumpur, Cairo, Lagos and Tehran. The fifth such Centre was in the process of functionalization in the near future. He pressed upon the revitalization of the Arbitration Centres on their effective functioning in order to cater to the needs of the Asian-African region. The Secretary-General in that regard, called on the Directors of the Arbitration Centres to have a coordinated approach among the AALCO Regional Arbitration Centres and they could consider host biannual arbitration conferences.
- 14.2 In the Working Session-I, **Hon’ble Mr. Salim Maroof, Judge, Supreme Court of Sri Lanka** made a presentation on the “Recent Developments of UNCITRAL: New York Convention on the Rules of Arbitration”. He stated that the United Nations Commission on International Trade Law (UNCITRAL) which was established in 1966, mandated to unify and harmonize international trade law, had played a major role in strengthening the infrastructure for the effective resolution of international commercial disputes through arbitration. The UNCITRAL Rules were now adopted in a vast majority of international commercial arbitration and even a fair proportion of investor-State arbitrations. While UNCITRAL played a significant part in popularizing international commercial arbitration, several other factors had also contributed to its popularity. As regards the Revised UNCITRAL Arbitration Rules, 2010, he stated that the new Rules deserved the attention of all

in the arena of arbitration. He further stated that although the Revised UNCITRAL Arbitration Rules, 2010 had not significantly departed from the 'structure', 'spirit', or 'drafting style' of the 1976 version, there were several significant modifications, amendments and adjustments in a number of important respects. A number of innovative features in the Rules which aimed to enhance procedural efficiency, including revised procedures for the replacement of an arbitrator, the requirement of reasonableness of costs and a review mechanism relating to the cost of arbitration.

- 14.3 The second presentation was made by **Mr. Sundra Rajoo, Director of the Kuala Lumpur Regional Centre for Arbitration** on the topic, "Current Role and Functions of AALCO's Regional Arbitration Centres: The Revitalization Process". During the presentation, he stated that at the dawn of 21st century, the world had seen huge shifts and transformation in the way people thought and what they wanted. People had seen major shifts in international arbitration in Asia with centres and institutions coming out of their localities to the larger pool of international trade community. The revitalization process was ongoing in all the regional centres under the auspices of AALCO at different pace, scale and experience. He discussed about the role and functions of the Regional Arbitration Centres of AALCO. Then he explained the Road Map for Revitalization of the Regional Centres. In that regard, he suggested some of the initiatives that the Organization could consider for the purpose of Revitalization of AALCO Regional Arbitration Centres and they were: uniformity of rules in all regional centres-adoption of UNCITRAL Arbitration Rules 2010; offer range of products in terms of rules to cater for both the domestic and international trade requirement within its set up; promotional activities – packaging of products, training, road shows and participation in regional conferences with other centres. He also emphasized the revitalization through host governments and organized private sectors. Finally, he observed that the revitalization could be made through AALCO by various means and he explained on that.
- 14.4 In the Working Session-II, there were two presentations made by **Mrs. Eunice Oddiri, Director, Lagos Arbitration Centre** and **Dr. Abdel Raouf, Director, Cairo Regional Centre for International Commercial Arbitration (CRCICA)** on the theme, "The Arbitration Experience in the Asian-African Region". Mrs. Oddiri explained the measures aimed at promoting arbitration in Africa. Thereafter she described on the adaptation of UNCITRAL Model Law and UNCITRAL Arbitration Rules. She also updated the arbitration laws of Nigeria and availability of institutional arbitration infrastructure, availability of international arbitration rules in the African region. She also informed about the Uniform Act on Arbitration of OHADA and challenges. In the concluding observations, she invited the attention of AALCO to ensure that the international character and neutrality of each of its regional centre would be honoured by the respective host Governments. In that regard, she requested that AALCO should take necessary steps to renegotiate the Headquarters agreement in relation to the Lagos Centre with the host Government of Nigeria in order to rectify the

- erroneous classification in the Headquarters Agreement of the Lagos Centre which was mentioned as an Organization belonging to the host Government of Nigeria.
- 14.5 Dr. Abdel Raouf in his presentation highlighted the CRCICA's new arbitration rules and its caseloads. He also explained the types of contracts that they entered in 2011. Further, he informed about the nationalities of arbitrators keeping in view of the expanding nature of the Organization. He also explained about the Centre's events and activities, institutional cooperation agreements it had entered and its plans for the future.
- 14.6 After the presentations by the Panelists, the Delegations from **Arab Republic of Egypt, Kingdom of Bahrain, Sultanate of Oman, Thailand, Republic of Indonesia, Islamic Republic of Iran, People's Republic of China, Uganda, Japan, Sri Lanka, Ghana, India and Nigeria** made their statements.
- 14.7 **The Delegation of the Arab Republic of Egypt** commended the presentations made by the Panelists on international commercial arbitration. The delegation stated that in order to enhance the role of commercial arbitration in their region, the Ministry of Justice continuously supported the activities of the Cairo Regional Centre for International Commercial Arbitration. Further, the delegation stated that his country had ratified most of the international treaties pertaining to arbitration. In order to give further importance to arbitration related matters, the delegation stated that the Arab Republic of Egypt established an Arbitration Working Group within the Ministry of Justice to deal with international commercial arbitration matters and informed that the Department of International Cooperation had engaged with international trade organizations. They also proposed to train judges on arbitration matters and committed to establish a new conciliation system in their country.
- 14.8 **The Delegation of Bahrain** attached great importance to the agenda item, especially in the light of growing and increasing volume of international trade and expanding its relations with the outside world, where the parties of international trade were always looking for dynamic mechanisms to settle their disputes such as arbitration, conciliation, mediation and other alternative means of resolve trade disputes.
- 14.9 The delegation stated that his country was one of the first Arab countries that had adopted the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration in 1985, as Decree Law No. 9 of 1994 with respect to the issue of the law of international commercial arbitration.
- 15.0 The delegation pointed out that there were many centers and institutions of arbitration in addition to the Commercial Arbitration Center for the States of the Gulf Cooperation Council (GCC). The system of Center was approved during the

- 14th summit of GCC, held in Riyadh in 20/12/1993, and the Center had started functioning officially in March 1995. Further, hosting the G.C.C. Commercial Arbitration Center by the Kingdom was considered as one of the positive signs on the pursuit of the Kingdom to assume a leading regional and international center for arbitration, rehabilitation and training of arbitrators.
- 15.1 **The Delegation of the Sultanate of Oman** attached great importance to the agenda item and congratulated the AALCO Secretariat for organizing such a Special Meeting on the agenda item. The delegation stated that Arbitration as an alternate dispute resolution system commenced in their country in mid eighties. A much more comprehensive enactment was brought in the year 1997 by the Royal Decree No. 47/97 which derived most of the provisions from UNCITRAL law. The delegation mentioned that the Law of Arbitration in Civil and Commercial Disputes recognized the enforcement of foreign arbitral decisions in the Sultanate. Further, the delegation stated that they recognized the existence of AALCO Regional Arbitration Centres and their work in the field of international commercial arbitration.
- 15.2 **The Delegation of Thailand** stated that as the international trade activities were increasing, disputes between States could be expected. If such disputes were not properly addressed, such disputes could develop into obstacle to trade and business transactions.
- 15.3 The UNCITRAL Model Law on International Commercial Arbitration had been successful in addressing such concerns. A number of countries adopted the Model Law into their domestic legislations, lead to predictability and clarity of the arbitration system. With regard to newly revised UNCITRAL Arbitration Rules, the Rules were adopted not only in international and domestic commercial contracts between private persons, they were also incorporated into many existing bilateral investment treaties and free trade agreements which contained investment protections provisions as a choice for investor-state dispute settlement. Further, the Rules were used to supplement other existing arbitration rules such as ICSID.
- 15.4 The delegation stated that currently, UNCITRAL was considering the drafting of a legal standard on the transparency in treaty-based investor State arbitration. This was in response to the need of ensuring transparency in treaty-based investor-State arbitration in the context of foreign direct investment as a tool for long-term sustainable growth of developing countries. In addition, ensuring transparency and a meaningful opportunity for public participation in treaty-based investor-State arbitration constituted some important means to promote the rule of law, good governance, due process, fairness, equity and right to access information, as well as an important step to respond to the increasing challenges regarding the legitimacy of international investment law and arbitration as such.

