

## **VI. (i) SUMMARY REPORT OF THE FORTY-SECOND SESSION OF THE ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION 16 –20 JUNE 2003**

### **1. Introduction**

- 1.1. The following Member States participated in the forty-second session of the Asian-African Legal Consultative Organization (hereinafter “the Session”): Bahrain, Bangladesh, Brunei Darussalam, People’s Republic of China, Arab Republic of Egypt, Ghana, India, Indonesia, Islamic Republic of Iran, Japan, Kenya, Republic of Korea, Kuwait, Lebanon, Malaysia, Mongolia, Myanmar, Kingdom of Nepal, Nigeria, Sultanate of Oman, Pakistan, Philippines, State of Qatar, Saudi Arabia, Singapore, Sri Lanka, Sudan, United Republic of Tanzania, Thailand, Turkey, Uganda and United Arab Emirates.
- 1.2. In accordance with the decision taken at the twenty-second session of the Asian-African Legal Consultative Organization in Colombo, Australia participated in the Session as Permanent Observer.
- 1.3. In accordance with Rule 18 of the Statutory Rules of the Asian-African Legal Consultative Organization, the following observers were admitted to the Session:
  - (1) representatives of the following non-participating States: Algeria, Bulgaria, Canada, Colombia, Czech Republic, Finland, France, Holy See, Hungary, Germany, Morocco, Russian Federation, South Africa, Spain, Tunisia, Ukraine, United Kingdom, United States of America and Vietnam; and
  - (2) representatives of the following regional, inter-regional and international organizations, specialized agencies and subsidiary bodies: International Committee of the Red Cross (ICRC), International Law Commission (ILC), International Criminal Tribunal for the former Yugoslavia (ICTY), Permanent Court of Arbitration (PCA), International Court of Justice (ICJ), International Criminal Court (ICC), The Saudi Fund for Development, United Nations Industrial Development Organization (UNIDO), the Regional Centre for Arbitration, Kuala Lumpur and Universite’ du Quebec a Montreal.

### **2. Inaugural Session**

- 2.1. The Session was opened on 16 June 2003 by His Excellency Ambassador T.A.B. Shodipo on behalf of the President of the forty-first session, Senator Kanu G. Agabi, SAN, Attorney General and Minister of Justice of the Federal Republic of Nigeria.
- 2.2. His Excellency Ambassador Dr. Wafik Z. Kamil, Secretary-General of the Asian-African Legal Consultative Organization (AALCO) thanked the Republic of Korea for hosting the Session, and welcomed all delegates to the Session.

- 2.3 His Excellency Prime Minister Goh Kun of the Republic of Korea welcomed all delegates to the Session. He expressed his pleasure with the development of AALCO and outlined some of AALCO's achievements and future challenges.
- 2.4 Mr. Narinder Singh, the Leader of the Delegation of India, on behalf of AALCO, thanked the Prime Minister of Korea for personally addressing the Session. He also thanked the Republic of Korea, Ministers, ambassadors and delegates, the Secretary-General and the Secretariat officials.

### **3. First Meeting of the Delegations of AALCO Participating States**

- 3.1 *Admission of Brunei Darussalam* The Secretary-General informed the delegates of Brunei Darussalam's request for membership of AALCO, and the admission of Brunei Darussalam as a Member State was accepted unanimously. The delegate from Brunei expressed his appreciation on behalf of his country for its admission to membership of AALCO.
- 3.2 *Agenda* The following agenda was adopted:

#### **I. Organizational Matters**

1. Consideration and Adoption of the Agenda
2. Election of the President and Vice-President
3. Admission of Observers
4. Reappointment of the Secretary-General
5. Report of the Secretary-General on the Work of AALCO
6. Report on AALCO's Regional Centres for Arbitration
7. Report on AALCO's Centre for Research and Training
8. Review of the Statutes and Statutory Rules of the Organization
9. Venue of the Forty-Third Session.

