

## **VERBATIM RECORD OF THE MEETING OF THE LEGAL ADVISERS OF AALCO MEMBER STATES AT NEW YORK ON 20<sup>TH</sup> NOVEMBER 2002**

1. The meeting of the Legal Advisers of Member States of the AALCO was held at the United Nations Office in New York on 20<sup>th</sup> November 2002. The proposal for the periodic meeting of Legal Advisers of Member States for exchange of views on current problems and issues was initiated and approved at the Organization's Tokyo Session held in 1974. Since then a number of such meetings have been held.

The meeting was chaired by the current President of the AALCO, Hon'ble Senator Mr. Kanu G. Agabi, Attorney-General of the Federation and Minister of Justice, Government of Nigeria, with the assistance of Secretary-General H.E. Ambassador Dr. Wafik Z. Kamil. Mr. Bhagwat Singh, Permanent Observer of AALCO to UN Headquarters in New York also participated. The Legal Advisers from 24 AALCO Member States<sup>1</sup>, observers from seven non-Member States<sup>2</sup> and one UN Specialized Agency attended the meeting. H.E. Mr. Hans Corell, UN Under Secretary-General & Legal Counsel, Mr. Valentin Zellweger, Vice-Chairman of the Sixth Committee and Ms. Anik Dimarfi, Director of the Division for Ocean Affairs and the Law of the Sea within the Office of Legal Affairs were special guests. The President of the ICJ sent a special message for the meeting.

The following is a verbatim record of the meeting:

### **1. Hon'ble Senator Mr. Kanu G. Agabi, S.A.N., Attorney-General of the Federation and Minister of Justice of Nigeria and President of AALCO.**

Thank you, Secretary-General of AALCO, Respected Legal Advisers of AALCO Member States, Distinguished representatives of the UN system, Excellencies, Ladies and Gentlemen.

It is my pleasant duty to welcome you all to the annual meeting of the AALCO Legal Advisers. It is always a pleasure to be in the company of our brothers from Asia and Africa and to exchange views on the significant and contemporary matters of international law. I am pleased to note that the AALCO has, since 1983-84, followed up the useful practice of convening the Meeting of the AALCO Legal Advisers in conjunction with the regular annual sessions of the UN General Assembly.

Owing to the commitment and co-operation of our Member States, the 41<sup>st</sup> session of AALCO which was held at Abuja, Nigeria in June this year was a fruitful and successful session.

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<sup>1</sup> Botswana, People's Republic of China, Cyprus, Arab Republic of Egypt, Ghana, Indonesia, Iraq, Japan, Jordan, Kenya, Nepal, Nigeria, Pakistan, Philippines, Qatar, Republic of Korea, Sierra Leone, Sri Lanka, Sudan, Thailand, Turkey, United Arab Emirates, Tanzania and Yemen.

<sup>2</sup> Fiji, Iceland, Italy, Mexico, Portugal, Switzerland and United States of America.

As a follow-up of the mandate given at the Abuja session, the Secretary-General participated at the 54<sup>th</sup> session of the International Law Commission and conveyed the views of our Member States on the topics currently under consideration by ILC. It is heartening to note that the Secretary-General also called upon the Heads of international bodies like the Office of the UN High Commissioner for Human Rights, the UN High Commissioner for Refugees, World Intellectual Property Organization and the International Organization for Migration. We also support him in his efforts to seek the membership of the French-speaking African States.

Your Excellencies, Distinguished delegates members of the AALCO are united by the bonds of colonial experience and common aspirations of economic development. While the individual national interests of our States may be contextual, there are other broad areas of policy and principle, where we need to forge common positions. We have succeeded in attempting this in the past and we should continue to exercise the same in the future too. Our goal should be to enable our successors to be self-reliant and competent actors in the international system. To achieve this, we should be in a position to make the right choices; develop our capacity to exploit our natural and human resources to the optimum; and ensure that our demands are voiced at the right forum and that we play a substantive role in the international decision-making process.

Given the role of law as a tool for social engineering, the AALCO offers a viable forum for accomplishing this task. As the only body exclusively devoted to the discussion of international law matters in the Asian-African region, it is our duty to profit from the expertise of the organization. Unlike other fora, AALCO is not encumbered by political questions nor is it vitiated by the formalities of undertaking legally binding commitments. The consultative status of AALCO provides an opportunity to discuss more complex and cumbersome issues in a flexible manner.

Therefore, I urge the distinguished Legal Advisers of the AALCO Member States assembled here to instruct their delegations to identify ways and means of enhancing the effectiveness of the AALCO's work. May, I offer a few suggestions in this regard. One useful task could be to identify topics of international law on a priority-basis that could be considered by the Organization. Once this is done specific legal issues can be formulated mandating the Secretariat to undertake research work on such areas. These topics could be structured in a way that they serve as a viable feed-back to our on-going work in the international fora like the United Nations, African Union, etc.

I am pleased to note that the Secretariat has identified three such topics for consideration today. All these topics – Law of the Sea, International Terrorism and Corruption are both important and contemporary subjects with practical relevance.

Given the limited time at our disposal, I would not offer any comments at this stage. However, I look forward to our deliberations as some of these issues have been debated at the Sixth Committee during the 57<sup>th</sup> Session of the General Assembly.

I thank you all for the patient hearing and now I give the floor to the Secretary-General. Thank you.

## **2. Ambassador Dr. Wafik Z. Kamil, Secretary-General of Asian-African Legal Consultative Organization.**

Mr. President, Excellencies, Distinguished guests, Ladies and Gentlemen. On behalf of AALCO, and on my own behalf, I would like to extend our warm welcome to all of you here.

In fact at the outset of my intervention, I would like to say a few words about the Legal Advisers meeting for which we are here. The previous programme was to hold the Legal Advisers meeting on the 4<sup>th</sup> of November, while the item of the work of the ILC was discussed in the Sixth Committee. We were accustomed that the item “Co-operation between the UN and AALCO” was always following the Legal Advisers Meeting, however, the General Committee has postponed the deliberation on this item “Co-operation between the UN and AALCO” for the 21 and 22 of November along with all other regional organizations. So we had to postpone the meeting and unfortunately we don’t have the privilege to have among us many of the Legal Advisers who were here during the deliberations on the item of ILC in the Sixth Committee. Therefore, we have suggested in the resolution that H.E. Senator Agabi will present tomorrow some arrangements, that I hope the Assembly will accept and we will see about it in due course. Having said that I would like to thank very warmly H.E. Mr. Hans Corell, a great friend and supporter of AALCO, the Legal Counsel of UN, I don’t have to introduce him, everybody knows him very well, he has always supported the work of AALCO and has always attended various conferences and seminars related to AALCO activities. Thank you, Sir for coming and gracing our meeting. I thank also Mr. Zellweger the Vice-Chairman of the Sixth Committee for joining us in our meeting.

The role of the Legal Advisers of the Member States is central to identifying priority areas for the AALCO’s Work Programme. The presence of other high ranking officials from the UN system provides the opportunity to acquire useful insights and feedback on the respective areas of competence. I wish to express my profound gratitude to all of you, who notwithstanding the heavy responsibilities and the time constraints your respective offices may entail, have found time to grace this occasion. I am sure your participation will greatly enrich today’s deliberations.

Mr. President, I am confident that under your able leadership and guidance this meeting will achieve similar success as the AALCO’s 41<sup>st</sup> Session at Abuja where we had the privilege to have you as the President of that Session.

Mr. President, AALCO’s Legal Advisers Meeting in New York during the annual session of the General Assembly has over a period of time assumed great importance and special significance in furthering the activities of AALCO. This forum provides an opportunity to hold consultation and exchange views and experience on AALCO’s work-programme and its activities. The agenda of the meeting is flexible and this gives the participants an opportunity to express their general views on the work programme of the organization or on any specific item.

Let me now turn to AALCO’s current work programme which apart from organizational matters includes as many as 15 substantive items. For the last two years, we have been suggesting certain measures aimed at rationalization of the work programme of AALCO. Some Member States have made useful comments in this context. However, the matter still remains

under consideration and I would like to urge you, to please give us your views on this very important aspect, when we will discuss about the rationalization of the work of AALCO.

The AALCO's current work programme could be categorized broadly as follows:

**Consideration of matters relating to the work of International Law Commission:**

This, in accordance with Article 4 (a) of AALCO's Statute, is our statutory obligation. We highly value our long established co-operation with the ILC. For the last three years, I had the opportunity to address the ILC sessions in my capacity of the Secretary-General. The great interest shown by ILC Members in the work of AALCO has encouraged me and has strengthened my resolve to further intensify such co-operation between the two Organizations. During the last meeting of ILC, I was in Geneva and we had planned to take up ILC matters during this meeting. Unfortunately, as I mentioned before it became difficult in the absence of the ILC Members, and we will work very hard with the ILC Members, to take it up in the next Meeting.