- 15.5 **The Delegation of the Republic of Indonesia** stated that they attached great importance to arbitration, in particular, international commercial arbitration. The delegation informed that in 1999, Indonesia enacted a new arbitration law (Law no. 30/1999) which repeated the provisions on arbitration contained in the First Section of Chapter III of the Law on Civil Procedure of 1847 which was inherited from the Pre-War colonial administration. The new arbitration law was intended to cope with the development of the domestic/national and international trade as well as the development of Law in general. It would regulate arbitration in general and includes general provisions regarding other forms of alternative dispute resolutions (ADR) such as negotiation, mediation, conciliation and technical evaluation.
- 15.6 The delegation highlighted the fact that they recognized the existence of the various regional arbitration centres which were established under the AALCO cooperation scheme. The BANI Arbitration Centre was established in 1977 to administer the domestic arbitration and international arbitration, as well in Indonesia. The Centre had cooperation agreements with arbitration centres in various countries. The cooperation would include exchanges of views and information, joint training programs and exchanges of listed arbitrators. Besides that, BANI was an active member of the Regional Arbitral Institutes Forum (RAIF) and the Asia-Pacific Regional Arbitration Group (APRAG).
- 15.7 **The Delegation of the Islamic Republic of Iran** stated that the AALCO Secretariat's Report as a useful and informative document which touched upon a matter of high significance. The delegation appreciated the work of the AALCO's Regional arbitration centres, especially Tehran Regional Arbitration Centre (TRAC). TRAC was quite well-known among specialists in the Region, the delegation informed. The insertion of TRAC arbitration clause had gained momentum in various type of contracts pertaining to general trade, oil well drilling both on-shore and off-shore and related services, bank guarantees, etc. The TRAC, in pursuance of one of its objectives, provided opportunity for legal advisors of companies in different sectors and legal experts to participate in more than 30 workshops and seminars which have been held at TRAC in Tehran on related issues.
- 15.8 The delegation stated that finalization and adoption of a revised version of the UNCITRAL Arbitration Rules were one of the important achievements of the Commission. On the future work in the field of settlement of commercial disputes, his delegation believed that the adoption of new topics should be in line with the character and function of the institution of arbitration. Further, they viewed that the issues of transparency in treaty-based investor-State arbitration needed to be further examined, taking into account the nature and mandate of the Commission. They fully concurred with the prevailing view in the Commission that it was too premature to make any decision on the form and scope of a future instrument on treaty-based arbitration.

- 15.9 **The Delegation of the People's Republic of China**, expressed appreciation to the Secretariat for offering the opportunity to share the experiences of international trade arbitration among AALCO Member States. Then, they introduced the work of two arbitration institutions in China. The first one was the China International Economic and Trade Arbitration Commission (CIETAC). CIETAC was established by the China Council for the Promotion of International Trade (CCPIT) in April 1956 on the approval of the State Council in 1954. It was the best-known arbitration agency of China and one of the leading permanent arbitration agencies in the world. In the past 55 years, CIETAC made prominent contributions to the formulation of China's Arbitration Law and the development of China's arbitration cause with its arbitration practice and theoretical research. The number of cases CIETAC accepted indicated that it was way ahead in the international arbitration fields. In 2010, CIETAC accepted 1352 cases with the amount in controversy of more than 2 billion US dollars. CIETAC concluded 1382 cases in 2010. The parties to the cases were from more than 50 countries and districts, including US, UK, Japan, South Korea and etc.
- 16.0 The second was the Chinese Maritime Arbitration Commission (CMAC). CMAC was a permanent arbitration agency which would accept the maritime dispute cases from home and abroad. The CMAC settled the maritime disputes, maritime commerce disputes, logistics disputes and other contractual or non-contractual disputes independently and fairly to protect the legitimate interest of parties and to promote the development of international and domestic trade and logistics. In 2010, CMAC accepted 54 cases. The parties were from mainland China, Japan, Cambodia, Panama, Turkey, St. Vincent, and Hong Kong SAR. The cases involved were ship contract, ship collision, ship repairing, ship sales, bareboat chart, voyage charter and etc. CMAC concluded 58 cases in 2010.
- 16.1 **The Delegation of Uganda** stated that they had made tremendous development in the area of litigation, by amending their former Arbitration Ordinance dated from 1939 and replaced it with the Arbitration and Conciliation Act CAP 4 Laws of Uganda, based on the UNCITRAL Model Law. The Act established a body known as the Center for Arbitration and Dispute Resolution (CADER), which was intended to fulfill various functions defined elsewhere in the Act. The Center also devised rules for the implementation of arbitration, conciliation and ADR processes, established a code of ethics for and maintain a list of qualified arbitrators, conciliators and experts, sets fees for arbitrators, and facilitate certification, registration and authentication of arbitral awards and conciliation settlements.
- 16.2 The delegation mentioned that another feature of the Act was a set of model forms for use by the parties or the arbitrator at different stages of arbitral proceedings. They included an agreement to submit to arbitration following the occurrence of a dispute, an agreement on the appointment of a single arbitrator and a form relating to the extension of time allowed for the arbitrator to make his award.

- 16.3 **The Delegation of Japan** stated that they attached great importance to the agenda item and expressed their appreciation to the Secretariat for organizing the Special Meeting on the important subject.
- 16.4 **The Delegation of Sri Lanka** stated that the time was opportune to consider revising the grounds on which award could be refunded. Sri Lanka incorporated and passed in a law in 1995, the Arbitration Act (No. 11 of 1995). One of its objects was to make “comprehensive legal provision” for the conduct of arbitration proceedings and the enforcement of arbitral awards. The second object was to make legal provision to “give effect”, to the principles of the Convention on the Recognition and Enforcement of Foreign Awards of 1958 (the New York Convention). There were several grounds on arbitral awards which were found in UNCITRAL Model law, a party was objecting was enforcement, as a catch hole clause to refuse enforcement. The time had come whether in addition to what New York Convention there could be other grounds, for setting aside an award. Sri Lanka’s experience was nowhere statutorily noted down and could not be brought under any head and it was incompatible in Sri Lanka’s policy, the delegation remarked. Further, the delegation stated that there was a challenge of consensual nature of arbitration itself. It was the time to look at all the aspects of the arbitration. Sri Lanka had two main arbitration centres and from their side, steps were taken to amend the existing laws which could be made, so that the arbitration process could be expedited.
- 16.5 **The Delegation of Ghana** profoundly thanked the Panelists for their effective presentations. The delegation thanked the Director of the Lagos Arbitration Centre for ably providing the scenario in the region. The delegation stated that international commercial arbitration had become very topical in African region. Each of the countries in the region had domesticated the arbitration process. The delegation extended his Government’s support to the Lagos Arbitration Centre. Further, he stated that the current legal regime governing enforcement of foreign commercial arbitration in Ghana was the Alternative Dispute Resolution Act, 2010 (Act 795). The Act had made significant changes to the enforcement of foreign arbitral awards in Ghana. Prior to 2010, the arbitration act, 1961 governed enforcement of foreign commercial arbitration awards in Ghana.
- 16.6 **The Delegation of India** at the outset, expressed appreciation to the Secretariat for organizing the Special Meeting on a very important agenda item. The delegation mentioned that India was a party to the New York Convention and played an active role in formulating UNCITRAL Model law and based on that amended its national law, the Indian Arbitration and Conciliation Act, 1996. Further, he pointed out that while operationalizing the Act, they found difficulties and were in the process of reviewing it. The delegation also mentioned that they were using the rules in bilateral investment agreements.
- 16.7 **The Delegation of Nigeria** stated that they were aware of the rules and functions of the Lagos Arbitration Centre and always supported the activities of the Centre.

