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Asian-African Legal Consultative Organization



Verbatim Record of Discussions

Fifty-Sixth Annual Session

1-5 May 2017
Nairobi, Republic of Kenya

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

CONTENTS

	Page
<i>Preface</i>	1
I. Agenda of the Session	3
II. Bureau of the Session	5
III. Inaugural Session of the Fifty-Sixth Annual Session held on Tuesday, 2 May 2017, at 10.55 AM	7
IV. First Meeting of Delegations of AALCO Member States held on Tuesday, 2 May 2017, at 12.35 PM - Adoption of Provisional Agenda and Tentative Schedule of Meetings and Events - Admission of New Member States - Admission of Observers - Election of new President and Vice-President	20
V. First General Meeting held on Tuesday, 2 May 2017, at 1.00 PM - Release of AALCO Publications	24
VI. Second Meeting of Delegations of AALCO Member States, held on Tuesday, 2 May 2017, at 3:00 PM - Report of the Secretary-General - Budget for the year 2018	30
VII. Second General Meeting , held on Tuesday, 2 May 2017, at 4.45 PM - General Statements	41
VIII. Second General Meeting (contd.) , held on Wednesday, 3 May 2017, At 9.40 AM - General Statements	64
IX. Third General Meeting , held on Wednesday, 3 May 2017, at 2.30 PM - Violent Extremism and Terrorism (Legal Aspects)	84
X. Third General Meeting (contd.) , held on Wednesday, 3 May 2017, at 4.40 PM - The Status and Treatment of Refugees	102
XI. First Half-Day Special Meeting on “Selected Items on the Agenda of the International Law Commission”, held on Thursday, 4 May 2017 at 09:45 AM	116

XII. Fourth General Meeting , held on Thursday, 4 May 2017, at 11.45 AM - International Law in Cyberspace	134
XIII. Second Half-Day Special Meeting on “The International Criminal Court: Recent Developments”, held on Thursday, 4 May 2017, at 2.40 PM	154
XIV. Fourth General Meeting (contd.) , held on Thursday, 4 May 2017, at 4.50 PM - Discussions on the Special Study on the “Legality of Prolonged Israeli Occupation of the Occupied Palestinian Territory and its Colonial Practices Under International Law and International Humanitarian Law”	172
XV. Third Meeting of Delegations of AALCO Member States, held on Friday, 5 May 2017, at 10.00 AM - Report on the Work of AALCO’s Regional Arbitration Centers	181
XVI. Third Meeting of Delegations (contd.) of AALCO Member States, Friday, 5 May 2017, at 11.30 AM - Report on the Seventh Meeting of the Eminent Persons Group (EPG)	194
XVII. Fifth General Meeting and Concluding Session , held on Friday, 5 May 2017, at 12.30 PM - Vote of Thanks by Asian and African Member States - Concluding Remarks - Adoption of Resolutions - Consideration of the Summary Report	199
XVIII. Text of the documents adopted at the Fifty-Sixth Annual Session a. Summary Report b. Resolutions	206
XIX. List of Participants	243

PREFACE

The Asian - African Legal Consultative Organization (AALCO) is the only intergovernmental organization that unites countries of Asia and Africa on matters of international legal issues of common concern.

AALCO has, since the time of its inception, played a critical role in bringing together the various approaches of its Asian-African Member States with respect to matters of international law, and has provided a voice to their collective interests and concerns at the international forums. The history of this Organization has hitherto been about catering to the needs and aspirations of the post-colonial Asia and Africa. Remaining true to the “Bandung Spirit”, AALCO has continued to encourage more active engagement of the States of the two most consequential continents of world in the pertinent matters of international affairs. The close working relationship of AALCO with various other international organizations bears testimony to its contribution towards the progressive development and codification of international law. The current work programme of AALCO includes many contemporary legal issues pertaining to the current international scenario that are relevant to its Member States. AALCO also continues to closely track the items on the agenda of the International Law Commission and the Sixth Committee of the UN General Assembly.

The Fifty-Sixth Annual Session of AALCO was successfully held in Nairobi, Republic of Kenya, from 2 to 5 May 2017. The Session witnessed participation of 26 Member States, representatives of four Regional Arbitration Centers of AALCO, Observers from nine Non-Member States, and representatives from various other Intergovernmental/Specialized Agencies/Subsidiary Organs/Inter-Regional Organizations. The Fifty-Sixth Annual Session focused on deliberations on both Organizational and Substantive matters which included: (i) Violent Extremism and Terrorism (Legal Aspects); (ii) The Status and Treatment of Refugees; (iii) Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine ; and (iv) International Law in Cyberspace.

Other major highlights of the Fifty-Sixth Annual Session were the convening of two Half-Day Special Meetings on mandated topics: “Selected Items on the Agenda of the International Law Commission”, and “The International Criminal Court: Recent Developments”, and induction of a new Member-State into AALCO, the Socialist Republic of VietNam. This comprehensive Verbatim Record as mandated according to the Statutory Rules of AALCO presents to the Member States the discussions and deliberations on all the mandated items as well as on the Organizational matters in detail. On the concluding day of the Session, the Member States adopted the Summary Report, Resolutions on Organizational and Substantive Matters, including Resolutions on the Half-Day Special Meetings along with the Message of Thanks on behalf of all the Member States to the Republic of Kenya and the AALCO Secretariat.

This Verbatim Record of the Fifty-Sixth Annual Session contains namely the texts of statements of the Inaugural Session; three Meetings of Delegations of Member States; five General Meetings; two Half-Day Special Meetings; the Summary Report of the Fifty-Sixth Annual Session; the Resolutions on both Organizational and Substantive matters adopted at the Session; and the list of participants who attended the Session. Most part of this verbatim is based on the official recordings of the

proceedings during the Session, however, for some part where the recording was not available, the Secretariat has reproduced the hard copies submitted by the Member States.

I wish to extend my heartfelt appreciation and gratitude towards the people and the Government of the Republic of Kenya, for hosting the Annual Session in the historic and yet very modern city of Nairobi, for their valuable assistance in convening the Session, including the very efficient administrative arrangements, as well as the warm hospitality extended towards all the delegates who attended the Session and the AALCO Secretariat.

Lastly, I would also like to express my heartfelt appreciation and thanks to my friends and colleagues, Mr. Feng Qinghu, Mr. Mohsen Baharvand, and Mr. Yukihiro Takeya, the Deputy Secretaries General, for their support in making the Session a success. I also wish to express my deep appreciation to Mrs. Anuradha Bakshi, Principal Legal Officer; Mr. S. Pandiaraj, Senior Legal Officer, Mr. Parthan Vishwanathan, Mr. Kiran Mohan V, and Ms. Amrita Chakraborty, Legal Officers along with the other Staff of the Secretariat for their immense efforts to fulfill the mandate entrusted on the Organization. Their professionalism and sense of responsibility contributed greatly towards making the Session a success.

Prof. (Dr.) Kennedy Gastorn
Secretary General

I. AGENDA OF THE SESSION

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I. Organizational Matters

1. Consideration and Adoption of the Agenda
2. Election of the President and Vice-President
3. Admission of new Member States
4. Admission of Observers
5. Report of the Secretary-General on the Work of AALCO
6. Budget for the Year 2018
7. Report on the Work of the AALCO's Regional Arbitration Centres
8. Report of the Chairperson of Working Group on International Law in Cyberspace
9. Report by the Chairman of the EPG
10. Venue for the Fifty-Seventh Annual Session

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

1. The Status and Treatment of Refugees
2. Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine
3. Violent Extremism and Terrorism (Legal Aspects)
4. International Law in Cyberspace

III. Two Half-Day Special Meetings

1. Special Meeting on "Selected Items on the Agenda of the International Law Commission"
2. Special Meeting on "The International Criminal Court: Recent Developments"

IV. Any Other Matter

Side events:

(1) International Workshop: "Promoting Rule of Law in Asia and Africa – Japan's Contribution", hosted by the Government of Japan on 2 May 2017.

(2) "Combating Illegal Trade on Wild Fauna and Flora through Co-operation under International Law Framework", co-hosted by the Government of the Republic of Kenya and the Government of People's Republic of China on 3 May 2017.

II. BUREAU OF THE SESSION

PRESIDENT

**His Excellency, Prof. Githu Muigai
Attorney General, Republic of Kenya**

VICE PRESIDENT

**Her Excellency, Dr. Vilawan Mangklatanakul
Deputy Director-General, Department of
Treaties and Legal Affairs, Ministry of
Foreign Affairs, Thailand**

SECRETARY GENERAL

Prof. (Dr.) Kennedy Gastorn

DEPUTY SECRETARIES GENERAL

**Mr. Feng Qinghu
Mr. Mohsen Baharvand
Mr. Yukihiro Takeya**

III. VERBATIM RECORD OF THE INAUGURAL SESSION

**III. VERBATIM RECORD OF THE INAUGURAL SESSION OF THE FIFTY-SIXTH
ANNUAL SESSION HELD ON TUESDAY, 2 MAY 2017 AT 10.55 AM,
AT THE KENYATTA INTERNATIONAL CONVENTION CENTRE, NAIROBI,
REPUBLIC OF KENYA**

Master of Ceremony: Ladies and Gentlemen, please welcome His Excellency, Mr. William Samoei Ruto, Deputy President of the Republic of Kenya and the Chief Guest of the Fifty-Sixth Annual Session. Now I have the honor of inviting His Excellency, Professor Githu Muigai, Attorney-General of the Republic of Kenya for his welcome remarks.

(i) Introductory Remarks by His Excellency, Professor Githu Muigai, Attorney-General of the Republic of Kenya: I welcome you all to the Fifty-Sixth Annual Session of AALCO. His Excellency, Mr. Rajesh Swami, President of the Fifty-Fifth Annual Session of AALCO, His Excellency, Amb. Liu Zhenmin, President of the Fifty-Fourth Annual Session of AALCO, and His Excellency, Prof. Kennedy Gastorn, Secretary-General of AALCO, it would be remiss of me if at this juncture I did not pay tribute and acknowledge the great work done by my Kenyan brother and colleague the late eminent Professor Frank Xavier Njenga, who was the first African elected as the Secretary-General of AALCO, and who subsequently served as the member of the International Law Commission.

Ladies and Gentlemen, since its inception over sixty years ago AALCO continues to serve as a major platform for Asian-African legal exchanges and cooperation. The Organization plays a vital role in strengthening regional governance and in safeguarding our common rights and interests. This has been made possible by the extraordinarily dedication and intellect of generations of legal experts from Asia and Africa.

It remains our duty to carry forward the spirit of respecting the rule of law and to continue building on the international legal system. International landscape and governances are and will continue to undergo profound and complex changes, with new problems and challenges emerging from time to time. In this regard AALCO Member States should enhance cooperation, and demonstrate mutual understanding and support each other on core matters. Member States should also firmly uphold fairness and justice and ensure that the international order and governance system is more just and equitable, and in favor of our Member States.

Distinguished delegates, we are pleased to welcome to the AALCO family our newest member the Socialist Republic of VietNam, which has become a full Participating State of AALCO on 24 February 2017. As of today AALCO represents 47 Member countries that are home to majority of world's population. AALCO ensures that voice of developing nations is heard, that our interests are catered for at the global platform. When we speak with one voice the world surely has to sit up and negotiate with us in areas of interest within international law domain. When we speak with one voice each Member State no matter how big or how small would be contributing to the development of international law.

Ladies and Gentlemen, international law is developing rapidly and has moved away from its limited and traditional areas of operation. Indeed, at the risk of sounding dramatic the present time may well prove to be one of the most crucial eras with the emergence of pertinent issues requiring urgent intervention in areas such as climate change, terrorism, piracy, cybercrime, and refugees. These are all challenges occurring in all regions of the world, hence the need to address them as a community of nations. AALCO has over the years played a critical role in providing a forum among developing countries in Asia and Africa to exchange views, formulate positions and through the unified approach to influence the development and codification of international law. This role is further enhanced by the further cooperation that AALCO enjoys with the International Law Commission (ILC) on account of the Statute of the ILC that recognizes the need for consultation between the Commission and Inter-Governmental Organizations including regional organizations whose mandate is to help in the codification of international law.

Distinguished delegates, since 1970 when Kenya became a member of AALCO we have continued to support the vision and mission of the Organization. We remain committed to it when there are so many global issues that are demanding our attention. The international community is faced with increasing challenges, and the age old question remains: how can international law help to overcome these challenges? The answer lies in the transformative power of international cooperation and solidarity, and thereby achieving the notable objectives of strengthening international peace and security. Through international cooperation, rules of law correspond to the needs of contemporary conditions existing in the international community that can be codified consequently to reflect the views of and aspirations of all States. As a symbol and as a tool of Asian-African solidarity and cooperation AALCO is unique and without comparison. It is my hope that the Bandung Spirit, which has permeated the work of AALCO for the better part of the past century will continue to inform the work of AALCO at this Fifty-Sixth Annual Session. I have no doubt that in-depth exchanges on views of issues that have been placed on the agenda of this Session will contribute immeasurably to the development of the law in these areas. With these few remarks please accept my very best wishes for the Fifty-Sixth Session of AALCO and I wish all of you a fruitful and successful Session.

It is now my humble duty to call upon His Excellency, Prof. Dr. Kennedy Gastorn, to make his preliminary remarks.

(ii) Welcome Address by His Excellency, Prof. Dr. Kennedy Gastorn, Secretary-General of the Asian-African Legal Consultative Organization: Our Chief Guest, His Excellency Mr. William Samoei Ruto, Deputy President of the Republic of Kenya, His Excellency Mr. Rajesh Swami, Deputy High Commissioner of India to Kenya, on behalf of Dr. V.D. Sharma, President of the Fifty-Fifth Annual Session of AALCO, His Excellency Mr. Xu Hong, Director General of Department of Treaty and Law, who is representing Mr. Liu Zhenmin, Vice Minister of Foreign Affairs, People's Republic of China and the President of the Fifty-Fourth Annual Session of AALCO, Honorable Ministers, Excellencies, Distinguished Participants, Delegates, Ladies and Gentlemen, it is encouraging and extremely motivating for us that AALCO and its initiatives remain valuable to you all. Your continued and active participation helps us serve and assist our Member States with greater vigor and zeal. I am sure we would immensely benefit from your insightful deliberations and comments and eagerly look forward to your participation in this Session.

Your Excellency Deputy President, I would firstly like to use this opportunity to thank our gracious and very beautiful host country of the Republic of Kenya for having painstakingly made all the necessary arrangements that have made this Annual Session of AALCO possible and to take place in a timely and well-organized manner. Our host country, the Republic of Kenya had also hosted AALCO's Annual Sessions on two occasions in the past, in 1989 and 2005, for the Twenty-Eighth and the Forty-Fourth Sessions, respectively, which were highly successful. Also, the former Secretary General of AALCO, the then Secretary General of AALCC, His Excellency, the late Mr. Frank X. Njenga, was from Kenya, and served the Organization immensely for two consecutive terms of three years each, from the year 1988 to the year 1994.

Your Excellency Deputy President, Kenya has been taking various important initiatives to make the African perspectives on important international issues be heard on world forums. It has also helped to place Africa as a key player on the international arena. Furthermore, the Kenyan delegations have always made very valuable contributions to the subjects deliberated upon during the Annual Sessions of AALCO.

As we all assemble here today I would want to point out that there have been many developments in the international arena, both positive and negative, and the growing importance of AALCO within the international community. AALCO has indeed embarked upon a new phase in its journey towards firmly placing the Asian-African voice on the international platform. Therefore, it is time to recall yet again the "Bandung Spirit", and to encourage more active engagement of the States of the two most consequential continents of the world in matters of international affairs today.

Your Excellency, Deputy President, as this is the first Annual Session that I convene as the Secretary General of this eminent Organization, I hope for your continued support and guidance in the work of the Organization, so that together we can take the Organization to greater heights, and to achieve the objectives for which it was established. It is also a matter of pride for me to host my first Annual Session as the Secretary-General of AALCO here in East Africa and Kenya in particular which is my birth place.

Your Excellency, Deputy President, the reasons for the continued importance of an inter-regional organization like AALCO have only multiplied over the recent times. Firstly there are the continuing threats of violence, crimes and terrorism as well as virtual spheres, which States in Africa, Middle East and Asia have to especially face almost on a day-to-day basis. Combating violent extremism and terrorism, remains a priority for these States. As you all are well aware that the United Nations continues to make constant efforts in the direction of creating an effective global movement to counter terrorism, which include the important recent developments of the 2015 UN Security Council Resolution 2253 to address the threat posed to international peace and security by Islamic State in Iraq and in other regions (ISIL). It is also important to recognize and note the 2016 United Nations General Assembly Resolution A/RES/70/291 on the Fifth Review of the "Global Counter-Terrorism Strategy". AALCO's work in this regard continues to remain important, as it continues to follow the ongoing discussions at the international level at the UN General Assembly and other forums, and fosters further discussions between Member States on the topic.

Then there is the continuing problem of displacement, particularly within the regions of Asia, Africa and the Middle-East. That is to say, the Asian-African regions in general, and the AALCO Member States in particular, are bearing the brunt of this crisis. This continues to make AALCO an important player in the process of the alleviation of this crisis. In addition to the various effective initiatives undertaken in the past in this regard, AALCO continues to engage in the process of future negotiations for adopting comprehensive approaches to the problems of refugees and displaced persons, and also with monitoring developments in the negotiation of the proposed 2018 global compact on refugees as well as the 2018 global compact for safe, orderly and regular migration.

Your Excellency, Deputy President, there have been important developments related to the International Criminal Court as well in the recent past. AALCO's role remains important in this regard as the task of ending impunity cannot lie upon any one judicial system, one State, or any one region. Justice in The Hague is essentially a dialogue between international institutions, international jurisdictions and domestic jurisdictions. AALCO has taken it upon itself to foresee and guide an active dialogue amongst its Member States in this regard and also to encourage its Member States to considering ratifying/acceding to the Rome Statute in order to bring accountability and end impunity globally.

Then there have been a number of new developments in the area which is relatively new to AALCO's agenda, that is, international law in the cyberspace. The Member States flagged topics on this important subject most recently during the second Open-ended Working Group Meeting on International Law in Cyberspace, which was held at the AALCO Headquarters, in New Delhi from 9-10 February, 2017. AALCO continues to work on this topic, including projecting the possibility of drafting a set of model laws on combating cybercrimes in the future, through the Open-ended Working Group. The Secretariat will release its Special Study on "International Law in Cyberspace", which was already introduced to the participating Member States at the second Open-ended Working Group Meeting, at the present Annual Session.

Your Excellency, the year 2017 also marks the anniversaries for a number of events that took place in the State of Palestine. As the Member States are already aware, AALCO, from the very time of its coming into existence has provided unwavering support to the cause of the Palestinian people. The item "Deportation of Palestinians in Violation of International Law particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in Occupied Territories" was taken up, at the AALCO's Twenty-Seventh Session, which was held in Singapore (1988). Palestine was formally welcomed into the Organization as a Member State of AALCO in the year 1990 and subsequently, the scope of the item was enlarged to, "Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in the Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949" at the Thirty-Eighth Session in Accra (1999). The item has since been discussed at the successive Sessions of the Organization as part of its Work Programme and the Organization has examined the violations of international law committed by the State of Israel against the Palestinian People. The AALCO Secretariat has already published a study entitled "The Statehood of Palestine under International law" in this regard. By virtue of resolution RES/55/S4, which directed the Secretariat to among other things "prepare a study on the legality of prolonged Israeli occupation of the Occupied Palestinian Territory and its colonial

practices therein, under international law and international humanitarian law”, the AALCO Secretariat will at this Annual Session release its Special Study entitled “*The Legality of Israel’s Prolonged Occupation of Palestinian Territories and its Colonial Practices Therein*”.

Your Excellency, Deputy President, I hope this Annual Session turns out to be a befitting platform for Member-States to relive the actual spirit of Bandung - which was the spirit of solidarity between the African and Asian nations – so as to be able to take constructive steps towards gathering the united voice of the Asian and African regions on the matters of the yet obfuscating issues of international law. In this context I welcome the initiative of Japan to host an international workshop on “Promoting Rule of Law in Asia and Africa – Japan’s Contribution”, I also welcome the initiative of China and Republic of Kenya for co-organizing a side-event in this Annual Session on the title “Combating Illegal Trade on Wild Fauna and Flora through Co-operation under International Law Framework” – in order to share the experiences of the countries and others on international cooperation. I also take this opportunity to thank the Deputies Secretary-General as well as the AALCO Secretariat for their hard work and dedication that has made the final execution of this Session possible.

I would also like to extend once again deep gratitude to the Office of the Attorney General and the Department of Justice of the Republic of Kenya for supporting this Session in spite of the inconvenience of the upcoming general elections in this country in just about 3 months’ time from now. To conclude my statement I once again welcome you all to this Fifty-Sixth Annual Session of AALCO being held here in the dynamic, scenic and at the same time very modern city of Nairobi. I sincerely hope that this Session will witness outcome-oriented deliberations, paving the way for it to be a success.

Thank you very much.

(iii) Address by His Excellency, Mr. Rajesh Swami, Deputy High Commissioner of India to the Republic of Kenya, on behalf of His Excellency, Dr. V.D. Sharma, President of the Fifty-Fifth Annual Session of AALCO: His Excellency Mr. William Samoei Ruto, Deputy President of the Republic of Kenya; His Excellency Prof. Dr. Kennedy Gastorn, Secretary-General of AALCO; His Excellency Mr. Xu Hong, Director General of Department of Treaty and Law, who is representing Mr. Liu Zhenmin, Vice Minister of Foreign Affairs, People’s Republic of China and the President of the Fifty Fourth Annual Session of AALCO. Honorable Ministers, Excellencies, Distinguished Participants, Delegates, Ladies and Gentlemen, at the outset, I take this opportunity to thank our Chief Guest for taking time from his busy schedule for gracing this occasion.

I feel greatly honored in informing that the Fifty-Fifth Annual Session of the Asian-African Legal Consultative Organization (AALCO) was held in New Delhi, India last year in the month of May. His Excellency, Dr. V.D. Sharma, Legal Adviser of the Ministry of External Affairs, of India was elected the President for the Fifty-Fifth Session of the Organization.

It is customary that the next session of the organization is addressed by the current President of the AALCO. Dr. V.D. Sharma, due to certain important engagements back in New Delhi, could not make it possible to be present here today, and therefore, I humbly hold this job and feel privileged to deliver the opening remarks on behalf of the President.

I would like to express our profound gratitude to the Government of the Republic of Kenya and the people of the Republic of Kenya for hosting Fifty-Sixth Annual Session of AALCO in this beautiful city of Nairobi and for the warm hospitality extended to all delegations.

Excellencies, I take this opportunity to thank the Member States and Observers who participated and contributed at the Fifty-Fifth Session held in New Delhi and making it a success. I express my sincere gratitude to all the Member States of AALCO and the Secretary-General in extending full cooperation and support during India's Presidency.

Excellencies, turning to the origin of the Organization, since the historic Bandung Conference and its inception, AALCO has unfailingly discharged the mandate of facilitating democratization of the development and the codification of international law. The Organization's approach has been always more practical than ambitious. AALCO remains a platform to meet the aspirations and expectations of the Asian and African continents, in developing Asian-African approaches to International Law and thereby facilitating its progressive development. It is a matter of pride for my country India to be one of the founding members of this Organization and hosting the Headquarters of the Organization.

I take this opportunity to congratulate and welcome the Socialist Republic of VietNam as the new Member State of AALCO.

Excellencies, I am proud that the Organization has been active in fulfilling its mandate entrusted to it by the Member States. I am confident that the Fifty-Sixth Annual Session, would be an excellent one, like previous sessions, with the cooperation from all Member States and Observers.

Excellencies, the continents of Africa and Asia have contributed significantly to the progressive development of modern international law. These continents have been part of the on-going process of shaping new rules and principles of international law while strengthening existing ones. Some of the important areas worth mentioning are human rights law, including refugee law, humanitarian law, Law of the Sea, law of treaties, sharing of watercourses etc.

In the context of present host country, Kenya's commendable contribution to the growth of AALCO, needs to be highlighted. Since becoming a Member State of AALCO, Kenya hosted AALCO's Annual Sessions in 1989 and 2005. The former Secretary General of AALCO, the late Professor Frank X. Njenga, a distinguished academician from Kenya, served the Organization for two consecutive terms from the year 1988 to 1994. We are always indebted to his able leadership which helped AALCO to contribute in the development of various fields of international law.

Excellencies, there can be no doubt that if international society is to evolve and grow along rational and peaceful lines, it must do so in accordance with legal principles and rules. Without clear and widely recognized rules of international law, and without strict observance of such rules and of the basic principles and norms of international law embodied in the UN Charter, it would be impossible to ensure international cooperation and the peace and security which is necessary to promote the general welfare of all people and nations. The importance of regional organizations in this task cannot be overlooked.

Excellencies, against the backdrop of the ever-widening canvas of international law, AALCO's relevance for its Member States is further reinforced in working with other important international organizations. In this context it is worth-mentioning that AALCO's close cooperation with the United Nations has provided an additional platform for AALCO Member States to participate in the interactive dialogue and thereby to contribute to the progressive development of international law. In the same spirit, AALCO follows the work of the International Law Commission (ILC) and deliberates on important topics under consideration of the Commission at its Annual sessions. The establishment of four regional arbitration centres in Cairo, Kuala Lumpur, Tehran and Lagos reflects the approach of AALCO towards alternative dispute resolution system. It is our hope that over time AALCO would play even greater role in the field of alternative dispute resolution.

Excellencies, important topics of contemporary relevance such as Violent Extremism and Terrorism; The Status and Treatment of Refugees; Selected Items on the Agenda of the International Law Commission; International Criminal Court; and International Law in Cyberspace are going to be deliberated in the next four days. I am confident that these deliberations would contribute in enriching the discussions happening at the United Nations and other multilateral forums.

Excellencies, I extend my profound gratitude to the Secretary-General of AALCO and his dedicated team for their meticulous efforts in making the activities of AALCO a grand success. Prof. Gastorn has been proactive in his efforts to fulfill the mandate entrusted on him by the Member States since he assumed office in August 2016. Towards this end, he has been in constant touch with the Indian Government and has been constantly engaging with other Member States to gather their support for AALCO activities. I also assure the full cooperation of the Government of India in facilitating the activities of AALCO.

Let me once again wish all delegates and observers attending this Session, a fruitful week of deliberations and a pleasant stay in Nairobi.

Thank you.

(iv) Inaugural Address by His Excellency Mr. William Samoei Ruto, Deputy President of the Republic of Kenya: Excellencies, Ladies and Gentlemen, on behalf of the Government and People of Kenya I wish to welcome all of you. On account of the necessity of the arrangements that have been put in place and because of the heavy schedule that you have, but I want to encourage you to find some time and enjoy Nairobi. Nairobi is a great city, in fact, it is the only city in the world that has a national park within ten minutes' drive, you may be lucky to find some lions on the road, please do not get involved because they are wild. Find some time also to enjoy Kenyan tea; it is the very best in the world. To our friends from India, we imported tea from India but we improved on it and it is better than what you have in India now. While you are in Nairobi I want to remind you that Nairobi and Kenya is "home to humanity", science says this and I am saying this as a scientist myself. Science has proven that the very earliest remains of man were found a few kilometers from here. Therefore, those of you who come from Australia,

India, Asia, Japan and China and everywhere else: Welcome Home, this is where we all came from.

The President was supposed to preside over this function, but unfortunately due to exigencies of duty, he was unable to come today. I want to tell you that the people of Kenya warmly welcome all of you. The deliberations you are going to engage in over the next four days focusing over the development of international law are indeed important, not to this conference only but to our region and to the world. It is my expectation that these discussions will benefit not only us, but it will benefit the larger international community.

I want to appreciate the founders of AALCO. Indeed, they had a clear vision for our two continents and they have demonstrated that as developing nations we can make an impact on the international stage. As policy makers, we know that when we deepen cooperation our economies benefit immensely, and the world has no choice but to pay attention. I note with satisfaction that Asia and Africa continue to cooperate in various ways and Kenya can attest that both continents share a vision for a stable and prospering global community. Kenya has partnered with many countries in Asia. China for example is working with us on the transformation of our infrastructure. The most notable example is the Standard Grid Railway, which by June this year will be commissioned and will be working, a feat that is well ahead of schedule. We have worked with India in the healthcare sector. We have worked with Japan on some of our infrastructure development projects including our ports. We have also worked with many other countries including Korea, in the field of Information Communication Technology (ICT). We have of course worked with our partners in the East African Community as a region and that collaboration and working together with our East African partners has enabled us to improve on the ease of movement of persons, a single network area for more wire telephoning. We now have a single tourist visa for the whole of the East African Region that has given us milestones in the areas of networking in our region.

Let me emphasize each one of your States represented here continues to play a role in the development of our country. This is in recognition of the fact that when we lift each other we will ensure a success story for both continents. The Asian-African unity embodies what is known as the Spirit of a UBUNTU, “I am because we are”. Together we stand, therefore, let us strengthen the bonds of brotherhood and solidarity throughout our region, and between our continents. Let us ensure that our voice is heard and our interests secured, in global politics. To the members of the diplomatic core who have joined us today, and to their colleagues in their capitals we consider your friendship important to the people of Kenya. Kenyans have always lived in peace with our neighbors and with our national consensus to do good in the world. We appreciate your support both moral and material; we would like to take our friendship with you to greater heights of ambition and achievement as we continue to build a prosperous Kenya underpinned by a strong democracy.

Distinguished delegates, today, conflict in the developing nations to a large extent driven by desire of other States to exploit resources. It is incumbent upon us to ensure that the interests of the developing nations are protected by a stable and just order. We must ensure that we are champions of global institutions that are grounded in fairness, and respect for national sovereignty. I say this informed by Kenya’s cases at the International Criminal Court (ICC);

which I am happy to say they are suspended, but the experience with the ICC gave us cause to observe that this institution and similar ones often times have become tools of global power politics, and they do not deliver the justice that they were built to dispense. Kenya therefore, wishes to urge AALCO Member States and partners to ensure that we have greater say both within and without the judicial institutions, so that we can remedy and ensure that they serve the purpose of which they were intended, and not any other purpose.

AALCO continues to play an important role in the progressive development of international law. We proudly recall the role of AALCO in the development of the Law of the Sea. AALCO has also contributed through its deliberations in the international human rights regime; the Law of Treaties; Principles concerning the Extradition of Fugitive Offenders; Principles on the Status and Treatment of Refugees; Model Texts for Bilateral Arrangements on Mutual Assistance in Civil Matters; and the Model Agreement for the Promotion and Protection of Investments. We are proud for all the legal experts from both the regions on these great achievements.

It is for this reason that I am proud to offer Kenya's Professor Githu Muigai, the Attorney-General of the Republic of Kenya for the post of Judge, for the International Tribunal for the Law of the Sea (ITLOS). Professor Muigai, holds no ordinary experience and has done extraordinary service at the national and international level. During his tenure as Attorney-General he has greatly contributed to the enhancement of the rule of law, a task that has included overseeing the implementation of the Constitution of Kenya an exercise that requires the enactment of 136 new pieces of legislation. I would also like to introduce Mr. Simone Jaguna, who is our candidate for reelection to the Commission on the Limits of the Continental Shelf (CLCS). We look forward to the support of your respective countries when the elections are carried out in the 27th Meeting of the State Parties to the United Nations Convention on the Law of the Sea (UNCLOS), which I understand will be held from 12 to 16 June 2017.

Ladies and Gentlemen, I have taken note that some of the topics that this conference will deliberate upon include: The Legal Aspects of Violent Extremism and Terrorism; The Status and Treatment of Refugees; Selected items on the agenda of the International Law Commission; including areas of the (a) Protection of the Atmosphere; (b) Immunity of State Officials from Foreign Criminal Jurisdiction; and (c) Fundamental Principles of International Law. Other issues to be deliberated upon include: Recent Developments in the International Criminal Court; International Law in Cyberspace and Consideration of the Work of the AALCO's regional Arbitration Centres.

We will also consider the Combating of Illegal Trade in Wild Flora and Fauna through Cooperation under Legal Framework; as well as the Promotion of Rule of Law in Asia and Africa. I am satisfied that these topics have been carefully selected so that Member States continue upholding the spirit of unity under which we committed to continue forging closer African-Asian ties. As many of you may already know Illegal Trade in Wild Flora and Fauna is a fast growing international organized crime, encompassing a wide range of flora and fauna. It is becoming more sophisticated driven by rising demand and facilitated by corruption and weak governance across the various supply chains. Estimate from a range of international organization place the monetary value of all illegal wild life in flora and fauna to tens of billions of US Dollars annually. With this very disturbing statistics it is clear that we as legislators, policy

makers, judicial authorities, law enforcement authorities and regulatory authorities, partnering with communities and non-state actors need to do more. A strong commitment made at the global level must translate into immediate and decisive and collective action to narrow the gap between these existing commitments and their implementation. Even as we embark on these obligations must be so coherent to fully address the multiple dimensions of these problems. Coordinated efforts are also required to avoid replacing the problem from one country or area to another.

Terrorism continues to pose a major threat to international peace and security. In addition to the devastating human cost of terrorism, terrorism acts to destabilize governments, and undermine the economic and social development. It is worth noting that addressing this threat is that much more difficult given the complex and constantly evolving nature of terrorist activities. Its motivation, methods of financing, choice of targets, is constantly changing. Terrorist acts often defy national borders and an act of terrorism can involve activities and actors from numerous countries. Given this complexity, the need to share best practice and lessons learnt and to assist with the investigations and prosecution of terrorism cases is not debatable. Indeed strong coordination and cooperation within national governments and State organizations at the regional and international level is the key to effectively combatting terrorism. You have an important role to play.

Ladies and gentlemen, and it is my sincere hope that this conference will take its pride of place in the books on history in international law and international legal matters, that will transform the lives of our people in Asia and in Africa. In conclusion I wish to thank the Asian-African Legal Consultative Organization Secretariat for ably steering the work of the Organization, and for ensuring that the interests of the two regions are well articulated in the international forum. We have every confidence in the new Secretary-General that he will steer the Organization towards achieving greater heights in the general development of international law. I wish you fruitful and successful deliberations in the four days of this conference and I now take this opportunity to declare this Fifty-Sixth Session of the Asian-African Legal Consultative Organization open.

Thank you and once again welcome to Kenya.

Master of Ceremony: Thank you very much Your Excellency the Deputy President. Your Excellency Sir, if you may allow me to invite briefly Mr. Xu Hong, Director General, Ministry of Foreign Affairs, People's Republic of China, for the Vote of Thanks.

(v) Vote of Thanks by Mr. Xu Hong, Director General, Ministry of Foreign Affairs, on behalf of Mr. Liu Zhenmin, President of the Fifty-Fourth Annual Session of AALCO, People's Republic of China: The Honorable Chief Guest His Excellency Mr. William Samoei Ruto, Deputy President of the Republic of Kenya, His Excellency, Mr. Rajesh Swami. The Deputy High Commissioner of India to Kenya (representing the President of the Fifty-Fifth Annual Session of AALCO, His Excellency, Dr. V.D. Sharma), the Secretary-General of AALCO, Prof. Dr. Kennedy Gastorn, and Honourable Ministers, Attornies General, Heads of Delegations, Distinguished Delegates, and Ladies and Gentlemen,

It is indeed a great honor for me, on behalf of the President of the Fifty-Fourth Annual Session of AALCO, to propose a vote of thanks at the inaugural session of this Fifty-Sixth Annual Session of AALCO. As we all are aware, AALCO as a regional intergovernmental organization has played a vital role in the Asian-African region in the field of international law ever since its birth in 1956. The Annual Sessions of AALCO have offered a unique platform to the Asian-African States to articulate their international legal concerns on a wide range of issues flowing from the international legal order. In the process, AALCO has emerged as the only inter-governmental organization that brings together two continents of Asia and Africa in the progressive development and codification of international law. AALCO now occupies an important position in the international legal community, both as an advisory body to its Member States and as an essential mechanism for interregional co-operation and the exchange of information and views on matters with an international legal dimension.

Since the convening of Bandung Conference, more than half a century has passed and drastic and profound changes have taken place in the world. However, the Bandung Spirit, which upholds principles of solidarity, friendship and cooperation, still holds significant importance for Asian and African nations and the international community as a whole. AALCO should continue to make great effort to promote the Bandung Spirit and give it a new meaning in the new era which has its own challenges including the daunting tasks of upholding national security and social stability, accelerating economic and social development, as well as improving people's living standards.

I would like to extend our wholehearted support and cooperation in advance to the incoming President of the Fifty-Sixth Annual Session of AALCO. I am sure that he will steer the proceedings of the Session ably and rise to this intellectual occasion admirably.

I would like to thank His Excellency, Dr. V.D. Sharma, the President of the Fifty-Fifth Annual Session of AALCO and Joint Secretary, Ministry of External Affairs (Legal and. Treaties Division), Government of India, for performing such a commendable role during the deliberations at the Fifty-Fifth Annual Session held at New Delhi in 2016.

My deepest appreciation is due also to the important role played by the Secretary-General of AALCO His Excellency, Prof. Dr. Kennedy Gastorn who has been leading AALCO admirably for the past one year or so. It is my firm belief that his visionary leadership, aided by the full cooperation of our Member States, will enable us to conquer new legal heights in the years to come. Furthermore, the Secretary-General and his Deputies and the other Secretariat Officials should be commended for their untiring efforts in discharging their duties in an effective manner and carrying out the mandates and striving towards the realization of the objectives of AALCO.

Last but not the least, I would like to thank in advance, the Honorable Ministers, Distinguished Delegates and Observers for their participation in the forthcoming deliberations and I hope that this Annual Session continues in the legacy of past Sessions and would try to produce some tangible outcomes for our collective future.

Thank you very much.

Master of Ceremony: Thank you Excellencies for your addresses. Now I request the Heads of Delegations to gather in front of the entrance of the Conference Centre for a group photograph with the Chief Guest. All the other guests are requested to proceed for tea and coffee.

The Meeting was thereafter adjourned.

IV. VERBATIM RECORD OF THE FIRST MEETING OF DELEGATIONS

IV. VERBATIM RECORD OF THE FIRST MEETING OF DELEGATIONS OF AALCO MEMBER STATES HELD ON TUESDAY, 2 MAY 2017 AT 12.35 PM

His Excellency, Mr. Rajesh Swami, Deputy High Commissioner of India to the Republic of Kenya, on behalf of His Excellency, Dr. V.D. Sharma, the President of the Fifty-Fifth Annual Session in the Chair.

President: Good afternoon to all of you. We will now commence the First Meeting of the Delegations of Member States.

Ladies and Gentlemen, before you is the “**Provisional Agenda and the Tentative Schedule of Meetings and Events**”. The first item for this delegations’ meeting is the adoption of the **Provisional Agenda and the Tentative Schedule of Meetings and Events**”. If you all approve of the same, I regard it as adopted. I see no objections, therefore the “**Provisional Agenda and the Tentative Schedule of Meetings and Events**”, for the Fifty-Sixth Annual Session of AALCO is adopted.

Now I move to the second agenda item which is the “**Admission of New Members**”. We are pleased that the Socialist Republic of VietNam has become the 47th Member State of AALCO.

His Excellency, Amb. Mr. Ton Sinh Thanh, the Leader of Delegation of VietNam: I would like to appreciate the invaluable efforts of AALCO in facilitating discussions on the relevant issue and in making recommendations to the Member States in accepting VietNam as a full Participating State of AALCO. Today I would also like to reaffirm our commitment as a full Participating Member which fully accepts the Statutes of AALCO. We are committed to carry forward the functions and purposes of the Organization and will work closely with other Member States towards strengthening the rule of law and towards this end we will support AALCO and other Member States of AALCO in sharing information, and experience in legal areas. We also thank the Republic of Kenya for hosting the Fifty-Sixth Annual Session of AALCO. We wish the Organization many more achievements. Thank you.

President: Thank you Amb. Mr. Ton Sinh Thanh for sharing your views towards AALCO. The next agenda item is the “**Admission of Observers**”. The following 11 Non-Member States and International Organizations have requested to be allowed to attend this Annual Session as Observers: Russian Federation; D.R. of Congo; Rwanda; Zambia; Mozambique; Ethiopia; Malawi; Belgium; Board of Grievances; Saudi Fund for Development; and the International Committee for Red Cross (ICRC). If there are no objections let us admit these Observers to the Fifty-Sixth Annual Session of AALCO. Let us welcome them.

The next Agenda item is the “**Election of the President and the Vice-President**” for the current Session. I shall give the floor to the delegation of India for the nomination. You have the floor, Sir.

The Delegate of India: It is our honor and privilege to propose the name of **His Excellency, Prof Githu Muigai- EGH, SC, and Attorney General of the Republic of Kenya** as the Honorable President for the Fifty-Sixth Annual Session of AALCO.

Prof. Githu Muigai, who holds LLB and Ph.D. degrees from the University of Nairobi and an LLM Degree from Columbia University School of Law, New York, has over 35 years' experience in the practice of law in Kenya and in East Africa. He has a wide range of areas of practice which include Commercial Litigation and Arbitration, Constitutional and Administrative Law, Information and Communications Technology Law and so on.

Prof. Muigai has recognized expertise in the areas of justice sector reform generally and Constitutional reform specifically. From the year 2000 to 2005, he was a commissioner to the Constitutional Review Commission where he was specially charged with the legal drafting of the Draft Constitution of the Republic of Kenya. He was a legal adviser and draftsman to the Somali peace process and was involved in the drafting the Somali federal Transitional charter.

In addition to the practice of law he is an Associate Professor of Public law in the School of Law of the University of Nairobi (currently on leave of absence). He has also been a Judge of the African Court of Human & Peoples Right between 2008 – 2010. From August 2008 - September 2011 Prof. Githu Muigai was the UN Special Rapporteur on Contemporary Forms Of Racism, Racial Discrimination, Xenophobia And Related Intolerance.

Hon. Prof. Githu Muigai was sworn as Attorney General of the Republic of Kenya on the 23rd August 2011. He is the Principal Legal Advisor to the Government of the Republic of Kenya and also discharges the mandate of the Department of Justice. He also has responsibility for the promotion of human rights and constitutional implementation, access to justice, good governance, ethics and integrity; legal education, law reform, legal aid and the monitoring and reporting of Kenya's international legal obligations among others.

We are pleased to propose this extremely versatile and well-trained legal mind for the post of the President of the Fifty-Sixth Annual Session of AALCO. Thank you Mr. President.

The Leader of Delegation of Tanzania: We are happy to second the proposal of India that we elect **Prof. Githu Muigai- EGH, SC, Attorney General of the Republic of Kenya** as the Honorable President for the Fifty-Sixth Annual Session of AALCO. I thank you Mr. President.

President: Dear Colleagues we now turn to the election of the Vice-President of the Fifty-Sixth Annual Session of AALCO. I shall give the floor to the Leader of Delegation of Kenya.

The Leader of Delegation of the Republic of Kenya: We are extremely happy to propose the name of Dr. Vilawan Mangklatanakul, Deputy Director General, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs of Thailand, as the Honorable Vice-President for the Fifty-Sixth Annual Session of AALCO. Dr. Vilawan has a distinguished career in the area of international legal affairs. Thank you.

The Leader of Delegation of Japan: We are happy to second the proposal of Kenya and elect Dr. Vilawan Mangklatanakul, Deputy Director General, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs of Thailand, as the honorable Vice-President of the Fifty-Sixth Annual Session of AALCO. Thank you.

The **President** of the Fifty-Fifth Annual Session thereafter invited the President and Vice-President of the Fifty-Sixth Annual Session to assume their official positions on the podium.

The **President Prof. Githu Muigai- EGH, SC, Attorney General of the Republic of Kenya:** I thank all the delegations for electing me as the President of the Fifty-Sixth Annual Session and in running this Session for the rest of the week and in supervising the activities of our Organization for the rest of the year. We appreciate that with that honor comes responsibility and my Vice-President. I will endeavor to do our very best to hand over the Organization next year to a new team in much better shape than we have received it. Thank you, all of you.

The Meeting was thereafter adjourned.

V. VERBATIM RECORD OF THE FIRST GENERAL MEETING

**V. VERBATIM RECORD OF THE FIRST GENERAL MEETING HELD ON
TUESDAY 2 MAY 2017 AT 1.00 PM**

His Excellency, Prof. Githu Muigai, the Attorney General of Republic of Kenya and the President of the Fifty-Sixth Annual Session of AALCO in the Chair.

President: In running this session for the rest of the week and in supervising the activities of our organization for the rest of the year we appreciate that and with that honor comes responsibility and my Vice-President and I will endeavor to do our very best to hand over the organization next year to a new team in much better shape than we have received it. Thank you all of you.

Next I will call upon our distinguished Secretary-General to help us conduct the business that now lies ahead of us. The first one is the release of AALCO publications. There are four publications to be released this year. The *Yearbook of AALCO*, the *AALCO Journal of International Law* and two Special Studies; first is the *Legality of Prolonged Israeli Occupation of the Occupied Palestinian Territory and its Colonial Practices under International Law and International Humanitarian Law*; and the second one is the study on *International Law in Cyberspace*.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you Mr. President. Excellencies, Distinguished Delegates and Ladies and Gentlemen, let me start with the Yearbook. The Yearbook of the AALCO, which was previously known as the ‘Report and Selected Documents’, has been published since 2003. The Yearbook remains the most comprehensive and authoritative reference work of the Organization in a particular year. More specifically, the Yearbook provides comprehensive information about AALCO, its activities, the studies prepared by the Secretariat on the agenda items during the year, summary of deliberations and the resolutions adopted at the Annual Session. In addition, it contains statements delivered by the Secretary-General and the Deputy Secretaries-General at various forums and countries. In the last fifteen years or so the Yearbook has established its place firmly among the publications as an important reference material not only for the Member States of AALCO, but also for other international organizations, international lawyers and academics who work in the field of international law. The Fourteenth Volume (2016) of the Yearbook has been prepared by the AALCO Secretariat and is being released at this Fifty-Sixth Annual Session.

Mr. President, allow me also to make a statement regarding the next publication, namely, the AALCO Journal of International Law. With a view to contribute towards a better knowledge and understanding of international law, which in turn can influence the discourse of the global policy debates, AALCO had been publishing “Quarterly Bulletin” since 1976. In the year 1997 its name and periodicity were changed to “AALCO Bulletin” brought out bi-annually, till the year 2001. The Secretariat felt that there is a need to re-structure the format and mode of this publication and after careful discussions and study, a totally overhauled publication in the new title, i.e; ‘AALCO Quarterly Bulletin’ was launched by beginning once again with Volume 1, Issue No. 1 dated January-March, 2005 and was published until 2011.

Beginning from 2012, the name of the Bulletin was changed to *AALCO Journal of International Law*, and to provide guidance to the Editorial Board on matters of content and policy, we have established an “International Advisory Board.” The Advisory Board is composed of scholars and legal practitioners from the Asian-African region who have made an outstanding contribution to international law.

The AALCO Journal of International Law contains articles by academicians, practitioners, government experts and students on a wide range of legal topics within the field of international law. It also incorporates a section called current developments that discuss the legal significance of important recent events in matters of international law. From time to time the AALCO Journal also focuses on specific themes.

The topic for this issue of AALCO Journal of International Law (i. e, Vol 4, Issue 2, 2015) is a thematic one focusing on: *The Protection of Cultural Property and the Norms of International Humanitarian Law (IHL)*. This has been prepared in collaboration with the ICRC’s Regional Delegation in New Delhi. I also take this opportunity to warmly welcome contribution of articles from Government Experts and Legal Advisers of the Member States of AALCO for the forthcoming issues of the Journal.

Mr. President, allow me also to make an introductory statement on the studies that we are going to unveil today, namely the Special Study on International Law in Cyberspace. The Resolution adopted at the Fifty-Fourth Annual Session of AALCO in 2015 directed the Secretariat to study the subject of “International Law in Cyberspace”, and I quote “based on deliberation and progress made in the UN framework and other forums, with special attention to international law pertaining to State Sovereignty in cyberspace, peaceful use of cyberspace, rules of international cooperation in combating cybercrimes, and identification of the relevant provisions of the UN Charter and other international instruments related to cyberspace”. The resolution adopted at the 2016 Annual Session pursuant to the deliberations in the first meeting of the Open-ended Working Group on International Law in Cyberspace, further directed the Secretariat to closely follow developments in international forum related to governance in cyberspace and cyber security and continue its study on International Law in cyberspace which began in 2015, with a view to assisting the Working Group to fulfill its mandate. Bearing in mind these mandates the Secretariat has come up with the present Study, which is based on the broad framework as laid down in the afore-stated resolutions. This Study presents a neutral perspective of the present international law applicable to cyberspace with regards to the above-mentioned issues, along with briefly tracing their histories wherever necessary. The Study also attempts to briefly summarize the broad views of the Member States (as stated by them during the discussions on AALCO forums) on each of the issues. Lastly, the study provides comments and suggestions for the purpose of bringing clarity to the incertitude surrounding many of the issues, as well as proposes suitable approaches for some of the issues.

As the issues have been extensively discussed between Member States over four sessions, including two Working Group Meetings, the Member States are already aware of the tremendous import of this subject today, as well as the nitty-gritties associated with all of the issues. Hence I will come straight to explaining the crux of the Study, including how it tackled the issues as described above. It is to be noted that this is only a very brief introduction to the Study, as a thorough chapter-wise introduction of the Study had already been made at the second Open-

ended Working Group Meeting, held at the AALCO Headquarters, New Delhi, in February 2017.

The Study firstly deals with the “Nature and Characteristics of Cyberspace”. This section introduces the Study by explaining in brief some of the fundamental theoretical concepts relating to cyberspace such as the nature of the space in the first place, regulation of cyberspace, the applicability of international law to cyberspace, cyberspace and the concept of common heritage of mankind, and cyberspace as the fifth domain. Many of the concepts introduced have been explained in greater detail in the sections that follow.

Thereafter, the Study discusses the complicated issues relating to the exercise of State sovereignty over cyberspace. The cyberspace is no common territory, but a digital domain without real boundaries, which transcends physical space. It discusses what presently the international law says on the rights and limitations of State-sovereignty over cyberspace. It discusses the present international legal regime that protects fundamental freedoms on the Internet. Therefore, this section explains how cyberspace has altered the existing equation between fundamental freedoms including freedom of speech on the one hand, and sovereign rights on the other.

In the third section, which is on cyberspace governance, firstly the current major theories on cyberspace governance are discussed, along with the existing system of cyberspace governance. Thereafter some of topics that have been rigorously debated on the international forums have been explained and clarified, such as the implications of the multi-stakeholder model, changing positions of the Internet Corporation for Assigned Names and Numbers (ICANN) and the International Telecommunication Union (ITU) in present cyberspace regulation, and the feasibility of a UN-centric model, including explaining the idea of information society through the New World Information and Communication Order (NWICO) movement, and the two World Summits on Information Society of 2003 and 2005, as well as the Internet Governance Forum. The section explores the two currently parallel approaches of multilateralism and multi-stakeholder-ism in cyberspace regulation, as well as the approach taken under the aegis of the UN.

Thereafter the Study discusses the various facets of international law associated with cyber-warfare. It discusses how the battlefield has transformed as a result of cyber-tools being used as the new weapons of war. How the magnitude and frequency of cyber-attacks have exponentially grown over the past few decades mandating a firm response from the international legal regime. Subsequently it discusses how the various rules of international law relating to warfare (law of “use of force” by States or *jus ad bellum*, rules of International Humanitarian Law or *jus in bello*, as well as rules relating to espionage) would apply to similar activities taking place in cyberspace. That is, the section reflects, in a neutral manner, the international efforts that have taken place till now in the direction of regulation of cyber-warfare.

The final section of the Study, Mr. President deals with the international legal responses dealing with cybercrimes. After describing the nature of cybercrimes, the section describes the significant global and regional legal responses till date, to cybercrimes. The section through its analysis lists out the specific reasons why there is a need to harmonize criminal laws, as presently there are various regional and international instruments (both binding and non-binding in nature) that are meant to prevent, track and punish cybercrimes. Mr. President, the last

publication of today relates to the Legality of Prolonged Israeli Occupation of the Occupied Palestinian Territory and its Colonial Practices there. This study is the outcome of the mandate received *vide* resolution RES/55/S4, which directed the Secretariat to, *inter alia*, “prepare a study on the legality of prolonged Israeli occupation of the Occupied Palestinian Territory and its colonial practices therein, under international law and international humanitarian law.”

In adherence to this directive, the present special study, entitled *The Legality of Israel’s Prolonged Occupation of Palestinian Territories and its Colonial Practices Therein* focuses on these two major questions of international law, namely Occupation and Colonialism, and how these concepts relate to the complex geopolitical situation of Palestine. I will now briefly summarize the Study.

Chapter II of the study first briefly looks at the history of Palestine, both ancient and recent, and the events leading up to its present situation. It examines some of the issues relating to the purported historical and heritage-related claims of ownership over the Palestinian and Israeli territories before attempting to flesh out some of the important and complex historical and political events that are relevant to the present legal position of the State of Palestine as well as the progress, or lack thereof, which has been made over the past century in gaining Palestine its independence.

Chapter III of this study focuses on the conceptual dimensions of occupation in international law and provide a historical and theoretical examination of the law of occupation and its practical application to the OPT. It looks at varying approaches to understanding and identifying situations of occupation, including the functional and traditional approach and apply them to the OPT. This chapter also focuses separately on the Gaza Strip as well as the West Bank and East Jerusalem due to the different modalities of the ongoing occupations in these territories.

Chapter IV of this study follows from Chapter III and will focus on the legality of *prolonged* occupations in international law as well as some of the practical ramifications of the occupation of Palestinian territories by Israel and the violations of international law within these territories. It will also discuss both the legal obligations of an occupying State as well as the violations of these obligations by Israel.

Chapter V of the study will shift attention to the concept of colonialism, and its prohibition in international law, and apply these principles to the situation in Palestine. Particular attention is paid in this chapter to issues relating to self-determination and territorial integrity as well as the practices of Israel within the OPT which mirror those practices that are traditionally considered to be of a colonial nature.

The conclusion of this study finds that the continued and prolonged occupation of Palestinian territory is a blatant violation of international law—particularly international humanitarian law, human rights law, and the law of occupation—and needs to be put an end to at the earliest possible instance. The study also finds that several of the practices of Israel within the OPT exhibit the characteristics of prohibited colonial practices and as such must also be brought an end to immediately. The cessation of these violative and illegal practices is a fundamental necessity for the independence of the Palestinian State, for the viability of the two-State solution, and for the security and prosperity of the Palestinian and Israeli States themselves.

AALCO continues to endeavor to provide its support to the State of Palestine and the Palestinian people, and it is the hope of the Secretariat that this study will serve as a valuable addition to the existing literature on the subject, and as a useful reference point not only for Member States, but for all those engaged in studying the complex legal dimensions of the Palestine conflict, and ultimately, to aid in the realization of the independence of the Palestinian people.

I now have the honor of presenting to you Mr. President the four publications to be unveiled today.

President: Distinguished Delegates, I am advised that copies of these publications are available on your way out on the table in front of us. You can take copies of the same. With this we come to the end of this particular agenda item. We break for lunch and we reassemble at 2.30 PM.

The Meeting was thereafter adjourned.

VI. VERBATIM RECORD OF THE SECOND MEETING OF DELEGATIONS

**VI. VERBATIM RECORD OF THE SECOND MEETING OF DELEGATIONS OF
AALCO MEMBER STATES HELD ON TUESDAY, 2 MAY 2017 AT 3.00 PM.**

His Excellency, Prof. Githu Muigai- EGH, SC, Attorney General of the Republic of Kenya, and President of the Fifty-Sixth Annual Session in the Chair.

President: Ladies and Gentlemen I now invite the Secretary-General of AALCO to present the “Report of the Secretary-General on the Work of the Asian-African Legal Consultative Organization”.

Prof. Dr. Kennedy Gastorn, Secretary-General of AALCO: Thank you, respected Mr. President. Honourable Ministers, Excellencies, Ladies and Gentlemen, at the outset, I would like to join the Heads of Delegations of Member States of AALCO in congratulating the President and the Vice-President of the Fifty-Sixth Annual Session on their elections. We look forward to working with you and stand guided by your wisdom.

I would also like to express my sincere gratitude to the President of the Fifty-Fifth Annual Session of AALCO, His Excellency, Dr. V. D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, Government of India, and the Vice-President, His Excellency, Mr. Samuel Panyin Yalley, former High Commissioner of Ghana in India, for their valuable guidance and support in fulfilling the mandate entrusted on the Organization.

Especially, I take this opportunity to once again thank all the Member States for unanimously electing me as the Secretary-General of this esteemed Organization in May last year and for reposing confidence in my leadership and giving me this opportunity to work towards strengthening Asian-African solidarity in international legal affairs.

Excellencies, I would like express my gratitude to Member Governments, for their constant encouragement, support and participation in all activities pertaining to the agenda of AALCO, to the Ambassadors/High Commissioners, the Liaison Officers in New Delhi, for their valuable inputs in dealing with the substantive and organizational matters and for the kind support rendered to me, which has helped me in discharging my duties and functions in a smooth and effective manner. Special thanks are also due to the Member States for paying their annual contributions in a timely manner and to those Member States who have started partial payment of their arrears. A robust financial situation would facilitate the Secretariat in fulfilling the mandate entrusted to it by the Member States.

Ever since I assumed office in August last year, it has been an eventful one for AALCO and has proved to be extremely busy and fruitful as well, for fruition of these activities in addition to Member States I would also like to thank the various international organizations and other academic institutions which have collaborated with AALCO in organizing these events.

Mr. President, I would now briefly like to highlight some of the important parts of the report, namely: (i) Consideration of the Work Programme of AALCO; (ii) major activities undertaken since the last Annual Session; (iii) Financial situation of AALCO and administrative matters; (iv) Steps taken to Revitalize and Strengthen the AALCO; (v) Future Plan of Action; and (vi) Concluding remarks.

A. Consideration of the Work Programme of AALCO at the Fifty-Sixth Annual Session

Allow me now Mr President to start with the Consideration of the Work Programme of AALCO at the Fifty-Sixth Annual Session

It may be recalled that since the Forty-Second Annual Session which was held in Seoul, Republic of Korea, in 2003 the Organization, has adopted a policy of rationalization of agenda items. Adhering to this policy, the following topics thus shortlisted for the Fifty-Sixth Session based on their current relevance: (i) The Status and Treatment of Refugees; (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) International Law in Cyberspace. Finally, as per the long-established practiced, a half-day special meeting on “Selected Items on the Agenda of the International Law Commission” will also be convened. There will also be a special meeting on the International Criminal Court: Recent Developments.

B. Activities and Mandate undertaken since Fifty-Fifth Annual Session.

Mr. President, since I assumed office in August of 2016, I will be reporting briefly on AALCO’s major activities since then.

Allow me by informing you that the Second Session of the China-AALCO Exchange and Research Program (CAERP) in International Law was held at the China University of Political Science and Law (CUPL) in Beijing, People’s Republic of China from 29 August to 16 September 2016. The three-week session saw participation by 37 trainees—comprising an assortment of diplomats and members of the respective governments’ foreign affairs and justice ministries—from 34 AALCO Member States and the AALCO Secretariat. Two members from the AALCO Secretariat— also attended the training. As Secretary-General of AALCO, invited by the Government of the People’s Republic of China to attend the inauguration ceremony of the Programme and I also delivered an address as the Secretary-General of AALCO.

Excellencies, one of the important and long established practices of AALCO is holding a Legal Advisers Meeting on the side-lines of the Session of the UN General Assembly. The theme of 2016’s meetings was “The UN Charter: We Care”. On 25 October 2016, I attended the 'Dialogue with Judges of the International Court of Justice' which was held at the UN Headquarters where presentations were made by various judges including: HIS EXCELLENCY, Judge Ronny Abraham, President of the International Court of Justice; HIS EXCELLENCY, Judge Abdulqawi Ahmed Yusuf, Vice President of the International Court of Justice; and HIS EXCELLENCY, Judge Antônio Augusto Cançado Trinidad of the International Court of Justice. We organized the Legal Advisers Meeting on 2nd November 2016, where presentations were made by many distinguished legal luminaries. At this meeting I too delivered a presentation on the “Identification of Customary International Law: Legal and Policy Implications.”

Likewise in November, and December 2016, I also had the opportunity to visit the Regional Centre for International Commercial Arbitration in Cairo, Egypt and the Nairobi Centre for International Arbitration here in Nairobi, respectively. The latter visit to Nairobi was in aid of the

launch of the Nairobi centre as the fifth regional centre for arbitration under the auspices of AALCO.

In December 2016, AALCO also commemorated its sixtieth Constitution Day wherein the President of the Fifty-Fifth Annual Session Dr. V.D. Sharma traced the Organization's origins and development and its rich history while outlining its continued relevance.

Excellencies, in February of this year, I paid an official visit to Japan at the invitation of the Government of Japan and met with the officials of the Ministry of Foreign Affairs, including the Minister for Foreign Affairs of Japan, HIS EXCELLENCY, Mr. Fumio Kishida; representative for Japan to AALCO and Ambassador for International Economic Affairs, HIS EXCELLENCY, Mr. Koji Haneda; and, Director-General of the International Legal Affairs Bureau, Ms. Naoko Saiki, in all these cases it was opportunity to discuss modalities of further strengthening the existing relationship between AALCO and Japan. I also met with the officials of Japan International Cooperation Agency (JICA) including the Executive Senior Vice-President, Mr. Kazuhiko Koshikawa and we discussed the possibility of convening a capacity building programme for the Asian and African countries.

While in Japan, I also participated in the 3rd International Symposium on the Law of the Sea, with the theme, "20 Years of Development of the Law of the Sea and Emerging Challenges". This event was hosted by the Ministry of Foreign Affairs of Japan on 2 and 3 February, where I made a presentation on the theme "Transitional organized crime at the sea: trafficking of migrants and drugs". I also had the opportunity to visit the Center for Asia Legal Exchange (CALE) of Nagoya University and the United Nations Asia and Far East Institute for the Prevention of Crimes and the Treatment of Offenders (UNAFEI) in both cases I seized the opportunity to discuss various opportunities for collaboration with them.

Excellencies, as mandated by the Fifty-Fifth Annual Session, the Second Meeting of the Open-Ended Working Group on International Law in Cyberspace took place over two days, at the AALCO Headquarters in New Delhi, on 9th and 10th February 2017. The Meeting took place over six sessions which focused on the four major areas within the topic of international law in cyberspace as flagged by the Member-States of AALCO: (i) State-sovereignty in cyberspace, (ii) law and governance of cyberspace, (iii) cyber warfare, and (iv) cybercrimes and international law. In the last session the Special Study in cyberspace was introduced by the Secretariat. It was proposed that the Rapporteur of the Working Group, Dr. Zhixiong Huang, that he would prepare a special report on the topic, within which he would be exploring the future work priority and outcome of the Working Group, such as prospective AALCO guidelines or model provisions on cyberspace. As per the applicable statutory rules of AALCO in this regard, Mr. President, the outcome of this Second Meeting of the Open-Ended Working Group is to be reported during the Annual Session by the Chairman of the Working Group.

Excellencies, in addition to these activities, I also had the opportunity to sign a Memorandum of Understanding with the Hague Conference on Private International Law while I was in China attending the Second CAERP Programme in September 2016. Also in December 2016, I had the pleasure of signing another Memorandum of Understanding with the China University of Political Science and Law in New Delhi.

C. Financial and Administrative Matters of AALCO

Mr. President, Excellencies, allow me now to present on the financial and administrative matters of AALCO. I am pleased to inform that the financial situation in 2016 was relatively stable. The details of such can be found in the conference document AALCO/56/NAIROBI/2017/ORG 2. Though there has been a persistent problem of arrears large strides have been made with respect to the payment of these arrears by Member States and I express my profound gratitude to these Member States for complying with their financial obligations.

Statistics of the past three years (2014, 2015 and 2016) shows that arrears collected at the rate of 9%, 18% and 2.3% respectively.

At the same time, annual contributions received stands at 62%, 73% and 63% for 2014, 2015 and 2016 respectively.

I would like to draw your attention to the budget approved for presentation at the current Session, by the Liaison Officers for the year 2018, which is USD 615,900; an increase of USD 45,300 from the 2017 budget. This increase reflects the necessary adjustments made under certain heads and sub-heads based on the expenses likely to be incurred. It also took into account consideration the discussions held in the Sub-Committee of Liaison Officers on the AALCO Secretariat's Human Resources and Financial Matters and reflected the Secretariat's efforts to minimize expenses such as electricity and water expenses which were reduced by USD 6,000.

In addition to that, for consideration of budget proposal for the year 2018, it is important to note that the Government of India had already implemented the 7th Pay Commission recommendations with effect from 1st January 2016. In relation to that, the operative paragraph 2 of resolution on "AALCO's Budget for the year 2017" (AALCO/RE/55/ORG 2 dated 20 May 2016) which was adopted during the last, Annual Session of AALCO (Fifty-Fifth) 'mandates the Secretariat to report to the Liaison Officers Meeting the outcome of the 7th Pay Commission of Government of India in the context of local employees of AALCO and decides to mandate the Liaison Officers to review and make recommendations relating to the salary and entitlements of the local employees and the same shall be placed at the Annual Session for its consideration and approval.'

Based on that mandate, the Secretariat reported to the 334th Liaison Officers Meeting held on 21 September 2016 the outlines of the revision of the pay scales of the Central Government Employees, based on the 7th Pay Commission recommendations and also to the 335th Liaison Officers Meeting which was held on 15 December 2016 on the budget implication, in case of implementation of the 7th Pay Commission. Details on the Budget will be presented separately.

However, allow me Mr. President to mention that the other factor to be mentioned relates to the "Education Allowance for the Secretary-General's dependent children". This matter had been deliberated five times in the Sub-committee and needs further consideration on capping the grant to USD 2,400 per child. In case this cap is approved, the budgetary allocation would be USD 4,800 for 2018. This recommendation has been duly reflected in the resolution on the budget to be adopted.

It should also be mentioned that the allocation under the head “Maintenance of the Headquarters including Secretary-General’s residence” has been increased from USD 12,000 to USD 14,600 owing to increase in repair and maintenance costs.