Mr. President, the second category of items on AALCO's agenda includes reporting on the progress of the work of United Nations and other bodies that correspond to AALCO's work programme. Among these include, Law of the Sea, Environment and Sustainable Development, International Instrument to Combat Corruption, Follow-up on the work of the PREPCOM for the International Criminal Court, and the Assembly of State Parties, and the work of the organizations engaged in international trade law matters, such as WTO, UNCITRAL, UNCTAD, UNIDROIT, and the Hague Conference on Private International Law.

The third category of items are focused on humanitarian issues. These include: Status and Treatment of Refugees; Legal Protection of Migrant Workers; The Establishment of Co-operation Against Trafficking in Women and Children; Deportation of Palestinians; Human Rights; and International Terrorism. Since I assumed the office of the Secretary-General, it has been my endeavour to give more emphasis to these issues, which are of great concern to our Member States. International law on these issues is still evolving and we have vital interest to make our voice heard in this evolutionary stage of development of international law in these areas. I believe, this is the main purpose of AALCO. I do not consider them political issues. They touch upon the life and liberty of ordinary human beings. We have to voice our concern in this regard.

I am pleased to inform you that during the last two years we have established very useful co-operation with organizations such as office of the High Commissioner for Human Rights, United Nations High Commissioner for Refugees, International Organization for Migration, United Nations University. We have signed MOU's with these Organizations and we have started implementing it effectively. We plan to hold joint meetings and workshops on specific issues, which fall in this category in collaboration with these organizations. With a view to further strengthen our co-operation with these organizations, during my visit to Geneva in August this year I had the opportunity to meet the Director-General of IOM and explore the possibility of organizing a meeting jointly in implementing the mandate given to me during the Abuja session to facilitate consideration of the "Draft Model Regional Co-operation Agreement Between States of Origin and States of Destination/Employment within AALCO Member

States”. This draft was placed before the AALCO’s Abuja Session for consideration and comments from Member States. I also met the officials of the Office of the United Nations High Commissioner for Human Rights, and discussed the follow-up of the Special Meeting on Human Rights and Combating Terrorism held in conjunction with AALCO’s 41<sup>st</sup> Session in Abuja this year.

It has been my constant endeavour to seek participation of Asian and African States who are not yet members of AALCO. In order to attract participation of French Speaking countries, introduction of French as another working language is considered essential and was requested many times by Member States in the last three annual sessions. I hope in our 42<sup>nd</sup> Seoul Session we will be able to include French also with English and Arabic. It is not yet finalized but I hope it will be finalized before the session. I am trying my best to find a solution for funding to include French as a Working language in our work and activities. As regards the participation of countries from the Central Asian region as well as Southern Africa, I have made some efforts in that direction as well and I met most of the Ambassadors and High Commissioners of these countries accredited to India. I am hopeful that these efforts will be successful and in the near future atleast one or two States from that region will join AALCO as full members.

I am pleased to announce that AALCO’s 42<sup>nd</sup> session will be held in Seoul (South Korea) from 9 to 13 June 2003.<sup>3</sup> Your comments and suggestions will help us in the preparation of the agenda for that session.

Mr. President, with a view to facilitate discussion at this Meeting, the Secretariat has prepared a Document entitled “Notes and Comments on selected items before the 57<sup>th</sup> Session of the General Assembly”. After the statements by our distinguished special invitees we shall take up atleast three items namely, Law of the Sea; An International Legal Instrument Against Corruption; and Measures to Eliminate International Terrorism, for substantive discussion.

As you know, the item on Co-operation between AALCO and the United Nations will be taken up by the General Assembly during this Session starting this afternoon and extending upto 21<sup>st</sup> or 22<sup>nd</sup> November. I hope you will find time to be present on that occasion as well and to give full support to this co-operation which has to be further enhanced more and more for the importance of the organization for the mother organization and the importance of how to enhance its work. As you are aware there are three agenda items chosen for discussion at today’s meeting, I would like to say a few words on them.

#### **A. Law of the Sea**

Mr. President and Distinguished participants.

Law of the Sea has been on the agenda of AALCO since 1970. The deliberations in AALCO’s annual and inter-sessional meetings for nearly a decade were focused on this single most important item. New concepts such as the Exclusive Economic Zone and Archipelago states originated and developed in AALCO, which later became part of the 1982 United Nations

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<sup>3</sup> At the request of the Republic of Korea the new dates of the 42<sup>nd</sup> Session are 16 – 20 June 2003.

Convention on the Law of the Sea. After the conclusion of the 1982 Convention and its entry into force in 1994, AALCO focused its discussion on the matters related to its implementation and monitoring the work of various bodies established within the framework of the Convention.

It is heartening to note that the General Assembly at this Session is commemorating the 20<sup>th</sup> Anniversary of the Law of the Sea Convention. This would provide an opportunity to take stock of the progress in the implementation of the 1982 Convention over the last two decades and to discuss measures to further strengthen it. I would like to invite your comments on specific areas on Law of the Sea matters which could be taken up by AALCO on a priority basis.

## **B. An Effective International Legal Instrument Against Corruption**

Mr. President and distinguished participants. It may be recalled that the General Assembly in its Resolution 55/61 of 4 December 2000 noted that corruption had a corrosive effect on democracy, development, the rule of law and economic activities. It also recognized that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organized Crime was desirable and established an Ad Hoc Committee to negotiate the proposed Convention.

As the matters concerning combating corruption was of great concern to the AALCO member states, therefore I took the initiative to place such an item on the agenda of AALCO's 41<sup>st</sup> Session. It was taken up for consideration at the 41<sup>st</sup> Session. At the session Member States had welcomed the United Nations efforts aimed at establishing an effective legal regime against corruption. The Secretariat is closely following the developments pertaining to the negotiations in the Ad Hoc Committee engaged in elaboration of the Convention.

As regards the progress in the work of the Ad Hoc Committee, it has met so far in three sessions. The discussions during these sessions have been focused on the draft consolidated text of the convention which contains preamble and set of 85 articles, elaborating the indicative elements of a comprehensive international convention to combat corruption. At the end of the third session of the Ad Hoc Committee the first reading of the draft text of the Preamble and second reading of articles 4 bis to 39 were completed and is hoped that the Ad Hoc Committee at its fourth session scheduled to be held in Vienna from 13 to 24 January 2003, would complete the second reading. It appears that still there are many provisions, which contain alternative texts and scores of proposals submitted by various delegations. The schedule for completion of the work on the draft convention as set by the General Assembly is by the end of 2003. Hence there is urgency to begin serious negotiations.

Among the issues, which seem to be complex include definition of corruption, coverage of corruption in the private sector, preventive measures, implementation mechanism and procedures. The Secretariat would be preparing a comprehensive study on the draft convention. Your views in this regard would facilitate this work.

I wish to inform you that I participated in the Global Forum II on “Fighting Corruption and Safeguarding Integrity” held in May 2001. I also intend to attend the Global Forum III, which will be held in Seoul in May 2003. Further, in accordance with the suggestions of the African Member States that AALCO should work in close collaboration with African Union on this topic, as a step in that direction, I had deputed our Deputy Secretary-General Amb. Dr. Ali Reza Deihim to participate at the African Union Ministerial Meeting held in Addis Ababa in September this year.

### **C. International Terrorism**

Mr. President and distinguished participants, the item entitled “International Terrorism” was placed on the agenda of AALCO’s 40<sup>th</sup> Session in New Delhi upon a reference made by the Government of India. The discussions at AALCO’s 40<sup>th</sup> and 41<sup>st</sup> session were focused on the issues raised in the context of the ongoing negotiations in the Ad Hoc Committee established by the General Assembly to elaborate a draft comprehensive convention to combat international terrorism.

The incident of terrorist attacks in the United States on 11th September 2001 and more recently in other parts of the world have brought into force the serious threat posed by international terrorism and the need for urgent and concerted action to meet that challenge.

During the 57th session of the General Assembly, the Working Group of the Ad Hoc Committee met on 15 and 16 October 2002 and continued its discussion on the pending issues. It appears that still no consensus has been reached on the formulation of a legal definition of terrorism and issues concerning scope of the draft convention. I need not stress that speedy conclusion of the work on the draft convention would be a major step towards strengthening the legal regime to combat terrorism. The United Nations involvement in dealing with terrorism issues has achieved momentum with the establishment of Anti-terrorism committee by the Security Council’s resolution No.1373 adopted on 28 September 2001. Further, the Policy Working Group on the United Nations and Terrorism, established in October 2001 by the Secretary-General of the United Nations, in its report to this session of the General Assembly has made very useful recommendations, which among others, stresses the importance of promoting co-operation between the United Nations and regional organizations in the fight against terrorism as a priority issue.