As regards the lacunae with respect to domestication, the delegation assured that they would take all necessary steps to remove the lacunae and expressed support to the Lagos Arbitration Centre in its independent functioning.

- 16.8 Finally, Dr. Xu Jie, the Deputy Secretary-General of AALCO proposed a vote of thanks to all the panelists, Member States and the host Government for making the special meeting a successful one.

17. Third Meeting of the Delegation of AALCO Member States

Agenda Item: Report on the AALCO's Centre for Research and Training (CRT)

- 17.1 **Dr. Xu Jie, Deputy Secretary-General of AALCO** introduced the Organizational Agenda Item, "Report on the Centre for Research and Training of the AALCO". In his statement he gave a brief background on the establishment of the CRT. The CRT functioning as an integral part of the Secretariat of the Asian-African Legal Consultative Organization (AALCO), evolved from the AALCO's "Data Collection Unit", which was established based on the proposal made by the Government of Republic of Korea at the Twenty-Eighth Session of AALCO held in Nairobi in 1989. The Data Collection Unit was renamed as the Centre for Research and Training in the Fortieth Annual Session of AALCO in the Year 2001. This marked, as envisaged, a new chapter in the efforts of the Member States towards undertaking research activities, as well as training programmes, within the AALCO. The mandate was further strengthened at the Abuja Session, Nigeria in the Year 2002. The Deputy Secretary-General gave a brief account on the activities undertaken by CRT in the period under review on the following heads, namely, Capacity building programmes, publications, seminars and workshops. He also stated that Secretariat is in the process of upgrading and also creating an Arabic version of AALCO website.
- 17.2 The DSG stated that in the period 2011-2012, the AALCO Secretariat intends to further strengthen the existing programmes and introduce new programmes. Some of the proposed programmes are: Training Programme in international law issues organized at the Headquarters (New Delhi)/any interested Member State(s); Regional Workshop on Treaty Law and Practice; Expert Group Meetings/Workshops on International Law; Workshop/Seminar on UNCITRAL and Young Jurist Conference. The Secretariat is also intending to formulate a database on the national legislation of the Member States of AALCO on the various fields of international law.
- 17.3 The DSG informed that to promote and strengthen Research and Training under the CRT, and to provide a sustainable financial base to the Centre to undertake its mandated activities, any Member State of AALCO could provide voluntary contribution to the "Research and Training Fund". The Fund would be exclusively devoted to research on international law issues of common interest to

Member States and for the training of the officials of Member States.

18. Report of the Chairperson of the Drafting Committee

18.1 **Ms. Sriyangini Fernando, Chairprson of the Drafting Committee** presented her Report on the Working of the Drafting Committee. She stated that the main task The main task entrusted to the Drafting Committee was to look into the documents prepared by the AALCO Secretariat for the Fiftieth Annual Session, i.e. the draft resolutions on organizational and substantive matters, the summary report and a text containing a Message of Thanks to His Excellency Mahinda Rajapaksa, the President of the Democratic Socialist Republic of Sri Lanka. With a view to facilitate the adoption of the draft documents by the Plenary Meeting, the Members of the Drafting Committee had done their best to prepare the draft resolutions in such a way that it was acceptable to all the delegations and also that the resolutions reflected the ideas and views commonly shared by the delegations.

18.2 In that regard, she seized the opportunity to thank her able co-chair Ms. Indika de Silva, and all the delegates who participated and enriched the discussion during the Drafting Committee proceedings. She also extended her sincere appreciation to all the delegates for the maximum flexibility exercised during the deliberations. Further, she noted with appreciation the excellent cooperation and assistance of the AALCO Secretariat firstly, in preparing all the aforementioned documents and secondly, coordinating the smooth functioning of the Drafting Committee.

19. Adoption of Message of Thanks to the President of the Democratic Socialist Republic of Sri Lanka

19.1 The Secretary-General on behalf of the Member States of AALCO read out the Message of Thanks to the President of the Democratic Socialists Republic of Sri Lanka. The same was unanimously adopted.

20. Adoption of Resolutions of the Session

20.1 The following Resolutions were adopted at the Third Meeting of the Delegations of AALCO Member States on 1 July 2011:

RES/50/ORG 1	Report of Secretary-General on Organizational, Administrative and Financial Matters
RES/50/ORG 2	AALCO's Budget for the Year 2012
RES/50/ORG 4	Report on the Centre for Research and Training of the AALCO
RES/50/S 1	Report on Matters relating to the Work of the International Law Commission at its Sixty-Second Session
RES/50/S 2	The Law of the Sea
RES/50/S 3	The Status and Treatment of Refugees
RES/50/S 4	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
RES/50/S 6	Extra-Territorial Application of National Legislation: Sanctions Imposed Against Third Parties
RES/50/S 7	International Terrorism
RES/50/S 9	International Criminal Court
RES/50/S 10	Environment and Sustainable Development
RES/50/S 11	Challenges in Combating Corruption: The Role of the United Nations Convention against Corruption
RES/50/S 12	Report on the Work of UNCITRAL and Other International Organizations Concerned with International Trade Law
RES/50/S 13	WTO as a Framework Agreement and Code of Conduct for World Trade
RES/50/S 14	Expressions of Folklore and its International Protection
RES/50/S 16	Managing Global Financial Crisis: Sharing of Experiences
RES/50/SP 1	Resolution on the Special Meeting on “Trafficking in Women/Children, Migrant Workers and Protection of Children”
RES/50/SP 2	Resolution on the Special Meeting on “International Commercial Arbitration”

21. Consideration of the Summary Report

- 21.1 The Draft Summary Report of the Fiftieth Annual Session of AALCO was placed for consideration of the Member States

B. RESOLUTIONS

B. RESOLUTIONS

AALCO/RES/50/ORG 1
1 JULY 2011

REPORT OF THE SECRETARY-GENERAL ON ORGANIZATIONAL, ADMINISTRATIVE AND FINANCIAL MATTERS

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Recalling the functions and purposes of the Organization as stipulated in Article 1 of the Statutes of AALCO;

Having considered the Report of the Secretary-General on Organizational, Administrative and Financial Matters pursuant to Rule 20 (7) of Statutory Rules as contained in Document No. AALCO/50/COLOMBO/2011/ORG 1;

Having heard with appreciation the introductory statement of the Secretary-General on the Report of the Secretary-General on Organizational, Administrative and Financial Matters;

Also having heard with keen interest and appreciation the statements of the Heads of Delegations of AALCO Member States on the Report of the Secretary-General;

Appreciating the efforts of the Secretary-General to enhance the activities of the Organization and to implement its work programme as approved at its Forty-Ninth Annual Session held in Dar es Salaam, United Republic of Tanzania, from 5 to 8 August 2010;

Also appreciating the continued practice towards the rationalization of its work programme, including consideration of the agenda items during its annual sessions;

Taking note of the Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization; and the Action Plan as explained in Document No. AALCO/ES (NEW DELHI)/2008/ORG.1 adopted by the Extraordinary Session of AALCO Member States held on 1 December 2008, in New Delhi (Headquarters), India;

Welcoming the efforts by the Secretary-General for Revitalizing and Strengthening the AALCO;

Appreciating the Report of the Chairman of the AALCO Eminent Persons Group (EPG);

Taking note of the Preliminary Report of the Sub-Committee of Liaison Officers of AALCO Member States on the AALCO Secretariat's Human Resources and Financial

Matters;

Also taking note of the proposal of the Secretary-General to establish an AALCO Foundation;

Noting with satisfaction the increased co-operation between the Organization and the United Nations and its Specialized Agencies, other international organizations and academic institutions:

1. **Approves** the work programme of the Organization as set out in the Report of the Secretary-General and urges Member States to extend their full support to the implementation of that programme.
2. **Requests** the Secretary-General to continue his efforts and explore the ways and means to enlarge the Membership of the Organization in Asia and Africa, in particular, to increase the representation from the African States and Central Asian States.
3. **Also requests** the Secretary-General to initiate necessary measures to establish the AALCO Foundation taking into consideration the concerns expressed by the Member States.
4. **Endorses** the continuation of the AALCO-EPG and urges it to initiate the necessary follow-up action and present this Report at the Fifty-First Annual Session of the Organization.
5. **Encourages** the Member States to actively participate in the Sub-Committee of Liaison Officers of AALCO Member States on the AALCO Secretariat's Human Resources and Financial Matters so as to enable it to place the Report at the Fifty-First Session of the Organization.
6. **Also encourages** Member States to make voluntary contributions to support the capacity building activities under the approved work programme of the Organization, and
7. **Further requests** the Secretary-General to report on the activities of the Organization at its Fifty-First Annual Session.