Last but not the least I would like to inform the Member States that continuous efforts are being made on optimizing the use of both the human and material resources available within the Secretariat. All efforts to minimize and curtail operational costs are also being exerted. Financial auditing will be expanded to cover value for money audit and financial management system will be reinforced.

D. Steps taken to revitalize and strengthen the Asian-African Legal Consultative Organization

The fourth item on my report is to inform you about the steps taken to revitalize and strengthen AALCO. Mr. President, I would like to reiterate that pursuant to the adoption of the Putrajaya Declaration in 2009, various activities have been initiated on a regular basis, to make AALCO the primary center for harmonizing the actions of Asian-African States in international legal affairs.

Regarding Strengthening the Human Resources in the AALCO Secretariat: Presently, the Secretariat functions under constraints of human and financial resources. In view of the decrease in legal staff strength and the increasing activities being undertaken by the Organization, AALCO has recently recruited a legal officer on contractual basis. However, to effectively fulfill its mandate and meaningfully expand its activities, AALCO needs to recruit more legal professionals and improve infrastructure and research facilities offered to the Secretariat staff.

Presently, all Deputy Secretaries-General are from the Asian countries namely from the People’s Republic of China, Islamic Republic of Iran and Japan. In order to ensure adequate representation of Africa among the top management of the Secretariat, I request the African and Arab States to second at least one senior official to the Secretariat as Deputy/Assistant Secretary-General. I would also like to explore the possibility of recruiting a legal expert/translator from Arabic States. I would also like to explore ways and means to improve the Arabic website of the Organization; and also discuss the possibility of having many activities in Arab and African States. In order to encourage the assimilation of academic inputs into the work of AALCO, I also propose a Visiting Fellowship Programme for senior academics and a Research Assistantship Programme for postgraduate students from AALCO Member States will be instituted.

Increasing Membership: Regarding increase in membership, as on 1 March 2017, 47 States from Asia and Africa are presently Members of AALCO. I am pleased to welcome the Socialist Republic of VietNam, which has joined the Organization on 24 February 2017. Concentrated efforts to solicit membership from Africa, mainly from the Francophone States in Africa, Central Asian countries and Cambodia are on-going. In this regard I humbly request the Member States in their bilateral relationships to promote AALCO by inviting Non-Members to join the Organization.

Collecting Arrears: On collecting arrears Mr. President, according to the Action Plan¹ approved, I have, together with the Deputy Secretary-General from Japan, been regularly meeting the Heads of Diplomatic Missions and Liaison Officers of these Member States in New Delhi, for materializing the action plan to collect arrears. We have been partially successful in these endeavors.

I am also grateful for the voluntary contributions of the Governments of India, and Islamic Republic of Iran in 2016-2017. Given the current budgetary constraints, the Secretary-General urges Member States, who are in a position to do so, to make voluntary contributions to the Organization.

Replenishment of Reserve Fund: Regarding Reserve Fund, Mr. President, Rule 27 (3) of the Statutory Rules of the Organization requires that the Reserve Fund is being maintained in such manner that it could meet the expenses of the Organization for at least a period of six months.

Revision of Assessed Scales of Contributions: Mr. President, there is also a need requiring an increase in the scale of contributions. The existing scale of contribution was last assessed at the Forty-Eighth Annual Session of AALCO which was held in Putrajaya, Malaysia in 2009. The revision of the current scale maybe considered also in the context of the strategy to clear the existing arrears. Additionally, the revision of scale would empower the Organization to undertake expanded activities, as well as a retention measure for the staff and its expansion.

E. Future Plan of Action.

On the future plan of action Mr. President, the Organization has now been active for six decades, and in order to continue ensuring its relevance in the future, I have outlined a plan of action that may seem ambitious, but which we endeavor to accomplish while staying within our modest budget. The full details of my proposals are contained within my written report, but I will focus on some of the important ones within this report.

Organizational and Substantive Projects for AALCO and its Financial Implications Commencing 2018: The Secretariat of AALCO proposes that projects would be classified into four categories; i.e., Capacity Building Programs for AALCO Member States, Research Intensification Projects on the Work of the International Law Commission (ILC) at AALCO, Research Intensification Projects on the Work of AALCO, and In House Training Programme for AALCO Professional Staff. The details of these are found in my report and its annex.

We also seek to establish partnership and collaboration with academic institutions. We believe, improving the AALCO website and the quality and quantity of content on it is also a priority for the Secretariat. In order to make the presence of the Organization felt regionally as well as internationally, we also endeavor to participate in as many international meetings as is feasible. We are also engaging in capacity building programmes in association with Member States and other international organizations. We will also endeavor to continue improving the quality of and widening the dissemination of AALCO's research publications. Activities to continue

¹It may be recalled that the Extraordinary Session held at the Headquarters on 1 December 2008, to explore ways to tide over the precarious financial situation of AALCO had approved an "Action Plan, AALCO/ES (NEW DELHI)/2008/ORG. 1, from page numbers 7-9.

streamlining the AALCO Statutory Rules and Administrative, Financial and Staff Regulations are also underway and will continue.

Excellencies, I would also like to draw your attention to the adoption of some methodologies which may help us optimally utilize our time during annual sessions. This includes focusing on substantive matters through working group meetings in tandem with the plenary in order to provide an informal consultative atmosphere for in-depth discussion of issues consistent with the primary function of a legal consultative organization. Accordingly, decisions on matters of a substantive character will be adopted in the plenary in the form of recommendations to be incorporated in the report. As per the Statutes and Statutory Rules of AALCO resolutions will be limited to financial and administrative matters only.

I would also like to consult with members of the EPG and endeavor to explore ways to optimally use technological innovation to minimize or avoid costs for convening EPG meetings. I am also of the view that AALCO should continue prioritizing the agenda items of the International Law Commission (ILC), and at the same time endeavor to monitor issues that have already been completed by the ILC and are being dealt with by the UN Sixth Committee until they are brought to their logical conclusion. I propose that my report to the ILC should focus more on substantive issues by highlighting the key decisions taken at the Annual Session of AALCO, leaving sufficient time for procedural interaction with Members of the ILC.

Given the number of existing Arab Member States the Organization shall work to promote Arabic language, as equivalent to English language, in the working of the Organization. This will be done through *inter alia* improving the Arabic website, translating all key documents into Arabic, hiring in house personnel for Arabic, requesting Member States from Arab countries for deputing senior official to primarily manage the Arabic section.

Finally, among the practices of AALCO which have been, *de facto*, largely discontinued is the nomination of a legal expert by the government of a Member State as a “Member” of the Organization. This is stipulated in Article 5 of the Statutes of AALCO, but it has not been done by many Member States. I therefore invite Member States to continue and consider the revival of this practice.

F. Concluding Remarks

In my concluding remarks, Mr. President, I recall that I assumed office in August 2016 as the sixth Secretary-General of AALCO. As the Secretary General my priority is to reinforce AALCO as the “hub” for collective dialogue and consultations on legal concerns of the Member States from Asia and Africa. I am committed towards making AALCO heard and heeded in the international law-making process leading to its progressive and equitable development.

I aim to build on the initiatives of my predecessors thereby further strengthening AALCO to better serve its Member States. AALCO’s contribution towards the progressive development and codification of international law and rule of law in international affairs till date has been very significant. AALCO, which is a tangible outcome of the Bandung Conference, celebrated its 60th anniversary in 2016. This, therefore, provided us a renewed opportunity to revive the Bandung spirit of solidarity amongst the Asian-African States and work towards the betterment of peoples of the two regions, and at a larger level, to contribute to the well-being of humanity and

humankind. In furtherance of this objective and the functions and purposes stated in the Statutes of the Organization, I would like to reiterate my commitment to serve Member States in their pursuit to ensuring equitable development of International Law. Thank you.

President: Thank you very much indeed Mr. Secretary-General we very much appreciate your report. I will now invite the Deputy Secretary-General for the presentation on “AALCO’s Budget for the Year 2018”.

Mr. Yukihiro Takeya, Deputy Secretary-General of AALCO: Thank you Mr. President. Excellencies, Distinguished Delegates, Ladies and Gentlemen; “AALCO’s Budget for the Year 2018” is contained in Document No. AALCO/56/NAIROBI/2017/ORG 2. It was decided to forward the Budget to the Fifty-Sixth Annual Session for final approval. To begin with I would like to inform you that the Secretariat has so far received 307,243 USD which is the total amount of contributions and arrears. It is 53.84% of the Budget for the year 2017. However, the Secretariat is sure that it will be able to fulfill the mandate entrusted upon it.

The proposed budget for the year 2018 is USD 615,900 which is an increase of USD 45,300 from the previous year’s budget. Accordingly, respective assessed contribution of Member States is expected to increase as compared to the one in 2017. The comparative statement of assessed contributions of Member States and proposed increase in contribution to the budget of AALCO for the year 2018 is reflected on page 16 of the budget document.

The salient features of the 2018 budget can be summarized in the following points:

The first point, the draft budget for 2018 reflects the draft resolution to be adopted on the Education Allowance for the Secretary-General’s dependent children. This has been deliberated at the Sub-Committee meetings of Liaison Officers and is needed to be agreed among Member States regarding capping the grant to USD 2,400 per child. If this cap is approved, the budgetary allocation will be USD 4,800 for the year 2018.

The second point, for consideration of budget proposal for the year 2018, it is important to note that the Government of India has already implemented the 7th Pay Commission recommendations with effect from 1st January 2016. In relation to that, the operative paragraph 2 of resolution on “AALCO’s Budget for the year 2017 (AALCO/RE/55/ORG 2 dated 20 May 2016)” adopted during the Fifty-fifth Annual Session of AALCO ‘mandates the Secretariat to report to the Liaison Officers Meeting the outcome of the 7th Pay Commission of Government of India in the context of local employees of AALCO and decides to mandate the Liaison Officers to review and make recommendations relating to the salary and entitlements of the local employees and the same shall be placed at the Annual Session for its consideration and approval.”

Based on that mandate, the Secretariat reported to the 334th Liaison Officers Meeting held on 21 September 2016 the outlines of the revision of the pay scales of the Central Government Employees, based on the 7th Pay Commission recommendations and also to the 335th Liaison Officers Meeting held on 15 December 2016 on the budget implication in case of implementation of the 7th Pay Commission. In that meeting, the Secretariat reported that, according to the past practice, AALCO Secretariat has broadly followed the Government of India pay Structure recommended by the Pay Commission in India for its regular staff, with the

approval of Member States. Taking all these factors into consideration the Secretariat had prepared a budget proposal in case of implementation of recommendations of 7th Pay Commission on account of which the budgetary allocation had been increased by USD 35,000 for the local staff.

In this context, Member States are also encouraged to reach an agreement on whether AALCO should implement complete application of recommendation of the 7th Pay Commission with effect from 1 January 2016 and, if so, how to cover the 2 years arrears (for 2016 and 2017) which amounts to approximately USD 60,000.

Third, “Maintenance of the Headquarters including Secretary-General’s residence” had been increased from USD 12,000 to USD 14,600 owing to increase in repair and maintenance costs. In addition to that, there is no insurance cover in respect to furniture, equipment, library books, building as well as Secretary-General’s residence at present. The Secretariat considers it is very critical that the assets of AALCO should be insured to cover accidental damage therefore the Secretariat decided to procure an insurance cover.

Excellencies, Distinguished Delegates, Ladies and gentlemen, as the Secretariat, we have always felt the commitment to work further in a cost effective way and have taken proactive measures for cost saving. We will continue to uphold this commitment. For example, you may find that we have reduced costs on the electricity and water charges up to USD 6,000, as well as on postage and stationery up to USD 1,000.

At this juncture I would like to emphasize that the Secretariat will continue with its efforts to collect the contribution as well as arrears. Towards this end we have been communicating with Member States that are in arrears. Taking this opportunity, I would like to once again kindly request support and cooperation from Member States to fulfill their financial obligations, to support the activities of AALCO. In addition to this, the Secretariat is also committed to make its efforts to strengthen the financial basis through widening membership of AALCO.

I thank you for a patient hearing.

President: I thank the Deputy Secretary-General for presenting the Budget for the year 2018 and now open the floor for any comments. The Delegate of India.

The Delegate of India: Thank you Mr. President. We welcome the implementation of the 7th Pay Commission to the AALCO staff and we would also like the arrears to be paid to the employees of AALCO. We are of the view that the disbursement of the arrears could not be subject to receipt of special or voluntary contributions from the Member States. Mr. President, we have noted some differences in the fixation of pay scale of the employees in the draft budget, we request the AALCO Secretariat to address this anomaly at the earliest. Thank you Mr. President.

President: I thank India for that intervention. Now I recognize Tanzania.

The Leader of Delegation of Tanzania: Mr. President, allow me to offer a few comments. We welcome and support the idea of having the provision of education allowance available to the Secretary-General owing to the fact that entitlements of the current Secretary-General have been significantly reduced compared to his predecessor as per the Rules which were adopted at the Fifty-Fifth Annual Session.

However, we would suggest that the definition of “School Education” in the draft budget resolution should include necessary pre-primary school, such as a kinder garden for 3 years old and above, but not a day care (usually for children below the age of 3). A number of international schools would ordinarily not enroll a child to a grade 1 primary school without the child having gone through a pre-school education. For instance the Cambridge System has what they call “raising five”, preschoolers etc.

Again, Mr. President since the provision of education allowance is being made specifically for the current Secretary-General on an exceptional basis and who happens to have 3 children, then it would only be fair to have all 3 children covered by the resolution. It is our understanding that such inclusions of the third child will not affect the existing budget.

Lastly, given the cost of education in India, which we know is very high, we recommend the bracket placed by the Government of India to the suggested amount of USD 2,400 per child be removed. I thank you, Mr. President.

President: Thank you very much. Now I invite the Delegation of the republic of Korea.

The Leader of Delegation of the Republic of Korea: Thank you Mr. President. I join the other delegations on this matter; however, I will refer to some of the points raised here during the informal consultations on the topic.

President: Thank you Korea. The remaining discussions on these two items will now be held in the informal consultations among Member States and the final results will be known on Friday. The meeting is now adjourned.

The Meeting was thereafter adjourned.

VII. VERBATIM RECORD OF THE SECOND GENERAL MEETING

VII. VERBATIM RECORD OF THE SECOND GENERAL MEEING HELD ON TUESDAY, 2 MAY 2017 AT 4.45 PM

GENERAL STATEMENTS

His Excellency, Prof. Githu Muigai, the Attorney General of the Republic of Kenya and the President of the Fifty-Sixth Annual Session of AALCO in the Chair.

President: A very good afternoon to everyone. This afternoon we will begin with the “General Statements” and the theme for the same is “The Rule of Law, Multilateralism and the Role of International and Regional Organizations in the Changing World Senario”. However, Member States, in their statements, are free to touch upon any other issue they deem fit. The Secretariat has provided me with a list of Member States wishing to make general statements. Accordingly, I now invite the distinguished Leader of Delegation of the State of Qatar. You have the floor sir.

Mr. Salem Bin Rashid Al-Mirrikhi, the Leader of Delegation of the State of Qatar:² His Excellency, Mr. President of the Fifty-Sixth Session, His Excellency, Secretary-General of AALCO, Excellencies, Ministers, Attorney Generals and Heads of the Delegations, at the outset, allow me to extend on behalf of His Excellency, Dr. Hasan bin Lahdan Al- Muhandi, Minister of Justice, State of Qatar, members of the delegation of Qatar, our sincere thanks and appreciation to the friendly Republic of Kenya, the Government and People, for hosting the Annual Session of AALCO this year and for the warm hospitality, grand reception and for their stupendous efforts to make the Session a success.

Allow me in the beginning to reiterate the important role AALCO has been playing in fostering continuous dialogue between Member States and between regional and international organization in order to synchronize viewpoints and cooperation on international issues of common concern.

Excellencies, Ladies and Gentlemen, our coming together in this Session comes at a time of critical circumstances facing the international community due to increasing level of tension and instability in a large number of countries of the region, besides the unspeakable suffering of the brother Palestinian people, which is on top of our priorities due to increased Israeli settlements in violation of international law. This has led to stagnation in the peace process because of the arrogance of the Israeli government and its violation of its obligations and commitment, which poses a threat to the stability and security of the region and also to the international security and stability.

Similarly, the challenges that we and international community is facing are manifested in the absence of rule of law based on social justice and respect of human rights and renunciation of ethnic division, in addition to proliferation of corruption, escalation of violent extremism, continuing terrorist crimes and organized crime, together they threaten the safety and security of our societies and people.

Excellencies, Ladies and Gentlemen, these are the some of the examples of challenges that are casting their negative impact on us. They make us waste opportunities of development and efforts of stability. Therefore, it has become incumbent upon us to make collective efforts to face these challenges and lay down plans and vision to meet and overcome these challenges.

² The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

Excellencies, Ladies and Gentlemen, to conclude, I would like to thank you for your patient hearing. I wish all success to this session that our organization achieves its objectives for welfare of our society.

President: I thank the Leader of Delegation of the State of Qatar. Now I invite the Leader of Delegation of Japan.

His Excellency, Mr. Koji Haneda, Representative of the Government of Japan for Free Trade and Economic Partnership Agreement Negotiations, Ambassador for International Economic Affairs, Ministry of Foreign Affairs and the Leader of Delegation of Japan: H.E Prof. Githu Muigai, Attorney General of the Republic of Kenya and President of the Fifty-Sixth Annual Session, His Excellency, Mr. Rajesh Swamy, President of the Fifty-Fifth Annual Session, His Excellency, Prof. Kennedy Gastorn, Secretary-General of AALCO, Honorable Ministers and Attorney Generals, Distinguished Delegates. Let me begin with my heartfelt congratulations to you, Mr. President, upon your election. My congratulations also go to the Vice-President. I will assure you of my Government's continued cooperation and contribution to AALCO during your Presidency.

Mr. President, first, allow me to express my deep appreciation to the Government of the Republic of Kenya for hosting this year's Annual Session. I also commend Secretary-General Prof. Gastorn and his staff for their dedicated work to prepare for this Session. This year's Annual Session is particularly remarkable because we have come back to Africa under the initiative of Prof. Gastorn, after four previous Sessions held in Asia. This is certainly a reflection of the commitment of African Member States to the work of AALCO and we hope that this Session will be an opportunity to present AALCO's activities in Africa. For Japan, we are especially glad to come back to the Republic of Kenya following the successful Tokyo International Conference of Africa's Development (TICAD VI), held in Nairobi in August last year, for the first time on the African soil. TICAD has grown as an important multilateral forum for Japan and Africa, as well as the relevant international organizations and partners in private sector to come together and discuss the development of Africa. Rule of Law was one of the important elements discussed at TICAD VI, and the role of AALCO was well acknowledged in the Nairobi Implementation Plan, the outcome document attached to the Nairobi Declaration issued by the leaders of Japan and African countries as follows: (I quote) "Promote the awareness of the importance of rule of law, the development of international law and the use of peaceful means in dispute settlement through capacity building and information sharing including by supporting the activities of AALCO" (quote ends). Working together with AALCO, Japan is committed to achieving the objective set out in this implementation plan.

In pursuit of stronger cooperative relations with AALCO, my Government invited Secretary-General Prof. Gastorn to Japan in February this year. It was a very productive visit as we were able to have constructive discussions between AALCO and various stakeholders in Japan engaged in the promotion of rule of law and legal technical assistance.

Let me also extend our warm welcome to VietNam, which officially joined AALCO in February this year. I am personally pleased to have our Asian neighbor with us today, as Japan has been in close touch with VietNam to discuss issues relating to international law including issues relating to AALCO. Having more Member States is important for AALCO to reflect various views and

ideas, thereby contributing to balanced deliberations and further promotions of rule of law in Asia and Africa.

Mr. President, let me take this opportunity to share a few highlights of Japan's activities in the area of promoting and strengthening rule of law since the last Annual Session.

First, Japan has continued to play an active role in the area of concluding multilateral and bilateral treaties. An important multilateral treaty currently under deliberations at the Japanese Parliament is the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing. By acceding to the treaty, Japan would further enhance the cooperation with international community to prevent such fishing so that the sustainable use and the long term conservation of living resources is promoted.

On bilateral treaties, those under deliberations in the current Parliament session include the Agreement between Japan and India for cooperation in the peaceful uses of nuclear energy, as well as the investment treaty between Japan and the Republic of Kenya. In addition, the investment treaty with Iran, which I mentioned in my statement at the last Annual Session of AALCO, finally came into force last week.

Second, I would like to briefly explain our continued efforts to promote rule of law in Asia. In February this year, Japan hosted the 3rd international symposium on the law of the Sea in Tokyo under the title of "20 Years of development of the law of the Sea and Emerging Challenges", following the success of the previous two symposium on the law of the sea.

At the symposium, approximately 300 participants, including authoritative scholars from Japan and abroad discussed such issues as development of the law of the Sea and dispute settlement under UNCLOS, and emerging issues such as marine biological diversity of areas beyond national jurisdiction (BBNJ). We had a privilege of having Secretary-General Prof. Gastorn as one of the panellists, who presented on the transnational organized crimes at sea such as trafficking of migrants and drugs, and contributed to the discussion on emerging challenges of the Law of the Sea. Japan intends to continue to host international symposiums on the law of the sea as part of our commitment to promoting the "Rule of law at Sea" and to maintaining and developing an "open and stable sea".

Thirdly, following on last year's initiative, the Government of Japan organized a side event earlier today focusing on Japan's contribution to rule of law in Asia and Africa. This year, we had Ms. Tomoko Akane, Ambassador for International Judicial Cooperation and Public Prosecutor, as well as Mr. Keisuke Senta, Director of Asia and Far East Institute for the Prevention of Crime and the Treatment (called UNAFEI), who shared Japan's long-term engagement in capacity building of legal institutions and practitioners who run the system. We were also honoured to have a Kenyan Presenter, a former participant in one of UNAFEI's programs and a current judge of Kenya's High Court. I would like to take this opportunity to thank all the participants for taking great interest in this event.

Mr. President, there is no doubt that AALCO has served as an important forum for strengthening and promoting the rule of law in Asia and Africa, the two growing regions of the world. As one of the funding members that has supported AALCO's activities over the past sixty years, Japan remains committed to working with the Organization to achieve its goal. At the same time, I

would like to invite all other Member States to renew their commitment to strengthening AALCO.

As regards its membership, AALCO still possesses greater potential to expand itself beyond the current level. To that end, I have great respect for the efforts made thus far by Secretary-General Prof. Gastorn in reaching out to Observer States and other interested non-Member States, and in encouraging them to join the Organization. We as Member States also need to fulfill our responsibilities in following up the aforementioned Secretary-General's efforts on our part. I myself have been reaching out to non-Members States mostly in Asia to talk to my counterparts and share with them the benefit of joining AALCO.

At the same time, a stable financial foundation should be ensured that AALCO can fully play its expected role in promoting the rule of law in Asia and Africa. We have much to do in this regard including fulfilling our financial obligations. In this regard I would humbly ask all Member States to take this issue very seriously.

In closing, Mr. President, my delegation would like to assure you of our constructive contribution during the current session. There are many important international legal issues for deliberations over the next few days, and I very much look forward to engaging in discussions with the distinguished delegates.

Thank you.

President: I thank the Leader of delegation of Japan. Now I invite the Leader of Delegation of the Sultanate of Oman. You have the floor sir.

His Excellency, Dr. Abdullah Bin Mohammed Bin Said Al-Saidi, Minister of Legal Affairs and the Leader of the Delegation of the Sultanate of Oman:³ In the name of God, the most compassionate, the most merciful, Your Excellency the President, Your Excellency the Secretary-General, Honorable Heads of Delegations, Dear Delegates and Observers, Distinguished Participants, it is my pleasure, at the outset, to congratulate His Excellency, the President and his Deputy for their election to steer the deliberations of the Fifty-Sixth Session of the Asian-African Legal Consultative Organization. We assure you of our total support and cooperation in this endeavor. I would also like to commend the efficient leadership provided by the President of the previous Session and all the efforts he made during his tenure. It is my pleasure to welcome the Socialist Republic of Vietnam into the Organization, which will certainly be a valuable and enriching addition.

It is also my pleasure and the pleasure of the delegation of my country participating in the deliberations of the Fifty-Sixth Session. I take this opportunity to express from this platform our sincere greetings and gratitude to all participants who responded to the invitation of the Organization to contribute to the deliberations of this Session and to enrich it with their honest views and sincere visions which will provide an opportunity to exchange opinions and benefit from the experiences and expertise of States in various ways for further development and prosperity of our communities. Furthermore, I would like to express deep appreciation to His Excellency, the Secretary General of the Organization Prof. Dr. Kennedy Gastorn for the constructive efforts he has been taking in his leadership role in the Secretariat of AALCO which

³ The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

we hope will continue and gain the support of all Member States. Likewise, I would like to extend my thanks to you – your Excellency the President- and the General Secretariat for providing me this opportunity to put before you the position of the Sultanate of Oman on some of the items to be discussed here.

Distinguished participants, the whole world is witnessing horrific terrorist acts by perpetrators who seek to threaten security, peace and global stability. It is incumbent on all of us to take all necessary measures and exert all efforts to combat these terrorist acts and to eradicate its causes. The Sultanate of Oman has paid great attention to combating extremism and violence and eradicating its roots by laying firm foundations for the values of brotherhood, tolerance, coexistence, respect for others and dialogue as a basis for resolving differences. In order to create a cohesive society, Oman has endeavored to uphold the principle of the rule of law, realizing the values of justice and equality, and promoting citizenship without discrimination among citizens based on their ideological, sectarian or ethnic affiliation, in the belief that this environment can dry the roots of extremism, violence and terrorism. With the belief in the importance of concerted international efforts to combat terrorism, the Sultanate of Oman has been keen to support international cooperation and efforts to take effective measures against terrorism, beginning with its position of condemning terrorism in all its forms and manifestations and in its commitment to contribute to the maintenance of international peace and security. Oman has joined several regional Conventions including the Arab Convention on Suppression of Terrorism, the Organization of the Islamic Conference Convention against International Terrorism, the GCC Convention on Combating Terrorism. Oman has also joined most of the international Conventions on combating terrorism, bearing in mind that these agreements are needed to be implemented and made enforceable after they have been ratified as part of Omani law, in accordance with the Statute of the State.

Despite the fact that criminalization of terrorism is emphasized in the Omani penal code, but to be in line with the legal development and the global approach on this matter, the Sultanate of Oman has promulgated an independent anti-terrorism law followed by another act against money laundering and, funding and financing of terrorism. To keep pace with the rapid changes in the field of combating money laundering and terrorism financing the Sultanate has recently updated its money laundering and anti-terrorism acts by enacting a legislation on the 6th of June 2016 which is considered more comprehensive and more effective in the prevention of the funding and financing of terrorist acts and it was achieved by taking advantage of international communities' experience in this area. In addition, the most important feature of this law is the granting of broader powers to the National Committee against Money-Laundering and Terrorism Financing and the establishment of a national financial information center with financial and administrative independence. Furthermore, an important feature of this law is the implementation of stricter sanctions against those who support such abhorrent crimes. The Sultanate also enacted the necessary legislation to implement the resolutions of the Security Council issued under Chapter VII of the United Nations Charter on the Prevention, Suppression and Financing of Terrorism by issuing through the National Counter-Terrorism Committee, Resolution No. 1/2017 of 8 January 2017.

Nevertheless, though this remains the Sultanate's firm stance against terrorism, we find ourselves obliged, in this respect, to emphasize that combating violent extremism and terrorism can only be achieved and confronted by the cooperation of the international community, and treatment of

international issues and international events wherever they occur from one angle and a fixed standard that is not influenced by any political and economic considerations, and on well-founded balance based on justice and clear rules, in addition to the need for in-depth study and analysis of the causes of terrorism in the spirit of transparency, fairness and impartiality in order to address and correct the practices that led to the aggravation and spread of these causes. Furthermore, it is of significant importance to distinguish between national resistance, as a tool guaranteed by all heavenly religions and the position to exercise the right to be free from occupation, oppression and servitude, and the terrorist acts carried out by individuals or groups outside the law. Emphasizing, in this regard, the Sultanate's keenness to do anything that would strengthen international cooperation in order to combat this type of crimes and to track the perpetrators.

Distinguished participants, regarding the subject of "International Law in Cyber Space", the Sultanate of Oman would like to express its sincere gratitude and appreciation for the valuable efforts, undertaken by the Secretariat of the AALCO and the creation of the Open-Ended Working Group in the field of cyberspace. The Sultanate of Oman also expresses its agreement with the conclusions reached by the Member States at the previous Session and the conclusions reached by the Working Group at its meeting held from 9 to 10 February, 2017 on the importance of creating unified international laws and regulation, with binding force under the umbrella of the United Nations to regulate the various aspects in relation to cyberspace, such as the sovereignty of states, cybercrimes, and the applicability of International Humanitarian Law, in addition to the importance of following-up on the studies and research that is being carried out by other international organizations, benefitting from the results thereof, and exchanging information and experiences.

Based on its belief of the importance of cyberspace and its effect on economy and social life as well as on other vital sectors such as transportation, services, and energy, my country has established each of the Telecommunication Regulatory Authority and Information Technology Authority, and granted them legal personality, and administrative and financial independence to have supervision over this vital field for the aim of meeting the needs of society and its aspirations as well as in pursuit of supporting the aims of the government towards a sustainable economy built on know-how and development of electronic services. In addition, necessary legislation have been promulgated for the aim of regulating this space and its uses, the most important of which are the Law on the Regulation of Telecommunications that was promulgated in 2002, and the Electronic Transactions Law that aims to eliminate any obstacles or challenges in the face of electronic transactions, and to promote the development of the necessary legal foundation to apply the electronic transactions in a secured way. The Sultanate of Oman, in realization of the negative impacts that might result from the misuse of cyberspace, also promulgated a special law to counter information technology crimes in 2011 to enhance the safety of information and security in cyberspace as well as to counter cyberspace crimes (I.T. crimes). Furthermore, the Sultanate of Oman has established the Oman National Computer Emergency Readiness Team (OCERT), which aims to build and enhance security awareness, analyses security risks and threats, and train national professionals in the field of information technology, as the Centre seeks to coordinate with the relevant authorities to organize awareness lectures for all segments of society, especially the youth, to educate them about cybercrime, particularly extortion crimes.

Whereas the uses of cyber space transcend national boundaries, this necessitates undoubtedly concerting and unifying the international efforts to find the necessary legal framework. The UNICITRAL has played a tangible role in this respect; however, its role has been limited to the commercial side. While the matter is wider than this, and has dimensions affecting the sovereignty of States over its territories and its security as well as it is associated with the privacy of users, intellectual property, and protection from cyberspace crimes, the solution lies in finding a legal regime at the international level to be the legal umbrella that governs cyberspace generally, and the activities related to it. And we look forward in this regard for the contribution of our distinguished Organization (AALCO).

Your Excellency the President, we would like to express our agreement to the statement delivered by the Secretary-General of the Organization at the beginning of our general discussions, in which he presented his report on the works of the Organization. We observe that tremendous efforts are being exerted to improve the methods of works of the Organization and enhance its role in all fields, and we believe that time has come for the Organization to make its Members feel that the legal services it provides and the defense of their positions in the international platforms it guarantees are indispensable to them, which consequently enhances their loyalty towards the Organization and attract more States to join.

Your Excellency the President, to conclude, it is my pleasure and the pleasure of the delegation of my country to express our gratitude to all Staff of the Secretariat for the constructive and continuous efforts they have been making in the preparation of this Session and supervision of the implementation of the resolutions and recommendations made. We would also like to express our sincere thanks and gratitude to the Government of the Republic of Kenya for the care and generous hospitality we received; hoping success for all, and the prevalence of peace and prosperity in every corner of the world.

Thank you for your kind attention, Aslalam Alikom Wa Rahmat Allah Wa Barakatah.

President: I thank the Leader of Delegation of the Sultanate of Oman. Now I invite the Leader of Delegation of the People's Republic of China. You have the floor sir.

His Excellency, Mr. Xu Hong, Director General, Ministry of Foreign Affairs and the Leader of Delegation of People's Republic of China: Mr. President, on behalf of the Chinese delegation, I would like to extend warm congratulations on your election as President of the Fifty-Sixth Annual Session of the Asian-African Legal Consultative Organization (AALCO). I believe under your able leadership, this Annual Session will achieve fruitful results.

Since the Abuja Annual Session in 2012, the delegates from AALCO Member States gather together again on this beautiful continent of Africa. It firmly demonstrates the spirit of solidarity and cooperation of AALCO. In this connection, I would like to express my great appreciation to the Kenyan Government for their efforts in hosting this Session. I would also like to express my sincere thanks to the Secretary-General Professor Kennedy Gastorn and his secretariat team for their hard work. I can assure you that the Chinese Delegation will work closely with you and other delegations to jointly promote this Session to full success.

Mr. President, last year witnessed the 60th Anniversary of AALCO and the Member States reached consensus on strengthening cooperation and promoting revitalization of AALCO in the

new era. The theme for the general debate of this session, Rule of law, Multilateralism and the Role of International and Regional Organizations in the changing world scenario, is quite relevant and accurately reflects the significant challenges the contemporary world is facing.

In January this year, as a response to the complicated international situation, Chinese President Xi Jinping put forward China's proposition on building a community of shared future for mankind and achieving shared and win-win development in his speech at the United Nations Office at Geneva. This vision demonstrates the spirit of multilateralism, peaceful consultation, openness and cooperation, which is of great relevance to AALCO as well. Therefore, I would like to humbly suggest that AALCO further its work in the following aspects:

Firstly, to staunchly support multilateralism. Currently disputes and conflicts still exist in some parts of this planet while unilateralism and protectionism emerge and bring uncertain impact on international political and economic order. Multilateralism is the effective approach to maintain peace and promote development. Thus AALCO Member States should work together to adhere to multilateralism, persist in peaceful dialogue and consultation, so as to assist AALCO to play a more active role in maintaining international peace and stability, promoting development and prosperity of the world.

Secondly, to avidly promote international rule of law. The UN Charter is the core of international rule of law. AALCO Member States should jointly safeguard the principles and purposes of the Charter, actively promote the international order to be more just and equitable, and strive to make global governance system reflect the wills and interests of the majority of the international community instead of being abused by a few countries.

Thirdly, to actively participate in relevant legislative processes under the framework of international and regional organizations. AALCO Member States should further promote the revitalization of AALCO and encourage it to expand participation in the major processes of international law, so as to reflect Asian and African countries appeal timely and increase its voice in international and regional organization like UN. Under the able leadership of Secretary-General Professor Gastorn, AALCO constantly made new progress over the past year. The Secretary-General also put forward great blueprint aimed at strengthening AALCO's capacity building, which I highly appreciate.

Mr. President, as the first signer of the UN Charter, the Chinese Government attaches great importance to international rule of law, adheres to multilateralism and plays an active role in international and regional organizations like UN. China is a firm defender and constructive builder of international rule of law, adhering to the accepted fundamental principles of international law and faithfully fulfilling its obligations under relevant international treaties. China believes that Asian and African countries are important forces in safeguarding and promoting international rule of law, and will continue to work with Asian and African countries to make the global governance system more just and equitable in the future.

In the middle of this month, China will host the Belt and Road Forum for International Cooperation (BRF) in Beijing. The Belt and Road is an initiative raised by China to push forward international economic and trade cooperation and cultural exchanges, which demonstrates the spirit of achieving shared growth through consultation and collaboration. It is also a significant public good that China offers to the international community. There are many

AALCO Member States participating in the cooperation under its framework already. We sincerely invite Asian and African countries to take part in the constructions of this initiative, and are willing to conduct dialogues and exchanges with all Member States on relevant issues of international law.

The Chinese Government firmly supports the work of AALCO and initiated the establishment of China-AALCO Exchange and Research Program on International Law during the Annual Session in Beijing to facilitate the revitalization of AALCO. The first two training sessions, in which more than 60 trainees from 38 Member States participated, have been successfully held under the program so far. The 3rd training session will be held in Beijing in early September this year, and all Member States are welcome to participate in this session.

To conclude, I wish the Fifty-Sixth Annual Session of AALCO full success.

Thank you, Mr. President.

President: I thank the Leader of Delegation of the People's Republic of China. Now I invite the Leader of delegation of the United Arab Emirates.

His Excellency, Ambassador Abdullah Hamdan Al-Naqbi, Director of the Legal Affairs Department, Ministry of Foreign Affairs and the International Cooperation and the Leader of Delegation of the United Arab Emirates:⁴ Mr. President, I extend my thanks and appreciation for the government of Kenya and the people of Kenya for hosting this Session and extending a warm and kind hospitality to us. It also gives me pleasure on behalf of the delegation of my country to extend the warm regards and congratulations on the occasion of your election as President of this session. I am confident that given your valuable experience, we would be able to attain our goals through the deliberations of the Session.

I also welcome the delegation of the Socialist Republic of VietNam to join the Organization and we are sure that its contributions would enrich the proceedings and work programmes of the Organization. I would like to take this opportunity to express my thanks to His Excellency, Dr. V.D. Sharma, the President of the Fifty-Fifth Annual Session of the Organization, for putting in efforts to make the Session successful during his tenure. We appreciate the efforts of the Secretary-General His Excellency, Prof. Kennedy Gastorn in developing the works of the Organization and coordinating the work of the Sessions.

Mr. President, our Organization has been diligently working since it was established as a consultative Organization. It encompasses the best of the experiences in the domain of law to improve and develop the Asian-African cooperation and discussing the significant issues concerning our State in the domain of international law. Its work programme has attained a tangible progress that it has come now to cover most of the concerns of our State on the international level consolidating our mutual understanding and our cooperation as a homogenous stand vis-a-vis these issues.

Mr. President, in view of the trying circumstances which some of the affected Countries are going through, we fully adhere to the rights of the asylum of the migrants to a dignified

⁴ The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

humanitarian treatment and dealing with these individuals keeping in view the fact that they are citizens of their countries and they have every right to return to their countries after the situation attains normalcy. The State of the United Arab Emirates (UAE) attaches a great deal of importance to helping and assisting the needy and the initiative in various humanitarian issues in constructing camps in order to help the migrants or providing the material help regardless of the geographical, religious, ethnic and cultural dimension thereby UAE becoming the first donor State on the global level for the humanitarians helps measuring the national income.

Likewise, we appreciate the importance of the complete segregation between the migrants and the labour in rights and the essential needful. The UAE acknowledges the right to work for all and it has worked on attracting the skilled and efficient labors from across the world to live in peaceful coexistence. UAE provides all the means of a dignified life ensuring that the labor force abides by the laws and regulations of the countries they are working in their capacity as temporal labours and will return to their respective Countries over the expiry of the validity of their work contracts.

Mr. President, since its establishment, UAE has been making concerted efforts to counter the menace of terrorism and the extreme violence. It has focused on the values of the justice and respect for others besides its approval of a comprehensive strategy to deal with terror and the extremism. UAE has worked on all the themes pertaining to the media, social, cultural, religious and legal domains. It has promulgated anti-terrorist crimes law and consolidated its cooperation with the international forum to counter the terrorism and the extremism and hosting an International Guidance Centre to cope with the violent extremism and we call upon the Secretariat of the Organization to improve and advance the cooperation with the Guidance Centre in order to exploit its experiences in this field, in addition to inviting all the Member Countries to take benefit from the experiences of this important Centre on the international level.

UAE has developed its legislations by issuing anti-apartheid and hate law and also criminalising the acts associated with disdaining the religions and disparaging their sacrosanct institutions. Added to it, it has pledged to cope with all forms of the discrimination and discarding the hate discourse along with criminalising the discrimination between the individuals and the groups on the basis of religion, creed, faith, ethnicity, group, colour or the ethnic origin and countering the exploitation of the religion in declaring individuals and groups as infidel.

Mr. President, in the last, we are thankful to you for organising this conference in such a good way wishing success for the proceedings of the conference as we have right to express our interventions with regards to the topics that would be discussed in our meeting.

President: I thank the Leader of Delegation of the United Arab Emirates for his statement. Now I invite the Leader of Delegation of the Islamic Republic of Iran. You have the floor sir.

His Excellency, Mr. Hossein Panahi Azar, Director General for International Legal Affairs, Ministry of Foreign Affairs and the Leader of Delegation of Islamic Republic of Iran: “In

the name of God, the Compassionate, the Merciful". Mr. President, Excellency Prof. Kenedy Gastorn, Honourable Ministers and Attorney Generals, Excellencies, Distinguished Delegates, Ladies and Gentlemen, it is a real pleasure to address this august meeting to highlight my delegations' main remarks as the General Statement at the Fifty-Sixth Annual Session of AALCO.

At the beginning, allow me to express my gratitude to the Government of Republic of Kenya for the excellent arrangements made and their warm welcome. I should also thank the AALCO Secretariat for their excellent work in organizing this Session. I also find it imperative to wish all the best for His Excellency, Professor Dr. Kennedy Gastorn, Secretary-General of AALCO, for this first annual Session in His Excellency's tenure. My delegation also wishes to congratulate His Excellency, Honorable Prof. Githu Muigai, Attorney-General of Kenya, Government of Republic of Kenya, on his election as the President of the Fifty-Sixth Annual Session. Our congratulation also goes to Her Excellency Dr. Vilawan Mangklatanakul, Deputy Director General for the Department of Treaties and Legal Affairs of the Ministry of Foreign Affairs of Thailand, for her election as Vice President. Under your able leadership, we are confident that the Member States will experience a remarkable Session. You may count on my delegation's full support and cooperation.

Mr. President, as the only international legal Organization whose membership spans two continents, the Asian-African Legal Consultative Organization plays a vital role in providing a platform for its Member States to voice their stance in international legal matters. Cognizant of this role, the Islamic Republic of Iran continues to support AALCO and attempts to do its best in upholding its underlying tenets.

Mr. President, Excellencies, Seventy years past the adoption of the Charter of the United Nations, we witness utter failure by certain States in respecting the most fundamental principles upon which the United Nations and the international community as a whole are hinged. At this juncture, disrespect for fundamental principles of international law, as enshrined in the United Nations Charter and an endangered rule of law seem to be the highlighted pieces of the patchwork of the failing achievements of the international community in the 21st century.

While the scourge of violent extremism and terrorism has created havoc all over the globe, the fight against this phenomenon has, at times, appeared to reveal a self-devised justification to unilateral resort to force in blatant violation of equal sovereignty of States, their territorial integrity and political independence. Millions of people have been killed, injured and displaced as a result of terrorist activities and yet much of the terror has been created in the name of fight against terrorism. Numerous fundamental principles of the UN Charter have been invoked by certain States to break, rather than bend, the existing law on use of force. More specifically, article 51 of the UN Charter has been abusively invoked on numerous occasions to justify resort to force in the fight against extremist terror; even more surprisingly, some instances of unilateral resort to force, despite their total illegality and absolute illegitimacy, have gained political support from several Member States of the United Nations. This not only endangers the sanctity of the well-established principles of international law as enshrined in the UN Charter, but it also undermines rule of law at the international level by demonstrating sheer disregard for the international legal system and ignoring such vital prohibitions as prohibition on threat or use of force, which has, since long, emerged as a norm of *jus cogens*. My delegation would like to

emphasize strict adherence to cardinal principles of international law as enshrined in the United Nations Charter, and invite AALCO Member States to uphold these principles in international relations, refrain from approving any abuse thereof and further protect the achievements of the Charter.

In the same line, we commend the work done by the Secretariat and the Member States for their endeavor in approaching the diverse legal aspects of violent extremism and terrorism. In the wake of the horrible atrocities committed by the so-called Islamic State in Iraq and Levant (Da'esh), which had already been alarmed by the Islamic Republic of Iran via proposal of the resolution 68/127 entitled "the World against Violence and Violent Extremism" or "WAVE" on 18 December 2013, the progress of the work done by the Member States resulted in the introduction, by the Secretariat, of AALCO Principles and Guidelines to Combat Violent Extremism and its Manifestations. While the Secretariat developed alternative options for the way forward, we are of the conviction that the discussions and deliberations held by the Member States, including yesterday's debate in the Working Group, have already contributed much to our understanding of the challenges posed by the issue. While appreciating the work of the Secretariat on the topic, the Islamic Republic of Iran will extend cooperation on the topic end and will support the unanimous decision of the Member States in this regard.

Mr. President, Distinguished Colleagues, the concept of sovereign equality of States is an essential element in upholding the rule of law in the international legal system. In this context, the principle of State Immunity is one of the cornerstones of the international legal order and a rule of customary international law codified in the United Nations Convention on Jurisdictional Immunities of States and their Property. Its primacy has also been recognized by the international community of States, all legal systems and the International Court of Justice, which in its ruling of 3 February 2012 in the case concerning Jurisdictional Immunities of the State (Germany v. Italy) reaffirmed the principle. Claims against a sovereign State must be pursued either in accordance with mechanisms provided for in bilateral or multilateral agreements or through international courts or tribunals, as appropriate; and not by national courts. This includes immunity from jurisdiction and immunity from enforcement, the latter of which tolerates no exception. It is a matter of grave concern that some countries seem to believe that they can easily defy and breach the fundamental principle of State Immunity by unilaterally waiving the immunity of States under a groundless legal doctrine that the international community does not recognize. The Islamic Republic of Iran rejects the unilateral and unlawful decisions by certain States in this respect, and holds those States responsible for their actions, and is determined to take every lawful measure to preserve its rights.

Mr. President, another commendable attempt made by AALCO has been to include on its agenda the challenging issue of "International Law in Cyberspace". Initially proposed by the People's Republic of China during the Fifty-Third Annual Session of AALCO in Tehran in 2014, the work on the topic led to the establishment of the Open-ended Working Group on International Law in Cyberspace which met once at the Fifty-Fifth Annual Session in 2016 and has held one inter-sessional meeting two months ago. While we hail the launch of the Study prepared by the AALCO Secretariat on the topic, we are confident that the work will have a successful outcome; and that we will come to a proper understanding about the diverse aspects of international law in cyberspace, including but not limited to, jurisdiction and sovereignty, cybercrimes, and cyber

warfare. With these, I conclude my Statement. Let me hope that all of us will experience a successful Fifty-Sixth Session and that AALCO, with the help of all the Member States, will take another step in realizing the goals it was established for.

Thank you Mr. President.

President: I thank the Leader of delegation of the Islamic republic of Iran for his statement. Now I invite the Leader of Delegation of Sudan to make her statement. You have the floor madam.

Her Excellency, Mrs. Tahani Ali Mohammed Ali, State Minister at the Ministry of Justice of Sudan and the Leader of Delegation of Sudan⁵: Honorable Ministers of Justice and Attorney Generals, Heads of the Delegations, Distinguished Representatives and Observers , Ladies and Gentlemen, at the outset, I would like to express my deep gratitude and appreciation to the President and the Government of Kenya for hosting the Fifty-Sixth Annual Session of the AALCO on its lands located in the heart of the African continent.

I am pleased with the participation of Sudan in this meeting which is being held in the beautiful city of Nairobi which is privileged to enjoy a beautiful and attractive nature that reflects the beauty of the African continent and its civilization.

Sudan has deep appreciation for the State of Kenya and its city Nairobi especially as a neighbour bound by cultural, geographical and historical relations over the stretch of the history. Also Sudan has deep appreciation for the Asian and African countries for having solid stands regarding the international repercussions and developments.

I would also like to express my appreciation and deep gratitude to the Secretary General of the AALCO and its secretariat to organize this session in such an accurate, integrative and organized way.

My greetings and appreciation to all the participants in this Session and thanks to all of you for providing the opportunity to present the words of Sudan regarding the repercussions and the legal developments which are being witnessed by Sudan during this period also the international legal repercussions including the topics which the Session would embark on.

Mr. President, this Session is being held at a time when the whole world is witnessing some significant developments and state of affairs which are firmly associated with the sovereignty of the provisions of the International Law as represented in the regional and International agreements and charters. There is no doubt that the sovereignty of the law is linked with the stability of the countries and achieving the peace therein. It means that the threat and flouting the concept of the sovereignty of the law and its non-application means the instability of the States and non-realization of the peace therein.

AALCO played a very active role in determining the legal concepts of all the repercussions of the International Law thereby giving birth to an active consultative legal organization in the framework of the International Organization of United Nations also in the framework of the regional organizations on the level of Asian and African continents.

⁵ The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

Mr. President, every African and Asian country knows the commitment of Sudan to the provisions of the International law and the International Charters. As they are represented in Sudan adopting all the provisions of the International Law and the agreements in all the fields in accordance with the current constitution of Sudan and amendments which were later made to it.

Mr. President, I have already spoken before the meeting of the esteemed organization in the Fifty-Fifth Session, that Sudan is witnessing an integrated development in the political arenas and I conveyed to you all the topic of the national dialogue adopted by the President of Sudan to unify all the political parties and factions towards a comprehensive and unified Sudan. Sudan is witnessing these days the fruit of the National Dialogue which brought out results in all the societal, cultural, security, economic and political spheres and other fields.

Sudan has adopted in this regard an integrative constitutional framework for the results of the national Dialogue that led to a comprehensive national accord.

The legislative authority of Sudan approved and the President has signed on the integrated constitutional amendments. These constitutional amendments included the setting up of the National Council of Ministers and similarly appointing the Head of the Council of Ministers by the President of the Country including determining the tasks of the National Council for Ministers and the tasks of the Head of the Council.

The Constitutional amendment also stipulated on the provisions of the transition of the Executive Authority in which the President would form the government of National Accord before the elections and the aforesaid amendment has also determined the duties of the government of National Accord and the Government of National Accord would be formed during this week. The Constitutional amendments have also approved of establishment of an independent prosecution department that would represent the State and the Society in the public prosecution and the criminal issues. In accordance with it, the prosecution department has been separated from the Ministry of Justice.

Mr. President, the method adopted by Sudan in the framework of the dialogue and the National Accord and the Constitutional amendments represents a comprehensive application of the sovereignty of the law and the good governance which Sudan has been calling for.

Mr. President, Sudan continued facing the one-sided economic sanctions during the previous period and now all thanks to Allah the Almighty that in the framework of the demands raised by Sudan, some part of the sanctions have been lifted and we are hopeful that the rest of it would be lifted completely in the days to come.

Mr. President, as I mentioned earlier that Sudan in addition to its commitment to implementing the internal political agreements, also abides by the international agreements related to the Human Rights which are considered to be a part of the constitution of Sudan and which have been incorporated in the constitution in a full chapter known as “Document of Freedoms and Human Rights”

Sudan also abides by all the International agreements meant to counter the transnational organized crimes and protocols attached to these, especially the ones related to the anti-human trafficking as Sudan ratified an Anti-Transnational Organized Crimes Agreement and the Protocol attached to it; Anti-Human Trafficking Protocol especially women and children and in

implementation of the provisions of the agreement and protocol Sudan has issued an Anti-Human Trafficking law in 2010. In the light of implementing the provisions of the law a national committee for anti-human trafficking was formed which brought out a comprehensive national strategy to counter the Human Trafficking.

In the same context, Sudan has adopted an integrated legal framework to counter the corruption as it has approved of the UN Convention against Corruption. It has also adopted to this end a comprehensive legal framework to criminalize all forms of corruption such Anti-wealth and suspected wealth law and Anti-money laundering law and Anti-corruption commission law has been passed.

Mr. President, Sudan's commitment basically extended to implementing the international conventions in the field of anti-terrorism as Sudan to this end has adopted regional and international conventions in the field of counter terrorism and ratified these conventions and to implement these conventions, it has concluded a number of bilateral agreements of cooperation in this field.

In the framework of the International conventions system Sudan has adopted effective and key conventions in the field of counter terrorism. Some of these conventions are as follows:

- International Convention against Terrorism.
- The 1937 Geneva Convention for the Prevention and Punishment of Terrorism.
- Convention on the Prevention and Punishment of the Terrorism Acts which take the form of Crimes against the Persons signed in Washington 1971.
- International Convention Against the Taking of Hostages 1971
- Convention for the Suppression of Crimes against Aviation Safety.

Similarly, Sudan has also ratified a number of regional conventions in the field of counter terrorism in the framework of the Arab League and African Union.

In the same context, Sudan is opposing all forms of extremism and religious extremism which leads to the terrorism and killing the innocents.

Sudan opposes and condemns the terrorism in accordance with the mere legal concept which is based on the foundations of the International law and the National laws, therefore Sudan continued appealing to the regional and international organizations through AALCO and other conferences to bring out a definite definition for the terrorism so that the term of terrorism cannot become an illegal motive or reason in the hands of the big countries to suppress the people who are fighting for taking back their lands for example Palestinian people.

Mr. President, AALCO in all its meetings accords importance to discussing the Palestinian issue which is regarded an application example to Israel's violation of the provisions of the International Law and the rule of law. And it is for this reason that Sudan is appealing to the African and Asian countries to adopt a specific legal vision with regards to the Israeli actions and policies in Palestine and to framework that vision before the International Organization and United Nations and the African and Asian regional organizations.

Mr. President, the Concept of the International Criminal Court represents a violation to the principle of the Rule of Law and a clear violation of the principles of the International Law. It is likewise considered to be a key issue in the framework of the concept of the International justice as this Court constitutes a contradictory approach to the functioning of the International law and the International legitimacy which puts the International Law system at the crossroad.

For example here we can talk about the resolutions of the International Criminal Court against Sudan, which were against the principles and the provisions of the international law, with regards to three key issues as following:

- 1- Sudan is not a member of the Rome Statute establishing the International Criminal Court which means it is not a party in any agreement or treaty of Rome and hence the special provisions are not applicable to it as it is established in accordance with the provisions of the International Law in general and the Vienna Convention on the Law of Treaties 1969 in particular.

Vienna Convention on the Law of Treaties does not mandate but the member parties who agreed to conclude it and were satisfied to its provisions in accordance with the necessary measures thereof, and it becomes distinct through the provisions approved of by the Vienna Convention as the following:

Article (2) Para (1) (A) of the Convention has specified the definition of the treaty by agreement.

The stage of expressing the satisfaction over association with this convention is the basic stage for determining the extent of the approval of the State and its commitment with the provisions of the Convention and it was approved by the Vienna Convention in the article (2) Para (1) (B).

The Convention likewise has mandated the ratification on the convention so that the State can be a member of the convention and abide by its provisions and this is what has been stipulated by the Convention as necessary condition for the validity of the provisions of the Convention for the State and Sudan did not ratify the Convention and hence it does not abide by it based on its constitution which makes the ratification of it mandatory as a basis for the State to abide by it.

- 2- Violation of the UN Charter by the International Criminal Court:
Charter of the United Nations and the Principles to which the resolution is contrary to it are;
 - Principle of Justice which the preamble of the charter has also approved of and also article (2) of the charter that the “The Organisation is based on the principle of the sovereign equality of all its members”.
 - The contravention of this court to the bases and foundations of the International Law became distinctly clear to the International Community which led many countries to withdraw from this Court and Sudan calls the Asian and African countries to adopt a unified legal vision to withdraw from this court and reject the decisions issued from it.

Paragraph (44) of the Annotated Agenda for the Fifty-Sixth Annual Session of AALCO referred to a request made by Sudan to add a new item in the Agenda which is related to “the authority of UN Security Council in referring issues and cases to International Criminal Court, under the provisions of international law”. The delegation of my country will present an international legal paper which analyzes the UN Security Council Resolution 1592 of 2005. We request Member States to approve the inclusion of this item in this Fifty-Sixth Session to find its course of discussion at the next Fifty-Seventh Annual Session after taking note of what Sudan provides.

Mr. President, after reviewing all the repercussions and the legal developments which are being witnessed by Sudan and which Sudan is appealing for, let me point out to the topic which was also discussed during the previous session of our esteemed organization, we would also talk about it in this ongoing session and it is international law to protect the cyberspace and Sudan has adopted this suggestion and supports the move to framework an International law for this purpose with regards to the importance of the role which can be realized by international law for protection of cyberspace and also to achieve the international cooperation in warding off the cybercrimes including the cyber piracy and the cyber terrorism and all forms of space communications related crimes. Therefore, Sudan appeals the AALCO to adopt this suggestion and take practical measures in this regard.

Mr. President, at the end of my talk, I would like to extend my sincere thanks to the Republic of Kenya and also to AALCO for providing the opportunity to Sudan to present its vision regarding the International legal repercussions. I wish the discussions and deliberations to be fruitful for the participants in this session and a nice stay for all.

President: I thank the Leader of Delegation of Sudan for sharing her views. Now I call upon the Leader of delegation of Tanzania to make his statement. You have the floor sir.

Hon’ble Prof. Palamagamba Kabudi, Minister for Constitutional and Legal Affairs, Ministry of Constitutional and Legal Affairs and the Leader of Delegation of the United Republic of Tanzania: Your Excellency, Prof. Githu Muigai, The President of the Fifty-Sixth AALCO Annual Session, Dr. Vilawan Mangklatanakul, the Vice President of the Fifty-Sixth AALCO Annual Session, Dr. V.D. Sharma, President of the Fifty-Fifth AALCO Annual Session, Prof. Kennedy Gastorn, Secretary General of AALCO, Hon Ministers, Attorney Generals from AALCO Member States, Your Excellency, High Commissioners and Ambassadors, Heads of Delegation of AALCO Member States and Non- Member States, Heads of International Organizations, Distinguished Guests, Ladies and Gentlemen.

Mr. President, on behalf of my delegation, the Government and People of the United Republic of Tanzania, I want to extend my appreciation for this opportunity to address this august Assembly. This is indeed a privilege and honor for me as I join you for the first time.

Let me join other delegations in congratulating you, Mr. President and the Vice President for being elected to lead this Annual Session and work of this Organization in the coming year. We wish to assure you Mr. President and the Vice President of our support during your tenure as President and the same support will be extended to the Vice President as both of you embark to lead our Organization.

Let me also express, on behalf of my delegation, our sincere appreciations to the outgoing President, for the accomplishments he has made over the past year.

In the same manner, let me thank the Secretary General a student and a Colleague, Prof. Kennedy Gastorn for spearheading the work of our Organization since he assumed the position of the Secretary General in August 2016. In doing so, I also join others in commending the Secretariat for rendering support to him and to appeal that such support prevails during the entire tenure of Office. To the entire Secretariat, including those behind the scene, we wish to recognize the efforts and energy that has been dedicated in preparing for this session. We thank you very much.

Mr. President, in a very special way, my delegation wishes to thank our host, the Government of Kenya for offering to host this session. We express our appreciations to the Government and People of the Republic of Kenya for the warm reception and hospitality extended to us since our arrival in this beautiful City of Nairobi.

I wish to convey to you all warm greetings and felicitations from His Excellency, Dr. John Pombe Joseph Magufuli, and the President of the United Republic of Tanzania. President Magufuli has wished us a very successful Annual Session.

Mr. President, the growth and development of AALCO since its inception in 1956 has been quite exemplary and appealing. Its advisory role after its establishment was particularly important for newly independent states which were faced with challenges relating to boundary issues, succession to treaties, treatment of foreigners and their properties. In the 70s, the role of AALCO became more evident through its contributions in the codification of international law and as a result it became internationally acknowledged.

We have entered a new era where AALCO's significance in the development of international law is being revitalized due to new phenomenal developments in science technology and society. It is common knowledge that the rise of the internet and specter of terrorism has challenged the basic norms of international law in so many ways. Since its establishment in 1956, AALCO has achieved many successes in upholding fundamental norms of international law from the laws governing diplomatic relations, environmental legal regime, state immunities, international boundaries, human rights law, humanitarian law, trade and business, commercial transactions, forced occupation, terrorism, blue economy; to issue of law of the sea, conflict resolution and the like. AALCO has also continued to actively contribute in developing the requisite jurisprudence and legal regime, including the codification of the international law.

However, we should not be contented in any way; we should instead strive to address the enormous challenges ahead of us. It is imperative that we preserve our consistency and unity and strive to maintain the underlying principles of this Organization. Indeed, we need to embrace the core values and, more importantly sustaining those ideals which are still valid and relevant. It is gratifying to note that because of its relevance, this Organization continues to attract more members, which will certainly make it stronger. On this note, I wish to congratulate Socialist Republic of VietNam for joining the AALCO family. We do hope to see the numbers increase each year.

Mr. President, the United Republic of Tanzania believes that Member States will continue to work together to advance the philosophical foundation of our Organization in upholding the rule of law, the international legal regime and more importantly, in finding home grown dispute solutions. As we all know, we are in the second year of implementation of the 17 Sustainable Development Goals (SDGs), adopted in September 2015. Only next year, there will be a review of Goal 16 which is relevant to our Annual Sessions. We need therefore to share each one's experiences in this important area.

The United Republic of Tanzania is undertaking various measures in upholding the rule of law, by making all organs responsible for dispensation of justice easily accessible to all people regardless of their social, political and economic strata. These undertakings includes but not limited to the administrative, policy and legal measures. The United Republic of Tanzania remains committed to the implementation of AALCO mission and vision by adhering to international legal rules on human rights, humanitarian law, rule of law and good governance, refugees, counter-terrorism, protection of environment and endangered animals, and cyberspace, etc.

It is on record that Tanzania has continued for the past four decades to host huge number of refugees because of her history of tranquility and the geo-political position that makes it a refugee-prone country. The continuing political instability in the Great Lakes neighbours means that we will continue to experience the influx of refugees in the near future. Whereas we continue to host these refugees, we also continue to support peace processes in the region as a durable solution for the refugee problem. We therefore appeal to all Member States to join these efforts.

Mr. President, in the case of terrorism, the horrific terror attacks in Nairobi and Dar es Salaam in 1998 were tragedy to our people and remain unforgettable. The increasing rate of similar such attacks and other radical incidents have culminated in the loss of thousands of innocent people and destruction of properties. As such, they continue to undermine our national, regional and global efforts to eradicate poverty and the achievement of sustainable development.

In fighting against terrorism, Tanzania enacted in 2002 a specific legislation – ‘The Prevention of Terrorism Act 2002’ as well as the ‘Anti-Money Laundering Act in 2006’ to combat the financing of terrorism. A Financial Intelligence Unit was subsequently established to deal with money laundering issues. Furthermore, we have in place a National Counter-Terrorism Centre (NCTC) which is an inter-agency entity that coordinates counter-terrorism efforts. Equally important, we have continued to be a part of both the regional and international terrorism grand strategic plans for enhanced international cooperation.

In closing, Mr. President, allow me, once again, and on behalf of my delegation to reiterate Tanzania's commitment to the work of the AALCO and our readiness to partner with the State Members. Tanzania will continue to render all the necessary support to Secretary-General and his team as they pursue the noble goals of this Organization.

I thank you, Mr. President.

President: I thank the Leader of delegation of Tanzania for his statement and now I call upon the Leader of delegation of the State of Kuwait to make his statement. You have the floor sir.

Mr. Ali Haih Al Salman, Assistant Under Secretary, Ministry of Justice and the Leader of Delegation of the State of Kuwait⁶: His Excellency, Prof. Dr. Kennedy Gaston, Secretary-General of AALCO, Excellencies and Leader of Delegations, Ladies and Gentlemen and the August Gathering, I extend to all of you my highest regard and appreciation thereby expressing my hopes that this meeting would achieve its objectives completely and realize what our people want from us in the light of the trust that we have assured to them.

Ladies and Gentlemen, there is no doubt that the agenda of this Session is replete with a number of topics concerning the law and real issues which are needed to be discussed thoroughly in the light of what and how possibly they could impact our countries.

In this context, the State of Kuwait is fully confident that the realization of the just demands raised by the people in achieving the self-determination and provision of the free choices being available to them as well as the means for a secure life and stability are some of the matters which are considered to be the basic pivots which support the human race rather than the components of the civilized humanitarian civilization which all the faiths and celestial legislations call for. These were the issues that necessitated the inclusion of the Palestinian issue in the agenda of the Organization since the 27th Session of the Organization held in 1988 in Singapore which continues to be discussed even in our current Session.

At this place, I wish to emphasize the fact that we cannot overlook what the Israeli occupying authorities are doing in terms of violation of all the international covenants, charters and norms concerning the human rights and the rights of the occupied people to self-determination.

On the other hand, and as regards the agenda of the Organization related to the terrorism and the violent extremism, I would like to grab the opportunity here to assert that terrorism has come to pose as one of the most dangerous national and international phenomenon whose danger recognizes no boundary or extent or any faith. There is no doubt that exterminating terrorism requires successfully combating the crimes that support it, which requires today that efforts are made on our part at both regional and international level to counter and nip these crimes in the bud including doing away with the factors and reasons behind them. We also need to work together in order to protect our national, regional and international society from its gigantic repercussions which are posing a threat to the interest, peace and stability of our countries. Similarly, within the spectrum of the pioneering role played by the Organization in doing follow-up of the latest developments of UN International Law, I and the delegation of my country aspire through this special meeting concerning terrorism during our Session, on reaching a comprehensive treaty on International Terrorism.

In a related context, the delegation of my country looks with deep keenness at the quality of other items listed in the agenda of the Organization, on the top being the issues concerning the treatment of the migrants including the research issues pertaining to the proceedings of the International Law Commission.

In the end, I extend my deep sense of thanks and appreciation to this auspicious gathering hoping that our esteemed Organization achieves its lofty objectives through this meeting.

⁶ The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

I also thank all of you for listening to me in such a good way and I expect from Allah the Almighty that He makes us capable and successful in discussing these important issues and items. I wish this meeting a grand success.

President: I thank the Leader of delegation of the Kingdom of Saudi Arabia. Now I invite the Leader of delegation of the Republic of Indonesia. You have the floor sir.

His Excellency, Mr. Soehardjono Sastromiharojo, Ambassador of the Republic of Indonesia to the Republic of Kenya and the Leader of Delegation of the Republic of Indonesia: Mr. President, at the outset, allow me, on behalf of the Indonesian delegation to congratulate you, on assuming the office of the President of the Fifty-Sixth Annual Session of the AALCO. I am confident that under your able guidance and stewardship, the Session will bear fruitful outcomes. Rest assured, Mr. President the full support and cooperation of the Indonesian Delegation to the success of this auspicious Session.

In the same vein, I would like to convey our sincere appreciation to the Government and the peoples of the Republic of Kenya for its warm welcome and generous hospitality afforded to the Indonesian Delegation. Furthermore, the Indonesian Delegation would also like to commend the AALCO Secretariat and Organizing Committee from the Ministry of Foreign Affairs of the Republic of Kenya for the excellent preparations and arrangements made for this important Annual Session.

