



ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

**PROVISIONAL ANNOTATED AGENDA FOR THE
FIFTY-FOURTH ANNUAL SESSION**

**BEIJING, PEOPLE'S REPUBLIC OF CHINA
13 – 17 APRIL 2015**

I. INTRODUCTION

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

2. This innovative approach was implemented for the first time during the Forty- Second Annual Session, held in Seoul and is being continuously followed since then. Before that, the Secretariat used to publish reports on all the agenda items on the work programme of AALCO comprising of organizational and substantive matters. Furthermore, in order to encourage deliberations on resolutions, the drafts of resolutions to be adopted at the Fifty-Fourth Annual Session, have been annexed at the end of each deliberated report¹.

3. On the other hand, since the Forty-Ninth Annual Session (Dar es Salaam, 2010), the non-deliberated agenda items were being brought out in a single volume and the same were also placed for consideration of the Member States. During the past several years Member States have been insisting upon austerity measures to be adopted by the Organization, including cutting down costs on its publications. In compliance with this observation, since the last Annual Session the Secretariat is not publishing the report on the non-deliberated agenda items. Consequently, draft resolutions on the non-deliberated agenda items would not be discussed.

¹ This innovation was suggested by the Drafting Committee of the Forty-Eighth Annual Session, held in Putrajaya, Malaysia in 2009.

However, in the future, as and when an item is taken up as deliberated, the needful would be done.

4. At the forthcoming Fifty-Fourth Annual Session, hosted by Government of the People's Republic of China, and **scheduled to be held in Beijing from 13th to 17th April 2015**, apart from the consideration of items on Organizational matters, based upon the AALCO tradition, the deliberations would focus upon some of the important substantive items on AALCO's current agenda, these include: (i) Law of the Sea; (ii) Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied territories in Violation of International law particularly the Fourth Geneva Convention of 1949"; (iii) Environment and Sustainable Development; (vi) Work of the UNCITRAL and Other International Organizations in the Field of International Trade Law; and (v) Violent Extremism and Terrorism (Legal Aspects). Besides this, two half-day Special Meetings will also be held in conjunction with the Fifty-Fourth Annual Session, namely: (i) Selected Items on the Agenda of the International Law Commission; and (ii) "International Law in Cyberspace".

As 2015 marks the Sixtieth Anniversary of the historic Bandung Conference, a Special Event on Commemorating the 60th Anniversary of the Bandung Conference, will also be held.

In pursuance of optimally synergizing the participation of Member States attending the Annual Session, a parallel side-event will be held on the theme "Colloquium on UN Charter and the Post-War International Order", to be co-hosted by the Ministry of Foreign Affairs of China and the Chinese Society of International Law.

During the session, AALCO publications namely Yearbook of the Asian-African Legal Consultative Organization; AALCO Journal of International Law; and Secretary-General's Handbook on Basic Entitlements and Obligations under the 1982 UNCLOS, would also be launched.

II. ANNOTATED LIST

A. Chairing of the Session

5. Rule 3(1) of AALCO's Statutory Rules provides that the President of the previous Session shall preside until the Member States elect a new President for the Session. Accordingly, **His Excellency Dr. Mehdi Danesh Yazdi, President of the Fifty-Third Annual Session and Deputy Foreign Minister, Islamic Republic of Iran** shall preside over the Inaugural Session and the First Meeting of the Delegations of AALCO Member States.

B. Participation of Member States

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

C. Credentials of Participants

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

D. Adoption of Agenda

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

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

E. Admission of Observers

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

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

12. Observer delegations have the right to attend all meetings and do not have the right to vote, except those which are declared closed meetings and attended exclusively by Delegations of Member States.

F. Admission of New Members

13. Rule 4 provides that the Organization may by a decision supported by a two-third majority of the Member States admit the participation of an Asian or African State, if such a State by

written communication addressed to the Secretary-General of the Organization intimates its desire to participate in the Organization and its acceptance of the Statutes and the rules framed there under. Such decision may be taken by means of a resolution adopted in any of its sessions.

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

G. Election of the President

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

H. Election of the Vice-President

15. Rule 3(3) concerning the election of the Vice-President provides that in the election of the President and Vice-President, regional representation will be taken into consideration to the extent possible. In accordance with the established practice, if the President is from the Asian region, the Vice-President may be elected, preferably from a Member State in the African region and vice-versa.