AALCO/50/RES/ORG 2
1 JULY 2011

AALCO'S BUDGET FOR THE YEAR 2012

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having heard with appreciation the introductory statement of the Secretary-General on the Proposed Budget for the Year 2012 as contained in Secretariat Document No. AALCO/50/COLOMBO/2011/ORG 2;

Taking note of the comments of the Member States on the Proposed Budget;

Noting further the Proposed Budget for the year 2012 was placed before the 309th and 310th Meeting of the Liaison Officer's held on 30 March 2011 and 27 April 2011 respectively, in Headquarters, New Delhi; and adopted at the 311th Meeting of the Liaison Officers held on 25 May 2011, and submitted to the Fiftieth Annual Session for final approval;

Considering that the Proposed Budget for the year 2012 is a realistic budget depending on the actual contributions received as urged by some Member States during the Forty-Ninth Annual Session of AALCO held in United Republic of Tanzania in 2010;

Noting with appreciation the part arrears paid by the Government of Iraq on the basis of Memorandum of Understanding (MoU) and by the Government of the Sudan and requesting other Member States in large arrears to follow suit;

Expressing deep concern over the financial crisis faced by AALCO and the need to take appropriate measures to overcome the financial crisis including the collection of arrears;

Acknowledging the immediate need to replenish the Reserve Fund of the Organization, with the objective of ensuring that it always has a six-month operational fund for the functioning of the Organization;

Considering all the above-mentioned reasons to place the Organization on a firm financial footing:

1. **Approves** the Budget for the year 2012 as proposed.
2. **Requests** Member States who have not paid their annual contribution for the year 2011, to do so at the earliest in order to ensure the effective functioning of the Organization.
3. **Encourages** Member States to make voluntary financial contribution in

order to improve the financial situation of AALCO and to ensure that it has always a six-month operational fund.

4. **Strongly urges** Member States who are in arrears to fulfill their financial obligation and to expeditiously clear the same in accordance with the Statutes and Statutory Rules of AALCO.
5. **Mandates** the Secretary-General to explore ways and means of raising funds by additional sources in accordance with the Statutes and Statutory Rules of AALCO, and
6. **Decides** to place this item on the provisional agenda of the Fifty-First Annual Session.

AALCO/RES/50/ORG 4

1 JULY 2011

**REPORT ON THE CENTRE FOR RESEARCH AND TRAINING OF THE
AALCO**

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat Report on the Centre for Research and Training (CRT) of the AALCO, contained in Document No. AALCO/50/COLOMBO/2011/ORG 4;

Having heard with appreciation the introductory remarks of the Deputy Secretary-General;

Recognizing the need and importance of the exchange of information among AALCO, its Member States, the United Nations and its Specialized Agencies, and other International Organizations for improved capacity-building and enhancement of legal expertise in areas of international law;

Bearing in mind the effective role of research and training in promoting the objectives of the Organization;

Also bearing in mind a more proactive role the CRT could play in furthering the mandate of the Organization in making the best use of the Headquarters which is equipped with modern technology and infrastructure facilities;

Appreciating the efforts of the Secretariat in preparing special studies on matters of common concern and its plan to hold training programmes in cooperation with International Organizations and to ensure financial support to these programmes;

Also appreciating the efforts of the CRT for organizing the Training Programme on International Humanitarian Law and Training Workshop on the World Trade Organization at the AALCO Headquarters in New Delhi:

1. **Requests** the Secretariat to maintain, update and improve the technical efficiency of the website for facilitating dissemination of information to the Member States, the United Nations and its Specialized Agencies, and other International Organizations.
2. **Also requests** the Secretary-General to foster capacity-building of the Centre to carry out further research projects on international law and to organize training programmes for the benefit of the officials of Member States handling international law issues.

3. **Urges** Member States to furnish information and other relevant materials, including the name and address of the focal point with e-mail and the website of the Ministry concerned and officials in charge of AALCO, in order to enhance the activities of the Centre for Research and Training (CRT).
4. **Also Urges** Member States to make voluntary contributions to the “Research and Training Fund” established vide RES/45/ORG 4 to promote and strengthen Research and Training under the CRT, and to provide a sustainable financial base to the Centre to undertake its mandated activities.
5. **Directs** the Secretariat to take necessary measures to promote the awareness about the Centre so that the services available in the Centre would be made use of by the public and private sectors in the Member States.
6. **Also directs** the Secretariat to work towards the realization of its proposal for the training of officials of AALCO Member States.
7. **Requests** the Member States to provide the Secretariat with specific topics for conducting in-depth research studies, and
8. **Decides** to place this item on the provisional agenda of its Fifty-First Annual Session.

**AALCO/RES/50/S 1
1 JULY 2011**

**MATTERS RELATING TO THE WORK OF THE
INTERNATIONAL LAW COMMISSION
(Deliberated)**

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat Document No.AALCO/50/COLOMBO/2011/S 1;

Having heard with appreciation the introductory statement of the Secretary-General;

Having followed with great interest the deliberations on the item reflecting the views of Member States on the work of the International Law Commission (ILC);

Expressing its appreciation for the statement made by the Representative of the ILC on its work;

Recognizing the significant contribution of the ILC to the codification and progressive development of international law;

Commending the initiative of the Secretary-General in convening the Meeting of the Asian-African Legal Consultative Organization (AALCO) held in New York on 1 November 2010, and the fruitful exchange of views on the items deliberated during that meeting:

1. **Recommends** Member States to contribute to the work of ILC, in particular by communicating their comments and observations regarding issues identified by the ILC on various topics currently on its agenda to the Commission.
2. **Requests** the Secretary-General to continue convening AALCO-ILC meetings in future.
3. **Also requests** the Secretary-General to bring to the attention of the ILC the views expressed by Member States during the Annual Sessions of AALCO on the items on its agenda during its Fiftieth Annual Session.
4. **Further requests** the Secretary-General to consider holding a Special Meeting on this topic at the Fifty-First Annual Session, and
5. **Decides** to place the item on the provisional agenda of the Fifty-First Annual Session.

AALCO/RES/50/S 2

1 JULY 2011

THE LAW OF THE SEA
(Deliberated)

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Considering the Secretariat Document No. AALCO/50/COLOMBO/2011/S 2;

Recognizing the universal character of the United Nations Convention on the Law of the Sea 1982 (UNCLOS), and its legal framework governing the issues relating to the management of the oceans;

Mindful of the historical contribution made by the Asian-African Legal Consultative Organization in the elaboration of the UNCLOS;

Conscious that the AALCO has been regularly following the implementation of the UNCLOS and its implementing agreements;

Hopeful that in view of the importance of the law of the sea issues, AALCO would maintain its consideration on the agenda item and continue to perform its historical role on the law of the sea matters;

Taking note of the deliberations at the United Nations Open-ended Informal Consultative Process established by the United Nations General Assembly to facilitate annual review of the developments in ocean affairs;

Welcoming the active role being played by the International Tribunal for the Law of the Sea (ITLOS) in the peaceful settlement of disputes with regard to ocean related matters;

Being deeply concerned about the phenomenal increase in piracy, and its adverse effect on human life, trade and commerce;

Appreciating the efforts taken by the Member States to combat piracy:

1. **Reaffirms** that in accordance with the UNCLOS, the “Area” and its resources are the common heritage of mankind.
2. **Urges** the full and effective participation of its Member States in the work of the International Seabed Authority, 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 and also through effective contribution to the work of the Commission on the Limits of Continental Shelf, so as to ensure and safeguard their legitimate interests.