Mr. President, Indonesia reaffirms its commitment in dealing with refugee issues through measures and cooperation at national and international levels. At national levels as a part of its commitment in supporting the implementation of the New York Declaration for Refugees and Migrants, Indonesia has taken a number of measures, including the enactment of a presidential regulation concerning refugees, and enhancing coordination among relevant national agencies in dealing with the issue.

From our experience, we found that the first humanitarian response is critical in addressing the refugee crisis in our region. Despite not being a party to 1951 Refugee Convention, Indonesia has not averted its humanitarian responsibilities to provide assistance and temporary shelters as well as facilitating arrangements to the refugees that landed on our shores. Voluntary repatriation and resettlement programs will continue to be Indonesia's long term policy.

Mr. President, Indonesia would like to re-emphasize its position for the peaceful settlement of conflict between Palestine and Israel on the basis of a "two-state solution". In this regard, we strongly call for a stop to illegal settlements by Israel in the Palestinian territories. Indonesia's continuous support for the legitimate struggle for the self-determination of the Palestinian people is reflected with recent establishment for the Indonesian honorary consulate in Ramallah, Palestine. Therefore, it remains our fervent hope that there will be a substantial break through that will shed light for the Palestinian people in their quest for independence.

Mr. President, Indonesia shares the views of all Member States of AALCO on the need to enhance our common effort to prevent, combat and counterterrorism in all its forms and manifestations as well as violent extremism. Indonesia also calls for continued efforts to strengthen cooperation at bilateral, regional, and multi-lateral level. Indonesia would also like to stress the importance of a strong and comprehensive national legislation to prevent and combat

terrorism effectively whilst promoting the use of a soft power approach through programs on de-radicalization and raising awareness of the danger of extremist ideologies.

To this end, we would like to inform you that Indonesia is in the process of amending its anti-terrorism law, which will enable the government to address the evolving and emerging nature of this scourge. It will improve our national approach towards more comprehensive strategies which include preventive measures, counter terrorist management and recovery measures in the aftermath of terrorist attacks as well as de-radicalization programs and the protection of witnesses and victims of terrorism.

Mr. President, Indonesia is fully aware on the significant role of the advancement and development of technology, notably information technology, in accelerating access to information in our society. On the one hand, such development may raise tolerance among all elements of society.

On the other hand, we are also of the view that the misuse of the information technology could create negative impacts on the society, in particular to young generation. In this regard, we believe that more is needed are needed to be done to protect our society from the threat of such use of technology for negative purposes.

Mr. President, these substantive issues as reflected in the agenda of this Annual Session underlines the important work and relevance of AALCO in overseeing and part taking activity in working towards a harmonized law amongst States of both regions. A work that countries in Asia and Africa should strive together, as a beacon and voice of the majority of the world's population, in setting the agenda for international law. Finally, allow me to convey my best wishes for this Annual Session to achieve the successful outcomes.

I thank you.

President: I thank the Distinguished Delegate from Indonesia. With this we come to the end of the day's proceedings. There are some announcements which will be made by the Secretariat. I wish you all a good evening and we will meet here at 9.30 AM tomorrow morning.

The Meeting was thereafter adjourned.

VIII. VERBATIM RECORD OF THE SECOND GENERAL MEETING (CONTD.)

**VIII. VERBATIM RECORD OF THE SECOND GENERAL MEETING (CONTD.)
HELD ON WEDNESDAY, 3 MAY 2017 AT 9.40 AM**

Her Excellency Dr. Vilawan Mangklatanakul, Deputy Director General, Department of Treaties and legal Affairs, Ministry of Foreign Affairs and Vice-President of the Fifty-Sixth Annual Session in the Chair.

Vice President: A very good morning to all of you. We will continue with the “**General Statements**” and the first speaker on my list is now I invite the Distinguished Delegate from Sri Lanka. You have the floor.

Hon. H. R. Sarathi Dushmantha, Deputy Minister of Justice, the Leader of Delegation of the Democratic Socialist Republic of Sri Lanka: Good morning Madam Vice-President, President, Secretary-General of AALCO, Excellencies, Distinguished delegates, ladies and gentlemen.

Mr. President, I join the other delegates in congratulating you and the Vice-President on your election to the Fifty-Sixth Annual Session. I believe under your able leadership the deliberations will be fruitful and add to the achievements of AALCO. I also wish to thank the Secretary-General and his team for their good work.

Let me also take this opportunity to welcome our newest member, the Socialist Republic of VietNam. I am sure this august assembly will benefit from the active participation of VietNam in the deliberations.

Mr. President, today, we have assembled here, in this beautiful city of Nairobi, to reassure the harmony we established between countries of two Continents and also to renew and re-iterate our interest in the light of contemporary developments. I am happy to say that, we have been able to heighten the value of regional initiatives and bring about regional harmony. In the modern world, only regional harmony can create a conducive environment for countries to further their national interest.

As an outcome of the historic Bandung Conference, held in Indonesia, in April 1955, we have gathered here as an Organization comprising of almost all the major States from Asia and Africa. It gives me great pleasure to highlight the commitment made by Sri Lanka since November 1956, being one of the founder members when this was originally established as Asian Legal Consultative Committee.

Established with the common aim of developing laws and legal systems of two Continents, we have identified notable concepts such as rule of law, multilateralism and found collectively ways and means to address challenges in the changing world. These are vital concepts and the challenges are real in respect to developing countries and its people.

Mr. President, let me now highlight some of the achievements made by Sri Lanka in the past few years in furthering good governance and upholding rule of law. We have been able to bring an important constitutional amendment known as the 19th Amendment to the Constitution of the Democratic Socialist Republic of Sri Lanka. It was principally aimed to reduce the powers of the

Executive Presidency by restraining abuse and arbitrary use of power. Accordingly, nine Independent Commissions namely, the Election Commission, the Public Service Commission, the National Police Commission, the Audit Service Commission, the Human Rights Commission of Sri Lanka, the Commission to Investigate Allegations of Bribery Corruption, the Finance Commission, the Delimitation Commission and the National Procurement Commission were established for the first time while others were empowered with further powers.

The newly appointed President, who was elected in 2015, took these measures in an effort to give priority to his election manifesto. President Maithripala Sirisena and Prime Minister Ranil Wickramasinghe and their Government took office in 2015 with the mandate to establish good governance and uphold the rule of law. Since then, Sri Lanka has extended its fullest support, assistance and cooperation to international organizations with a view to further and strengthen the mandate of the Government.

Mr. President, it is crucial to respect and acknowledge our common problems and the vision in order to harmonize national and regional interest and come up with realistic and feasible solutions. Each and every State Party has the responsibility to encourage its governments, policy makers, legislators, the Executive and also the political leadership to establish rule of law giving due respect to human values.

The concepts behind the rule of law refers to the principle of good governance in which persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, in the light of international human rights standards. This means that individuals, Institutions and States must abide by the laws and respect each other. It must be regulated in order to meet the emerging need of people in modern digital world. Since we have to address our needs at our own forums and design our future plans, I am very much thankful to AALCO for the decision to bring these areas out at this forum.

As a common agenda, every regional and International Organization should review the needs of Member States and uphold their rights and responsibilities from time to time under a single umbrella. As a result, all Governments, its officials' agents as well as individuals and private entities are accountable under the law. In Sri Lanka, we have regained judicial independence in order to secure and assure the sovereignty of the people. Accordingly, it is aimed to guarantee justice for all, before the law and protect the rights of citizens and give them due respect.

We have recently enacted laws on Right to Information and Assistance to the Protection of Victim of Crime and Witness, which were long overdue. In the same time, it is vital to note that we are in the process of enacting an Audit Bill, Counter Terrorism Act and several amendments to the Codes of Criminal and Civil Procedure Law in Sri Lanka. All these measures are being taken up to protect the rights of litigants, accused and victims.

Mr. President, in conclusion, I would like to reiterate the importance of regional and international initiatives in order to ensure the gist of well-established concepts throughout our continents with the blessing of AALCO. In view of that, we would be able to achieve our goals

ensuring the sovereignty of individual States and at the same time achieve our future development goals.

Mr. President, on behalf of the Sri Lankan delegation I wish you all the best in steering our deliberations to a successful conclusion. Towards this endeavor, I would like to assure my delegations fullest support for the success of this Fifty-Sixth Session. Thank you.

President: I thank the Distinguished Delegate from Sri Lanka and now I invite the Distinguished Delegate from VietNam to make his statement. You have the floor.

His Excellency, Mr. Ton Sinh Thanh, VietName Ambassador to India and the Leader of the Delegation of VietNam: Madam Vice-President, Ladies and Gentlemen, I would like to express my sincere thanks to Mr. President for allowing me to share the views of VietNam at this important forum regarding the rule of law, multilateralism and the rule of international and regional organizations.

I would like to reaffirm that VietNam, as an active, responsible member of the international community, has been promoting the rule of law at national, regional and international levels, supporting the important role of international and regional organizations, in accordance with universal principles of international law, especially the United Nations Charter.

At national level, with the introduction of the Renovation Policies, since 1986, we have made important progress towards the strengthening of our legal system and upholding the rule of law. The State authorities, acting as the power “of the people, by the people and for the people” are carrying their functions and duties in accordance with the Constitution and State laws. The State authorities have been working to protect and ensure the rights of the people and citizen towards the ultimate goals of prosperity, democracy and justice in a society where everybody is entitled to enjoy prosperity, freedom and happiness. The Constitution and the State laws hence have served as a legal mechanism to protect the rights of the people and as the tools for the achievement of our goals.

At the regional level, in recognizing the important role of ASEAN, VietNam has been actively working together with the other ASEAN Member States to build an ASEAN Community which is politically coherent, economically integrated and socially responsible, making Southeast Asia a region of peace, stability and prosperity.

VietNam has also been actively working together with Member States of other regional organizations in Asia-Pacific, Africa, Latin America and in Europe to promote and strengthen cooperation to achieve long-lasting peace, stability and prosperity for our peoples.

At the international level, VietNam upholds the principle of respect for the rule of law. VietNam considers it as fundamental factor for the promotion of friendly, cooperative relations and equality among nations, for peaceful resolution of international disputes, for the assurance and maintenance of international peace, security and sustainable development goals of the Agenda 2030 adopted by the United Nations in 2015.

VietNam acknowledges and emphasizes the central role of the United Nations in developing and ensuring respect of legal principles through the process of multilateral treaties making and

implementation. At the same time, VietNam is committed to continuing close cooperation with the United Nations agencies, Member States and international community partners to achieve these goals.

Again, I would like to affirm that in participating in the activities of AALCO, VietNam would be willing to learn the experience and expertise shared by the other Member States. We would like to work together with them and the AALCO Secretariat in promoting the rule of law at all levels national, regional and international, in order to achieve the sustainable development goals of the Agenda to 2030.

Thank you very much for your attention.

Vice-President: I thank the Distinguished Delegate from VietNam and now I invite the distinguished Delegate from Saudi Arabia to make his statement. You have the floor.

His Excellency, Alomariah Ahmed Abdulaziz, Deputy Minister, Ministry of Justice and Leader of Delegation of the Kingdom of Saudi Arabia⁷: With the name of Allah who is most merciful and beneficent, Your Excellency, the President, Excellencies and Dignitaries.

The delegation of Kingdom of Saudi Arabia participating in the Fifty-Sixth Annual Session of AALCO, extends its thanks to the Republic of Kenya for hosting the Session. It highly values the organizational and administrative efforts put in by the team. We also thank His Excellency, the President of the Republic of Kenya His Excellency, Uhuru Kenyatta for his patronage of this Session.

We congratulate the President and Vice President and wish them success in discharge of their duties. We also thank the Secretary-General and AALCO Secretariat for their commendable efforts. We welcome VietNam's joining the Organization.

Our delegation fully appreciates the role played by the Organization. We believe that AALCO is one of the most important Organizations in its field, and hence we look forward to the Organization to continue its endeavor for fulfilling the aspirations of its members by working hard to achieve the objectives stated under Article 1 of its Statute, which mandates the Organization to discuss and deliberate on issues pertaining to the international law that may be referred to the Organization by the Member States. On the top is the Palestinian issue, violation of human rights of Palestinian people by the occupation government. In Saudi we look forward to greater multilateral relations foremost being the legal aspects with the Member States through bilateral meetings.

With regards to terrorism, I would like to point out that the Kingdom is a country that has been affected most by terrorism causing huge damages to its territories and losses of its citizens. Since 1992, it has suffered more than 100 terrorist incidents, 18 among them have been carried out by elements linked with some countries as an organization. The Kingdom is still battling with these elements. We are determined to root out this phenomenon. For this end, my country has passed legislations and ordinances that would prevent funding of terrorism. We have excellent expertise in this regard, we call upon Member States to benefit from this. At the external front, we have worked at all international, regional and Arab levels. The Kingdom has put its hand in the hands

⁷ The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

of brothers and friends in order to tackle or face the terrorist phenomenon legally, intellectually and in terms of security through conference, and international platforms and agencies. Kingdom is the one which called for establishment of a center of dialogue among followers of religions and cultures. In collaboration with the United Nations it has established International Center for Combating Terrorism and gave 100 million US dollars financial support to the Center.

At the humanitarian work front, the Kingdom has provided developmental and humanitarian aids to 95 countries which constitute 2 % percent of its income. As a result King Salman Center for Relief and Humanitarian Works was established.

For example in recent events of the region Kingdom has hosted 2.5 million people, without dealing with them as refugees or placing them in refugee camps, in order to maintain their dignity and integrity. Kingdom has given them full freedom of movement and granted those who wanted to stay the status of residents with the consequent rights. Among them more than 100 thousand are students getting free education in the Kingdom.

Kingdom would like to reiterate its continued support for the Organization. Kingdom has always paid its financial obligations on time, and seeks more cooperation with the Organization and takes greater interest in its various activities such as workshops, scholarship and mutual visits.

To conclude, the conflicts, wars and other catastrophic situation the world is passing through, necessitates for us the member of the Organization to put in more efforts and to cooperate further for doing what we can do to save our peoples from the negative effects of the conflicts in accordance with the objective and functions of the Organization.

Thank you.

Vice-President: I thank the Distinguished Delegate from Saudi Arabia and now I invite the distinguished Delegate from Thailand to make her statement. You have the floor.

Ms. Duangpon Darongsuwan, Second Secretary, Department of Treaty and Legal Affairs, Ministry of Foreign Affairs on behalf of the Leader of Delegation of Thailand: Your Excellency, Madam Vice-President, Your Excellency the Secretary-General of AALCO, Honorable Ministers for Justice and Attorney Generals, Excellencies, Ladies and Gentlemen, on behalf of the Thai delegation, I extend our sincere congratulations to you on your election as the Vice-President of the Fifty-Sixth Session of AALCO. Also, I would like to convey my sincere thanks also to the Government of the Republic of Kenya for their warm hospitality and wonderful arrangements, and a heartfelt appreciation to Professor Dr. Kennedy Gastorn, the Secretary-General, and his colleagues at the AALCO Secretariat for the excellent substantive preparations.

Mister President, the recent changes within the context of the international political landscape have been fast-paced, dynamic and increasingly volatile. The global order has time and again been shaken by actors of non- state actors and inactions of States alike. But even within such context, every country shares a common goal, namely to ensure peace and stability which is crux to global socio-economic well-being. This is precisely why international legal principles and legal norms have been put in place: to provide reassurance and order in times of uncertainty. International law is, and should be, the language that international relation is conducted in. playing by the rules is not only fair but it also gives members of global community a level

playing field in which all States are equal in their legal rights and in the existence of their sovereignty.

The existence of legal norms has always been closely linked to the principle of the rule of law. The belief that supremacy of law must be upheld in conjunction with equality before the law lays down the most basic fabrics of such principle. Indeed, our heads of States and Government in the UN General Assembly Declaration on the Rule of Law in September 2012 reaffirmed their “solemn commitment to the purposes and principles of the UN Charter, international law and justice, and to an international order based on the rule of law, which are indispensable foundations for a lasting peaceful, prosperous and just world.” We therefore must strive to match our declarations with our deeds by showing willingness to abide by international legal obligations and engage in pacific settlements of international disagreements through peaceful means.

Mr. President, more fundamental is the idea that rule of law stands at the core of successful multilateral treaties and cooperation. This is all the more important within this global climate where countries increasingly look inwards and nationalism is on the rise. Yet, within this highly interconnected world, no one country can stand on her own and our prosperity and stability are inevitably inter-connected. In this regard, the effective mechanisms of global and regional legal architectures must be brought to bear if the international community is to be successful in fostering collective prosperity and stability.

Thailand has always had an abiding faith in multiculturalism as an indispensable element of effective regional and global order. Principles such as equality of sovereignty amongst nations, non-interference, and consensus building must always govern the interaction of States in all levels. Thailand believes the capacity of regional and international organizations to promote peace and stability must be fortified. On a global level, the United Nations has been playing a key role in providing a forum through which laws, rules and regulations triumph over instability and lawlessness. But more could be done and more should be achieved. Regional arrangements such as ASEAN, the African Union, and consultative Organizations such as AALCO must play an instrumental role in the preservation of regional peace and promotions of global security and economic development.

Mr. President, it is worth emphasizing that only actions by States could breathe life into multilateralism, international cooperation, and rule of law. Warranting the adherence to the rule of law outside our own house must go hand in hand with the promotion of legal norms and justice from within. In this regard, Thailand has put great emphasis on strengthening our criminal justice system, promoting the implementation of UN standards and norms, particularly on crime prevention, and increasing awareness among the youths through the activities of Thailand Institute of Justice. Notably, in 2013, Thailand has presented a draft resolution entitled, “The Rule of Law, Crime Prevention and Criminal Justice in the United Nations Development agenda Beyond 2015”, which was later approved by the UN General Assembly. The resolution reiterated that the advancement of the rule of law is essential for sustained and inclusive economic growth, sustainable development, the eradication of poverty and the full realization of all human rights and fundamental freedoms, all of which in turn reinforce the rule of law.

In other words, the assurance of justice, equality before law, and the maintenance of peace and security are not plausible without inclusive sustainable development, which must first and

foremost start from within. This interconnectedness is reaffirmed in the adoption of the 2030 Agenda for Sustainable Development. On this front, Thailand as the former Chair of the development is in line with Goal 17 of the SDGs. By promoting our home-grown approach to sustainable development through the framework of Sufficiency Economy Philosophy, Thailand is redoubling our efforts to offer viable development practices through which SDGs can be achieved in the spirit of South-South Cooperation and North-South Partnership. It is hoped that within such spirit, social harmony and economic progress will continue to prosper and contribute towards the promotion of international peace and justice at large.

Mister President, it is evident that AALCO has over the years made significant impact on a variety of topics related to international law. With its unique focus on Asia and Africa, this forum enables all Member States to scale up their experiences and expertise drawn from the two populated Continents in the world with a view to sharing this unique perspective with other members of the international community. Thailand looks forward to participating in the fruitful exchanges of legal ideas that will ultimately contribute to the furtherance of international legal principles norms through an Asian-African outlook.

I thank you, Mister President.

Vice-President: I thank the Distinguished Delegate from Thailand and now I invite the distinguished Delegate from Republic of Korea to make his statement. You have the floor.

Mr. Ki-Jun You the Leader of Delegation of the Republic of Korea: Thank you, Madame Vice-President, on behalf of the delegation of the Republic of Korea, I would like to express my sincere gratitude to the Government of the Republic of Kenya for hosting the Fifty-Sixth Annual Session of AALCO. I would also like to congratulate you on your election as the Vice-President of this Session. I have every confidence that under your stewardship, this Session will prove a resounding success.

I also wish to take this opportunity to express my appreciation to His Excellency, Professor Dr. Kennedy Gastorn, the Secretary-General of AALCO, and his Secretariat for their excellent preparations for this Session. I have been very impressed with Professor Gastorn's endeavors to expand the influence of AALCO in a variety of international legal forums, with his initiatives to strengthen the spirit of friendship, cooperation and solidarity among Asian and African States

In this sense, my delegation would like to join the other Member States in welcoming the Socialist Republic of VietNam as the newest Member State in AALCO. I would like to make brief remarks on three of the agenda items, while taking into account the overarching theme for this Session.

First, we need to work hard to deepen our common understanding on how to deal with the new world of cyberspace. As cyberspace becomes increasingly sophisticated and diversified, the opportunities for its misuse and abuse grow. Professor Joseph S. Nye, Jr stated in an article in 2011 that "in the virtual world, actors are diverse, sometimes anonymous, physical distance is immaterial, and offense is often cheap".⁸ Unfortunately, at least at this stage, the offense holds a clear advantage over the defense. Consequently, cyber security is becoming a major concern in

⁸ Nye, Jr., Joseph S., "Nuclear Lessons for Cyber Security?", *Strategic Studies Quarterly*, 5(4) (2011), pp. 18-38.

virtually every area of modern society; a serious challenge faced by all of us: states and communities, businesses and individuals.

Cyber security cannot be single-handedly addressed by any one nation or actor. The global nature of the Internet requires international cooperation, or perhaps multilateralism. Therefore, we need to discuss mutual cooperation, assistance, and information-sharing. The Republic of Korea has taken a four-pillar policy approach in this regard: first, establishing a partnership to respond to cyber threats; second, developing norms; third, confidence-building; and fourth, bridging the capacity gap between countries and regions. I sincerely hope that this Fifty-Sixth Session will provide the momentum to enable us to further deepen our common understanding and develop cooperative measures to ensure an open and secure cyberspace.

Second, as the Brandeis Institute for International Judges has noted, "few would dispute the desirability of establishing and maintaining the rule of law across the globe. Finding common agreement on the precise meaning of this concept, however, is less easy to achieve. Frequently invoked and promoted in the discourse of legal practitioners, lawmakers, and development experts alike, the semantic content of the term 'rule of law' is not a constant but instead depends upon who uses it and to what purpose."⁹ Apart from the working definition of the rule of law, I believe that the rule of law, in any form, requires the existence of law itself. International law comprises both custom and treaties. Since its inception in 1948, the ILC has been instrumental in the promotion of the progressive development of international law and its codification. The Republic of Korea has long supported the advancement of international law and is an active participant in, and advocate of, the ILC's work. In that regard, I believe that it is most appropriate that we have a Half-Day Special Meeting on "Selected Items on the Agenda of the International Law Commission" at this Session. I am confident this Special Meeting will provide a valuable opportunity for Asian and African States to exchange ideas and insights on the ILC's upcoming Agenda.

At the election of the ILC members held at the UN headquarters in New York last year, Professor Park Ki-gab of Korea University was re-elected to serve a second term, until 2021. With his re-election, the Republic of Korea hopes to be able to continue its strong support for the development of international law, together with the other Asian and African members.

Finally, international organizations and regimes can significantly affect the behavior of States. In the promotion of international criminal justice, the role of the International Criminal Court is remarkable. In that sense, it is timely that we are having another Half-Day Special Meeting on the recent developments concerning the International Criminal Court. Since its accession to the Court almost 15 years ago, the Republic of Korea has been actively participating in global efforts to establish the ICC as a truly reliable and universal institution. In our bid to promote the universality of the ICC, we are pleased to have held a high-level regional seminar in Seoul this past April to promote understanding about the Court and thus to encourage the wider ratification of the Rome Statute. Also, Korea is also seeking to continue its contribution to global peace and security by presenting the well-qualified and experienced Judge Kwon O-gon, former Vice-President of the International Criminal Tribunal for the former Yugoslavia (ICTY), as our candidate for election as the next President of the Assembly of States Parties.

⁹ "Toward an International Rule of Law", Brandeis Institute for International Judges, 2010 Report, p. 8.

Madame Vice-President, to conclude, the Republic of Korea has been an active and enthusiastic supporter of AALCO ever since becoming a full member in 1974. My Government takes great pride in the accomplishments that all Member States have achieved together under the auspices of AALCO, and will continue our efforts to promote its productivity and efficiency.

Thank you for your kind attention.

Vice-President: I thank the Distinguished Delegate from Republic of Korea and now I invite the distinguished Delegate from Republic of Kenya to make his statement. You have the floor.

Ms. Muthoni Kimani, Senior Deputy Solicitor General, Asset Recovery Agency and The A. Leader of Delegation of Republic of Kenya: Madam Vice-President, Your Excellency Prof. Githu Muigai, Attorney-General of the Republic of Kenya and President of the Fifty-Sixth Annual Session of AALCO, Your Excellency Prof. Dr. Kennedy Gastorn, Secretary General of AALCO, Honorable Ministers of Justice and Attorneys-General, Distinguished Leaders of Delegations, Distinguished Observers, Excellences, Ladies and Gentlemen, on behalf of the Government of the Republic of Kenya, since it is the first time we have the floor, we like to welcome all delegates to Kenya for the Fifty-Sixth Annual Session of the Asian-African Legal Consultative Organization (AALCO). It is a great honour for our country to host you once again and we look forward to a successful Session. In particular we welcome the Socialist Republic of VietNam, our newest Member State in the Organization.

Mr. President, my delegation congratulates your Excellency on your election as President of the 56th Session of AALCO. We also congratulate Dr. Vilaman Mangklatanakyl., Deputy Director, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs. Thailand, on your election as Vice-President of this Session. On behalf of my delegation, we express our confidence in you and wish you the very best in your tenure.

Allow me to offer our congratulations to Prof. Dr. Kennedy Gastorn on his Inaugural Annual Session as the Secretary-General of AALCO. We wish you all the best in your new role and assure you of the support from the Republic of Kenya during your tenure. We appreciate the tireless efforts and great dedication of the entire AALCO Secretariat for steering the work of this Organization and ensuring that the interests of the Member States are well articulated at various forums such as the United Nations General Assembly and the International Law Commission.

As AALCO continues to make great strides in cooperation on legal matters of common interest, we will have an impact at the global level when we negotiate multilateral instruments. This is further underscored by the close relationship that AALCO continues to enjoy with the International Law Commission, the UN General Assembly and other International organizations. This relationship demonstrates the determination of AALCO Member States concerns and views to be addressed at international level.

Kenya places great importance on promoting the rule of law in the international community, and in this regard Kenya values very highly the work of the International Law Commission, the International Tribunal for the Law of the Sea and the International Court of Justice. We would like to express our gratitude for the kind support by AALCO Member States at the elections for membership of the ILC held at the General Assembly last year, when Hon. Amos S. Wako was re-elected for another term. We look forward to your continued support for similar elections and

Kenya will support your candidates given that when eminent candidates from the Asian-African region are elected to these highly acclaimed institutions and thereby serve to further promote the rule of law and peaceful settlement of disputes in the international community.

Ladies and Gentlemen, in 2012 and in subsequent meetings, Kenya mooted the proposal for the establishment of a Permanent Observer Mission of AALCO in Nairobi. Given that the United Nations Office in Nairobi is a multilateral station, it would complement the commendable work of the Permanent Observers of AALCO at the United Nations Headquarters in New York and in Vienna respectively. The Government of Kenya remains ready and willing to facilitate the discussions on this issue with both AALCO and the United Nations at the earliest opportunity should this be adopted by AALCO Member States.

Distinguished Delegates, Kenya recalls that at the Fifty-Fifth Annual Session, the Secretariat was directed to prepare a report on the on-going discussions on Violent Extremism and terrorism and to present the said Report at this current Annual Session. We thank the Chairperson of the Working Group on this subject and express our appreciation for the work done by the Working Group. We look forward to hearing the views of other Member States on the Guidelines on Violent Extremism and Terrorism.

Kenya has suffered terrorist attacks, where innocent Kenyans have died, properties destroyed and lives altered adversely. The Government of Kenya has set up institutions and legal frameworks to combat terrorist and terrorist financing with particular regard to violent extremism. In September 2016, His Excellency, the President of Kenya launched the National Strategy to Counter Violent Extremism. This is an important development for Kenya in its attempt to comprehensively counter terrorism. This strategy articulates the prevention pillar and the desire to rally all sectors of Kenya's social, religious and economic life to emphatically and continuously reject violent extremist ideologies and aims. In March 2017, the National Counter Terrorism Centre also launched a Guide to Developing Country Action Plans for Prevention/Countering of Violent Extremism. The Government has also rolled out programmes to complement CVE which include youth outreach programs to train student leaders and civic activists in recognizing and challenging radicalization and aims of terrorist organizations. It is also partnering with non-state actors in providing training and expertise to assist Country security and intelligence committees, mapping of engaged audience, critical notes and response capabilities nationally to increase targeted communications and counter narratives, development of an innovative returnee rehabilitation framework which incorporated multiple agencies. Training and strengthening of prison services to handle violent extremism and utilizing multi agency expertise to build a home-grown risk assessment decision making tool.

Ladies and Gentlemen, Kenya welcomes discussions on the topic of "The Status and Treatment of Refugees". The global refugee crisis continues to escalate, with majority of the refugees coming from the African and Asian continents. Although the international community has constantly tried to respond to the crisis, the humanitarian assistance is not adequate. Kenya has for several years hosted over 600,000 refugees in her territory and we can relate to the suffering that those torn from their home countries undergo. It is for this reason that on 10 November 2013, the Government of Kenya, in collaboration with the Somali Government and UNHCR signed a Tripartite Agreement for the voluntary repatriation of Somali refugees. The voluntary repatriation to select regions in Somalia refugees, who would be reintegrated in their communities. However, of the projected 215,000 people who had been projected to benefit from

this project, only 2,589 people returned in 2015 due to heavy financial cost of ensuring sustainable reintegration. Kenya remains committed to assisting the voluntary repatriation of the refugees with the assistance of the international community.

Distinguished Delegates, Kenya is pleased to note that on 1st September 2016, AALCO signed a Cooperation Agreement with the Hague Conference on Private International Law (HCCH). This Agreement will raise awareness of the 38 multilateral treaties and Conventions on private international law, that include the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (Apostille Convention), the Convention on the service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Hague Service Convention), and the Hague Convention on Protection of Children and Co-operation in Respect of Inter country Adoption (Hague Adoption Convention). Kenya is in the process of acceding to some of the Hague Conventions and we urge other AALCO Member States that have not done so, to consider joining the Hague Conference in order to further ease cooperation in the private law sphere.

Distinguished Delegates, the Nairobi Centre for International Arbitration (NCIA) was inaugurated in December 2016. The NCIA is now the fifth regional arbitration Centre to be established under the auspices of AALCO. The Government of Kenya is committed to and will continue to provide support to policy level in order to advocate Kenya's position with respect to international agreements on Alternative Dispute Resolution and in respect to neutrality of NCIA. The Government of Kenya is keen to ensure the arbitration is reserved as the preferred dispute resolution process and to promote the Nairobi Centre as the preferred alternative jurisdiction for international arbitration for international commercial disputes.

To this end, Kenya is proposing that AALCO Members establish an International Register of qualified of international commercial arbitrators and mediators for use by Members when confronted with international disputes. The creation of this register will correct the current imbalances of international arbitration practitioners where the AALCO Members are underrepresented.

Distinguished Delegates, as I conclude my remarks, I wish you all fruitful deliberations and I hope this Annual Session will provide you with the unique opportunity to analyze the impact of various issues in the legal arena both regionally and internationally. I wish you all a safe journey when you travel back to your countries. Thank you.

Vice-President: I thank the Distinguished Delegate from Republic of Kenya and now I invite the Distinguished Delegate from Nepal to make his statement. You have the floor.

His Excellency, Mr. Dilli Raj Ghimire, Joint Secretary, Ministry of Law, Justice and Parliamentary Affairs, the Leader of Delegation of Nepal: Madam Vice-President, Honourable Ministers, Attorney Generals, Your Excellencies Ambassadors, Distinguished Delegates and Observers, Ladies and Gentlemen, at the outset, on behalf of the Nepalese delegation and on my own, I would like to congratulate you, Mr. President, on your unanimous election to the high office of the President of the Fifty-Sixth Annual Session of the Asian-African Legal Consultative Organization (the Organization). Let me also congratulate the Vice-President on your unanimous election.

Mr. President, I would like to record our appreciation and acknowledgement of the insightful and forward-guiding inaugural address by His Excellency, the Deputy President of the Republic of Kenya. This Session bears a special significance in that the Organization, as the only consultative institution formed of Member States from Asia and Africa has successfully completed its journey of six decades.

It is highly commendable that, since its inception, the Organization has been able to make significant contribution to the codification and progressive development of international law, by providing its views to the General Assembly of the United Nations and by consolidating the positions of its Members on particular subjects under consideration of the International Law Commission, General Assembly and its Sixth Committee.

In a nutshell, since its inception 61 years ago, AALCO, as a major forum for Asian-African legal exchanges and cooperation, has played a vital role in strengthening regional governance and safeguarding common rights and interests of the regions, and in pursuit of independence, freedom and equality. As an active member, Nepal has always attached great importance to the work of the Organization.

Mr. President, my delegation welcomes the agenda items adopted for this Session. All the items including the Status and Treatment of Refugees, Violations of International Law in Palestine and other Occupied Territories by Israel, Violent Extremism and Terrorism (Legal Aspects) and International Law in Cyberspace are very appropriate and relevant.

A Special Meeting on ‘Selected items on the Agenda of the International Law Commission’ and the ‘International Criminal Court: Recent Developments’ are very important issues for discussion in such a forum having significant number of legal fraternity from Asia and Africa. There is no doubt that the outcomes of special meetings will provide feedback to the International Law Commission on its work.

Further, side events on Combating Illegal Trade in Wild Fauna and Flora through Cooperation under International Law framework and International Workshop: “Promoting Rule of Law in Asia and Africa” are issues of concern for most of the developing countries today. The outcome of these events will be helpful for application of international law and also for promotion of Rule of Law in countries like Nepal. For hosting these events, let me congratulate the Government of the Republic of Kenya, the Government of the People’s Republic of China and the Government of Japan.

Mr. President, Nepal welcomes the initiative taken by the Organization for the development of Principles and Guidelines to Combat Violent Extremism and its Manifestations, and commends the Secretary-General’s Plan of Action to Prevent Violent Extremism. I would also like to acknowledge the outcome of the Open-Ended Working Group on International Law in Cyberspace and look forward to the report of the Working Group.

Mr. President, the issue of Legal Aspect of Violent Extremism and Terrorism has been a most critical issue. Nepal welcomes the effort of the Organization for drafting “Principles and Guidelines to Combat Violent Extremism and its manifestations” and we look forward to

discussion in the Working Group in the Fifty-Sixth Annual Session. On this occasion, I would like to emphasize that something concrete needs to be done immediately to address the problem, and to find ways to effectively combat violent extremism in the World.

Mr. President, on this occasion, let me enumerate some of the recent developments in my country. Nepal after promulgation of the new Constitution on 20 September 2015, has been engaging highly in requisite legal and institutional reform. Moving from long existed unitary system to federal structure is a challenge. In course of setting its structure, Nepal is having all required – three level elections within the beginning of the year 2018. As a part of this, Nepal is holding its local level election on 14 May and 14 June 2017.

Further, Nepal is now engaged in making requisite legal and institutional infrastructures, and some 138 areas have been identified requiring legislations to give effect to the Constitution. Out of this, it is the responsibility of the central government to enact legislations in 110 areas. So far, 40 legislations have been in force, some 42 are in consideration in the Parliament while remaining are in the process of drafting. The Government of Nepal looks forward to further support and cooperation from the Member States of the Organization in this respect.

Mr. President, let me express our sincere gratitude to the Government of the Republic of Kenya for hosting this Session in this famous city of Nairobi, and for the warm hospitality accorded to my delegation since our arrival here. I would also like to welcome the Socialist Republic of VietNam as the 47th member of our Organization. Mr. President, I am confident that this Session will be successful in promoting codification and progressive development of international law on the contemporary issues to be deliberated in this Session. Thank you.

Vice President: I thank the Distinguished Delegate from Nepal and now I invite the Distinguished Delegate from India to make his statement. You have the floor.

Mr. Mohammed Hussain, Legal Officer, Legal and Treaties Division, Ministry of External Affairs and the Leader of Delegation of India: Her Excellency, the Vice-President of AALCO, His Excellency, the Secretary-General of AALCO, Excellencies, Distinguished Delegates and Observers, first of all allow me to join other Delegations in congratulating you Mr. President on your election to guide our deliberations. We are sure that your wisdom, experience and expertise will steer our deliberations to a successful conclusion. Our delegation takes this opportunity to also congratulate Her Excellency, Dr. Vilawan Mangklatanakul, for her election as the Vice-President of this Session.

We also wish to thank the Government and People of the Republic of Kenya for hosting this Annual Session in this beautiful and historic city of Nairobi. I would also like to thank them for the excellent arrangements made for this Session and for the warm hospitality extended to us. Our appreciations go to the Secretary-General and his Staff for the excellent preparations they have made for our Session, including the preparation of documents to help our consideration of the various items on agenda of the Session.

Mr. President, the last Annual Session held in New Delhi marked the special occasion of AALCO's 60th Anniversary. The Member States adopted the New Delhi Declaration on the Commemoration of the Sixtieth Anniversary of AALCO. In this, Member States reaffirmed

their commitment to the Bandung Spirit and expressed their desire to continue to use AALCO as a forum to further the progress and development of international law taking into consideration their own legal needs and legitimate interests. Our delegation is confident that AALCO has the potential for and will meet the expectations of its Member States.

Mr. President, our delegation is happy to welcome the new member of AALCO – the Socialist Republic of Vietnam. We are confident that Vietnam's membership in AALCO will enhance AALCO's stature.

It gives me pleasure to note recent interactive dialogues on international law issues organized by the AALCO representatives at the United Nations, one on 25th October 2016 with the Judges of the International Court of Justice and another event of AALCO Legal Advisers on 2nd November 2016, at the UN Headquarters, New York, wherein international law issues of contemporary importance were deliberated upon. Moreover, AALCO follows the work of the International Law Commission (ILC) and deliberates on important topics under consideration of the Commission at its Annual Sessions. AALCO's effort to contribute to current issues being discussed at the United Nations such as marine biological diversity beyond national jurisdiction and on the legal regime for cyber-space is also noteworthy. In this context, we would like to commend the Secretariat for organizing in New Delhi the Second Meeting of the Working Group on International Law in Cyberspace in February 2017.

Our Delegation also takes this opportunity to commend the Secretary-General for his initiative in reviving celebration of AALCO's Constitution Day. Our delegation also take note of the launch of the Nairobi Centre for International Arbitration which is the fifth regional arbitration centre to be established under the auspices of AALCO. Our delegation is confident that launch of Nairobi Centre for International Arbitration will further enhance AALCO's effort in strengthening alternate dispute resolution mechanism.

We also take note of AALCO's close cooperation with other intergovernmental organizations and national institutions. We congratulate AALCO for signing Cooperation Agreement with the Hague Conference on Private International Law in September last year; and for strengthening institutional relationships with national institutions like Indian Society of International Law and China University of Political Science and Law.

Mr. President, our delegation would like to highlight some of the important developments/event concerning international law with India's active participation.

India was the chief coordinator for the Meeting of Legal Advisors of Foreign Ministries of the UN Member States during the International Law Week, held from 24 – 25 October 2016 at the UN Headquarters in New York. Dr. V.D. Sharma, Joint Secretary & Legal Advisor of the MEA was the chief coordinator for this event, who while opening the meeting, introduced four themes for deliberation of legal advisors, highlighting the main thrust of the subject matter of the themes and their importance in the contemporary era. These themes were: (i) "Reforming Investor-State Dispute Settlement system: The Way Forward"; (ii) "Strengthening the legal regime to counter terrorism"; (iii) "Legal dimensions of the concept of climate justice"; and (iv) "Cyberspace and International Law". In addition to the legal advisers of the Ministry of Foreign Affairs of UN

Member States, the Sixth Committee experts, international law academicians and the UN officials participated in these deliberations. The UN Office for Legal Affairs assisted and collaborated with India in organizing this event.

At the regional level, India has signed and ratified the Charter of the Shanghai Cooperation Organization (SCO).

At the domestic level, India enacted the Anti-Hijacking Act, 2016 to give effect to the Convention for the Suppression of the Unlawful Seizure of Aircraft, 1970. India also enacted the Right of Persons with Disabilities Act, 2016 to give effect to the United Nations Convention on the Rights of Persons with Disabilities, 2006. India also enacted The Mental Health Care Act 2017, to further strengthen the implementation of the Convention.

Mr. President, turning to the Organizational matters of AALCO, our delegation would like to reiterate that AALCO is an inter-governmental organization, the primary objective of which is to function as an advisory body to its Member States in the field of international law. We believe that AALCO has the potential to contribute more in the field of research, publications and capacity building exercises. Reasons for holding back AALCO to achieve its full potential relates to finance and shortage of human resources. We appreciate the efforts taken by the Secretariat to collect the arrears. We also take this opportunity to highlight the need to strengthen the AALCO Secretariat by addressing the shortage of Officers and staff.

We look forward to participate in the deliberations on the agenda items and once again thank the Government of the Republic of Kenya and the AALCO Secretariat for the excellent arrangements made for the Session. Thank you Mr. President.

Vice President: I thank the Distinguished Delegate from India. We do not have any more Member State wanting to make statement. Hence I invite the Distinguished Observer Delegate from the ICRC, Kenya to make his statement. You have the floor.

Mr. Thierry Meyrat, Leader of the Observer Delegation of ICRC in Nairobi: Madam Vice-President, Professor Dr. Kennedy Gastorn, Secretary General of the Asian-African Legal Consultative Organisation, Your Excellencies, Distinguished Delegates, Ladies and Gentlemen, at the outset, we would like to take this opportunity to thank the Asian-African Legal Consultative Organization (AALCO) and the Government of the Republic of Kenya for giving the International Committee of the Red Cross (ICRC) the opportunity to take part in AALCO's Fifty-Sixth Annual Session. We also would like to congratulate Professor Dr. Gastorn on his appointment and we look forward to our continued collaboration with the AACLO secretariat.

As you are aware, the ICRC is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflicts and other situations of violence and to provide them with assistance. It also endeavors to prevent suffering by promoting and strengthening international humanitarian law (IHL) and universal humanitarian principles. The ICRC's association with AALCO since the signing of our MOU in 2003 provides a platform for continued joint efforts to promote and implement IHL with AALCO Member States.

Since we last gathered at the Fifty-Fifth Annual Session, we continue to witness indiscriminate attacks affecting civilians and civilian populations, attacks on medical facilities and other vital healthcare infrastructure, the use of weapons which are prohibited under international law, hostage taking, rape and other forms of sexual violence and the killing of humanitarian workers. These acts contravene international humanitarian law and we all must do more to prevent and repress such violations. For example, in contexts such as Syria, Iraq, Libya, Mali, Nigeria, the Occupied Territories, Ukraine and closer to here, in South Sudan and Somalia, the need for IHL to be respected is paramount and urgent.

The respect for IHL and other applicable norms is the most effective way to ensure protection and limit the humanitarian suffering in protracted armed conflicts. State and non-State parties in armed conflict must therefore respect their legal obligations under IHL and other applicable norms. While the primary responsibility lies with the parties to the armed conflict, all States have an obligation to respect and ensure respect for IHL, as set out in Article 1 common to the Geneva Conventions of 1949.

The Geneva Conventions, their Additional Protocols (which in 2017 we celebrate the 40th anniversary of their adoption) and other IHL related instruments aim to protect civilians, who are the most affected in today's armed conflicts. In this regard, the ICRC encourages AALCO Member States which have not yet done so to accede to the Protocols as soon as possible, in order to enhance the protection of victims of armed conflicts and to other instruments of IHL including weapons law treaties such as the Arms Trade Treaty and the Convention on Cluster Munitions.

Mr. President, Distinguished Delegates, the ICRC is mindful of the current dialogue and developments in the Counter-terrorism (CT) and Countering violent extremism (CVE) agendas of States, at the global, regional and national levels. Our presence on the frontlines of armed conflict context makes us witness, first hand, of the devastating humanitarian consequences where there is lack of respect for IHL, regardless of the perpetrators.

The ICRC fully recognizes the importance which States place on responding effectively to legitimate security concerns but emphasizes that any measures taken to this end must respect IHL and international human rights law. This is in the interest of the international community, as there is a growing recognition today that violations of these bodies of international law may exacerbate the very phenomenon that counter-terrorism purports to fight.

In that respect, the positive role played by the ICRC in preventing and alleviating the effects of violence should be valued. Indeed, fostering respect of IHL by all parties to conflict, through dialogue with both State and non-State parties, contributes to tempering the impact of violence on the affected population. It creates an environment conducive to possible reconciliation and prevents downward spirals of retaliatory violence and extreme behaviors on all sides of any given conflict. However, this indirect contribution remains exclusively humanitarian in character and depends on the ability of the ICRC to remain impartial, neutral and independent and, therefore, not to be directly associated with efforts aimed at "Preventing and Countering Violent Extremism".

It is worth recalling the clear link between CVE and broader efforts to counter-terrorism. Fighting terrorism may take various forms, including armed conflict. As a result, the question of the relationship between the legal frameworks governing IHL and terrorism has come back to the forefront of legal discussions, raising a host of legal issues. In this regard, the ICRC takes this opportunity to share with States its reflections on IHL and terrorism drawn primarily from its December 2015 report on *Contemporary Challenges to IHL* which has been distributed as a handout. We hope that Member States of AALCO may find this information useful to their deliberations on CVE.

Further, allow us, at this juncture, to highlight a few additional matters of particular importance to the ICRC and the Movement, including some of particular relevance in this region of the world.

Strengthening respect for IHL: Just three weeks ago, in Geneva, States met to continue their discussions as part of the intergovernmental process on 'strengthening respect for IHL'. The process, agreed to by consensus at the 32nd International Conference of the Red Cross and Red Crescent in December 2015, is being co-facilitated by the Swiss Government and the ICRC. The process aims for States to find agreement on the features and functions of a potential forum of States on IHL-related issues, and to find ways to enhance the implementation of IHL, using the potential of the International Conference, and regional fora. The process presents an important opportunity to address what is arguably the greatest challenge facing IHL today, namely the lack of respect for IHL by parties to armed conflicts. The ICRC looks forward to seeing what this intergovernmental process can deliver in terms of strengthening respect for IHL.

Humanitarian access: One of the most crucial hurdles facing IHL is the difficulty in accessing the people in need of protection and assistance in the context of armed conflicts and other situations of violence. Persuading both States and non-State actors to allow humanitarian organizations to undertake emergency relief activities remains a constant challenge.

The ICRC President, Mr. Peter Maurer, described these challenges in a speech about the massive needs in Syria while noting the imperative of unconditional, unimpeded and safe access to humanitarian organizations. He stressed that humanitarian access must not be dependent on political factors: highlighting that humanitarian, military and political solutions should not - and cannot - be dependent on one another.

Under IHL, the parties to an armed conflict must allow and facilitate - subject to their right of control - humanitarian access of impartial humanitarian organizations when the basic needs of the population under their control are not met. Over the years, the ICRC has publicly expressed the need to have safe, rapid and unimpeded humanitarian relief and constantly sought to remind parties of the Fundamental Principles of the Red Cross and Red Crescent Movement: Humanity, neutrality, impartiality and independence.

The ICRC remains convinced that neutral, independent and impartial humanitarian action has the best chance to reach those most in need.

Protection of healthcare: Attacks against patients and health-care workers treating the wounded and sick during armed conflict are one of the most appalling acts challenging our common humanity. As a result of this violence, countless people are killed or maimed; pregnant women in labour cannot get to hospital in time because ambulances are targeted on their way to collect them; elderly people suffering from chronic diseases cannot receive treatment; children cannot be vaccinated. Premature babies have to be removed from incubators after air strikes on the hospital, doctors are forced to watch their patients die because they have run out of medicines to treat them. Patients and their families, health-care workers and entire communities are paying a terrible price. This must end. Wars must have rules.

States must act on their commitments now and stop this violence. We urge those involved in ongoing conflicts to safeguard hospitals and other civilian infrastructure and protect them from the hostilities. Governments with influence over the warring parties should pressure them to fulfill their obligations under international humanitarian law.

Parties to conflict must respect the sanctity of medical facilities and the ethical obligation of health personnel to treat all patients, irrespective of who they are. They must allow medical supplies to reach their destination and people in need of care to reach medical facilities. They should carry out full, prompt, impartial and independent investigations into any incidents preventing the safe delivery of health care. They should urge their military forces to incorporate precautionary measures to protect wounded and sick people and health-care personnel, facilities and vehicles when planning and carrying out military operations.

States should promote awareness of, and compliance with, international humanitarian law and international human rights law. In collaboration with the relevant institutions, they should disseminate the Ethical Principles of Health Care in Times of Armed Conflict and Other Emergencies among the general public and the armed forces.

There are limits to how wars are fought. Everyone, whether wounded or sick, has the right to health care. Even in conflict.

Humanitarian consequences of the use of nuclear weapons: In March 2017, 132 States met in New York to begin negotiations on a treaty to prohibit nuclear weapons. During this meeting States outlined their views on the structure and contents of the treaty. The Chair of the negotiations, Ambassador Elayne Whyte Gomez of Costa Rica, will now develop a first draft treaty text that which will be the focus of work during the second negotiating session in the June-July this year.

The ICRC welcomes this development. The ICRC and the International Red Cross and Red Crescent Movement more generally, have repeatedly called for the prohibition of the use of nuclear weapons. To us, reducing the risk of nuclear-weapon use and ensuring their elimination through a legally binding international agreement is a humanitarian imperative.

The International Red Cross and Red Crescent Movement has advocated since 1945 for the elimination of nuclear weapons. In 2011, we appealed to all States to “pursue in good faith and conclude with urgency and determination negotiations to prohibit the use of and completely

eliminate nuclear weapons through a legally binding international agreement, based on existing commitments and international obligations”. This appeal was based on evidence of the incalculable human suffering that would be caused by any use of nuclear weapons, and the lack of any adequate humanitarian response capacity. It is therefore promising to see this recent development towards such an international agreement.

In light of their catastrophic humanitarian consequences and their general incompatibility with IHL, all States have an interest to ensure that nuclear weapons are never used again and that they are eliminated. By participating in the development of the treaty, a State will ensure that its views are taken into account.

A treaty to prohibit nuclear weapons will have important benefits – both directly and indirectly. It will reinforce the stigma against the use of nuclear weapons and their proliferation. It will clearly establish the prohibition of nuclear weapons as a norm at the global level, which all States can aim to adhere to. Its development is consistent with existing disarmament commitments, such as those in Article VI of the Treaty on the Non-proliferation of Nuclear Weapons (NPT) and in action plans adopted by NPT Review Conferences, and it will advance the goals of treaties that create nuclear-weapon-free zones. We encourage the Member States here to participate in and support this process towards the development of this treaty.

If some States are unable at this time to join negotiations for the prohibition of nuclear weapons, we nevertheless continue to call on them to urgently take interim steps to reduce the immediate risks of intentional or accidental use of such weapons. These steps include reducing the role of nuclear weapons in military doctrine and plans, and reducing the number of warheads on high alert.

Mr. President, Distinguished Delegates, the ICRC and the AALCO Secretariat continue to engage in a series of programmes and activities which serve to strengthen our resolve towards heightened promotion, dissemination, awareness and implementation of IHL. In 2015, our organizations collaborated to further engage in the debate on cyber warfare, which culminated in the launch of a special edition of the AALCO Journal of International Law on Cyber Warfare. We are pleased to announce the second Special Edition of the AALCO Journal of International Law will be released during this annual session. This edition has provided an opportunity to gather scholarly articles that examine how IHL norms protect cultural property during an armed conflict.

Rest assured, the ICRC looks forward to the continued collaboration with the AALCO Secretariat and its Member States on all efforts undertaken to respect and ensure respect for IHL.

President: I thank the Distinguished Observer Delegation from the ICRC for giving his statement. Since there are no further statements to be made, let me close this Session.

The Meeting was thereafter adjourned.

IX. VERBATIM RECORD OF THE THIRD GENERAL MEETING

**IX. VERBATIM RECORD OF THE THIRD GENERAL MEETING HELD ON
WEDNESDAY, 3 MAY 2017 AT 02.30 PM**

AGENDA ITEM: VIOLENT EXTREMISM AND TERRORISM (LEGAL ASPECTS)¹⁰

His Excellency, Prof. Githu Muigai, EGH, SC, Attorney General of the Republic of Kenya and President of the Fifty-Sixth Annual Session of AALCO in the Chair.

President: A very good afternoon to everyone. This afternoon we will begin with the substantive matters, and the first topic is “Violent Extremism and Terrorism (Legal Aspects). I would now like to invite Dr. Vilawan Mangklatanakul, Deputy Director General, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs of Thailand, and Vice President for the Fifty-Sixth Annual Session of AALCO and Chairperson of the Working Group on Violent Extremism and Terrorism, to present her Report on the topic.

Dr. Vilawan Mangklatanakul, Deputy Director General, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs of Thailand, Vice President for the Fifty-Sixth Annual Session of AALCO and Chairperson of the Working Group on Violent Extremism and Terrorism: Thank you, Mr. President. Excellencies, Distinguished Delegates, Ladies and Gentlemen, the item entitled “International Terrorism” was placed on the agenda of AALCO’s Fortieth Session held in New Delhi, India (2001), upon a reference made by the Government of India. In the wake of atrocities committed by extremist groups in Africa, Asia and the Middle East, the title of the topic was modified to “Violent Extremism and Terrorism (Legal Aspects)” at the behest of the Islamic Republic of Iran and introduced into AALCO’s Agenda in 2014 at the Fifty-Third Annual Session held in Tehran, Iran. The Fifty-Third Annual Session also 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 [...]”. In pursuance of these directives, the AALCO Secretariat convened two Inter-Sessional Meetings of Legal Experts on Violent Extremism and its Manifestations: from 28-29 January 2016; and on 16 May 2016. Over the course of these Meetings, the Secretariat’s Draft on “Principles and Guidelines to Combat Violent Extremism and its Manifestations” were considered by legal experts from the AALCO Member States.

At the conclusion of the second Inter-Sessional Meeting on 16 May 2016 and the Fifty-Fifth Annual Session, the AALCO Secretariat was directed, *vide* resolution AALCO/RES/55/S9, to prepare a report on the ongoing discussions on the topic of Violent Extremism at the United Nations level which is to be presented at the Fifty-Sixth Annual Session in 2017 and discussed by a Working Group to be convened for this purpose during the 2017 Session.¹¹ Additionally, the Secretariat was directed to prepare a draft resolution in line with comments received from AALCO Member States at the Inter-Sessional Meeting, which is also to be discussed by the Working Group. The Secretariat document AALCO/56/NAIROBI/2017/SD/S9 thus summarizes

¹⁰ It may be kindly noted that the video recordings for this Session were not available. Therefore, this record has been prepared from the hard copies of the statements from Member States on this subject that are available with the Secretariat.

¹¹ AALCO/RES/55/S9, Operative Paragraph 3.

the work done by the AALCO Secretariat on the topic of “Violent Extremism and Its Manifestations” as well as the outcomes of the two Inter-Sessional Meetings held in 2016.

According to the mandate received *vide* AALCO/RES/55/S9 the meeting of the Working Group on Violent Extremism was convened on Monday, 1 May 2017, and was a successful one that saw discussion of the modalities of the work of the Organization and the Secretariat on the topic. Concrete suggestions on an outcome and appropriate conclusion to the work of the Secretariat were also heard. In the Working Group meeting there was in-depth deliberation on the contents of the brief prepared by the Secretariat, particularly its Annexes, and a multitude of opinions voiced by the delegates present.

The general consensus among the delegates at the meeting was that Member States felt that there was no pressing need to hurriedly adopt a draft document concerning principles and guidelines, in any form, at this time. They felt that, considering the sensitivity of the topic in question, any work on an instrument of this scope required a great deal of consultation and negotiation, both at the domestic and international levels. The Secretariat’s own assertion—that the contours of the concept of Violent Extremism, and associated measures to combat it, encompass matters of policy that often exceed AALCO’s mandate—was echoed by delegates as an important point to note.

Accordingly, most of the delegates favored the resolution provided by the Secretariat in Annex II of the Brief, or, in the alternative, an amendment of the resolution provided in Annex I.

Specifically, the proposed amendment of Annex I concerned Operative Paragraph 1 of the resolution, which refers to the principles and guidelines drafted by the AALCO Secretariat in some form. The delegates were in agreement when they opined that the resolution should contain some acknowledgement of the work done by the Secretariat on the topic, but should not contain any language associated with the adoption of any specific document. It was also noted by the delegates that the future work on the topic, including the possibility of adoption of any instrument, or any other appropriate steps taken by States, should not be prejudiced by the resolution.

The Secretariat was thereafter directed to prepare an amended draft of the resolution that reflected this decision of the working group, which would then be presented to the AALCO Member States for discussion and adoption. This amended resolution has accordingly been prepared by the Secretariat and distributed to the Member States for their perusal. We are awaiting comments on this now.

Thank you.

President: I thank the Chairperson of the Working Group on Violent Extremism and Terrorism for her words. Now I call upon the delegate of the Republic of Iraq to put forward his statement.

The Delegate of the Republic of Iraq: The government of Iraq suggests that the following addition be made to the AALCO Resolution on Violent Extremism and Terrorism (Legal Aspects): “Calling on all countries to consider members of ISIL and their recruiters as criminals and terrorists and take legal actions against them”.

President: I thank the delegate from the Republic of Iraq. Now I give the floor to the delegate from the State of Qatar.

The Delegate of the State of Qatar:¹² His Excellency, the President of 56th Session, His Excellency, Secretary-General of AALCO, Honorable Ministers, Attorney Generals and Head of Delegations,

Terrorism is a complex and dangerous crime which cannot be tolerated or justified. Terrorism is an international criminal phenomenon that affects the vital organs of the State, socially, economically and politically. This has led the State to adopt set of security measures that are extra-ordinary in nature, and which in normal circumstance they would not follow. These extra-ordinary measures sometimes go beyond international standards and principles of respect of human rights. We see that various countries make arbitrary detentions and implement measures such as inspection of places and people on the basis of emergency laws, defense laws and such other extra-ordinary laws.

This necessitates laying down international restrictions that balance between the States' rights to protect their national security, and the implementation of rules and guarantees for the human rights protected under the constitutions and national laws.

It is not hidden from anybody that the phenomenon of terrorism has been escalating at the international level as a result of a number of factors, foremost of which being the enhanced strength and influence of extremist organizations which adopt obscurantist ideology. This is evident by the reach of terrorist organizations that execute terrorist activities that claim lives and destroy properties and affect all vital sectors of the States, in all areas of the world. It reflects the inability of some countries to tackle them properly. This has made some countries to bypass the rules and principles of protection of human rights stated in the national laws and international Declaration on Human Rights, Arab Charter of Human Rights and other International conventions for the protection of human rights.

Indeed, huge efforts are being put in combating violent extremism and terrorism by many States. However, the growth of this dangerous phenomenon in the Arab as well as other international areas has started to pose a huge challenge for the international organizations which aim to maintain international peace and security. It requires us today also to put in more coordinated and collective efforts to deal with this menace, at all levels under a comprehensive strategy that takes care to deal with the root causes of terrorism in order to dry out its sources.

Excellencies, Ladies and Gentlemen, august gatherings, lastly, we reiterate that we are in dire need of protecting our communities by generating awareness in the society that resists the obscurantist and destructive ideology. To create this awareness, all concerned institutions must contribute by focusing on the educating the youth on the principles of human rights, values of tolerance, and good citizenship that creates a balance between the rights and duties and respects the cultural and civilizational diversity, pluralism, and renounces incitement of hatred based on differences. Their education must also take into account the fact that the strategy for combating terrorism must be balanced with international principles of human rights, so that combating terrorism does not turn into terrorism in itself and violate human rights. We reiterate that

¹² The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

combating terrorism and securing human rights are two goals, which do not contradict each other, and rather they complement and support each other.

To conclude, I wish the deliberations of this session all success hoping that we come out with recommendations that support the efforts of Member States in their discharge of duties and obligations for the service and welfare of their peoples.

President: I thank the delegate from the State of Qatar. Now I give the floor to the delegate from the State of Kuwait.

Delegate of the State of Kuwait:¹³ Mr. President and Dear Members of the Distinguished Delegations,

At the outset and in view of emphasis made by the delegation of my country over the issue of terrorism, I would like to state that terrorism and its menace have come to pose as one of the most dangerous national and international threats that recognize no boundaries. The extermination of this menace from its roots and branches requires combating the crimes which support terrorism. Through concerted efforts of the international community these crimes, reasons and the factors, need to be nipped in the bud so that our regional and international societies could be protected from the grave repercussions emanating from them.

In this context, it is worth mentioning that Kuwait has different legislation and constitutional provisions whose texts criminalize and prohibit the committing or partaking or planning to commit any act that violates the peace and security within the society.

At the constitutional level, the Constitution of Kuwait contains a Common Principle regarding prohibiting any disturbance to the peace and security within the society, which is stated in Article 8 that states that “the State would protect the pillars of the society and ensure peace and contentment in the society”.

As regards the Kuwaiti Penal Code, the law of the country that is diversified and rich in its punitive principles ensures peace in the society through its anti-violence legal texts and provisions. For example, the Penal Code of Kuwait bans and prohibits the commission of acts of violence or terrorism which arise out of religious, dogmatic and communal biasness.

Similarly, the Kuwaiti Penal Code deals with the acts which could lead to creating prejudice towards people or their properties or exposing their lives to the danger, thereby adding to it what has been discussed in the penal texts and provisions. The Kuwaiti Penal Code contains a host of common punitive provisions that criminalize all the acts and crimes which tend to violate the peace and security of the people, be it related to their bodies or the crimes related to the lives which include killing, injuring, kidnaping, harassing and beating, or the crimes committed with regards to their money and assets such as destruction or violating the property of others, including other crimes which pose threat to the peace and public system and breach the common peace and contentment.

In order for the Kuwait’s legislature to protect the national unity and to tackle the practices leading to violent extremism within the society, Kuwait brought out a law in 2012 regarding the

¹³ The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

protection of the national unity, which criminalizes creating hate or contempt in any section of the society or creating tribal or communal tensions or spreading thoughts that promote superiority of any race or group or color or origin or religion or sex or pedigree, or instigating people to commit such acts of violence.

In a related context, it is worth-mentioning that the State of Kuwait in 2013 brought out anti-money laundering and terror financing law which deals with the definition of terrorist acts, terrorists and terrorist organizations, and the issues pertaining to countering the terror related issues and its financing. Similarly, the State of Kuwait as per this law, has formulated a comprehensive strategy to counter the money-laundering and terror financing in the implementation of which the entire concerned national bodies are involved.

As far as the stand of the State of Kuwait regarding drafting an international anti-terrorism Convention is concerned, it may be noted that the State of Kuwait has approved of the most of conventions and international instruments concerning the counter terrorism and terror crimes and operations, which by mere approval by the National Legislatures becomes an integral part of the national laws. Therefore, these conventions and international instruments are considered to be powerful and mandatory, as they have been approved by the State of Kuwait.

In the end, given the real challenges and dangers that our countries are witnessing, the delegation of my country emphasizes on the necessity of making or approving of a definition of the crime of terrorism, and its material and spiritual components in the light of the provisions and texts of the relevant international conventions. We also find it essential to outline the importance of promulgating and implementing the principles and provisions of the United Nations Convention against Transnational Organized Crime and its Protocols. Similarly United Nations Convention against Corruption on the national, regional and international level is important as this Convention is criminalizing the acts supporting or associated with terrorism, including money laundering, drugs trafficking and illegal trade and smuggling of weapons, and also deals with the repercussions and dangers that stem from these crimes, which lead to spreading the scourge of terrorism. This all comes with an emphasis that anti-national, regional and international terrorism should be objected to, with the frameworks being built to protect the human rights, governments and the States and that the governments must abide by the principles and provisions of the laws and Human rights instruments and the humanitarian international law.

Thank you Mr. President.

President: I thank the delegate from the State of Kuwait. Now I give the floor to the delegate from the Sultanate of Oman.

Delegate of the Sultanate of Oman:¹⁴ Your Excellency the President, His Excellency, Prof. Dr. Secretary-General, Your Excellencies, and Heads of Delegation, Distinguished Delegates and Observers, Distinguished Audience,

I would like to share with you the experience of the Sultanate of Oman in the fight against extremism and terrorism, which is a pioneering experiment and model. Oman has historically maintained an approach of brotherhood, tolerance, co-existence, acceptance of the other, understanding of differences and reinforcing new ways of dialogue to resolve conflicts. This

¹⁴ The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

made an active contribution to the security, peace, stability and social cohesion of the Sultanate today, despite the diversity of their ethnicities, beliefs, doctrines and intellectual orientations.

Therefore, the Sultanate's achievement of a score of zero in the Global Terrorism Index during the past years was not coincidental, but resulted from the legacy of civilization rooted in the depths of history. Since the advent of the renaissance in 1970, Oman succeeded - both with regards to its government as well as the people - to employ this cultural heritage to eliminate dissociation, division, dissension, fanaticism of sects and races, and to revive the spirit of tolerance and fraternity among all societies.

In order to preserve the successes achieved in the fight against intolerance and extremism and terrorism and to eliminate their causes, the Government of the Sultanate has endeavored to establish legal frameworks to ensure the creation of an appropriate environment that repels extremist fanatic ideas that feed terrorism, as well as to deterring extremists who seek to disseminate their poisonous ideas and prevent terrorists from acquiring the support and funds to facilitate their terrorist crimes.

Article 12 of the Statute of the State affirms that "justice, equality, and equality of opportunity between Omanis are pillars of the society guaranteed by the State" and that "Collaboration and compassion are intimate bonds amongst the citizens". Also, the same article expressly prohibits "anything that might lead to division, discord or disruption of the national unity."

Article 17 of the same law states: "All citizens are equal before the law and share the same public rights and duties. There shall be no discrimination amongst them on the ground of gender, origin, color, language, religion, sect, domicile, or social status". Studies have shown that these provisions are not just legal texts but a tangible reality for citizens and non-citizens in the Sultanate.

Because of the Sultanate's faith that deterrence is an effective mean of combating extremism and is complementary to awareness, dialogue and tolerance, the Sultanate has criminalized sectarianism and sectarian grouping which fuel extremism and terrorism. Article 130 bis of the Omani Penal Code stipulates that "Anyone who promotes or instigates religious or sectarian dissension, or stirs up feelings of hatred among the country's population, will be punished by temporary imprisonment for a period not exceeding ten years,". Article 132 of the same Code also criminalizes terrorist acts and imposes various deterrent punishments depending on the gravity of the act and its effects.