#### **II. Matters under Article 4(a) of the Statutes: Matters relating to the International Law Commission**

- Report on Matters relating to the Work of the International Law Commission at its Fifty-fourth and the first part of the Fifty-fifth Session.

#### **III. Matters under Article 4 (c) of the Statutes: Matters referred to the Organization by Member States**

1. Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949
2. Jurisdictional Immunities of States and their Property
3. Establishing Cooperation against Trafficking in Women and Children

4. Human Rights in Islam
- IV. Matters under Article 4(d) of the Statutes: Matters of Common Concern having Legal Implications
    1. Establishment of the International Criminal Court: Recent Developments
    2. Environment and Sustainable Development
    3. An Effective Legal Instrument Against Corruption
  - V. International Trade Law Matters
    - WTO as a Framework Agreement and Code of Conduct for World Trade
  - VI. Special Meeting on the Topic “The Relevance of International Humanitarian Law in Today’s Armed Conflicts”, organized jointly by AALCO and the International Committee for the Red Cross (ICRC)
  - VII. Any other matters.
- 3.3 ***Admission of Observers*** The Admission of observers to the Session, pursuant to Statutory Rule 18(1), was unanimously approved.
  - 3.4 ***Election of President and Vice-President*** the delegate from the Republic of Ghana proposed the nomination of His Excellency Choi Young-jin, Chancellor of the Institute of Foreign Affairs and National Security of the Republic of Korea, as President of the forty-second session. The nomination was seconded by the delegate from Japan, and was unanimously adopted. The delegate from Malaysia proposed the nomination of the Honourable Janat B.Mukwaya, Minister of Law of Uganda, as Vice-President of the forty-second session. The nomination was seconded by the delegate from Kenya, and was unanimously adopted.
  - 3.5 ***Reappointment of the Secretary-General*** The President introduced the agenda item and informed the Session that a two-thirds majority of AALCO Member States had conveyed their support for the re-appointment of the Secretary-General, and called upon the meeting to endorse this decision. Accordingly, the Secretary-General, Amb. Dr. Wafik Z. Kamil, was re-appointed for a second term. Dr. Kamil expressed his deep gratitude to the Member States of AALCO for his reappointment.
  - 3.6 ***Report of the Secretary-General on the Work of AALCO*** The Secretary General gave his report on the work of AALCO, and *inter alia*, referred to the implementation of the rationalization of agenda items; the status of the non-deliberated items, including the Law of the Sea, the Legal Protection of Migrant Workers, the Status and Treatment of Refugees, International Terrorism, the Extraterritorial Application of National Legislation and the Progress Report Concerning the Legislative Activities of the United Nations and Other

International Organizations Concerned with International Trade Law; as well as other activities and initiatives of AALCO.

- 3.7 ***Budget*** The budget for 2003 was adopted. The Secretary-General referred to the amount of the arrears and contributions, and to the need to review the scale of contributions by Member States. The delegate from Japan made points regarding the need to address issues related to budget, “including timing of circulation of draft budget to Participating States for consideration, continued existence of arrears, and the current budgetary practice which is, in effect, penalizing Member States paying contributions”; the statement by the delegate from Japan was supported by the delegate from Malaysia.
- 3.8 ***Report on Construction of the Headquarters Building*** The delegate from India outlined the progress of the construction of AALCO’s new headquarters building in India, and pointed out that the construction was fully financed by the Indian government.
- 3.9 ***Report on AALCO’s Centre for Research and Training*** The Deputy Secretary-General, Dr. Li Zhenhua presented a progress report on AALCO’s Centre for Research and Training, and outlined some of the accomplishments of the Centre since the forty-first session.
- 3.10 ***Review of the Statutes and Statutory Rules of the Organization*** The Secretary General discussed the progress on the revision of AALCO’s Statute and Statutory Rules, following from the proposal by the Republic of Ghana at the forty-first session. He stated that consultations were continuing with regard to the preparation of the draft, and suggested that an inter-sessional meeting could be convened to review the draft, which would then be sent to Member States prior to the forty-third annual session.
- 3.11 ***Other Matters*** The President reported on the establishment of the Drafting Committee at the Session, with the objective of ensuring efficiency and transparency. The composition of this open-ended Drafting Committee would include representatives of the Host Government, the Secretariat and representatives of all interested AALCO Member States. He stated that the Committee would be chaired by a representative of the host country, Deputy Director-General of the Treaties Bureau of the Republic of Korea, Mr. Nam Gwan-Pyo.

