



ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

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

**NEW DELHI (HEADQUARTERS), INDIA
16th to 20th MAY 2016**

I. INTRODUCTION

1. The Provisional Agenda has been prepared following Rule 11(1) of the 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 (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. 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. Furthermore, in order to encourage deliberations on resolutions, the drafts of resolutions to be adopted at the Fifty-Fifth Annual Session have been annexed at the end of each deliberated report¹.

2. On the other hand, since the Forty-Ninth Annual Session in Dar es Salaam, Tanzania (2010), the non-deliberated agenda items were being published in a single volume and the same were also placed for consideration of the Member States. During the past several years Member States have recommended austerity measures to be adopted by the Organization, including cutting down costs on its publications. In compliance with this observation, since the Fifty-Third 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 drafted and discussed. However, in the future, as and when an item is taken up as deliberated, the needful would be done.

3. Since the fifty-Fourth Annual Session held in Beijing, People's republic of China, subtheme of the respective agenda for substantive matters has been introduced in an effort to

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

have focused discussions among Member States. At the forthcoming Fifty-Fifth Annual Session, to be held at the Headquarters in New Delhi, India from 17th to 20th May 2016, apart from the election of the next Secretary-General and the consideration of items on other Organizational matters, the deliberations would focus upon some of the important substantive items on AALCO's current agenda. These include: (i) Law of the Sea; (ii) Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine; (iii) Violent Extremism and Terrorism (Legal Aspects); (iv) WTO as a Framework Agreement and Code of Conduct for World Trade; (v) International Law in Cyberspace. Besides this, a half-day Special Meeting will also be held in conjunction with the Fifty-Fifth Annual Session, namely, "Selected Items on the Agenda of the International Law Commission". On 16th May 2016, the registration for the Session would begin. It would be followed by the Second Inter-sessional Meeting of Legal Experts on Violent Extremism and Its Manifestations. The meeting of the Eminent Persons Group (EPG) would also be held on that day.

4. During the session, AALCO publications namely, Yearbook of the Asian-African Legal Consultative Organization; two special studies: one, "Marine Biodiversity Beyond National Jurisdiction: An Asian-African Perspective; two, "International Law in Cyberspace" would also be launched. A Coffee-Table Book to commemorate the 60th anniversary of AALCO would also be released at a later stage.

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 current Session. Accordingly, **His Excellency Mr. Liu Zhenmin, the President of the Fifty-Fourth Annual Session and Vice-Minister of Foreign Affairs, People's Republic of China**, shall preside over the Inaugural Session and the First Meeting of the Delegations of AALCO Member States of the Fifty-Fifth Annual Session.

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 Head of Delegation (Member), 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, except those which are declared closed meetings and attended exclusively by Delegations of Member States and do not have the right to vote.

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. As for the session held by the Organization at the Headquarters, the established practice dictates that the President shall be from the dignitaries of India, the host country of AALCO.

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. Election of the next Secretary-General

16. As the tenure of the current Secretary-General, His Excellency Prof. Dr. Rahmat Mohamad comes to an end in August 2016, the next Secretary-General needs to be elected during this Annual Session. The provision governing this issue is stipulated in Rule 20 (1) is as follows:

The Secretary-General

(1) The Organization shall appoint a legal expert or a person who has adequate legal expertise and administrative experience, who is a national of a Participating State, to be Secretary-General, for a term of four years. The person so appointed shall be eligible for re-appointment for only one further term of four years.

The appointment of the Secretary-General which shall be based on rotation between the two regional groups, shall be by consensus of the Participating States.

In the event that consensus cannot be reached after all efforts have been exhausted, an indicative secret ballot by majority at the meeting of the Heads of Delegations may be used to offer a consensus candidate who will be appointed by the Organization.

So far the Secretariat has received one nomination for the post of the Secretary-General from the Republic of Tanzania, the candidature of Prof. Kennedy Gastron, which has duly been notified to the Member States. In accordance with the above mentioned Rule other Member States could also nominate their candidate till the Annual Session commences, if they wish so.