In line with legal developments and the global approach, the Sultanate promulgated Royal Decree No. 8/2007, an independent national anti-terrorism law, in addition to the existing stringent criminalization of terrorist acts in the Omani Penal Code. This was subsequently followed by Royal Decree No. 79/2010 for the combatting of money laundering and the financing of terrorism. In light of the rapid changes in the areas of anti-money laundering and terrorism financing, the Sultanate has recently updated the Anti-Money Laundering and Terrorism Financing Law, by promulgating a new law on 6 June 2016 which is considered to be more comprehensive and effective in preventing the financing of terrorist acts, having benefitted from international experience in this field.

The most salient feature of the updated law is that it includes a detailed and comprehensive definition of the term “funds”, which covers all types of funds that can be used for terrorist purposes. The updated law also provides a comprehensive and detailed definition of the term “Terrorist Act”, which is not solely limited to the actual act, but also includes all forms of participation, support and facilitation of a terrorist act. The law is also distinct in that it toughens punishment in such a way that it would deter anyone who may be inclined to support these abhorrent crimes.

In addition to this, Article 16 of the updated law has increased the administrative level of the Financial Investigation Unit, which was previously affiliated with the Royal Oman Police, and has since been transformed into an independent governmental unit called the National Center for Financial Information which has achieved independent legal personality as well as financial and administrative independence. The law has imposed an obligation on both governmental and non-governmental bodies, to cooperate with the Center in carrying out its function and to provide the Center with all necessary information without using confidentiality clauses as an excuse. The Center is specialized in receiving, requesting and analyzing communications and information suspected of being related to the proceeds of a crime or suspected of being connected to a money laundering or terrorist financing offense.

The new law contains a special chapter that relates to custom declarations. This law regulates the responsibilities of travelers to and out of Oman to declare any currencies or moneys in their possession. The law also requires Customs authority to reserve declarations and information for no less than (5) five years. The law also includes a special chapter on international cooperation, which obliges the relevant authorities and monitoring bodies in the Sultanate to cooperate with their counterparts in other countries. The Sultanate also enacted the necessary legislation to implement the resolutions of the Security Council issued under Chapter (7) Seven of the Charter of the United Nations on the prevention and suppression of terrorism and its financing by issuing the National Counter-Terrorism Committee Resolution No. 1/2017 on 8 January 2017.

In conclusion, the Sultanate emphasizes the importance and necessity of concerted international efforts and the strengthening of cooperation between the relevant authorities and monitoring bodies among States to combat this scourge that is suffered by the whole world. With the Sultanate's full belief in the importance of enacting laws and legislations to combat extremism and terrorism and activate the bodies that implement these laws, the Sultanate believes that spreading the culture of tolerance and brotherhood, renouncing extremism and intolerance, and upholding the principles of the rule of law and achieving social justice is equally important and effective in creating an environment that repels extremism and terrorism.

Thank you all for your kind attention.

President: I thank the delegate from the Sultanate of Oman. Now I give the floor to the delegate from the People's Republic of China.

The Delegate of the People's Republic of China: Mr. President, nowadays we have seen a tendency of frequent and almost simultaneous occurrences of terrorist attacks, and the international counter-terrorism situation continues to undergo profound evolution. China believes that members of the international community should further deepen counter-terrorism

cooperation, join hands in the international fight against terrorism, and work together to safeguard world peace and stability.

Mr. President, the Chinese delegation notes that the 70th UN General Assembly has adopted Resolutions 36, 120, 177 and 291, and the UN Security Council has adopted Resolutions 2199, 2214, 2249, 2253, 2255, 2322 and 2309, which focus on enhancing international cooperation on countering violent extremism and terrorism, and well reflect the common will and determination of the international community in this regard.

Being a member of the world's counter terrorism camp, the Chinese government firmly opposes any form of terrorism and violent extremism and insists that international counter-terrorism actions should be guided by the purposes and principles of the UN Charter, and give full play to the leading role of the UN and its Security Council. There should be no double standards in the fight against terrorism, still less should terrorism be linked with any particular ethnicity or religion. China is also of the view that in fighting terrorism, apart from taking multi-faceted measures to tackle both its symptoms and root causes, more targeted measures are needed. The international community should focus on the removal of breeding grounds of terrorism, further strengthen pragmatic cooperation at multilateral and bilateral levels, keep high alert over the "back flow" of terrorist fighters and resolutely combat the use of Internet for terrorist purposes.

Mr. President, violent extremism is closely intertwined with acts of terrorism, and has fostered the growth of terrorism to a great extent. In this sense, the international community should be well aware of the evil nature of violent extremism, pay high attention to its severe consequences, and make joint efforts to stop its growth and proliferation. Last year, at the Fifty-Fifth Annual Session, AALCO adopted Resolution 9, namely, "Counter Violent Extremism and Terrorism (Legal Aspect)". In addition, AALCO has also organized two Inter-Sessional Meetings of Legal Experts on Violent Extremism and its Manifestations, prior to its Fifty-Fifth Annual Session. All delegates, including those from China, had profound deliberations on the Draft Resolution on AALCO Principles and Guidelines to Combat Violent Extremism and its Manifestations. China stands ready to work with other members of AALCO to reach consensus on the Draft Resolution with the view of rendering strong guidance to the common endeavor of combating violent extremism by cooperation.

Mr. President, like other Asian-African countries China is also a victim of terrorism. In July 2015 and August 2016, the Chinese Embassies in Somalia and Kyrgystan suffered terrorist attacks which caused deaths and injuries. In addition, China faces the perennial threat posed by the "East Turkistan" terrorist forces headed by the "Eastern Turkistan Islamic Movement". In recent years, the "the East Turkistan" terrorist forces keep inciting and organizing terrorist activities which heavily threatened China's national security as well as regional security and stability.

In order to tackle these threats, the Chinese government has taken multi-faceted measures, including implementing anti-terrorism law and promoting de-radicalization, and has made positive contributions to the joint effort of the international community on countering terrorism and violent extremism. The Chinese government also takes an active part in multilateral cooperation mechanisms such as the UN, the Shanghai Cooperation Organization, the Interpol, the Global Counter-Terrorism Forum, and the ASEAN Regional Forum. We have also carried out substantive counter-terrorism cooperation with other countries in areas such as intelligence

sharing, information verification, specific case handling and capacity building. We have also provided, to the best of our capability, material assistance and assistance in capacity building in counter-terrorism to other developing countries. On October 21st last year, my government successfully hosted the 2nd Workshop on Combating Cyber-Terrorism within the framework of Global Counter-Terrorism Forum in Beijing, which has actively promoted the international cooperation and capacity building in this area.

The Chinese government is ready to continue to work with other countries in the spirit of mutual respect and cooperation on an equal footing, strengthen exchanges and cooperation, push for new progress in international counter-terrorism cooperation, construct a tightly woven net against terrorist groups and forces so that terrorists have nowhere to hide, and facilitate the realization of regional and world peace and stability.

Thank you, Mr. President.

President: I thank the delegate from the People's Republic of China. Now I give the floor to the delegate from the Republic of Indonesia.

The Delegate of the Republic of Indonesia: Mr. President, Indonesia attaches great importance in preventing and combating terrorism in all its forms and manifestations, including the growing problem of foreign terrorist fighters.

For Indonesia, strengthening cooperation at the international, regional and bilateral level, to counter the threat posed by foreign fighters is important. I would like to share with you that we have taken a number of measures, including through enhanced operational and timely information sharing, and capacity building activities, to prevent the travel of foreign terrorist fighters from, into or through other States, to prevent the financing, mobilization, recruitment and organization of foreign terrorist fighters, and to enhance implementation of the de-radicalization programs.

On another note, Indonesia has implemented a new policy to ensure that any persons who participate in the financing, planning, preparation or perpetration of terrorist act or in the supporting of terrorist act is brought to justice. This is reflected in the establishment of Law Number 9 of 2013 on the Prevention and Eradication of Terrorist Financing, and joint regulations between Chief of the Supreme Court, Minister of Foreign Affairs, Chief of Indonesian Police, Head of Indonesian National Counter Terrorism Agency, and Head of INTRAC of 2015 to implement the Law Number 9 of 2013.

Mr. President, we believe that the aforementioned measures and policy that Indonesia has taken will improve our national approach towards a more comprehensive strategy in preventing and combating terrorism in all its forms and manifestations.

Thank you.

President: I thank the delegate from the Republic of Indonesia. Now I give the floor to the delegate from India.

The Delegate of India: Thank you, Mr. President for giving us the floor. On behalf of the delegation of India, let me thank the Chair of the Working Group for her detailed report.

Our delegation commends the work done by the AALCO Secretariat on the topic and also for convening the Working Group meetings.

The international community is facing unprecedented challenges from terrorism. India is a victim of terrorism for last several decades. India is party to all international counter terrorism conventions and protocols and has enacted legislations to deal with all aspects of terrorism. At the bilateral and regional level, India has concluded bilateral treaties on extradition and mutual legal assistance in criminal matters with a number of Member States of AALCO. At the sub regional level, India is a party to the SAARC Convention on Prevention of Terrorism as well as mutual legal assistance in criminal matters and similar conventions adopted by BIMSTEC.

India strongly supports all efforts, within the purview of the United Nations that strengthen international and regional cooperation in the fight against terrorism.

As terrorism thrives on and is sustained by its trans-boundary networks for ideology, recruitment, propaganda, funding, arms, training and sanctuary, no single nation alone can tackle this menace decisively. There is no stronger case for more multilateral action, more coordination and more cooperation on any matter amongst all stakeholders than on terrorism.

India stresses the need for expanding the scope of the legal instruments and the enforcement efforts to destroy safe havens for terrorists, their financial flows and support networks and to bring the terrorists to justice. India attaches importance to the work undertaken by the Ad-hoc Committee on Terrorism established by the General Assembly and supports early conclusion of the Comprehensive Convention on International Terrorism (CCIT).

Mr. President, 'Violent extremism' is a generic expression/term which would in our view cover all types of violence and extremism including terrorism. As we all know given the divergent practicalities, political considerations, differences in laws and legal systems and other related understandings at national, regional and global level, it is proving difficult for the international community to have a common definition of this expression applicable universally. It is also difficult to draw a line between violent extremism and terrorism.

Thank you Mr. President.

President: I thank the delegate from India. Now I give the floor to the delegate from the Republic of Korea.

The Delegate of the Republic of Korea: Thank you, Mr. President. As we are all aware, some of the root causes of violent extremism and terrorism are societal problems such as discrimination, poverty, unemployment, marginalization and inequality. As our delegation stated at the Sixth Committee of the 71st Session of the UN General Assembly, “[t]hese are multi-faceted challenges, and there is no one-size-fits-all solution. In order to eradicate the root causes of extremist attitudes, and to further reintegrate extremists into society, a sustained, inclusive, and holistic approach is therefore crucial to deal with the evolving scope and nature of terrorist threats.”

In this regard, my delegation would like to emphasize the importance of global cooperation on the initiatives for Countering Violent Extremism and Preventing Violent Extremism, which aim

to address the economic and social factors triggering radicalization and to prevent vulnerable people from being exposed to extremism.

My delegation would also like to take note of the negotiations on the Comprehensive Convention on International Terrorism at the UN General Assembly. For the past several years, the negotiations have been stalled, and a number of substantial challenges are yet to be overcome. The scale and dimension of terrorist threats, and the suffering many people face today, however, call for flexibility in order to bring the negotiations to a close.

My delegation believes it is imperative to go forward collectively, rising above our differences. We look forward to sharing diverse insights on this agenda item at today's Session.

Thank you, Mr. President.

President: I thank the delegate from the Republic of Korea. Now I give the floor to the delegate from Japan.

The Delegate of Japan: Japan firmly condemns despicable acts of terrorism. Terror attacks perpetrated by terrorist organizations around the world are a blatant abuse of human rights, and cause destruction and disorder, which continue to pose a serious threat to local, national, regional, and international peace and security.

Terrorist organizations use narratives and ideologies based on their distorted interpretation, not only to justify their ideas but also to inspire and recruit a number of young people by using the Internet. But Japan firmly believes that terrorism and violent extremism cannot and should not be associated with any religion, nationality or civilization.

Japan has actively committed to countering terrorism and violent extremism and has been enhancing the international cooperation since the last Annual Session of AALCO. Namely:

In 2016 Japan hosted the G7 presidency and took initiative in discussing counter-terrorism and countering/preventing violent extremism, releasing "G7 Action Plan on countering Terrorism and Violent Extremism". The Action Plan focuses on specific critical gaps in order to facilitate a more effective counter-terrorism response by the international community.

In September last year, at the Summit of the Association of South East Asian Nations (ASEAN), Japan announced that it would provide approximately 45 billion yen over the next three years for Asia as comprehensive counter-terrorism measures, consisting of (1) improvement of counter-terrorism capacity, (2) measures to counter violent extremism conducive to terrorism, and (3) social and economic development assistance for creating a foundation for a moderate society.

In August last year, at the 6th TICAD held here in Kenya, Japan expressed its commitment to implementing measures toward a peaceful and stable Africa, amounting to approximately 500 million USD, covering about 9.6 million people, which include vocational training for 50,000 people as part of human resource development.

The international community should stand unified in its efforts to fight this common threat. Japan will continue to steadfastly fulfill its responsibility to fight against terrorism and violent extremism.

President: I thank the delegate from Japan. Now I give the floor to the delegate from the Republic of Sudan.

The Delegate of Republic of Sudan¹⁵: Thank you Mr. President. On behalf of the delegation of Sudan, allow me at the outset to extend my sincere thanks to the Secretary-General of the Organization and crew of the Secretariat for their good preparation for this Session. I would also like to thank the Government of the Republic of Kenya for hosting this Session and for the warm reception and hospitality.

Undoubtedly terrorism has negative impact on the social and economic growth. It negatively affects investment opportunities and project financing, as well as leads to increasing unemployment, high exchange rate, inflation and the disruption of financial markets. It also diverts funds allocated for development which, instead of being spent on development projects and improving the individual's standard of living, is utilized for combating terrorism.

That is why Sudan has been deeply involved in combating terrorism and extremism. Sudan is party to all the International Conventions and Treaties relating to the fight against terrorism. Sudan is also a party to regional conventions and measures at Arab and African levels.

On the domestic level, Sudan has adopted a number of legislations and measures aimed at preventing, curbing and reducing the phenomenon of terrorism and extremism. Sudan has adopted an Anti- Terrorism Act in 2001 and a law against money laundering and terrorism financing. In 2016 it established a national body for combating terrorism, which is in agreement with the United Nations Development Programme (UNDP) activities in Sudan, which is funded by the Government of Japan, to undertake a comprehensive study of root causes of violent extremism in Sudan.

The United Nations Development Programme has completed the first phase of its Study in cooperation with the Sudan National Commission for Countering Terrorism (SNCCT) and civil society organizations. Stakeholders were informed of its result at home and abroad. In February 2017, this Study was reviewed by the United Nations Development Program in New York. Apart from this, Sudan has established regulatory bodies in form of prosecution and courts to combat money laundering and terrorism financing and a national committee to combat money laundering and terrorism financing.

Sudan has unique experiences in the fight against terrorism and extremism, known as the program of intellectual remedies. This program is one of the most effective means of action in combating violent intellectual extremism within the community and that is through this 2008 launched program that corrects the wrong ideas embraced by extremists. Being a community protection program, this program also aims at creating awareness of all sectors of the society through a series of talk shows.

Sudan recognizes that the fight against terrorism and violent extremism requires the consolidation of efforts at regional and international level to eradicate activities which finance terrorism like human trafficking and drugs trade and many others. It also requires strengthening cooperation in the field of legal investigations and prosecutions, and the exchange of information and also extradition.

¹⁵ The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

Thank you for your kind attention.

President: I thank the delegate from the Republic of Sudan. Now I give the floor to the delegate from the Islamic Republic of Iran.

The Delegate of the Islamic Republic of Iran: “In the name of God, the Compassionate, the Merciful”.

Mr. President, at the outset, allow me to thank the Secretariat for its efforts in serious consideration of the topic “Violent Extremism and Terrorism” and its support for organizing the inter-sessional meetings on the issue. Violent extremism is a common predicament and a common problem; it is not confined to a certain region, race, religion, or sect. Today all States, developed or developing, Western or Eastern, Muslim or otherwise is affected, in one way or another, by the adverse effects of the phenomenon.

It is now a widely established fact that a common thread that binds all those engaged in extremist violence is that they find themselves marginalized in their respective societies. Xenophobia and Islamophobia happen to be some of the major root causes of this plight which has now led to the creation of extremist terrorist groups not only in our region but all over the globe. This is how Da'esh (or the so-called Islamic State in Iraq and the Levant (ISIL)) has attracted, and continues to attract, youth from many countries, including European countries. Security Council has taken some steps to prevent the flow of foreign terrorist fighters to conflict areas. In this regard, resolutions 2170, 2178, 2199, 2249 and 2253 were adopted and with a view to blocking financial support to this terrorist group and its affiliates. Nevertheless, the prolongation of conflicts and the increase in the number of displaced civilians have proved that all the attempts made to that end have been, if not futile, inadequate.

Further, what remain to be more troubling are violations committed by certain States in the fight against extremist terrorism. This has led to disregard for well-established principles of international law and some fundamental principles of international humanitarian law, which, in some cases, may tantamount to war crimes.

Mr. President, the draft AALCO Principles and Guidelines to Combat Violent Extremism, discussed by Member States during three inter-sessional meetings, revealed the challenges posed by the issue from an international legal perspective, and also highlighted the common grounds for a thorough understanding necessary to effectively fight terrorism. Thereby, we underlined and reaffirmed relevant principles of the United Nations Charter, including sovereign equality, political independence and territorial integrity of all States, prohibition of threat or use of force and intervention in domestic affairs of other States, peaceful settlement of disputes and also the non-association of violent extremism with any one race, religion, sect, nationality, culture or ethnicity. Also, cooperation was opted for by the Member States to be the main solution to the phenomenon and de-radicalization and rehabilitation efforts proved to be necessary to secure an extremism-free community.

Mr. President, the main legal elements contained in the said draft are consistent with those recapitulated by the General Assembly resolution A/RES/68/127 of 18 December 2013 entitled “World Against Violence and Violent Extremism” (WAVE), and in subsequent documents

namely Declaration and Plan of Action of the First International Conference on World Against Violence and Extremism adopted in December 2014 and UN General Assembly resolution A/70/674 of 24 December 2015 on the UN Plan of Action to Prevent Violent Extremism which has annexed to it the report of the UN Secretary General on the issue.

Thus, while we commend the work done by the Secretariat and the Member States for their endeavor in approaching the diverse legal aspects of violent extremism and terrorism, we are of the conviction that the discussions and deliberations held by the Member States, have already contributed much to our understanding of the challenges posed by the issue. The Islamic Republic of Iran will extend cooperation on the topic end and will support the unanimous decision of the Member States in this regard.

Thank you Mr. President.

President: I thank the delegate from the Islamic Republic of Iran. Now I give the floor to the delegate from the Republic of Kenya.

The Delegate of the Republic of Kenya: Mr. President, thank you for the floor. The Government of Kenya applauds the Asian African Legal Consultative Organization for holding this important discussion. At a time when terrorist organizations such as Al-Shabaab and Al-Qaeda are fighting against established and legitimate authorities, utilizing attacks on innocent civilians, the spirit of solidarity that gave birth and life to this discourse is needed more than ever.

Kenya stands at the front line of the global struggle against these groups which are attacking the culture, conscience and dignity of our peoples. Their desire to try and subjugate populations to accord to their puritanical and violent vision recalls the worst arrogance and inhumanity of the colonial era. We urge this forum to condemn these groups in that spirit and strip from them any pretensions of being fighters for freedom or justice or victims responding to poverty or marginalization. Nothing justifies mass murder, mutilation and the terrorizing of innocents. We believe this body should insist that there is no justification whatsoever that should be accepted from these groups. Kenya has transformed its Counter Terrorism tools from a legal and operational perspective. Our record of investigations, prosecutions and convictions has improved dramatically. Combined with our comprehensive efforts to detect and disrupt terrorist operatives, the number of attacks on our people has fallen sharply.

We continue to be an anchor country in the African Union Mission to Somalia which is acting under the authority of the UN Security Council to stabilize Somalia and degrade Al-Shabaab. Our actions in Somalia have robbed Al-Shabaab of its key base and source of funding. Our efforts alongside our African partners have helped provide the people of Somalia with a chance to establish a government that is increasingly able to govern the country.

We believe that the mission to Somalia is one for the freedom and progress of the Somali people. In the spirit of solidarity that informs our existence, we urge this forum to strongly condemn Al-Shabaab as an organization whose aims are contrary to the interests of the Asian and African countries and its people. In addition to a toughened counter terrorism approach, Kenya is

implementing local efforts to counter radicalization and recruitment, while delegitimizing the ideologies of hatred and division.

Our national efforts are encapsulated in the *National Strategy to Counter Violent Extremism* that was launched in September, 2016, by His Excellency, the President of Kenya. The Strategy articulates the terrorism prevention pillar of our Counter Terrorism strategy. Its overarching aim is “to rally all sectors of Kenyan social, religious and economic life to emphatically and continuously reject violent extremist ideologies and aims to shrink the pool of individuals that terrorist groups seek to radicalize and recruit”. In addition to local implementation efforts that bring together government officials, religious leaders and other members of civil society, the National Government has launched a campaign that includes almost all National Ministries and Departments. That national campaign is training frontline public servants to recognize recruitment attempts and respond effectively to them through a homegrown risk assessment and response tool. National Agencies are also engaging in the rehabilitation and reintegration of violent extremists whose risk profile makes them unsuitable for prosecution. The Counter Violent Extremism pillar also encourages citizens, religious leaders and scholars to counter deny and delegitimize the ideological claims of groups such as Al-Shabaab and Al-Qaeda.

In closing, Kenya looks forward to staying engaged in this important debate and invites all countries of goodwill to engage with us to practically affect the fight against terrorist and violent extremist groups.

Thank you for the floor, Mr. President.

President: I thank the delegate from the Republic of Kenya. Now I give the floor to the delegate from the Republic of Turkey.

The Delegate of the Republic of Turkey: Thank you Mr. President. Turkey is at the forefront of terrorist threats. The bomb attacks of the terror organizations took many lives of our citizens and left hundreds of people wounded. We continue to fight against all kinds of terrorist activities. We can assure that there is no hesitation on this issue. Turkey undertook a comprehensive military action, Operation Euphrates Shield. Turkey continues to take comprehensive and effective measures for border security. Turkey has also been actively contributing to the international efforts in fighting Da’esh. We have actively contributed to the Council of Europe Additional Protocol to the Convention on the Prevention of Terrorism, which addresses the phenomenon of foreign terrorist fighters. Turkey is co-chairing counter ISIS Coalition Working Group on Foreign terrorist fighters.

In line with the Security Council regulations, we launched a comprehensive strategy to combat terrorism as well. Terrorism is no way Turkey's fault. However we have to bare the bitter consequence.

We expect all parties and allies to take effective measures including financial measures and preventing foreign fighter's travel. We also wish to see increased intelligence and information sharing.

Thank you Mr. President.

President: I thank the delegate from the Republic of Turkey. Now I give the floor to the delegate from the Socialist Republic of VietNam.

The Delegate of the Socialist Republic of VietNam: Mr. President and Madam Vice-President, I would like to share the views of and measures taken by VietNam in combatting terrorism and violent extremism. VietNam strongly condemns any and all acts of terrorism and extends deepest condolences to the victims and their families.

VietNam also reiterates our long-standing position that terrorism constitutes a violation of the purposes and principles of the Charter of the United Nations and international law. Terrorism in all its forms and manifestations, by whoever, wherever, and for whatever purposes, must be vigorously and unequivocally condemned.

Terrorism and violent extremism constitute global challenges that require global actions. The international community must take a comprehensive and united approach to effectively combat terrorism, extremism at both global and regional levels, with the United Nations playing the leading role.

It is the view of VietNam that States must work closely together to realize our firm commitments to promoting international cooperation in the fight against terrorism and violent extremism. Our delegation believes that we must address the root causes of international terrorism and violent extremism, including political, economic and social inequality and injustice. At the same time, we believe that actions to counter terrorism and violent extremism must be in line with international law, including international human rights and humanitarian law.

In combatting terrorism and violent extremism, VietNam continues to reinforce the rule of law at the national level and engage actively in cooperation activities, bilaterally, regionally and multilaterally. The Law on Counter-terrorism, the Criminal Code and other relevant laws and regulations sets out a comprehensive legal framework for countering terrorism and violent extremism and fostering VietNam's international cooperation in this endeavor.

At the regional level, VietNam is part of ASEAN's efforts to effectively implement ASEAN Convention on Counter Terrorism and the ASEAN Comprehensive Plan of Action on Counter Terrorism. VietNam has also been closely cooperating with APEC member territories in combating terrorism and violent extremism.

At the international level, VietNam attaches great importance cooperation with the United Nations to counter terrorism and violent extremism. VietNam is a State Party to most of universal international Conventions and Instruments on counter – terrorism, including the Convention for Suppression of the Financing of Terrorism. VietNam most recently ratified the International Convention for the Suppression of Acts of Nuclear Terrorism.

VietNam supports the United Nations' Global Counter-Terrorism Strategy and takes note of the Secretary-General's Plan of Action to Prevent Violent Extremism which includes recommendations to counter violent extremist behavior and radicalization.

In conclusion, Mr. President, VietNam shall continue to join AALCO Member States and the international community in the fight against terrorism and violent extremism in accordance with international law and contribute to peace, cooperation, and sustainable development in the world.

I thank you, Mr. President and Madam Vice President.

President: I thank the delegate from the Socialist Republic of VietNam.

The Meeting was thereafter adjourned.

X. VERBATIM RECORD OF THE THIRD GENERAL MEETING (CONTD.)

**X. VERBATIM RECORD OF THE THIRD GENERAL MEETING (CONTD.) HELD ON
WEDNESDAY, 3 MAY 2017 AT 04.40 PM**

AGENDA ITEM: THE STATUS AND TREATMENT OF REFUGEES

Her Excellency, Dr. Vilawan Mangklatanakul, Deputy Director General, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs of Thailand, and Vice-President of the Fifty-Sixth Session of AALCO in the Chair.

Vice-President: I call upon His Excellency, Prof. Dr. Kennedy Gastorn, Secretary-General of AALCO, to make his introductory remarks.

His Excellency, Prof. Dr. Kennedy Gastorn, Secretary-General of AALCO: Thank you, Madam Vice-President. Excellencies, Distinguished Delegates, Ladies and Gentlemen; I have the honour of introducing the topic, “The Status and Treatment of Refugees”, contained in Secretariat Document, AALCO/56/NAIROBI/2017/SD/S3. The Asian-African Legal Consultative Organization (AALCO) has been concerned with the issues relating to the Status and Treatment of Refugees ever since this topic was introduced in its agenda in 1964 at the behest of the Arab Republic of Egypt. Since then, the Organization has been at the forefront of some of the major developments in the field of refugee protection, particularly with the adoption of the “Principles Concerning the Treatment of Refugees” in 1966 at its Eighth Annual Session, which are commonly known as ‘Bangkok Principles’, and the addendum in 1987 at the Twenty-Sixth Session held in Bangkok—where AALCO adopted ‘Burden Sharing Principles.’

Additionally, the item entitled “Legal Protection of Migrant Workers” was included on the agenda of AALCO at the reference of the Government of Philippines during AALCO’s Thirty-Fifth Annual Session held at Manila in 1996. The topic has been regularly considered by AALCO and in 2002 a draft Model Agreement was prepared by the Secretariat in collaboration with the International Organisation for Migration with useful input from the Office of the High Commissioner for Human Rights (OHCHR). This agreement, which has a Preamble and twenty articles, is yet to be adopted formally by the Member States.

While AALCO generally address issues relating to refugees and migration under the separate topics of “The Status and Treatment of Refugees” and “Legal Protection of Migrant Workers”, the current year’s Report and deliberations are meant address issues relating to both topics due to the fact that the recent *New York Declaration* relates to both refugees and migrants. The Secretariat’s Report, AALCO/56/NAIROBI/2017/SD/S3, deals extensively with the New York Declaration, which was adopted following the high-level UN Summit held at UN Headquarters in New York in September 2016. In brief, the New York Declaration reiterates and elucidates on general commitments by States that apply to both refugees as well as migrants, as well as specific commitments that apply to persons falling into one or the other of those categories. The declaration generally stresses a comprehensive approach to the protection of refugees and migrants, especially those most vulnerable i.e. women and children. This comprehensive approach encompasses State, non-State and private entities and emphasises not only the rights of refugees and migrants but also the rights and responsibilities of States themselves.

Additionally, the Declaration also proposed the creation of “Comprehensive Refugee Response Framework” and a “Global Compact for Safe Orderly and Regular Migration.” These instruments are proposed to be negotiated by 2018, which makes the deliberations at this AALCO Session particularly important for AALCO States to identify and discuss issues and solutions which will prove useful for the negotiation of the proposed 2018 Compacts.

Excellencies, Ladies and Gentlemen, the continuing global refugee crises and their connection to Asia and Africa make AALCO an important stakeholder in developments in, and the alleviation of, these crises. Most of the largest origin States of refugees and migrants, as well as the host States to refugees, are members of AALCO, making the regional perspective offered by AALCO and its Member States to the development and implementation of the Comprehensive Refugee Response Framework, as well as the proposed Global Compacts on Refugees and on the Safe, Orderly and Regular Migration, particularly relevant and important.

It is pertinent to reiterate the contributions of AALCO, particularly, the Bangkok Principles and the Burden Sharing Principles, which are of particular relevance as they highlight the growing trend towards finding durable solutions to the refugee problems and for international assistance to relieve the burden of those countries faced with large-scale influx of refugees. Burden and responsibility sharing arrangements, including resettlement, represent a significant component of durable solutions for displacement situations. These principles provide a pragmatic framework, which while “recommendatory in nature” nevertheless forms guiding principles for State practices in the Asian-African region.

The experience gained through the adoption of these Burden Sharing Principles, as well as the exercises in the drafting of the “Model Legislation on the Status and Treatment of Refugees” in 1995, and the “Model Agreement for Cooperation Among Member States on Issues Related to Migrant Workers”, places AALCO and its Member States in a position to provide a regional perspective to the development and implementation of the Global Compacts and the refugee Framework, as well as offer insight into best practices, roadblocks, and the efficacy of these instruments. It may also be worth revisiting the Model Legislations drafted by AALCO in relation to both refugees and migrants in order to revise them, where appropriate, and consider their adoption and implementation.

As refugee and migrant crises continue to grow, it is of particular importance for AALCO Member States to participate in the negotiations of the proposed compacts and support their interests and concerns. The continued participation of AALCO and its Member States in the process of negotiation for future compacts relating to these areas will undoubtedly benefit both the States as well as the people who are worst affected by these crises.

Thank you, Mr. President and Madam Vice-President.

Vice-President: Thank you Secretary-General for your introduction. I now call upon the delegate from Indonesia to make a statement.

The Delegate of Republic of Indonesia: Thank you Mr. President. Under this agenda item, allow me to highlight our views with regard to the Status and Treatment of Refugees based on

our experience. The refugee issues including irregular migrants, have become increasingly complex in recent years. In Indonesia itself, it is estimated that there are more than 14,000 refugees in 2017. Those refugees come from various backgrounds and events such as war, political turmoil and ethnic conflict.

Against this background, we are of the view that the issues of refugees is transnational in nature and in many cases involved organised crime groups which leads to the potential threat of people smuggling and trafficking in persons as a result of perpetrators taking advantage of the situation.

Indonesia believes that no single country would be able to handle this problem alone. Therefore, international cooperation is the key. In this regard, enhancing cooperation at bilateral, regional, and the international level is crucial to reinforce efforts to address this problem.

Indonesia is also convinced that the AALCO Member countries and the rest of the international community are of the same view that action needs to be taken collectively to address the issue, including the protection of refugees from harm as well as ensuring their safe return and repatriation.

Thank you, Madam Vice-President.

Vice-President: Thank you, Indonesia. I next invite India to take the floor.

The Delegate of India: Thank you Madam Vice-President. On behalf of our delegation, let me thank the Deputy Secretary-General for his introductory remarks. Our delegation takes this opportunity to also thank the AALCO Secretariat for its background document on the topic. My delegation would like to make a few general observations on the topic.

In order to ensure adequate, effective and timely protection and support to people in need, there is a necessity to maintain a distinction between migrants, refugees and Internally Displaced Persons (IDPs), as they are governed by different international laws and norms.

The words “refugee” and “migrants” are often mixed together. However, refugees and migration are two distinct phenomena and should be dealt with separately. While migration is basically an economic phenomenon, the issue of refugees is political in nature. We have been stressing the need to develop different compacts for managing refugees and migrants on various international platforms. We believe that mixing the agenda for refugees and migration will be counterproductive for the cause of both. The New York Declaration has underlined the need for the development of two separate compacts for Migration and Refugees. We support this initiative to develop two separate compacts or refugees and migration.

We believe that Migration is mostly economic in nature and it is a pillar for development and we support a developmental paradigm on migration. We believe that migration benefits all—the origin, transit and destination countries. We support recent initiatives to develop a separate Global Compact for safe, regular and orderly migration.

On the issue of Internally Displaced Persons, we believe that the subject of internal migration, including the IDPs should rest within the purview of the national governments. Any involvement of international organisations, including the UN, in this regard should only be at the explicit invitation of the State concerned.

India has been generally supportive of the principles of burden sharing and solidarity in respect of refugees. We believe that responsibility sharing should be based on agreed principles of common but differentiated responsibilities and not equitable (equal?) responsibility sharing.

We are also concerned at voices seeking to divert resources away from development programmes, which will have a deleterious effect on developing countries, in particular LDCs and SIDS.

In our view, the United Nations should continue to play a central role in providing leadership and coordination to the efforts of the international community to support strengthening its response capacity in a cost-effective and timely manner.

Thank you, Madam Vice-President.

Vice-President: Thank you, India. I now call upon Thailand to take the floor.

The Delegate of the Kingdom of Thailand: Thank you Madam Vice-President. Excellencies, Distinguished Delegates, On behalf of the delegation of Thailand, I would like to express our appreciation to the AALCO Secretariat for the informative report on the Status and Treatment of Refugees, as well as its continued efforts to provide AALCO Member States with an update on the latest development and challenges in this area of international law.

Mr. President and Madam Vice-President, with more than 65 million people around the world forcibly displaced and some 21 million classified as refugees, the plight and problem of refugees and migration is one we could never turn a blind eye upon. Given the transnational nature of the problem, it is indeed the burden shared by all as much as it is a shared responsibility of the international community to resolve this issue together.

In this regard, Thailand welcomes the adoption of the New York Declaration for Refugees and Migrants by the UN General Assembly in September last year. The Declaration, albeit political rather than legal in nature, is significant in showing the solidarity of the international community in addressing this crisis and, more importantly, it is a step forward in reaffirming States' commitments to fully respect human rights and in pledging robust support to countries affected by large movements of refugees and migrants.

Of particular importance is the development of the Comprehensive Refugee Response (CRR) Framework based on principles of international cooperation and burden-sharing. Using a multi-stakeholder approach and encompassing both humanitarian responses and development actions, the CRR Framework provides a promising, more systematic and sustainable response that will benefit both the refugees and host countries.

Mr. President and Madam Vice-President, Thailand also supports, and looks forward to the adoption of a global compact on refugees in 2018. We wish to emphasise that such a global compact must reinforce the notion that protection of refugees and assistance to host States are a shared international responsibility, while at the same time ensuring that all countries—whether of origin, transit or destination—are given the policy space to address the issue in line with their own national circumstances.

A couple of points to support the drafting of the Global Compact might be noted here. Firstly, development and technical assistance to countries of origin is crucial in tackling the problem at its root cause. Secondly, countries of transit, which are in many cases first-asylum countries, must be part of the policy-making process to resolve this issue. Additional financial and other assistance should also be given to these countries, especially with regard to policy implementation, law enforcement, and prevention of abuse and exploitation of the displaced, with the overall objective to ensure that first-asylum countries do not become harbours for human trafficking networks. Finally, countries of destination must also play a role in improving the well-being and building capacity for refugees, as well as expediting the resettlement process, which will help alleviate the suffering of those affected and reduce the burden on all parties concerned.

Mr. President, Thailand also shares the burden of being a first-asylum country, and we have always tried our best to do our part. Over the past four decades, the Thai Government has consistently provided shelter to displaced persons fleeing conflict along the border areas, the numbers for which stood at about 100,000, as well as assistance to more than 3 million irregular migrants and foreign workers. Several measures have also been put in place including the improvement of law enforcement and allocation of a yearly budget of US\$ 180 million to provide the displaced with access to healthcare, education and legal assistance in criminal cases.

Last but not least, Thailand would appreciate the work by the Secretariat in reporting on the progress of the proposed 2018 Global Compact on refugees and migrants, as well as initiatives in collaboration with the UNHCR in organising a capacity building program for AALCO Member States. Such steps would not only aid the effective implementation of our commitments, but would also contribute towards finding an enduring solution and ensuring peace and stability in our two regions.

I thank you, Mr. President and Madam Vice-President.

The Delegate of the People's Republic of China: Thank you, Madam Vice President.

At present, the situation on global refugees is very pressing. International protection of refugees is facing great challenge, and no State or region can resolve this problem solely by itself. The problem of refugees not only causes humanitarian crisis, subjecting refugees and their families to disastrous sufferings, but also threatens regional peace and stability, and hinders economic growth of relevant States.

China welcomes Member States to conduct thorough discussion under the agenda item *Status and Treatment of refugees*, seeking solutions to reduce the number of refugees and displaced persons and guarantee their life, security and dignity.

China highly appreciates the efforts and contributions made by AALCO to solve the problem of refugees, including the adoption of the *Principle Concerning the Treatment of Refugees* in 1966 at its 8th Annual Session as revised in 2001, the *Burden Sharing Principles* in 1987 at the 26th Session, and *A Model Legislation on the Status and Treatment of Refugees* submitted by the Secretariat to the 34th Annual Session in 1995.

China attaches great importance to, and actively participates in the settlement of the refugee issue. China is committed to preserving international peace and stability, firmly supports common development of developing countries, and provides humanitarian assistance to relevant countries and international agencies. In January this year, China decided to provide additional 200 million RMB (about 30 million USD) to assist Syrian people including overseas Syrian refugees. Recently, China provided additional 1 million USD to WHO, UNICEF, and UNHCR respectively. Part of the funds in the China-UN Development Fund will also be used to support the UNHCR and IMO in their effort to provide education, training, health service to refugees in countries like Pakistan, Iran, Ethiopia, and Ghana.

Madam Vice-President, China is of the view that the immediate causes of the refugee issue are continuous turmoil in some regions and countries. However, the root causes are regional instability and imbalanced development in these countries. The international community needs to uphold the purposes and principles of the UN Charter, and settle disputes and disagreements through peaceful dialogue and consultations. It is necessary to promote more balanced, inclusive and sustainable growth of the world economy, and implement the 2030 Sustainable Development Agenda. The international community should increase support to developing countries especially African countries. The origin, transit and destination states should strengthen solidarity and take their obligations, based on their respective capabilities and respecting national circumstances and legal systems. China calls upon the states which are not parties to the Convention on the Status and Treatment of Refugees and its Protocol to join these instruments as early as possible.

China welcomes the convening of the High-Level Plenary Meeting on Refugees and Migrants held during the 71st Session of UNGA and its adoption of the *New York Declaration for Refugees and Migrants*. China believes it will bring new momentum for global cooperation on the issue of refugees and migrants. Chinese Premier Li Keqiang attended this summit, elaborated China's position on refugees and migrants and announced that China would provide as much as 300 million USD for humanitarian assistance. The international community should accelerate the implementation of the *New York Declaration for Refugees and Migrants* and the *Comprehensive Refugee Response Framework*.

China would also like to reiterate that the negotiation of the Global Compact on Refugees should keep to its inter-governmental nature. The Global Compact is not an international legal instrument, thus it is not in the position to impose extra obligations on states, and it should not be substitute for existing international law on refugees. It should be mentioned that Asian and African countries, who have hosted the majority of global refugees, accumulated many valuable

experiences and also have many concerns in this regard. More attention needs to be paid to their concerns, voice and role during the negotiation process of the global compact. Furthermore, I would like to point out that some criminals often flee abroad and seek refugee status for asylum in order to evade legal sanctions. We should distinguish these criminals from the refugees who are really in need for assistance, so as to avoid the abuse or politicization of protection mechanisms for refugees.

Thank you, Madam Vice-President.

Vice-President: Thank you China. I now call upon the Republic of Korea to take the floor.

The Delegate of the Republic of Korea: Thank you Madam Vice-President. With regard to dealing with the problems of refugees and displaced persons, particularly in Asia, Africa and the Middle East, I would like to briefly outline the Korean Government's position.

The Republic of Korea, in particular since its accession to the 1951 Refugee Convention in 1992, has demonstrated a commitment to the protection of refugees. As the first country in Asia to enact a Refugee Act, which entered into force in 2013, Korea has continued to improve its refugee status determination process and facilitated better treatment for asylum-seekers. In 2015, the Korean government also launched a resettlement pilot project to actively join in the international community's efforts to facilitate refugee protection. In addition, my government has expanded financial assistance for refugees fifteen-fold over the past five years.

In the short-term, we should strengthen protection and humanitarian assistance to those in need, regardless of their status. During this process, the protection of human rights, and the recognition of the principle of *non-refoulement* and the right to fair legal process must be ensured. In this regard, the Republic of Korea welcomes the New York Declaration for Refugees and Migrants adopted in 2016. My government also strongly supports implementing the Comprehensive Refugee Response Framework and adopting the Global Compact on Refugees in 2018.

To deal with the unprecedented challenge of large movements of refugees, it is crucial that we coordinate immediate and longer term efforts in a systematic way with the United Nations. I sincerely hope that this session will effectively tackle this pressing issue.

Thank you, Madam Vice-President.

Vice-President: Thank you, Republic of Korea. Next, I call on Japan to take the floor.

The Delegate of Japan: Thank you, Mr. President and Madam Vice-President.

Japan is working actively more than ever in the field of human rights by promoting "diplomacy emphasising universal values, such as freedom, democracy, respect for fundamental human rights and the rule of law." Aiming at improving human rights and humanitarian issues around the world, Japan is making proactive contributions through multilateral initiatives including the United Nations as well as through bilateral cooperation.

We are greatly concerned that the number of displaced refugees and Internally Displaced Persons (IDPs) has become the largest on record due to the multiple large-scale humanitarian crises we have been facing in recent years, such as the worsening of the humanitarian situation in South Sudan and Yemen as well as the deteriorating situation in Syria and its neighbouring countries.

At the same time, we should not forget the protracted problems of refugees and IDPs, such as those in Afghanistan, Somalia and the Democratic Republic of the Congo (DRC). Finding durable solutions to protracted problems is a crucial task that needs to be addressed. If those problems continue to remain unsolved, that would bring about a humanitarian challenge, and forms an obstacle for effective assistance.

In order to find durable solutions for the problems of refugees and IDPs, cooperation among humanitarian agencies, development agencies, donor countries and affected countries is important in their humanitarian and development assistance to bring refugees and IDPs out of the tendency of dependence on assistance and to promote their self-reliance, together with the development of host communities.

“Human security and peace building” is one of the important pillars of Japanese foreign policy. Human security is an important aspect for the realisation of lasting solutions to the refugee and IDPs issues. We thus intend to continue making various contributions in this respect.

In light of the New York Declaration adopted at the UN Summit for Refugees and Migrants held last September, Japan is ready to proactively participate in discussions on the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration, which are the comprehensive frameworks for addressing refugees and migrants’ issues aimed at adoption in 2018.

Thank you, Madam Vice-President.

Vice-President: Thank you, Japan. Now I call on Sudan to take the floor.

The Delegate of Sudan:¹⁶ Thank you Madam Vice-President. On behalf of the delegation of Sudan allow me to address this session.

Undoubtedly the crisis of refugees is an old crisis but it has expanded over the period of time, with no end of this crisis in sight. The number of refugees in the world has reached more than 21 million according to the report of the United Nations High Commissioner for Refugees (UNHCR) during the year 2015, in addition to internally displaced persons. The most affected countries with regard to the phenomenon of refugees, whether they are countries of origin or destination, are the countries of Asia and Africa, and these were the results of wars, conflicts and natural disasters.

Sudan has welcomed refugees early with an open door policy that was based on its religious and moral heritage. Sudan has hosted a large number of refugees from neighbouring countries and other countries since beginning of the 1990s and some of them still live in Sudan. These refugees

¹⁶ This is the unofficial Secretariat translation of the original statement, which was delivered in Arabic.

came from Ethiopia, Eritrea, Chad and Central Africa, as well as refugees from Syria and Yemen and recently from the Republic of South Sudan.

Since December 2013, more than 300 thousand refugees entered Sudan from South Sudan because of war in that country, and according to the preliminary estimates 80 percent of them are women and children, including unaccompanied and separated children from their families. Sudan has given land to these refugees for their settlement and has set up camps for them and the refugees share in the services available to the citizens despite lack of education, health and water. The international community has repeatedly praised Sudan for hosting refugees. Recently, the representative of the United Nations High Commissioner for Refugees in Sudan expressed her deep gratitude to the Sudanese people and the way the generous local population welcomes refugees and share everything with them, even if they are in poverty.

On the legal front, Sudan has ratified the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol. Sudan also ratified the 1969 Convention of the Organization of African Unity governing the specific aspects of Refugee Problems in Africa. Sudan first adopted a law to regulate asylum in 1974 and updated it in 2014. There are now agreements for the voluntary repatriation of Sudanese refugees from Chad and the voluntary return of Chadian refugees from Sudan, which is expected to take place in the coming period.

Mr. President and Madam Vice-President, although Sudan receives contributions from the international community to assist and provide services to refugees through UNHCR, these contributions do not cover the large needs of refugees, which increases the burden on the Government of Sudan. Therefore, Sudan calls on the international community and Members of this Organization to shoulder responsibility and contribute to alleviating the burden on Sudan.

Mr. President and Madam Vice-President, with regard to the New York Declaration on refugees and migrants, Sudan supports the adoption of a global migration agreement to ensure safe and organized migration with full respect for human rights and to ensure the humane treatment of migrants. Sudan also calls on the countries which are not affected by the waves of asylum to expand resettlement opportunities. Sudan also calls for creating conditions that would help refugees in returning to their countries with safety and dignity. Sudan calls for the need to address the root causes of violence and armed conflict, implementation of political solutions and resolution of disputes by peaceful means, with the support of origin countries in financing reconstruction, rehabilitation and development, establishing good governance and respect for human rights

Thank you for kind attention.

Vice-President: Thank you, Sudan. I now call on the Islamic Republic of Iran to take the floor.

The Delegate of the Islamic Republic of Iran: Thank you, Madam Vice-President. In the name of God, the Compassionate, the Merciful, Mr. President, at the outset, I would like to thank the Secretariat for preparing a thorough report contained in document AALCO/56/NAIROBI/2017/SD/S3 on the status and treatment of refugees which will contribute to our debate on the topic.

Since the adoption of “Principles concerning the Treatment of Refugees” known as the “Bangkok Principles” in 1966 at the Eight Annual Session of AALCO, which was revised in 2001, the pressing issues related to the question of refugees and migrants have concerned AALCO Member States for years. Compared with the development of international relations ever since, the evolution of international law of refugees is far from adequate and international cooperation is needed more than ever.

Today, large movements of refugees and migrants present a range of complex challenges with transnational political, economic, social, developmental, humanitarian and human rights ramifications. Thus, it is a global phenomenon with a global solution. No single State can manage such movements on its own and neighbouring and transit countries alike carry part of the burden. Especially, some developing countries of AALCO, placed in the immediate vicinity of a conflict zone, bear the brunt of the challenge. My delegation emphasises the significance of, in the first place, detecting and tackling the root causes of the phenomenon which includes military interventions, conflicts, coercive measures, poverty, hunger and inequality. While pledge is made in the 2030 Agenda for Sustainable Development that “no one will be left behind”, the needs of refugees, internally displaced persons and migrants are explicitly recognised and issues of specific concern such as education, labour standards, human trafficking, exploitation of children, access to justice, and the building of self-reliance and resilience remain to be at the heart of the problem.

Mr. President and Madam Vice-President, the Islamic Republic of Iran is home to millions of refugees. Our efforts in dealing with the multi-faceted issues of refugees hinges upon international cooperation. In spite of the efforts by the UNHCR to increase international assistance, the amount provided to the Islamic Republic of Iran has been minimal compared to the cost of meeting the needs of the large number of refugees, Afghan refugees in particular., who have been in Iranian territory for more than 40 years. Moreover, even though voluntary repatriation remains the best solution, lack of development of the country of origin is a persisting problem.

As approved by the Executive Committee of the High Commissioner’s Program during the 66th meeting of the Standing Committee, 86 percent of those refugees “in need of international protection remain in middle-income and developing countries, particularly States neighbouring those mired in displacement-inducing conflicts,” such as the Islamic Republic of Iran, which has made significant progress in mainstreaming refugees into its national education system. Also, as regards promotion of access to national health as envisaged by the UNHCR Global Strategy for Public Health 2014-2018, in the Islamic Republic of Iran, the formal inclusion of all registered refugees in the universal health insurance scheme, in the words of this organization, “set a global precedent”; the main driver being the government’s Universal Health Insurance Scheme which enables vulnerable refugees to get access to health care with protection dividends for them and their families.

Mr. President and Madam Vice-President, my delegation is of the view that utmost attention should be given to the role of “resettlement” as a durable solution for protracted refugee situations and the international responsibilities of all members of the international community in

the event of mass influx of refugees. Most countries in our region are affected by pressing socio-economic concerns arising from the long-term presence of millions of refugees. Refraining by developed States from looking at resettlement as a durable solution and the lack of will in the country of origin to provide basic requirements for sustainable reintegration has further complicated protracted refugee situations.

Regrettably, the situation in some West African countries has caused, once again, a new wave of influx of refugees. Millions of civilians have fallen victim to vicious, brutal attacks emanating from violent extremism. In Syria, the situation of the civilians due to the ongoing conflicts is unfavourable, as a result, millions of displaced persons have been suffering from the untenable situation.

Last but not least, in adopting any schemes emanating from the 2016 New York Declaration for refugees and migrants, my delegation highlights the predominance of countering the root causes of the phenomenon and giving due consideration to the special needs of people in vulnerable situations.

I thank you.

Vice-President: Thank you, Islamic Republic of Iran. I now invite the delegate from ICRC.

The Delegate of the Observer Delegation from ICRC: Thank you, Madam Vice-President. Mr. President, Prof. Dr. Kennedy Gastorn, Secretary-General of the Asian-African Legal Consultative Organization, Your Excellencies, Distinguished Delegates, Ladies and Gentlemen,

Global migration is a challenging reality. However, it is not a new one. Media and political debates in recent times have shed more light on a global phenomenon that has always existed and will continue to exist. The ICRC recognises that States are challenged by the political, social and economic dimensions of migration. However, ICRC does not see that we are confronted with a “migration crisis.” What we see, today, is rather a situation whereby a lack of political solutions has led to a humanitarian crisis for migrants. There is indeed a crisis, but this is a crisis of public policies and management.

The ICRC’s engagement is prompted by migrants’ vulnerability, and its activities are defined by their needs. The ICRC—like the rest of the International Red Cross and Red Crescent Movement—uses indeed a broad description of “migrants,” which includes refugees, asylum seekers and irregular migrants. It does so in order to capture the full extent of humanitarian concerns related to migration and to provide sufficient flexibility to address their often complex situations and the fact that migrants may become vulnerable on their way to or in the country of destination. This being said, it is important to recall that the legal status of individuals is crucial in determining the applicable regime(s), and to stress that ICRC action aims to ensure that migrants receive the protection they are entitled to under international and domestic law, including the special protection afforded to certain categories of people such as refugees and asylum seekers. We urge you in your discussions on the status and treatment of refugees this week to recall that all States have obligations to ensure that those protections afforded by international laws to refugees are upheld. The ICRC implores States not to lower the bar when it

comes to protections for migrants. States must respect their obligations under international law and provide safeguards to protect the safety and dignity of these people.

Further, Africa remains one of the most affected by internal displacement. Causes are complex and multifaceted. They include armed conflicts and other situations of violence, as well as natural and human-induced disasters. IDPs' living conditions vary widely across the region, depending on the cause and length of their displacement. Their needs range from emergency humanitarian assistance to interventions aimed at unlocking protracted displacement and achieving durable solutions.

The African Union Convention on the Protection of and Assistance to Internally Displaced Persons in Africa (Kampala Convention) has represented a significant step forward in reaffirming the rights of IDPs in Africa and the corresponding obligations of States with respect to preventing displacement and protecting and assisting IDPs. It builds substantially on existing standards of international human rights and international humanitarian law (IHL).

The prevention of displacement, with respect for IHL can help to achieve, is a clear focus of many of our activities. IHL expressly prohibits forced displacement of civilians for reasons related to armed conflict, except in certain circumstances, and securing greater respect for IHL can thus have a major impact on the scale and suffering involved in displacement.

Since the adoption of the Convention in 2009 and its entry into force in 2012, the ICRC has been engaged in promoting the Kampala Convention and supporting States in its ratification and implementation. As part of the promotion efforts, the ICRC has conducted an internal stocktaking exercise on the "operationalisation" of the Kampala Convention. The ICRC's stocktaking exercise seeks to contribute to the reflection on measures taken to address the needs of IDPs in the form of best practices, lessons learned, and identify key challenges in States' efforts to implement, more effectively, their obligations under the Kampala Convention and thereby respond better to the multifaceted needs of IDPs on the ground. The report offers recommendations to States and other actors concerned (African Union, Regional Economic Communities, UN agencies, civil society organizations, etc.) on how to translate the Kampala Convention into practice to respond more effectively to the needs of IDPs.

The idea is to capitalise, as much as possible, on all existing African practice related to some key aspects of States' obligations to prevent displacement, protect and assist IDPs, as well as to establish basic conditions for IDPs to find durable solutions. Finally, it is worth remembering that in many places internal displacement and migration are inter-related, and as such a comprehensive and sustainable response to the protection of IDPs must be developed. Further, this report could serve as an inspiration to States outside Africa to take steps to address internal displacement more effectively at the national level.

Just last month, the first meeting of States parties to the Kampala Convention was held in Zimbabwe. The African Ministers present at the Conference adopted the Harare Plan of Action for the Implementation of the Kampala Convention, which focuses on achieving the continent-wide ratification of the Convention, supporting its operationalisation, and ensuring that States fulfil their primary responsibility to prevent and respond to internal displacement. We encourage

those AU States among you to accede to the Kampala Convention and to implement its provisions into your domestic laws and policies.

Thank you, Madam Vice-President.

Vice-President: Thank you, ICRC. If there are no other statements we can end our deliberations on this topic and conclude this session.

The Meeting was thereafter adjourned.

**XI. VERBATIM RECORD OF THE HALF-DAY SPECIAL
MEETING ON “SELECTED ITEMS ON THE AGENDA
OF THE INTERNATIONAL LAW COMMISSION”**

XI. VERBATIM RECORD OF THE HALF DAY SPECIAL MEETING ON “SELECTED ITEMS ON THE AGENDA OF THE INTERNATIONAL LAW COMMISSION”, HELD ON THURSDAY, 4 MAY 2017 AT 9.45 AM

Her Excellency Dr. Vilawan Mangklatanakul, Deputy Director-General, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, Thailand and the Vice-President of the Fifty-Sixth Annual Session of AALCO in the Chair.

Vice-President: A very good morning to you all. I welcome you all to this Half-Day Special Meeting on Selected Items on the Agenda of the International Law Commission. To initiate this Half-Day Special Meeting, I have the pleasure to invite the Secretary-General of AALCO Prof. Dr. Kennedy Gastorn to make his introductory statement. This will be followed by statements from the Member States on this agenda item.

Prof. Dr. Kennedy Gastorn, Secretary-General of AALCO: Madam Vice-President, Excellencies, Distinguished Delegates, Ladies and Gentlemen, it is my pleasure to invite you all to the Half-Day Special Meeting on the topic “Selected Items on the Agenda of the International Law Commission”. The ILC and AALCO have always shared a longstanding and mutually beneficial relationship. In addition to its role as a consultative body among its Member States in the field of international law, the primary roles of the AALCO are to examine subjects that are under the consideration of the International Law Commission (ILC); to forward its views to Member States; and to make recommendations to the ILC based upon the viewpoints and inputs of the Member States on the Commission’s agenda items. Fulfillment of this statutory mandate over the years has helped to forge closer relationship between the two organizations. It has also become customary for AALCO and the ILC to be represented during each other’s sessions. The Asian and African members of the Commission have undoubtedly made, and continue to make a valuable contribution to the work of the Commission. Their presence is essential if the ILC is to be truly representative.

Though it is customary for the Half-Day Special Meetings of AALCO on the agenda items of ILC to be addressed by the Members of ILC as panelists, this year remains an exception. The annual session of the Commission is being held from 1st May to 2nd June and from 3rd July to 4th August 2017. Because the first part of the ILC’s session is underway at the moment, we do not have any representation from ILC at this meeting. However, this gives the distinguished delegates from the Member States more time to deliberate the agenda items that are the primary focus of this meeting. The three major topics that will be the subject of deliberations today are: *Protection of the atmosphere; Jus Cogens and Immunity of State Officials from Foreign Criminal Jurisdiction*. Of course, the Member States are also encouraged to present their views on other agenda items of the Commission as well.

With these initial remarks, let me move on to give a bird’s-eye view of the way how the various topics of ILC were deliberated and what progress were made on them at the Sixty-Eighth session of the Commission held in 2016.

Briefly, the deliberations at the Sixty-Eighth session of the Commission focused on *nine* topics. These were: *Protection of the atmosphere; Jus cogens; Immunity of State officials from foreign criminal jurisdiction; Protection of persons in the event of disaster; Subsequent Agreements and*

Subsequent Practice in relation to the Interpretation of Treaties; Protection of the environment in relation to armed conflicts; Crimes against humanity; Provisional application of treaties; Identification of customary international law. In the following paragraphs a brief overview of how the ILC dealt with each of them is presented.

As regards the topic “**Protection of the Atmosphere**”, the Commission considered the third report on the protection of the atmosphere by the Special Rapporteur, Shinya Murase. Building upon the previous two reports, the third report of the Special Rapporteur analysed several key issues relevant to the topic, namely, the obligations of States to prevent atmospheric pollution and mitigate atmospheric degradation and the requirement of due diligence and environmental impact assessment. The report also explored questions concerning sustainable and equitable utilization of the atmosphere, as well as the legal limits on certain activities aimed at intentional modification of the atmosphere. Consequently, five draft guidelines were proposed on the obligation of States to protect the environment, environmental impact assessment, sustainable utilization of the atmosphere, equitable utilization of the atmosphere, and geoengineering, together with an additional preambular paragraph. Following the debate in the Commission, (which was preceded by a dialogue with scientists organized by the Special Rapporteur), the Commission decided to refer the five draft guidelines, together with the preambular paragraph, as contained in the Special Rapporteur’s third report, to the Drafting Committee. Upon its consideration of the report of the Drafting Committee, the Commission provisionally adopted draft guidelines 3, 4, 5, 6 and 7 and a preambular paragraph, together with commentaries thereto.

In their deliberations on this topic, the Member States of AALCO could focus on few areas of critical importance: on the five new draft guidelines—draft Guidelines 3, 4, 5, 6, and 7— that were adopted. Particularly, on Draft Guideline 3, which asserts the obligation of States to protect the atmosphere and Draft Guideline 5(a) that talks about the obligation of States to cooperate for the protection of the atmosphere.

As regards the topic “**Jus cogens**”, the Commission had before it the first report of the Special Rapporteur which addressed conceptual issues relating to peremptory norms (*jus cogens*), including their nature and definition, and traced the historical evolution of peremptory norms and, prior to that, the acceptance in international law of the elements central to the concept of peremptory norms of global international law. The report further raised a number of methodological issues on which the Commission was invited to comment, and reviewed the debates held in the Sixth Committee in 2014 and 2015. The Commission subsequently decided to refer Draft Conclusions 1 and 3, as contained in the report of the Special Rapporteur, to the Drafting Committee. The Commission subsequently took note of the interim report of the Chairperson of the Drafting Committee on draft conclusions 1 and 2 provisionally adopted by the Committee, which was submitted to the Commission for information.

In their deliberations on this topic, the Member States of AALCO could focus on few areas of critical importance: Draft Conclusions 1, 2 and 3 proposed by the Special Rapporteur. While draft Conclusion 1 and 2 deal with the identification and legal effects of peremptory norms of general international law and the modification, derogation and abrogation of rules of international law, respectively, Draft conclusion 3 is on the General nature of *jus cogens* norms.

As regards the topic ***“Immunity of State officials from foreign criminal jurisdiction”***, the Commission had before it the fifth report of the Special Rapporteur which analysed the question of limitations and exceptions to the immunity of State officials from foreign criminal jurisdiction. Since at the time of its consideration the report was only available to the Commission in two of the six official languages of the United Nations, the debate in the Commission was commenced, involving members wishing to comment on the fifth report at the sixty-eighth session, and would be continued at the sixty-ninth session of the Commission. Upon its consideration of the report of the Drafting Committee on work done previously and taken note of by the Commission during its sixty-seventh session, the Commission provisionally adopted draft articles 2 (f) and 6, together with commentaries thereto.

In their deliberations on this topic, the Member States of AALCO could focus on few areas of critical importance: Article 2 that deals with the definitional aspects and Article 6 on the scope of immunity *ratione materiae*.

As regards the topic, ***“Protection of persons in the event of disasters”***, the Commission had before it the eighth report of the Special Rapporteur surveying the comments made by States and international organizations, and other entities, on the draft articles on the topic adopted on first reading at the sixty-sixth session (2014) and making recommendations for consideration by the Commission during the second reading. The Commission also had before it the comments and observations received from Governments and international organizations on the draft articles adopted on first reading. The Commission subsequently adopted, on second reading, a draft preamble and 18 draft articles, together with commentaries thereto, on the protection of persons in the event of disaster.

As regards the topic ***“Subsequent agreements and subsequent practice in relation to the interpretation of treaties”***, the Commission had before it the fourth report of the Special Rapporteur which addressed the legal significance, for the purpose of interpretation and as forms of practice under a treaty, of pronouncements of expert bodies and of decisions of domestic courts. The report also discussed the structure and scope of the draft conclusions. As a result of its consideration of the topic at the present session, the Commission adopted on the first reading a set of 13 draft conclusions, together with commentaries thereto, on this topic.

As regards the topic ***“Protection of the environment in relation to armed conflicts”***, the Commission had before it the third report of the Special Rapporteur which focused on identifying rules applicable in post-conflict situations, while also addressing some preventive issues to be undertaken in the pre-conflict phase. The report contained three draft principles on preventive measures, five draft principles concerning primarily the post-conflict phase and one draft principle on the rights of indigenous peoples. Following the debate in Plenary, the Commission decided to refer the draft principles, as contained in the report of the Special Rapporteur, to the Drafting Committee. The Commission subsequently received the report of the Drafting Committee and took note of draft principles 4, 6, 7, 8, 14, 15, 16, 17 and 18, provisionally adopted by the Drafting Committee. Furthermore, the Commission provisionally adopted the draft principles it had taken note of during its sixty-seventh session, which had been renumbered and revised for technical reasons by the Drafting Committee at the present session, together with commentaries thereto.

As regards the topic “*Crimes against humanity*”, the Commission had before it the second report of the Special Rapporteur as well as the memorandum by the Secretariat providing information on existing treaty-based monitoring mechanisms. The second report addressed, inter alia, criminalization under national law, establishment of national jurisdiction, general investigation and cooperation for identifying alleged offenders, exercise of national jurisdiction when an alleged offender is present, *aut dedere aut judicare* and fair treatment of an alleged offender. Following the debate in Plenary, the Commission decided to refer the draft articles proposed by the Special Rapporteur to the Drafting Committee. Upon consideration of the report of the Drafting Committee, the Commission provisionally adopted draft articles 5 to 10, together with commentaries thereto. The Commission also decided to refer to the Drafting Committee the question of the liability of legal persons. Following its consideration of a further report of the Drafting Committee the Commission provisionally adopted paragraph 7 of draft article 5, together with the commentary thereto.

As regards the topic “*Provisional application of treaties*”, the Commission had before it the fourth report of the Special Rapporteur, which continued the analysis of the relationship of provisional application to other provisions of the 1969 Vienna Convention and of the practice of international organizations with regard to provisional application. The report included a proposal for a draft guideline 10 on internal law and the observation of provisional application of all or part of a treaty. Following the debate in Plenary, the Commission decided to refer draft guideline 10, as contained in the fourth report of the Special Rapporteur, to the Drafting Committee. The Commission subsequently received the report of the Drafting Committee and took note of draft guidelines 1 to 4 and 6 to 9, provisionally adopted by the Drafting Committee during the sixty-seventh and sixty-eighth sessions. Draft guideline 5 on unilateral declarations had been kept in abeyance by the Drafting Committee to be returned to at a later stage.

As regards the topic “*Identification of customary international law*”, the Commission had before it the fourth report of the Special Rapporteur which contained, in particular, suggestions for the amendments of several draft conclusions in light of the comments by Governments. It also addressed ways and means to make the evidence of customary international law more readily available. In addition, the Commission had before it the memorandum by the Secretariat concerning the role of decisions of national courts in the case law of international courts and tribunals of a universal character for the purpose of the determination of customary international law. As a result of its consideration of the topic at the present session, the Commission adopted on first reading a set of 16 draft conclusions, together with commentaries thereto, on this topic. The Commission decided, in accordance with articles 16 to 21 of its Statute, to transmit the draft conclusions, through the Secretary-General, to Governments for comments and observations, with the request that such comments and observations be submitted to the Secretary-General by 1 January 2018.

With those words, Madam Vice-President, I wish the distinguished delegates fruitful discussions. I thank you.

Vice-President: I thank the Secretary-General for his introductory statement. Now, let me invite the Distinguished Delegate from Sudan to make his statement.

The Delegate of Sudan:¹⁷ In the Name of Allah, the Most Beneficial and the Most Merciful. Madam Vice-President I will talk about the topic of Legal Status of the Head of the State in International Law.