3. **Requests** the Secretary-General to consider convening a Special Meeting on the issue of piracy for deliberation at the Fifty-First Annual Session, and
4. **Decides** to place this item on the provisional agenda of the Fifty-First Annual Session.

AALCO/RES/50/S 3
1 JULY 2011

THE STATUS AND TREATMENT OF REFUGEES
(Non-Deliberated)

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat Document No. AALCO/50/COLOMBO/2011/S 3;

Reaffirming the importance of the 1951 Convention relating to the Status of Refugees (the 1951 Convention) together with the 1967 Protocol thereto, as complemented by the Organization of African Unity Convention of 1969, as the cornerstone of the international system for the protection of refugees;

Welcoming the Sixtieth anniversary of the 1951 Convention and stressing the need to implement its provisions along with the 1967 Protocol, particularly in a manner fully compatible with the object and purpose of these instruments;

Commends the Office of the United Nations High Commissioner for Refugees (UNHCR) for the important contribution which it has made towards the protection of refugees, on the eve of the Sixtieth anniversary of the establishment of the UNHCR:

Deplores the widespread violations of the principle of non-refoulement and of the rights of refugees in many parts of the world.

1. **Acknowledges** the **desirability** of comprehensive approaches by the international community to the problems of refugees and displaced persons, including addressing root causes, strengthening emergency preparedness and response, providing effective protection and achieving durable solutions.
2. **Calls upon** all States that have not yet done so to ratify/accede to and to implement fully the 1951 Convention relating to the Status of refugees and the 1967 Protocol thereto and other relevant regional instrument as the case may be, and
3. **Decides** to place this item on the provisional agenda at its Fifty-First Annual Session.

AALCO/RES/50/S 4

1 JULY 2011

**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)**

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat Document No. AALCO/50/COLOMBO/2011/S 4,

Noting with appreciation the introductory remarks of the Deputy Secretary-General;

Recalling and reiterating the decisions taken at the consecutive Annual Sessions of the Asian-African Legal Consultative Organization since 1988, when the topic was first introduced on the agenda of the Organization, in particular the decisions adopted on 22 April 1998 and 23 April 1999,

Also recalling and reiterating the resolutions adopted on 23 February 2000; RES/40/4 of 24 June 2001; RES/41/4 of 19 July 2002; RES/42/3 of 20 June 2003; RES/43/S 4 of 25 June 2004; RES/44/S 4 of 1 July 2005; RES/45/S 4 of 8 April 2006; RESW/46/S 4 of 6 July 2007; RES/47/S 4 of 4 July 2008; RES/48/S 4 of 20 August 2009, and RES/49/S 4 of 8 August 2010,

Having followed with great interest the deliberations on the item reflecting the views of Member States;

Being concerned with the serious obstacles created by the occupying power, which hinder the achievement of a just and lasting peace in the region;

Recognizing that the massive Israeli military operation in the Occupied Palestinian Territories, particularly in the occupied Gaza strip, has caused grave violations of the human rights of the Palestinian civilians therein and international humanitarian law, and exacerbated the severe humanitarian crisis in the Occupied Palestinian Territories;

Also recognizing that the Israeli siege imposed on the occupied Gaza strip, including the closure of border crossings and the cutting of the supply of fuel, food and medicine, constitutes collective punishment of Palestinian civilians and leads to disastrous humanitarian and environmental consequences;

Welcoming the international and regional initiatives for peace in the Middle East;

Condemning Israel's acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and the Fourth Geneva Convention of 1949;

Stressing the need for compliance with existing Israeli – Palestinian agreements concluded in order to reach a final settlement;

Being concerned about the continuing dangerous deterioration of the situation in the Occupied Palestinian Territories, including East Jerusalem and Gaza strip, the continuous deportation of Palestinians from their homeland, and the continuing serious and systematic violation of human rights of the Palestinian people by Israel, the occupying power, including that arising from the excessive use of force, the use of collective punishment, the occupation and closure of areas, the confiscation of land, the establishment and expansion of settlements, the construction of a wall in the occupied Palestinian Territories, the destruction of property and infrastructure, use of prohibited weapons and all other actions designed to change the legal status, geographic composition of the Occupied Palestinian Territories, including East Jerusalem and Gaza strip, and about war crimes and crimes against humanity committed in these territories, and calling for the implementation of the relevant United Nations resolutions on the humanitarian situation of the Palestinian people;

Recalling the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006), as well as the United Nations initiative of establishment of a Register of Damage arising from the construction of the separation wall;

Being deeply concerned about the tenacity of Israel in proceeding with the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, which is contrary to international law;

Acknowledging with deep concern that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall;

Expressing its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14th Arab Summit held in Beirut (Lebanon) on 28 March 2002 and reaffirmed in the 19th Summit Conference of the League of Arab States, Riyadh, 28-29 March 2007 as well as other peace initiatives, including the Quartet Road Map;

Taking note of conclusions and outcomes of all events held at both regional and international levels aiming at the achievement of a just, durable and comprehensive solution of the question of Palestine;

Affirming that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the Charter of the United Nations, existing agreement between the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony:

1. **Urges** its Member States to take part in the peace process/efforts exerted by the international community for the achievement of a just and comprehensive solution of the question of Palestine on the basis of relevant Security Council resolutions, including 242 (1967), 338 (1973), 425 (1978), 1397 (2002) and 1860 (2009); and relevant General Assembly Resolutions, including 194 (1949) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership.
2. **Takes note** of the United Nations Secretary General’s Board of Enquiry as transmitted on 4 May 2009 to the Security Council as well as the findings of the recent report of the Special Rapporteur of the Human Rights Council and other regional organizations.
3. **Also takes note** of the report of the Independent Fact Finding Committee on Gaza presented to the League of Arab States on 30 April 2009.
4. **Strongly condemns** the shocking developments that have continued to occur in the Occupied Palestinian Territory, including East Jerusalem, including the deportation of Palestinians from their homeland, the large number of deaths and injuries, mostly among Palestinian civilians, the acts of violence and brutality against Palestinian civilians, the widespread destruction of public and private Palestinian property and infrastructure, the internal displacement of civilians and the serious deterioration of the socio-economic and humanitarian conditions of the Palestinian people.
5. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians.
6. **Also demands** that Israel positively respond to the 2009 Report of Mr. Richard Falk the Special Rapporteur for the Palestinian Territories Occupied Since 1967 and 2010 Report and Recommendations of Justice Goldstone, United Nations Fact Finding Mission on the Gaza Conflict in order to protect the rights of Palestinians.

7. **Further demands** that Israel comply with its legal obligations as mentioned in the Advisory Opinion rendered by the International Court of Justice in the case concerning the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004).
8. **Strongly demands** that Israel stop and reverse the construction of the wall in the Occupied Palestinian Territory.
9. **Strongly deplores** the Israeli blockade of the Gaza strip and its consequent human rights and humanitarian law violation and the Israeli attack against the humanitarian aid Flotilla.
10. **Further demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinians territories in implementation of Security Council Resolutions, including 1402 (2002), 1403 (2002), 1515 (2003), and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian territories occupied since 1967.
11. **Calls upon** Israel to ensure the return of refugees and displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions.
12. **Directs** the Secretariat to closely follow the developments in occupied territories from the view point of relevant legal aspects, and
13. **Decides** to place the item on the provisional agenda of the Fifty-First Annual Session.