AALCO would be ready to join in this effort. It can play an important role in promoting wider ratification of global and regional conventions pertaining to the subject of international terrorism. In that context, one such concrete way could be the preparation of model legislation to assist Member States in their compliance with these international conventions. I would like to invite comments from our distinguished participants on the areas in which AALCO should focus its attention on this important topic. Thank you Mr. President.

### **3. H.E. Mr. Hans Corell, Under Secretary-General and Legal Counsel of the UN.**

Thank you very much Mr. President, it is always a pleasure to meet with the delegates of the AALCO or AALCC when I first participated in my national capacity many years ago, as an observer in a meeting in Nairobi. Since then I have tried to participate as much as possible in meetings, unfortunately it's not possible for me to participate in your meetings every year in your annual meeting and therefore I regret very much that I was not present in Nigeria. But I would like to congratulate you Mr. President, Mr. Secretary-General on the advances that AALCO made during that meeting, even to the extent that I see now your report has a new form and its much easier to read and I congratulate you on that as well. As you know that I have focused and very much supported the idea of regional co-operation, I have benefited in my own capacity from the regional cooperation in Europe.

Many of us there thought that it was important for us to support the AALCO and therefore, colleagues from that region participate as observers in your meetings. It is important to have interlocutors in all countries who are, shall we say, speaking on a same wave length, even though we may differ on points of issue on substance but that's a different matter. The main thing is that we can communicate and that we can interact with each other. I know also that one of your concerns has been discourse of the organization, I know that this is a difficult thing for you, and I know also that when we tried to support some contacts particularly in Africa it proved very difficult not least because of the way that communications are organized there.

Having said this, I would like to focus on a few legal issues I have been asked to do that, namely what are the legal issues that legal office in the Organization is dealing with now. I did say that the three issues that you have identified are very much high on our agenda. Terrorism has really very much reflected on our work over the last couple of years. It has certainly in the past but the focus after 11 September has very much changed. The corruption issue where my colleague Antonia Costa in Vienna is in charge of the work in that field in particular, and then also law of the sea, which is my responsibility here in the UN Secretariat. Since Ms. Anik. Dimarfi my Director of the Law of the Sea will come and address you, I do not intend to dwell on that. I just recall the history of AALCO in the field of law of the sea where you made a substantive contribution in the past. So I hope that you will participate actively in the celebration of the 20<sup>th</sup> anniversary of the signing of the Law of the Sea Convention, which will be held here in the General Assembly on the 9 and 10 of December 2002. So that I look forward to meeting you there. If I should look at the general legal work I would say that the law is omnipresent in our work, you have noted that the Secretary-General has taken a keen interest in the legal issues and in the concept of rule of law in international relations. Now he has in his annual report a special section on the rule of law, since three years back and if you have noted his Millennium Report contains several references to this concept. This was responded to by the General Assembly in the Millennium Declaration and I always point to the operative paragraphs 9, 24 and 25 of the Millennium Declaration, which is a rebounding response to that in support of the concept. We have really very much at the focus of what we have dealt with the situation in Kosovo and East Timor. It is there that the United Nations had to govern and not only govern but legislate for the provinces. East Timor now of course is an independent state, our 191<sup>st</sup> Member. Before that and still for Kosovo we are engaged in this kind of work. This reflects very much on the situation in the legal office where we often are consulted on these matters and always review any legislation before it is issued by the special representative of the Secretary-General we do not call these legislation law, rather, we call them regulations in order to show



respect to the term law because that is usually the term used for a document that is adopted by an elected assembly, a Parliament the representative of the people. We have also had to deal with many questions which are the fruits of these opinions and you are all aware of the Brahmi Report which focused on the legal aspects of the UN peace-keeping missions in the future and the organization has discovered that you can't separate them from peace-keeping missions just like that, because we can't pull out and leave the situation in distress. We have to start focusing on good governance, human rights and on the possibility of existing status in this field. This again has focused on our office, but the co-ordination of these questions are done in the Department of Peacekeeping Operations, as it should be as it is important and it is really an operative function where it is very much a question of identifying people at national levels who could be recruited to assist within their own profession, States that are in need of such assistance. What we are focusing are on the immediate duties which are related for example the two *Ad Hoc* International Criminal Tribunals for the former Yugoslavia and Rwanda where we are in constant interaction with the Tribunals so that we do not have any administrative responsibility for them, but it goes without saying that we are heavily involved, in particular when we come to questions like recruitment, nomination of judges, identification of Prosecutors, and deputy prosecutors and so forth. This has been a remarkable change of work in the office over the later years. As you would understand I had also mentioned the ICC, I am sure Mr. Valentin Zellweger would present you with the deliberations in the Sixth Committee, what I can say is that there is an advanced team there supported by the Office of the Legal Affairs and its Trust Fund to do the necessary work in order to facilitate for the Court to start its work. We hope to see the swearing in of Judges in the month of March next year. It is important to note also that the First Meeting of the States Parties to the Rome Statute adopted a number of administrative decisions, some of you who were present there when they were adopted, but this is of course a normal course of events in any new international institution.

We are all well aware of the difficulties here and the attempts of some to conclude agreements here all I can do is to refer you to the legal opinions that have been elaborated by certain regional groups and just caution you that article 98 is there for a very specific purpose and that we do not stumble here and maintain the integrity of the Rome Statute which I think will become universally accepted. This has been the case with so many other international instruments I refer to the Convention against Genocide and the Covenant on Civil and Political Rights. One interesting development here is the development at Sierra Leone where the Security Council asked the Secretary-General to report to the Council and to negotiate with the Government of Sierra Leone an agreement for setting up a Special Court for that country. This has been an interesting exercise but a very laborious one, I see members of the interested States and also the Executive Committee for the Tribunal present here in the room. So they know in detail how difficult it has been for administrative reasons, because this Court didn't follow the normal rules that the Organization applies. It is a Special Court which is based on an agreement between the Organization and a Member State and therefore it is a distinct legal entity at the international level. This has to be managed in a very special way and this is why we have a management committee consisting of a few States and also Members of the Secretariat.

This Committee is following in a detailed way the working of the Court. We have now the prosecutions in operation since the month of September. It also has an acting Registrar, we

hope to see the judges coming together for the first time in Sierra Leone in December, this year and then of course there will be an official inauguration later.

The work is underway. No doubt you are aware that the issue of Cambodia and the trial of the Khemer Rouge is on the agenda again, and there is a draft resolution in the Third Committee resolution 70 is being discussed among Member States. We will see what comes out of that, but this may lead to that the Secretariat has to once again engage in further discussions on the establishment of some kind of trial mechanism for the Khemer Rouge leaders who were in power between 1975-79. You are very well aware of this tragic period in the history of Cambodia and many of you have participated in this work in different capacities before.

Let me focus on one other issue of particular interest here as a novelty in International Law, that is the resolutions adopted lately by the Security Council. As you know traditionally an enabling to more legislation was required in any Member State to give effect to a Convention or an international instrument adopted by a diplomatic Conference or by the General Assembly or by some other body. That instrument was then presented by the Government to the Parliament if necessary then additional legislation had to be adopted at the national level. This was an act of free will by the Parliament whether they would endorse the ratification of the instrument whether they would adopt it as an Act of Parliament, the necessary implementing legislation. What we have seen lately is a series of the Security Council resolutions, where actually states are obliged to undertake certain legislative measures at the national level. I think the two prominent examples are the establishment of the two *Ad Hoc* Tribunals, but that was different, the earlier resolutions dealt with sanctions regimes but that was known and many state had readymade legislation for the event, that any sanction resolution would be adopted by the Security Council. The two tribunals were different, here there was demanded co-operation in a completely different field and states had to take necessary measures to comply with the resolutions. But then we have seen a further development culminating in the famous resolution 1373 against terrorism, where basically the Council has set up a Counter-Terrorism Committee which is now actively engaged in a dialogue with Member States, where they are actually referring to the resolution which requires that Member States enact legislations much along the lines required by the Convention Against the Financing of Terrorism. This is a new feature in a sense, but the Charter is not a solidified instrument. It is a living instrument, it is developed all the time the way Member States apply it particularly in these organs the Security Council and General Assembly and we have seen now this development and many Member States would have to address. Many have asked me, are there no limits for the competence of the Security Council, and I say that basically the Charter is the limit and the way that Member States respond to the resolution, and the confidence that the Member States have confided in the Security Council and we shouldn't forget that Article 24 of the Charter actually confines to the Council the responsibility for the maintenance of international peace and Security and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf, this is the 24<sup>th</sup> Article of the Charter of United Nations. So it is a very powerful institution in that respect. So it is interesting for you all particularly as Legal Advisers and Lawyers to look at this and advise properly your Government and Parliament also on the steps they have to take in order to fulfill their obligations that flow from these resolutions.