I. Report of the Secretary-General on the Work of the Asian-African Legal Consultative Organization

16. Following Rule 20(7) of AALCO's Statutory Rules, the Secretary-General shall present an annual report to Delegations of the Member States on the work of the Organization. The Report for the Fifty-Fourth Annual Session covers the activities of this Organization since its Fifty-Third Annual Session, including the substantive, organizational, financial and administrative matters.

Document: AALCO/54/BEIJING /2015/ORG 1

J. The AALCO's Financial Report and Proposed Budget for the year 2016

17. In accordance with Rule 24(4), the AALCO's Proposed Budget for the year 2016, as endorsed by the Liaison Officers to be sent to the Fifty-Fourth Annual Session, shall be submitted to the Meeting of the Delegations of Member States of the AALCO for approval and final adoption.

Document: AALCO/54/BEIJING /2015/ORG 2

K. Report on the AALCO's Regional Centres for Arbitration

18. A report on the activities of the AALCO's Regional Arbitration Centres located in Cairo, Kuala Lumpur, Lagos, Nairobi and Tehran respectively, is to be submitted for consideration at the Fifty-Fourth Annual Session.

Document: AALCO/54/BEIJING/2015/ORG 3

L. General debate

19. It has been the practice that the First and, if necessary, Second General Meetings are open for General Statements by the Hon'ble Ministers and Leaders of the Delegations of Member States and Observers. *Leaders of Delegations are requested to kindly consider limiting their speech to 5 - 7 minutes due to paucity of time, so that the general statements could finish within the stipulated time, preferably on the first day itself.* However, if they wish to give a longer version, the same could be handed over to the Secretariat for reproduction in the Verbatim Record of the Session.

M. Submission of Statements

20. *The Delegations wishing to make statements (General statements, and Statements on organizational and substantive matters) are requested to read the statement at a reasonable speed and to handover three copies of their statement well in advance to the Secretariat.* This would enable the interpreters (Arabic and English) to provide quality interpretation and ensure that the impact of the statements of the delegations is equally strong in all languages. It would be highly appreciated if soft copies of the statements could also be given to the Secretariat.

N. Venue of the Fifty-Fifth Annual Session

21. According to sub-rule (1) of Rule 10 of the AALCO's Statutory Rules stipulates that the regular Annual Session of the Organization shall, in accordance with Article 4 of the Revised Statutes of AALCO be held once in a year and such meetings shall, to the extent possible, be held in one of the Member States by geographical rotation. **Even though the Fifty-Fourth Annual Session is being held in Asia, another Asian Member State has expressed its willingness to host the Fifty-Fifth Annual Session.**

III. MATTERS UNDER ARTICLE 1 OF THE AALCO STATUTES

22. The agenda items that have been listed in this Annotated Agenda are the deliberated items, which are listed as per the Tentative Schedule of Meetings, and would be taken up for deliberation during the Fifty-Fourth Annual Session.

1. Law of the Sea

23. It may be recalled that the item "Law of the Sea" was taken up for consideration by the Asian-African Legal Consultative Organization (AALCO) at the initiative of the Government of Indonesia in 1970, since then it has been considered as one of the priority items at successive Annual Sessions of the Organization. The AALCO can take reasonable pride in the fact that new concepts such as the Exclusive Economic Zone (EEZ), Archipelago States and Rights of Land Locked States originated and developed in the AALCO's Annual Session and were later codified in the UNCLOS. The resolution on the subject Law of the Sea (AALCO/RES/53/S 2), adopted

on 18 September 2014, at the Fifty-Third Annual Session of AALCO emphasized upon the comprehensive character of the UNCLOS and its legal framework governing the issues relating to the management of the oceans.

24. Activities concerning marine scientific research, prospecting, and exploration are often inter-related as these activities involve large scale investments. The legal framework as it stands under the Convention and related instruments as well as the treatment of the subject in other international bodies and divergence of views on the nature of activities, rights and obligations as well as impact on the marine environment and biological diversity, has indeed made it a complex subject. Given the importance of the subject to Member States of AALCO and their continuing role in the development of law and policies on matters of contemporary issues, it is proposed that apart from other aspects, the focus of the deliberations on the Law of the Sea to be convened at the Fifty-Fourth Annual Session be “Marine Scientific Research and Deep Sea Resources”. A draft of the resolution for the consideration of the Fifty-Fourth Annual Session is also annexed to the Secretariat Report.