#### **4. First General Meeting**

- 4.1. Delegations from the following countries made statements during the first general meeting: Nigeria, Egypt, Indonesia, Ghana, Pakistan, People’s Republic of China, India, Kenya, Malaysia, United Arab Emirates, United Republic of Tanzania, Kuwait, Iran, Republic of Korea, Myanmar and Spain.
- 4.2. Many delegations expressed satisfaction with the growth of AALCO into a permanent international organization and highlighted its importance as the only international legal consultative body in the Asian-African region. They

- emphasized the need to increase efficiency, and supported efforts to expand the membership of AALCO, particularly to French-speaking States. They stressed the increasing importance of the role of AALCO as a forum to exchange views on issues of mutual interests, and the need to work closely with the United Nations and other international organizations.
- 4.3. Many delegations expressed approval of the topics for deliberation at the Session, particularly the choice of topic for the Special Meeting, and noted the need for indepth consideration of these issues.
  - 4.4. Many delegations condemned terrorism in all forms, expressing grave concern about the growth in terrorism, and the need to cooperate to find lasting solutions to deal with terrorism and its sources. Some delegates reminded the Session that the issue of terrorism, while important, should not distract it from other global issues of equal importance.

## **5. Second General Meeting**

- 5.1 His Excellency Hisashi Owada, Judge of the International Court of Justice (ICJ), complimented AALCO on its remarkable achievements in terms of both form and substance, and on its active participation in the development of international law. He stated that the close working relationship between AALCO and the ILC allows the African and Asian perspective to be reflected in the work of the ILC and benefits AALCO by widening the scope of its outlook. He noted that AALCO and the ICJ deal with similar themes: those related to traditional international law; other areas of law, resulting from increasing interdependence between States; and legal issues arising from increasing globalization. He pointed out that, while the topics dealt with by the ICJ are determined by the cases brought before it, AALCO Member States can act collectively in determining the choice of topics. Judge Owada also noted with gratification the increase in the number of cases referred to the ICJ by African and Asian States, and said that this should be seen as a testimony to the interest and confidence of African and Asian States in the rule of law and the judicial settlement of international disputes.
- 5.2 Ambassador Chusei Yamada of the United Nations University (UNU) noted the signing in 2002 of an agreement of cooperation between the UNU and AALCO, which envisages forms of cooperation such as mutual research, exchanges of experts and joint organization of seminars. He complimented AALCO on the choice of International Humanitarian Law for the special meeting, and commented that the traditional definitions of war and combatants are changing in light of contemporary civil wars and acts of terrorism.
- 5.3 Delegations from the Kingdom of Nepal, Sudan, the Holy See, the State of Qatar and Vietnam made general statements at this meeting (see summary for the First General Meeting).

## ***Agenda Item II: International Law Commission***

- 5.4 Deputy Secretary-General, Ambassador Dr. Ali Reza Deihim, and Professor Choung-il Chee of the International Law Commission (ILC) reported on the work of the ILC at its recent sessions. They highlighted the progress on the following topics: State Responsibility, Reservations to Treaties, Diplomatic Protection and Unilateral Acts of States. They also noted that work on the following new topics has been initiated by the ILC: International Liability for Injurious Consequences Arising Out of Acts Not Prohibited by International Law, Responsibility of International Organizations, Fragmentation of International Law and Shared Natural Resources. Professor Chee stressed that close cooperation between AALCO and the ILC would benefit the ILC and enrich and strengthen AALCO.
- 5.5 Delegations from Egypt, India, Iran, Japan, Republic of Korea, the People's Republic of China and Indonesia made statements regarding the work of the ILC, chiefly with respect to the following topics: Reservations to Treaties, particularly with respect to the role of the depositary and the communication and withdrawal of reservations; Diplomatic Protection; Unilateral Acts of States; International Liability; and International Organizations, particularly regarding the definitions of "international organization". Ambassador Yamada, member of the ILC, gave some background on the progress of work on the topic of Shared Natural Resources, for which he was Special Rapporteur. Several delegations pointed out that it was important for AALCO Member States to respond to the questionnaire prepared by the Special Rapporteur of the ILC on different topics.