The Head of the State is the highest authority of the State who enjoys the autonomy and decision making power. The rules of International Law provide that the actions of the Head of the State must be attributed to that State. The State shall bear all the consequences of the actions and administrative steps of the Head of the State on the ground that Head of the State is the highest representative of a State.

There is a close link between the legal status of the Head of the State under the national law and his status in the international law. We find that many provisions of the national law are related with international law. The national Constitutional and political structures determine the legal nature of the Head of the State which is related to his legal status in international law. Since international law recognizes the principle of sovereign equality of States, all sovereign Heads of States deserve similar international treatment, they being highest authority of the state. The legal status of Head of the State in international law falls under the Diplomatic law which is a branch of international law. As we know the Head of the State is regarded as the first diplomat of his State and he represents the will of people of his State before the international community and also represents his State before other governments and States apart from defending their rights and interests. The international custom too remains the main source of the legal status of the Head of the State. Some international conventions have dealt with the specific issues concerning the Head of the State. We know that customary law to a large extent is recognized as established provisions among the States.

Among the Conventions that dealt with provisions concerning the Head of the State under international law is Special Missions Convention, 1969, which identified the terms in detail in Article one Para (A) including official visits made by the Head of the State and also the missions headed by the Head of the State as representative of his State. Article (21) clause (11) stipulates that (Head of the State or Head of the government or foreign minister or their counterparts of higher status enjoy facilities, privileges and immunities under international law, whenever they head or participate in special mission proceedings).

The Vienna Convention of Law of Treaties, 1969, provides under Article 7(ii) that some persons can represent the State by virtue of their positions without any need to present authorization papers. This includes the Head of the State. The 1973 Convention for the Prevention and Prosecution of Crimes against Internationally Protected Persons, Article 1 (A), 2 (iii) provides for personal protection to the Head of State on international level. It is mandatory for the States to take necessary and appropriate measures to prevent attacks on Head of the state.

The 1975 Vienna Convention on Representation of the States in their relations with international organizations, the Article 5 (1) provides that (whenever a delegation is headed by the Head of State or any member of the body assigned to perform the duties of Head of the State according to the constitution of that particular State, he enjoys in host State or any third State all the facilities, privileges and immunities granted to Head of the State under international law in addition to what he is granted under this convention.

¹⁷ The statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

This is why we find that there is a near unanimity in rules of international law and jurisprudence that Head of the State is its highest member in the international community, and he is qualified to act on behalf of the State and all his actions would be attributed to his State and this authority of the Head of State flows from the power of international law.

We come to this conclusion that international customary law and national laws of States have determined the legal status of Head of the State at the international level as a natural person to represent the legal position under international law.

The rules of international law clearly establish that the Head of State has to be protected against arrest or detention and this is a guaranteed right of the Head of the State in all circumstances. So, the State authorities cannot arrest Head of the State or keep him in detention anywhere whether he is in other states or in his own state. Article 1 of International Legal Association's resolution issued in Paris in 2001 provided that the Head of State has to be respected in the territory of any foreign country. He cannot be arrested or detained. The authorities in the foreign country must treat him with appropriate respect and take all necessary steps and measures to prevent any aggression on his freedom.¹⁸

Besides the personal immunity granted to Head of the State, there is a near agreement in the jurisprudence that Head of the State present outside his State in his official capacity and known to the host state authorities, enjoys full criminal immunity making him exempted from criminal jurisdiction of the host State.¹⁹ The immunity to Head of the State from criminal jurisdiction of other States is an absolute immunity whether the conduct of the Head of the State is in his official capacity or personal capacity.

We conclude it this way that the immunity to Head of the State is not for him, rather it is for his State. The international and customary law and judicial precedents mandate that it must be respected and must not be violated, and it also cannot be waived off. Subsequently, the International Criminal Court created in accordance with the Rome Statute applies to all State Parties to the Convention and only to them. Some Countries that have ratified the Convention have openly withdrawn the immunity of their Head of the State. For those countries that have not ratified the Rome Statute, the immunity to their Heads of the State remains part of the customary international law rules. Therefore, no country is allowed to take measures that violate the rights of the Head of the State as long as that country is not a signatory to the Statute. The immunity of Head of the State remains absolute before the national judiciary of the countries even if he commits international crimes.

Vice-President: I thank the Distinguished Delegate from Sudan for making his statement. Now I invite the delegate from the Republic of Korea to make his statement.

The Delegate of Republic of Korea: Thank you, Madam Vice-President. My delegation would like to briefly touch upon two of the agenda items before us at this Session.

¹⁸ Rgd ip. Vol. 105, No.4 2002. P.1087.

¹⁹ (Dr. Sadiq Abu Heef .. Diplomatic Law - Alexandria - Knowledge Center 1960).

With regard to the topic, “*Jus Cogens*”, my delegation is confident that the work of the ILC on this particular topic will contribute to the promotion of the progressive development of international law and its codification.

As the Special Rapporteur mentioned in ILC report, in paragraph 108, States have consistently invoked *jus cogens*, and the norm has been identified by international courts and tribunals, as well as regional and national courts. In this sense, my delegation would like to point out that, in order to identify *jus cogens*, a comparative analysis of State practice and judicial decisions is required.

Regarding the topic, “*Immunity of State Officials from Foreign Criminal Jurisdiction*”, the study of the immunity of State officials from foreign criminal jurisdiction requires in-depth research on relevant State practices. Therefore, my delegation welcomes the Special Rapporteur’s report, which includes the results of a deep and systematic survey of numerous instances of State practices in this field as reflected in treaties and domestic legislation, as well as in international and national case law.

My delegation believes that, apart from the legal perspective, the limitation of and exceptions to the immunity of State officials can be a sensitive political issue as well. We hope that the ILC will examine this issue with caution and prudence by taking into account the larger political implications. Thank you, Madame Vice-President.

Vice-President: I thank the Distinguished Delegate from Korea and now invite the delegate from the People’s Republic of China to make his statement.

The Delegate of People’s Republic of China: Madam President, the Chinese delegation would like to thank AALCO for organizing this Special Meeting, and thank the Secretariat for preparing the Report on Matters relating to the work of the ILC at its 68th Session. The 69th Session of the ILC is being held during this month and hence the reports of many topics are not available yet. The Chinese delegation will briefly reiterate and highlight a few key points on the following three topics, taking into account the discussion on the report of the ILC on the work of its 68th session at Sixth Committee of UN General Assembly last November.

With respect to the topic of “*Protection of the Atmosphere*”, China believes that protection of the atmosphere is a common and current issue faced by the human being as well as a multifaceted one that involves politics, law and science. China is of the view that the adopted draft guidelines basically comply with the condition of understanding set by the Commission in 2013 and reflect fairly objectively the outcome of relevant studies on this issue. We suggest that the Commission takes into full account the special circumstances and real needs of the developing countries, fully realizes the complexity and sensitivity of this issue and respects the existing mechanisms. China also hopes that the Commission will study more international practices under regional mechanisms in a comprehensive manner and continue its firm-footed effort to push ahead the work relating to this topic.

Regarding the topic of “*Immunity of States Officials from Foreign Criminal Jurisdiction*”, we note the highly complicated and sensitive issue of the exceptions to the immunity of States officials that was considered last year. China supports the conclusion that there is no exception in respect of immunity *ratione personae*. We also note that the three exceptions to immunity

ratione materiae as proposed by the Special Rapporteur are mostly evidenced by, as cited in the report, a few dissenting opinions of ICJ judgements and civil cases before some national courts and international judicial bodies, such as the European Court of Human Rights. It is open to discussion as to whether such evidences are convincing and are of relevance to this issue. China believes that, immunity is procedural in nature, and falls under an entirely different category of rules from the substantive rules that determine the lawfulness of a given act. As to whether the application of procedural rules should be precluded when there is a violation of substantive rules, the ICJ rendered negative answer in its judgement on the *Arrest Warrant* case and the case of *Jurisdictional Immunities of the State*. The immunity of States officials from criminal jurisdiction in foreign courts and that in international criminal judicial bodies are different issues. Therefore, it will be questionable to copy indiscriminately theories and practice of the latter when determining rules applicable to the former.

Last year, the Commission deliberated on the topic of “*Jus Cogens*” for the first time. China is of the view that, elements of *Jus cogens* concern major interests of all States whose rights, obligations and responsibilities are directly affected. The deliberation on this topic should be strictly in line with the provision in Article 53 of the *1969 Vienna Convention on the Law of Treaties*. We suggest the Commission to clarify the implications of the basic element of *Jus cogens* based on stock-taking of state practice and further elaborate on the relationship between *Jus cogens* and the Charter of the United Nations as well as relevant resolutions of the Security Council. The work under this topic should focus on codifying existing laws rather than developing new rules. China notices that the three “core elements” of the *Jus cogens* concept as proposed by the Special Rapporteur are obviously distinct from the basic elements as defined in the Convention. Is there a need for adding new core elements? What is the basis for such additions? And what implications would they have? These are questions that deserve further considerations. In China’s point of view, it is premature at this stage to list the rules of *Jus cogens*. The more recommendable approach would be to collect and study State practice in this regard, and on that basis, clarify the specific criteria of *Jus cogens* and then consider the necessity of a list as such.

Madam Vice President, this is the first year in the tenure of the present members of the Commission. China congratulates the Commission on its fruitful progress achieved during the past five years and looks forward to another five-year success. Now, 13 out of 34 of the present members of the ILC are from the Member States of AALCO. Chinese delegation believes that their work will contribute to providing more balanced and broader perspectives and making the views of Asian and African countries better reflected in the work of the Commission in terms of codification and development of international law.

There are active interactions between AALCO and the ILC. Over the years, the AALCO Annual Sessions has considered the topics of the ILC and maintained regular exchanges with the ILC. China supports AALCO in further strengthening its communication and cooperation with the ILC, voicing out the positions and concerns of Asian and African countries, promoting the codification and progressive development of international law, and contributing to the comprehensive and balanced development of International rule of law. Thank you, Madam President.

Vice-President: I thank the Distinguished Delegate from China and now invite the delegate from India to make his statement.

The Delegate of India: Thank you Madam Vice President. I congratulate the AALCO Secretariat for their brief study on this subject and thank the Secretary-General for introducing the agenda item. Taking into consideration the discussion on the work of the Commission, we propose to make some general comments on few select topics.

On the topic, '*Immunity of State Officials from Foreign Criminal Jurisdiction*', we appreciate the progress made thus far in the Commission. We commend the Special Rapporteur, Professor Concepcion Escobar Hernandez for her fifth report on the topic. We note that the Commission could consider her Report rather preliminarily and decided to continue the debate in the next session of the Commission, as the report was available only in English and Spanish to the Commission. The Commission considered a single draft article 7 proposed by the Rapporteur on the question of limitations and exceptions to the immunity of State officials from foreign criminal jurisdiction. Given the normative implications of the phrase, 'limitations and exceptions', we agree with the methodology used by the Special Rapporteur and the usage of title of the draft Article 7 –Crimes in respect of which immunity does not apply.

In the draft Article, the approach adopted by the Special Rapporteur is consistent and systematic, based on the State practice as reflected in treaties and domestic legislation, as well as in international and national case law. The issues involved in the draft Article are highly complex and politically sensitive for the States and therefore, prudence and caution is needed to decide whether the Commission should focus on the codification aspect or progressive development of international law (*lex lata* or *lex ferenda*).

The International Court of Justice in the Arrest Warrant Case, expressed that there existed no customary law exception to the rule according immunity from criminal jurisdiction; and thus reaffirmed inviolability of incumbent Ministers for Foreign Affairs suspected of having committed war crimes or crimes against humanity. In the Jurisdictional Immunities of the State, the ICJ rejected such exceptions, although in the context of State immunity. We consider that the 'crimes of corruption' proposed in para 1 of sub para (b) of the draft article 7 needs to be supported with sufficient State practice convincing that its character would constitute a serious international crime, similar to that of the other international crimes listed therein. Further, a determination should be made whether or not the acts of corruption fall within the 'acts performed in an official capacity' and thus fall within the scope of immunity *ratione materiae*.

We look forward to the next Session of the Commission, when the Special Rapporteur would introduce procedural aspects of immunity of State officials from foreign criminal jurisdiction.

On the topic of *Jus Cogens*, we congratulate the Special Rapporteur, Mr. Dire Tladi for his first report on the topic. It is noted that the Commission considered the report without formally adopting it in this session. In the first report, the Special Rapporteur has proposed three draft conclusions: the scope of the entire set of draft conclusions; distinction between *jus cogens* and other rules of international law that may be modified, abrogated or derogated from by the agreement of State and the third sought to describe the general character of *jus cogens*.

We support the Special Rapporteur's view reiterating that the draft conclusions would be the appropriate outcome of the topic. Articles 53 and 64 of the Vienna Convention on the Law of Treaties provide the legal basis for acceptance and recognition of a norm by the international community of States. The second para of the draft conclusion 3 proposed by the Special Rapporteur reads: Norms of *jus cogens* protect the fundamental values of the international community, are hierarchically superior to other norms of international law and are universally applicable. The peremptory norms presumably lie superior at the hierarchy of norms requires further elaboration with sufficient study as there was conflicting views within the Commission.

We welcome the future work indicated by the Special Rapporteur, in particular to study the rules for identifying of norms of *jus cogens*, including the question of the sources of *jus cogens*, and also consider the relationship between *jus cogens* and non-derogation clauses in human rights treaties.

On the topic of '*Customary International Law*', we would like to register our appreciation for the Special Rapporteur, Sir Michael Wood for his Fourth Report on the topic, 'Identification of customary international law' which addressed the suggestions of States on previously adopted draft resolutions as well as ways and means to make the evidence of customary international law more readily available. The Commission, in addition to this report, also considered a memorandum by the Secretariat concerning the role of decisions by the national courts in the case law of international courts and tribunals for the purpose of determining the customary international law.

The resulting 16 draft Conclusions out of this process, reflect the valuable efforts of the Commission on this topic. We would like to comment on few of these draft conclusions. Draft Conclusion 4 (3) states that "Conduct of other actors" is not a practice that contributes to the formation, or expression of rules of customary international law, but may be relevant when assessing the practice of States or international organizations."

Commentary to this draft conclusion in paragraph 9 includes 'non-State armed groups' as one of such other actors along with NGOs, transnational corporations and private individuals and stipulates that the reaction of States to the conduct of non-State armed groups may be constitutive or expressive of customary international law. Our understanding, by reading both the draft conclusion and the commentary, is that the conduct of non-state armed groups is not at all constitutive or expressive of CIL.

We agree with draft Conclusion 8 that the "relevant practice must be general, meaning that it must be sufficiently widespread and representative as well as consistent". Though universal participation is not required, it is important that participating States do represent the various geographical regions and are particularly involved in the relevant activity or those States that had an opportunity or possibility of applying the rule. We also agree with the draft Conclusion 9 that the general practice be accepted as law (*Opinio Juris*) means that the practice in question must be undertaken with a sense of legal right or obligation. Draft Conclusion 10, refers to government legal opinions as a form of evidence of acceptance as law. Although, we agree in principle in

terms of the value of these opinions, however, it may be difficult to identify them as many countries do not publish the legal opinions of their law officers.

Draft Conclusion 11 concerns the significance of treaties, especially widely ratified multilateral treaties, for the identification of customary international law. We are of the view that all treaty provisions are not equally relevant as evidence of rules of customary international law. Only fundamental norm creating treaty provisions could generate such rules. Strong opposition to a particular treaty, though from a few countries, could be a factor which needs to be taken into account while identifying customary international law.

Finally, we agree to the provision under draft Conclusion 12 that a resolution by an international organization or an intergovernmental conference cannot create a rule of customary international law.

On the topic of '*Provisional Application of Treaties*', we welcome the fourth report of the Special Rapporteur, Ambassador Juan Manuel Gómez Robledo, on the topic 'provisional application of treaties'. The report continues the analysis of State practice, and considers the relationship of provisional application to other provisions of the 1969 Vienna Convention on the Law of Treaties, as well as the question of provisional application with regard to international organizations. The report has also dealt with the topics in which States expressed interest during the debate in the 70th Session of the General Assembly.

It may be noted that the provisional application of a treaty will depend on the provisions of domestic law, including the manner of expressing consent. India being a dualistic State, treaty will not automatically form part of the domestic law; it applies only as a result of their acceptance by internal procedures. Thus resort to provisional application of treaties i.e., treaties being applicable/binding on the States before its entry in to force will go against the principle of dualism.

On the topic '*Protection of the Environment in Relation to Armed Conflicts*', we take note of the third report of the Special Rapporteur Marie G. Jacobsson, on the protection of the environment in relation to armed conflicts. The report *inter alia* deals with the post-conflict phase. We would like to state that the draft principles proposed under this topic should not be in conflict with the obligations arising from existing conventions. And also the work on this topic should not duplicate the efforts already undertaken in the existing regimes. Thank you Madam Vice-President.

Vice-President: I thank the Distinguished Delegate from India for his statement. Now I invite the delegate from Japan to make his statement.

The Delegate of Japan: Thank you Madam Vice-President. Regarding the topic of the "Protection of the Atmosphere" led by the Special Rapporteur Dr. Shinya Mursae, Japan acknowledged the importance of the topic to find out the common legal principles arising from the existing treaties related to the environment.

It is commendable that Draft Guideline 3 which stipulates an obligation to protect the atmosphere was provisionally adopted at the ILC session in 2016, which is one of the most important outcomes under this topic. We appreciate that the Commission undertook analysis and precise discussion of the differentiated obligations related to trans boundary atmospheric pollution, as well as obligations related to global atmospheric degradation. It seems to be appropriate to discuss the said two areas of obligation together in addressing climate change.

Japan recalls that the 3rd Preambular Paragraph of Draft Guidelines states that “the protection of the atmosphere from atmospheric pollution and atmospheric degradation is a pressing concern of the international community as a whole”. We note that in the last year’s Sixth Committee of the UN General Assembly, there were discussions about the concept of “the common concern of humankind” in the context of the protection of the atmosphere. Taking into consideration the fact that the Paris Agreement in 2015 recalled this concept in its preamble paragraph, Japan considers it appropriate for the ILC to reconsider this paragraph in future sessions and to update the discussions on this concept. Protection of atmospheric environment is a serious issue particularly for Asia and Africa. I thus hope that AALCO Member States will contribute to the discussion at the Sixth Committee. We look forward to fruitful outcome at the ILC in this matter as a result of its professional work.

Regarding the topic of “*Jus Cogens*”, Japan welcomes the opening of the discussion at the last year’s ILC session, with the submission of the first report by the Special Rapporteur Dr. Dire Tladi, which introduced core elements of the concept of *jus cogens*.

During the deliberation in the Sixth Committee last year, there were intensive discussions regarding whether the Commission should present an illustrative list of norms that have already acquired the status of *jus cogens*. Japan is aware of the difficulty of identifying these norms which might result in giving an inferior status to other important norms of international law. In this respect, Japan hopes that the Commission will carefully examine this issue in future sessions. We understood that the second report prepared by the Special Rapporteur will be deliberated in the ongoing Sixty-ninth session of the ILC. This year’s ILC report especially focuses on the criteria for *Jus Cogens*. It is desirable that the ILC analyse in detail the practice of this concept and proceed to the elucidation of its substantial character.

With regard to the topic of “Immunity of State Officials from Foreign Criminal Jurisdiction”, at the ILC session last year, the Special Rapporteur, Dr. Concepcion Escobar, presented in Draft Article 7, three limitations and exceptions to which the immunity of state officials from foreign criminal jurisdiction does not apply. These limitations are : (1)certain international crimes, (2) territorial tort exception, and (3) corruption.

Japan is of the view that the Special Rapporteur’s report does not provide sufficient evidence that these three categories of limitations and exceptions are already established categories to which the immunity of state officials from foreign criminal jurisdiction does not apply. Therefore, Japan hopes that the ILC discuss further these three limitations and exceptions. Japan also considers that the relationship and fundamental differences between immunity *ratione personae* and immunity *ratione materiae* are not sufficiently analyzed, thus hopes that the further discussion will be held at the ILC. The law of immunity is fundamental for equality of state

sovereignty and stable inter-state relationships. Therefore, Japan considers it necessary to deal with the issue of limitations and exceptions to immunity with prudence.

On the issue of *the Cooperation between ILC and AALCO*, we would like to state that in order to provide better chance for ILC to contribute to the promotion of the progressive development of international law and its codification, views from the international community particularly voices from Asia and Africa should be duly considered. In this respect, AALCO can play a role to suggest possible new topics to be dealt with by ILC. Japan wishes that a constructive interaction between these two important organs will be further strengthened.

Vice-President: I thank the Distinguished Delegate from Japan for his statement. Now I invite the delegate from the Islamic Republic of Iran to make his statement.

The Delegate of Islamic Republic of Iran: Madam Vice-President, my delegation would like to thank the Secretariat for its report on matters relating to the work of the International Law Commission at its Sixty-Eighth Session contained in document AALCO/56/NAIROBI/2017/SD/S1. As from the topics on the Agenda of the Commission during its Sixty-Eighth Session, as advised by the Secretariat, we will limit our remarks on three of them, namely, “Protection of the Atmosphere”, “Jus Cogens” and “Immunity of State Officials from Foreign Criminal Jurisdiction.”

Madam Vice-President, as regards ‘Protection of the Atmosphere’, my delegation would like to thank Professor Shinya Murase, the Special Rapporteur, for his work on the topic. While we are mandated to debate on the Sixty-Eighth Session of the International Law Commission, the fourth report has been prepared by the Special Rapporteur and is currently under consideration at the Sixty-Ninth Session.

As we have noted since the adoption of the topic by the Commission, the topic of protection of the atmosphere is fraught with difficulties as it is tightly interwoven with political, technical and scientific considerations. In this regard, we welcome the decision of the Special Rapporteur to deal with the question of the interrelation of the law of the atmosphere with other fields of international law (i.e. as stated in the report, law of the sea, international trade and investment law and international human rights law) and further to focus on implementation, compliance and dispute settlement issues. This is especially relevant taking into account the entry into force of the Paris Agreement in November 2016.

The Special Rapporteur's task was not, from the outset, aimed at neither filling all the existing gaps in the legal framework regulating protection of the atmosphere, nor was it supposed to provide a descriptive list of the existing principles of international environmental law. While it seems that in the work done so far, attempts have been made to strike a balance to that effect, the final outcome needs to properly reflect such a balance.

Madam Vice-President, on the topic of ‘Jus Cogens’, we welcome the preparation of the Second report by Professor Dire Tladi, the Special Rapporteur of the topic. The definition of *jus cogens* as provided in article 53 of the 1969 Vienna Convention on the Law of Treaties (VCLT) is ambiguous and therefore determination of the criteria for identification of norms of *jus cogens*

remains a difficult task. Since the adoption of the Convention, courts and tribunals such as Inter-American Court of Human Rights, European Court of Human Rights and the International Court of Justice have confirmed the peremptory nature of these norms adding to the list, prepared by the Commission from the outset, other norms such as prohibition of torture, a prohibition which has recently received ICJ's seal of approval by its judgment on 20 July 2012 in the case concerning Belgium against Senegal. The Court has attempted to justify characterization of this norm of *jus cogens* in paragraph 99 of its judgment. In view of the Court, such a prohibition relies on extended international practice and *opinio juris* of States. To support its decision, the Court names a few international instruments containing this prohibition, its quasi-universal introduction in the domestic legislations of States and the fact that its violation is regularly denounced at national and international forums. While the Special Rapporteur, in his report, has made reference to this paragraph on several occasions, due consideration must be given to the reaction of the international community with respect to violation of a norm of *jus cogens*, and this needs to be included in the draft conclusions.

As stated by my delegation during the Sixth Committee deliberations, we do not deem it wise for the Commission to draw up a list of norms of *jus cogens*; such a list could remain indecisive and could be “modified only by a subsequent norm of general international law having the same character” to use the terms of article 53 of the Vienna Convention on the Law of Treaties. We believe that the Special Rapporteur could focus on clarification of the scope and meaning of the two criteria defined by article 53 of the Vienna Convention on the Law of Treaties, namely acceptance and recognition of the norm by the international community of States as a whole, and its non-derogability.

In this regard, the view of the International Court of Justice is noteworthy which, in its advisory opinion on the legality of threat or use of nuclear weapons rendered on 8 July 1996, stressed that “the question whether a norm is part of the *jus cogens* relates to the legal character of the norm” (Para. 83). In our view, norms which ensure and consolidate the international public order do have, undoubtedly, such a character. On the other hand, on the non-derogability of the norms of *jus cogens*, one may draw on recent jurisprudence of the International Court of Justice, namely its judgment of 13 February 2012 in the case concerning jurisdictional immunities of States (Germany vs Italy – Greece intervening), wherein the Court underlines that “A *jus cogens* rule is one from which no derogation is permitted” (para. 95). Also, in its advisory opinion on nuclear weapons, the Court called “fundamental intransgressible norms” certain norms of international humanitarian law such as distinction and prohibition of unnecessary suffering (para. 79).

On draft conclusion 7, putting aside the point that no definition is given by the Special Rapporteur to the phrase “international community of States as a whole”, it is stated that acceptance and recognition of norms of *jus cogens* by the community of States as a whole, as well as the attitude of States, is relevant. The Special Rapporteur seems to have ignored the relevance of “principal legal systems of the world”, as a criterion often used in universal qualification of legal elements as referred to in article 9 of the Statute of the International Court of Justice and article 8 of the Statute of International Law Commission to ensure fair geographical distribution. Hence, lack of acceptance and recognition by a single State will be irrelevant if all principal legal systems describe a norm as a norm of *jus cogens*.

Lastly, we hope that the Special Rapporteur will cover the consequences of breach of a *jus cogens* norm, particularly, in light of article 41 of the ILC's Draft Articles on State Responsibility for Internationally Wrongful Acts. A good number of situations have been created by a serious breach within the meaning of article 40 of the Draft Articles and many States have attempted to refrain from rendering aid or assistance in maintaining such situations in terms of article 41 of the Draft.

Madam Vice-President, turning to the topic of “*Immunity of State officials from Foreign Criminal Jurisdiction*”, my delegation commends the Special Rapporteur, Ms. Concepción Escobar Hernández for her fifth report on the topic in which she has carefully analyzed the questions of limitations and exceptions to the immunity of State officials from foreign criminal jurisdiction. We also thank the Commission and in particular the drafting Committee for the provisional adoption of articles 2, subparagraph (f), and 6 and the commentaries to the draft articles.

My delegation is of the view that immunity of State officials from foreign criminal jurisdiction while performing official acts is a direct consequence of the principle of sovereign equality and its recognition by international law is aimed at protecting sovereignty and ensuring peaceful international relations. Therefore, our understanding of “acts performed in an official capacity” consists of all acts comprising of functions by the State officials in their official capacity. In this regard, we believe that immunity *ratione materiae* must be guaranteed to all State officials in respect to acts defined as acts performed in official capacity whether they are in office or have left the office.

Furthermore, regarding crimes in respect of which immunity does not apply, distinction needs to be made between “crimes of international law” and “international crimes”; while the importance of fight against the former cannot be overstated, it is the latter that seem to have reached status of customary international law, and as such enjoy wide acceptance by the international community and may therefore be included in the list. To sum up our remarks on this topic, we continue to follow the work of the Commission and look forward to the Special Rapporteur's further reports.

Madam Vice-President, before concluding its remarks, my delegation deems it imperative to highlight the important role that AALCO Member States are expected to play in the work of the ILC. The ILC is a highly technical forum with a highly technical mandate, i.e. codification and progressive development of international law. A more active role by AALCO Member States therein requires introduction of the most qualified jurists to gain membership thereto and to act as Special Rapporteurs. In this connection, however, the current election process of ILC members, seems to need a serious review. With these words, I conclude my statement and hope AALCO will have a louder voice in the work of the ILC. Thank you Madam President.

Vice-President: I thank the Distinguished Delegate from Iran for his statement. Now I invite the delegate from the VietNam to make his statement.

The Delegate of Socialist Republic of VietNam: Madam Vice President, our delegation expresses our thanks to the Secretariat of AALCO for its comprehensive report on the topics of the International Law Commission discussed at its Sixty-Eighth session. Viet Nam highly

appreciates the Commission for its dedication to the progressive development and codification of international law. My delegation would like to make comments on three topics.

On the topic of the “*Protection of the atmosphere*”, at the outset we wish to extend our appreciation to Mr. Shinya Murase for his third report, which focuses on the obligations of States to mitigate atmospheric degradation and the requirement of due diligence and environmental impact assessment. Protection of the atmosphere is a pressing concern of States and the international community as a whole. Therefore, Viet Nam welcomes the works of the Commission to tackle this contemporary issue.

Viet Nam, as a developing country, recognizes the need to pay regards to the consideration of equity, in which special conditions and needs of developing countries should be taken into account when discussing the draft text. Such consideration is consistent with other international instruments that deal with the protection of the environment, such as the 1972 Stockholm Declaration, the 1992 Rio Declaration, and the 2015 Paris Agreement.

My delegation also recognizes the important obligation to protect the atmosphere through the effective prevention, reduction, or control of atmospheric pollution and degradation as stated under Guideline 3. Moreover, we underline the significance of the inclusion of environmental impact assessments in the domestic systems of States which helps ensure that proposed activities under their jurisdiction are in conformity with international standards. We note that the effective protection of the atmosphere relies heavily upon scientific knowledge. Therefore, we welcome and encourage the collaboration among scientists in this field as well as the development of regional and international mechanisms to support developing countries in terms of enhancing exchange of information and joint monitoring. Thus, we are pleased to see this view reflected in Guideline 8.

On the topic of ‘*Immunity of State officials from Foreign Criminal Jurisdiction*’, my delegation extends our gratitude to the Special Rapporteur, Ms. Concepción Escobar Hernández, for her fifth report to the Commission on this issue. On this topic, my delegation would like to make two brief observations.

First, immunity of State officials from criminal jurisdiction originates from customary international law. Therefore it is our view that the codification of the rules in this matter needs to pay due regards to the principles of sovereign equality, non-intervention into the domestic affairs of States, as well as the maintenance of international peace and security, with an aim to ensuring the balance between the benefits of granting immunity to State officials and the need to address impunity. The drafting of the articles need to ensure the mentioned principles and reflect the codification of established norms.

Second, we believe that the exceptions to criminal jurisdiction warrant further debate. In the course of this study, it will be necessary to clarify the concept of “acts performed in an official capacity”. It is ill-advised to attach the criminal nature of an act to the representative nature of such act, as in practice, the criminality of an act does not affect or determine whether an act is performed in an official capacity. Moreover, the view that international crimes should not be considered as acts performed in an official capacity should be carefully considered, and greater clarity should be given to the crimes that constitute “international crimes”. We take note of the decision of the ICJ in the *Arrest Warrant* case, in which only serious international crimes are not

considered as acts performed in an official capacity. There is a distinction to be made between the concept of “international crimes” and “serious international crimes”, where the former cover a broader spectrum of criminal acts.

Regarding the topic on ‘*Jus Cogens*’, my delegation would first like to thank Mr. Dire Tladi for his extensive work in delivering the first report on *Jus Cogens*. Peremptory norms play an important role in international law and is recognized under the 1969 Vienna Convention on the Law of Treaties as well as domestic legislations of many States. The Vietnamese Law on Treaties which has been adopted earlier this year also recognizes *Jus cogens* as a principle to be adhered to in the course of negotiating and entering into international treaties. However, to date, it remains unclear on the definition, constituents, and development of such norms. We therefore commend the efforts of the Commission in addressing these issues.

With regards to the draft conclusions, we take note and are concerned of the inconsistencies presented in paragraph 2 of draft conclusion 2 and paragraph 2 of draft conclusion 3. In particular, the former states that peremptory norms are the exception to rules of international law that may be modified, derogated from or abrogated by agreement of States (*jus dispositivum*), whereas according to the latter, *Jus cogens* is considered hierarchically superior to other norms of international law. This in our view causes confusions as to the relationship between the two types of norms in questions. Thus, we suggest that further study be undertaken in order to clarify this matter.

We also encourage further studies by the International Law Commission to clarify the existence of regional *Jus cogens* and the effect of persistent objection in regards to *Jus cogens*. Thank you very much for your attention.

Vice-President: Thank you VietNam. With that we come to the end of the statements on this agenda item of Half-Day Special Meeting on Selected Items on the Agenda of the International Law Commission.

The Meeting was thereafter adjourned.

XII. VERBATIM RECORD OF THE FOURTH GENERAL MEETING

XII. VERBATIM RECORD OF THE FOURTH GENERAL MEETING HELD ON THURSDAY, 4 MAY 2017 AT 11.45 AM

AGENDA ITEM: INTERNATIONAL LAW IN CYBERSPACE

Her Excellency Dr. Vilawan Mangklatanakul, Deputy Director-General, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, Thailand and the Vice-President of the Fifty-Sixth Annual Session of AALCO in the Chair.

Vice-President: Now let us proceed with the next agenda item—International Law in Cyberspace. First, I invite the Deputy Secretary-General of AALCO to present his introductory statement.

Mr. Feng Qinghu, Deputy Secretary-General of AALCO: Her Excellency, Madam Vice-President, Distinguished Delegates, Ladies and Gentlemen, issues relating to cyberspace such as cyber-governance, cyber-security, cyber-sovereignty, combating cybercrimes etc. have dominated the discussions and deliberations on international forums for over a decade now, and the import of these issues continues to grow within the international community. As you all are aware the topic “International Law in Cyberspace” was included in AALCO’s agenda in 2014, to be deliberated at the Fifty-Third Annual Session of AALCO held in Tehran (Iran), on the proposal for the same by the People’s Republic of China. Owing to the immense importance of the topic and practical necessities felt by Member States in this regard, the proposal had been eagerly welcomed and accepted by all Member States. With the continued support and encouragement from Member States, the Secretariat continues to work on this subject, in order to cater to the needs and requirements of the Member States in this regard.

Over the past one year, since the first Open-ended Working Group on Cyberspace met at the 2016 Annual Session that took place in New Delhi, significant developments have taken place in the field of international law in cyberspace. Two of the most prominent developments were – a) the release of the Tallinn Manual 2.0, a successor of the Tallinn Manual 1.0 that was published in 2013, and b) the official expiration of the Internet Assigned Numbers Authority (IANA) functions contract of the US Government. Both the developments reflect the rising interest of the international community in the affairs of the cyberspace and consequently a new trend in the development of international matters denoting an increase in the existing scholarship in the field and a more inclusive Internet. The Tallinn Manual 2.0 has considerably expanded the scope of the application of existing international law in the domain of cyberspace, from conventional State-authorized and operated cyber warfare to the more common cyber incidents that States encounter on a day-to-day basis, which fall below the thresholds of use of force or armed conflict. Even though Tallinn Manual remains an unofficial document, meant for primarily State legal advisers, its makers are in fact hopeful for its academic value. The expiration of the US government’s IANA functions contract has transferred the stewardship of the IANA functions from the US Department of Commerce’s National Telecommunications and Information Administration (NTIA) to the global multi-stakeholder community. Thus, even though how the IANA functions would be managed now by the global multi-stakeholder community remains to be seen, the transition of the stewardship definitely reflects more transparency in the realm of Internet governance now.

Since the time the topic had been included in AALCO's agenda and discussed on its forums, Member States have expressed concerns over specific areas that have been discussed extensively over the sessions, namely, 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. The Special Study released by the Secretariat at this Session has made an earnest effort to cater to the various concerns raised by the Member States.

It was indeed encouraging to see the active participation of Member States at the recently concluded second meeting of the Working Group on International Law in Cyberspace at the AALCO headquarters, New Delhi, on 9 and 10 February, 2017. The facts that Member States had concrete views and suggestions on almost all the contentious issues, and that they were keen to form a unified and structured Asian-African approach to the cyber issues (of the Member States of AALCO), have provided significant momentum to the present work undertaken under the aegis of AALCO.

As rightly stated by His Excellency, Dr. V.D. Sharma at the second meeting of the Working Group on International Law in Cyberspace - at this critical stage of development of this unique space, the purpose of this Organization, that is AALCO, is to help Member States identify, as a whole, as to what exactly is their position regionally as well as internationally as regards to international law in cyberspace, and to ascertain what could be the way forward for them in that respect. We have seen during the past discussions on this topic at AALCO forums, including the most recent one in February, 2017 (second meeting of the Working Group on International Law in Cyberspace), that in spite of consensus on a lot of points, many of the issues discussed remain unsettled. We hope that the Special Study released by the Secretariat in this respect will be of assistance to the Member States in providing clarifications to these issues. It is, thus, of vital importance that the Member States are able to determine the Working Group's future plan of action, with the necessary assistance that is required from the learned Rapporteur and the Secretariat; especially with regard to the concrete suggestion provided by the People's Republic of China at the last Working Group Meeting regarding the formulation of a set of model laws on combating cybercrimes.

On an immensely positive note, Member States seem to be largely of the view that even though a number of issues pertaining to cyberspace are predominantly political, there are inevitable legal as well as policy-related elements attached to them that require expeditious action-taking on the part of States – hence evincing the carrying on of the present work undertaken by AALCO with full vigor. In conclusion I would like to state that the Secretariat sincerely hopes that the present Session and the future meetings, if any, of the Working Group on International Law in Cyberspace will formulate concrete and uniform approaches of our Member States on the contentious issues, an informative report on these issues as prepared by the learned Rapporteur of the Working Group, as well as a set of model laws or guidelines on combating cybercrime. Thank you, very much.

Vice-President: I thank the Deputy Secretary-General of AALCO for his opening statement. Now I invite Mr. Hossein Panahi Azar, the Chairperson of the Open-Ended Working Group on International Law in Cyberspace and Director General for International Legal Affairs, Ministry of Foreign Affairs, Islamic Republic of Iran, for delivering his report on the Second Meeting of the Open-ended Working Group on International Law in Cyberspace. You have the floor, Sir.

Mr. Hossein Panahi Azar, the Chairperson of the Open-Ended Working Group on International Law in Cyberspace: Thank you, Madam Vice-President. Allow me to briefly report the proceedings of the Second Meeting of the Open-ended Working Group on International Law in Cyberspace held in AALCO Headquarters, New Delhi on 9 and 10 February 2017. 23 Member States of Asian-African Legal Consultative Organization (AALCO) participated in the Second Meeting of the Open-ended Working Group on International Law in Cyberspace, namely, Arab Republic of Egypt, People's Republic of China, Cyprus, Democratic People's Republic of Korea, India, Indonesia, Islamic Republic of Iran, Japan, Malaysia, Mongolia, Myanmar, Nepal, Sultanate of Oman, State of Qatar, Kingdom of Saudi Arabia, South Africa, Sri Lanka, State of Palestine, Tanzania, Sudan, Syrian Arab Republic, Thailand and Republic of Yemen.

Representatives of the following Non-Member State and International Organization also attended the meeting: Russian Federation and International Committee of Red Cross (ICRC) respectively. Mr. Arun Mohan Sukumar, Head, Cyber Initiative, Observer Research Foundation (ORF), New Delhi participated in the Meeting as a guest speaker. The Rapporteur of the Working Group, Dr. Huang Zhixiong, Professor, Wuhan University, People's Republic of China also participated in the meeting.

Prof. Dr. Kennedy Gastorn, in his opening remarks, spoke about the international legal challenges posed by the idiosyncrasies of cyberspace. He further stated that in the pursuance of mandate received in AALCO's 2015 and 2016 Annual Sessions, the Special Study titled "International Law in Cyber Space" has been prepared by Secretariat which would be launched in the Fifty-Sixth Annual Session. He explained that the four subtopics flagged by the Member States in previous Sessions, namely, (1) Sovereignty in Cyberspace (2) Law and Governance of Cyberspace (3) Cyber Warfare: Legal Implications and (4) Cybercrimes and International Law would be discussed separately in the sessions devoted to these issues.

Dr. V.D. Sharma, President of the Fifty-Fifth Session of AALCO and Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, Government of India, in his inaugural address, raised concerns about regulation of cyberspace at both national and international level and pointed out the burgeoning nature of transnational cybercrimes.

His Excellency, Mr. Hossein Panahi Azar, the Chairman of the Working Group, initiated the discussion and introduced the guest speaker, Mr. Arun Sukumar.

In the second session dedicated to the topic "Sovereignty in Cyberspace: Balancing Rights and Obligations", Mr. Sukumar, the guest speaker, began his speech by discussing the idea of sovereignty in cyberspace. He remarked that the exercise of sovereignty in cyberspace is complex since technology does not respect borders. He defined sovereignty in cyberspace as (1) the capacity of a State to prevent its territory and infrastructure from being subject to cyber-attacks or from being used for cyber-attacks on another territory; (2) the capacity of a State to investigate, prosecute and punish cybercrimes perpetrated within its territory or outside its territory targeting people or organizations within its territory and (3) the capacity of the State to keep peace between businesses.

While discussing the capacity of States to prevent cyber-attacks and cybercrimes, he reminded that vast majority of countries in Asia and Africa are net exporters of data and net importers of

technology and considerably diminishes their ability to tackle cybercrimes or prevent vulnerabilities since the servers are located elsewhere. Giving the examples of the United States and China, he contended that sovereignty is enhanced not by the law but by the ability to innovate and by the ability to create state of the art technology companies.

One the second point i.e., the capacity of the State to prosecute and punish for cybercrimes, he pointed out that many States in Asia and Africa have difficulties in managing its relationship between technology and data companies primarily because they are not based out of their territories. Moving on to the final point, i.e. capacity of the State to regulate businesses, Mr. Sukumar noted that the terms and conditions between the user and the company, in general, are not dictated by the domestic laws of the user but by the laws of the location of the company. And thus activities that are classified as offences in the domestic jurisdiction of the user may not be held so in the jurisdiction where the company is located which erodes the sovereign capacity of the State to regulate cyberspace.

So for these reasons, he contended that there has been a gradual erosion of sovereign capacity of the State to regulate cyberspace and the only way to enhance States' ability in this regard is constant innovation and development of technologies rather than creating artificial legal constraints that forces companies to provide data or localize data.

Thereafter, the delegates of Japan, Cyprus, People's Republic of China, Islamic Republic of Iran and Thailand presented their statements on the subtopic of discussion. It was followed by a Q and A session amongst the guest speaker and participants.

Mr. Arun Mohan Sukumar, who was also the guest speaker for the session on cyber governance, firstly spoke about the three levels of cyberspace which primarily form the subject-matter of cyber-governance: the bottom digital infrastructure level, which is mainly regulated by national laws; the middle or logical level, which includes the domain name system; and the top level which is the 'application' or 'policy' level that concerns regulation of "content based applications". He spoke in length about the governance of the logical level, which has generated the most contentious issues in the cyber-governance realm.

He explained how the issue is as much political as technical, as firstly, the management of critical Internet resources necessarily entails a strategic control over the cyberspace as a whole, and secondly, because the control over these resources is still not uniformly distributed around the globe. He stressed on the predominant role of ICANN in the management of IP addresses at this point. He further spoke of the issue of possible balkanization of the Internet, as an often debated topic of today; however, not personally supporting it as a feasible solution, as products and services by virtue of their nature are not meant to be restricted to any particular geography.

Thereafter, the delegates of the State of Palestine, Tanzania, Islamic Republic of Iran, People's Republic of China and Syrian Arab Republic presented their statements on the topic. It was followed by a Q and A session amongst the guest speaker and participants.

Mr. Jeremy England, Head of the International Committee of Red Cross (ICRC) in New Delhi was the guest speaker in the 4th session dedicated to the topic—Cyber Warfare: Legal Implications. Mr. England, in his speech, stated that the use of new technologies in armed conflicts has sparked intense debate on its implications for security, its conformity with existing

legal provisions and its impact on the humanitarian situation. He discussed the challenges related to defining cyber warfare as there is no universally agreed definition of cyber warfare or cyber-attack under international law. The ICRC holds the position that if cyber means are employed during armed conflicts they must comply with International Humanitarian Law (IHL) like any other means and methods of warfare, new or old.

Mr. England further discussed the limits IHL places on the means and methods of warfare in general and on cyber warfare. He moved on to discussing various challenges cyber warfare raises for the interpretation and application of IHL. Mr. England pointed out the significance of discussions on how protection that IHL already affords to civilians and civilian objects should be interpreted and applied with regard to cyber operations. He stated that States that develop or acquire cyber-warfare capabilities should also assess their lawfulness under IHL. Lastly, he called upon States to take practical steps to implement this obligation.

Thereafter, the delegates of Japan and People's Republic of China presented their statements on the topic. This was followed by a Q and A session amongst the speaker and participants.

Dr. Huang Zhixiong, Rapporteur of the Working Group, was the chief speaker on the session on cybercrimes. He began his speech by stating that the poorer countries have been the worst sufferers as a result of an exponential rise in cybercrimes. He stated that a number of regional co-operation agreements have come about as a result, like the Budapest Convention, Convention of the League of Arab States and the Shanghai Co-operation Agreement. Of these instruments, he elaborated on the Budapest Convention, focusing on its attempted internationalization and its successes and inadequacies. Thereafter he went on to discuss the different aspects discussed in "Comprehensive Study of Cybercrimes" carried out by the UNODC, which he stated deserved careful consideration. He concluded by saying that regional and global instruments can certainly co-exist, and AALCO Member States should consider drafting Model Rules in this regard.

Thereafter, the delegates of People's Republic of China, Islamic Republic of Iran, India and Thailand presented their statements on the topic. This was followed by a Q and A session amongst the speaker and participants.

In the concluding session, the Secretariat briefly introduced the content of the Special Study on International Law in Cyberspace which will be released in the Fifty-Sixth Annual Session. Thereafter, the future work program of the Working Group was discussed among Member States. The delegate from the People's Republic of China stressed upon the need to have a Model Law in place as regards rules of international law in combating cybercrimes, keeping in mind the best interest of all Member States. It was suggested that the Rapporteur would draft the model provisions, for which assistance will be provided from the Secretariat as well as the government of People's Republic of China. The Chairperson of the Working Group stated that the concrete suggestion from People's Republic of China has been taken note of and would be reflected *inter alia* in the Report of the Chair at the upcoming Annual Session. After noting that the meeting was informative and productive, he stated that further deliberations on the future work of the Working Group would be done in its next meeting.

The Second Meeting of the Open-ended Working Group on International Law in Cyberspace was thereafter adjourned.

So this was a brief report on the proceedings of the Second meeting of the Working Group. Thank you, Madam Vice-President.

Vice-President: Thank you, Sir. Now I invite Qatar for their intervention. You have the floor, Sir.

The Delegate of State of Qatar:²⁰ In the name of Allah who is most merciful and beneficent, His Excellency, the President of 56th session, His Excellency, Deputy Secretary-General of AALCO, Honorable ministers, Attorney Generals and Heads of delegations, Ladies and Gentlemen, My warm greetings to all of you!

It is of no doubt that the internet has expanded the means of communication between us and our counterparts around the globe on such scale that nobody could think of it during the past decade. It successfully removed a number of hindrances that were impeding the process of communication and strengthened the means of cooperation between us in various fields of personal and professional life as the cyberspace became a vital part of our societies. The cyberspace is considered the main factor in achieving the economic boom and stimulating the innovation apart from its role in enriching our lives through unlimited ways.

Amidst growing challenges to the cyber security on international level, the protection of the systems and basic infrastructure related to information and communication technology has become the top priority of every country around the world. The huge benefits provided by the cyberspace to us is intertwined with a number of challenges and fears threatening the infrastructure which strengthens our capability of peaceful use of the internet. It is because of this reason that the cyberspace, being not bound by any restrictions, provides opportunities to some biased elements to run through the data of individuals, companies, governments and subsequently harm them. This is why preserving the security of individuals in society and infrastructure networks have become one of the biggest global challenges facing all nations.

To address this, every country is trying to strengthen the legal means on both national and international levels to cope up with cyber-crime, refuting it in all its forms, investigating and bringing the culprits to justice. This is why the State of Qatar has formulated a national strategy for cyber security opening a way for moving ahead towards strengthening the cyber security through enacting the national legislations to tackle the cyber-crimes in all its forms.

With respect to countering the cyber-crimes on international level, the Qatari lawmaker has enacted the 4th article of legislation of Tackling Cyber Crimes which consists of the provisions of mutual legal assistance and extradition of offenders if any foreign country seeks such assistance, in accordance with the treaties ratified by the State of Qatar or similar agreements, provided that it does not contradict the provisions of Qatari legislations on tackling cyber-crimes.

The international community we are required to make collective efforts and cooperate in order to tackle the cyber-crime in all its forms and manifestations and this can happen through exchanging information among countries, making use of best prevailing practices, mutual technological assistance and strengthening the legal and technological means to tackle this rapidly growing crime.

²⁰ This statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

Respected ladies and gentlemen and august audience, in the end, I thank you all for this patient hearing and pray to the Almighty to give us success and make our countries and societies flourish.

Vice-President: Thank you, distinguished delegate of Qatar. Now I invite China.

The Delegate of People's Republic of China: Thank you, Madam Vice-President. On behalf of the Chinese delegation, I would like to express my appreciation to the Chairperson of the Working Group on International Law in Cyberspace for his report for the 2nd Working Group meeting. I would also like to thank the AALCO Secretariat for their preparations for the deliberations and extend my congratulations to the Secretariat for accomplishing and releasing the Special Study on International Law in Cyberspace. The above-mentioned work indicated gradual in-depth deliberations and study on this issue, i.e. the international law in cyberspace, which provides a preliminary basis for reaching outcomes soon.

The international rule-making process in cyberspace is continuously making further progress. The deliberations on the application of international law, norms for the responsible behavior of states, etc. by the UN Group of Governmental Experts in the Field of Information and Telecommunications in the Context of International Security (the UN GGE) deepened constantly. The UN inter-governmental expert group on cybercrime recently held its 3rd meeting, and agreed to hold periodic meetings and function as the platform for further discussion on substantive issues on international cooperation on cybercrime, based on the Draft Comprehensive Study on Cybercrime formulated in previous two meetings. In addition, international deliberations relating to digital economy, Internet governance, cyber-attack and warfare are more and more intensive. Therefore, as the unique governmental organization specifically addressing issues of international law in cyberspace, it is imperative for AALCO to further focus on core issues, accelerate its work and produce concrete outcomes as early as possible.

With reference to the briefs made by the secretariat, here I would like to elaborate on the following issues: Firstly, on the issue of cyberspace governance. China is of the view that, every country is entitled to participating in cyberspace governance on an equal footing. And it is ought to establish a multilateral, democratic and transparent global Internet governance system, with the fair distribution and transparent global Internet governance system, with the fair distribution of global Internet resources and joint governance of global critical Internet infrastructure. The United Nations should serve as the main channel in promoting the adoption of accepted international rules in cyberspace. Global instruments on combating cybercrime and cyber terrorism should be developed accordingly. Technical assistance and financial support for developing countries should be strengthened. Countries should enhance mutual communication and exchange through establishment of cyber dialogues and consultation mechanisms, explore and adopt rules to make a fairer and reasonable cyber governance mechanism reflecting aspirations and interests of the majority countries in a more balanced way.

China believes that, State Governments should play a leading role in Internet governance, while other stakeholder, including Internet corporations, technical communities, non-government institutions and individual citizens should also play their appropriate roles in respective areas. It is imperative for AALCO Member States to strengthen communication and cooperation on this issue, and actively safeguard our common interests.

Secondly, on the issue of Cybercrime, Cybercrime has become a severe threat and challenge facing mankind, which needs joint responses by international community through enhanced cooperation, including adopting a global legal instrument under the framework of UN. The UN Commission on Crime Prevention and Criminal Justice (CCPCJ) in 2011 established an open-ended intergovernmental expert group to conduct a comprehensive study of the problem of cybercrime and responses to it. Since then, based on the comprehensive research and investigation in 2013, the expert group released a more than 300 pages draft “comprehensive study on cybercrime”. The study in its conclusion suggests countries to adopt comprehensive global instruments which attracted wide attention and support from international community. However, some countries oppose this suggestion arguing that there exists already Budapest Convention on Cybercrime by the Council of Europe. Based on international practices in combating transnational crimes and in other fields, it is not convincing to oppose a global convention with the excuse of existing regional convention. It is proved that regional convention could contribute to the development of a global legal instrument, vice versa, the existence of global legal instrument will not weaken the role and function of regional conventions, and both of which will mutually complement and strengthen each other. The UN intergovernmental expert group on cybercrime mentioned above held its 3rd meeting on April 10-13 in Vienna. All parties recognized the value of the expert group and necessitates to continue its work. The meeting agreed to make recommendations to CCPCJ to provide to the expert group budgetary support, so as to hold periodic meetings and function as the platform for further discussion on substantive issues on cybercrimes. China calls upon all AALCO Member States to work closely to promote the CCPCJ session to adopt relative resolutions, and safeguard the cybercrime consultation process under the UN framework.

With regard to the future work on cybercrimes, China fully agrees with the suggestions put forward by Secretariat in its briefs to draft model provisions on combating cybercrime. This suggestion not only complies with the spirit of adopted resolutions on international law in cyberspace of AALCO, but also reflects the outcome of the 2nd meeting of the Working Group and aspirations of Member States. Besides, the Secretariat also suggest the Rapporteur of the Working Group prepare a report on the basis of the discussion that have taken place thus far among the Member States, and the Special study prepared by the Secretariat, laying down a future plan of action for the Working group, on which China fully agrees.

China proposed that, based on the experience provided by relevant existing international instruments, the report should focus on the practical needs of AALCO Member States and provide possible draft model provisions on relevant concrete issues in combating cybercrime, such as criminalization, jurisdiction, investigation and prosecution, international cooperation, and digital evidence, etc. The model provisions could serve as a good basis for further discussions of the Working Group, and it also can contribute to the formulation of relevant cooperative documents, capacity building program and domestic legislations by Member States. The Working Group may hold several inter-sessional meetings to discuss the draft model provisions based on the report.

In addition, China encourages AALCO Secretariat to further strengthen its in-depth study on issues of international law in cyberspace like cybercrime, actively communicate and cooperate with other international institutions or platforms, and voice for AALCO and its Member States.

Thank you Madam Vice-President.

Vice-President: Thank you, China. Now I invite the distinguished delegate of Republic of Korea.

The Delegate of Republic of Korea: Thank you, Madame Vice-President, before making a brief remark on this topic, I would like to take this opportunity to extend my sincere gratitude to the Chairperson of the Working Group on International Law in Cyberspace and the Secretariat for the brief report and their efforts respectively. Cyberspace has the potential to generate unprecedented economic and social benefits, driven by creativity, connectivity and innovation. In recent years, the Republic of Korea has experienced great benefits from its national policy to promote information and communications technologies. However, greater connectivity brings us greater vulnerability and, on a number of occasions, Korea has vividly experienced how grave the threat from cyber-attacks can be.

In the global cyber ecosystem, any weak link in the chain can jeopardize the entire system. Such weak links can include, first of all, the absence of a robust international cooperation mechanism, which could help determine the origin of malicious activities; second, the lack or shortage of internationally agreed laws, norms and rules relating to cyber-attacks; and finally, gaps in cyber capacity between states and regions. My delegation believes that international and national cooperation is of paramount importance in order to strengthen these weak links and build a safe and secure cyberspace.

Furthermore, we should step up our efforts to develop and promote the norms, rules and principles to be applied to cyberspace. Due to its intangibility, cyberspace remains a domain which lacks or is short of substantial rules and regulations. This is why it is currently difficult to systematically respond to cyber-attacks with international cooperation, or to invoke international law, including that related to the responsibility of states and reparations.

In this regard, my delegation highly appreciates the recent achievements made by the UN Group of Governmental Experts in this field. Korea hopes to continue to actively participate in further discussions on these issues in the UN GGE setting, as well in our current bilateral cyber policy consultations with close to a dozen countries.

Until now, we have successfully coped with cyber threats, thanks to the strong partnership between public and private sectors, across governments, and among countries. My delegation sincerely hopes that the discussions at this AALCO session will further contribute to the sharing of insights between African and Asian states on this important issue. Thank you, Madame Vice-President.

Vice-President: Thank you, Sir. Now I invite the distinguished delegate of India.

The Delegate of India: Thank you Madam Vice- President, On behalf of the Indian delegation, I take this opportunity to thank Mr. Hossein Panahi Azar, Chairperson of the Working Group on International Law in Cyberspace for his comprehensive report on the deliberations and outcome of the Second Working Group Meeting held on 9-10 February 2017 in New Delhi.

I also take this opportunity to thank the AALCO Secretariat for the preparation of a detailed background document on the topic and the introductory statement made by the Secretary-

General/Deputy Secretary-General. The Special Study on the Topic prepared by the AALCO Secretariat is a useful compendium for the Member States consideration.

Madam Vice- President, Cyber security issue are continuous and are proving to be difficult even as the incidents of cyber-attacks, cybercrime, cyber terrorism grow exponentially. The challenge before states is how to defend their critical, military and civilian infrastructure from destabilising cyber-attacks. Cybercrime is on the increase. Theft of personal information and intellectual property is rampant. The distinction between state and non-state actors in cyberspace is blurring. Even as technologies of active defence are developed, the attackers are several steps ahead.

The classical form of ICT infrastructure based jurisdiction is under reconsideration in terms of evolving nature of cyberspace environment to the data based jurisdictional aspects. Further, jurisdictional issues in respect of High Sea Cables and ICT infrastructure located at high seas also needs to be clarified given the freedom of high seas enunciated under the 1982 UN Convention on the Law of the Sea (UNCLOS). Similar scenarios involving the outer space will also need to be addressed as they may be contrary to the classical notions of jurisdiction and sovereignty and corresponding jurisprudence.

Madam Vice- President, As a result of the efforts of the UNGGE, there is now a growing recognition that international law, particularly the UN charter, applies as much as to cyberspace as to other domains. The UNGGE emphasises that principles of sovereign equality; settlement of international disputes by peaceful means; refraining from the threat or use of force against the territorial integrity or political independence of any state; respect for human rights and fundamental freedoms including the freedom of expression; and non-intervention in the internal affairs of other states are some of the principles which also apply to the ICT domain.

Today , cyber security is no more a technical issue but a political issue which requires diplomatic as well as military responses as increasingly actors are resorting to malicious cyber actions.

Madam Vice- President, Reaching international agreement on what qualifies as the use of force or an armed attack is a crucial problem for international negotiation and agreement on cyber-attack is a crucial problem for international negotiation and agreement on cyber security, and continued ambiguity hampers the application of international law. The international law aspects of intervention in self-defense, economic sanctions, counter measures and so on are also issues of discussion.

Cyber war cannot be seen solely from the perspective of physical damage. Command and control is an important target and attacks on them need not produce physical damage. The absence of physical damage complicates the application of international law. In the negotiations, the most difficult of these topics turned out to be the application of international law, as countries were unable to agree on what qualifies as the use of force in cyberspace.

At the same time, Non-state actors are also using cyber-attacks for coercive purposes which further complicate the issues. Outside of armed conflict, the primary state use will be cyber espionage and cyber actions interned to coerce that fall below the level of the use of force.

Madam Vice- President, Norms reflect the international community's expectations about behaviour, unlike treaty, norms are not legally binding, but experience shows they are useful. A

norms-based approach offers the greatest chance for progress. CBMs focus on transparency and coordination.

As the positions on various aspects of international law applicability are varied amongst the nations, Negotiations are indispensable for improving cyber security. The fundamental point for reconsideration is whether to pursue global agreement on cyber security norms for responsible state behaviour, or begin by building consensus among like-minded nations. While both approaches can be pursued simultaneously, a new strategy will need to examine different kinds of engagements with other countries and a broader range of tools to win progress. It would continue to pursue of global agreement but seek immediate agreement among like-minded nations on responsible behaviour in cyberspace.

Madam Vice- President, In conclusion, my delegation would like to point out that there is a lack of consensus in the international community on norms of behaviour in cyberspace. We are at a stage where technology is far ahead of our thinking on cyber laws and cyber norms. Therefore, it is imperative that AALCO could be useful platform to discuss these issues for arriving at consensus on some of the outstanding issues of cyberspace for the benefit of Member States through inter-sessional Meetings. Thank you, Madam Vice- President.

Vice-President: Thank you, Sir. Now I invite the distinguished delegate of Thailand. You have the floor, Madam.

The Delegate of Thailand: Madam Vice-President, Excellencies, Distinguished Delegates, First and foremost, on behalf of the Thai delegation, I would like to join other fellow delegates in recognizing the noteworthy contribution of the Working Group on International Law in Cyberspace as well the AALCO Secretariat. The meaningful inroad that the experts have made thus far is of great value and an essential contribution to the development of the discipline as a whole.

Madam Vice-President, We hardly need a reminder that the internet and information and communications technologies (ICTs) are rapidly advancing and our dependence on them, from the daily lives of citizens to government activities, is ever increasing. In tandem with this growth in dependence is a greater vulnerability to malicious cyber policies in response. Cyber policy and law are inextricably linked- as the international community develops new political and policy approaches, this inevitably shapes the legal climate in which states and stakeholders operate.

With regard to the applicability of international law in dynamic and borderless cyber environment, the 2015 UN Group of Governmental Experts (GGE) recommended that international law, particularly the Charter of the United Nations, should apply in cyberspace. Indeed, this recommendation provides a solid foundation for further discussion on the specifics of an international legal regime in cyberspace. However, this becomes ever more challenging in practice as it must reconcile traditional international legal concepts such as a state sovereignty, state responsibility, as well as thresholds for international humanitarian and the right to self-defence, to the new realm of cyber world.

One of the most obstacles in regulating cyberspace is the concept of sovereignty demonstrates state's independence from other states and an ability to exercise control within its borders. When applied to the cyber domain, which is transboundary by nature, questions arise as to how to

determine where specific data resides at any given moment. Another difficult concept to be applied to cyberspace is state responsibility. In determining standards for legal attribution of cyber activities to a state is a massive hurdle as normally, such activities are not carried out by states but rather private individuals. The problem arises as to when the conduct of private individuals would be attributable to a state, and what should be the standard of such attribution.

On this issue, Thailand is of the opinion that some specific rules are needed for the distinctive nature of the cyber domain. It must also be emphasised that, any future cyber-specific international law should be capable of coexisting with national law, and must be in compliance with the tenants of the Charter.

Madam Vice- President, Thailand has also been afforded by the spread of cybercrimes in recent years, and we have put great emphasis on developing new legislative frameworks and fostering international cooperation aimed at combating these crimes. To this end, we have established a Thai Computer Emergency Response Team (ThaiCERT) as an official point of contact for dealing with computer security incidents, as well as for collaborating with relevant entities, both at home and abroad, in responding to security incidents. In addition, the Thai Government is currently drafting a new National Cybersecurity Act in order for Thailand to be able to appropriately tackle circumstances of cyber threats. In this regard, it is worth emphasizing that international cooperation is key to the success of combating transnational cybercrimes. In the same vein, harmonizing national law elements in relation to cybercrimes and enhancing confidence building measures should remain crucial to our endeavour.

On matters of internet governance, Thailand supports the multi-stakeholder approach which is ever more suited to the industry-led context of cyberspace. States should assume an oversight rather than controlling role over the use of the internet to ensure that cyber devices, operation methods or inventions made available by service providers will not be an insurmountable danger to law and order, international relations or human rights. Under this suggested model, entrepreneurial freedom will not be restricted, and neither the government nor the industry has the monopolistic dominance over one another, thus ensuring that the cyber world would remain open and fully enjoyed by all.

Thank you, Madam Vice- President.

Vice-President: Thank you, Madam. Now I invite the distinguished delegate of Sudan.

The Delegate of Sudan²¹: Thank you, Madam Vice-President. Excellencies, Ladies and Gentlemen, As of the sovereignty of the state in cyberspace, it is globally recognized that the principle of the sovereignty of the State also includes the sovereignty on the internet as stipulated by United Nations World Summit on the Information Society and Government Experts Group in the UN. But there are grave breaches of this sovereignty in reality. Most of the countries, especially developing countries, are unable to hold this sovereignty during cyber-attacks.

The Sudanese government has enacted many laws and legislations relating to the crimes of cyber technology and communications. These laws laid down the right to sovereignty. For example, the article 2 of legislation on cybercrimes, 2007 stipulated the sovereignty as “Judicial Sovereignty.”

²¹ This statement was delivered in Arabic. This is an unofficial translation done by the Secretariat.

It reads: “The provisions of this law will cover the abovementioned crimes if committed fully or partially inside or outside Sudan no matter the culprit is the sole perpetrator, partner or abettor.”

These laws also aim at combating cybercrimes and prosecuting the culprit of these crimes. Article 4 of legislation of Cyber Crimes, 2007 lays down under the title of crimes related to system, media and information networks. It reads: “(a) Everyone who enters a website or information system without being authorized... he will be punished for imprisonment of two years or levied penalty or he will be liable for both punishments.”

(b) If he manipulates the data or information belonging to others, deletes it, destroys it or changes the outlines of a website, he will be liable for punishment of a maximum of four years of imprisonment or penalty.”

Entering the website intentionally and aiming at getting the secret data or information was also considered a crime by this law under the article 7, stopping, deactivating and destroying the programs, data and information under article 8. The blocking, disturbing or interrupting the services was made crime under the provisions of article 9.

The law of National Centre of Information, 2010 also exists. As per this law, a centre namely “National Centre of Information” has been established which aims at monitoring over all sorts of information, systems and devices, contributing in developing information, organizing the security and protection of data, creating the human and institutional capabilities in field of information and bridging the digital divide.

These laws are compliant to the provisions of treaties which call Member States to adopt appropriate legal and regulatory measures for protecting personal data. It further criminalizes the acts which aim at secrecy of information systems and digital data, its credibility and supply, making it a cybercrime in judicial laws or adopting new legislations.

Another important legislation is the Electronic Transaction Law, 2007. In this law, the definition of electronic transactions is as follows: “It covers the financial relations and actions, personal issues, all non-criminal legal matters including the personal actions or contracts which gets approved or executed fully or partially through the method of digital data”. This is in accordance with what has come in treaty with electronic contracts. It also seems, to a great extent, in accordance with the Arab treaty for combating the cybercrimes and African Union Treaty on cyber security

In conclusion, we see the need of cooperation between the countries of ALCO to tackle the cybercrimes and that can happen through the coordination of laws and measures to be adopted by the Member States in combating cybercrimes and through mutual legal assistance. The adaptation of model legislations is also required. Thank you.

Vice-President: Thank you. Now I invite the distinguished delegate of Iran.