Mr. President, there is so much to be said but I think one has to show respect to other speakers and I know that you will continue your programme with other topics.

**4. Message by Mr. Gilbert Guillaume, President of the International Court of Justice read by the Secretary-General, AALCO.**

It is with great pleasure that I am responding to your invitation to address the Asian-African Legal Consultative Organization in my capacity as President of the International Court of Justice. As I am unfortunately unable to attend your Autumn 2002 session, may I take this as an opportunity to express my high esteem for your Organization.

Since its foundation almost half a century ago, your Organization has been steadfast in its contribution to peace-making in the international community, notably through its efforts to promote the peaceful settlement of disputes and the codification and progressive development of international law. In the course of its work your Organization has never under-estimated the role of the United Nations, and in particular that of its principal judicial organ, in the pursuit of these objectives. During recent research on the subject, I was most heartened to note the many initiatives of your Organization bearing witness to the interest taken by it in the work of the International Court of Justice. In 1985, for example, you circulated a study which emphasized the advantages of referring intentional disputes to a chamber of the Court rather than to an arbitral tribunal. Then, in 1986, you organized a conference on the Court's future role, attended by representatives of some 120 Governments, with the aim of analyzing the procedures for seisin of the Court by special agreement and the benefits to be gained thereby. In 1990, you promoted a study on the importance of the Court's potential role in the development of international environmental law and the settlement of disputes in this field.

As you know, in recent years we have seen a considerable increase in the number of cases referred to the International Court of Justice. This revival of interest in the judicial settlement of international disputes, which cannot be regarded as a merely temporary phenomenon, reflects a renewed confidence in the work of the Court, in particular on the part of Asian and African States. In addition to the Judgment recently handed down in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria*, which provides a law-based solution to a long-standing frontier dispute between two African countries, it is worthy of note that eight out of the 24 contentious cases currently on the Court's docket involve African or Asian parties. Those cases include a dispute referred to us by a Special Agreement between Indonesia and Malaysia concerning sovereignty over two islands, Pulau Ligitan and Pulau Sipadan, on which the Court will shortly render judgment. This is the best possible demonstration of what the Court can contribute to a group of States concerned not only for the settlement of disputes arising between them but also for the systematic upholding of international law. I cannot sufficiently emphasize the contribution of your Organization in this field and would once again express my wish to see a further strengthening of the close links that have been forged over the years between your Organization and the International Court of Justice.

**5. Mr. Valentine Zellweger, Vice-President of the Sixth Committee.**

The Chairman of the Sixth Committee Ambassador Mr. Arpad Prandler of Hungary has asked me to represent him here at this meeting as he was out of the country, and he has specifically asked me to convey to you the message on how important your work is and how much he regrets not to be able to be here personally with you. And this would indeed be my personal feeling that it is a great honour to be here and to be able to speak to you. We all know how important the work of your Organization is and if I may add on a more personal note perhaps I still think with the big-continental character of your Organization you also send an important political message, law should not only be seen within a regional context but it does have a universal bearing, and I think that is very well illustrated by the character of your Organization, which does not confine its activities to only one continent and one region. Mr. Chairman to speak about the work of the Sixth Committee at this year's session, we concluded our substantive work yesterday the 19<sup>th</sup> of November 2002. The General Assembly adopted 19 resolutions and 2 decisions, they were adopted by consensus. Some may say by comparing the quantity of resolutions adopted before the Sixth Committee that the quantity is rather limited compared to other Committees. They may be right in that but qualitatively we do have some very important resolutions. The fact that they were all adopted by consensus is certainly a very positive sign for the future work which we will all have to accomplish on the basis of these resolutions. I would like to first start with the five codification resolutions. At the moment the Sixth Committee is managing five codification processes and some of them will approach their conclusions while others are in a rather early stage. If we take them one by one, the 1<sup>st</sup> one is item 154 that's the Convention on Jurisdictional Immunities of States that's the one which is approaching its end. It has been on our agenda for a very long time, and very important decision taken by the Sixth Committee this year to attempt to finalize the work on the instrument dealing with the matters pertaining to jurisdictional immunities of states to do that in spring and to call a meeting of one week of the Ad hoc Committee and then resolution which was co-ordinated by one of your members delegation of Japan, will now make it possible for us now to have a result in spring and to know where we stand on this important matter. We stand on this important matter, we all know that in recent years there has been progress made and there is this attempt to finalize that convention.

The second is the item 158 relating to the Establishment of the International Criminal Court, and it was already mentioned by the Legal Consul, the ICC comes into a new phase of its existence at the First Meeting of the Assembly of States Parties which took place in last September, now the Court has emancipated itself, it is now on its own feet and the General Assembly has more of a role which we could qualify as monitoring this process and the position taken was to make it possible for the resumed sessions of the Assembly of States Parties which will take place in next February and April and another one in September 2003, to be serviced and to make it possible to convene here at the seat of this Organization's Headquarters and therefore the resolution does have some importance and it is also with a great pride that many of you took the floor in the debate on the ICC this year, knowing that this very important endeavor now comes to maturity and will now have to stand on its own feet and we wish this institution all the best and we will see how it evolves.

The next item in this category of the codification process is an item with a wider meaning is the one on "Measures to Eliminate International Terrorism". This item had certainly a bit less limelight till last year but it remains on the forefront of our concerns. Therefore, it is with

satisfaction that many of us took note that the Sixth Committee decided to foresee another round of negotiations within the Ad-hoc Committee next year, in spring a 3-day meeting to see whether the work on the Comprehensive Convention Against Terrorism can be advanced.

Another item is the Scope of Legal Protection under the Convention on the Safety of United Nations Personnel, there also and I am happy to report that we have made substantive progress. Some of you may remember that we tried to divide the proposals contained in the Secretary-General's Report which was the basis of our work. They were divided into 2 characteristic groups one was called the short-term measures and the other long-term measures. The short term measures found agreement and they were adopted, with that resolution. As to the long-term resolution there will be another meeting of the Ad-hoc group in next spring to try to find solution to these problems. This certainly can be seen as a success of the Sixth Committee and we know that one of your members is chairing this Ad Hoc Group, Prince Sayied from Jordan. We all think that the success lies to a great part to his able leadership of this process.

The last one was the most difficult one this year, it was the initiative initially proposed by France and Germany to negotiate an International Convention Against the Reproductive Cloning of Human Beings. You may remember that it was introduced last year and there was a resolution, and two meetings of the Ad Hoc Group and the Working Group this fall. The problem that we faced in the Sixth Committee was that there were two competing draft resolutions, one proposed that there be negotiations to negotiate an instrument against human cloning with a wider approach, while the other one proposed to only negotiate an instrument against reproductive cloning. And in the end due to flexibility on the part of all concerned delegations it was possible to find a compromise. The compromise is of a procedural nature, not of a substantive nature, it foresees there will be another meeting of the Working Group in next fall. The work will continue for the time being under the heading it had so far "Reproductive Cloning of Human Beings" and a lot will then depend on the outcome of this meeting and how to proceed with this item, which is of the utmost importance in many of the countries. The Parliaments are keenly aware of what is being done here and what will be the result of negotiations here at the UN. Talking about codifications these are the operational codifications process. We have some longer term initiatives in this field. The Report of the ILC is one of them, probably one of the most noteworthy features of this years report is that the Sixth Committee took note of the new items in the ILC (i) International Responsibility of International Organizations; (ii) Shared natural resources; (iii) Fragmentation of international law and the difficulties arising from the diversification and expansion of international law. The Sixth Committee asked the ILC to proceed with its discussions in these topics.

Another one of the long term codification processes is the UNCITRAL, we took a number of resolutions under this item, we took note of the adoption of a Model Law within UNCITRAL and we requested the Secretary-General to promote the Model Law on Commercial Arbitration. There was usual resolution on UNCITRAL, the one on strengthening the Secretariat of UNCITRAL. The most difficult to negotiate was the one on the enlargement of UNCITRAL. I am happy to report that there was again agreement on that and that UNCITRAL will be enlarged to 60 Members, and the regional balance will be maintained with an elaborate compromise negotiated between the regional groups, that is certainly an important outcome of our work.

The third is the Charter Committee, it had this year two resolutions one was co-ordinated by one of your distinguished Member, I may say it was this year more of a procedural character. It took up last year's text and updated it with latest development. The second resolution under this item pertains to "Effective Sanctions on Third States" that too was more of a procedural character. I will skip some of the resolution, mentioning particularly one which was of great interest to my delegation and that was the "Status of the Geneva Protocols" and I am very happy that this year we could double the co-sponsorship for that resolution to 80 co-sponsors. Let me finish by the granting of Observer Status to two organizations which are certainly of interest to your group (i) Asian Development Bank was granted Observer Status with great acclaim and (ii) the Partners in Development, I know that many of you are interested in that Organization, I understand that there was some technical problems last year, this year the Observer Status was granted by consensus.