## **6. Third General Meeting**

### ***Agenda Item IV: International Criminal Court***

- 6.1 Deputy Secretary-General Ambassador Dr. Ali Reza Deihim outlined some of the background and developments relating to the establishment of the International Criminal Court (ICC) and noted that three of the judges elected to the Court were from AALCO Member States. He stated that it would be useful to exchange views of AALCO's role with respect to the Court, and that the exchange of information between Member States regarding the ICC would contribute to the better understanding of the Rome Statute.
- 6.2 Mr. Phakiso Mochochoko, Legal Advisor of the ICC, outlined the recent developments on the ICC, dating from the entry into force of the Rome Statute to the present day. He noted that the recently elected judges deal with concrete matters with respect to the Court. He further noted that although there are no cases at present, the administrative capacity of the Court was fully functional, and that the principle of universality was reflected in the composition of the staff of the Court. He went on to note some future challenges facing the ICC, including strategic challenges, such as the principle of complementarity and the need for a focused global prosecution strategy, as well as institutional and operational challenges. He emphasized that the ICC's legitimacy and independence would be based on it being perceived as an effective and well-run organization, and that it required the cooperation of all States for its success.

- 6.3 Delegations from Egypt, Indonesia, Republic of Korea, Nigeria, People's Republic of China, Japan and Malaysia made statements. Some delegations welcomed the inauguration of the Court. Delegations noted the lack of a definition of the crime of aggression, and some suggested the establishment of a working group or inter-sessional meeting to study this issue. Other points raised included the need to clarify the relationship between ICC and the UN and the Security Council, the need for achieving universality of jurisdiction, and the principle of complementarity.

*Agenda Item IV: An Effective Legal Instrument Against Corruption*

- 6.4 Deputy Secretary-General Ambassador Dr. Ali Reza Deihim gave a report on the ongoing efforts to develop an effective legal instrument against corruption. He noted that corruption is not restricted to one region, and is present even in the most developed countries. He outlined the progress in the drafting of the Convention against Corruption by the ad hoc committee established by the UN General Assembly, but noted that there are still differences of opinion in a number of areas.
- 6.5 Delegations from Iran, Kenya, Nepal, Thailand, Indonesia, Pakistan, Republic of Korea, Malaysia, the United Republic of Tanzania and Nigeria expressed their support for the draft Convention, and the need to prevent and suppress corruption. Many delegations outlined the measures being undertaken in their own countries to combat corruption. Delegations commented on the need to deal with some of the outstanding issues, including the definition of terms such as "corruption" and "public official", the scope of offences, asset recovery, inclusion of private sector corruption, monitoring mechanisms and the need for international cooperation. Some delegations requested that AALCO actively follow the progress of the negotiations on the draft Convention, as well as stressing the need for AALCO's position on the Convention to be well-articulated at the forthcoming meeting of the ad hoc committee in Vienna.
7. **Special Meeting – "The Relevance of International Humanitarian Law in Today's Armed Conflicts"** (in cooperation with the ICRC)

- 7.1 Dr. Kak-Soo Shin, Director-General of the Treaties Bureau of the Ministry of Foreign Affairs and Trade of the Republic of Korea, chaired the Special Meeting and gave a few opening remarks. He noted that the meeting was of relevance to the Asian and African regions and gave the Session an invaluable opportunity to discuss the topic of International Humanitarian Law with prominent scholars and practitioners in the field.
- 7.2 Ambassador Dr. Wafik Z. Kamil, Secretary-General of AALCO, made some welcoming remarks and introduced the four panelists. He commented on the close relationship between AALCO and the ICRC and gave a brief outline of the basic principles of international humanitarian law.