AALCO/RES/50/S 6

1 JULY 2011

**EXTRATERRITORIAL APPLICATION OF NATIONAL LEGISLATION:
SANCTIONS IMPOSED AGAINST THIRD PARTIES
(Non-Deliberated)**

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat Document No. AALCO/50/COLOMBO/2011/S 6;

Recalling its Resolutions RES/36/6 of 7 May 1997, RES/37/5 of 18 April 1998, RES/38/6 of 23 April 1999, RES/39/5 of 23 February 2000, RES/40/5 of 24 June 2001, RES/41/6 of 19 July 2002, RES/42/6 of 20 June 2003, RES/43/6 of 25 June 2004, RES/44/6 of 1 July 2005, RES/45/S 6 of 8 April 2006, RES/46/S 7 of 6 July 2007, RES/47/S 6 of 4 July 2008, RES/48/S 6 of 20 August 2009 and RES/49/S 6 of 8 August 2010 on the subject;

Recognizing the significance and implications of the above subject;

Expressing its concern that the imposition of unilateral sanctions on third parties is not in conformity with the Charter of the United Nations and the general principles of international law, particularly non-interference in internal affairs, sovereign equality, freedom of trade, peaceful settlement of disputes and right to development;

Declaring condemnation as regards the imposition against the AALCO Member States with additional and new series of sanctions against Union of Myanmar, Syrian Arab Republic and Islamic Republic of Iran by the Government of the United States of America;

Being aware that extraterritorial application of national legislation in an increasingly interdependent world retards the progress of the Sanctioned State and impedes the establishment of an equitable, multilateral, non-discriminatory rule-based trading regime;

Reaffirming the importance of adherence to the rules of international law in international relations:

1. **Directs** the Secretariat to continue to study the legal implications related to the Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties and the executive orders imposing sanctions against target States.
2. **Urges** Member States to provide relevant information and materials to the Secretariat relating to national legislation and related information on this subject, and

3. **Decides** to place this item on the provisional agenda of the Fifty-First Annual Session.

AALCO/RES/50/S 7

1 JULY 2011

INTERNATIONAL TERRORISM
(Non-deliberated)

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat Document No. AALCO/50/COLOMBO/2011/S 7;

Recalling the relevant international instruments, where applicable, and resolutions of the United Nations General Assembly and the Security Council relating to measures to eliminate international terrorism and the efforts to prevent, combat and eliminate terrorism;

Taking note of the ongoing negotiations in the Ad Hoc Committee established by the General Assembly of the United Nations by its resolution 51/210 of 17 December 1996 to elaborate a Comprehensive Convention on International Terrorism based on the proposal made by the Republic of India;

Expressing grave concern about the worldwide increase in acts of terrorism, which threaten the life and security of innocent people and impede the economic development of the concerned States;

Recognizing the need for the international community to collectively combat terrorism in all its forms and manifestations;

Reaffirming that international effort to eliminate terrorism must be strengthened in accordance with the Charter of the United Nations and taking into account international human rights law, international humanitarian law, and refugee law;

Calling for an early conclusion and the adoption of a comprehensive convention on international terrorism by expediting the elaboration of a universally acceptable definition of terrorism:

1. **Encourages** Member States to consider ratifying/acceding to the relevant conventions on terrorism.
2. **Also encourages** Member States to participate in the work of the above mentioned Ad Hoc Committee on International Terrorism.
3. **Directs** the Secretariat to follow and report on the progress of work in the Ad Hoc Committee on International Terrorism.

4. **Also directs** the Secretariat to obtain national legislation or information on national legislation, as the case may be, on combating terrorism to facilitate exchange of information among Member States.
5. **Requests** the Secretary-General to hold seminars and joint programmes in cooperation with other international organizations, especially United Nations Office on Drugs and Crime, on dealing with the legal aspects of combating terrorism, and
6. **Decides** to place the item on the provisional agenda of its Fifty-First Annual Session.

AALCO/RES/50/S 9
1 JULY 2011

INTERNATIONAL CRIMINAL COURT: RECENT DEVELOPMENTS
(Non-Deliberated)

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Considering the Secretariat Document No. AALCO/50/COLOMBO/2011/S 9;

Taking note of the deliberations and decisions of the Review Conference of the Rome Statute of the International Criminal Court, and noting the progress in cases before the International Criminal Court (ICC);

Also taking note of the deliberations and decisions of the Ninth Session of the Assembly of States Parties to the Rome Statute of the ICC;

Being aware of the importance of the universal acceptance of the Rome Statute of the ICC and in particular, the principle of complementarity;

Taking note of the outcome of the Review Conference of the Rome Statute of the International Criminal Court held at Kampala, Uganda:

1. **Encourages** Member States which are not yet party to consider ratifying/acceding to the Rome Statute and upon ratification/accession consider adopting necessary implementing legislation.
2. **Further encourages** Member States that have ratified the Rome Statute to consider becoming party to the Agreement on the Privileges and Immunities of the ICC.
3. **Directs** the Secretariat to follow up the deliberations in the forthcoming Tenth Session of the Assembly of States Parties and its meetings, and follow the developments regarding cases taken up by the ICC, and present a report at the Fifty-First Annual Session.
4. **Requests** the Member States to participate in the forthcoming “Meeting of Legal Experts on the Rome Statute of the International Criminal Court”, scheduled to be held in Putrajaya, Malaysia on the 19th and 20th of July 2011, and
5. **Decides** to place this item on the provisional agenda of the Fifty-First Annual Session.

AALCO/RES/50/S 10
1 JULY 2011

ENVIRONMENT AND SUSTAINABLE DEVELOPMENT
(Deliberated)

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Considering the Secretariat Document No. AALCO/50/COLOMBO/2011/S 10;

Noting with appreciation the introductory statement of the Deputy Secretary-General;

Having followed with great interest the deliberations on the item reflecting the views of the Member States on the agenda item “Environment and Sustainable Development”;

Deeply concerned with the deteriorating state of the global environment through various human activities, and unforeseen natural disasters;

Reaffirming that environmental protection constitutes an integral part of sustainable development;

Welcoming the adoption of the Johannesburg Declaration on Sustainable Development and the Plan of Implementation at the World Summit on Sustainable Development, held at Johannesburg in 2002;

Also welcoming the adoption of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, 2010;

Further welcoming the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety, 2010;

Recalling the Nairobi Resolution on Environmental Law and Sustainable Development adopted by the Forty-Fourth Session of AALCO in 2005;

Underlying that climate change is one of the greatest challenges of our time;

Emphasizing that strong political will to combat climate change in accordance with the principles of the United Nations Framework Convention on Climate Change, especially the principle of common but differentiated responsibilities and respective capabilities is essential;

Recognizing the importance of the on-going Bali Road-Map negotiations for

stronger international cooperation on climate change for the period beyond 2012;

Considering the Copenhagen Accord of which the United Nations Climate Change Conference held at Copenhagen, Denmark from 7 to 9 December 2009, took note;

Noting with appreciation the adoption of the Cancun Agreements by the United Nations Climate Change Conference held in Cancun, Mexico from 29 November to 11 December 2010;

Hoping that the United Nations Climate Change Conference, scheduled to take place at Durban, Republic of South Africa from 28 November to 9 December 2011 would be able to achieve a positive outcome based on the Bali Road-Map and Cancun Agreements;

Conscious of the importance of the conservation of biological diversity for evolution and maintaining life-sustaining systems of the biosphere;

Affirming the importance of the United Nations Convention to Combat Desertification:

1. **Urges** Member States to actively participate in the on-going Bali Road-Map negotiations.
2. **Directs** the Secretariat to follow the on-going Bali Road-Map negotiations and Cancun Agreements for stronger international cooperation on climate change for the period beyond 2012.
3. **Further directs** the Secretariat to continue to follow up the progress in the implementation of the outcome of the Johannesburg Summit as well as follow up the progress in the implementation of the United Nations Framework Convention on Climate Change, Convention on Biological Diversity, and the United Nations Convention to Combat Desertification, and
4. **Decides** to place this item on the provisional agenda of the Fifty-First Annual Session.

AALCO/RES/50/S 11
1 JULY 2011

**CHALLENGES IN COMBATING CORRUPTION: THE ROLE OF THE
UNITED NATIONS CONVENTION AGAINST CORRUPTION**
(Non-Deliberated)

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat document contained in No. AALCO/50/COLOMBO/2011/S 11;

Deeply concerned about the impact of corruption on the political, social and economic stability and development of societies;

Bearing in mind that the prevention and combating of corruption is a common and shared responsibility of the international community, necessitating cooperation at the bilateral and multilateral levels:

1. **Welcomes** the adoption of the review mechanism to implement the provisions of the United Nations Convention against Corruption, which reflects the strong commitment on the part of the international community to effectively tackle the problem of corruption,
2. **Encourages** Member States of AALCO who have not done so to consider ratifying/acceding to the United Nations Convention against Corruption so as to strengthen the fight against corruption, and
3. **Decides** to place this item on the provisional agenda at its Fifty-First Annual Session.