Document No: AALCO/54/BEIJING/2015/SD/S 2

2. Deportation of Palestinians and other Israeli Practices among Them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949

25. In accordance with Article 1 (a) of the Statutes, this item has been on the agenda of the AALCO since it's Twenty Seventh Annual Session (Singapore, 1988) following a reference by the Government of the Islamic Republic of Iran. Since then it has been considered at successive Annual Sessions. At the Thirty-Seventh Annual Session (New Delhi, 1998) the scope of the topic was expanded to “Deportation of Palestinians and *other Israeli Practices among them* the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949”. At the Thirty- Ninth Annual Session (Arab Republic of Egypt, 2000) it was decided to enlarge the scope of the item and the Secretariat was directed to monitor the developments in (all) occupied territories from the viewpoint of relevant legal aspects.

26. Pursuant to RES/53/S 4 adopted at the Fifty-Third Session of AALCO on 18 September 2015, the AALCO Secretariat closely followed the events in the occupied territories from the view point of relevant legal aspects during the period from September 2014 till February 2015 and pursuant to the mandate given in the aforementioned resolution, has prepared a brief for consideration at the Annual Session.

27. This year deliberations could focus on the following issues: (1). Violations of international law, particularly international human rights law and humanitarian law, committed by the Government of Israel in the Occupied Palestinian Territory (OPT), Israeli military excesses in the Occupied Palestine Territories in violation of International Humanitarian Law and United Nations Security Council and General Assembly Resolutions, the lack of proportionality in the responses of Israel. The change of the title of the agenda item from “Deportation Of Palestinians And Other Israeli Practices Among Them The Massive

Immigration And Settlement Of Jews In All Occupied Territories In Violation Of International Law Particularly The Fourth Geneva Convention Of 1949” to “Violations of International Law in Palestine and other Occupied Territories by Israel and other International Legal Issues related to the Question of Palestine”, and (2). War Crimes committed in Gaza by Israeli forces including blockade of Gaza and means and mechanisms to end impunity of violators, Statehood of Palestine; and The role of the ICC in contributing towards the just resolution of the conflict

Document: AALCO/54/BEIJING/2015/SD/S 4

3. Violent Extremism and Terrorism (Legal Aspects)

28. It may be recalled that the item “Violent Extremism and Terrorism (Legal Aspects)” was taken up for consideration at the Special Half-day Meeting on the topic at the Fifty-Third Annual Session held in Tehran in 2014. The Resolution adopted pursuant to deliberations on the item referred to drafting “Asian-African Guidelines” to combat violent extremism and its manifestations. Violent extremism, in its most grotesque forms, dovetails with inhuman and barbaric cruelty and intolerance and blatantly disregards human rights of civilian populations. Chilling accounts of brutality from Iraq, Syria and its neighboring regions, Peshawar in Pakistan and Nigeria are the most recent instances.

29. International community was quick to respond to the escalation of acts of violent extremism and deliberations on how to effectively deal with this menace is in progress in various forums. Given its contemporary relevance, the focus of this year’s brief is on: (1) deliberations at the United Nations that led to adoption of many resolutions including UNGA Resolution A/RES/68/127 (20 February 2014) titled “A World Against Violent Extremism” and UN Security Council Resolutions 2178 and 2199, and other international bodies (2) Application of rules of customary international law and treaty laws (including international humanitarian and criminal laws and “sectoral” conventions on terrorism) to acts of violent extremism and (3) AALCO Guiding Principles to Combat Violent Extremism and Its Manifestations.

Document: AALCO/54/BEIJING/2015/SD/S9

4. Environment and Sustainable Development

30. The law relating to “Environment and Sustainable Development” constitutes an important item on the work programme of AALCO. The Organization has been following the developments on this topic for nearly four decades now. The present report is focused on climate change and sustainable development goals.

31. Evidence shows that some of the most adverse effects of climate change will be in developing countries, where populations are most vulnerable and least likely to easily adapt to climate change, and that climate change will affect the potential for development in these countries. Some synergies already exist between climate change policies and the sustainable development agenda in developing countries, such as energy efficiency, renewable energy, transport and sustainable land-use policies.