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

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

Document: AALCO/55/NEWDELHI (HEADQUARTERS) /2016/ORG 1

K. Report on the Regulations on AALCO's Secretary-General's Salary, Allowances and Other Entitlements

18. Pursuant to the mandate received at the Fifty-Fourth Annual Session held at Beijing in April 2015, a Sub-Committee of Liaison Officers after a series of meetings, have prepared, the text of the Regulations on AALCO's Secretary-General's Salary, Allowances and Other Entitlements. The same was place for consideration before the Liaison Officers Meeting in January 2016 and would be placed for consideration of Member States at this Session for final approval.

Document: AALCO/55/NEW DELHI (HEADQUARTERS) /2016/ORG 1A

L. AALCO's Financial Report and Proposed Budget for the year 2017

19. In accordance with Rule 24(4), the AALCO's Proposed Budget for the year 2017, as endorsed by the Liaison Officers, shall be submitted to the Meeting of the Delegations of Member States of the AALCO at the Fifty-Fifth Annual Session for approval and final adoption.

Document: AALCO/55/NEW DELHI (HEADQUARTERS) /2016/ORG 2

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

20. 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-Fifth Annual Session.

Document: AALCO/55/NEW DELHI (HEADQUARTERS) /2016/ORG 3

N. General debate

21. At this Fifty-Fifth Annual Session, the First General Meeting is meant for the General Statements to be delivered by the Hon'ble Ministers and Heads of the Delegations of Member States and Observers. In view of the fact that 2016 marks the sixtieth anniversary of the founding of AALCO, it is recommended that general statements could be focused on this theme. ***Heads 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 second day itself. However, if they wish to give a longer version, the written statement could be handed over to the Secretariat for reproduction in the Verbatim Record of the Session.

O. Submission of Statements

22. *The Delegations wishing to make statements (General statements, and Statements on organizational and substantive matters) are kindly 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 made available to the Secretariat.

P. Venue of the Fifty-Sixth Annual Session

23. According to sub-rule (1) of Rule 10 of the Statutory Rules, 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. Those member States interested in hosting the next Annual Session are encouraged to inform the Secretariat at the earliest.

II. MATTERS UNDER ARTICLE 1 OF THE AALCO STATUTES

24. 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-Fifth Annual Session.

1. Law of the Sea

25. It may be recalled that the item “Law of the Sea” was taken up for consideration by the 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.

26. Accordingly, the AALCO Secretariat’s Report prepared for the Fifty-Fifth Session provides information on the status of the UNCLOS and its implementing agreements in addition to an overview of legal developments that have taken place during the intervening period between the Fifty-Fourth and Fifty-Fifth Annual Session of AALCO. It has focused on areas of research mandated at the Fifty-Fourth Annual Session held at Beijing, on the Topic of- Marine Biodiversity Beyond National Jurisdiction. The Secretariat’s Brief Report covers the work of the Thirty-Seventh and Thirty-Eighth Sessions of the Commission on the Limits of the Continental Shelf (CLCS). Further it includes the work of the ISA discussed at the Twenty-First session. The Brief Report provides information on the United Nations Secretary General’s Report on Law of the Sea presented at 70th session of UNGA held in September, 2015. It also includes UN

Secretary General's Report on the Law of the Sea and Climate Change. Further it provides working agenda of Ad Hoc Open Ended Informal group on issues related to Marine Biodiversity Beyond National Jurisdiction and its future work plan.

Document: AALCO/55/NEW DELHI (HEADQUARTERS) /2016/SD/S 2

2. Violations of International Law in Palestine and other Occupied Territories by Israel and other International Legal Issues related to the Question of Palestine

27. In accordance with Article 1 (a) of the Statutes, this item has been on the agenda of the AALCO since its Twenty-Seventh Annual Session held in Singapore in 1988 following a reference by the Government of the Islamic Republic of Iran. Since then it has been considered at successive Annual Sessions.

28. Pursuant to RES/54/S 4 adopted at the Fifty-Fourth Session of AALCO held at Beijing, People's Republic of China, the AALCO Secretariat has been closely following the events in the occupied territories from the view point of relevant legal aspects in the last one year. Also pursuant to the mandate received in the aforementioned resolution to change the title of the agenda item from "Deportation of Palestine 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", it has been changed. Accordingly, the AALCO Secretariat has prepared a brief on "Violations of International Law In Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine" for consideration at the Fifth-Fifth Annual Session.