AALCO/RES/50/S 12
1 JULY 2011

**REPORT ON THE WORK OF THE UNCITRAL AND OTHER
INTERNATIONAL ORGANIZATIONS IN THE FIELD OF
INTERNATIONAL TRADE LAW
(Deliberated)**

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Considering the Secretariat Document No. AALCO/50/COLOMBO/2011/S 12,

Noting with appreciation the introductory statement of the Deputy Secretary-General;

Being aware of the revised version of the UNCITRAL Arbitration Rules, 2010; the UNCITRAL Legislative Guide on Secured Transactions: Supplement on Security Rights in Intellectual Property; and Part Three of the UNCITRAL Legislative Guide on Insolvency Law on the Treatment of Enterprise Groups in Insolvency at its forty-third session;

Welcoming the decision of the UNCITRAL to take up new topics in the areas of settlement of commercial disputes, security interests and insolvency law and undertake work in the area of online dispute resolution;

Taking note of the adoption of UNIDROIT Model Law on Leasing and also the ongoing work on its official commentary:

1. **Expresses** its satisfaction for AALCO's continued cooperation with the various international organizations competent in the field of international trade law and hopes that this cooperation will be further enhanced in the future.
2. **Urges** Member States to consider adopting, ratifying or acceding to the instruments prepared by the UNCITRAL, and
3. **Decides** to place this item on the provisional agenda of the Fifty-First Annual Session.

AALCO/RES/50/S 13

1 JULY 2011

**WTO AS A FRAMEWORK AGREEMENT AND CODE OF
CONDUCT FOR WORLD TRADE
(Non-Deliberated)**

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat Document No. AALCO/50/COLOMBO/2011/S 13;

Recognizing the importance and complexities of issues in the WTO Doha Development Agenda;

Hoping that the Doha Round of Negotiations would conclude successfully in the near future:

1. **Encourages** Member States to successfully complete negotiations mandated under the Doha Development Agenda, taking fully into consideration the special concerns of developing and least-developed country Members of WTO.
2. **Appreciates** the effort of the Centre for Research and Training (CRT) of AALCO in successfully organizing a Training Workshop on the World Trade Organization in cooperation with the Institute for Training and Technical Cooperation (ITTC) of the World Trade Organization from 28th March to 1st April 2011, at AALCO Headquarters, New Delhi.
3. **Directs** the Secretariat to continue to monitor and report on the Doha Round of Negotiations, particularly the outcome of the review process concerning the WTO Dispute Settlement Understanding.
4. **Requests** the Secretary-General in consultation with Member States, to organize seminars or workshops to facilitate the exchange of views by Member States on issues currently under negotiation within the WTO and capacity building programmes, subject to the availability of adequate resources, and
5. **Decides** to place this item on the provisional agenda of its Fifty-First Annual Session.

AALCO/RES/50/S 14
1 JULY 2011

EXPRESSIONS OF FOLKLORE AND ITS INTERNATIONAL PROTECTION
(Deliberated)

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Considering the Secretariat Document No. AALCO/50/COLOMBO/2011/S 14;

Noting with appreciation the introductory statement of the Deputy Secretary-General;

Recognizing the importance of protection of the ‘Expressions of Folklore’ for the Asian-African countries;

Welcoming the World Intellectual Property Organization (WIPO) General Assembly initiative in establishing an Intergovernmental Committee (IGC) with the objective of reaching agreement on a text of an international legal instrument (or instruments) which will ensure the effective protection of Expressions of Folklore (EoF);

Also welcoming the work done by the Intersessional Working Group 1 in developing a legal instrument to protect the EoF:

1. **Expresses** the hope that the WIPO IGC would be able to reach agreement on a text of an international legal instrument (or instruments) which will ensure the effective protection of EoF.
2. **Requests** the Secretary-General to organize an Expert Meeting in cooperation with WIPO or with any other Member State(s), to facilitate the exchange of views by Member States on the issues relevant to the protection of EoF.
3. **Encourages** Member States to actively participate in the future work of the agenda item at all the WIPO meetings.
4. **Directs the Secretariat to follow up the developments within the WIPO IGC on ‘Expressions of Folklore’, and to present the views of the AALCO Member States to the IGC, and**
5. **Decides** to place the item on the provisional agenda of the Fifty-First Annual Session.

AALCO/RES/50/S 16
1 JULY 2011

MANAGING GLOBAL FINANCIAL CRISIS: SHARING OF EXPERIENCES
(Non-Deliberated)

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat Document No:
AALCO/50/COLOMBO/2011/S 16;

Recognizing the significance of the topic, especially the legal aspects, to the Asian-African countries in the context of the ongoing global financial crisis and its impact;

Being aware of the adverse consequences of the global financial crisis on the economic growth and development of Member States of AALCO, and their efforts to resolve it;

Noting the efforts of the international community to address the global financial crisis, particularly, convening of the *UN Conference on the World Financial and Economic Crisis and its Impact on Development* by the United Nations from 24th to 30th June 2009 in New York to assess the global financial crisis;

Taking note of the Resolution (A/RES/63/303) adopted by the United Nations General Assembly on 9th July 2009 on the *Outcome of the Conference on the World Financial and Economic Crisis and Its Impact on Development*:

1. **Emphasizes** the need for a fair, inclusive and sustainable global financial system.
2. **Recognizes** that disruption in the financial market, loss of confidence, inadequate surveillance of the financial sector and lack of early warning led to the global financial crisis.
3. **Affirms** the need for Member States to review their respective legal framework to address the financial crisis including regulatory and supervisory mechanisms.
4. **Also recognizes** the need to reform and strengthen the international financial and economic system, as appropriate, to adapt to the current global financial realities.
5. **Requests** Member States of AALCO to forward their national regulatory framework/legal framework developed by the appropriate authorities to the AALCO Secretariat so as to enable the Secretariat to bring out a

compilation of the national regulatory framework/legal framework of its Member States.

6. **Calls upon** Member States to forward to the Secretariat their views and suggestions on this item, so as to guide the Secretariat on the future course of action, and
7. **Decides** to place this item on the provisional agenda of its annual sessions, as and when required.

AALCO/RES/50/SP 1

1 JULY 2011

**RESOLUTION ON HALF-DAY SPECIAL MEETING ON
“TRAFFICKING OF WOMEN/CHILDREN, MIGRANT WORKERS
AND PROTECTION OF CHILDREN”**

The Asian-African Legal Consultative Organization at its Fiftieth session,

Considering the Secretariat Document No. AALCO/50/COLOMBO/2011/S 8 and Document No. AALCO/50/COLOMBO/2011/S 5;

Noting with appreciation the introductory remarks of the Secretary-General and the views expressed by the Chairperson and the Panelists and the statements of the Member States during the Special Meeting on “Trafficking of Women/Children, Migrant Workers and Protection of Children” jointly organized by the Government of the Democratic Socialist Republic of Sri Lanka, AALCO, IOM and the UNICEF on 30 June 2011 at Colombo, Sri Lanka;

Mindful of the increasing number of individuals being exploited through trafficking in persons especially women and children and smuggling of migrants, including from the Asian-African region;

Convinced of the need to eliminate all forms of trafficking in persons and smuggling of migrants and bearing in mind the overlapping nature between trafficking in persons and smugglings of migrants, which are flagrant violations of human rights;

Commending the continuing efforts of Member States in combating trafficking in persons and smuggling of migrants, and encouraging them to inform and update the AALCO Secretariat of pertinent developments in their respective States, in order to share experience amongst Member States;

Acknowledging with appreciation that some Member States have submitted to the AALCO Secretariat their national legislations and other relevant information related to the topic, and urges other Member States to do the same:

1. **Encourages** the Member States which are not yet party to consider ratifying/acceding to the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted in 2000.
2. **Directs** the Secretariat to follow and report on the developments in this regard, including the work undertaken by other fora.
3. **Requests** the Secretary-General to constitute an open-ended Committee of

Experts to conduct a study on ways and means to enhance mutual legal assistance in criminal matters among Member States for their further consideration, and

4. **Decides** to place this item on the provisional agenda of the Fifty-First Annual Session.