32. Developing nations face greater vulnerability because of their reliance on agriculture, their lower tolerance to coastal and water resource changes, and lower financial, technical, and institutional capacity to adapt. While sustainable development might reduce this vulnerability, uncertainties about the rate of climate change and pattern of economic development in developing countries raise questions about whether development could occur fast enough to make a difference. Finally, this Secretariat report offers some comments and observations on the agenda item under consideration for the Fifty-Fourth Annual Session of the Organization.

Document No: AALCO/54/BEIJING/2015/SD/S 10

5. Report on the Work of UNCITRAL and Other International Organizations in the Field of International Trade Law: Investment Treaties and Their Implications

33. It may be recalled that the Organization considered the agenda entitled, "Progress Report concerning the Legislative Activities of the United Nations and other Organizations in the field of International Trade Law". At the Forty-Third (Bali) Session, 2004, the title had been changed to the "Report on the Work of UNCITRAL and other International Organizations in the Field of International Trade Law" so as to focus more upon the work of UNCITRAL. It is also worth mentioning here that AALCO's interest in the work of UNCITRAL has been enhanced by the success of the regional arbitration centres that it has established in places such as Tehran, Kuala Lumpur, Lagos, Nairobi and Cairo. In an effort to streamline deliberations and outcome at the Fifty-Fourth Session, this brief exclusively deals with the implications of International Investment Agreements (IIAs) on Member States. A large number of arbitrations on IIAs are held under UNCITRAL Rules.

34. IIAs provide foreign investors with powerful new rights to protect their investments against expropriation and other forms of discrimination and the ability to sue governments directly through an innovative form of dispute settlement known as investment treaty arbitration. In the last few years, there has been an explosion in the number of investment treaty arbitration claims filed against developing nations, challenging a wide array of sensitive government regulations and routinely seeking millions and even billions of dollars in damages. Given this, there are new concerns over how well-prepared developing nations are to cope with the challenge of litigating these claims. Investment treaty arbitration is a complex form of litigation that demands much in the way of resources and legal expertise. Due to financial and administrative barriers, many developing nations do not have the legal expertise within their government service to defend investment treaty claims.

35. Further, by signing an IIA a State assumes obligations that may be detrimental in the long-run. As capital importers, developing countries bear most of the risk of investor litigation inherent in signing an IIA. Moreover, IIA obligations can lead to a loss of "national policy space" for host states by creating legal obstacles that restrict its ability to change key economic and regulatory policies in the future. Further, the investor-State dispute settlement (ISDS) mechanism was designed for depoliticizing investment disputes and creating a forum that would offer investors a fair hearing before an independent, neutral and qualified tribunal. However, the

actual functioning of ISDS under investment treaties has led to concerns about systemic deficiencies in the regime. It is in this context that the implications of investment treaties to AALCO Member States are to be discussed.

Document: AALCO/54/BEIJING/2015/SD/S12

IV. TWO HALF-DAY SPECIAL MEETINGS WOULD ALSO BE HELD IN CONJUNCTION WITH THE FIFTY-FOURTH ANNUAL SESSION OF AALCO

(i) The first Half-Day Special Meeting would be held on Wednesday, 15 April 2015 on the topic “International Law in Cyberspace”

36. This item was placed on the agenda of the Fifty-Third Session of AALCO, held at Tehran in 2014, upon a proposal made by China. It was felt that consideration of this item at AALCO would be relevant and important given the rapid development of Internet and its impact on international law and the region. An IT expert and a legal expert will be invited to give a general picture of development of IT technology and international law in cyberspace. The following three sub-topics are expected to be explored during the meeting:

37. State Sovereignty: there is a general understanding that the principle of sovereignty shall apply to cyberspace, but with the inherent virtual and trans-boundary nature of cyberspace, the legal rights, obligations of States and the legal boundary of State Sovereignty in cyberspace need to be thoroughly discussed and if possible clearly defined. Especially, the relationship between cyber sovereignty and cyber freedom shall be properly discussed.

38. Peace of Cyberspace: with more countries developing military cyber capability and operational doctrine, there is a risky trend of militarization in cyberspace, what international law can do to safeguard peace of cyberspace?