One proposal to grant Observer status to International Institute on Democracy and Electoral Assistance was reserved with a procedural position, the question will be on our agenda next year but there should be in the intervening period some amendments to the constitution of that Organization and next year it should be granted Observer Status. Mr. Chairman, let me just conclude by saying that we had a very business minded very focused session, the session was shorter than previous sessions and I think we can be proud of the success achieved by the Sixth Committee during the 57<sup>th</sup> Session of the General Assembly.

**6. Ms. Anik Dimarfi, Director, Division for Ocean Affairs and Law of the Sea.**

Mr. President, it's a great honour to address this meeting today and as you can imagine, particularly as in a few weeks time there would be a programme to celebrate the 20<sup>th</sup> Anniversary of the Opening for Signatures of the Convention on the Law of the Sea. Before the observations I wish to make on the very important Summit in Johannesburg, I would like to briefly consider the application of the Convention in the area of environment through the development of mandatory and non-mandatory norms. But before beginning, I would like to remind you that there will be two days of celebrations on the 9<sup>th</sup> and 10<sup>th</sup> of December of an instrument which I believe was one of the most significant instruments to be adopted by the United Nations over recent years. In this context, perhaps you know that a resolution was adopted yesterday relating particularly to these celebrations, this resolution is A/RES/57/33 which sets out the programme for those two days. I would like to point out that this programme includes that during the lunch break in order not to waste that time there will be presentations by two high level scientists on recent developments which could have significant impact later on the development of the law of the sea. There will be a presentation on the developments on new minerals developed in the ocean floor and by biologist on new discoveries in the area of deep sea living organisms. This will take place at the lunch break on the 9<sup>th</sup> of December. On 10<sup>th</sup> December we will have a presentation of a film made by the BBC called Blue Planet. It would be of considerable interest. There would also be a parallel event with the presentation on theme "The Dynamism of the Convention: Challenges for the Present and Solutions for the Future" with the participation of legal and political experts. And also our preparation for these two days, after the event of 9<sup>th</sup> there will be a reception so that we can celebrate this event. I have brought

with me two small booklets to mark this event and they will be distributed throughout the world in the UNIC.

Coming back to the more serious matters concerning the legal issues with regard to environment and law of the sea, marine environment, it has been important because important developments have taken place over the last few years to establish legal instruments which can meet the new challenges created by the new pressures placed upon the marine environment and this developments in marine law began in 1972 with the Stockholm Conference which adopted important principles which of course were taken into account when the negotiations began the difficult task of preparing a chapter which was to become Chapter XII of the 1982 Convention. Never in the past had there been such a global convention with such a broad scope. However, if part XII of the Convention sets out mandatory conditions with immediate effect, it does call for detailed rules, which could cover specific areas of geographical regions. Since Rio in 1992, based on the Convention, a number of UN Resolutions, particularly the most recent one, which was adopted last week and which will be presented on the 10<sup>th</sup> of December, that the Convention had established the legal framework and all the activities concerning the seas and the oceans would be taken within that context. Of course we need to take account of Chapter 17 of Agenda 21 which also in setting out an Action Programme consider the development of new codes, instruments, conventions etc. In other words, we are faced with an enormous list of legal instruments. Before considering the instruments that I will describe in brief, not in detail, I will follow the presentation made and distinction made in Chapter 17 of Agenda 21 and describe two important areas first of all protection of the Marine Environment and secondly, conservation of biological resources, and here we are referring to dangerous situations which urgently require rules which are not yet in force for lack of requisite number of ratification. In order to overcome this problem states have implemented fast methods. These two categories of standards the non binding and the binding are inseparable since taken as a whole they represent a legal arsenal which with the states have to counteract the dangers facing the oceans, particularly threats to the marine environment and the worsening of international fish stocks.

The protection of marine environment, Part XII of Convention which was to provide a general framework requires the adoption of specific measures to flesh out the general principles, and this Convention has three principles characteristics which provide the framework for the environmental law (i) linked to developing practical rules in conformity with the Convention. Article 237 of the Convention defines only links between that convention and other instruments relating to protection of marine environment; (ii) the second characteristic which makes the Convention a forward looking instrument calls for a reexamination of those rules; and (iii) the third characteristic provides for in the implementation of those rules the development of practices and measures whose legal nature relates to the principle of soft law. This final characteristic demonstrates the possibility that the convention provides to develop non-binding rules in order to pave the implementation of the general rules. On the basis of this Agenda 21 in chapter 17 is similar to a general action programme adopted by the states within the context of a high level political meeting, the summit and this is programme for law excellence, and it is at the top of this pyramid of voluntary and complex rules, which seeks to encourage states to adopt rules of practice on which their national law should be based.

Now I will give briefly some examples of the two types of activities which could lead to the pollution of the seas and these are, first of all land based activities and then sea based activities. With regard to activities taking place on the land we will see examples where there are binding rules and also non-binding rules. With regard to land based pollution of the seas and article 207 of the Convention which concerns this form of pollution, there is a great margin for states applying this convention. States are required to take account of article 207, so this weak link between national law and international standards is explained by the fact that land based pollution comes under the sovereign powers of the states concerned. The Rio Conference sought to reconcile the marine environment and the economic development envisaged by Article 213, adding additional references to sustainable development. With regard to land based pollution, global norms at the international level were previously in existence, for the reasons I have already given. It is particularly at regional level that there were agreements which allowed this kind of pollution to be combated. This programme of action which was adopted at Rio particularly on the basis of the "Washington Declaration on the Protection of the Environment", and the only programme of action known as the "Global Programme of Action" which refers to land based pollution of the seas, which is the only existing instrument which is non-binding in this area. Whereas at the regional level many protocols have been added to the convention on regional seas, for examples there is a Protocol with reference to the Mediterranean Sea, a Protocol on Protection of the Black Sea and also a Protocol on Protection against the Pollution of the Seas from land resources in the Gulf Region. So in the context of pollution of land origin the binding rules at the global level are few in number but there are non-binding regional norms. As far as pollution by sea based activity there is of course pollution by sea going vessels and we have seen this in the recent catastrophe near Spain, and there are a number of binding instruments which have been adopted, most under the auspices of the International Maritime Organization (IMO) and these rules have often been modified as this is foreseen under the Convention because as I said this is one of the characteristics of the Convention, so in the Convention of Marpol, a number of other rules have been adopted and built upon. Unfortunately, though there are a large number of them we do see that there are very serious problems, and these problems are perhaps due to a number of political issues, and these are differences between the flags, that flags of State operating the vessel and the flag that the vessel is flying. So a number of voluntary instruments have been drawn up, effecting particularly sensitive zones where the IMO has adopted an important guideline, to allow states to submit to the Organization a list of those special zones which they would like to see protected. A week ago the IMO allowed the United States to create a special protected zone of the coast of Florida and the keys.

Another area is preventing pollution of the seas and this is pollution by immersion and here there is a Convention to which there is a Protocol which has been adopted unofficially requests states to ratify this Protocol to allow it to enter into force, since this protocol goes back on the principles set out in the "London Convention on Pollution by Immersion" and the principle of the entity that one who pollutes must pay. A number of Protocols have also been adopted to complete these regional conventions, I only referred to them in the land based pollution of the seas.

With regard to the preservation of biological resources, I would like to mention the important instrument which has been recently adopted and the UN agreement on migrating fish



stocks, which was adopted in 1995 and which entered into force last year. This agreement has 3 principles which aim to apply the Convention, there are those which reflect the principles to strengthen the provisions of the Convention, and finally provisions which introduce new concepts such as the precautionary principle which has been introduced in the convention under Article 218 which allows the State of the Port for measures taken at the regional level concerning vessels, to be applied. And these new policing forces will now be extended to the security of vessels. So the resolutions referring to living organisms particularly with regard to fisheries is resolution 46/2 is which put a moratorium on some forms of fishing and there is also an important number of action plans which were adopted and these include voluntary options which indicate the practical measures which the States could take in this area.

In conclusion, we have the plethora of instruments and for States this represents an enormous problem for implementing these rules and it is quite clear the two important measures which need to be taken to ensure that these are implemented, this involves first of all to ensure that states have the capacity to implement those conventions and that they can train qualified staff and the second area is to strengthen regional co-operation in terms of implementation, particularly in the areas of seas and oceans. This is the area where co-operation is most needed.