The Delegate of Islamic Republic of Iran: “In the name of God, the Compassionate, the Merciful”. Madam Vice-President, at the outset, my delegation would like to express its gratitude to the Secretariat for the serious consideration of the item “International Law in Cyberspace”. We are grateful to see the launch of the Study, by the Secretariat, on “International Law in

Cyberspace” which includes diverse aspects of Cyberspace from an international legal perspective.

Madam Vice-President, since the introduction of the topic of “International Law in Cyberspace” during the Fifty-Third Annual Session of AALCO in 2014 in Tehran, different challenges appeared to be posed by the Cyberspace to all Member States. During the two sessions of the Working Group, diverse aspects of jurisdiction and sovereignty, cybercrimes and cyber warfare were delved into by the speakers and the delegates alike.

On sovereignty and jurisdiction, it is promising to witness the privatization of the coordination and management of the Domain Name System of the Internet Assigned Numbers Authority (IANA); furthermore, an increased participation in the Governmental Advisory Committee of the ICANN may be regarded as a step towards a more inclusive participation in the technical regulation of Internet. Nonetheless, the only way to ensure equal sovereignty in Cyberspace is through multi-national approach, whereby all States may have equal representation and role in internet governance. Such a change could put into effect better management of cyber threats by States at the national and international levels.

On cyber warfare, still we have more questions than explanations. Many elements pertaining to *use ad bellum* aspect of cyber-attacks, i.e. use of force and self-defense and countermeasures remain to be open to discussion. It remains certain, however, that well-established principles of international law, especially those enshrined in the United Nations Charter need to be respected even in this fifth domain. As such, no abuse may be tolerated in resort to force or self-defense. My delegation is of the conviction that abusive invocation of article 51 is groundless even in cyberspace and that the sanctity of article 2(4) must remain intact in all circumstances.

Moreover, the applicability and application of rules of international humanitarian law to instances of cyber-attacks with or without kinetic effect is still questionable. Principles such as distinction, proportionality, direct participation in hostilities, and legitimacy of targets are only part of the challenge posed by application of international humanitarian law in cyberspace. While we consider applicable all the existing instruments on international humanitarian law, including Geneva Conventions, we believe that some of the intricacies of cyber armed conflict may escape current legal frameworks.

Madam Vice-President, On the issue of cybercrimes, as discussed during the last inter-sessional meeting and as highlighted by the Secretariat in its report, there is broad agreement that there needs to exist a set of model laws or even a global convention under the aegis of United Nations to combat cybercrimes effectively. Measures to combat Cyber Crimes can be approached at national and international levels.

At the national level, the Iranian Parliament ratified some laws including Cybercrime Act (2009) and Electronic Commerce Act (2003) with the aim of providing legal ground in Cyberspace. The Iranian Cybercrime Act has been drafted benefiting from the experience of the international community in combatting cybercrimes. This Act comprises 56 Articles aimed at preventing and punishing diverse instances of cybercrime including illegal infiltration into computer networks on the one hand, and ordinary crimes committed *via* computer networks on the other.

Also, as a major step in fighting cybercrimes and cyber-attacks, the Government of the Islamic Republic of Iran established Cyber Police in 2011. The purpose of establishing cyber police is to secure cyber space, to protect community values, legal liberty and national critical infrastructure against cyber-attacks, to preserve interests and national authority in cyberspace and to assure people in all legal affairs such as economic, social and cultural activities in order to preserve national sovereignty. Iranian Cyber Police has been operating consistent with internal and international standards in order to prevent, investigate and combat cybercrimes. Currently, the Iranian Cyber Police has established its 24-hour offices in all provinces of the country and more inclusively in all cities with a population of more than 200,000 people.

On the way of promoting international cooperation since its establishment, the Cyber Police of Iran has close cooperation with various police departments in many countries including China, South Korea, Spain and France, to name a few, as well as the Interpol and Europol for effective fight against cybercrimes. In this context, the Islamic Republic of Iran has signed agreements and Memoranda of Understanding with different countries particularly in our region, western and central Asia. In this line, the Islamic Republic of Iran, in collaboration with the Interpol, hosted International Conference on Cybercrime in 2015, with participation of representatives from 15 states. This is not surprising as the Cyber Police of Iran, responsible for ensuring cyber security in the country, has thus far launched joint missions with 111 countries and 200 executive bodies to confiscate fake drugs in the approximate value of 2 billion dollars. Operation “Pangea 8” could be picked as a remarkable example thereof whereby cooperation between the Iranian Cyber Police together with the Interpol and Cyber departments from 118 countries led to 429 investigations, suspension of 550 million online advertisements of illegal medicines and the shut-down of 2414 websites around the globe.

Madam Vice-President, On the international level, currently, we follow with interest the work of the Expert Group to Conduct Comprehensive Study on Cybercrime which had its recent meeting on 11 April 2017 in Vienna. Islamic Republic of Iran has also welcomed and participated in different UNODC technical workshops on preventing and combatting cybercrime and according to our Country Partnership Program for the year 2015-2019, we are set to have two Regional Workshops on International and Regional Cooperation to Combat Cybercrime.

To sum up, the Islamic Republic of Iran regards bilateral, regional and international cooperation on diverse legal aspects of Cyberspace and specifically Cybercrime essential. To the end, let me wish all the best for AALCO’s work on the topic, and in particular, the work of the Open-ended Working Group on International Law in Cyberspace. Thank you, Madam Vice-President.

Vice-President: Thank you, Sir. Now I invite the distinguished delegate of Japan.

The Delegate of Japan: Thank you, Madam Vice-President. Japan’s statement is as follows: Cyberspace is an artificial domain for the free exchange of ideas without being constrained by national borders; it is an intangible frontier of infinite values generated by intellectual creations and innovations inspired by the ideas globally exchanged. Now cyberspace is an essential foundation of socio-economic activities of every country. For the purpose of the protection of the freedom of expression, the creation of innovation, of the protection of the freedom of expression, the creation of innovation, and the improvement of socio-economic vitality, cyberspace is required to be a space where freedom is assured without unnecessary restrictions and in which all

actors who wish to access are neither discriminated nor excluded without any legitimate reason. It is necessary to ensure a secure cyberspace through each actor's cooperative and self-motivated activities.

However, the threat of cyber-attack is growing. The malicious use of cyberspace by not only states but also non-state actors including terrorists has increased and we are in a situation where means of cyber-attack can easily proliferate. The falsification, theft destruction of information and property as well as the disruption of social systems can threaten the people's living and the international community as a whole.

In this context, Japan is engaged in the discussion on the scope of application of existing international law cyberspace in the UN Group of Government Experts (GGE) on Developments in the Field of Information and Telecommunications in the Context of International Security, as well as recognizing the need for further dissemination of the Budapest Convention on cybercrime in order to address cybercrime in concert with the international community.

Japan believes that we should continue to study how existing international law could apply to cyberspace and that it would be premature to discuss new rules of international law in cyberspace, which would lead to creation of new legal obligations.

We also believe Cyberspace has been a driver for social and economic growth, innovation led by the private sector. For cyberspace to retain driving force for social and economic growth, it is essential to maintain open and transparent environment based on not multi-lateral, but multi-stakeholder approaches that all stakeholders, such as civil society, academic, private company, NGO, government can participate in the process.

As regards State Sovereignty in Cyberspace, Japan is of the position that a State where cyber infrastructures or persons using cyberspace are located can exercise territorial sovereignty over such infrastructures or persons. In this regard, we support the affirmation by the previous UN GGE report (A/70/174 (2015)) that "state sovereignty and international norms and principles that flow from sovereignty apply to the conduct by States of ICT-related activities and to their jurisdiction over ICT infrastructure within territory." At the same time, freedom of expression and confidentiality of communication should be respected and protected to the maximum extent possible as fundamental human rights.

Further, cybercrimes is a transnational threat which needs to be tackled by the international community as a whole. The Convention on cybercrime of the Council of Europe, or the so-called Budapest Convention, is so far the only effective multilateral instrument on the use of cyberspace. We believe that, if more and more countries adjust their domestic legislations to the standard of the Budapest Convention, it will contribute greatly to the stable use of cyberspace.

The Government of Japan participated in the negotiation process of the Budapest convention and accepted to the Convention as the first Country in Asia in July 2012. Nowadays, more and more non-European countries are adopting the standard of Budapest Convention in their domestic legislations. Other non-European Parties to the Convention so far include the United States, Australia, the Dominican Republic, Panama, Mauritius, Canada, Chile, Israel, Senegal and Sri Lanka. South Africa has also signed the Convention.

The Convention is often described as designed solely by and for developed countries. However, this is not true. We believe that the Convention is based on universal needs of the practitioners working on cybercrime investigation and prosecution and that it can be applied in any countries around the world, including both developed or developing countries, as the universal standard for cybercrimes investigation and prosecution.

There are those who criticize that the Convention was adopted more than 10 years ago and therefore is outdated. It should be noted that, the Convention uses technologically-neutral language in defining criminal acts and criminal justice procedures. Therefore, we believe that the Convention can be applied to technologies of today and in the future and continues to retain a universal value with respect to technologies.

With respect to the proposal to develop a new cybercrime convention at the UN level, appropriate consideration should be given so as not to duplicate the efforts by creating something very similar to the Budapest Convention. It goes without saying that many countries are in need of urgent assistance for cybercrime legislations and capacity building of law enforcement agencies. Therefore, we first need to consider providing effective assistance to the prosecutors and police officers engaged in law enforcement activities under the auspices of the Budapest Convention, rather than to consume great amounts of time to draft a convention similar to the Budapest Convention.

As regards cyber warfare, International law has played a significant role in securing the stability and predictability in the international community. Japan is of the position that existing international law is applicable to the conducts in cyberspace, and this point was reaffirmed at the UN GGE. The previous UN GGE report also re called that the UN Charter applies in its entirety and cautious against cherry-picking specific rules and principles to apply them to cyberspace.

Under some circumstances, cyber activities could amount to the use of force or an amend attack within the context of the United Nations Charter and customary international law. States may exercise their inherent right of individual or collective self-defense as recognized in Article 51 of the UN Charter and in accordance with international law, including international humanitarian law, in response to an armed attack through cyberspace.

Japan's position on the governance of cyberspace is as follows: There are existing multi-stakeholder (including government, private sector, academia and civil society) forums, such as the Internet Governance Forum (IGF), where policies relating to internet governance have been discussed. On the other hand, AALCO is an Organization where legal experts in international law gather to deliberate on legal issues and, given that the legal experts may not necessarily have expertise in issues related to the Internet policies and technologies, and that participation of multi-stakeholders is essential to discussing such policies and technologies, there could be a question as to whether AALCO is an appropriate forum to discuss these issues. As regards the points is an appropriate forum to discuss these issues. As regards the points raised today, we will share them with the government office responsible for these issues for their consideration to bring the issues to the existing forums. Thank you, Madam Vice-President.

Vice-President: Thank you. Now I invite Indonesia.

The Delegate of the Republic of Indonesia: Madam Vice-President, the issue of cyberspace is transnational in nature, where the crimes committed by using cyberspace have been increasing both in number and complexity. In this regard, international cooperation is crucial to address this growing problem. Let me highlight that at national level, we have also taken some steps, including implementation of Law Number 11 of 2008 on Electronic Information and Transactions to protect our society from cybercrime.

Recently, our government is also in the process of establishing a national cyber agency and finalizing a draft government regulation on Commercial Transaction through Electronic System. The draft will serve as a basis for consumers' data protection and promote a fair competition. Thank you.

Vice-President: Thank you, Sir. VietNam is the last speaker in this session. I invite Viet Nam for their statement.

The Delegate of the Socialist Republic of VietNam: Madam Vice-President, Distinguished Delegates, Our Delegation highly appreciate AALCO Secretariat and the Chair of the AALCO Working Group for conducting the Special Study on the topic international law in cyberspace. Viet Nam takes note that along with development and application of information and communication technologies, cyber security and new threats and challenges such as cybercrimes, cyber warfare and the use of cyber space for terrorist purposes have increasingly become common global concerns and need joint efforts and international cooperation to tackle.

In the fact of such ever-growing global threats relating to cyberspace, it is imperative for each State and the international community to take actions. It is most meaningful to have a universally accepted set of norms to govern activities in the cyberspace. In order to achieve this, Viet Nam believes that states must cooperate and discuss to bridge the differences in their views, join efforts against the common threat of cyber criminals. From these activities, a common practice may emerge and set out a common state practice for the creation of norms in the cyberspace. It is also essential for states to strive and harmonize their technical capacities for the effective protection of cyber security.

Internet, ICT application, e-government have been widely spread throughout Viet Nam while cyberspace is recognized as a driver of social and economic development of the country. In the meantime Viet Nam is increasingly facing with cybercrimes relating to many fields such as financial transactions, corporate and state governance.

Viet Nam attaches great importance to the application of international law in cyberspace and enhanced cooperation among States in combating the criminal misuse of ICT. Viet Nam has followed closely and participated in international and regional fora, such as UNODC, APEC, ASEAN, G8, related to governance of cyberspace and cyber security.

At the national level, Viet Nam has taken steps to ensure cyber security and combat cybercrimes within its territory and at the same time made efforts to cooperate with other countries and international organizations in tackling issues of cyber security. The Law on cyber safety was enacted in 2015, providing for measures to safeguard information-communication facility against attacks. At present the Government of Viet Nam is currently expanding its legislative efforts on drafting the Decree on ensuring security for the national cyberspace to elevate cyber safety into a national security concern and meet the urgent needs to protect government cyber facilities

against malicious acts. This is to be followed by the drafting of a more comprehensive Law on Cyber security. In this process, Viet Nam takes into account of application of general principles of international law in cyberspace, and good practices of national regulations of other countries regarding cyber security.

Viet Nam is willing to participate in discussions and cooperation with AALCO Member States and other states for promoting governance of cyberspace in conformity with international law principles.

Our Delegation views it is important that AALCO Member States and AALCO Secretariat would enhance cooperation with other international fora for a safe global cyberspace and combating cybercrimes. It is important to promote sharing of information, experiences and building capabilities of AALCO Member States and their cooperation with other States and international organizations and stake holders in this regards. I thank you, Madam Vice President.

Vice-President: Thank you. With that we have come to the end of this session. We now break for lunch.

The Meeting was thereafter adjourned.

**XIII. VERBATIM RECORD OF THE HALF-DAY
SPECIAL MEETING ON “THE INTERNATIONAL
CRIMINAL COURT: RECENT DEVELOPMENTS”**

**XIII. VERBATIM RECORD OF THE SECOND HALF DAY SPECIAL MEETING ON
“THE INTERNATIONAL CRIMINAL COURT: RECENT DEVELOPMENTS”, HELD
ON THURSDAY, 4 MAY 2017 AT 2.40 PM**

His Excellency, Prof. Dr. Kennedy Gastorn, Secretary General of AALCO, on behalf of the President of the Fifty-Sixth Annual Session, in the Chair

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Distinguished Delegates, Ladies and Gentlemen, Let me begin by warmly welcoming you to this Special Half-day Meeting on the agenda item—“International Criminal Court: Recent Developments”. AALCO has been following the developments relating to the work of the ICC since its Thirty-Fifth Session held in Manila in 1996. The initial discussions relating to the establishment of the ICC were held at the two Special Meetings convened within the framework of the Thirty Fifth and the Thirty Sixth Annual Sessions. Thereafter, the agenda has been successively deliberated in many Annual Sessions, the last being 2012 Session held in Lagos, Nigeria.

In addition, AALCO has also organized many seminars and workshops on specific thematic concerns relating to the ICC. In 2009, a seminar on “International Criminal Court: Emerging issues and Challenges” was successfully conducted in collaboration with the Government of Japan. In 2010, prior to the Kampala Review Conference, a Round Table Meeting of Legal Experts was organized jointly by the AALCO and the Governments of Malaysia and Japan with a view to consolidate the position of the Member States. Since review and analysis of the developments at the Kampala Review Conference is an important part of the work programme of AALCO, a three member delegation, led by Prof. Dr. Rahmat Mohamad, the then Secretary General participated at the Review Conference. In 2011, AALCO also organized, in collaboration with the Government of Malaysia and the ICC, a two day meeting of legal experts on the topic “Rome Statute of the International Criminal Court: Issues and Challenges”.

Excellencies, Ladies and Gentlemen, It has been 15 years since the establishment of the Court. This occasion provides an opportune moment for AALCO Member States to retrospectively evaluate its successes and failures and deliberate some of the topical issues that directly concern the international community. The regional imbalance in prosecutions has become one of the major challenges for the Court to address. Nine of 10 active court investigations are in Africa with the one exception of Georgia. The court has “preliminary examinations” ongoing in non-African countries, but several of them pose daunting political and investigative complications of their own. Not surprisingly, the Court’s exclusive focus on Africa is often criticized. In fact, the open bureau meeting on the ‘ICC-Africa Relationship’ convened by the ICC’s Assembly of State Parties (ASP) in November 2016 clearly indicated that some States in Africa are increasingly disheartened by the gratuitous focus of the Court on their continent.

Another issue relates to the referral and deferral powers of the United Nations Security Council under the Rome Statute. Article 13(b) of the court’s Rome Statute vests the UN Security Council, acting under Chapter VII of the UN Charter, with the authority to refer situations to the ICC, including those where crimes were committed on the territory of non-states parties or by nationals thereof. The Member States which drafted the Rome Statute granted this role to the Security Council primarily to save it from the need of creating ad hoc tribunals which not only is costly but also takes several years to bring a tribunal into operation. In practice, the decisions of the Security Council are often affected less by considerations of judicial purity and coherence

than by factors relating to the conflict at hand. While selectivity may be a justifiable or inevitable stance from the point of view of the Security Council, this provision that stands codified in Article 13 of the Rome Statute has serious implications for the perceptions of legitimacy and the integrity of the ICC.

Powers of deferral enshrined in Article 16 of the Rome Statute has also caused a great deal of discomfort to many States over the years. As is well known, Article 16 of the Rome Statute provides that the UN Security Council may, in a resolution adopted under Chapter VII of the Charter, request the Court to defer (namely not commence or proceed with) an investigation or prosecution for a renewable period of twelve months. As such it recognizes the ability of the Security Council to suspend the activities with regard to a specific situation or case, when it is considered that the suspension is necessary for the maintenance of international peace and security.

Both the powers of referral and deferral present a critical dilemma: they should not be seen to be governed by political motives, in which case the legitimacy of ICC would be seriously undermined in the eyes of the international community. In this regard the need to ascertain certain parameters that could potentially guide the actions of UNSC could hardly be exaggerated.

Excellencies, Ladies and Gentlemen, Further, principle of complementarity—embodied in the Preamble and article 17 of the Rome Statute—which stipulates that the Court will supplement but not supersede national jurisdictions is a hotly debated issue. The basic idea behind the complementarity is to maintain State sovereignty, under which “it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes”, to enhance the national jurisdiction over the core crimes prohibited in the Statute, and to perfect a national legal system so as to meet the needs of investigating and prosecuting persons who committed the international crimes listed in the Statute.

However, the difficult aspect of the negotiations at Rome was to develop the criteria setting out the circumstances when the Court should assume jurisdiction even where national investigations or prosecutions had occurred. Two broad concepts emerged: Unwillingness and Inability. As provided in Article 17 of the Rome Statute, where national criminal jurisdictions are unwilling or unable genuinely to carry out investigations and prosecutions of the most serious crimes of international concern, the ICC will instead investigate and prosecute those allegations. But this formulation left several questions unanswered (particularly with regard to the terms “unwilling and unable”) as to the meaning, scope and extent of control to be exercised by the international judges over domestic proceedings. The problems arising out of this principle were starkly witnessed in certain African situations recently.

Another problem that has arisen for African States that are parties to ICC relates to the principle of competing obligations flowing from the Rome Statute as well as their membership in the African Union. When a particular course of action is dictated by the ICC it becomes mandatory on the part of all State Parties to ICC to adhere to that. This is because State parties to ICC are under an obligation to cooperate with ICC in relation to a number of issues. However, when contrary decisions are taken by regional organizations, the members of these organizations despite being a member of them are faced with a dilemma: whether to give priority to their status as State Parties to ICC or whether to abide by and implement the decisions taken by the regional

institutions of which they are members. Is this issue amenable to legal interpretation or does it require a political solution. This remains the crux of the problem.

Excellencies, there is a growing consensus that impunity in the face of atrocity crimes is no longer acceptable and that leaders who are responsible for these crimes get punished accordingly. Ending impunity must, and does, rest upon the complementary efforts of national and international criminal accountability systems, the existence of the rule of law within nations and among nations, and the unwavering commitment of the international community to maintain conditions under which justice and peace prevail. But the International Criminal Court, which fundamentally reforms and complements core tenets of international criminal law regime and established paradigms, is not uniformly welcome across the international community. Its exclusive focus on Africa largely reflects current limits on the reach of international justice. The ICC needs to continue playing an impartial role in the fight against impunity in Africa and the rest of the world and proactively follow up situations in other jurisdictions where crimes have been committed.

Today, we have with us, Mr. Dan Ochieng, Foreign Service Officer I, Ministry of Foreign Affairs, Kenya, to give us his insights on this topic. Sir, you have the floor.

Mr. Dan Ochieng, Foreign Service Officer, Ministry of Foreign Affairs, Republic of Kenya: Excellencies, Distinguished Delegates, Ladies and Gentlemen, Today, I am asked to discuss this topic—International Criminal Court: Recent Developments. Allow me to say that there is varied opinion on what the discussion on this topic will undertake. There can be two perspectives in this regard. Because of the term ‘development’, it may be construed to be positive or negative. The important task before me, hence, is to identify what kind of developments has taken place.

I will begin by stressing the fact that as it stands now, the 124 Member States which have ratified the Rome Statute all agree in one voice—that the matters to do with international justice are imperative and the fight against impunity must continue. The Rome Statute, which created the ICC, introduced the first permanent criminal court that was supposed to conform to several standards—independence, impartiality and the ability to deal with heinous crimes.

Now, the first aspect I am going to touch upon is to consider several perspectives of developments that have taken place in the ICC. Let me first talk about the Assembly of State Parties (ASP). The ASP, being the principal organ of the Court, has recently witnessed various developments. Here, I would like to point out discussions regarding how States could go about dealing with Art. 17 to request for cooperation. This is an example of continuous discussions in the ICC that might lead to a positive development.

The second thing that we foresee in relation to the ASP is the ongoing agitation by States and civil society to enhance or achieve the principle of universality, urging non-state parties to ratify the Rome Statute. This can also be seen as a positive development. The third aspect I identified in this subtopic is the issue relating to cooperation. States are now asking the ASP questions on what kind of cooperation is expected of them and what such cooperation entails and how in conformity with their national legislations, they can achieve this cooperation. And in this case, last year, you all remember, this agenda item was specifically discussed in the side events during the ASP.

What is the end product of all these developments I briefly spoke about? It is to enhance what we call comprehensive and honest discussions between the State Parties and arrive at consensus as to how to move forward—what we call the Rome Agenda.

Now, the second development which we have seen in the recent days is the problematic relationship between the African States and the Court. I would like to qualify it not as “problematic” relationship rather as positive engagement with the Court. For the first time, we have seen States raising questions on the compatibility of Rome Statute with their national laws. In this case, as you know, several amendments have been proposed and some of them are contentious. Again, we have seen courts efforts to explain the geographical distribution of these cases.

Another important question that arise vis-à-vis the ability of States, as given in the law of treaties, that allows States, under Art. 54, to withdraw from a treaty. As such, these discussions should be seen as positive developments as they help to resolve issues amicably in the interest of ensuring international criminal justice.

Now, let me turn to the next development—this is related to the budgetary constraints of the Court. States, for various, reasons, are limiting their financial contributions to the Court. Is this a hindrance in the delivery of international criminal justice? It can be answered in affirmative or negative depending on how one looks at the issue. It is believed that international criminal justice is very expensive in nature. The Court can only function effectively if its finances are satisfactory. States should engage in dialogue with the Court to ensure that the cases before the Court are effectively decided upon.

Next point I have identified related to the jurisprudential developments in the ICC. Let me give you a few examples that contributed towards development of International Criminal Law. I will start with the case of Prosecutor v. Bemba. This case is based on Arts. 28 and 70. Its decision has enhanced jurisprudence on prosecution of sexual offences as a tool used in perpetrating heinous crimes. For the first time, the Court used the principle of “command responsibility”, whereby commanders were held responsible for the crimes committed by soldiers under them.

The second example I want to cite is the case of Prosecutor v. Katanga. This was mainly in relation to murder, attacking civilians, destruction of property and pillaging. In its judgment, the Court stressed that pillaging was fully proved, and in the process, created robust jurisprudence on crimes associated with pillaging.

Lubanga case is another case involving enlisting and conscription of children in hostilities. In this case, the Court drew connection between obligations under International Criminal Law and International Humanitarian Law. For the first time, the Court identified that there is a clear distinction between what is allowed in an armed conflict and the use of children, in this case, led to enhanced sentence.

The last case I want to cite is the case of Prosecutor v. Ahmed Al Faqi, the court’s first prosecution of the destruction of cultural heritage as a war crime. In this case for the first time, the ICC had a guilty plea without undergoing full trial.

Now, let me quickly point out some of the current challenges that the Court face. The first challenge relates to the divided nature of the ASP. The Court now is being faced with this question—how do you deal with the dissenting voices? Another challenge is the modalities of reparations. How does the Court decide on what context does it offer reparations? Finally, the last challenge is the challenge of sentencing. The international criminal justice system is time-consuming and involves long processes. Further, does the quantum of punishment justify this longer trial process and investments put in. How do you go about when State Parties do not agree to enter into sentencing agreements?

Excellencies, Ladies and Gentlemen, the issue of recent developments can be tackled in various perspectives. In this context, in my lecture, I have tried to explain both positive developments and challenges to the Court. And I tend to think that it is for the benefit of the Court to embrace both positive and negative developments. I thank you.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you, Sir, for that insightful presentation. Now, I invite the distinguished delegate of Sudan. Sir, you have the floor.

The Delegate of Sudan: Excellencies, Ladies and Gentlemen, This presentation focuses on the UNSC Resolution 1593, which was adopted on 31 March 2005, after receiving a report by the International Commission of Inquiry on Darfur. The UNSC, through the said resolution, referred the situation in the Darfur region of Sudan to the International Criminal Court (ICC), and required all states to co-operate fully. The said resolution stands in history as the first time ever that the UNSC resolution refers a situation to the ICC and compels a country to co-operate with it.

Acting under Chapter VII of the United Nations Charter, the UNSC referred the situation in Darfur of the Sudan, since 1 July 2002 to the ICC and urged all states to co-operate with the Court, whether or not it was party to the Rome Statute. The resolution was adopted by 11 votes to none against, and four abstentions from Algeria, Brazil, China and the United States.

During the deliberations on Res. 1593, the Algerian representative preferred an African Union-devised solution to the problem, Brazil agreed with the resolution but objected to the U.S. view on selective jurisdiction of the Court, the Chinese representative disagreed with some elements of the ICC Statute and argued for the perpetrators to be tried in Sudanese courts, and the United States objected to some provisions of the Court but overall supported humanitarian interests and the fight against impunity. None of the UNSC members, then present, raised any legal objections to Res. 1593. However, the Sudan, which is not a party to the ICC Rome Statute, refused to recognize the court's jurisdiction, and stated that "the International Criminal Court has no place in this crisis at all."

The International Criminal Court is a treaty body now comprising 123 States of which 34 are African, 19 Asian, 18 Eastern European, 27 Latin American and 27 European & other States, established by the Rome Statute 1997 which entered into force on 1st July 2002. This treaty body represents 61.5% of all countries of the world. However, the ICC Statute did not yet become universal as still nearly 40% of the countries of the world are not yet parties to the ICC Statute.

It is doubtful that the ICC Statute will one day attain universality. Many of the signatories of the ICC Statute, especially in Africa, are now uneasy about the trends and attitudes of the ICC. Recent developments indicate that there are even serious attempts, on part of some African State Parties such as Burundi, South Africa and others, to withdraw from the ICC Rome Statute for multiplicity of reasons.

Article 13(b) of the ICC Statute on the exercise of jurisdiction provides that:

“The Court may exercise its jurisdiction with respect to a crime referred to in article 5 in accordance with the provisions of this Statute if: “A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations;”. There are two other instances in which the ICC will assume jurisdiction in accordance with the said Article 13, that is if a State Party referred a situation to the ICC Prosecutor in accordance with Article 14 of the Statute or if the Prosecutor has initiated an investigation in respect of a crime mentioned in Article 5 of the Statute, in accordance with article 15 thereof.

The Republic of the Sudan is not a party to the Statute of the International Criminal Court (ICC) done at Rome 17 July 1998 (the Rome Statute), which entered force on 1st July 2002. Now, the question that should be answered is how could the Sudan be made bound by the provisions of the Rome Statute 1999 even though it is not a party thereto? and whether the UNSC has violated International Law in that respect? Accordingly, the purpose of this presentation is to focus, from a purely legal perspective, on the adverse situation created by article 13 (b) of the ICC Statute which gave the UNSC the authority, acting under chapter 7 of the UN Charter, to refer a situation to the ICC Prosecutor even though the ICC is not one of the United Nations organs.

This authority is given regardless whether the referred situation is occurring in a State Party to the ICC Statute or not. It is argued that it would have sounded very legal under international law if the situation to be referred by the UNSC has occurred in a State Party to the ICC, and that the drafters of the ICC Convention have originally intended to refer a situation in a State Party to the ICC not the contrary; but that was over looked.

The foregoing argument is solidly based on the Vienna Convention on the Law of Treaties which stipulates in several articles that an international agreement is non-committal except to its parties. Even if acting under Chapter 7 of the UN Charter the UNSC cannot, change the *established jus cogens* of international law nor can the UN General Assembly do that by asking a State not party to the ICC Statute to submit to the jurisdiction of the ICC.

Under the UN Charter all organs of the United Nations are expected to act and behave in accordance with international law, not to contradict the very existing norms and principles of international law. The agreement concluded between the United Nations and the ICC cannot either legalize an action that contradicts a universal convention on the law of treaties, or a sacred principle of international law. All organs of the United Nations system cannot authorize any action, by any of its organs, that is essentially contradictory to the established norms and principles of international law.

The ICC was originally designed to perform in accordance with the fundamental standards of due process, and to pursue its entrusted duties with impartiality and effectiveness. It is important for the ICC as a nascent legal forum to independently apply justice in a fair and even-handed manner, thereby contributing to the creation of a solid International Criminal Justice System. The *travaux preparetoire* (preparatory works) of the ICC Preparatory Commission revealed that many have cautioned against giving a political entity the ability to influence the Court in a manner that would affect its independence.

Unfortunately, the United Nations Security Council gave the first blow to the impartiality of the ICC. Its Resolution 1422(2002), adopted on 12 July 2002 stands as a clear manifestation of this serious flaw. Acting under Chapter VII of the Charter of the United Nations, the Security Council requested that: "consistent with the provisions of Article 16 of the Rome Statute, that the ICC, if a case arises involving current or former officials or personnel from a contributing State not a party to the Rome Statute over acts or omissions relating to a United Nations established or authorized operation, shall for a twelve-month period starting 1 July 2002 not commence or proceed with investigation or prosecution of any such case, unless the Security Council decides otherwise". This attitude is completely negating the position taken by the UNSC when invoked section 13(b) of the Rome Statute.

The foregoing operative paragraph of resolution 1422 undoubtedly attests to the role undertaken by the UNSC to override an international treaty. It literally means that peace keeping forces, to which the United States is the largest contributor, shall not be subject to the immediate jurisdiction of the then newly established ICC. Not only that, but the five permanent members of the United Nations Security Council have already developed, within the ICC Statute, other means by which they can influence the work of the ICC. It is the mechanism by which the UNSC has the right to subject States, which are not parties to the ICC Statute, to the jurisdiction of the ICC by way of referral to the ICC.

Against this background, the United Nations Security resolution 1593(2004) referring the situation in Darfur of the Sudan to the International Criminal Court was, by and large, influenced by political considerations. The flawed resolution came within a series of resolutions aiming at putting pressure on Government of the Sudan for various reasons. Some powers that were campaigning against the Sudan in the Council, were not genuinely interested in bringing about justice. To the contrary, they were known for their firm opposition to the Court.

The process of dragging the Sudan to the ICC began with the mandate given by the Security Council to the International Commission of Inquiry led by the late Italian Jurist Antonio Cassese. Antonio Cassese and his team visited the Sudan for a short period of time and came out with the desired political prescription that the judiciary in the Sudan is unable and unwilling to prosecute the perpetrators of the crimes alleged to have been committed in Darfur. This statement was then, the only prescription by which the Security Council could, acting under Chapter 7 of the UN Charter, put pressure on the Sudan and refer the situation in Darfur to the jurisdiction of the ICC.

The political considerations shadowing the UNSC resolution 1593 cannot be over-emphasized. There was a lot of controversy about what happened in Darfur. Different views were expressed and voiced about whether genocide took place or not. Even the Antonio Cassese Commission of Inquiry was not sure, obviously, for lack of evidence or out of the feeling of guilt, whether genocide has ever taken place in Darfur. Even the ICC Prosecutor has casted doubt about the results of his own investigations when he admitted that he has to investigate the situation in Darfur without going to Darfur for security reasons. As such, it is permissible to ask ourselves the question: Why would it be easily possible for the UNSC to refer the situation in Darfur, for example, for consideration by the Court, while the same UNSC finds it almost totally impossible to condemn *pari passu* the grave massive crimes against humanity committed elsewhere in many parts of the world.

On March 4, 2009 the Pre-trial Chamber of the ICC had issued a decision confirming the demand of its Prosecutor General for an arrest warrant against His Excellency, President Omar Elbashir for allegations in Darfur. This decision culminated a political and psychological campaign led by the Prosecutor General in such a manner that seemed improper for this office. The Sudan Government, which lamented the irresponsible behavior of the ICC Prosecutor, had rejected outright this unfounded and horrible assault on peace, law and justice. The arrest warrant for His Excellency, President Elbashir which is also one of the repercussions of the flawed UNSC Resolution 1593 represented a flagrant violation of established principles and precedents relating to the immunity of sitting heads of state and government.

If the UNSC can have attributions beyond the United Nations Charter under which it is established, the correct legal interpretation of Article 13 (b) of the ICC Statute shall apply only to the States Parties to the ICC Statute, or the states accepting the jurisdiction of the ICC under a special agreement in accordance with article 4/2 of the ICC Statute. Any interpretation otherwise will be a compulsory accession of a sovereign state to the membership of a treaty to which it did not agree, in flagrant violation of the Vienna Convention on the Law of Treaties 1969.

Therefore, it is a pertinent sensitive issue to raise questions about the authority of the UNSC to make a member state of the United Nations bound by and subject to the provisions of an international treaty to which that member state is not a party. It is true that Member States are bound to obey the Security Council resolutions in accordance with Article 25 of the Charter. But a member state has the right to make its reservations if the decision taken by the UNSC is contradicting the fundamental principles of international law.

In our view, the UNSC resolution 1593 (2005) by which the Security Council had referred the case in Darfur seems illegal, self-defeating and compromising dubious motivations for the following reasons:

(a) It violated the Rome Statute which firmly made the distinction between the parties and non-parties, and addressed Sudan, a non-party to the Statute. This attitude had also violated article 34 of the Vienna Convention of the Law of Treaties which stipulates that an international treaty applies only to its parties. Implicating Sudan is a brutal violation of the principal of consent, a cardinal principal of international law.

(b) It created a confusion in reading the powers of the Security Council in Chapter Seven of the UN Charter, and the limited and procedural power of the council to refer a case to the ICC. The criminal legislator and the ICC Statute drafter were clear in giving an equal power of referral, in addition to the Council, to State Parties and to the ICC Prosecutor himself (*proprio motu*).

(c) The referral is purely procedural so as to leave to the ICC the full power to decide its own competence. However, the Security Council is given a sole power to defer the case in a binding way for the ICC. It is to be reminded that referral in the article 13 and deferral in article 16 by the Security Council were inserted in Rome Statute by some states which remain extremely hostile to the ICC.

(d) The UNSC 1953 resolution had defeated the ICC ultimate function in combating impunity. It had referred the Sudanese, while guaranteed absolute immunity from the ICC Competence for nationals of States non-parties other than Sudan. This discrimination against Sudan nationals had seriously undermined the integrity and validity of this resolution.

(e) Furthermore, this resolution, dedicated to referring the Sudanese to the ICC, was used to extend the immunity privilege for other nationals of other States. It was a fraudulent instrument to continue that immunity, previously guaranteed by resolutions 1422 (2002) and 1487 (2003), and to surmount any opposition to such immunity in a separate resolution.

The ICC decision of March 4, 2009 added more violations by assuming competence by the ICC over a non-State Party, including the application of article 27 regarding the principle that immunity is no bar for justice. This may be true for a Party that adjusts its legal system to conform to that principle. Ignoring this reality led the ICC Court to inadvertently trespass on the President's immunity while in office, and to commit an assault on the sovereignty of the Sudan, contrary to the ICJ precedents regarding immunity of Heads of State.[See Annex (1): BRIEF ON IMMUNITY OF HEADS OF STATE AND GOVERNMENT OFFICIALS Prepared by: Sir Geoffrey Nice, QC and Rodney Dixon]

In the abstract, the real question now is whether the UNSC has violated international law, and the Vienna Convention on the law of treaties 1969 when adopted the flawed UNSC Resolution 1593 which referred the situation in Darfur of Sudan to the ICC Prosecutor. Does the UNSC have the power to bind a UN member State, which is not Party to the ICC Rome Statute 1997, with the provisions of that Statute and make it subject to the jurisdiction of the ICC. Based on the foregoing background and analysis AALCO is invited to use its consultative powers and capabilities to lend a hand in support and preservation of the rule of international law in international relations by providing legal answers to the following fundamental questions:

Does the UNSC have the authority, under international law, to make a State, which is a party to UN Charter, subject to and bound by treaties to which that State is not party?

Does the UN Security Council have the power, under Chapter 7 of the UN Charter, to alter the *jus cogens* of international law as contained in international conventions and treaties?

Is the UNSC Resolution 1593 sufficiently justified under the existing norms and principles of international law? Is it within the reach of the UNSC to equally refer all and every State to the ICC under the same article 13(b)?

On conclusion, my delegation moves to propose that the 56th Session of AALCO takes note of the above presentation and decides to keep the captioned issue in the agenda for discussion during the 57th Session of AALCO and thereafter, until a conclusive consultative opinion and/or decision on the issue is reached. Thank You.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: I thank the distinguished delegate of Sudan for his presentation. Now, I invite Malaysia to take the floor. Sir, you have the floor.

The Delegate of Malaysia: Mr. Secretary-General, Malaysia wishes to express its appreciation and gratitude to the Secretariat for preparing the comprehensive Report on this topic AALCO/56/NAIROBI/2017/SD/S10 and for the inclusion of this item as a Half Day Special Meeting of the Fifty-Sixth AALCO Annual Session. Malaysia notes that this item stems from the proposal by the Republic of Sudan vide a *note verbale* (SED/6/2/AALCO) dated 24 October 2016, which proposed the topic “*The Legality, under International Law, of the UNSC Authority to refer cases and/or situations to the ICC under Article 13(b) of the Rome Statute, 1998*”. This topic is to be included as a provisional agenda item to be deliberated during the Fifty-Sixth Annual Session of AALCO.

With regard to the issue on the relationship between the International Criminal Court (“ICC”) with the United Nations Security Council (“UNSC”) which emanates from the referral powers granted to the UNSC *via* Article 13(b) of the Rome Statute, and in view of the previous referral situations such as Sudan (Darfur) in 2005 and in Libya in 2011, Malaysia notes that the UNSC has also made use of its powers to refer situations in non-party States to the ICC. Malaysia is of the view that the UNSC has the legal basis to do so as provided under the Rome Statute but whether the situations it chooses to refer to the ICC is fair and impartial, is a subjective issue. In choosing a situation to be referred to the ICC, the UNSC shall first determine the existence of any threat to the peace, breach of the peace, or act of aggression to the international peace and security, as required under Article 39 of the UN Charter.

Nonetheless, it is undeniable that this referral power can always be seen to be influenced by political motives, which will result to the legitimacy of the ICC being questioned. Although it may be argued that States which are not parties to the Rome Statute shall not be imposed and be bound by the Statute as it will be a violation to the principle stipulated under Article 34 of the Vienna Convention on Law of Treaties, we shall look at this referral power from a wider perspective. This power should be seen as a necessary medium to end impunity in situations where international crimes take place beyond the Rome Statute regime and no domestic investigation of these crimes has taken place.

Malaysia is of the view that every power provided to a particular body must have the element of check and balance. In this regard, it is important to note that a referral made by the UNSC is still subject to the assessment of the ICC Prosecutor who, under Article 53 of the Rome Statute, has the responsibility to evaluate the information available before him and may decide not to initiate

an investigation if there is no reasonable basis to proceed or an investigation would not serve the interest of justice.

Further, Malaysia is of the view that the principle of complementarity should be applicable even in situations of Security Council referrals. Malaysia recalls that the principle of complementarity under the Rome Statute recognizes that States have the first responsibility and right to prosecute international crimes. Articles 17 and 19 of the Rome Statute do not indicate any exception to such referral.

Mr. Secretary-General, as regards to the principle of complementarity, Malaysia agrees with this foundational principle of the Rome Statute whereby the role of the ICC shall be complementary to the national criminal jurisdictions. This principle aims to maintain State's sovereignty whereby the ICC will supplement and not supersede national jurisdictions unless, the State is unwilling or genuinely unable to carry out the investigation or prosecution, or the proceedings are being undertaken in a manner, which in the circumstances is inconsistent with the intent to bring the person to justice.

Among the issues that arise out of this principle is the ICC's role in determining the criterias that amount to "unwillingness" such as the attempt to protect a criminal from criminal conviction, the unnecessary deferment of particular case, or any biasness which portrays the national authority's unwillingness to bring the accused person to the domestic court. Hence, the ICC's involvement in a State's justice process is undeniable as it will set the precedent on whether a domestic criminal trial is effective or ineffective, as what has happened in the Sudan case.

Further, the ICC will also determine a particular State's "inability" factor by considering whether the State is unable to obtain the accused or the necessary evidence and testimony, or otherwise unable to carry out its proceedings. The concept of "unwillingness" or "inability" are subjective in nature and might compromise a State's sovereignty in the event the ICC is of the view that the particular State is not willing or unable to institute the prosecution, regardless of the State's justification.

Mr. Secretary-General, Malaysia is committed to work together with the other Member States on this issue and to follow the developments regarding cases taken up by the ICC, as proposed in the draft AALCO/RES/DFT/56/SP2. As regards to this, Malaysia is of the view that further discussion and continuing effort to conduct dialogue sessions involving all stakeholders is necessary to improve the relationship between the ICC and the UNSC, as discussed in this Report. The issues concerning the relationship between the ICC and the UNSC shall be addressed accordingly and as a way forward, perhaps a more clear strategy on UNSC's responsibilities need to be shared from time to time to clarify the justifications and the reasons under which the UNSC refers situations to the ICC. Thank you.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: I thank the distinguished delegate of Malaysia. Now, I invite China to take the floor.

The Delegate of People's Republic of China: Mr. Secretary-General, the Chinese delegation would like to thank the AALCO for organizing the special meeting. We also appreciate the report on the work of the International Criminal Court (ICC) prepared by the Secretariat.

China always values the role played by international criminal judicial bodies in promoting international rule of law and punishing serious international crimes. China has been dedicated to the joint effort in building the international system on criminal justice in a constructive manner. China also follows each session of Assembly of States Parties to Rome Statute and pays close attention to the work of the ICC. China firmly believes that punishing serious international crimes, eliminating impunity and pursuing justice are of relevance to realizing international peace and security, in which the States should bear main responsibility. The establishment of the ICC is purported to supplement rather than to substitute domestic jurisdictions.

Last year, the ICC came at a critical moment in its development. The successive declaration of some States to withdraw from the Rome Statute drew worldwide attention. These changes certainly deserve our profound reflection. The Court has since its establishment carried the good wish of pursuing justice from the international community including vast developing countries in Asia and Africa. It has been fifteen years since the Court started to operate, yet a long journey still lies ahead to improve its efficiency and universality. It largely depends on whether the Court could carry out its functions enshrined in Rome Statute with prudence and properly balance its goals of upholding justice and promoting peace process as well as balance the goals of respecting State sovereignty and fighting impunity. It also depends on whether the Court could respect immunity and other general principles of international law, respect the rights and obligations of non-State parties according to international law and treaties, regain trust and respect by acting in an objective and impartial manner.

In addition, the Chinese delegation would like to highlight the issue relating to the right of observer States to participate in informal consultations of the Assembly of States Parties. During the 15th Assembly last year, the Chinese delegation attempted to join the informal consultation on the omnibus resolution but was refused by the coordinator with the argument that the consultation is only open to States Parties and civil society excluding observer States Parties which also concurs with "previous practice". The Chinese delegation is of view that, excluding the observer States from the informal consultations is a clear deviation from the Rules of Procedures of the Assembly, which is neither consistent with the principle of transparency nor international practice. Furthermore, it is not in the interest of promoting universality of the Court. The Chinese perspective was supported by quite a few States at the Assembly. China hopes that members of Rome Statute in AALCO would play an active role in this regard.

Mr. Secretary-General, the Chinese delegation would like to reiterate its commitment to the joint endeavour in preventing and publishing atrocity as well as pursuing justice. We hope that the Court will adhere to the international law regime based on the Charter of the United Nations, ensure its efforts in safeguarding justice will truly be conducive to promoting peace, stability and national reconciliation, and therefore contribute to the cause of peace and justice.

Thank you, Mr. Secretary-General.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: I thank the distinguished delegate of China. Now, I invite Islamic Republic of Iran to take the floor. Sir, you have the floor.

The Delegate of Islamic Republic of Iran: “In the name of God, the Compassionate, the Merciful”. Mr. Secretary-General, at the outset, I would like to thank the Secretariat for the preparation of the report contained in the document AALCO/56/NAIROBI/2017/SD/S10.

Mr. Secretary-General, The Islamic Republic of Iran, as a signatory to the Statute of the International Criminal Court, considers the establishment of ICC as a milestone towards achieving peace and justice. It is the first permanent international criminal court set up to bring to justice perpetrators of the most serious crimes of concern to the international community, namely genocide, war crimes, crimes against humanity and crime of aggression. Iran was one of the active participants in the negotiations and preparation of Rome Statute and its procedure and also other international meetings regarding the ICC. Taking into account the principle of complementarity and the fact that the main responsibility rests on the shoulders of the national criminal jurisdictions, the Islamic Republic of Iran, in parallel with international efforts to strengthen criminal justice, has taken certain measures at the national level with a view to upholding the tenets underlying the international criminal justice system to ensure an effective fight against impunity.

Accordingly, during the last decade the International Criminal Court was being subjected to intensive discussion inside the country by different academic, executive, legislative and judicial entities. We are also planning to take some further steps to promote our domestic judicial capacities for prosecuting the crimes which are criminalized under ICC.

Mr. Secretary-General, The Islamic Republic of Iran has always been supporting the idea of inclusion of the Crime of Aggression in the Court’s Statute and has actively participated in the related discussions in the Rome Conference and also the Review Conference of the Rome Statute in Kampala. The criminalization of the act of aggression is an important step; and I hope the sufficient number of instruments of ratification of Kampala amendments will put the crime of aggression on the agenda of the Prosecutor's office like other crimes. We believe that the Court should exercise its jurisdiction over the crime of aggression without any restrictions based on the requirements provided for in the Rome Statute for other crimes within the Court’s jurisdiction. It is also important for the court to avoid a politically-oriented approach in prosecution and investigation of the crime of aggression.

Mr. Secretary-General, Withdrawal of some countries from the International Criminal Court is not a good signal for the international community and the Court itself and is a clear sign of dissatisfaction with the practice and performance of the Court. In this regard, the court and the Assembly of the State Parties should consider and study the causes leading to their recent reaction. In order for the ICC to overcome the trend of withdrawals by these States and with a view to encouraging non-parties towards accession to the Rome Statute, we believe that the ICC should listen to voices and concerns of all countries and attempt to make the best choice in this regard.

Mr. Secretary-General, The Islamic Republic of Iran expresses its deep concern over the grave situation in our region and the serious crimes of genocide, war crimes and crimes against humanity being committed on a daily basis. Thousands of civilians including women and

children have been brutally killed, injured and displaced by terrorist groups and heinous atrocities have been, and are being, committed against religious minorities. We call upon the international community to help bring to justice the perpetrators of the said crimes and to further prevent future instances of impunity.

This, coupled with the long-lasting impunity so far witnessed in the case of the Israeli regime in the occupied Palestinian territories whose long list of crimes against humanity continues to shock the conscience of humanity, should not let criminals escape justice.

Mr. Secretary-General, It is our conviction that should the ICC wish to accomplish its mandate efficiently and effectively, it needs to remain impartial, independent and apolitical, and avoid double-standards, as was intended by its creators. The Islamic Republic of Iran regards the Court and its organs as a judicial body bound to respect the principles and rules of international law without any outside manipulations of any kind. As a purely judicial entity empowered to investigate the most serious crimes of concern to the international community and to bring to justice those responsible for the commission of those crimes, the ICC needs to use and apply legal criteria with utmost objectivity and precision in all phases of proceedings from crime investigation up to trial, victim participation and reparations. This could help ensure, in the long term, effective prevention of impunity and put an end thereto. Thank you, Mr. Secretary-General.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: I thank the distinguished delegate of Iran. Now, I invite Japan to take the floor.

The Delegate of Japan: Thank you, Mr. Secretary-General. The Government of Japan ratified the Rome Statute in 2007 but our support for the ICC goes back to the time even prior to the establishment of the Court as Japan actively participated in the UN diplomatic conference in Rome in 1998. Japan has consistently supported the work of the ICC to strengthen rule of law in the international community and thereby put an end to impunity, thereby contributing to the prevention of most serious crimes.

Japan has worked with AALCO over the years, mostly in the Asian region, to raise awareness about the ICC in the region and share our experience in ratifying the Rome Statute and preparing domestic legislation with non-State Parties. As noted in the briefing paper prepared by the AALCO Secretariat, Japan and AALCO co-organized seminars on issues relating to the ICC in 2009 and 2010, and also contributed to the discussion among States Parties and non-States Parties on enhancing universality of the Rome Statute and promoting cooperation with the ICC.

As the ICC enters into its 15th year of its existence, the Court as well as States Parties faces challenge of enhancing universality of the Rome Statute. To ensure that the ICC effectively promotes rule of law over the world, Japan strongly believes that the ICC should aim at becoming a truly universal criminal court so that it can gain strong support for its work. To represent the largest number of states parties in terms of region at the Assembly of States parties (ASP).

It is in this vein that Japan actively took part in the dialogue held during the ASP in November last year specifically focused on the relationship between Africa and the ICC. It is encouraging

that States Parties came out of the meeting agreeing on the importance of continued dialogue on this matter.

As regards the situations referred to the ICC by the United Nations Security Council, efforts have been made to have dialogues between the Council and the African Union and also enhance communication between the Council and the ICC. Japan remains engaged in dialogues with States concerned and working towards enhancing the Universality of the Court.

At the same time of enhancing universality, we would like to point out the importance of the principle of complementarity enshrined in the Rome Statute. This principle requires that the individuals who committed the most serious crimes under the Rome Statute should, first and foremost, be tried and punished by a national court of the State that has jurisdiction over the crimes.

In this regard, Japan has contributed to strengthening national judicial systems and building capacity of legal practitioners around the world, most notably through the Asian and Far East Institute for the Prevention of Crime and the Treatment of Offenders affiliated with the United Nations. We believe the development of sound criminal justice systems of individual States is not only important for the States themselves but also for the ICC and the International Community as a whole, thereby fulfilling the universality and complementarity in a true sense.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: I thank the distinguished delegate of Japan. Now, I invite Kenya to take the floor.

The Delegate of Republic of Kenya: Mr. President thank you for the floor. Mr. President, Kenya wishes from the outset to reiterate her unwavering commitment to combating impunity, promoting democracy, the rule of law and good governance which are all essential elements to prevent and deter occurrences leading to the commission of international crimes. Kenya appreciates the goodwill of the negotiating members of the Rome Statute of the ICC whose objective was to establish a court which would assist the Member States bring to justice the perpetrators of international crimes. This objective remains valid to date and the question that has to be answered is whether the Court has indeed achieved it.

Mr. Secretary-General, it is not in dispute that there are challenges which have been identified in the manner in which the Court has executed its mandate. There has been a lot of debate and discussion in various fora on these challenges which include:

- I. The principle of complementarity which is embodied in the Rome Statute;
- II. Bilateral Immunity Agreements;
- III. The immunity of sitting Heads of States;
- IV. The importance of strengthening the domestic legal institutions of both parties and non-parties to the Rome Statute;
- V. Domestication of the provisions of the Rome Statute into the domestic legislations;

VI. Proprio motu powers of the Prosecutor of the ICC;

VII. The exclusive focus of ICC's prosecutorial interventions in Africa while numerous alleged violations under the Court's jurisdiction occur elsewhere; and last but not least

VIII. The Courts' approach to conflict solution.

Mr. Secretary-General, Kenya associates herself with these challenges and reaffirms that in order for the Court to rule of law, respect of sovereignty, democracy, good governance and impartiality, discussions on the above concerns should be concluded. Kenya thus urges AALCO Member States to continue engaging at every level with the Court with a view of exploring possible solutions to the above concerns. Kenya continues to agitate for an impartial universal court that realizes the realities of the modern times and which is considerate of all the views of the State Parties, independent of their economic, social and political status. Kenya believes that the concerns raised will be ultimately resolved.

Mr. Secretary-General, thank you for the floor once more.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: I thank the distinguished delegate of Kenya. Now, I invite the last speaker, Republic of Korea, to take the floor.

The Delegate of Republic of Korea: Thank you. Mr. Secretary-General, the International Criminal Court is continuing in its noble efforts to put an end to the impunity of perpetrators of serious crimes against humanity. It is worthy of special note that, even with limited resources, the ICC has made precedent-setting decisions in recent years, such as those on intentional attacks on religious and historic buildings, command responsibility, sexual violence, and witness tampering.

In spite of its significant achievements, however, the ICC is also facing a number of challenges, including the promotion of universality and the full implementation of the Rome Statute. We must be keenly aware that more than 70 Member States of the United Nations are still outside the Rome Statute. In this regard, it is of utmost importance to enhance understanding about the work of the ICC through active dialogue with, and outreach to, those countries. Furthermore, my delegation is concerned over recent discussions regarding withdrawal from the ICC by some States Parties. It is true that there have been differing views on the interpretation and application of the Rome Statute. However, we should resolve these differences through dialogue, while respecting the independence of the Court and its core goal of ending impunity.

My delegation firmly believes that the on-going cooperation of all the stakeholders in the international community-the State Parties and non-State Parties, as well as international organizations-is necessary for the Court to fulfill its mandate. The foremost international organization, - the United Nations, shares the ICC's values of peace and justice, as envisioned in the UN Charter and the Rome Statute. Given that the Rome Statute recognizes specific roles for the UN Security Council, the Court Statute recognizes specific roles for the UN Security Council, the Court and the Council need to explore ways to complement each other's work, from prevention to enforcement, as former Secretary-General Ban Ki-moon pointed out a few years ago.

Furthermore, the ICC needs to encourage States to shoulder their primary responsibility to prosecute serious crimes in their own countries. Based upon the principle of complementarity, the ICC may serve as an even more robust and responsive court of last resort, by demonstrating that those who commit atrocities will be held accountable, either in their own countries or at the Court.

Mr. Secretary-General, I am confident that this special session will be valuable forum for in-depth discussions which will lead to further understanding of the work of the ICC and thus to the universality of the Rome Statute.

Thank you, Mr. Secretary-General.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Excellencies, Ladies and Gentlemen, this was the last intervention. I thank the distinguished delegate of Republic of Korea and all other delegates for their interventions. This session has come to an end.

The Meeting was thereafter adjourned.

XIV. VERBATIM RECORD OF THE FOURTH GENERAL MEETING (CONTD.)

**XIV. VERBATIM RECORD OF THE FOURTH GENERAL MEETING (CONTD.)
HELD ON THURSDAY, 4 MAY 2017 AT 4.50 PM**

**AGENDA ITEM: VIOLATIONS OF INTERNATIONAL LAW IN PALESTINE AND
OTHER OCCUPIED TERRITORIES BY ISRAEL AND OTHER INTERNATIONAL
LEGAL ISSUES RELATED TO THE QUESTION OF PALESTINE**

His Excellency, Prof. Dr. Kennedy Gastorn, Secretary-General of AALCO, on behalf of the President of the Fifty-Sixth Session, in the Chair.

Prof. Dr. Kennedy Gastorn, Secretary-General of AALCO: Mr. President, Excellencies, Distinguished Delegates, Ladies and Gentlemen; the year 2017 is a particularly poignant one as it relates to the Palestinian struggle for independence. It marks a hundred years since the *Balfour Declaration*, which began the process of carving what is now the State of Israel out of the Palestinian region in 1917; seventy years since the announcement in 1947 of the withdrawal of Britain from administering the Mandate for Palestine, as well as the adoption of UN General Assembly Resolution 181(II) which recommended the partitioning of Palestine; and fifty years since the Six-Day War of 1967 which saw the beginning of the occupation of Palestinian territory by Israel.

Over that period, the Palestinian people have made great strides in their quest for independence and autonomy, but there remain hurdles to the full manifestation of their right to self-determination. AALCO has, through most of its history, provided unwavering support to the cause of the Palestinian people. The item “Deportation of Palestinians in Violation of International Law particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in Occupied Territories” was taken up, at the AALCO’s Twenty-Seventh Session, at the initiative of the Government of the Islamic Republic of Iran, and Palestine was formally welcomed into the Organization as a Member State in 1990. Subsequently, the scope of the item was enlarged and the item has since been discussed at the successive Sessions of the Organization as part of its Work Programme.

The Secretariat has also recently published a Special Study entitled, “The Legality of Israel’s Prolonged Occupation of Palestinian Territories and its Colonial Practices Therein” as directed by the mandate received at last year’s Fifty-Fifth Annual Session *vide* resolution RES/55/S4. Due to the Secretariat’s work on this Study, a Brief was not prepared on this topic for the current Session.

Excellencies, with these introductory remarks, let me draw the framework for the deliberations, which will follow. Possible focus of deliberations may lie on the violations of international law, particularly international human rights law and humanitarian law committed by the Government of Israel in the Occupied Palestinian Territory (OPT), and the colonial practices of Israel in the OPT.

With that I call on the Member States to make their statements. I will begin by calling on the State of Qatar.

The Delegate of the State of Qatar:²² Thank you, Secretary-General. His Excellency, President of the 56th Session, His Excellency, Secretary General of the AALCO, Honourable Ministers, Attorney Generals and Heads of the Delegations, Ladies and Gentlemen and the Distinguished Audience, greetings.

There is no doubt that our meeting during this session coincides with some trying and excruciating circumstances which our international community is going through due to the increase in the cases of terrorist operations and violence and tension in different parts of the world. The instability in a number of countries in the region and the continued sorry status of the Palestinian issue all put together pose an existential threat of instability to the peace and security in the region of the Middle East particularly and the world in general.

The Palestinian issue remains a priority of the government of the State of Qatar. It requires a need to chalk out an effective solution so that a just and comprehensive peace could be achieved in the region. Likewise, a stop must be put to illegal Israeli settlements in the occupied lands of Palestine and the judaization of Jerusalem, which constitute a threat to the stability and the peace of the region as well as of the world.

Over the past many decades, Israel has striven to complete its plan of settlement which is meant actually to take control of the City of Jerusalem. It has worked to achieve the same by expanding the borders of the Jerusalem both from east and north sides, doubling the number of settlers as well as reducing the average of the Palestinian population, and other measures the Israeli government has taken to omit and corrode the identity of the Arab identity of the Jerusalem.

Respected Audience, we demand a common serious action to put pressure on the international community and the Security Council to take the necessary measures to make Israel stop building the settlements and stop the continued violations of the rights of the Palestinian people. Also, cooperation among the Member States of the Organisation is needed to chalk out some legal mechanisms to settle the Palestinian issue in light of the consolidated rights of the Palestinians and the international resolutions issued in this regard would lead to achieving some positive results to this end.

It's worth mentioning that the Security Council has issued Resolution 2334 on December 23, 2016 with a whopping majority, which called for an end to the Israeli settlements on the Palestinian lands. The aforesaid resolution stipulated that Israel must stop the settlement activities in the Western Bank including in East Jerusalem and declared the settlements being built by Israel on the occupied lands since 1967 as illegal. Similarly, the resolution maintained that building the settlements is considered to be a blatant violation of the provisions of international law and an obstacle to the achievement of a just peace.

The State of Qatar calls for immediately taking necessary measures to implement this resolution and all other international resolutions issued over time regarding the occupied lands of Palestine.

The firm stand of the State of Qatar regarding the Palestinian issue is the Arab stand that says that the just and comprehensive peace process should be founded on international legality. This

²² This is the unofficial Secretariat translation of the original statement, which was delivered in Arabic.

stand vouchsafes the establishment of the State of Palestine with East Jerusalem as its capital and for ending the Israeli occupation of Arab lands.

His Excellencies, Ladies and Gentlemen, Respected Audience, at the end, I thank all of you for kind attention and pray to Allah the Almighty to guide us to what he is pleased with and realise the interest of our countries and the prosperity of our societies.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you, Qatar. I now call on the State of Palestine to take the floor.

The Delegate of the State of Palestine:²³ His Excellency, Attorney General, President of the Fifty Sixth Session of AALCO, His Excellency, Professor Kennedy Gastorn, Secretary-General of the AALCO, His Excellency, Deputy Chairperson of the Session, Honorable Ministers, Respected Heads of Delegations, Ladies and Gentlemen,

At the outset I congratulate all of you for the success of this great conference and its very rich and constructive outcome. I thank the State of Kenya for welcoming and providing us very warm hospitality as well as the wonderful Kenyan people. Also I congratulate the Socialist Republic of Vietnam for joining AALCO.

It is not only the Bandung Spirit which prevails in the atmosphere of this conference and its activities, but the beauty of Kenya and its people and the cool breeze of Nairobi also have added to its energy.

The strike by the Palestinian prisoners in the prisons of occupation has entered its 17th day today. It is a strike for dignity as they are demanding their minimum human rights guaranteed by international law and all heavenly religions. They suffer from ill treatment, individual isolation for many months and administrative detention without any charge sheet for many years under the pretext of confidential security case referred to military court of occupation authorities. Also they are deprived of visit by their families and denied proper treatment even for serious diseases like cancer and kidney failure etc. The Israeli occupation state not only defies all international conventions and treaties in relation to the Palestinian prisoners, men and women, but also goes a step further by arresting and prosecuting scores of children below the age of ten or eleven years.

I, in the name of these prisoners, put their case before you so that it becomes part of legal studies on the condition of the Palestinian prisoners in the occupation prisons in the light of the four Geneva conventions and standards of Human Rights Commission. We highly value and rely upon such important studies on violations of international law in Palestine and lands under Israeli occupation as well as other relevant legal issues.

The UNSC Resolution No. 2343 passed with the support of 14 Member States with USA abstaining from voting calls for immediate and complete suspension of all settlement activities in the occupied Palestinian lands, including East Jerusalem, the capital of the State of Palestine. The resolution affirms the illegitimacy of constructing settlements by Israel in the occupied Palestinian lands since 1967. The construction of settlements and racist separation wall confirms

²³ This is the unofficial Secretariat translation of the original statement, which was delivered in Arabic.

that Israel is an apartheid state as it constitutes a flagrant violation of international law and a hurdle for the efforts to achieve peace, establishment of the State of Palestine, the Arab initiative and other agreements based on the formula of two states.

Palestine is a peace loving state which is keen to extend the hand of friendship provided it is given its full rights under international law and the partition resolution of 1947. We have acceded to Rome Statute and signed more than 54 international conventions and treaties.

We approached the International Criminal Court with the request to look into the issue of settlements and the separation wall as well aggression in Gaza Strip. As a result of this move a delegation from the office of the Attorney General, Ftou Bensouda, visited the occupied lands in the Western bank, but it was prevented from visiting Gaza Strip by the occupation authorities. We are still waiting further action by ICC and seek its support to the Palestinian legal position on the issue of prosecuting war crimes and crimes against humanity in the true sense of the word.

We share with you our concern with regard to other issues including cyber space, money laundering, financing of terrorism, illegal immigration, human trade, corruption, plantation of drugs and other crimes which are of transnational nature. Another issue which should be highlighted and taken into serious consideration is that of foreign militants, whether they have returned back to their original countries or still present in other countries.

Thank you for your kind attention.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you, Palestine. I now call upon the People's Republic of China to take the floor.

The Delegate of the People's Republic of China: Thank you Mr. Secretary-General. The Palestinian issue is the core issue of the Middle East and the root cause of the Middle East peace. In December last year, the United Nations Security Council resolution 2334 was adopted, which reiterates its demand that Israel cease all settlement activities in the Occupied Palestinian Territory. In January, the Foreign Ministers' Conference on the Palestinian issue was once again hosted by France. All sides reaffirmed their support of the Two-State Solution at the conference. At the end of March, the Amman Declaration was adopted in the Arab Summit, recalling that the Arab Peace Initiative is still the static choice of all Arab countries. All the above efforts reflect the common political will of the international community to prevent the Palestinian issue from being marginalized and while sticking to the Two-State Solution.

Mr. Secretary-General, this year marks the 70th anniversary of the adoption of the UN Palestine Partition Plan. China firmly supports the Two-State Solution and the Arab countries' Peace Proposal. China supports the establishment of an independent State of Palestine with full sovereignty, taking the 1967 borders as the basis and East Jerusalem as its capital. China also supports any efforts that are conducive to easing the situation between Palestine and Israel. China is a firm supporter and sincere mediator for peace between Palestine and Israel. In January 2016, President Xi Jinping fully elaborated China's principles and stance on the Palestinian issue in his speech at the headquarters of the League of Arab States. In June last year, Foreign Minister Wang Yi proposed the initiatives of the "three steps" and "three explorations" at the Middle East Peace Initiative Ministerial Conference. Every year, China provides economic assistance to

Palestine through the United Nations or bilateral channels for the welfare of the Palestinian people. China will continue to provide assistance to Palestine, and stands ready to help Palestine achieve economic and social development under the cooperation framework of the “Belt and Road” initiative.

