

ADDRESS OF PROF. DR. RAHMAT MOHAMAD, SECRETARY-GENERAL, AALCO AT THE INDONESIAN SOCIETY OF INTERNATIONAL LAW, JAKARTA, REPUBLIC OF INDONESIA, 15 OCTOBER 2010

Honourable President,

Distinguished Members of the Indonesian Society of International Law,

Distinguished Colleagues,

At the outset, I would like to profoundly thank the Indonesian Society of International Law for inviting me for an exchange of views with a very learned fraternity of international lawyers and scholars. I am thankful to the Ministry of Foreign Affairs of the Republic of Indonesia for making the necessary arrangements for our interaction.

Allow me to begin my address by highlighting the important contribution made by the Government and people of Indonesia in forging the bonds of solidarity between the peoples of Asia and Africa.

Fifty five years ago, in Bandung, leaders of 29 nations, the “New States” representing over half of the world’s population had convened to deliberate and determine the path of the people of Asia and Africa. Their determination to work together, with a keen sense of kinship came to be known as the “Bandung spirit”. The Conference gave a unique message to the world-whatever may be the differences in political, economic or legal systems, the states of Asian-African region were inextricably linked together as an Asian-African identity.

Based upon the core principles of solidarity, friendship and cooperation the first generation of Asian-African leaders laid down as code of ethics for international relations the Ten Principles of Bandung, or *Dasa Sila Bandung*.¹ This political statement containing the basic principles in the efforts to promote peace and cooperation in the world became the underlying inspiration for these nations to continue to strive towards the attainment of a just, peaceful, progressive and prosperous world order. These principles, I wish to emphasize are of eternal value, serving as the “Guiding Principles” for Afro-Asian States, in the conduct of their international affairs and contributing immensely over the years in the maintenance of international peace and security.

Bandung spirit gave rise to the new wave of African decolonization and laid down the foundation of the Non-Aligned Movement, as well as the G-77. Furthermore, the name Bandung had a magical effect in bringing together the countries of the region in various multilateral foras. Established a year after the Bandung Conference, the Asian-African Legal Consultative Organization (AALCO), the Organization that I serve is considered to be a tangible outcome of this Conference. For all these reasons Bandung Conference is considered to have no parallel in history.

¹ **The Ten Principles of Bandung:** 1. Respect for fundamental human rights and for the purposes and the principles of the Charter of the United Nations. 2. Respect for the sovereignty and territorial integrity of all nations. 3. Recognition of the equality of all races and of the equality of all nations large and small. 4. Respect for the right of each nation to defend itself singly or collectively, in conformity with the Charter of the United Nations. 5. Adoption of the Outcome of the Asian-African Summit. 6. (a) Abstention from the use of arrangements of collective defence to serve the particular interests of any of the big powers. (b) Abstention by any country from exerting pressures on other countries. 7. Refraining from acts or threats of aggression or the use of force against the territorial integrity or political independence of any country. 8. Settlement of all international disputes by peaceful means, such as negotiation, conciliation, arbitration or judicial settlement as well as other peaceful means of the parties' own choice, in conformity with the Charter of the United Nations. 9. Promotion of mutual interests and co-operation. 10. Respect for justice and international obligations.

I was privileged to be in Bandung yesterday and see for myself the land that sowed the seeds of Third World Solidarity. This solidarity has not only to be kept intact but further strengthened in our collective struggle to make the world peaceful and prosperous for all.

Towards that end and to commemorate the Golden Jubilee of this historic Conference, the leaders from the Asian-African region assembled for “*The Asian-African Summit 2005 and the Commemoration for the Golden Jubilee of the Asian-African Conference 1955*” in Indonesia in April 2005. Republic of Indonesia and Republic of South Africa, both also being AALCO Member States were the co-sponsors of the Summit. Our leaders worked for “*Reinvigorating the Bandung Spirit: Working Towards a New Asian-African Partnership*” and adopted “The Declaration on the New Asian-African Strategic Partnership (NAASP)”. It marks the dawn of a new era of cooperation among countries of the two regions for a peaceful and prosperous future.

Through NAASP the Afro-Asian leaders envisioned an Asian-African region at peace with itself and with the world at large and where their people could live in stability, prosperity, dignity and free from the fear of violence, oppression and injustice. They also reaffirmed that the Spirit of Bandung, which continued to be a solid, relevant and effective foundation for fostering better relations among them as well as for resolving global issues of common concern. In the process of their nation and state building, they called for further strengthening and progress in the social and economic realms and highlighted the importance of working together to address globalization, poverty and underdevelopment.