39. Cyber Crime: cyber criminal activities are the major threat facing cyberspace, and there is no global legal instrument for combating cyber crime. Can existing international instruments for traditional crime be extended for combating cyber crime, or do we need new global or regional legal instruments?

Document: AALCO/54/BEIJING/2015/SD/S 17

(ii) The second Half-Day Special Meeting would be held in the morning on Thursday, 16 April 2015 on the topic “Selected Items on the Agenda of the International Law Commission (ILC)”

40. For this Annual Session, the Secretariat has prepared the document “Report on Matters relating to the Work of the International Law Commission at its Sixty-Sixth Session”. In accordance with Article 1 (d) of the AALCO’s Statutes, the Organization is mandated to “examine subjects that are under consideration by the International Law Commission (ILC or the Commission) and to forward the views of the Organization to the Commission; to consider the reports of the Commission and to make recommendations thereon, wherever necessary to the Member States”. In pursuance of this mandate, the Report on the Work of the International

Law Commission at its Annual Session is taken up for consideration at the AALCO's Annual Sessions. In keeping with this long-standing practice, the Secretariat document for the Fifty – Fourth Session contains an overview of the ILC's work during its Sixty – Sixth Session.

41. The brief of the Secretariat for this year would provide a brief and general overview of the progress of work achieved by the ILC at its 66th Session (2014) on topics relating to: Immunity of State Officials from Foreign Criminal Jurisdiction; Subsequent Agreements and Subsequent Practice in relation to the Interpretation of Treaties; Identification of Customary International Law; Protection of Environment In Relation to Armed Conflict; and Protection of the Atmosphere. The comments of Member States of AALCO delivered at the UN General Assembly Sixth Committee in its Sixth-Ninth Session held in 2014 are also incorporated where available.

42. Specifically, it would focus on three topics that are of critical concern to the developing countries, namely, Expulsion of Aliens; Protection of Atmosphere; and Immunity of State Officials from Foreign Criminal Jurisdiction.

43. On 15th April 2015 (Wednesday), an *Informal Meeting on Customary International Law* will be held. The outcome of this meeting will be reported to the Plenary after the comments of the Member States on the three topics mentioned above.

DOCUMENT: AALCO/54/BEIJING/2015/SD/S 1

In addition to the aforementioned topics, the Fifty-Fourth Annual Session would also hold two other important events.

(a) Special Event to Commemorate the 60th Anniversary of the Bandung Conference, Monday, 13th April 2015

44. A half-day special event will be held on the afternoon of 13 April 2015 under the theme of “Carrying Forward Bandung Spirit, United for International Rule of Law”, to commemorate the 60th anniversary of Bandung Conference of 1955. Over the years, AALCO, being considered a tangible outcome of the Bandung Conference, has been inspired by the Bandung Spirit in its work of facilitating the exchanges and cooperation on international legal matters among Asian and African countries. In today's world, Asian and African countries' participation in international affairs becomes broader and deeper more than ever. They play a more active part in the development of international rules, and make positive contributions to the rule of law at international level.

45. Against this backdrop, all Heads of Delegations are encouraged to make statements at this special event, sharing views on how we can further contribute to the international rule of law, including strengthening the voice of developing countries in rule making, and creating an enabling environment for solidarity and south-south cooperation to promote peace and development. Secretariat has been informed that, H.E. Mr. Zhang Yesui, Executive Vice Minister of Foreign Affairs of China, will attend this event and make a statement.

(b) Side Event: Colloquium on the UN Charter and the Post-War International Order

46. An international colloquium will be held in Beijing on the afternoon of **14 April 2015**, concurrently with the 54th Annual Session of AALCO, to commemorate the 70th anniversary of the victory of the Second World War and the founding of the United Nations, which will provide us a good opportunity to embrace the future by learning from history.

47. The colloquium, entitled as **the UN Charter and the Post-War International Order**, will be jointly held by the Ministry of Foreign Affairs of China and the Chinese Society of International Law (CSIL). The colloquium, to be conducted through panel discussion in English, will bring together colleagues from governments, international bodies and academia to discuss several important and challenging international legal issues, such as developments of and challenges to the UN Charter, the UN collective security, sovereignty and human rights, principle of non-intervention in domestic affairs, international criminal justice, and peaceful settlement of disputes. All AALCO participants are welcome to attend this colloquium.