China is clear and consistent in its position on the settlement issue. The construction of Jewish settlements on the Occupied Palestinian Territories constitutes a violation of international law, which has been repeatedly confirmed by the ICJ’s statement in the Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, as well as the relevant resolutions of the UN General Assembly and Security Council. China calls on Israel to strictly observe the UN Charter and other applicable rules of international human rights law and humanitarian law, calls for an immediate and overall halt of the settlement activities, and urges both sides to rebuild mutual trust and maintain an atmosphere that is conducive to the resumption of peace talks.

Mr. Secretary-General, the Chinese side believes that, to solve the Palestinian issue, what matters most right now is to take action. First, to promptly stop any action that undermines peace talks and mutual trust, earnestly and conscientiously implement the UN Security Council resolution 2334, cease the construction of new settlements as well as any violence against civilians. Second, to resume peace talks as soon as possible, starting from specific issues, and gradually reestablish and accumulate mutual trust to inject impetus into peace talks. Third, to enhance international cooperation, strengthen the motivation for peace talks, actively work on the innovation of the existing negotiation mechanism as well as the enrichment of the peace-promoting channels. China is ready to join the international community in concerted effort to achieve a comprehensive, just and lasting solution to the Palestinian issue as soon as possible.

Thank you, Mr. Secretary-General.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you very much. I now call on the Islamic Republic of Iran to take the floor.

The Delegate from the Islamic Republic of Iran: Thank you Mr. Secretary-General. In the name of God, the Compassionate, the Merciful. Mr. Secretary-General, first allow me to thank the Secretariat for the preparation and launch of the Special Study of AALCO on the Legality of Prolonged Israeli Occupation of the Occupied Palestinian Territory and its Colonial Practices under International Law and International Humanitarian Law.

Mr. Secretary-General, grave violations of international law in the occupied Palestinian territories continue persistently. The breach of basic fundamental rights of the Palestinians has banned decades now. The land, air and sea blockade on the Gaza Strip lasting for ten years is in violation of international humanitarian law and the Israeli regime still defies Palestinians’ right to self-determination blatantly.

The Fourth Geneva Convention has been declared applicable to the Occupied Palestinian Territories on numerous occasions by the United Nations General Assembly and Security Council, the International Court of Justice, the International Committee of the Red Cross, and the

High Contracting Parties to the Convention. based on relevant General Assembly and Security Council resolutions, the Fourth Geneva Convention and the 1907 Hague Regulations, the Occupying Power has certain obligations, all of which have been violated by the Israeli regime on a daily basis.

Furthermore, the illegal expropriation of Palestinian territories and the expanding of settlements, the deportation of Palestinians and the construction of the wall in Palestinian territory have all continued in the face of numerous calls by the international community to put an end thereto. In this regard, reference must be made to the Security Council resolution 2334 dated 23 December 2016 whereby the Council not only stresses the inadmissibility of acquisition of territory by force, but also describes the establishment of settlements by the Israeli regime in the Palestine territory as a flagrant violation under international law. While the occupation and illegal activities of the Occupying Power in the Occupied Palestinian Territories is a clear example of situations created as a result of the violation of norms of *jus cogens*, it is incumbent upon members of the international community to refrain from rendering aid or assistance to the Occupying Power which could, in any manner, lead to the maintenance of the current situation.

Mr. Secretary-General, in UN General Assembly resolution 70/89, the illegality of the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, as ruled by the International Court of Justice, in its advisory opinion in 2004, and reiterated by the Security Council and the High Commissioner for Human Rights, has been reaffirmed and reiterated. Transfer of the population of the Occupying Power in the territory it occupies is prohibited by international humanitarian law. The Israeli regime is thus under an urgent obligation to stop building settlements, reverse any settlement development activity and make full reparations, which include the obligation to re-establish the situation affected by the violation.

Moreover, the transfer of the Occupying Power's population to the territory it occupies amounts to a war crime and this has been confirmed on numerous occasions by the United Nations, including through the report of the Secretary General contained in document A/71/335 dated 24 August 2016 and involves the individual criminal responsibility of the officials involved.

Mr. Secretary-General, the International Court of Justice declared, in its 2004 Advisory Opinion on the "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory" that Article 2 of the Fourth Geneva Convention warrants its application to the Occupied Territories. Thus, pursuant to Article 49(6) of the Convention, "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." While the ICJ adopted this interpretation in the 2004 Advisory Opinion, 150 UN Member States supported the General Assembly resolution A/RES/ES-10/15 dated 2 August 2004 demanding Israel to "comply with its legal obligations as mentioned in the advisory opinion", a call that is repeatedly reiterated. Now, with the Security Council resolution 2334 and the State of Palestine's accession to the Statute of the International Criminal Court, it is high time that the international community acted to cease the violations and uphold the will of the Palestinian people.

Last but not least, we must beware some measures aimed at falsely legalising the violations committed by the Israeli regime. Thus, adoption and implementation of any laws in the Occupied

Territories by the Occupying Power unless those authorised by the 1906 (sic)(1907?) Hague Regulations remains illegitimate and as such must be condemned.

Thank you, Mr. Secretary-General.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you very much. I now call on the Republic of Indonesia to take the floor.

The Delegate of the Republic of Indonesia: Thank you Mr. Secretary-General. In this agenda item, let me reiterate Indonesia's position that a "two-State solution" is a principle basis for peaceful settlement of conflict in the Palestine territories occupied by Israel. Indonesia's continuous support for the legitimate struggle for the self-determination of the Palestine people is reflected with the recent establishment of the Indonesian honorary consulate in Ramallah, Palestine. Therefore, it remains our fervent hope that there will be a substantial breakthrough that will shed light for the Palestinian people in their quest for independence.

I thank you, Mr. Secretary-General.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you very much. Next, I call on Japan to take the floor.

The Delegate of Japan: Thank you Mr. Secretary-General. Japan is concerned about the stagnated status of the peace process. There is no prospect for resuming the peace talks in the foreseeable future. The construction of settlement continues in the West Bank. It undermines the Palestinians' hopes, and grows distrust between the Israelis and the Palestinians.

Japan believes that peace through a two-State solution will be realized only by serious negotiations between both sides. Japan urges both sides to resume talks and to refrain from any unilateral actions that might hinder direct negotiations.

Japan is worried about the dire humanitarian situation and security situation in Gaza. Improving the living environment and securing access to basic infrastructure such as electricity and water for the people in Gaza will contribute to preventing violence and maintaining stability in Gaza. In order to advance employment for the youth, it is crucial to continue assistance to backup economic development while extending reconstruction assistance.

Japan announced an additional assistance package amounting to over US\$ 34 million for Palestine in February this year. Half of them are designated for humanitarian assistance for vulnerable people in Gaza. Japan continues contributing to the improvement of the humanitarian situation in Gaza in cooperation with the international community.

Thank you, Mr. Secretary-General.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you very much, Japan. Excellencies, Distinguished Delegates, with that we come to the end of this session.

The Meeting was thereafter adjourned.

XV. VERBATIM RECORD OF THE THIRD MEETING OF DELEGATIONS

**XV. VERBATIM RECORD OF THE THIRD MEETING OF DELEGATIONS OF
AALCO MEMBER STATES HELD ON FRIDAY, 5 MAY 2017 AT 10.00 AM.**

**AGENDA ITEM: REPORT ON THE WORK OF AALCO'S REGIONAL
ARBITRATION CENTERS**

His Excellency, Prof. Githu Muigai, the Attorney General of the Republic of Kenya and the President of the Fifty-Sixth Annual Session of AALCO, in the Chair.

President: Excellencies, Distinguished Delegates, Ladies and Gentlemen, A warm welcome to the final day of our session. We will begin this day with the reports of AALCO Regional Arbitration Centres presented by their respective directors. Before that, I invite the Secretary-General of AALCO to present his introductory statement. You have the floor, Sir.

Prof. Dr. Kennedy Gastorn, Secretary-General of AALCO: Thank you, Excellency. His Excellency, Mr. President, Excellencies, Ladies and Gentlemen, It is my pleasure to introduce the report of the AALCO's Regional Arbitration Centres as contained in the Secretariat Document AALCO/56/NAIROBI /2017/ORG3 which consists of the Reports of the Directors of Kuala Lumpur, Cairo, Lagos, Tehran and Nairobi Regional Arbitration Centres.

AALCO's association with this area goes back to 1970s when there were hardly any permanent arbitral institutions in the Asian-African region. AALCO was prompted to realize the need to develop and improve the procedure for international commercial arbitration, the necessity for institutional support, develop necessary expertise and create environment conducive to conduct arbitration in the Asian and African regions. The AALCO Regional Arbitration Centres, it may be recalled, were the result of the AALCO's Scheme for the Settlement of Disputes in Economic and Commercial Transactions and the decision to establish Regional Centres for International Commercial Arbitration at the Doha Session in 1978.

In consonance with the scheme, the Regional Centres for Arbitration at Kuala Lumpur, Malaysia for the Asian region and at Cairo, Arab Republic of Egypt for the African region were established in 1978 and 1979 respectively. Later two more such Centres were established in Lagos, Nigeria in 1989 and Tehran, Islamic Republic of Iran in 2003. In 2007, AALCO concluded an agreement with the Government of the Republic of Kenya to establish its Fifth Regional Arbitration Centre in Nairobi to cater to the needs of the Eastern and Southern parts of the African continent. On 25 January 2013, the Nairobi Centre for International Arbitration Act came into force. The systems and structures of the Centre were established in 2014-2015 by the inaugural Board of Directors and the Centre's Arbitration and Mediation Rules were published in December 2015. The Nairobi Centre for International Arbitration was thereafter inaugurated on 5 December 2016. I would like to use this occasion to congratulate the Government of Kenya for their stupendous efforts for establishing this Centre.

Mr. President, The role of Regional Arbitration Centres is very significant in promoting alternate dispute resolution mechanisms across their region of location. Their progress and efforts to fulfill their mandate effectively and their efficient functioning have given them goodwill and reputation across borders. In fact, it is an honor that we have these Regional Arbitration Centres under the auspices of AALCO, as these Centres are one of the most successful ventures of the AALCO.

Mr. President, with the inauguration of the Nairobi Centre, AALCO Regional Arbitration Centres have further augmented their vast network and operations in the two continents. This presents us an opportune moment to build synergies through effective cooperation and coordination among the Centres to better cater to burgeoning demand for institutionalized ADR mechanisms in developing economies of Asia and Africa. The Resolution on the Report of Regional Arbitration Centres adopted in 2015 was a good first step in this direction. The resolution had called upon the Regional Arbitration Centres to organize biennial meetings of the Centres by rotation primarily to share best practices and experiences in conducting arbitration proceedings. Tehran Regional Arbitration Centre (TRAC) took the lead in organizing the first meeting of the Centres in Tehran in 2016. The meeting was a resounding success and I would like to place on record the heartfelt appreciation of the Secretariat for the efforts of Dr. Oveis Rezvanian, Director of TRAC, and his team for successfully organizing and hosting the event. I am sure that the next meeting will be organized by one of the Centres in 2018 to continue the exchanges among them.

I would like to conclude this brief introduction by extending our warm welcome to the Directors of Kuala Lumpur, Cairo, Lagos, Tehran and Nairobi Regional Arbitration Centres who are among us to present their respective reports to the Session. We shall now begin with the Cairo Centre.

President: Thank you, Prof. Gastorn. Now I invite Dr. Ismail Selim, Director of The *Cairo Regional Center for International Commercial Arbitration*, for his presentation.

Dr. Ismail Selim, Director, The Cairo Regional Center for International Commercial Arbitration (CRCICA): Excellencies, Ladies and Gentlemen, With the support of AALCO, CRCICA has successfully completed 38 years of operations. 2016 was a successful and eventful year for CRCICA which had the honour to be visited by HIS EXCELLENCY Prof. Dr. Kennedy Gastorn, the Secretary-General of the Asian-African Legal Consultative Organization (AALCO), its parent-institution. In 2016, CRCICA inaugurated its newly renovated Conference Centre which was very well received and acknowledged by guests to be unique conferences and training venue in Africa and Middle East. Meanwhile, CRCICA launches its new website, offering a quick and easy access to essential information and features while offering a more comprehensive understanding of the Centre's value proposition and overall users' benefits.

Moreover, CRCICA 2016 caseload reached a new annual record, with 91 new arbitration cases filed during the year, scoring as such 75 % annual increase and confirming the credibility of institutional arbitration under CRCICA's auspices. According to 2016's statistics, parties from the U.A.E. rank on top of the non-Egyptian parties, CRCICA being selected by parties to two purely international contracts, not involving any Egyptian party

In 2016, CRCICA held the world's sole biennial international conference on "The Role of State Courts in International Arbitration- SHARM EL SHEIKH VI". It was the sixth of a highly successful international series of conferences biennially held since 2005, in cooperation with the United Nations Commission on International Trade Law (UNCITRAL), the International Federation of Commercial Arbitration Institutions (IFCAI) and the Arab Union for International Arbitration (AUIA). It has been said that "the Sharm-El-Sheikh Biennial Conference has become quite a landmark in the field of arbitration".

One of the highlights of the year was organizing and hosting ICSID's first ever conference in the region entitled "Key Issues in International Investment Arbitration", which was attended by representatives of 23 countries. All through the past year, CRCICA had been actively coordinating with other International Arbitral Institutions such as the Arbitration Institute of the Stockholm Chamber of Commerce (SCC), the International Council for Commercial Arbitration (ICCA) and the London Court of International Arbitration (LCIA). Cooperation with non-arbitral federations included among others the International Federation of Consulting Engineers (FIDIC).

One of the 2016 landmarks was entering into a unique educational partnership with the American Bar Association, Rule of Law Initiative, to provide Continuing Legal Education in Egypt. Out of trust in CRCICA's expertise and institutional capacity, for the first time, ABA ROLI transmitted one of its overseas educational projects to a regional institution to jointly develop and administer educational programs for Egyptian Lawyers.

Continuing its role in the development of arbitration in Africa, CRCICA is among the contributors to the book entitled: "The Transformation of Arbitration in Africa: The Role of Arbitral Institutions", published in August 2016 by Kluwer Law international. A special chapter on CRCICA published under Part II of the book dedicated to Regional Arbitral institutions in Africa, was drafted by CRCICA former Director Dr. Mohamed Abdel Raoul. In 2016, new eminent legal experts were appointed as members of CRCICA's Board of Trustees and Advisory Committee respectively for a four-year term. Finally, the former CRCICA Director Mohamed Abdel Raoul, a man of integrity, ended an unrivaled four year-term on 31 December 2016. By virtue of a unanimous decision of the Board of Trustees, I have been nominated as Director of the CRCICA as of 1 January 2017 for a four year term.

In addition to sustaining CRCICA's reputation and achievements in Egypt, and the Afro-Asian Region and worldwide, one of my primary objectives is to support arbitration in Africa, and strengthen cooperation and coordination with other African arbitration institutions. This exciting cooperation has started with two conferences held in April 2017: CRCICA hosted the third SOAS conference on Arbitration in Africa as well as a conference organized by the African international Legal Awareness and the University of Geneva.

Much awaited, we have released the French version of the Centre's arbitration Rules during the first quarter of 2017 with an aim to enhance cooperation with all stakeholders in the African continent and beyond. Also, in 2017, a section on arbitration in Africa will be added to the CRCICA-sponsored Journal of Arab Arbitration, a biannual publication of the Arab Union of International Arbitration (AUIA). In 2017, guidelines on CRCICA Arbitration Rules; likewise, a database for the purpose of CRCICA's awards will be created. Finally, CRCICA will play a major role in the coming years in promoting and ensuring diversity in arbitration through encouraging young arbitrators and especially women by reviving the CRCICA Youth Forum.

I look very much forward to boosting intra-Afro-Asian cooperation all through the way of achieving the above plans. I also convey my best wishes to my colleagues from other AALCO Arbitration Centres. I thank you for your kind attention.

President: Thank you very much. I now invite the director of Tehran Centre. Sir, you have the floor.

Dr. Oveis Rezvanian, Director, Tehran Regional Arbitration Centre (TRAC): His Excellency,, Mr. President, His Excellency,, Mr. Secretary-General, Distinguished delegates, ladies and gentlemen, At the outset, as the Director of Tehran Regional Arbitration Centre (TRAC), please allow me to take this opportunity and thank AALCO for providing Arbitration Centers with the opportunity of presenting their reports in the Annual session.

The year 2016 was a very active year for TRAC, as it continued its regional and international contributions to the development of international arbitration. In one hand, there was a considerable increase in the number of TRAC's both international and domestic arbitration cases, and in the other hand, a number of international conferences, seminars and training courses were organized or sponsored by TRAC. In addition, TRAC actively enlarged its networks and pursued the conclusion of Cooperation Agreements with some reputable arbitration institutions. TRAC is proud that in the past year, it played independently, professionally and efficiently under its mandate, plus it afforded to renovate its building.

In 2016, TRAC's arbitration clause has been increasingly inserted in various types of international and domestic contracts involving both public and private sectors. TRAC further continued to offer its institutional support as a neutral, independent and international organization for the conduct of domestic and international arbitration proceedings.

On April 27, 2016, the Tehran Regional Arbitration Centre organized the first meeting between the AALCO's Regional Arbitration Centres in Tehran. This gathering, which was encouraged by the AALCO's Report of April 17, 2015 at its Fifty-Fourth annual session, provided the regional centres with an opportunity to exchange ideas and consider the formation of a common system both administratively and financially between them. In addition, this was a great opportunity for business and legal community of Iran to get familiar with the structure and function of different regional arbitration centres established and active under the auspices of AALCO. Professor Dr. Rahmat Mohamad (Former Secretary-General of Asian-African Legal Consultative Organization) was the keynote speaker of this event and the whole session was warmly welcomed by lawyers, students and business users.

There were also more events organized or sponsored by TRAC in 2016 in order to introduce TRAC to business users throughout the world:

On March 15, 2016, the Tehran Regional Arbitration Centre (TRAC) and the German Institution of Arbitration (DIS) organized a joint event, titled as "Arbitration and Iran" in Cologne (Germany). The purpose of this seminar was to discuss the current and future prospects of German-Iranian economic relations, the legal and economic framework for doing business in Iran and the presentation of the services as well as activities of the TRAC.

On April 27, 2016, a seminar was organized jointly by the Tehran Regional Arbitration Centre (TRAC) and the Swiss Chambers' Arbitration Institution at the Iran Chamber of Commerce. This event was a unique occasion to learn and discuss about the comparative advantages of the

international arbitration in Iran and in Switzerland. The seminar was composed two panels. In the first panel, the rules of two arbitration institutions (the Swiss Chambers Arbitration Institution and the Tehran Regional Arbitration Centre) were presented and the subject of the second panel was to compare the vision of the international arbitration in Switzerland and in Iran.

On November 9, 2016, TRAC and the Institute of the Stockholm Chamber of Commerce (SCC) hosted a joint seminar titled as "Alignment of International Arbitration with International Business" in Tehran. The purpose of this seminar was to bring together lawyers, scholars and advocates of international arbitration to discuss about some of the most recent trends in international dispute resolution. This seminar was also warmly welcomed by lawyers, graduate students and business users.

In 2016, TRAC and Istanbul Arbitration Centre decided to engage in joint efforts by way of yearly conferences in Paris, Istanbul, and Teheran, to introduce their rules and operations and distinguishing features, and to explain why the public and private operators of the two countries should increasingly propose both of these two institutions to foreign parties. The first conference was held in Paris on December 12, 2016 and warmly welcomed by practitioners and arbitrators from different law firms. The next conferences are to be held in July and December 2017 in Tehran.

TRAC is also pleased to announce that, in 2016, the first Iranian Commercial Arbitration Moot Court has been jointly organized by TRAC and the Arbitration Centre of Iran Chamber of Commerce, Industries, Mines and Agriculture (ACIC). The goal of this Moot Court is to foster the study of international commercial law and arbitration for resolution of international business disputes through its application to a concrete problem of a client and to train professional lawyers in international level in Iran. This competition was greatly welcomed by law students as well as junior attorneys. 32 teams (composed of two to six members) registered for this first moot court. The question was released in January 2016 and the oral hearings were taken placed in May 2016 in Tehran.

In 2016, TRAC further offered several internship opportunities to young professionals. Under supervision of one legal counsel, interns were assigned projects and tasks that were relevant to International Arbitration and they had the opportunity to put into practice and further development their theoretical knowledge. Also, as previous years, in 2016, TRAC supported and helped Iranian teams for participation in arbitration-related scholar activities, such as the VIS moot court, by providing useful information and recommendation as well as organizing a pre-moot in the Centre. In 2016, TRAC was pleased to receive the applications of many outstanding arbitrators. A number of these applicants were added to the TRAC's list of arbitrators and some others are still under consideration.

In addition to all above activities, in 2016, TRAC organized different meetings at two levels for promoting TRAC's activities, exchanging the ideas and envisaging possible collaboration:

- Meetings with local arbitrators, law firms, embassies and commerce chambers; and

- Meetings with foreign law firms, institutional arbitrations and academic centers.

As the result of all above promotional activities, I am delighted to announce that in 2016, there has been a considerable increase in the number of TRAC's both international and domestic arbitration cases in comparison to all its previous years.

Mr. President, Please allow me now to turn into TRAC's prospective work of 2017. TRAC aims to continue offering its institutional support as a neutral, independent and international organization for the conduct of domestic and international arbitration proceedings. In pursuing this objective, and as the business communities are preparing to explore new opportunities in the Iran market, TRAC is intended to play a significant role in resolving potential disputes that might arise between parties. To this end, revision of TRAC Rules of Arbitration and adding new features will have a great effect on the name of TRAC and encouraging business users to refer disputes to TRAC as a pioneer arbitration forum. Adopted and published in 2005, the TRAC Rules of Arbitration are essentially based on the UNCITRAL Rules of Arbitration which are well known to the practitioners and, as a widely used set of procedural norms, would be capable of offering a higher comfort to the parties. However, considering the revised version of 2010 of UNCITRAL Rules, as well as contemporary developments in the field of international arbitration, and also, considering the experiences already gained from its cases, TRAC will publish its new sets of rules for arbitration in 2017.

In addition and for the accomplishment of its educational duty, TRAC envisages organizing more workshops, seminars and training forums in the field of international arbitration. In order to reach this aim, TRAC will be considering the possibility of collaborating with other national and international reputable academic centers for maximizing the quality of its training activities. TRAC further intends to reinforce the cooperation with arbitral institutions and academic centers. TRAC believes that this kind of cooperation would be instrumental for striking higher and harmonious standards in arbitration conduct. It also would create awareness about the existence of a transnational safe environment extended throughout the region for settlement of international commercial disputes. In this regard, TRAC is hopeful to commence regular cooperation with other regional Arbitration Centers as well as other reputable international Arbitration Centers. For this purpose, conclusion of Memorandum of Understanding with a number of organizations is under review.

We, at TRAC, are hoping that 2017 will be a more successful year, with more arbitration cases and more contributions in development of arbitration in Iran and in the region. Mr. President, distinguished ladies and gentlemen, I thank you for your attention.

President: Thank you. I now invite the director of the newly established Nairobi Centre. Sir, you have the floor.

Lawrence Muiruri Ngugi, CEO/Registrar, The Nairobi Centre for International Arbitration (NCIA): His Excellency,, Mr. President, His Excellency,, Mr. Secretary-General, Excellencies, Distinguished delegates, Ladies and Gentlemen, It may be recalled that during the Forty-Fifth Annual Session of AALCO held at New Delhi (Headquarters) on 3 April 2006, the then Secretary-General of AALCO and the Attorney General of the Republic of Kenya signed

the Memorandum of Understanding (MoU) for the establishment of the Regional Centre for Arbitration in Nairobi, Republic of Kenya. In pursuance to the MoU, an Agreement Establishing the Nairobi Regional Arbitration Centre for Arbitration was signed between the then Secretary-General of AALCO and the Attorney General of the Republic of Kenya during the Forty-Sixth Annual Session of AALCO held at Cape Town, Republic of South Africa from 2-6 July 2007.

During the Fifty-Fourth Annual Session in Beijing (China, 2015) the Head of Delegation of the Republic of Kenya noted that the Government of Kenya had shown its commitment to establishing a regional centre by enactment of the Nairobi Centre for International Arbitration Act No. 26 of 2013 to establish the Nairobi Centre for International Arbitration (NCIA). NCIA is governed by a Board of Directors of eminent practitioners, consisting of a Chairperson and eleven members, two of whom are from the East African region. The daily affairs of NCIA are managed by a Registrar.

The NCIA was officially launched during the 1st Nairobi International Arbitration Conference held in December 2016. The Conference attracted wide participation from practitioners in Africa, Asia and Europe with impressive representation from AALCO Secretary General and the AALCO regional Centres. More than 390 participants took part in the two day conference themed ‘investing in Africa: A new frontier in dispute resolution’. NCIA has continued to participate actively in forums organized by partner institutions and other arbitral institutes including the just concluded Cairo Regional Centre for International Commercial Arbitration SOAS Conference held in March, 2017.

Now, let me briefly explain the activities and collaborations of the Centre in this brief period of time since its establishment.

1. Visit by the China Law Society, January 2017

A delegation from the China Law Society accompanied by practitioners from academia and arbitral institutes in China visited the Centre in January, 2017 for discussions on areas of mutual interest and collaboration under the ‘One Belt One Road’ cooperation. The two delegations also considered the proposal for a Memorandum of Understanding and legal exchange on arbitration practice in the two jurisdictions.

2. CAJAC Beijing and CAJAC Nairobi, March 2017

NCIA concluded Memorandum of Cooperation with the Beijing Centre for International Arbitration under the China Africa Joint Arbitration Centre initiative in March 2017. The agreement was concluded at a seminar organized for the launch at the Beijing Centre for International Arbitration and a Symposium on Dispute Resolution of Sino-African Infrastructure Construction project. The joint initiative is aimed at deepening the dispute resolution cooperation for China-Africa parties.

3. CAJAC Nairobi and CAJAC Shanghai-Johannesburg, Shenzhen, March 2017

NCIA entered into a proposal for cooperation with CAJAC Shanghai, and CAJAC Shenzhen, in March 2017 with a view to extending cooperation on arbitration, training and legal exchange.

The proposal was signed at seminar organized at Shanghai and Shenzhen respectively culminating in the launch of the Association of CAJAC institutions based at Shenzhen.

Further, NCIA has also conducted a few educational activities.

Educational Activities

1. ICSID Practice Seminar, June 2016

In June 2016, NCIA partnered with the Secretariat of the World Bank ICSID in half day training in the practice of ICSID arbitrations conducted by the Secretary General ICSID at Nairobi. The training aimed at supporting the growing number of practitioners involved in investor-state arbitrations under the ICSID regime. Participants were drawn from leading law firms in Kenya and the region.

2. Chartered Institute of Arbitrators Kenya Branch - Arbitration Training

NCIA has continued to partner with the Chartered Institute of Arbitrators Kenya Branch in various trainings scheduled by the institute to enhance capacity of the secretariat to offer effective and high quality of services.

Administration of Disputes

The year 2016 was a momentous year for NCIA as the first request for appointment coincided with the official launch of the Centre. This came in November 2016 in the eve of the 1st Nairobi International Arbitration Conference.

NCIA has continued to offer its Mediation facilities for use by individual mediators and the pilot project for the Court Annexed Mediation Program. Now, let me briefly explain some activities we planned for this year.

Planned activities for the NCIA

These are some of the activities lined up by NCIA for 2017-18:

1. Seminar and Symposium on hot topics in arbitration and the New York Convention.
2. Training of judges and other practitioners on the UNCITRAL model law jurisprudence and the New York Convention.
3. Enlist Arbitrators and Mediators on the NCIA Panel
4. Commence a Young Practitioners Mentorship program in partnership with academic institutions and law firms.
5. Opening up the NCIA Centre inaugural facilities for conduct of hearings and other related procedures at Nairobi.

6. Promotional Activities and Capacity development and transfer.

Finally, I would like to mention that the Government of Kenya continues to provide support at policy level to advocate Kenya's position with respect to international agreements on arbitration and alternative dispute resolution in particular and in respect to neutrality of NCIA. The Government of Kenya is keen to ensure the arbitration is reserved as dispute resolution process. The focus is to ensure Nairobi Centre becomes the preferred regional and global Centre for resolution of international commercial disputes. Thank you very much.

President: Thank you. I now invite the director of the Kuala Lumpur Centre. Sir, you have the floor.

Datuk Prof. Sundra Rajoo, Director, Kuala Lumpur Regional Centre for Arbitration (KLRCA): Thank you, Excellency. Excellencies, Distinguished Delegates, Ladies and Gentlemen, It is a privilege for me to have the opportunity to share with you the Annual Report of the Kuala Lumpur Regional Centre for Arbitration for the year 2016. My team and I together, continue to push boundaries in making KLRCA a complete global ADR Hub and it is no better time than now to present before you our achievements and activities in the past year in lieu of KLRCA's mission.

KLRCA has achieved an irreplaceable position in the field of ADR in the Asia- Pacific region. Being an all rounded institution, one of KLRCA's core missions is to provide institutional support for domestic and institutional arbitrations and other ADR proceedings. The unique position enjoyed by KLRCA, along with the privileges and immunities accorded, enables us to function as an independent international organization.

However the revamping of KLRCA, the revision of its rules and innovative measures since then, paired with our continued relentless efforts has resulted in a 96.4% percent rise in the case load. What was only a total of 22 cases before 2010 is now a staggering 616 cases as of 2016. This is largely attributed to our proactive approach to keeping up to the trend and continued upgradation of our rules and services.

The administration of arbitration and adjudication cases remains the core function of KLRCA. The alternative dispute resolution cases administered by the KLRCA spans across various specialist sectors and are both international and domestic. I take immense pride in presenting to you the graph showing the exponential growth in the total case load handled by KLRCA since 2010. As of December 2016 KLRCA has registered a case load of 522 cases inclusive of domestic and international arbitrations and adjudication cases. The KLRCA is the named appointing authority under both the Arbitration Act. 2005 and Construction Industry Payment and Adjudication Act 2012, which provides for statutory adjudication. In a span of two years, the caseload has increased thirteen folds from a paltry 29 at the time of enforcement of the law to 379 as of December 2016.

It is noteworthy that 71 percent of all arbitration matters were administered under the KLRCA Arbitration rules 2013 and the KLRCA Fast Track Arbitration Rules. Another feather to the cap is the total number of appointments carried out by the KLRCA for all disputes which in turn is indicative of disputants' trust in the independency and efficiency of the Centre. The sustained

efforts of KLRCA in establishing itself as a full service dispute resolution provider and in raising awareness on the protection of domain name has resulted in an exceptional 50 percent increase in Asian Domain name Dispute Resolution cases compared to 2015. The meritorious performance of KLRCA as a statutory adjudicating authority need mention as statistical data shows an extraordinary 139% rise in adjudication cases in the past one year.

KLRCA caters not only to different forms of ADR but also to a diverse nature of claims. The nature of claims refereed to KLRCA range from Company matters, Media and Broadcast disputes, energy mining and oil and Gas, Maritime disputes, Construction, Engineering and infrastructure and to Intellectual property trademark. This diversity in the claims calls for an equally diverse panel and at we are no less with a panel of 1404 panelists with specialization in 28 different fields. The International nature of the Centre is obvious from the fact that 63.7 % of the panel is made up of international panelists. Panelists also have language proficiency in many languages.

Excellencies, Ladies and Gentlemen, One of the salient features of the KLRCA Rules is the fixed fee schedule for the arbitral tribunal. There are separate schedules for international and domestic arbitrators. In an analysis conducted amongst arbitral institutions on the cost and duration efficiency, KLRCA emerged as one of the most effective in terms of cost and duration among all other arbitral institutions. In terms of time taken for conclusion of proceedings under KLRCA administration, the average duration was 10.84 months which was found to be lesser than 3 other leading arbitral institutions in the region.

Other than its core activity of handling and administering ADR cases, KLRCA is tasked with the mission of promoting and building capacity in the area of ADR. In its continuous effort in capacity building and disseminating information on ADR, the KLRCA organizes various courses and forums on arbitration, adjudication and mediation. Here is a highlight on some of our key events conducted during the previous year. In its sustained efforts to make the KLRCA a world class ADR hub, KLRCA hosted its first KLRCA International Investment Arbitration Conference, which was also the biggest Investment Arbitration Conference in Asia.

In collaboration with the Institute of Malaysian and International Studies, one of the main focus of the conference was on the likely issues that may arise in the Asia-Pacific region following the signing of the Trans-Pacific agreement. The conference had an attendance of more than 260 participants comprising of representatives from leading regional and international centers, professors, researchers, practitioners and investment arbitration enthusiasts.

KLRCA and the Chartered Institute of Arbitrators (CIArb) Malaysia Branch jointly organized the Diploma in International Commercial Arbitration. The course held from 9 – 17 January 2016 was attended by more than 30 participants from Malaysia and many parts of the world with a faculty panel made up of distinguished and renowned international arbitrators. The Centre, in its capacity as the sole adjudicating authority under the statutory adjudication Act successfully organized the CIPAA Conference entitled CIPAA Conference 2016: Gaining Strength. The CIPAA Status Report was released with up to date data on the enforcement of the CIPA Act and statistics on the nature of disputes. The ‘Gaining Strength’ conference saw more than two hundred stakeholders in attendance. To raise awareness on CIPAA as well as our efforts in continuous capacity building, the KLRCA Certificate in Adjudication Programme was conducted

twice in 2016. This is also a reflection of KLRCA's efforts to set competency standards and criteria for adjudicators.

At KLRCA, the year 2016 also saw the first ever KLRCA Certificate Programme in Sports Arbitration with 52 candidates sitting for the 4 day course. In furtherance to this, the KLRCA Sports Law Conference was organized in December 2016. Theme as "Play by the Rules", the conference on Sports Law witnessed experts discussing current issues and untapped areas in sports arbitration. KLRCA is an official Court of Arbitration for Sport (CAS) Alternative Hearing Centre and conducts its own Certificate Programme in Sport Arbitration. Furthermore, the Olympic Council of Malaysia has for the first time introduced the KLRCA as an independent body that will adjudicate cases arising during the Kuala Lumpur SEA Games in August 2017.

Excellencies, Ladies and Gentlemen, The KLRCA aims to raise awareness about the ways to protect the domain name and in furtherance of this the International Domain Name Dispute Resolution conference was conducted in December 2016. KLRCA is working on publishing a handbook to simplify procedures under the MYNIC and popularize alternative resolution of intellectual property disputes.

The Maritime industry is fast growing in Malaysia and to cater to its needs, the Maritime Law Society was launched aiming to bring back maritime law disputes to be resolved in Malaysia. The primary principle of the society shall be inclusion focusing not just on lawyers but also the major stakeholders of the industry. There is also a proposal to set up exclusive panel of maritime arbitrators.

Yet another major initiative by the KLRCA is the KLRCA Talk Series, which is a sequence of monthly talks held at the Centre. Last year a total of 15 talks were organized under the KLRCA Talk Series. It is a free forum that is meant to be informative to all those who are interested in arbitration and ADR. Attendees are made up of senior legal practitioners, government agencies, NGOs, academics, judicial officers, students and the general public. Each talk features an ADR specialist who focuses on a specific topic.

Excellencies, Ladies and Gentlemen, Now let me give you a glimpse into the specialized topics that formed part of our talk series in the last year. Malaysia and the Permanent Court of Arbitration (PCA) signed a Host Country Agreement which would serve to facilitate the conduct of PCA proceedings in Malaysia. The PCA's Malaysian office will be based in the KLRCA's building, Bangunan Sulaiman. With the Permanent Court of Arbitration establishing a facility at the KLRCA for the conduct of its dispute resolution proceedings in Malaysia, it is a testament to the great strides made in the Malaysia ADR field in the past years.

Another achievement is the efforts and progress by KLRCA in the one belt one road project. Harnessing the geographical position, developments in judiciary and development of ADR the KLRCA has liaised with other institutions around the world to prepare for the disputes that may arise from China's OBOR initiative. KLRCA intends to create an arbitration alliance with institutions ranging from Asia to Africa and Europe to welcome and better resolve any and all disputes. One of the biggest events of KLRCA for 2017, the KLIAW 2017 is dedicated to focus

on potential OBOR disputes with special focus on the developments in arbitration in Asia along with a dedicated session for business stakeholders with simultaneous mandarin translations.

The KLRCA is proud to have launched the KLRCA Young Practitioners Group was established in 2016 to engage young practitioners or people interested in dispute resolution field (under 40 years old). The official launch of the YPG KLRCA was held during the First ICC/KLRCA Vis Pre- Moot organized by the center on 17th March 2017. The group currently counts with over 200 members from 15 jurisdictions. Great expectations are being placed on this new endeavor of the KLRCA that aims to promote ADR worldwide amongst young practitioners.

Another achievement is the launch of the regional help desk aimed at inclusive growth and making information available to those who may be at a disadvantage to obtain such information otherwise. Through this service, KLRCA provides regional helps desks to answer any questions for stakeholders and to facilitate ease of usage of KLRCA for disputes. This provides our stakeholders, a direct link to all information.

KLRCA works with the relentless drive towards progress and despite the exceptional year, we are constantly pushing boundaries and barriers to further innovation and achieve ground breaking programmes aimed at establishing the centre as a multi service global hub for ADR at the same time contribute to meaningful capacity building in ADR. As KLRCA continues its pursuits it is grateful for the full support of AALCO, the Malaysian Government and other stakeholders, such as the Judiciary and the Malaysian Bar as well as the local and international arbitral community. Thank you very much.

President: I thank the director of KLRCA for his presentation. Now let us move to the next agenda item after a short break.

The Meeting was thereafter adjourned.

**XVI. VERBATIM RECORD OF THE THIRD MEETING
OF DELEGATIONS (CONTD.)**

XVI. VERBATIM RECORD OF THE THIRD MEETING OF DELEGATIONS OF AALCO MEMBER STATES (CONTD.) HELD ON FRIDAY, 5 MAY 2017 AT 11.30 AM.

His Excellency, Prof. Githu Muigai, the Attorney General of the Republic of Kenya and the President of the Fifty-Sixth Annual Session of AALCO, in the Chair.

President: Excellencies, Distinguished Delegates, Ladies and Gentlemen, Welcome back to the session. I now invite the Deputy Secretary-General of AALCO, Mr. Feng Qinghu to present the Report of the Chairman of EPG, AALCO, Prof. Dr. Djamchid Momtaz, on the Seventh Meeting of AALCO Eminent Persons Group, held on 1st May 2017. You have the floor, Sir.

Mr. Feng Qinghu, Deputy Secretary-General of AALCO: The Seventh Meeting of AALCO Eminent Persons Group (EPG) was convened at the Kenyatta International Centre, the venue for the Fifty-Sixth Annual Session of AALCO on 1st May 2017 at 2.45 PM. Prof. Dr. Kennedy Gastorn, Secretary-General, proposed that Prof. Dr. Djamchid Momtaz be appointed as the new chairman of the EPG for the next two years, which was accepted unanimously. The Meeting was attended by His Excellency, Prof. Palamagamba Kabudi, Minister for Constitutional and Legal Affairs for Tanzania, His Excellency, Githu Muigai, the Attorney General of the Republic of Kenya, Ambassador Baraka Luvanda, High Commissioner of Tanzania to India, Mr. Ali Al Saidi, Legal Advisor of the State of Oman, Prof. Sienho Yee, Professor of Law, Wuhan University, People's Republic of China, Mr. Feng Qinghu, Mr. Mohsen Baharvand, and Mr. Yukihiro Takeya, Deputy Secretaries-General of AALCO. Mrs. Anuradha Bakshi, Principal Legal Officer and Mr. Pandiaraj, Senior Legal Officer, AALCO assisted the EPG.

At the outset, the Secretary-General gave a brief summary about the creation, objectives and the rules of procedure of the EPG to the Members present. While tracing the creation of the EPG to AALCO's Annual Session held in Tanzania in 2010, he pointed out that EPG has been serving as an informal advisory body to the Secretary-General ever since. While drawing attention to the common practice of various international organizations to establish EPGs, he mentioned that the membership of AALCO EPG is supposed to have 8 Members from Asia and Africa, and also representatives from International Law Commission (ILC) and relevant fields of academia. Impressed with the role of EPG and the performance of its Members over the years, he saw strong merits in continuing with the EPG. Finally, he expressed his wish that Members of EPG would come up with critical insights in relation to the various agenda items that are found in the agenda of the 7th EPG meeting.

After his summary, the newly elected Chairman, Dr. Momtaz opened the floor for further discussions.

On the New EPG Members

Commenting on the logic of appointing/re-appointing members of the EPG for a two-year term, the Secretary-General pointed out that this was necessary in view of a number of factors including in terms of maintaining transparency, accountability and diversity of membership of EPG and its members. Members of the EPG were of the view that the appointment and the tenure of the members of EPG was a question that fell squarely within the prerogative of the Secretary-General. An opinion was also expressed that as far as possible continuity of membership should

be encouraged. On the suggestion of the Chairman it was decided to defer this issue to a latter time.

Contribution of AALCO to the Work of United Nations, ILC and other Bodies

Commenting on this issue, a view was expressed that, being an organization of diverse membership and opinions, reaching common view points and interests on the various agenda items of AALCO remained difficult. The report of the AALCO Informal Expert Group on Customary International Law was cited as an example. To deal with this situation, it was suggested that AALCO could take up and deliberate value-neutral topics such as: how to promote systematic approach and uniformity in various forums in legal decision-making.

On the issue of capacity building, a view was expressed that the successful operation for the last couple of years of the AALCO-China Research and Training Programme could be further expanded to include more areas of substantive research into its purview. It was added that this would enhance the capacity of Member States on legal matters of common concern.

Expressing his viewpoint on the aforementioned issue, the Chairman drew a distinction between the contribution of AALCO towards international organizations and its legal advice to Member States of AALCO. In this regard, he suggested that a Working Group on the issue of *Jus Cogens* could be created by AALCO with a view to assist the work of the Special Rapporteur of ILC on the issue. On the suggestion to get the viewpoints of Member States on some selected issues of any agenda item of ILC with a view to arrive at a consensus, it was pointed out that this would suffer from legitimacy issues.

On the Financial Situation of AALCO

The Secretary-General pointed out that AALCO is able to get only 60% to 70% of its annual contribution in any given year and that this had resulted in 30% of arrears. This had two consequences including the reduced number of legal staff (as opposed to the sanctioned staff) and in the reduction of mandated activities. He also drew attention to the structural limitations emanating from the Statutory Rules of AALCO in terms of providing promotion and incentives to the Staff. He also stressed the need to have flexibility to have as many legal officers as possible including the possibility of having more than one person holding the same post. He also suggested that contrary to the policy of AALCO to appoint Legal Officers only from India, the recruitment net could be expanded so as to attract quality legal talent from other Member Countries as well. In this regard he stressed the need to strengthen the financial base of AALCO. However, caution was also expressed in terms of recruiting foreign legal talent as it was felt that the financial package being offered by AALCO at the moment was not very attractive.

In this regard, it was suggested that a retention policy be put in place in AALCO so as to retain the available talent, even while trying to recruit new talent. The Chairman suggested that Member States could send young bright legal minds to the Secretariat of AALCO on a short term basis at their own cost. This, he was of the view, could facilitate the research work of AALCO to a significant extent.

On the issue of the need to strengthen the financial basis of AALCO, it was suggested that voluntary contributions could be sought from Member States. It was also proposed that the existing scale of contributions which was last revised in 2009 could be revised.

Increasing the Membership of AALCO

The efforts of the Secretary-General (both the previous and the current) in trying to raise the profile of AALCO in terms of bringing new Members to AALCO was brought to the knowledge of the Members. The Secretary-General also narrated briefly the efforts that he has been undertaking since assuming Office to bring in more members to the AALCO fold. He specifically encouraged the Member States of AALCO to reach out to non-Members on a bilateral basis with a view to bring the latter to AALCO. In this regard, one Member expressed the view that he could contact some non-Members that are in the same geographical block as that of his Country. A view was also expressed that one way of increasing the financial base of AALCO involved increasing the membership of AALCO.

A proposal was floated that the Secretariat of AALCO prepare a Short Report on a number of issues relating to the Member States of AALCO including: the *number of regular contributors*, the *Member States in arrears*, the *active members* and the *non-active members*. This was considered necessary to find out the various issues plaguing AALCO and also to take AALCO to the next level taking into account the contemporary challenges facing its Member States in the current times.

Finally the Secretary-General stressed the need on the part of the Members of EPG to be in touch with him on a continuous basis through e-mail. This was accepted by all the Members.

With regard to finding the solutions in relation to a number of issues that could not be deliberated upon (despite being enlisted in the agenda) by the Members of EPG at this meeting, it was proposed that the possibility of holding another meeting of EPG before the end of this Session could be explored. It was agreed to by all.

Thank you all.

President: Thank you very much Deputy Secretary-General. Now I call upon Secretary General of AALCO, His Excellency, Prof. Kennedy Gastorn to give us the message thanking the President of the Republic of Kenya.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you, Mr. President. His Excellency, Honorable Uhuru Kenyatta, the President of the Republic of Kenya, on behalf of all the Delegations of the Member States and Observers attending the Fifty-Sixth (2017) Annual Session of the Asian-African Legal Consultative Organization (AALCO), I would like to extend the following message as a token of our heartfelt gratitude and respect to the Government and People of the Republic of Kenya:

“We, the participants in the Fifty-Sixth Annual Session of the Asian-African Legal Consultative Organization, would like to seize this opportunity to convey our profound gratitude and respect to Your Excellency, and through you to your esteemed Government and the people of the Republic of Kenya, for graciously hosting the Fifty-Sixth Session of AALCO in this beautiful and vibrant city of Nairobi. Excellency, I thank the Government of Kenya on behalf of AALCO, and on my own behalf, for successfully hosting this Session and for the warm hospitality extended to all delegates.

Your Excellency, since it joined the Asian-African Legal Consultative Committee (AALCC) as it was called then in 1970, Kenya has attached great importance to the Organization and has always actively participated in the activities and work programme of the Organization, be it substantive, administrative or financial matters. Kenya has always taken a keen interest in the deliberations during the Annual Sessions and has undertaken to strengthen the agenda and the role of the Organization among the comity of nations.

Your Excellency would be pleased to know that a spirit of constructive dialogue and cooperation amongst attending delegations marked this Session, thus enabling us to take crucial decisions on organizational as well as substantive matters. Indeed, the full support extended by the Host Government was crucial in the success of this Session.

Once again, we the delegates of the Fifty-Sixth Annual Session of AALCO would like to place on record our sincere gratitude to the Government of Kenya for successfully hosting the Annual Session and making it a memorable event in the cosmopolitan and dynamic capital city of Nairobi.

Your Excellency, please accept the assurances of our highest respect and consideration and may the Almighty God bless the endeavours of your great country.”

Thank you.

President: Thank you very much Your Excellency Prof. Kennedy Gastorn for presenting the message of thanks to the Honorable President of the Republic of Kenya. Now I will invite the SG to inform the meeting of the venue of our next annual session, that is to say the Fifty-Seventh Annual Session.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you, Mr. President. Regarding AALCO’s Fifty-Seventh Annual Session, we are yet to receive any firm commitment from any Member States intending to host the next Annual Session. But I hope that I will in the course of time receive any indication from any Member wishing to host the Annual Session. Thank you.

President: Thank you very much. We will keep that matter under active consideration.

The Meeting was thereafter adjourned.

XVII. VERBATIM RECORD OF THE FIFTH GENERAL MEETING AND CONCLUDING SESSION

**XVII. VERBATIM RECORD OF THE FIFTH GENERAL MEETING AND
CONCLUDING SESSION HELD ON FRIDAY, 5 MAY 2017 AT 12.30 PM.**

His Excellency, Prof. Githu Muigai, the Attorney General of the Republic of Kenya and the President of the Fifty-Sixth Annual Session of AALCO, in the Chair.

President: Ladies and Gentlemen, and fellow delegates, we have now come to the concluding session of our meeting, which entails a vote of thanks from our various Member blocs. I will start off with our Asian Member State. And the representative is the representative from Socialist Republic of VietNam. You have the floor.

Delegate of the Socialist Republic of VietNam: Mr. President, Hon'ble Ministers, Attorney-Generals, Excellencies, Distinguished Delegates, Ladies and Gentlemen, I am greatly privileged to propose a vote of thanks at Fifty-Sixth Annual Session of AALCO on behalf of the Asian Member States of AALCO.

First, I would like to extend my sincere appreciation and gratitude to His Excellency, Prof. Githu Muigai the Honorable President of the Fifty-Sixth Annual Session of AALCO under whose wise and able leadership the session steered admirably. It goes without saying that this Session has come to a successful conclusion owing to his skills and commitment. I would also like to express my gratitude to Her Excellency, Dr. Vilawan Mangklatanakul, the Honorable Vice-President of the Fifty-Sixth Annual Session for her cooperation and able assistance to the President which is laudable.

My profound appreciation also goes to the Secretary-General of AALCO Prof. Dr. Kennedy Gastorn for making all the necessary arrangements to make this Session a successful reality. Under his leadership, the first annual session of his tenure has proved to be remarkable and we sincerely feel, he is best-suited to steer AALCO to greater heights in the years to come with his inspiring vision and commitment.

I also wish to express my deepest regard to the Deputy Secretaries-General of AALCO and the Staffs of the Secretariat of AALCO for working persistently in preparing for the Fifty-Sixth Annual Session of AALCO within very limited time available.

The interpreters also deserve our heartfelt appreciation for carrying out their job with utmost care and great efficiency.

Finally, I am thankful to all the delegates of this Session. Without their enthusiastic participation and valuable perspectives, the Fifty-Sixth Annual Session would not have been fruitful and also to all those who have contributed in one way or the other to make this Session a great success.

Thank you all.

President: I thank the delegate from the Socialist Republic of VietNam for proposing the Vote of Thanks on behalf of Asian Countries. I will now call upon the African Member States represented by the United Republic of Tanzania.

The Delegation of the United Republic of Tanzania: Mr. President, Hon'ble Ministers, Attorney-Generals, Excellencies, Distinguished Delegates, Ladies and Gentlemen, it is a

privilege and a matter of great joy to extend a vote of thanks at the Fifty-Sixth Annual Session of AALCO on behalf of the African Member States.

I would like to extend my sincere appreciation and gratitude to His Excellency, Prof. Githu Muigai the Honorable President of the Fifty-Sixth Annual Session of AALCO for being the driving force at this Session. It would be no exaggeration to say that His Excellency has brought to the Annual Session, the wealth of his experience, vision and expertise and comfortably steered it to a very successful completion. I would also like to thank Her Excellency, Dr. Vilawan Mangklatanakul, the Honorable Vice-President of the Fifty- Sixth Annual Session for rendering the needed assistance to the President in discharging his duties.

Further, I would like to express my profound appreciation and gratitude to the Secretary-General of AALCO Prof. Dr. Kennedy Gastorn for taking all the necessary efforts to make this session a successful reality. It is our sincere belief that without his guidance and direction this would not have been possible despite the fact that this annual session is only the first session conducted under his leadership of AALCO. We have high hopes that under his leadership AALCO will continue to achieve even greater heights in advancing the common cause of its Member States in the years to come.

I also would like to thank the three Deputy Secretaries-General of AALCO and all the Staffs of the Secretariat of AALCO for their laudable efforts in preparing for the Fifty-Sixth Annual Session of AALCO.

I would also like to thank the interpreters for accomplishing the demanding and grueling task of translating each and every word spoken on this forum.

Before concluding, let me express the sincere gratitude and appreciation to all the delegates of this session and their valuable participation and perspectives, and to all those who have contributed in one way or the other to make this Session a success. Thank you.

President: I thank the United Republic of Tanzania for proposing the Vote of Thanks on behalf of the African Continent. Last but not the least; we have the representative of the international organizations, the International Committee of the Red Cross, to offer the Vote of Thanks.

The Observer Delegation of the International Committee of the Red Cross: Mr. President, Hon'ble Ministers, Attorneys-General, Excellencies, Distinguished Delegates, Ladies and Gentlemen, it gives me great pleasure to propose a vote of thanks on this occasion on behalf of international institutions.

At the outset, I would like to express our deep vote of appreciation to His Excellency, Prof. Githu Muigai, the Honorable President of the Fifty- Sixth Annual Session of AALCO for the able, efficient and articulate manner in which he has conducted the proceedings of this Session. No wonder the Fifty-Sixth Annual Session of AALCO has come to an end smoothly and successfully.

I would also like to thank Her Excellency, Dr. Vilawan Mangklatanakul, the Honorable Vice-President of the Fifty- Sixth Annual Session of AALCO for extending great help to the President in steering the course of the Session successfully.

I commend all the efforts that the Secretary-General of AALCO Prof. Dr. Kennedy Gastorn has taken to ensure that this Session remains a memorable one. We are highly appreciative of his efforts that have gone into the successful convening of the Session.

I also would like to thank the three Deputy Secretaries-General of AALCO and all the Staffs of the Secretariat of AALCO for their wholehearted efforts in preparing for the Fifty-Sixth Annual Session of AALCO.

The interpreters have also done a wonderful job and I thank them too.

Last, but not the least, I would like to thank all the distinguished delegates for having travelled from near and afar to honor us with your presence and to have contributed to the deliberations of this Session.

I thank you all.

President: I thank ICRC for proposing the Vote of Thanks. With that we shift to the next agenda item. It is the adoption of the summary report and the resolutions.

Adoption of Resolutions:

Organizational Matters

RES/56/ORG 1	Report of the Secretary General on Organizational, Administrative and Financial Matters
RES/56/ORG2	AALCO's Budget for the year 2018
RES/56/ORG3	Report on AALCO's Regional Centers for Arbitration

Substantive Matters

RES/56/S3	The Status and Treatment of Refugees
RES/56/S4	Violations of International Law in Palestine and other Occupied Territories by Israel and other International Legal Issues Related to the Question of Palestine
RES/56/S8	Violent Extremism and Terrorism (Legal Aspects)
RES/56/S17	International Law in Cyberspace

Special Meetings

RES/56/SP1

Half-Day Special Meeting on “Selected Items on the Agenda of the ILC”

RES/56/SP2

Half-Day Special Meeting on “International Criminal Court: Recent Developments”

Consideration of the Summary Report:

The draft summary report of the Fifty-Sixth Annual Session was placed for the consideration of Member States, which was provisionally adopted by them. Member States were given one month up to 5 June 2017 to submit their clarifications and queries on it, after which the same would be finalized.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you, Mr. President. 5 June, 2017 is the last date for Member States to submit their comments, if any, on the Summary Report. With regards to the adoption of the resolutions, Mr. President, we understand that informals on certain resolutions of certain substantive matters is still going on. However, resolutions on Budget and Secretary-General’s Report have been agreed upon. And since the Statutory Rules require that resolutions should be limited to budget and administrative matters, and since those two resolutions have already been circulated to all delegates, the delegates are requested to endorse those two resolutions, and let any comments regarding the substantive matters be directed to the Secretariat, as per the statutory rules. Thank you.

President: Thank you. We are guided by the wisdom of the Secretary General in that regard. This meeting notes, therefore, that regarding the two resolutions that we are required to adopt, namely the Budget and the Secretary-General’s Report that is deemed to have formally taken place.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you, Mr. President. Ordinarily the Secretariat would prepare draft resolutions on every agenda item that is presented for deliberations at the Annual Sessions, and time would be set for informals in order to receive comments, suggestions or any clarity that is needed for the Member States. And it is through informals that the final document is now prepared and presented to the Member States for adoption.

Delegate of the Republic of Sudan: It is my understanding that the Summary Report would be submitted in this Session for adoption paragraph by paragraph?

President: I will ask the Secretary-General to make clarifications.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you, Mr. President. The Summary Report has to be distinguished from the Verbatim Record. Everything spoken in this Session will be recorded in our Verbatim Record, and that Verbatim Record will again be shared with all Member States. Therefore, there is a possibility that certain aspects may not be covered in the Summary Report, but the Verbatim Record will be comprehensive to cover every aspect.

President: There is an intervention from the Republic of Sudan.

Delegate of the Republic of Sudan: Sudan has certain proposals to make concerning the proposal made by Sudan regarding the agenda item concerning the Recent Developments under ICC.

President: Thank you. I will ask the Secretary-General to respond.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Thank you, Mr. President. The representation from the Republic of Sudan has been fully covered, and will be fully reflected in our Verbatim Record, which will include the draft proposal of the resolution regarding the agenda item, “The ICC: Recent Developments”, within which the Republic of Sudan wishes to place the item within the AALCO work program. At the same time we do recognize that we have received a recommendation by way of a draft resolution from the Republic of Korea on this matter. Both these resolutions have been subjected to informals with a view of merging the two resolutions so as to have one resolution per agenda item.

I understand that informals on the substantive matters is still going on. However, Statutory Rules require, and I read “Rule 13 (12): The decision of the Committee on matters of substantive character on the subject placed on the agenda shall be adopted in the plenary meeting in the form of recommendations, to be incorporated in a Report, interim or final, for submission to the participating States.

Mr. President, it is on this basis that in my Secretary-General’s Report I clearly indicated that AALCO as consultative organization will henceforth will limit adoption of resolutions only to matters pertaining to financial and administrative matters. Therefore, recommendations regarding the substantive agenda items will be incorporated in the form of recommendations in the Report.

President: I think the explanation given by the Secretary-General was quite straight forward. Therefore, every issue raised during this meeting will be reflected in the Verbatim Record, and will be incorporated in the Report before the Fifty-Seventh Session.

Delegate of the Republic of Sudan: Certain mistakes are there to be fixed in the Summary Report before it may be adopted by Member States. I hope that chance will be given to us.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Mr. President, the draft Summary Report that has been circulated is really a draft. We have circulated this draft amongst Member States for them forward any suggestions in terms of omissions or mistakes made, and any additions to be made that will reflect the actual presentation in this Session. Those suggestions should reach the Secretariat before 5 June. Therefore, we have 30 days’ time to receive any suggestions, and the same will be reflected in the final Report.

President: I thank the Republic of Sudan to make this intervention and help all of us clarify the situation. Now, it is my pleasure and privilege, as the President of the Fifty-Sixth Annual Session, to present the concluding remarks.

I would first of all like to thank all the delegates who came to Nairobi, and who have very actively participated in the various sessions and side-events. Thank you very much, indeed. I would in particular like to thank the delegations of the People's Republic of China and of the State of Japan for sponsoring the side-events, which were very important for our work. These were the side-event on combating illegal trade in wild fauna and flora, and the side event on the rule of law. I would encourage other delegations in our future meetings to follow this leadership.

Secondly, I would like to thank the Secretariat, headed by the Secretary-General, his Deputies Secretary-General and his other energetic staff members, all the way from New Delhi. Thank you for your hard work both before and during the Conference. We know you are going to do some more work before you return back to New Delhi, to prepare the final report.

I would like to thank the staff of the office of the Attorney-General in Kenya, for the support that they extended to the AALCO Secretariat. I would also like to thank the staff of the Kenyatta International Convention Center for making all the facilities available, and to make sure we had everything we needed to make this a successful event. I thank the security apparatus of the Republic of Kenya. And I think I speak for all the delegates when I say that we were all in a safe and secure environment to conduct our business. I would thank the Ministry of Foreign Affairs of the Republic of Kenya, which has facilitated the protocol that has seen our delegates move from to various places, and I hope also to their final destination. I thank our interpreters. We know that in a meeting such as this interpretation is not very easy. I think you did a fantastic job.

Finally I would like to appeal to Members to contact the Secretariat as soon as possible, so that we can agree on a venue for our Fifty-Seventh Annual Session. We do look forward to going to all of these nice places from where our membership comes.

Prof. Dr. Kennedy Gastorn, Secretary General of AALCO: Delegates, ladies and gentlemen, After closure of the Session I would like to inform that the afternoon session has been left open for delegates to explore what the city of Nairobi has to offer. I would also like to add that the continuing discussions in the informals may still be communicated to the Secretariat, particularly on areas of substantive matters. Thank you.

President: On this happy note, ladies and gentlemen, it is my pleasure to declare the Fifty-Sixth Annual Session officially over, and to invite you all to enjoy Nairobi and the delights of the Republic of Kenya. Thank you.

Now, I declare the Fifty-Sixth Annual Session of AALCO closed.

XVIII. TEXT OF THE DOCUMENTS ADOPTED AT THE FIFTY-SIXTH ANNUAL SESSION

A.SUMMARY REPORT



AALCO
Asian-African Legal Consultative Organization
Fifty-Sixth Annual Session
1 to 5 May 2017
Nairobi, Republic of Kenya

SUMMARY REPORT²⁴
OF THE FIFTY-SIXTH ANNUAL SESSION OF THE
ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

1. Introduction

- 1.1. **26 Member States of the Asian-African Legal Consultative Organization (AALCO) participated in the Fifty-Sixth Annual Session (hereinafter "the Session") namely, Bangladesh, Cameroon, People's Republic of China, India, Republic of Indonesia, Islamic Republic of Iran, Republic of Iraq, Japan, Republic of Kenya, State of Kuwait, Malaysia, Nepal, Federal Republic of Nigeria, Sultanate of Oman, State of Qatar, Republic of Korea, Kingdom of Saudi Arabia, Democratic Socialist Republic of Sri Lanka, State of Palestine, Republic of Sudan, United Republic of Tanzania, Thailand, Republic of Turkey, Uganda, United Arab Emirates and Socialist Republic of VietNam.**
- 1.2. **Representatives of the following Regional Arbitration Centres of AALCO were also present: Kuala Lumpur Regional Centre for Arbitration (KLRCA), Cairo Regional Centre for International Commercial Arbitration (CRCICA), Nairobi Centre for International Arbitration (NCIA) and Tehran Regional Arbitration centre (TRAC).**

Observers were admitted to the Session:

I. **Representatives from the following Non-Member States: Belgium, Democratic Republic of Congo, Ethiopia, Malawi, Mozambique, Rwanda, Russian Federation, Zambia, and Algeria,**

II. **Representatives of the following International Organization: International Committee of Red Cross (ICRC), Board of Grievances, Saudi Fund for Development, National Counter Terrorism Center (NCTC), and the United Nations Environment Programme (UNEP)**

²⁴ This Summary Report reflects all the comments received from Member States till 5 June 2017.

2. Inaugural Session

2.1. The Fifty-Sixth Annual Session of AALCO commenced on 2 May 2017. **His Excellency, Prof. Githu Muigai, Attorney General of the Republic of Kenya**, in his opening address, emphasized the continued significance of AALCO as the only legal Organization representing nations of Africa and Asia. He recalled the stellar role played by Mr. Frank X. Njenga, the first African Secretary-General of AALCO in raising the profile of the Organization across the globe. He pointed out that this is the third time that Republic of Kenya is hosting AALCO Annual Session which goes on to signify the importance it attaches to the rule of law and Bandung spirit of friendship and cooperation among the Asian-African States. He warmly welcomed Socialist Republic of VietNam, the 47th Member State of the Organization, to the AALCO fraternity.

2.2. **His Excellency, Prof. Dr. Kennedy Gastorn, Secretary-General of the Asian-African Legal Consultative Organization (AALCO)** welcomed all delegations to the Session stating that their continued participation motivated AALCO to serve its Member States better. Thereafter, he thanked the host country for having made all the necessary arrangements for the Sessions, as well as for the its various contributions not only for AALCO but also for the development of international law.

He also emphasized on the enhanced relevance of AALCO as well as the ‘Bandung Spirit’ in the contemporary world due to the myriad developments in the international arena. Thereafter, he went on to brief the Session about the current work programme of AALCO and about why AALCO’s work remain important in that regard. These areas included violent extremism and terrorism, status and treatment of refugees, developments relating to International Criminal Court, Cyberspace and the prolonged illegal Israeli occupation of the Palestinian territories.

2.3. **His Excellency, Mr. Rajesh Swamy, Deputy High Commissioner of India to Kenya**, represented **Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India** and **the President of the Fifty-Fifth Annual Session** and delivered a statement on his behalf. He expressed his profound gratitude to Republic of Kenya for hosting the Fifty-Sixth Annual Session of AALCO. He recalled the commendable contributions of Kenya to AALCO activities. He called for strengthening the role of AALCO Regional Arbitration Centres in promoting alternate dispute mechanisms across Asia and Africa.

2.4. **His Excellency, Hon. William Ruto, Deputy President of Republic of Kenya**, in his inaugural address, warmly welcomed all delegates to the beautiful city of Nairobi and Kenya, the cradle of humanity. He thanked the founding leaders of AALCO for their vision to strive towards ensuring an equitable world order based on International Law. He urged the Member States to strive towards strengthening solidarity and brotherhood and in ensuring that their collective voices are heard in the international community. He recalled the significant role played by AALCO in the progressive development of International Law, especially in the formulation of the Law of the Sea. He voiced his country’s support for the work of AALCO, as well as mentioned the importance of AALCO, both as a symbol and as a tool of the “Bandung Spirit” and the collective will of the people of Asia and Africa. He also noted the timely nature of the discussion of the topics at the Session, especially in light of recent global events concerning international law and international relations.

2.5. The vote of thanks was delivered by the Head of the Chinese Delegation, **Mr. Xu Hong, Director General of Department of Treaty and Law, Ministry of Foreign Affairs, People's Republic of China** on behalf of **HIS EXCELLENCY, Mr. Liu Zhenmin, Vice Foreign Minister, People's Republic of China and President of the Fifty-Fourth Annual Session of AALCO.**

3. First Meeting of the Delegations of AALCO Member States

3.1. **His Excellency, Mr. Rajesh Swamy, Deputy High Commissioner of India to Kenya, representing Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India and the President of the Fifty-Fifth Annual Session,** called the Meeting to order. The following agenda was adopted for the Fifty-Sixth Annual Session:

3.2. Agenda

I. Organizational Matters

1. Consideration and Adoption of the Agenda
2. Election of the President and Vice-President
3. Admission of new Member States
4. Admission of Observers
5. Report of the Secretary-General on the Work of AALCO
6. Budget for the Year 2018
7. Report on the Work of the AALCO's Regional Arbitration Centres
8. Report of the Chairperson of Working Group on International Law in Cyberspace
9. Report by the Chairman of the EPG
10. Venue for the Fifty-Seventh Annual Session

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

1. The Status and Treatment of Refugees
2. Violations of International Law in Palestine and Other Occupied Territories by Israel and Other International Legal Issues related to the Question of Palestine
3. Violent Extremism and Terrorism (Legal Aspects)
4. International Law in Cyberspace

III. Two Half-Day Special Meetings

1. Special Meeting on "Selected Items on the Agenda of the International Law Commission"
2. Special Meeting on "The International Criminal Court: Recent Developments"

IV. Any Other Matter

Side events:

(1) International Workshop: Promoting Rule of Law in Asia and Africa – Japan’s Contribution, hosted by the Government of Japan on 2 May 2017.