29. Issues for focused consideration at the Fifty-Fifth Annual Session could be: (i) violations of international law, particularly international human rights law and humanitarian law, committed by the Government of Israel in the Occupied Palestinian Territory (OPT); (ii) Status human rights and the right of Self-determination of Palestinians; (iii) Israeli military excesses in the Occupied Palestine Territories with reference to the Fourth Geneva Convention of 1949 and United Nations Security Council and General Assembly Resolutions; (iii) Note by Secretary-General of the United Nations - situation on Human Rights in Palestinian Occupied Territories; (iv) war crimes committed in Gaza by Israeli forces including blockade of Gaza ; (iv) role of the international community to pressurize Israel to comply with its international obligations focusing on extraordinary meeting Organization of Islamic Cooperation on the Issue of Palestine; (v) Highlighting the humanitarian situation and rehabilitation of Palestinian suffered due to occupation; and (vi) on the Question of Statehood of Palestine and Peaceful Settlement between State of Palestine and Israel.

Document: AALCO/55/NEW DELHI (HEADQUARTERS) /2016/SD/S 4

3. Violent Extremism and Terrorism (Legal Aspects)

30. The item entitled “International Terrorism” was placed on the agenda of the Fortieth Session of AALCO, held at New Delhi, India in 2001, upon a reference made by the Government of India. It was felt that consideration of this item at AALCO would be useful and relevant in the context of the on-going negotiations in the Ad Hoc Committee of the United Nations on elaboration of the comprehensive convention on international terrorism. The Centre for Research and Training (CRT) also brought out “A Preliminary Study on the Concept of International Terrorism” in 2006.

31. The topic was subsequently ramified into “Violent Extremism and Terrorism (Legal Aspects)” at the Fifty-Third Annual Session held in Tehran, Iran (2014) at the behest of Islamic Republic of Iran, in the wake of atrocities committed by extremist groups in Africa and the Middle East. The Fifty-Third Annual Session included a Half-Day Special Meeting on the topic of “Violent Extremism and Terrorism (Legal Aspects)”, wherein a resolution was passed (AALCO/RES/53/SP2), directing the AALCO Secretariat to “coordinate holding inter-sessional expert meetings [...] to consider AALCO principles for coordination to combat violent extremism and its manifestations which could lead to drafting Asian-African guidelines on violent extremism and its manifestations [...].”² This directive was also reiterated *vide* resolution AALCO/RES/54/S9 at the Fifty-Fourth Annual Session in Beijing, People’s Republic of China (2015).

32. In pursuance of these directives, the AALCO Secretariat convened the Inter-Sessional Meeting of Legal Experts on Violent Extremism and its Manifestations from 28-29 January 2016. Over the course of this two-day Meeting, the Secretariat’s Draft on *Principles and Guidelines to Combat Violent Extremism and its Manifestations* were considered and amended by legal experts representing 24 AALCO Member States. It was also decided to convene a second meeting immediately prior to the Annual Session to conclude the drafting of the text to be presented to the Plenary at the Annual Session.

33. The brief will review the work done by the AALCO Secretariat on the topic of “Violent Extremism and Its Manifestations”. The brief will also contain an overview of the UN Secretary-General’s 2015 Plan of Action to Prevent Violent Extremism.

Document: AALCO/55/NEW DELHI (HEADQUARTERS)/2016/SD/S9

4. WTO and International Trade Law

34. It may be recalled that at the Thirty-Fourth Session of the AALCO held at Doha, Qatar in 1995, the item “WTO as a Framework Agreement and Code of Conduct for the World Trade” was for the first time introduced into the Agenda of AALCO. Ever since, this item has been on the agenda of AALCO and has been deliberated upon at various subsequent sessions. At these sessions, the Secretariat was directed to monitor the development related to the WTO, particularly the relevant legal aspects of dispute settlement mechanism. In fulfillment of the

² AALCO/RES/53/SP2, Operative Paragraph 3

mandate received at the Fifty-Fourth Annual Session of AALCO held at Beijing, People's Republic of China, the Secretariat of AALCO had organized a seminar on "WTO and International Investment that was held on 2nd March 2016.