AALCO/RES/50/SP 2

1 JULY 2011

**RESOLUTION ON THE HALF-DAY SPECIAL MEETING ON
“INTERNATIONAL COMMERCIAL ARBITRATION”**

The Asian-African Legal Consultative Organization at its Fiftieth Session,

Having considered the Secretariat Document No.AALCO/50/COLOMBO/2011/ORG 3;

Having heard with appreciation the views expressed by the President, the Secretary-General, Directors of the Regional Arbitration Centres, Panelists and the statements made by Member States during the Special Meeting on “International Commercial Arbitration”, jointly organized by the Government of the Democratic Socialist Republic of Sri Lanka and the AALCO Secretariat on 1 July 2011 at Colombo, Sri Lanka;

Recognizing the value of arbitration as a method of settling disputes that may arise in the context of international commercial relations;

Noting that the UNCITRAL Arbitration Rules, 1976 are recognized as a successful text and are used in a wide variety of circumstances covering a broad range of disputes, including disputes between private commercial parties, investor-State disputes, State-to-State disputes and commercial disputes administered by arbitral institutions, in all parts of the world;

Also noting that the UNCITRAL Arbitration Rules as revised in 2010 were adopted by the United Nations Commission on International Trade Law at its forty-third session after due deliberation;

Reaffirming the commitment made by the Governments of Member States towards enhancing the role of the Regional Arbitration Centres;

Recalling its decision relating to the Integrated Scheme for the Settlement of Disputes in Economic and Commercial Transactions adopted at its Doha Session in 1978;

Expressing its satisfaction over the increasing use of the facilities and the opportunities offered for both domestic and international arbitrations under the auspices of its Regional Arbitration Centres;

Appreciating the efforts and contributions of the Governments of the Malaysia, Arab Republic of Egypt, Federal Republic of Nigeria, the Islamic Republic of Iran, and Republic of Kenya for hosting the respective Regional Arbitration Centres;

Also appreciating the promotional activities undertaken by the Directors of the Centres, including organization of seminars and training programmes, to promote international commercial arbitration in the Asian and African regions;

Reiterating the earlier decision of AALCO on the necessity for the Governments of Member States to promote and support the use of the Regional Arbitration Centres;

Also reiterating its proposal that after consultation with the Directors of the respective Regional Arbitration Centres, for the holding of an International Arbitration Conference biennially, by rotation in each of the Centres, with the support of Member States:

1. **Requests** that based on the above, the Member States to urge their esteemed Governments and private sector to use the AALCO's Regional Arbitration Centres for the settlement of the disputes and in particular to consider in their contracts, the inclusion of the Arbitration Clause of AALCO's Regional Arbitration Centres.
2. **Recommends** the use of the UNCITRAL Arbitration Rules as revised in 2010 in the settlement of disputes arising in the context of international commercial relations, and
3. **Decides** to place this item on the provisional agenda of its Fifty-First Annual Session.

XVI. LIST OF PARTICIPANTS

XVII. LIST OF PARTICIPANTS

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Ministry of Justice of Thailand

Ms. Nawarat Narkvichit
Ministry of Justice

Mr. Sorasak Samonkraisorakit
Ministry of Foreign Affairs

Mr. Jaratrus Chamrathirong
Ministry of Foreign Affairs

Ms. Alisa Chobisara
Ministry of Foreign Affairs

Ms. Pattraporn Pommanuchatip
Office of the Attorney General

Ms. Rungnapa Neodgnam
Office of the Attorney General

Mr. Prommanon Panuwat
Second Secretary
Royal Thai Embassy, Colombo.

31. United Arab Emirates

Mr. Abdalla Hmdan Al Naqbi
Minister Counsellor
Embassy of the United Arab Emirates,
Colombo.

Mr. Saeed Rashed Al Hefaiti
Diplomatic Attache
Embassy of the United Arab Emirates,
Colombo.

Mr. Sultan Ibrahim Al Juwaied
Director of Appeal Court
Attorney General Office
United Arab Emirates.

Mr. Hend Abdulla Hassan Essa Al Shiba
P.A. to the Legal Department, United Arab
Emirates

21. Uganda

Hon'ble Mr. Peter Nyombi
Attorney General (Head of Delegation)

Mr. Farouq Lubega
Senior State Attorney

H.E. Ms. Nimisha J Madhvani
High Commissioner for Uganda in New
Delhi.

Ms. Carol Lwabi
First Secretary,
Uganda High Commission, New Delhi.

Non-Members

1. Democratic Republic of Congo
Mrs. Solange Bagula Chenama
Charge d' Affaires
Embassy of the Democratic Republic of the
Congo, New Delhi (India)

2. Republic of Kazakhstan
H.E. Mr. Doulat Kuanyshev
Ambassador Extraordinary &
Plenipotentiary of Kazakhstan to India,
New Delhi.

3. Russian Federation
Mr. Andrey Esimovich Bankaev
Second Secretary

Mr. Andrey Moskuin
Russian Federation

International Organizations

1. International Court of Justice (ICJ)
Justice Hishashi Owada, President
International Court of Justice, The Hague.
Email: mail@icj-cij.org

2. International Law Commission (ILC)
Prof. Shinya Murase
Member of the UN International Law
Commission

3. International Committee of
the Red Cross (ICRC)
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International Committee of the Red Cross
(ICRC), New Delhi (India)

4. Indian Ocean Marine Affairs
Cooperation (IOMAC)
Mr. Hiran W. Jayewardene
Secretary General

5. International Organization for Migration
Mr. Richard Danziger
Chief of Mission, IOM, Sri Lanka

6. The Saudi Fund for Development
Mr. Khalid A. Alwohibi,
Observer

Mr. Abdul-Aziz N. Aisaif
Observer

7. United Nations Development Programme Mr. Razima Hasnan Bilgrami
Resident Representative
8. UNICEF Mr. Ron Pouwels
Regional Advisor – Child Protection
9. United Nations Environment Program Mr. Masa Nagai
Acting Deputy Director
Division of Environmental Law and
Conventions

Arbitration Centres

1. Kuala Lumpur Regional Centre for Arbitration (KLRCA) Mr. Sundra Rajoo,
Director
2. Cairo Regional Centre for International Commercial Arbitration (CRCICA) Dr. Mohamed Abdel Raouf
Director
3. Lagos Regional Centre for International Commercial Arbitration Ms. Eunice R.Oddiri
Director
- Mr. Emmanuel Dike,
General Counsel

AALCO Secretariat

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Dr. Xu Jie
Deputy Secretary General

Dr. Hassan Soleimani
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Ms. Anuradha Bakshi,
Assistant Principal Legal Officer

Mr. Mohammed Hussain K.S.
Senior Legal Officer

Mr. S. Senthil Kumar
Legal Officer

Ms. Shannu Narayan
Legal Officer

Mr. S. Pandiaraj
Legal Officer

Ms. Manju Gupta
Private Secretary to Secretary General

AALCO – EPG Meeting (26 June 2011)

Hon. Ms. Celina O. Kombani (MP)
Minister for Constitutional Affairs & Justice
United Republic of Tanzania

H.E. Dr. Abdullah Mohammad Said Al-Saidi
Minister of Legal Affairs,
Sultanate of Oman

Mr. Narinder Singh
Joint Secretary, Ministry of External Affairs
(L& T Division), New Delhi, India

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Attorney General of the Republic of Kenya

Prof. Shinya Murase
Member of the ILC,
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Prof. Djamchid Momtaz
Former Chairman ILC,
Islamic Republic of Iran

Mr. A. Rohan Perera
Member of the ILC,
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