(2) Combating Illegal Trade on Wild Fauna and Flora through Co-operation under International Law Framework”, co-hosted by the Government of the Republic of Kenya and the Government of People’s Republic of China on 3 May 2017.

3.3. Admission of New Members: The Head of the Delegation of Socialist Republic of VietNam, which was admitted to the Organization as the 47th Member State delivered a statement thanking all Member States for the support they extended in confirming its admission and pledged to abide by the Statutes of the Organization and take proactive measures towards raising the Organization to greater heights.

3.4. Admission of Observers: Belgium, Democratic Republic of Congo, Ethiopia, Malawi, Mozambique, Rwanda, Russian Federation, Zambia, Algeria, Board of Grievances, Saudi Arabia; International Committee of Red Cross and Saudi Fund for Development were admitted as Observers to the Fifty-Sixth Annual Session.

3.5. His Excellency, Mr. Rajesh Swamy, Deputy High Commissioner of India to Kenya, representing **Dr. V.D. Sharma, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs, India** and the President of the Fifty-Fifth Annual Session, invited the Member States to propose candidates for the posts of President and Vice-President of the Fifty-Sixth Annual Session of AALCO. The Indian delegation proposed the nomination of **His Excellency, Prof. Githu Muigai, the Attorney General of Republic of Kenya** as the President of the Fifty-Sixth Annual Session of AALCO. The nomination was seconded by the Head of the Delegation of Tanzania and he was unanimously elected. The Head of Delegation of Republic of Kenya proposed the nomination of **Her Excellency, Dr. Vilawan Mangklatanakul, Deputy Director-General, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, Thailand** as the Vice-President of the Fifty-Sixth Annual Session. The proposal was seconded by the Head of Delegation of Japan and she was unanimously elected. Thereafter, **Mr. Rajesh Swamy** invited the President and Vice-President of the Fifty-Sixth Annual Session to assume their positions on the dais.

3.6. The newly-elected President **His Excellency, Prof. Githu Muigai, the Attorney General of the Republic of Kenya,** thanked the Member States for nominating him as the President. He also congratulated the outgoing President on completion of his successful tenure as the President of Fifty-Fifth Session.

4. First General Meeting

4.1. Release of AALCO Publications: The following AALCO publications were released: Yearbook of the Asian-African Legal Consultative Organization (2016, Vol. XIV); AALCO Journal of International Law (2015, Vol.4, Issue 2); and Two Special Studies (i) “Legality of Prolonged Israeli Occupation of the Occupied Palestinian territory and its Colonial Practices under International Law and International Humanitarian Law”; and (ii) International Law in Cyberspace.

5. Second Meeting of Delegations of AALCO Member States

Agenda Item: Report of the Secretary-General

5. 1. The Secretary-General thanked the Member States for unanimously electing him as the sixth Secretary-General of AALCO and stated that he would work towards strengthening Asian-African solidarity in international legal affairs as well as strive for increasing the membership of AALCO. He warmly welcomed VietNam, which joined the AALCO family recently. Thereafter, he summarized the activities undertaken and mandates fulfilled since the Fifty-Fifth Annual Session and made a brief presentation on the financial and administrative matters. He also outlined his vision and plans on how he intended to revitalize and further strengthen the Organization. He also put forth his future plan of action, where he sought the cooperation of Member States to make constructive changes to some of the working modalities of the Annual Session and some other meetings, in order to ensure maximum utilization of time and expertise of the membership. He also mentioned his plans to augment the Arabic unit at the Secretariat for the benefit of the Arab Membership.

Agenda Item: Discussions on the Budget for 2018

5.2. **The Deputy Secretary-General of AALCO** briefed about the current financial situation and thanked Member States who had paid their contributions, as well as those who have started paying up their arrears. Then he presented the budget for the year 2018, which is USD 615,900, an increase of USD 45,300 from the previous year's budget. He outlined the salient features of the budget for the year 2018, which included the draft regulations to be adopted on the Education Allowance for the SG's dependent children, the implications of the implementation of the 7th Pay Commission Recommendations to the locally recruited staff of AALCO, and the increase in the maintenance of the headquarters and the SG's residence. He also drew attention to the Secretariat's continuous commitment to take measures for cost-saving and strengthening AALCO's financial basis.

5.3. The following Member States made their comments on the Budget for the year 2018: **India, Tanzania, Republic of Korea and Japan**. All of them appreciated the statements made by the DSG and the documentation produced by the Secretariat on the subject. While welcoming the proposal of the Secretariat to implement the 7th Pay Commission for its Staffs, the Delegation of India observed that the same should be implemented with retrospective effect i.e, from 1st January 2016 and that disbursement of the arrears of the 7th Pay Commission should not be made contingent upon AALCO Secretariat receiving voluntary contribution from Member States. He also drew attention to the discrepancy in the fixation of salaries in relation to certain categories of AALCO staffs. He wanted this anomaly to be rectified.

5.4. One delegation stated that the definition of 'school education' as mentioned in the draft budget resolution should be expanded to include pre-primary education for three years old and above as well. He was of the view that since the provision of education allowance is being made specifically to the current Secretary General who has three children, and on an exceptional basis, it would only be fair that it covered all the children. He also gave a recommendation that given

the cost of education in India, the bracket placed by the Government of India to the suggested amount of US \$ 2,400 per child (in operative Para 2 of the draft resolution on the subject) be removed. Some delegations stated that they reserved their right to make further comments on the issue when the resolution on the same would be taken up in the Informal Consultation.

6. Second General Meeting

6.1 At the Fifty-Sixth Annual Session of AALCO, the following delegations made their general statements: **State of Qatar, Japan, Sultanate of Oman, People's Republic of China, United Arab Emirates, Islamic Republic of Iran, Sudan, Tanzania, State of Kuwait, Indonesia, Sri Lanka, Socialist Republic of VietNam, Kingdom of Saudi Arabia, Thailand, Republic of Korea, Republic of Kenya, Nepal and India.** The observer delegation of ICRC also presented his statement.

6.2. All delegations congratulated the President and Vice-President on their respective elections to the posts, and thanked the President of the Fifty-Fifth Annual Session for his able leadership and guidance in guiding the activities of AALCO during 2016-17. They also congratulated Secretary-General Prof. Dr. Kennedy Gastorn for his constructive efforts to expand the activities of the Organization and increase its membership since assuming office. Further, they warmly welcomed the Socialistic Republic of VietNam to the family of AALCO. They also expressed their appreciation to the AALCO Secretariat and the Government of Kenya for the arrangements made by them for the Annual Session.

6.3. Many delegations pointed out that AALCO has, since its inception in 1956, played a significant role in promoting the rule of law in Asia and Africa, which in turn contributed to the progressive development of International Law. Several delegations also emphasized the relevance of the United Nations Charter and other relevant international instruments in promoting rule of law across the globe. They reiterated their commitment to upholding the rule of law in their national and international conduct. Few delegations also stressed the need to strengthen support to States in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building. The need for discussions on the rule of law to take into account the diversity of legal systems in the world was also highlighted.

6.4. Some delegations called the attention of the Member States of AALCO to the spread of violent extremism and terrorism in Asia and Africa and reminded them the critical role of international legal institutions and instruments in preventing and thwarting such threats. They also described their domestic and international legal efforts to effectively address this issue. One delegation brought attention to the creation of a Centre for Dialogue between Different Religions and Cultures in collaboration with the United Nations to promote cross-cultural and common understanding embedded in all of them. One delegation specifically called upon AALCO to draft a definition of terrorism. Another delegation reminded the Member States about the proposal they had floated in 2012 for the establishment of a Permanent Observer Mission of AALCO in Nairobi. It communicated its willingness to facilitate discussions with the United Nations in this regard.

6.5. Several delegations spoke about the importance of multilateralism and international cooperation and coordination to deal with contemporary legal challenges emanating from the proliferation of the Internet and prevailing refugee crisis in many parts of the world. In this regard, they stated the significance of regional bodies like AALCO has become all the more relevant to consolidate views and build consensus to ensure global peace and equitable economic development leading to the achievement of Sustainable Development Goals. Attention was also drawn to the New Delhi Declaration adopted last year on the eve of the 60th Anniversary of AALCO in terms of charting the future trajectory of the work of AALCO. In this regard the need to strengthen the financial base of AALCO was also stressed by few States. The observer delegate *inter alia* spoke about contemporary challenges to the application of International Humanitarian Law in many countries and its close cooperation with AALCO.

7. Third General Meeting

Agenda Item: Violent Extremism and Terrorism (Legal Aspects)

7.1. **The Chairperson of the Working Group on Violent Extremism and Terrorism** introduced the agenda item by briefly outlining the work that has been done by AALCO on the topic of Violent Extremism and Terrorism over the previous years. She also recapped the proceedings at the meeting of Working Group on Violent Extremism and Terrorism that had been held immediately prior to the Annual Session. The Chairperson recalled that there appeared to be consensus among the delegates who attended the meeting with regard to the opinion that there was no pressing need to hurriedly adopt any instrument on violent extremism. To this effect, the delegates had agreed to a proposal that the draft resolution for the topic of Violent Extremism and Terrorism should acknowledge the work of the Secretariat in facilitating the work on the AALCO principles and guidelines to combat violent extremism and its manifestations. However, they also agreed that the resolution should not contain any language pertaining to the adoption of any instrument or additional document, nor should it prejudice any future work done on the topic by States.

7.2. Thereafter, the following delegations made their statements on this agenda item: **Republic of Iraq, State of Qatar, State of Kuwait, Oman, People's Republic of China, Indonesia, India, Republic of Korea, Japan, Republic of Sudan, Islamic Republic of Iran, Republic of Kenya, Turkey and Socialist Republic of VietNam.**

7.3. Several delegations noted the frequency of occurrence of terrorist attacks, and emphasized the great importance they attached to preventing and combating terrorism in all its forms and manifestations, including the growing problem of foreign terrorist fighters. They stated that international cooperation is required to deal with this problem and that a comprehensive approach is required to address the root causes of these crimes. However, combating terrorism should not become an act of terrorism in itself. They were of the view that international community should focus on the removal of breeding grounds of terrorism.

7.4. Many delegations were of the view that strengthening of cooperation at the international, regional and bilateral levels was necessary in order to counter the threats of terrorism and violent extremism. They were of the further view that international counter-terrorism actions should be guided by the principles and purposes of the UN Charter, including international human rights and humanitarian laws. Several delegations also noted that they had been victims of acts of terrorism and violent extremism, and that they are parties to various international counter terrorism conventions and protocols, and the various legislations that they have enacted to deal with all aspects of terrorism. Delegations also reiterated that terrorism and violent extremism cannot and should not be associated with any religion, nationality or civilization. As the terrorists attack the cultures of people, and subjugate them, they should be stripped from any identity of fighters for freedom. The delegations were also of the view that there should be an enhancement of information exchange, to destroy safe havens for terrorists, their financial flows and support networks.

7.5. Finally, the delegations agreed to the proposed amendments to the draft resolution on this topic.

Agenda Item: The Status and Treatment of Refugees

7.6. The **Secretary-General** outlined the important work done in the past by AALCO under the topics of “The Status and Treatment of Refugees” as well as “Legal Protection of Migrant Workers.” The mentioning of both these topics was relevant due to the *New York Declaration* which was adopted in 2016 and which related to the protection of both migrants and refugees. The SG touched on the possible importance of the Declaration to the AALCO Member States, as well as the importance of the participation of AALCO Member States in the future negotiation of the proposed Global Compacts on Migrants and Refugees and the Comprehensive Refugee Response Framework.

7.7. Thereafter, the delegates of **Indonesia, India, Thailand, People’s Republic of China, Republic of Korea, Japan, Republic of Sudan, Islamic Republic of Iran and the Observer Delegation of ICRC** presented their views on the agenda item.

7.8. The delegations agreed that refugee issues, including issues of irregular migrants, have become increasingly complex in recent years. The issue of refugees is transnational in nature and in many cases involved organized crime groups, which lead to the potential threat of the smuggling of people and the trafficking in persons. Enhancing bilateral, regional and international-level cooperation is an imperative to effectively deal with this complex problem. Some delegates maintained that the adequate and timely protection of people in need makes it necessary to maintain a distinction between migrants, refugees, and Internally Displaced Persons (IDPs). Some delegates also asserted that responsibility-sharing should be based on agreed principles of common but differentiated responsibilities. Some delegations also called for addressing the root causes of refugee crisis. They also stressed upon the significance of timely rehabilitation and resettlement as the durable solution to this problem.

7.9. Some delegations welcomed the adoption of the New York Declaration for Refugees and Migrants by the UN General Assembly in September 2016. They considered it a step forward in

reaffirming States' commitments to fully respect human rights and in pledging robust support to countries affected by large movements of refugees and migrants. They also expressed their anticipation of the proposed global compacts. In this regard, one delegation urged the AALCO Secretariat to organize a capacity building programme in collaboration with the UNHCR. Delegations also recognized the contribution of AALCO towards solving refugee issues through its adoption of *Principles Concerning the Treatment of Refugees*, the *Burden Sharing Principles*, and the *Model Legislation on the Status and Treatment of Refugees*. Delegations also brought attention to their own domestic efforts to address refugee issues through the adoption of domestic measures and legislations, and reiterated their commitment to engage in cooperative international efforts.

8. Half Day Special Meeting on “Selected Items on the Agenda of the International Law Commission”

8.1. **The Secretary-General** of AALCO gave a brief account of the *nine* topics that had been deliberated at the Sixty-Eighth session of the Commission: *Protection of the atmosphere; Jus cogens; Immunity of State Officials from foreign criminal jurisdiction; Protection of persons in the event of disasters; Subsequent agreements and subsequent practices in relation to the interpretation of treaties; Protection of the environment in relation to armed conflicts; Crimes against humanity; Provisional application of treaties and Identification of customary international law*. Thereafter, he enumerated the three major topics that were to be the subject of deliberation for the day, namely: *Protection of the atmosphere; Jus cogens* and *Immunity of State Officials from foreign criminal jurisdiction*; He encouraged the delegations to present their views on other agenda items of the Commission as well.

8.2. The following delegates presented their statements on the topics under discussion: **Republic of Sudan, Republic of Korea, People's Republic of China, India, Japan, Islamic Republic of Iran and Socialist Republic of VietNam.**

8.3. With respect to the topic of “Protection of Atmosphere” many delegations commended the work of Special Rapporteur, Prof. Shinya Murase and the Draft Guidelines adopted on the topic. They all acknowledged the importance of the topic as representing a compelling issue faced by the international community as a whole. Some delegations were of the view that the topic is a multifaceted one, containing political and scientific considerations. Some delegations welcomed the decision of the Special Rapporteur to study the interrelation of the law of the atmosphere with other fields of international law, as well as the discussion of differentiated obligations related to transboundary atmospheric pollution. Few delegations also underlined the need to take into account the special situation and needs of developing countries in dealing with this topic.

8.4 With respect to the topic of “Immunity of State Officials from Foreign Criminal Jurisdiction” some delegations noted and appreciated the work of its Special Rapporteur Ms. Concepcion Escobar Hernandez particularly in relation to the question of limitations and exceptions to immunity. Some delegations noted that the concept of Immunity of State Officials originated from the customary international law, namely the principle of sovereign equality, and the recognition by international law and at protecting sovereignty for ensuring peaceful international relations. Some delegations also expressed their views that the ILC should base its work on

sufficient State Practices and avoid advancing its work on the exceptions to Immunity in a hasty manner. Many delegations were of the view that more in-depth research on the relevant State practice needed to be conducted taking into account treaties, domestic laws, decisions of international and domestic bodies in taking the conceptual scope of the topic in future.

8.5. With regard to the topic of “*Jus Cogens*” most of the delegations appreciated the work of the Special Rapporteur, and expressed optimism that the work of the ILC on the topic would contribute to the progressive development of international law and its codification. Some delegations were of the view that since the elements of *jus cogens* concerned the major interests of all States; the deliberations on the topic should be strictly in line with the provisions of VCLT 1969. It was also suggested that the ILC clarify the implications of *jus cogens*, based on the practice of States. Many delegations were of the opinion that instead of listing the rules of *jus cogens*, it would be better to collect and study the State practices and to clarify on this basis the specific criteria of *jus cogens*. The need of Special Rapporteur to cover the consequences of breach of a *jus cogens* norm was also highlighted.

Agenda Item: International Law in Cyberspace

8.6. **The Deputy Secretary-General of AALCO** introduced the agenda item and highlighted the increasing importance of cyber-related issues in international forums. He discussed the deliberations on the topic of “International Law in Cyberspace” on AALCO forums. He then referred in brief to major developments in the area of international law in cyberspace, which have occurred over the past one year, and explained what those developments would entail for the international community. While noting the specific concerns that have been raised by Member States regarding this topic in the past, he expressed hope that the Special Study being released by the Secretariat at this Annual Session, as well as the Open-ended Working Group on International Law in Cyberspace, would go on to address most of them.

8.7. Thereafter, **Mr. Hossein Panahi Azar, the Chairperson of the Open-Ended Working Group on International Law in Cyberspace**, presented his report on the Second Working Group Meeting held on 9 and 10 February 2017 at AALCO Headquarters, New Delhi.

8.8. The following Member States presented their views on this topic: **State of Qatar, People’s Republic of China, Republic of Korea, India, Thailand, Republic of Sudan, Islamic Republic of Iran, Japan, Socialist Republic of VietNam and Indonesia.**

8.9. All delegations pointed out the significance of international cooperation to secure cyberspace for ensuring its safe use. The unique characteristics of cyberspace make it vulnerable to a multitude threats and building consensus for the formulation of substantive rules and regulations is an imperative to adequately address issues related to the regulation of cyberspace. In this regard, many delegations appreciated the work of the United Nations Group of Governmental Experts. They emphasized that the existing international law, including the UN Charter, applies to cyberspace.

8.10. Several delegations also pointed out the significance of fostering international cooperation and harmonization of national laws to effectively address proliferation in transnational cybercrimes. Further, some Member States described their domestic efforts to combat

cybercrimes. One delegation was of the opinion that Budapest Convention has potential for universal application for cybercrime investigation and prosecution. Another delegation supported the formulation of a global convention to combat cybercrimes and stated that it would complement regional instruments like Budapest Convention.

8.11. As regards governance of cyberspace, one delegation stated that the United Nations should have a predominant role on negotiating global norms in this regard. Further, one delegation reiterated its suggestion that AALCO may draft model laws on combating cybercrimes, and towards that end hold more inter-sessional meetings.

9. Half Day Special Meeting on “International Criminal Court: Recent Developments”

9.1. **The Secretary-General**, after briefly explaining the work of AALCO on this topic, pointed out that regional imbalance in prosecutions has become one of the major challenges for the International Criminal Court to address. He also briefly explained a few legal issues related to the referral and deferral powers of the United Nations Security Council under the Rome Statute. Further, he touched upon the significance of the principle of complementarity in legitimizing the functions and powers of the Court.

9.2. The **panelist, Mr. Dan Ochieng, Foreign Service Officer, Ministry of Foreign Affairs, Kenya**, began with a few general remarks before making his presentation. While stating that there exist varied opinions on the institution of ICC, he observed, however, that all 124 State Parties to the ICC agree in one voice that the implementation of the Rome Statute is critical in the fight against impunity, and that as the first permanent international criminal tribunal needed to conform to certain standards including independence, impartiality and the ability to deal with heinous crimes.

9.3. The first part of his presentation dealt with the recent developments that have taken place in relation to the ICC as regards its Assembly of State Parties (ASP) which is ICC’s principal organ. While terming these developments to be a positive one, he gave examples to substantiate his opinion. Pointing out the increased discussions that take place in the meetings of ASP in recent times, he noted that the ASP needed to address a number of legitimate issues including: how to resolve the conflict between national law and the Rome Statute; identify what kind of cooperation is expected from the State Parties; and how to enhance the participation of States with a view to achieve the principle of universality. Another positive development that he highlighted related to the development of ICC’s jurisprudence that have resulted from many decisions delivered by the Court. In this regard, he brought attention to a number of cases decided by the ICC including: *Prosecutor v. Germain Katanka*; *Prosecutor v. Bemba Gombo*; *Prosecutor v. Thomas Lubanga* and *Prosecutor v. Ahmad Al Faki*.

9.4. The second part of his presentation focused on the challenges facing the ICC in the current times. In his view, the first challenge related to the divided nature of the ASP that triggered the question of how to deal with dissenting voices expressed at the ASP. The second challenge related to modalities of reparations, i.e. how the ICC could address the question as well as the context of reparation? The third challenge in his view related to sentencing, i.e., the location of sentencing and the need to adhere to International Humanitarian Law (IHL) in that regard. The

fourth one was on how to address the budgetary constraints faced by the ICC which, in his view, acts as a limiting factor.

9.5. In closing, he stated that addressing these challenges remained critical for the ICC project to succeed. He also stressed the need for a positive engagement between African States and the ICC.

9.6. Thereafter, the delegations of **Republic of Sudan, People's Republic of China, Islamic Republic of Iran, Japan, Republic of Kenya, Republic of Korea and Malaysia** presented their views on the agenda item.

9.7. Many delegates reminded the Member States about the primacy of principle of complementarity and stated that the International Criminal Court (ICC) was established to supplement rather than substitute domestic jurisdiction. Many delegations also expressed their concern over the recent discussions regarding withdrawal of a few States from the Court. One delegation highlighted the issue related to the right of observer states to participate in informal consultations of the Assembly of State Parties. Another delegation stated that it is important for the ICC to avoid a politically-oriented approach in investigation on the crime of aggression.

9.8. As regards referral powers of the United Nations Security Council (UNSC), one delegation, who made an elaborate presentation, put forward his case against the legality of referral powers of the UNSC under Article 16 of the Rome Statute and the legitimacy of UNSC Resolution 1593. Another delegation stated that the UNSC has the legal basis to refer cases/situations to the Court as provided under the Rome Statute but whether the situations it chooses to refer to the ICC is fair and impartial is a subjective issue.

10. Fourth General Meeting

Agenda Item: Discussions on the Special Study on the "Legality of Prolonged Israeli Occupation of the Occupied Palestinian territory and its Colonial Practices under International Law and International Humanitarian Law"

10.1. **The Secretary-General** noted the significance of the year 2017 to the Palestinian people as it marked a hundred years from the *Balfour Declaration* and fifty years from the Six-Day War. He also noted that the Organization had long supported the Palestinian people's quest for freedom and autonomy and would provide to support it through the continuation of its activities such as the recently released Special Study on the *The Legality of Israel's Prolonged Occupation of Palestinian Territory and its Colonial Practices Therein*. He then outlined the framework for possible deliberations at the Session.

10.2. Thereafter, the delegates of **State of Qatar, State of Palestine, People's Republic of China, Islamic Republic of Iran and Japan** made their statements on the topic.

10.3. All delegations acknowledged the continuing grave violations of international law in the occupied Palestinian territories. They were of the view that the Palestine issue is now in the centre of the cause of the Middle East peace process. Some delegations supported the Two-State

Solution, while fully supporting the establishment of an independent State of Palestine with full sovereignty, with Jerusalem as its capital. All delegations voiced their objection on the issue of construction of Jewish settlements in the occupied Palestinian territories, as constituting a violation of international law. Several Member States called upon Israel to observe the UN Charter and other applicable rules of international law, and to cease its settlement activities, and recalled the Security Council Resolution 2334 that invalidated establishment of such settlements, in this regard. Some delegations also recalled the applicability of the Fourth Geneva Convention in this regard. Several delegations emphasized the need for greater international cooperation in obtaining just and lasting solution for the people of Palestine.

11. Third Meeting of the Delegations of AALCO Member States

Agenda Item: Report on the Work of AALCO's Regional Arbitration Centres

11.1. **The Secretary General/Deputy Secretary-General of AALCO** presented the introductory statement on the subject that gave a brief overview of the evolution of the regional arbitration centres of AALCO. He congratulated the Government of Kenya for their efforts to establish Nairobi Centre for Regional Arbitration which was inaugurated in December 2016. He urged the Centres to strengthen coordination and cooperation among them to better cater to burgeoning demand for institutionalized ADR mechanisms in developing economies of Asia and Africa.

11.2. This was followed by presentations made by the Directors of the following arbitration centres **Kuala Lumpur Regional Centre for Arbitration (KLRC)**, **Cairo Regional centre for International Commercial Arbitration (CRCICA)**, **Nairobi Centre for International Arbitration (NCIA)** and **Tehran Regional Arbitration centre (TRAC)**. These presentations outlined the activities undertaken by their respective Centres in the previous year.

Agenda Item: Report of the Chairperson of Eminent Persons Group

11.3. The Seventh Meeting of AALCO Eminent Persons Group (EPG) was convened at the Kenyatta International Centre, the venue for the Fifty-Sixth Annual Session of AALCO on 1 May 2017 at 2.45 PM. A report on behalf of the Chairperson was presented by the Deputy Secretary-General, wherein he highlighted the main points that had been discussed at the meeting and the way forward.

Adoption of Message of Thanks to the President of Republic of Kenya

His Excellency, Hon. Uhuru Kenyatta C.G.H.,

On behalf of all the Delegations of the Member States and Observers attending the Fifty-Sixth (2017) Annual Session of the Asian-African Legal Consultative Organization (AALCO), I would like to extend the following message as a token of our heartfelt gratitude and respect to the Government and People of the Republic of Kenya:

“We, the participants in the Fifty-Sixth Annual Session of the Asian-African Legal Consultative Organization, would like to seize this opportunity to convey our profound gratitude and respect to Your Excellency, and through you to your esteemed Government and the people of the Republic of Kenya, for graciously hosting the Fifty-Sixth Session of AALCO in this beautiful and vibrant city of Nairobi. Excellency, I thank the Government of Kenya on behalf of AALCO, and on my own behalf, for successfully hosting this Session and for the warm hospitality extended to all delegates.

Your Excellency, since it joined the Asian-African Legal Consultative Committee (AALCC) as it was called then in 1970, Kenya has attached great importance to the Organization and has always actively participated in the activities and work programme of the Organization, be it substantive, administrative or financial matters. Kenya has always taken a keen interest in the deliberations during the Annual Sessions and has undertaken to strengthen the agenda and the role of the Organization among the comity of nations.

Your Excellency would be pleased to know that a spirit of constructive dialogue and cooperation amongst attending delegations marked this Session, thus enabling us to take crucial decisions on organizational as well as substantive matters. Indeed, the full support extended by the Host Government was crucial in the success of this Session.

Once again, we the delegates of the Fifty-Sixth Annual Session of AALCO would like to place on record our sincere gratitude to the Government of Kenya for successfully hosting the Annual Session and making it a memorable event in the cosmopolitan and dynamic capital city of Nairobi.

Your Excellency, please accept the assurances of our highest respect and consideration and may the Almighty God bless the endeavours of your great country.”
Thank you.

11.4. ***Venue of AALCO’s Fifty-Seventh Annual Session:*** The Venue of the Fifty-Seventh Annual Session has not been decided.

Side Event: International Workshop— “Promoting Rule of Law in Asia and Africa – Japan’s Contribution”

11.5. A side event on ***“Promoting Rule of Law in Asia and Africa – Japan’s Contribution”*** organized by the Government of Japan was held during the lunch break on 2 May 2017.

Side-Event: Combating Illegal Trade on wild Flora and Fauna through Co-operation under International Law Framework

11.6. A side event titled ***“Combating Illegal Trade on wild Flora and Fauna through Co-operation under International Law Framework”*** jointly organized by the Governments of Kenya and People’s Republic of China was held after the lunch on 3 May 2017.

Adoption of Resolutions

11.7. The following resolutions were adopted at the third meeting of delegations of AALCO Member States on 5 May 2017.

Organizational Matters

1. AALCO/RES/56/ORG1

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

2. AALCO/RES/56/ORG2

AALCO's Budget for the year 2018

3. AALCO/RES/56/ORG3

Report on AALCO's Regional Centers for Arbitration

Substantive Matters

4. AALCO/RES/56/S3

The Status and Treatment of Refugees

5. AALCO/RES/56/S4

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

6. AALCO/RES/56/S8

Violent Extremism and Terrorism (Legal Aspects)

7. AALCO/RES/56/S17

International Law in Cyberspace

Special Meetings

8. AALCO/RES/56/SP1

Half-Day Special Meeting on "Selected Items on the Agenda of the ILC"

9. AALCO/RES/56/SP2

Half-Day Special Meeting on "International Criminal Court: Recent Developments"

Consideration of the Summary Report

11.8. The draft summary report of the Fifty-Sixth Annual Session was placed for the consideration of Member States. The Member States provisionally adopted the draft summary report and, thereafter, they were requested to send in their written comments on the same to the Secretariat latest by 5 June 2017, after which it would be finalized.

12. Fifth General Meeting and Concluding Session

Vote of Thanks

12.1. A vote of thanks on behalf of Asian Member States was proposed by the Head of Delegation of Socialist Republic of VietNam and a vote of thanks on behalf of the African Member States was given by the Head of Delegation of Tanzania. ICRC delivered vote of thanks on behalf of international organizations.

12.2. **His Excellency, Prof. Githu Muigai**, the President of the Fifty-Sixth Annual Session, delivered the concluding remarks.

The Fifty-Sixth Annual Session of AALCO was thereafter adjourned.

B. RESOLUTIONS

AALCO/RES/56/ORG 1
5 MAY 2017

**REPORT OF THE SECRETARY-GENERAL ON ORGANIZATIONAL,
ADMINISTRATIVE AND FINANCIAL MATTERS**

The Asian-African Legal Consultative Organization at its Fifty-Sixth Session,

Recalling the functions and purposes of the Organization as stipulated in Article 1 of the Statutes of AALCO,

Having considered the Report of the Secretary-General on Organizational, Administrative and Financial Matters pursuant to Rule 20(7) of the Statutory Rules as contained in Document No. AALCO/56/NAIROBI/2017/ORG 1,

Having heard with appreciation the introductory statement of the Secretary-General on the Report of the Secretary-General on Organizational, Administrative and Financial matters,

Also having heard with keen interest and appreciation the statements of the Heads of Delegations of AALCO Member States on the Report of the Secretary-General,

Recognizing the need to take forward the spirit of Bandung Conference in the current era which has witnessed many international legal challenges for the States of Asia and Africa,

Appreciating the efforts of the Secretary-General to enhance the activities of the Organization and to implement its work programme as approved at its Fifty-Fifth Annual Session held in New Delhi (HQ), India from 17 to 20 May 2016,

Also appreciating the continued practice towards the rationalization of its work programme, including consideration of the agenda items during its Annual Sessions,

Reiterating the mandate of the Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization, and the Action Plan as explained in Document No. AALCO/ES (NEW DELHI)/2008/ORG 1, adopted by the Extraordinary Session of AALCO Member States held on 1 December 2008, in New Delhi (Headquarters), India,

Welcoming the Socialist Republic of VietNam as the forty-seventh Member State of the Organization,

Also welcoming the efforts by the Secretary-General for revitalizing and strengthening AALCO, **Noting with satisfaction** the increased co-operation between the Organization and the United Nations and its Specialized Agencies, other international organizations and academic institutions,

1. **Approves** the work plan of the Organization as set out in the Report of the Secretary-General and amended by the present resolution, and urges Member States to extend their full support to the implementation of the aforementioned work plan;

2. **Encourages** Member States to make voluntary contributions to support the capacity building activities under the approved work plan of the Organization;
3. **Requests** the Secretary-General to ensure that the minutes of the Liaison Officers' meetings will be prepared and transmitted to the Missions, of Member States, based in New Delhi in a timely and cost-effective manner, including by sending a copy to their respective headquarters upon request of any Member State;
4. **Requests** the Secretary-General to continue his efforts and explore the ways and means to enlarge the Membership of the Organization in Asia - Africa, in particular, to increase the representation from the African States and Central Asian States, within resources;
5. **Also requests** the Secretary-General to discuss with African Member States to second at least one senior official to the Secretariat as Assistant Secretary-General or Deputy Secretary-General, within existing resources;
6. **Also requests** the Secretary-General to discuss with Arab Member States to second one senior official to the Secretariat as Assistant Secretary-General or Director to primarily oversee the Arabic Unit, within existing resources;
7. **Further requests** Member States, in their bilateral relations to encourage non-Member States to join AALCO;
8. **Mandates** the Secretariat to conduct a comprehensive review of the existing assessed scale of contributions, and make such a review to be considered by the Liaison Officers, and thereafter submit a report based upon the relevant minutes of the Liaison Officers' meetings to the Annual Session for its consideration and approval; and,
9. **Further requests** the Secretary-General to report on the activities of the Organization at its Fifty-Seventh Annual Session.

AALCO/56/RES/ORG 2
5 MAY2017

AALCO'S BUDGET FOR THE YEAR 2018

The Asian-African Legal Consultative Organization at its Fifty-Sixth Session,

Having heard with appreciation the introductory statement of the Secretary-General on the Proposed Budget for the Year 2018 as contained in the Document No. AALCO/56/Nairobi/2018/ORG 2,

Taking note of the comments of the Member States on the Proposed Budget,

Noting further the Proposed Budget for the year 2018 was placed before the 336th Meeting of the Liaison Officers held on 28th February 2017 at the Headquarters, New Delhi, and was submitted to the Fifty-Sixth Annual Session for final approval,

Considering that the Proposed Budget for the year 2018 is a realistic budget depending on the actual contributions to be received,

Acknowledging the need to replenish the Reserve Fund of the Organization, with the objective of ensuring that it always has a six-month operational fund for the functioning of the Organization,

Considering all the above-mentioned reasons to place the Organization on a firm financial footing,

Taking note of operative paragraph 2²⁵ of resolution AALCO/RES/55/ORG 1A, adopted in New Delhi on 20 May 2016 on "Regulations on AALCO's Secretary-General's Salary, Allowances and Other Emoluments",

Appreciating the discussions held in the Liaison Officers Meetings and Sub-Committee Meetings of Liaison Officers on the AALCO Secretariat's Human Resources and Financial Matters, wherein the issue of education allowance for the dependent children of the Secretary-General was discussed,

Also recalling operative paragraph 2 of AALCO/RES/55/ORG 2 adopted during the above mentioned Annual Session with respect to the 7th Pay Commission recommendations of the Government of India,

1. Approves the Budget for the year 2018 as amended;

²⁵ Decides to mandate the Liaison Officers Meeting to consider the issue of "Education Allowance" at its next meeting, and place it for consideration of the Member States at the next Annual Session.

2. **Approves** the allocation of Education Allowance during the tenure of the current Secretary-General, as an exceptional case and which will not be considered as a precedent in the future, for his up to three dependent children, upto 18 years, for their education in India. This amount shall not exceed a maximum of US\$ 2,400, per child annually upon the rendering of receipt of payment to the AALCO Secretariat. However, if funding could be available from other sources, the Organization shall not pay for the same.
3. **Approves** the use of the reserve fund for the implementation of the recommendations of the 7th Pay Commission of the Government of India in the context of the salaries and allowances of the locally recruited staff of AALCO, as long as the reserve fund is not depleted below the minimum amount required for six months' operational expenses of the Secretariat, from 5 May 2017 until 31 December 2018.
4. **Mandates** the Liaison Officers to review and make recommendations relating to the long-term implementation of the 7th Pay Commission beyond 31 December 2018, and from 1 January 2016 to 4 May 2017, and to place these recommendations before the Fifty-Seventh Annual Session for its consideration and approval.
5. **Requests** Member States who have not paid their annual contribution for the year 2017, to do so at the earliest in order to ensure the effective functioning of the Organization;
6. **Strongly** urges Member States, who are in arrears, to fulfill their financial obligations in accordance with the Statutes and Statutory Rules of AALCO, in order to expeditiously clear the same and directs the Secretary-General to report on the status thereon in the next Annual Session;
7. **Encourages** Member States to make voluntary financial contribution in order to improve the financial situation of AALCO;
8. **Mandates** the Secretary-General to explore ways and means of raising funds by additional sources in accordance with the Statutes and Statutory Rules of AALCO; and,
9. **Decides** to place this item on the provisional agenda of the Fifty-Seventh Annual Session.

AALCO/RES/56/ORG 3
5 MAY 2017

REPORT ON AALCO'S REGIONAL CENTRES FOR ARBITRATION

The Asian-African Legal Consultative Organization at its Fifty-Sixth Session,

Considering the Report on AALCO's Regional Centres for Arbitration contained in Document No. AALCO/56/NAIROBI/2017/ORG 3,

Noting with appreciation the introductory remarks made by the Secretariat and the report of the Directors of the Regional Arbitration Centres,

Reaffirming the commitment by the Governments of Member States towards enhancing the role of the Regional Arbitration Centres,

Recalling decision relating to the Integrated Scheme for the Settlement of Disputes in Economic and Commercial Transactions adopted at its Doha Session in 1978,

Expressing satisfaction over the increasing use of the facilities and the opportunities offered for both domestic and international arbitrations under the auspices of its Regional Arbitration Centres,

Appreciating the efforts and contributions of the Governments of the Malaysia, Arab Republic of Egypt, Federal Republic of Nigeria, the Islamic Republic of Iran, and the Republic of Kenya for hosting the respective Regional Arbitration Centres,

Further appreciating the promotional activities undertaken by the Directors of the Centres, including organization of seminars and training programmes, to promote international commercial arbitration in the Asian and African regions,

Reiterating the earlier decision of the AALCO on the necessity for the Governments of Member States to promote and support the use of the Regional Arbitration Centres,

Further reiterating its proposal, after consultation with the Directors of the respective Regional Arbitration Centres, for the holding of International Arbitration Conference biennially, by rotation in each of the Centres, with the support of Member States,

1. **Requests** the Member States to continue their support to the Regional Arbitration Centres and use the AALCO's Regional Arbitration Centres for resolving their disputes and in particular to consider in their contracts, the inclusion of the Arbitration Clause of AALCO's Regional Arbitration Centres;

2. **Urges** the Regional Arbitration Centres to consider to the extent possible, among themselves, the formation of a common system both administratively and financially between the Centres and common standards for the qualification of arbitrators;

3. **Directs** the Arbitration Centres to meet at every AALCO Annual Sessions to enable an exchange of ideas and to report the outcome to the Organization; and
4. **Decides** to place this item on the provisional agenda of the Fifty-Seventh Annual Session.

ALCO/RES/56/S 3
5 MAY 2017

THE STATUS AND TREATMENT OF REFUGEES

The Asian-African Legal Consultative Organization at its Fifty-Sixth Session,

Having considered the Secretariat Document No. AALCO/56/NAIROBI/2017/SD/S 3,

Welcoming the introduction by the AALCO Secretariat,

Reaffirming the importance of the 1951 Convention relating to the Status of Refugees together with the 1967 Protocol thereto, as complemented by the Organization of African Unity Convention of 1969, as the cornerstone of the international system for the protection of refugees,

Recognizing the landmark achievement of the coming into force of the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, also known as the “Kampala Convention”,

Reiterating the continued importance of the 1966 “Principles Concerning the Treatment of Refugees”, also known as the “Bangkok Principles”, as revised in 2001, and its 1987 addendum containing the “Burden Sharing Principles”,

Expressing concern about the gravity of refugee crises and emergencies afflicting every region of the world, particularly in the Asian-African region,

Reaffirming the need for cooperative and coordinated action in addressing refugees and migrant movement and ensuring the protection of their human rights, and their security,

Welcoming the 2016 New York Declaration for Refugees and Migrants, as well as its annexes

,
Commending the Office of the United Nations High Commissioner for Refugees (UNHCR) for the important contribution that it has made towards the protection of refugees,

1. **Acknowledges** the desirability of comprehensive approaches by the international community to the problems of refugees, including addressing root causes, strengthening emergency preparedness and response, providing effective protection, and achieving durable solutions, including their voluntary return and reintegration in accordance with international law;

2. **Encourages** Member States of AALCO that have not yet become a party to the 1951 Convention relating to the Status and Treatment of Refugees and the 1967 Protocol thereto as well as other relevant international and regional instruments to consider the possibility of ratifying them or becoming party to them as per their legislations;

3. **Encourages** Member States that have not yet done so to consider the possibility to ratify/accede to the 1954 Convention on the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the Kampala Convention;
4. **Directs** the Secretariat to explore, in the near future, the possibility of organizing a joint seminar or workshop in collaboration with UNHCR, Member States and other relevant organisations or institutions;
5. **Also directs** the Secretariat to also continue following developments in the negotiation of the proposed 2018 global compact on refugees as well as the 2018 global compact for safe, orderly and regular migration; and,
6. **Decides** to place the topic of “The Status and Treatment of Refugees” on the provisional agenda of subsequent Annual Sessions as and when necessary.

AALCO/RES/56/S 4
5 MAY 2017

**VIOLATIONS OF INTERNATIONAL LAW IN PALESTINE AND OTHER OCCUPIED
TERRITORIES BY ISRAEL AND OTHER INTERNATIONAL LEGAL ISSUES
RELATED TO THE QUESTION OF PALESTINE**

The Asian-African Legal Consultative Organization at its Fifty-Sixth Session,

Having considered the Special Study on “The Legality of Israel’s Prolonged Occupation of Palestinian and other Territories and its Colonial Practices Therein”, and the accompanying Executive Summary, prepared by the AALCO Secretariat,

Noting with appreciation the introductory remarks of the Secretariat,

Recalling and reiterating the decisions taken at the consecutive Annual Sessions of the Asian-African Legal Consultative Organization since 1988, when the topic was first introduced on the agenda of the Organization, in particular the decisions adopted on 22 April 1998 and 23 April 1999,

Also recalling and reiterating the resolutions adopted on 23 February 2000, RES/40/4 of 24 June 2001, RES/41/4 of 19 July 2002, RES/42/3 of 20 June 2003, RES/43/S4 of 25 June 2004, RES/44/S4 of 1 July 2005, RES/45/S4 of 8 April 2006, RESW/46/S4 of 6 July 2007, RES/47/S4 of 4 July 2008, RES/48/S4 of 20 August 2009, RES/49/S4 of 8 August 2010, RES/50/S4 of 1 July 2011, RES/51/S4 of 22 June 2012, RES/52/S4 of 12 September 2013, RES/53/S4 of 18 September 2014, RES/54/S4 of 17 April 2015, and RES/55/S4 of 20 May 2016,

Having followed with great interest the deliberations on the item reflecting the views of Member States,

Being concerned with the serious obstacles created by the occupying power, which hinder the achievement of a just and lasting peace in the region,

Recognizing that the massive Israeli military operation in the Occupied Palestinian Territories, particularly in the occupied Gaza strip, has caused grave violations of the human rights of the Palestinian civilians therein and international humanitarian law, and exacerbated the severe humanitarian crisis in the Occupied Palestinian Territories,

Also recognizing that the Israeli siege imposed on the occupied Gaza strip, including the closure of border crossings and the cutting of the supply of fuel, food and medicine, constitutes collective punishment of Palestinian civilians and leads to disastrous humanitarian and environmental consequences,

Welcoming the international and regional initiatives for peace in the Middle East,

Condemning Israel's acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and the Fourth Geneva Convention of 1949,

Stressing the need to compliance with existing Israeli-Palestinian agreements concluded in order to reach a final settlement,

Being concerned about the continuing dangerous deterioration of the situation in the Occupied Palestinian Territories, including East Jerusalem and Gaza strip, the continuous deportation of Palestinians from their homeland, and the continuing serious and systematic violation of human rights of the Palestinian people by Israel, the occupying power, including that arising from the excessive use of force, the use of collective punishment, the occupation and closure of areas, the confiscation of land, the establishment and expansion of settlements, the construction of a wall in the occupied Palestinian Territories, the destruction of property and infrastructure, use of prohibited weapons and all other actions designed to change the legal status, demographic composition of the Occupied Palestinian Territories, including East Jerusalem and Gaza strip, and about war crimes and crimes against humanity committed in these territories, and calling for the implementation of the relevant United Nations resolutions on the humanitarian situation of the Palestinian people,

Recalling the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006), as well as the United Nations initiative of establishment of a Register of Damage arising from the construction of the separation wall, and bearing in mind that more than ten years have elapsed since the International Court of Justice delivered its opinion,

Deeply concerned about the tenacity of Israel in proceeding with the construction of wall in the Occupied Palestinian Territory, including in and around East Jerusalem,

Acknowledging with deep concern that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall,

Expressing its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14th Arab Summit held in Beirut (Lebanon) on 28 March 2002 and reaffirmed in the 19th Summit Conference of the League of Arab States, Riyadh, 28-29 March 2007 as well as other peace initiatives, including the Quartet Road Map,

Taking note of conclusions and outcomes of all events held at both regional and international levels aiming at the achievement of a just, durable and comprehensive solution of the question of Palestine,

Also taking note of the initiation of a preliminary examination of the situation in Palestine by the Prosecutor of the International Criminal Court,

Affirming that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the Charter of the United Nations, existing agreement between the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony,

1. **Urges** its Member States to take part in the peace process/efforts exerted by the international community for the achievement of a just and comprehensive solution of the question of Palestine on the basis of relevant Security Council resolutions, including 242 (1967), 338 (1973), 425 (1978), 1397 (2002) and 1860 (2009), and relevant General Assembly Resolutions, including 194 (1949) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership;

2. **Takes note** of the findings of the United Nations Secretary General’s Board of Enquiry as transmitted on 4 May 2009 to the Security Council as well as the findings of the report of the Special Rapporteur of the Human Rights Council and other regional organizations;

3. **Also takes note** of the report of the Independent Fact Finding Committee on Gaza presented to the League of Arab States on 30 April 2009;

4. **Strongly condemns** the shocking developments that have continued to occur in the Occupied Palestinian Territory, including East Jerusalem, including the deportation of Palestinians from their homeland, the large number of deaths and injuries, mostly among Palestinian civilians, the acts of violence and brutality against Palestinian civilians, the widespread destruction of public and private Palestinian property and infrastructure, the internal displacement of civilians and the serious deterioration of the socio-economic and humanitarian conditions of the Palestinian people;

5. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians;

6. **Also demands** that Israel positively respond to the 2009 Report of Mr. Richard Falk the Special Rapporteur for the Palestinian Territories Occupied Since 1967 and 2010 Report and Recommendations of Justice Goldstone, United Nations Fact Finding Mission on the Gaza Conflict in order to protect the rights of Palestinians;

7. **Further Demands** that Israel comply with its legal obligations as mentioned in the Advisory Opinion rendered by the International Court of Justice in the case concerning the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004);

8. **Strongly demands** that Israel stop and reverse the construction of the wall in the Occupied Palestinian Territory;

9. **Strongly deplores** the Israeli blockade of the Gaza strip and its consequent human rights and humanitarian law violation;

10. **Further demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinians territories in implementation of Security Council Resolutions, including 1402 (2002), 1403 (2002), 1515 (2003), and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian territories occupied since 1967;

11. **Calls upon** Israel to ensure the return of refugees and displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions;

12. **Directs** the Secretariat to closely follow the developments in occupied territories from the perspective of relevant legal aspects;

13. **Decides** to place the item on the provisional agenda of the AALCO Annual Session as and when required.

AALCO/RES/56/S 8
5 MAY 2017

VIOLENT EXTREMISM AND TERRORISM (LEGAL ASPECTS)

The Asian-African Legal Consultative Organization at its Fifty-Sixth Session,

Having considered Secretariat Document No. AALCO/56/NAIROBI/2017/SD/S 8,

Having considered also the deliberations of the Working Group on Violent Extremism and Terrorism at this current Annual Session,

Noting with appreciation the introductory remarks of the Secretariat and the statements of the Member States during deliberations on “Violent Extremism and Terrorism (Legal Aspects)”,

Recalling its resolutions RES/53/SP2 of 18 September 2014, RES/53/S7 of 18 September 2014, RES/54/S9 of 17 April 2015, and RES/55/S9 of 16 May 2016,

Recalling also the discussions on the topic that took place at the two Inter-Sessional Meetings of Legal Experts on “Principles and Guidelines to Combat Violent Extremism and its Manifestations” on 28 and 29 January 2016 and 16 May 2016 respectively,

Taking note of the deliberations on the topic that took place at the meeting of the Working Group on Violent Extremism and Terrorism, that took place on 1 May 2017,

Taking note also of the work of the Secretariat relating to Violent Extremism and Terrorism, particularly in relation to documents AALCO/55/HEADQUARTERS (NEW DELHI)/2016/SD/S9 and AALCO/56/NAIROBI/2017/SD/S9, and its efforts in facilitating the work on principles and guidelines to combat violent extremism and its manifestations,

Mindful of the purposes and principles of the United Nations Charter,

Recollecting UN General Assembly Resolution—“A World against Violent Extremism” (A/RES/68/127) adopted by the General Assembly on 18 December 2013, UN Security Council Resolution 2178 (2014), UN Security Council Resolution 2199 (2015), and other relevant UN Security Council Resolutions,

Gravely concerned about the threats posed by acts of violence perpetrated by violent extremist and terrorist groups, particularly in the Asian-African region, which threaten the life and security of innocent people and impede the economic development and scientific activities of the concerned States, and desiring to put an end to such threats,

Dismayed by the upsurge in acts of violent extremism and terrorism in the Asian-African region, which threaten the life and security of innocent people and impede the economic development and scientific activities of the concerned States,

Strongly condemning any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence,

Recognizing the complex and volatile nature of the phenomenon of violent extremism, and the need for a comprehensive, cooperative and coordinated solution to the problems posed by this phenomenon,

Recalling the international efforts to eliminate violent extremism and terrorism, and reaffirming the need to strengthen those efforts in accordance with the Charter of the United Nations, taking into account the principles of international law including non-interference, respect for sovereignty and territorial integrity of all states,

Reaffirming Member States' obligations under international law relating to international human rights law, international humanitarian law, and international criminal law, as well as their commitments and obligations under sectoral conventions on terrorism to prevent, suppress, investigate and prosecute crimes perpetrated by extremist individuals and groups,

1. **Encourages** Member States to consider ratifying/acceding to the relevant conventions on terrorism and try to further develop legal instruments to combat violent extremism and terrorism;
2. **Urges** for action at the international, regional and bilateral level to fight impunity for acts of violent extremism and terrorism, *inter alia*, by adopting and implementing relevant national legislation, bilateral and multilateral instruments;
3. **Directs** the Secretariat to continue following developments in global and regional counter violent extremism and prevention of violent extremism efforts, as well as discussions on the matter at the international level;
4. **Decides** to place the topic on the provisional agenda of subsequent AALCO Annual Sessions as and when required;

AALCO/RES/56/S 17
5 MAY 2017

INTERNATIONAL LAW IN CYBERSPACE

The Asian-African Legal Consultative Organization at its Fifty-Sixth Session,

Having considered the Secretariat Document No. AALCO/56/NAIROBI/2017/SD/S17,

Recalling and reaffirming resolutions RES/54/SP2, adopted on 17 April 2015, and RES/55/S17, adopted on 20 May 2016,

Noting with appreciation the introductory statement by the AALCO Secretariat,

Taking note of the Special Study on the topic prepared by the AALCO Secretariat,

Taking note also of the Summary Report of the Chairperson of the Open-ended Working Group on International Law in Cyberspace, on the 2nd Meeting of the Open-ended Working Group on International Law in Cyberspace, held at AALCO Secretariat, New Delhi, on 9 and 10 February, 2017,

Recognizing the significance of cyberspace as an integral part of human interaction and its profound impact on Member States and their citizens,

Deeply concerned about new threats and challenges in the development and application of information and communication technologies such as cybercrimes, cyber-warfare and the use of cyberspace for terrorist purposes,

Noting with concern the escalation in various kinds of cyber-attacks perpetrated by State and non-State actors,

Underlining the need for enhanced coordination and cooperation among Member States in combating the criminal use of information and communication technologies,

Stressing the significance of the principles and rules of international law applicable to cyberspace, including those in the UN Charter,

Also stressing the need for further study of, and deliberation on, rules of international law on cyberspace issues, and to explore the areas of further development of international law on the issue as appropriate,

1. Encourages Member States to actively participate in the relevant regional and global forums deliberating on the governance of cyberspace and to strengthen their communication and cooperation in this regard;

2. Directs the Rapporteur of the Open-ended Working Group on International Law in Cyberspace to prepare a Report on the basis of the discussions that have taken place thus far among the Member States, and the Special Study prepared by the Secretariat, laying down a future plan of action for the Working Group;

3. Also directs the Secretariat to closely follow developments in international forums related to governance of cyberspace and cyber security, and to organize open-ended Working Group meetings, as and when necessary, depending upon the availability of finances, in collaboration with Member States, relevant international organizations or other institutions; and

4. Decides to place this item on the provisional agenda of the next Annual Session.

AALCO/RES/56/SP 1
5 MAY 2017

**THE HALF-DAY SPECIAL MEETING ON “SELECTED ITEMS ON THE AGENDA OF
THE INTERNATIONAL LAW COMMISSION”**

The Asian-African Legal Consultative Organization at its Fifty-Sixth Session,

Having considered the Secretariat Document No. AALCO/56/NAIROBI/2017/SD/SP 1,

Having heard with appreciation the introductory statement of the Secretary-General and the views expressed by the Member States during the Half-Day Special Meeting on “Selected Items on the Agenda of the International Law Commission” held on 4 May 2017 at Nairobi,

Having followed with great interest the deliberations on the item reflecting the views of Member States on the work of the International Law Commission (ILC),

Recognizing the significant contributions of the ILC to the codification and progressive development of international law,

1. **Recommends** Member States to continue to contribute to the work of ILC, in particular by communicating their comments and observations regarding issues identified by the ILC on various topics currently on its agenda to the Commission;
2. **Requests** the Secretary-General to summarize the views expressed by Member States during the Annual Sessions of AALCO on the items on its agenda, for the purpose of reporting them at the ILC Meetings;
3. **Also requests** the Secretary-General to continue convening AALCO-ILC meetings in future; and,
4. **Decides** to place the item on the provisional agenda of the Fifty-Seventh Annual Session.

AALCO/RES/56/SP 2
5 MAY 2017

**HALF DAY SPECIAL MEETING ON “INTERNATIONAL CRIMINAL COURT:
RECENT DEVELOPMENTS”**

The Asian-African Legal Consultative Organization at its Fifty-Sixth Session,

Having considered the Secretariat Document No. AALCO/56/NAIROBI/2017/SD/S10,

Taking note of the deliberations in the Assembly of State Parties to the Rome Statute, and noting the progress in cases before the International Criminal Court (ICC),

Also taking note of the deliberations at the Seminar on “The ICC and Asia: The Joint Quest for Justice, Accountability and Prevention” held in Seoul, Republic of Korea, on 4-5 April 2017,

Being aware of the importance of the universal acceptance of the Rome Statute of the ICC and in particular, the principle of complementarity,

Taking note of the proposal of the Government of Sudan regarding the ICC exercise of jurisdiction under the Rome Statute 1998, as reflected in the records of the Fifty-Sixth Annual Session,

Noting the diverse views expressed by Member States with regard to the operation of the ICC,

1. **Encourages** Member States which are not yet party to consider ratifying/acceding to the Rome Statute and upon ratification/accession consider adopting necessary implementing legislation;
2. **Further encourages** Member States that have ratified the Rome Statute to consider becoming party to the Agreement on the Privileges and Immunities of the ICC;
3. **Directs** the Secretariat to follow the deliberations in the Assembly of States Parties and follow the developments regarding cases taken up by the ICC;
4. **Requests** the Secretary-General to explore the possibility of convening a workshop in collaboration with the ICC and/or other international organizations and academic institutions, in a Member State of AALCO, for prosecutors and judges from AALCO Member States, aimed at capacity building and familiarizing them with the work of the ICC;
5. **Encourages** Member States of AALCO to consider, from a purely legal perspective, the issues and questions raised under the agenda item and discussions; and
6. **Decides** to place the item on the provisional agenda of an Annual Session of AALCO as and when required.

XIX. LIST OF PARTICIPANTS

**XIX. LIST OF PARTICIPANTS OF THE FIFTY-SIXTH ANNUAL SESSION OF
AALCO
HELD IN NAIROBI, 1-5 MAY, 2017**

- | | |
|-------------------------------|--|
| 1. Bangladesh | Ms. Loreen Omolo (HOD)
Social Secretary
High Commission of the People's Republic of
Bangladesh in Nairobi, Kenya |
| 2. Cameroon | Ms. Atabong Aruke Angelina (HOD)
Research Officer
Ministry of Justice |
| 3. People's Republic of China | Mr. Xu Hong (HOD)
Director General
Ministry of Foreign Affairs

Mr. Meng Xianlin
Executive Director General
The Endangered Species of Wild Fauna and Flora
Import and Export Management Office

Mr. Song Dong
Director
Ministry of Foreign Affairs

Mr. Zhou Qian
Director
Ministry of Foreign Affairs

Mr. Li Pengyu
Second Secretary
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Mr. Liu Ying
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Ms. Guo Yutong
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Professor
Wuhan University

4. India

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His Excellency, Mr. Hossein Panahi Azar (HOD)
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Ministry of Foreign Affairs

Mr. Djamchid Momtaz
Legal Advisor
Ministry of Foreign Affairs

- Mr. Ali Garshasbi
Legal Expert
Ministry of Foreign Affairs
- Mr. Ahmad Ghalandari
Deputy Permanent Representative of UNEP
& UN-Habitat
Ministry of Foreign Affairs
7. Republic of Iraq
His Excellency, Jamal Dulaimi (HOD)
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8. Japan
H.E., Mr. Koji Haneda (HOD)
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for Free Trade and Economic
Partnership Agreements Negotiations
Ambassador for International Economic Affairs
Ministry of Foreign Affairs
- His Excellency, Ms. Tomoko Akane
Ambassador for International Judicial Cooperation
Ministry of Foreign Affairs
Public Prosecutor
Supreme Public Prosecutors Office
- Ms. Kikuko Kato
Director, International Judicial Proceedings Division
Ministry of Foreign Affairs
- Ms. Sakura Ozaki
Official, International Legal Affairs Division
Ministry of Foreign Affairs
- Mr. Keisuke Senta
Director, Asia and Far East Institute for
the Prevention of Crime and the
Treatment of Offenders
- Ms. Ayano Matsudo
Law and Justice Team, Governance Group
Industrial Development and Public
Policy Department
Japan International Cooperation Agency
- Mr. Yoshihiro Katayama
Minister Counsellor, Embassy of Japan in
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- Mr. Mitsuhiro Kobayashi
First Secretary, Embassy of Japan in Nairobi, Kenya
Mr. Tokimitsu Kobayashi
First Secretary, Embassy of Japan in Nairobi, Kenya
Mr. Wataru Nishida
Second Secretary, Embassy of Japan in
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Mr. Tomohiro Tanaka
Second Secretary, Embassy of Japan in
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Mr. Yoshizumi Kusada
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9. Republic of Kenya

Hon. Prof. Githu Muigai (HOD)
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Government of Kenya

Mr. Njee Muturi
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CEO
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Mr. Issac Okero
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Ms. Anita Chepseba
Senior State Counsel

Mr. Allan Githaiga
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Ms. Belinda Kiilu
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Ms. Naomi Korir
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Ms. Mercy Olando

- State Counsel
- Mr. Eric Munene
State Counsel
- Mr. Martin Macharia
State Counsel
- Mr. Emmanuel Kiarie
State Counsel
- Mr. Stephen Terrell
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10. State of Kuwait
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- Mr. Faisal Mef Al Abdullah
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- Mr. Abdulaziz Adel AlIbraheem
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11. Malaysia
- Mr. Ahman Fuad Moho Norzin (HOD)
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Kenya
12. Nepal
- Mr. Dilli Raj Ghimire (HOD)
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Mr. Surya Nath Nayak Sudi
Officer
Secretariat of Minister for Law, Justice and
Parliamentary Affairs
13. Federal Republic of Nigeria
- Mrs. Eneibi Membre-Gwam (HOD)
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High Commission of the Federal Republic of
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14. Sultanate of Oman
- His Excellency,
Dr. Abdullah Bin Mohammed Bin
Said Al-Saidi
(HOD) Honorable Minister of Legal Affairs,
Sultanate of Oman
- His Excellency, Saleh bin Sulaiman Al-Harathi
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Legal expert
Department of Legal Affairs

Mr. Mehdi Misfer Al Yami
Third Legal Researcher
Department of Legal Affairs

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Mr. Kim Jae Woo
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17. Kingdom of Saudi Arabia

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Ministry of Justice

Mr. Alharbi Saad Saleh B
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Mr. Altheiban Ali Abdullah M
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Mr. Abdullah Al Sharif
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Mr. Abdulraman Binnouh
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Mr. Turki Aikhunayn
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Mr. Mohammad Al Riheli
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Mr. Alotaibi Hajab Aiedh
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18. Democratic Socialist Republic of Sri Lanka

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Mrs. M.N.B. Fernando P.C.
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19. State of Palestine

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20. Republic of the Sudan

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Hon'ble State Minister for Justice

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Mr. Adil Shamseldin Mohamed Yousif
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Ministry of Constitutional and Legal Affairs
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- Mr. Sunthorn Pliansee
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- Mrs. Natthanicha Lephilibert
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Office of the Council of State of Thailand
23. Republic of Turkey
- Ms. Ozge Bilge (HOD)
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24. Uganda
- Hon. William Byaruhanga (HOD)
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- Mr. Lubega Farouk
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25. United Arab Emirates
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- Mr. Abdulla Mustafa Jasem Mohammed Al Jasmi
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26. Socialist Republic of Viet Nam
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Ms. Vu Thu Hang
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Ms. Vu Ngoc Anh
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YBhg. Datuk Prof. Sundra Rajoo
Director

2. CRCICA

Dr. Ismail Selim
Director

3. TRAC

Dr. Oveis Rezvanian
Director

4. NCIA

Mr. Lawrence Muiruri Ngugi
CEO/Registrar

Ms. Barbara Wachia Kilei
State Counsel

Observer States

1. Russian Federation

Mr. Gennady Kuzmin
Deputy Director
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Ms. Oleg Senchenko
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- | | |
|-------------------------------|---|
| | Mr. Oleg Vlasov
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Embassy of Russian Federation in Nairobi, Kenya |
| | Mr. Astan Tugov
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Embassy of Russian Federation in Nairobi, Kenya |
| 2. Board of Grievances | Mr. Hajab Aiedh S Alotaibi
Judge
Board of Grievance
Saudi Arabia |
| 3. Saudi Fund for Development | Mr. Abdulelah Mohammed Alsaadan
Legal Adviser Assistant
Saudi Fund for Development |
| | Mr. Faisal Alkhaliwi
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Saudi Fund for Development |
| 4. DR Congo | Mr. Bosaw Botuli Geoffrey
Secretary to the Ambassador
Embassy of the D.R. Congo in Nairobi, Kenya |
| 5. Rwanda | Mr. Peter Matsiko
First Secretary
Rwanda High Commission in Nairobi, Kenya |
| 6. Zambia | Mr. Raphael Kauseni
Deputy High Commissioner
Embassy of Zambia in Nairobi, Kenya |
| 7. Mozambique | Mr. Martins Kumanga
Deputy High Commissioner
Embassy of Mozambique in Nairobi, Kenya |
| 8. Ethiopia | His Excellency, Dina Mufi
Ambassador
Embassy of the Federal Republic of Ethiopia
in Nairobi, Kenya |
| 9. Malawi | Ms. Christina Numero
Third Secretary
Malawi High Commission in Nairobi, Kenya |
| 10. Belgium | Mr. Hilde Van Inthovdt
Deputy Head of the Mission
Embassy of Belgium in Nairobi, Kenya |
| 11. Algeria | His Excellency, Mr. El Hamdi Salah F.
Ambassador |
| | Mr. Nabil Tibourtine
Deputy Ambassador |
| 12. Law Society of Kenya | Mr. David Ayuo |

- | | |
|---|---|
| | Advocate |
| | Mr. Ochieng Gor |
| 13. National Counter Terrorism Centre (NCTC) | Mr. Martin Kimani
Director |
| | Mr. Mwai Kennedy
Researcher |
| 14. Ministry of Environment & Natural Resources | Mr. Erustus Kanga
Deputy Director
Wildlife Conservation |
| | Mr. Patrick Omondi
Acting Director |
| 15. NJAGI and Company Advocates | Mr. Samuel Ochieng
Partner |
| 16. Consultant in International Arbitration | Mr. Edward Torgbor
Chartered International Arbitrator |

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- | | |
|---------|---|
| 1. ICRC | Mr. Thierry Meyrat (HOD)
ICRC, Nairobi |
| | Mr. David Quesne
Deputy Head of Delegation, ICRC Nairobi |
| | Dr. Eve Massingham
Regional Legal Advisor, ICRC, Nairobi |
| | Dr. Philip A. Njuguna Mwanika
Focal Point Incharge of Multilateral Affairs |
| | Mr. Charles Sabga
Legal Advisor, ICRC Geneva |
| | Ms. Linda Isabel Ngesa
Protection Officer |
| 2. UNEP | Ms. Maria Socorro Manguiat
Senior Legal Officer
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1. His Excellency, Prof. Dr. Kennedy Godfrey Gastorn
Secretary General
2. Mr. Feng Qinghu
Deputy Secretary General
3. Mr. Mohsen Baharvand

Deputy Secretary General

4. Mr. Yukihiro Takeya,
Deputy Secretary General
5. Mrs. Anuradha Bakshi
Principal Legal Officer
6. Mr. Sankaralingam Pandiaraj
Senior Legal Officer
7. Mr. Parthan V.
Legal Officer
8. Mr. Kiran Mohan V.
Legal Officer
9. Ms. Amrita Chakraborty
Legal Officer
10. Mr. Nihal Chand
Administrative Officer
11. Ms. Geetika Sharma
Private Secretary
12. Mr. Azizur Rahman
Translator
13. Mr. Zubair Farooqi
Interpreter
14. Mr. Mujeebur Rahman
Interpreter
15. Mr. Mhd. Bassam Naassan
Interpreter