**7. The Secretary-General :** We would like to thank all the high dignitaries who came and joined us and gave us their experience and views about different items and subjects. Now we come to the practical part of our agenda today, for which I really request our dear colleagues to exchange views and give me more of their experience in the Sixth Committee concerning the rationalization of work programme of AALCO, how we can benefit to the utmost of your experience and the experience of other Legal Advisers in enhancing and making our work programme more beneficial to Member States.

Coming to item 4 on “AALCO’s Co-operation with the UN and other International Organizations” of course this is the main item which we will discuss tomorrow at length, but as I mentioned in the beginning of my intervention, we have signed so many MOU’s between AALCO and the main International Organizations and UN Specialized Agencies, within the last two years since I assumed my duties we have signed five very important MOU’s with WIPO, IOM concerning Migrant Workers, with UNHCR concerning all the problems of refugees, burden-sharing, with UNU since we are an organization doing legal research work for the benefit of Member States, but what is really needed is your experience to guide me and the Secretariat, how to invest to the maximum this co-operation with the international organizations for the benefit of our Member States, this is the main question I would like to ask your guidance for.

Coming to the other item which is “AALCO Work Programme for the Coming Years”. To start with the 42<sup>nd</sup> Session of AALCO is to be held in Seoul, South Korea next year. I would like to give a quick comment on how AALCO is functioning. We have two or three kinds of meetings. First we have the annual session which is held in the capital of one of the Member States and if that is not possible it is held in the Headquarters, second we have inter-sessional meetings which are of great importance and which are referred to the Secretariat by an explicit mandate given by the Member States in a resolution during the annual session and thirdly there are seminars and workshops for different issues of importance.

After assuming my duties, I circulated to the Legal Advisers in 2000 a document “Rationalization of Work Programme of AALCO” this was discussed at length during the last Legal Advisers Meeting and again during the 40<sup>th</sup> Annual Session held in New Delhi. I have received lot of comments supporting my programme and still I find some difficulty in implementing this programme, the main one is that we have on our agenda about 15 substantive items, time given during the annual session is only four days among them we have to also discuss organizational matters, budget etc, financial and administrative matters which take half a day or sometimes a day. The rest of the three days are very little to have a real in-depth study of the substantive items. Therefore, when we discussed very recently with a delegation which came from South Korea to our Headquarters two three weeks ago, how to rationalize to the maximum the work of our organization, we had two ideas in mind (1) dealing with humanitarian issues and (2) dealing with other matters, international trade law etc. But we found that this in spite of it being a very important idea needs a lot of financial support, because we would need two teams of interpreters, we will have another kind of structure which AALCO is not ready to face now. Then we discussed an alternative to discuss the agenda items into two categories (1) a category of items which will be deliberated and which are of current importance and which can be discussed in-depth during the annual session, (2) in that case the items which are not deliberated would be of a monitoring or reporting nature about the developments which happen during the inter-sessional meetings or inter sessional period. We found that out of 15 agenda items we can concentrate only on 8 or 9 to consider them in depth. (1) The Deportation of Palestinians and other Israeli Practices; (2) The Legal Protection of Migrant Workers since we have among our Member States sending as well and receiving States, so the Legal Protection of Migrant Workers is of a vital importance to our Member States; (3) International Terrorism; (4) Establishing Co-operation Against Trafficking in Women and Children; (5) Human Rights in Islam. This item we included last year upon the request of Saudi Arabia; (6) Environment and Sustainable Development; (7) Legal Instrument Against Corruption; and (8) WTO as a Framework Agreement.

The other items which are on our agenda and you all have them, can be only monitored and can be given as a report on the progress which happened on these items. That is mainly the final idea which we agreed upon with South Korea for the coming Session.

I would really like to hear your comments and ideas about this, as I said in my statement we are trying to include French among our working languages to attract more Asian and African Francophone countries in order to enlarge our membership. That is my idea of rationalization of the work programme of AALCO, the last point was that the ILC matters are of extreme importance and the interaction between the AALCO and ILC is very strong. To deal with ILC matters in half a day is impossible, and we have concluded that for all the other subjects we can do rapidly but concentrate one of the issues which it deals with. For example this year we were supposed to have during the Legal Advisers Meeting “Jurisdictional Immunity of States and Their Property” unfortunately because the Legal Advisers Meeting was postponed and it was very difficult to have it without the Members of ILC with us. That concludes my intervention regarding agenda items 4 and 5 and the floor is open for my colleagues to guide me and the Secretariat.

**8. The Legal Adviser of Japan:** At the outset my delegation would like to commend you Mr. President for your able leadership. Let me also express my appreciation to the Secretary-General of AALCO for his statement, as well I would like to thank the special invitees for their excellent statements. My delegation totally supports the views expressed by the Secretary-General of AALCO, especially what drew my attention was the point that the AALCO's Legal Advisers Meeting should be held to back the ILC deliberations in the Sixth Committee, and the UN Legal Advisers Meeting in order to obtain the participation of Legal Advisers from the capitals and the ILC Members. Mr. Chairman from this viewpoint my delegation strongly supports the draft resolution A/57/L18 which will be taken up at the UN Plenary today afternoon or tomorrow. In particular I would like to draw your attention to preambular paragraph 4 and operative paragraph 6 of the draft resolution which refers to the close interaction between the AALCO and the Sixth Committee and request due consideration for the rescheduling of this agenda item in the General Assembly. So Mr. Chairman as a member of the AALCO Japan continues to participate very actively in a broad range in AALCO sponsored activities.

**9. The Legal Adviser of Indonesia:** I add my voice in appreciating the Chairman, and thanks to Amb. W. Kamil, Secretary-General for this introduction and programme which is very fruitful to us in our deliberations. My delegation would like to second the suggestion by the delegate of Japan on the proposed programme for the next year meeting of ILC, so that we can take benefit of the presence of Members of ILC and the Legal Advisers. With regard to the item put forward by the Secretary-General I would like to support the suggestion by the President about the possibility to have a research on the topics of international law identified on a priority basis as that can perhaps strengthen our deliberations on certain topics and would be very fruitful for us in our future endeavours. Mr. Chairman I agree with your approach that of our 15 substantive items you highlighted the items which are very important for us, and it is important to attract comment from us Member States, and we see from everyday life the necessity to regulate these items in our group. With regard to the draft resolution Mr. Chairman my delegation is usually the co-sponsor of this resolution and we surely support the cooperation between the AALCO and the Sixth Committee, and also the organs of UN.

**10. The Legal Adviser of the People's Republic of China :** Thank you for convening this meeting and I believe that it will provide a good opportunity for Members of AALCO and the other States to exchange their views. With regard to the successful hosting of 41 session of AALCO I would like to congratulate the Government of Nigeria. I would also like to thank the Secretary-General for his statement on the planned next annual session of AALCO. AALCO is an important forum where Asian and African countries could discuss crucial international issues of common interest and concern, ranging from general international law to international trade law, environmental law as well as international law of the sea. Over the past 2 years AALCO has initiated studies on quite a number of topics of international law in cooperation of the UN and international bodies. Because of the drastic change of the international situation, because of the ending of the cold war and the process of globalization, AALCO would have a much more significant role to play in promoting the rule of law in world affairs. To meet such a challenge we think AALCO should further discuss these issues. First of all in our view concerning the role of UN in providing security the traditional notion of sovereignty and dividing line between matters of international concern and the reserved domain of domestic jurisdiction we have new challenges. Such issues have to be properly addressed in the 21<sup>st</sup> century. Second with the end

of cold war, in recent years the United Nations has greatly strengthen its role in world affairs. It is of utmost importance for AALCO to further strengthen its cooperation with the UN and its relevant agencies in all fields. The AALCO should follow closely the new developments in the UN system and have its fundamental interests and legitimate concerns being reflected in the outcome of such UN processes. Third, in the field of international trade law, WTO has developed unique dispute settlement mechanism which merits indepth study by the AALCO. The discussion of the related issues would help its Member States to have a better understanding of the mechanism and enable them to benefit from their recourse thereto. The issues of protection of intellectual property rights and electronic commerce should also be taken up by the AALCO in its future sessions so that its members could be better informed and well prepared in these fields. Also in addition to its annual sessions AALCO should continue to organize workshops, seminars or training courses on practical issues concerning the timing of the Legal Advisers Meeting. I strongly agree with Japan and Indonesia in that we should try our utmost to arrange the meetings so that it follows examination by the Sixth Committee on its topic of ILC report. In addition the Sixth Committee has proposed to the Plenary that we should have the special session of the *Ad Hoc* Committee on Judicial Immunities of States and their Property next February. We would like to see that before that its Members could have an expert group meeting or an intersessional meeting so that the Ad hoc Committee topics can be prepared and coordinated in advance. Lastly, as in our 42 annual sessions, we hope that we will have success in Seoul and on relevant topics we would have useful discussions.