In this broad paradigm of Afro-Asian solidarity, may I now take this opportunity to highlight the excellent contribution that has been made by the Government of the Republic of Indonesia to promote and strengthen the AALCO. In this regard, the AALCO is privileged to enjoy the constant support, encouragement and guidance of the Republic of Indonesia in all its activities. Indonesia, is one of the founding Member State of AALCO and the AALCO holds its ideological relevance to the seeds of Afro-Asian Solidarity sown in 1955 at Bandung. The Indonesian government has been actively participating and has been in the forefront in the deliberations at the Annual Sessions and other inter-sessional meetings organized within the AALCO forum. Two of the topics that are currently on AALCO's agenda have been referred to by the Government of Indonesia. These are "The Law of the Sea" in the year 1970 and "Establishing Cooperation against Trafficking in Women and Children" in 2001. Suffice, it to mention here that the topic of the Law of the Sea continues to remain a topic of eternal interest for AALCO Member States. The AALCO takes reasonable pride in the fact that new concepts such as the Exclusive Economic Zone (EEZ), Archipelago States and Right of Land Locked States originated and developed in the AALCO's Annual Session and were later codified in the United Nations Convention on the Law of the Sea. The eminent Law of Sea Expert from Indonesia Dr. Hasjim Djalal contributed immensely to the debate within the AALCO forum as also in the negotiation process of UNCLOS that lasted for more than a decade.

The Government of Indonesia had hosted in a grand manner in conjunction with the silver jubilee of the Bandung Conference in 1980, the Twenty-First Annual Session of AALCO. For the second time, AALCO met for its Forty-Third Annual Session in Bali. Both the Sessions form an important chapter in the annals of AALCO.

Let me now proceed towards the changing dimensions of international law. International law is no longer a marginal discipline that figures occasionally in diplomatic disagreements about war and peace. Rather, it is now an ensemble of rules, policies, institutions, and practices that directly and indirectly affects the daily lives of millions of people all over the world, in the areas of economy, environment, family relationships, and governmental performance.

In the contemporary world, international law is getting rapidly transformed. Although, even today international law remains state-centric, yet, non-state actors have emerged as an important stakeholder in the making and implementation of international law. This change significantly contributes to the promotion, codification, progressive development and dissemination of international law by the non-state actors. Hence, they are also gaining relevance as ‘subjects’ of international law. It is very much appreciative to note that the academia and the scholarly writings through various international law societies like the Indonesian Society of International Law, the Asian Society of International Law, the African Society of International and Comparative Law, the Chinese Society of International Law, and the Indian Society of International Law, etc, have been in the forefront in promoting the perspectives of the developing countries. In this regard, the Afro-Asian legal community values highly the commendable work of this esteemed Society.

Now let me take this opportunity to share with this distinguished gathering about the Asian-African Legal Consultative Organization (AALCO) and its work programme, that aspires to realize the vision of our leaders for Afro-Asian solidarity, particularly in the sphere of the progressive development and codification of international law and its dissemination. AALCO’s vision and mission has been to ensure that Afro-Asian values are integrated into the rapidly

transforming international law, and the Eurocentric nature of international law is changed into an universal international law.

The AALCO is one of the unique organizations that serve the interest of the developing countries uniting the two of the largest and most populous continents of the world in the legal field. The Organization since its inception in 1956 has been considering various areas of international law that are of common concern for the countries from the Asian-African region. In addition, AALCO accords consistent consideration to work of the International Law Commission (ILC) in a prominent manner.

By deliberating within the AALCO forum, the Member States have immensely benefited and had beneficially contributed to progressive development and codification of International Law, taking place in the United Nations and other multilateral law-making fora. Indeed, through AALCO, the voice of Asia and Africa has come to be heard in the domain of International Law considered to be traditionally the exclusive preserve of western powers. Over the period of time it has expanded its activities to include contemporary and relevant topics on its agenda. Its work programme has also been suitably oriented to meet the needs of an expanding membership, which now includes forty seven States from the two regions.

The hallmark of AALCO's activities is its Annual Session, which is well recognized and respected in international law circles for the balanced nature of deliberations and the wide range of items on its agenda. Consistent with the global reach of its activities, the Annual sessions of the Organization provide an appropriate forum for its Member States to consider and deliberate on some of the current and most important topics related to international law.

Over the years, deliberations emanating from these Annual Sessions have contributed significantly to the progressive development and codification of International Law. To name a few, some of these include: the Law of the Sea, AALCO's 1966 Bangkok Principles on Status and Treatment of Refugees, Model articles embodying principles relating to elimination and reduction of dual or multiple nationality, Model for Bilateral Arrangements on Mutual Assistance for the Service of process and the taking of evidence abroad in civil and commercial matters, Principles concerning admission and treatment of aliens, Final report and text articles containing the principles concerning extradition of fugitive offenders, and model agreement for promotion and protection of investment. AALCO has extensively worked on pertinent issues like legality of nuclear tests, South West Africa case, Relief against Double Taxation and Fiscal Evasion, Legal guidelines for privatization programmes, special and differential treatment under WTO Agreements, Combating Corruption, and international terrorism and so on and so forth.

At the Forty-Eighth Annual Session of AALCO, held in Putrajaya, Malaysia from 17th to 20th August 2009, the AALCO had adopted the Putrajaya Declaration on Revitalization and Strengthening of the Asian-African Legal Consultative Organization, wherein the Member States of AALCO has recognized that International Law was an indispensable instrument to shape a new world order. It was acknowledged that the AALCO, since its establishment in 1956, has constructively, constantly and consistently contributed in enabling the Asian-African States in developing enlightened international legal policies and positions and play their due role in shaping a just and equitable world order.