35. The Brief Report of the AALCO Secretariat for this year focuses on the Tenth WTO Ministerial Conference that took place at Nairobi in December 2015 that has adopted a new landmark Nairobi Package. The Report will look at the deliberations and the outcome of the Nairobi Ministerial Conference from the view point of developing countries. It includes trade Facilitation Agreement and Issues of Public Stockholding for food security which is very important for developing countries. Further it has focused on the latest developments under the WTO and other Regional Trade Agreements that have been signed recently.

Document: AALCO/55/NEW DELHI (HEADQUARTERS)/2016/SD/S13

5. International Law in Cyberspace

36. This item was placed on the agenda of the Fifty Third Session of AALCO, held at Tehran, Iran in 2014, upon a referral made by People's Republic of China. It was felt that consideration of this item at AALCO would be relevant and important given the rapid development of the Internet and its impact on international law and the region. It may be recalled that the Member States, through the resolution adopted on this Agenda Item at the 2015 Annual Session held in Beijing (AALCO/RES/54/SP2), established an open-ended working group on international law in cyberspace to discuss the following issues as identified in the operative paragraphs of the resolution.

37. These issues are: (1) international law pertaining to state sovereignty in cyberspace; (2) peaceful use of cyberspace; (3) rules of international cooperation in combating cybercrimes, and (4) identification of the relevant provisions of the UN Charter and other international instruments related to cyberspace.

38. It is proposed that the open-ended working group, in its first meeting during the Fifty-Fifth Annual Session of AALCO, (1) elect the Chair, Vice-Chair and Rapporteur of the Working Group, according to the stipulation in Rule 14 (2) of Statutory Rules; and (2) deliberate on the aforementioned issues in their interventions.

Document: AALCO/55/NEW DELHI (HEADQUARTERS)/2016/SD/S17

IV. HALF-DAY SPECIAL ON SELECTED ITEMS ON THE AGENDA OF THE INTERNATIONAL LAW COMMISSION

39. 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-Seventh 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”.

40. 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-Fifth Session contains an overview of the ILC’s work during its Sixty – Seventh Session.

41. The brief of the Secretariat for this year would provide a general overview of the progress of work achieved by the ILC at its Sixty-Seventh Session (2015) on topics relating to: Most-Favoured Nation Clause; 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; Crimes Against Humanity. The comments of Member States of AALCO delivered at the UN General Assembly Sixth Committee in its Seventieth Session held in 2015 are also incorporated where available.

42. Be that as it may, the major focus of the half-day special meeting would be on three topics that are of critical concern to the developing countries, namely: *Crimes Against Humanity*; *Protection of the Atmosphere*; and *Jus Cogens*. However Member States are also encouraged to make their comments on other topics that are on the current work programme of ILC.

Document: AALCO/55/NEW DELHI (HEADQUARTERS)/2016/SD/S1

In addition to the aforementioned topics, the Fifty-Fifth Annual Session would also hold another important side event.

“International Cooperation in Combating Violent Extremism and Terrorism”

- A lunch time side event, entitled “International Cooperation in Combating Violent Extremism and Terrorism” will be held on Tuesday, 17 May 2016 from 13:15 to 14:15 at FF1, Le Meridien Hotel.
- This event shall aim at further deepening the discussion in conjunction with the agenda item “Violent Extremism and Terrorism (Legal Aspects)”, this side event, organized by the Government of Japan, provides an opportunity for AALCO Member States to share experiences and views on how to effectively address the issue of violent extremism and terrorism in Asia and Africa from the perspective of criminal justice practitioners. Based upon her ample experience, H.E. Ms. Tomoko Akane, Ambassador for International Judicial Cooperation and Director-General of the Research and Training Institute of the Ministry of Justice of Japan, will make a key presentation on the crucial role of criminal justice system and the importance of resilient society for addressing the issue. The presentation will be followed by panelists from Asia and Africa who will share their own experiences and views. All AALCO participants are welcome to attend the event.