**11. The Legal Adviser of the Arab Republic of Egypt :** Mr. Chairman, I am sure under your able guidance we will be able to accomplish the objective that we are aiming at in this meeting. Also I would like to thank the Secretary-General of AALCO for his eloquent presentation of the programme of the organization and its work. We are fully in support of the views that he has expressed and the programme of next year that he has proposed. We believe that the AALCO is growing in its importance with its diverse issues which are on the table nowadays, with all the international new challenges that the world is facing. AALCO is presenting our two continents in contributing to face these challenges and I think this is a very important organization that we have to support and we have to keep and maintain the relationship between the AALCO and UN. I think one of the means to keep this fruitful relationship is, as the Secretary-General has just said, we have to co-ordinate the timing of meeting of AALCO and Legal Advisers and discussion of ILC item in the Sixth Committee. Regarding the proposal of rationalization of agenda of AALCO, of course we understand the rationale behind it and the financial implications, we fully support the Secretary-General on that. Having said that we also would like to see them in future there are other options on that because as the previous speakers like China is proposing new ideas and issues to be discussed, I think it is very important to find more long term solutions to this issue, but as for now it is a very practical way to solve this problem. Regarding resolution L/18 we are sponsors of that resolution. We shall call very much support for the enhancement of cooperation between the organizations and we support paragraph 6 regarding the timing of meeting of AALCO and Legal Advisers.

**12. The Legal Adviser of the Republic of Korea :** Mr. Chairman, on behalf of Republic of Korea we express our sincere gratitude to you and Ambassador Kamil and other Members of the Secretariat of AALCO for the devotion to the preparation of this meeting. The Government of the Republic of Korea has long recognized the importance of AALCO with high appreciation for

its numerous contributions to the development of international law in the Asian and African regions. Regarding Ambassador Kamil's work programme, we are closely working with Amb. Kamil and the Secretariat to rationalize the work of AALCO and we totally support Amb. Kamil's effort for this. As Amb. Kamil kindly announced in his statement that Government of the Republic of Korea will host the 42<sup>nd</sup> Session of AALCO in Korea next year. I sincerely hope that the 42<sup>nd</sup> Session will be a remarkable opportunity to discuss international legal issues and promote regional cooperation in international law.

**13. The Legal Adviser of the Philippines :** Mr. Chairman, I would like to thank you for your statement and for going half way around the world to preside over this meeting. We would also like to thank the Secretary-General for his statement on the developments in the work of the AALCO, and of course we did like to thank the Secretariat for arranging to have the speakers we heard this morning, which has enlightened our discussions. I would like to respond to the request of the Secretary-General for some views on the rationalization of the work programme of AALCO. First of all we agree that there should be some kind of rationalization, we are looking at 15 substantive issues and it's a lot in our system and I think we cannot overload the system too much otherwise we will not achieve. So for the Secretary-General's ideas, I think it is wise to actually pursue both of them or either one but I understand one is constrained with financial considerations, we therefore recognize the need to consider that, but in the light of the problem the second option would be a viable one which I think from the report was the basis of foundation for some kind of discussion between the Secretary-General and the future President of the AALCO and I think this is a wise move, to divide the items into several categories, and discussion on priority item could be considered by way of reporting or monitoring. We would just like to request the Secretary-General or the President to inform the Member States of what will be these priority items long before the discussion in June so that we can prepare for this meeting. Our delegation would also like to underscore the fact that, of course AALCO is not operating from a political vacuum.

We are in the midst of raging political developments, and of course our focus would tend to be invited or distracted by certain events and therefore may have tendency for us to be branching all over the place, and I think we should not lose our focus and our focus should pertain to our contribution to international law and its development and so our delegation feels that we should continue to strengthen our relation which he has been doing in a very splendid way, and we would like to thank him for that. We would also like to support the ideas that China has mentioned about the issues of international law, and perhaps we could look into this. Listening to the presentation of the Legal Advisers of the United Nations, I think it is important that we could also look into the developments in the United Nations and its impact on international law and he mentioned specifically the enlarging role perhaps of the Security Council in the last few years, he mentioned the creation of the two Tribunals, he also mentioned the resolution 1373 which basically mandated Member States to legislate certain issues which may or may not be acceptable to that country, with in that instance particularly with relation to financing of terrorism convention, and may be the discussion should focus on how this is on issues like sovereignty, domestic jurisdiction and others possible concerns that Member States specially from Asia and Africa are concerned about. One more thing perhaps to support the idea, I do not know how far the resources of AALCO could go in a way that we could also focus on having more seminars or workshops which are truly going to be very effective and very useful in

terms of educating lawyers, Member States in the development of international law, and this would be a very effective tool in terms of our Organization.

**14. The Legal Adviser of Turkey :** We also feel that rationalization of our work is an important one. Indeed this forum is an important one for all of the participants to streamline their positions and exchange views on certain issues and we have to utilize this opportunity in the most effective way and in this respect the rationalization efforts is something that we must endorse. In this context, we would also like to forward the view that the ILC Meetings and the Meeting of the AALCO here should be handled back to back so that a more effective exchange of views between different bodies can be materialized during the context of Meetings of the Sixth Committee. With regard to the planned next session of AALCO that is the 42<sup>nd</sup> Session to be held in the Republic of Korea we also look forward to this important event. In that regard the issues highlighted by the Secretary-General are intended to the point given the fact most countries forming AALCO are developing States. We have to take into account their needs in taking up the issues of common concern in this regard for examples Migrant Workers, International Terrorism, Trafficking of Women and Children, Corruption etc are indeed the issues that we need to focus our attention. One last point that I would like to touch upon is the publication of the report of AALCO, indeed this is an important effort and we would like to congratulate the Organization for this important publication and we benefit a lot from this kind of efforts.

**15. The Legal Adviser of Kenya :** I would like to thank the Secretary-General for the view he has passed on to us, also the invitees who spoke in the morning regarding the legal work. The Chief Legal Counsel, the Director of Oceans and Law of the Sea, and Vice-Chairman of the Sixth Committee. We want to thank you for the work programme and rationalization of the work programme of the AALCO. But before that I wish to recognize the relationship between Asian and Africa on many issues. Kenya considers the AALCO to be very important, of course our relationship will be much more closer in the areas of law and I think we can do much for our countries, more so when we work together I think we can achieve a lot. Mr. President I wish also to comment shortly on the rationalization of the work and I welcome first of all the issue that we will soon discuss the cooperation between the UN and AALCO, we are appreciative that out of this cooperation we will make our views come more so with an international organization and this is welcomed by Kenya. On the issue of the subjects which are to be discussed, I listened to China which has given us some new topics on trade and training and seminars and technical assistance and I feel there are important to our Members because we will need a lot of capacity-building. Issues of WTO are really complex and I think if we come closer to discuss it will really help us a lot. I also wish that time will be allowed when we are drawing up a list of issues that we are going to discuss so that we can get back to our headquarters and they can have an exchange of views and we will really zero in on a few items, because I really do not think that a long shopping list will help us, we need to identify a few items we can work on, out of that we can have quality and we can have effective results. We also appreciate the fact that the issue of introducing French language in our Organization, as certainly that will bring us more brothers speaking French as members which of course will be more useful to strengthen our organization.

**16. The Legal Adviser of Nigeria :** Mr. Chairman, I join others in congratulating you on your assumption of Presidency of AALCO. We wish to acknowledge the tireless efforts of the Secretary-General and the Secretariat. My delegation notes with satisfaction that the AALCO is

fulfilling its primary objective of acting as an advisory body to its members in the field of international law. AALCO has done this by providing an international platform for its members to cooperate in legal matters of common interest. Furthermore, AALCO has established three Regional Centres for Commercial Arbitration, Lagos, Cairo and Kuala Lumpur. These Centres provide arbitration services in the settlement of commercial disputes, consequently the Centres provide speedy and effective services as opposed to the delays and high cost tenable in regular courts. In addition, the awards of the Centres would contribute to the gradual development of international commercial law. These developments in our view, complement the work of the ILC in the progressive development and codification of international law. It is encouraging to note that recently AALCO has become versatile by making incursions into other crucial areas of concerns to its members and the international community, so speaking the international economic issue, international terrorism, corruption, law of the sea, ILC, ICC and activities on UNCITRAL. The above developments are a national tabulation since AALCO is expected to cooperate with the United Nations to facilitate the attainment and the objectives of the world body, for that reason the AALCO focuses its attention on such issues as the law of the sea. An effective legal instrument against corruption, measures to eliminate international terrorism which also occupied attention of the UN. Mr. President, corruption is a serious socio-economic problem which should be fought intensely by the international community. Developing countries are more susceptible to debilitating effects of corruption because of their porous economic setting and their weak legal system. There is therefore an urgent need for a concerted international effort to ensure that those who unlawfully enrich themselves are made to repay their ill-gotten gains. Therefore an effective international instrument which will provide the legal basis for international action against corruption needs to be urgently elaborated and adopted. My delegation, Mr. President, is pleased to note that AALCO is cooperating with the UN on this issue. In this regard Nigeria, as a Member of the two Organizations, works closely with other Member States of the organization on elaboration of a legal instrument against corruption. Indeed it was for that reason that Nigeria played an active role towards the adoption of the UN resolution that established UN Ad-hoc Committee which is meeting in Vienna for the negotiation of a Convention against corruption. Accordingly, Nigeria calls on all AALCO Member States and international community to co-operate with the *Ad-hoc* Committee to ensure that it accomplishes its assignment early. Mr. President, considering the law of the sea, Nigeria is of the view that AALCO should work more closely with the United Nations to ensure that marine resources are exploited and used in a sustainable manner. In this connection special consideration should be given to the transfer of technology to the developing countries. We should also consider the issue of fishing, the containment of activities of sea pirates and the protection of the marine environment. Nigeria, therefore calls for mutual co-operation between AALCO and the International Sea Bed Authority, the Commission on the Limits of the Continental Shelf and International Tribunal for the Law of the Sea.