Mr. President, our Forty-Ninth Annual Session that took place from 5th to 8th August 2010, in Dar es Salaam, United Republic of Tanzania witnessed high-level deliberations on agenda items of AALCO pertaining to Question of Palestine,

World Trade Organization, Expressions of Folklore and its International Protection, the United Nations Convention against Corruption. In addition, in three special meetings with eminent subject experts, we focused on three contemporary issues, namely: (i) Making AALCO's participation in the work of International Law Commission (ILC) more effective and Meaningful; (ii) The International Criminal Court: Recent Developments; and (iii) Environment and Sustainable Development. Allow me to take this opportunity to briefly highlight, the essence of deliberations on the themes of special meetings.

Examination of questions that are under consideration of ILC, is one of the statutory obligations of AALCO. In the discharge of this mandate, the Organization, since its establishment in 1956, had been regularly considering the ILC topics with a view to enhancing Afro-Asian perspectives in the work of ILC. As regards, strengthening AALCO's contribution to the work of ILC, it was generally that AALCO must continue to focus upon the topics that were under consideration of the ILC, and if resources permit, it should assist its Member States in preparing responses to the questionnaire that is sent on issues of international law that were under consideration of the ILC. It was also suggested that the AALCO should constitute a working group on ILC. Besides, the AALCO was in view of the large number of international institutions in which international law-making was taking place to contribute therein.

Another area of great importance, which is under the consideration of the AALCO, is the International Criminal Court (ICC). AALCO had been closely following the developments pertaining to the ICC, since its Thirty-Fifth session in Manila (1996). AALCO was active in the initial phase of the elaboration of the Statute of the ICC and was represented at the Rome Conference of Plenipotentiaries for the adoption of the Statute of the ICC in 1998. After the entry into force of the Rome Statute, the focus of AALCO's work is on the

developments in the institutions established by the Rome Statute, namely the Assembly of State Parties (ASP), the International Criminal Court, Office of the Prosecutor. Serious consideration is also being given to the on-going work on the crucial issue of the crime of aggression, as well as other pertinent developments relating to the international criminal justice. To examine the outcome of the Review Conference of the Rome Statute that took place in May-June 2010 in Kampala, Uganda, our Annual Session focused upon the crucial issues, i.e., the principle of the complementarity and the definition of the crime of aggression adopted by the Review Conference.

The focus of the meeting on Environment and Sustainable Development was to build up the momentum for Cancun Climate Change Conference that is scheduled to take place later this year in Cancun, Mexico. The meeting emphasized that strong political will to combat climate change in accordance with the principles of the United Nations Framework Convention on Climate Change, especially the principle of common but differentiated responsibilities and respective capabilities was essential, and it urged upon the Member States to actively participate in the on-going Bali Road-Map negotiations.

AALCO has a long standing history of working in close cooperation with major international law institutions like the International Law Commission, the General Assembly of the United Nations, UNCITRAL, as well as specialized agencies of the United Nations and several intergovernmental organizations. To foster cooperation it has concluded formal cooperation agreements with many of them including the prestigious Xiamen Academy of International Law and recently with the International Council of Environmental Law. Yesterday, I had called upon the Deputy Secretary-General of ASEAN to explore the possibility of concluding a Memorandum of Understanding with them.

The nature of the working relations with such institutions prove that promotion of international law, emphasis on rule of law, etc., are essential features that many of us strive for. The AALCO's activities have been broadened from time to time to accommodate the changing needs and requirements of its Member States and this is evident as one glance through the agenda items of the Organization. Its wide range of topics of Agenda Item/Work Programme is well equipped to incorporate the advancements and changing gamut of international law and hence fulfill its obligations to adequately support and furnish its Member States by researching on such topics of recent developments. The topics on international trade law matters and economic relations are classic examples of the same. The AALCO consistently strived to orient its activities to complement the work of the United Nations in several areas. In the light of the Organization's growing status and functions, the General Assembly by a Resolution, adopted at its thirty-fifth Session in 1980 decided to accord AALCO Permanent Observer Status at the United Nations. Following that, an item on "Co-operation between the United Nations and the Asian-African Legal Consultative Organization" is placed biannually on the agenda of the General Assembly.

With the objective of bringing in a greater level of academic input into AALCO's work as well as utilize the expertise of our eminent scholars for promoting Afro-Asian perspectives to international law, since my assuming office as the Secretary-General of AALCO, along with my colleagues in the Secretariat, I have been striving to built a solid relationship with various academic bodies engaged in the learning of international law in our part of the world. As I come from the academic world, this allows me to remain firmly attached to my roots, and I sincerely believe in the long run would enable the Organization to enhance its stature and profile. In this regard, it would be mutually beneficial to promote the existing

cooperation between the AALCO Secretariat and the Indonesian Society of International Law

Thank you for your patient hearing.