On the issues of measures to eliminate International Terrorism, it is regrettable that international terrorism continues to pose a serious threat to international peace and security. Terrorism is an assault on economic and social development. It is a global menace and a courage which must be confronted and halted. The various international instruments aimed at combating international terrorism deserve AALCO's full support. AALCO must therefore be firmly involved in the fight against terrorism. In this connection AALCO should support the early completion of the elaboration of a comprehensive International Convention on Terrorism as well

as the elaboration of a convention on suppression of acts of nuclear terrorism. Nigeria, therefore urges AALCO Member States to sign and ratify all the existing conventions against terrorism and cooperation with the counter terrorism Committee of the United Nations Security Council against International Terrorism. On its part, Nigeria remains deeply committed to fight against terrorism as well as the need for the elaboration of a comprehensive convention on international terrorism. Mr. President, it is gratifying to note that AALCO has distinguished itself as a dynamic intergovernmental organization whose services are cherished by its members and the international community at large. We also acknowledge the fact that the organization is reaching out to the French speaking African countries to become members of the Organization. With these efforts and achievements, Nigeria believes that the organization is well positioned to facilitate future expansion of its work as well as enhancement of cooperation among its members. However, despite these modest achievements we are of the view that there is still room for improvement. We therefore urge Members States to redouble their efforts and commitment to the Organization to enable it achieve its noble objectives. In conclusion Mr. President, we support the proposal by the Secretary-General for the rationalization of the work of the Organization in particular we support the suggestion and recommendation for the conduct of seminars and workshops.

**17. The Secretary-General :** I am very happy with all the comments given by the Member States concerning our work programme, concerning the support for the idea I have given and before even speaking about the two/three items, Law of the Sea, International Terrorism and Corruption. I have already heard in your statements your guiding ideas of how AALCO should deal with these three items and this of course will make us gain lot of time in this meeting since our President should be addressing very soon the General Assembly. I have to give however, three or four comments on what I have heard from my colleagues here. First of all I am sad to inform that the General Assembly informed us immediately now that the paragraph 6 in the draft resolution is not acceptable, because it is not implementable. The final decision of the General Committee is to combine all the items in one day i.e. 21/22 November each year, so we cannot unfortunately get out of this package. So if we want our resolution to be adopted we have to delete paragraph 6 which according to the General Assembly is non-implementable and as such resolution is not acceptable. So if the co-sponsors of this resolution and my colleagues guide me on the action to be done, I think we have to get it adopted to delete paragraph 6 and try to rearrange ourselves again concerning the Legal Advisers Meeting and how to get the best of this arrangement. So if I have the green light of the audience and the President I will inform the General Assembly that we are deleting paragraph 6.

The Delegate of Philippines has in his statement has encouraged the idea of holding seminars during the intersessional period. I thank him for this idea and I would like to inform that we have in view three seminars before the coming 42<sup>nd</sup> Session. The first one will be in conjunction with UNICEF and that will be in 3<sup>rd</sup> week of January, concerning the “Legal Protection of Children in International Law.” I will meet very soon the Executive Director of UNICEF here in New York to finalize the arrangements of this meeting. The second meeting will be held in co-operation with the United Nations High Commissioner for Refugees, and that will be for discussing “Secondary Movement of Persons and Burden Sharing and Agenda for Protection”. The three items are very important and UNHCR and AALCO are very concerned about it, this meeting would probably be held in March. Between March and June we will have a



third meeting in conjunction with the IOM and that will be for discussing the Model Agreement that we have distributed in the Abuja Session concerning sending and receiving countries and how to protect legally the migrant workers. We have not finalized the dates but we have finalized the topic and this was a mandate given to me by the Member States during the Abuja Session. So we have three seminars before June, the last one will be during Seoul Session, that will be a one day special meeting which we are accustomed to having for the past five years, in conjunction with one of the international organizations with whom we have very close co-operation. We have agreed with the host country when the delegation of Republic of Korea came and visited me in the headquarters that the one day special meeting during the Seoul Session would be concentrated on "International Humanitarian Law Aspects", we are discussing with ICRC as well as the Korean Government as well as the Secretariat the best topics under this issue.

No doubt I have heard very carefully all the ideas given to me by my colleagues concerning, corruption, terrorism, we are fully supportive of the efforts exerted by the United Nations as well as international organizations concerning these items and we are working very hard to come to an international instrument combating both terrorism and corruption. I am thankful for all the ideas and definitely I will put them into practice and I will inform Member States as how the Secretariat will deal with that in my report after I go to Delhi. I would like to hear from you whether we could delete paragraph 6 of the resolution for vote tomorrow. I think my colleagues who are supporting this idea, will have another approach with the ILC as well as Sixth Committee to have a more fruitful Legal Advisers Meeting even if we are obliged to do it according to new dates given by General Assembly.

**18. The Legal Adviser of Arab Republic of Egypt :** I would not like to take the floor to create a dilemma. Another way is that we could approach the Sixth Committee Bureau, in their arrangement of the year after when we have the meeting maybe we can in the preparation of the schedule of the Sixth Committee if they can co-ordinate discussion of ILC item with the discussion at General Assembly.

**19. The Secretary-General :** Of course this is a good idea I hope we can postpone discussion of ILC at the Sixth Committee to make it closer to our item but for the time being we have no choice but to delete paragraph 6 of our resolution. Mr. President you can tell them that to make the work of General Assembly easier we'll delete it.

**20. President :** I have nothing to add apart from thanking you for the very fine contributions. Part of reservations we have expressed, we have acknowledged arise from our funding, and I think as AALCO grows as it becomes more dynamic as the world order changes we want to look into the issues of funding of AALCO so that it does not become a mere formality. I think at an appropriate time not now we have to look into this. Our funding cannot remain as it is if we are going to play the very dynamic role required of us. I think we should consider about this.

**21. The Legal Adviser of Sierra Leone :** Mr. President, it is the delight of my delegation to see you to come to New York to chair this meeting of AALCO. I render unqualified apology for coming late to the meeting. Unfortunately today I was discharged from hospital. My delegation views this meeting of AALCO every year with utmost importance because we value the

invaluable contribution of this Organization to the work of the UN in the progressive development and codification of international law. Indeed my mission uses to a very large extent the materials that are produced by AALCO to facilitate our work in the Sixth Committee and other legal matters of the UN and looking at the work programme of the organization in the coming year, in fact the views of my delegation are well known. As we have added a new topic on corruption, we all know, that it is a menace that is destroying most of the developing countries. My mission has been doing everything possible to do to help AALCO. I will continue to do so. I would like to commend the work of the Permanent Observer of the Organization to the UN in New York. In many fora of international law one always sees him around talking to delegates so in fact we welcome him and wish him well.

**22. The Secretary-General :** In fact Mr. Chairman you have touched a very important point and I thank you for it and of course our Member States must think about it, because the scale of contribution which are enforced now were decided 20 years ago and we all know in 20 years prices in every aspect have gone up, this of course paralyses the activities of AALCO and we could have done more if the financial resources were at the level of costs now. That is one point, another point which is very important is the arrears which are still lying not paid by some Member States, it's a situation we do not know how to deal with. Many countries among our Member States do not meet with the contributions at all so if from one side if they remain constant and arrears are unpaid and some do not pay at all, please tell me how AALCO can be an active and dynamic body? We are left with very little resources, I am happy we are what we are now, but I am sure that we can be much more effective and dynamic if we had more resources. I thank you Mr. Chairman to raise the point but since it came from you I hope Member States will listen to it.

**22.** The Chairman thereafter adjourned the Meeting.