- 7.3 Dr. Jacques Forster, Vice-President of the International Committee of the Red Cross (ICRC) gave the keynote address on the ICRC and international humanitarian law. He made reference to the frequent and successful cooperation between the ICRC and AALCO, and the signing of a cooperation agreement between the two in December 2002. He stressed that the concept of international humanitarian law (IHL) is not just a western concept, and indeed that the writings, norms and customs of ancient Asian, African and Islamic cultures include many references to humanitarian concepts. He noted, however, that tragically many of today's armed conflicts take place in the African and Asian regions, and that it is in these areas where there is the greatest need for protection of international humanitarian law. Mr. Forster went on to outline the extent of the operations of the ICRC, and noted that two-thirds of its expenditure was devoted to operations in the Asian and African region. He outlined the role of the ICRC as a promoter and guardian of international humanitarian law, and the activities that this body encompasses. He then enumerated some of the greatest challenges that lay ahead for the implementation of international humanitarian law.
- 7.4 Professor Marco Sassòli, Professor of public international law at the Université du Québec à Montréal spoke on the conduct of hostilities and the protection of the civilian population against the effects of hostilities. He started by outlining the definition of international humanitarian law, and stressed the necessity of applying international humanitarian law (*jus in bello*), regardless of the legitimacy of the armed conflict (*jus ad bellum*). He then discussed the principles aimed at protecting the civilian population, but noted that today's problem is that sometimes civilians are *deliberately* targeted. He went on to examine the question of what constitutes a legitimate target, what attacks are prohibited, the precautionary measures to be taken by the attacker and the defender, and the concept of protected zones. He then discussed the difficulties of implementation of international humanitarian law, and stressed that fact-finding, record-keeping and openness with respect to the results of inquiries would enhance respect for international humanitarian law. Professor Sassòli closed by noting that we need to find ways to implement and disseminate IHL and to make people accept that it has to be respected in all wars, irrespective of the legitimacy of the conflict.
- 7.5 Following the presentations by Dr. Forster and Professor Sassoli, delegations from the following countries/organizations had comments or questions for the speakers: Iran, Kuwait, People's Republic of China, Oman and the ILC. In response, Professor Sassòli made the following points:
- He agreed that States must show their willingness to respect international humanitarian law, and should not try to find justifications *not* to respect it.
  - He admitted that the area of relief operations was one where existing law could be improved, but that protection for relief operations requires not only law, but goodwill, trust and confidence.
  - While Israeli settlements are prohibited by the Geneva Convention, settlers are still protected by IHL, unless they directly participate in hostilities; the same goes for the leaders of the resistance movement.

Dr. Forster outlined the role and activities of the ICRC in Israel and the occupied territories.

7.6 His Excellency Mr. O-Gon Kwon, Judge of the International Criminal Tribunal for the former Yugoslavia (ICTY) spoke about the repression of war crimes by States and the international criminal courts. He started by sharing his thoughts on the relationship between States and the international criminal courts, and noted that the ICC defers to national courts, and will only step in when States are unwilling or unable to pursue war crimes. However, based on the experience of the ICTY, due to limited resources and a large number of cases, it would be better to pursue just the “big fishes”, the high level military and civic leaders accused of war crimes. He went on to speak about claims of immunity and the fact that it does not relieve persons from criminal responsibility nor mitigate punishment. He then noted that it is an absolute necessity for an international criminal court to have State cooperation in order to successfully fulfil its functions, although this should not be a problem for the ICC, since it is a treaty-based organ. He went on to discuss some of the challenges faced by international criminal courts, including the need for a fair trial, establishment of precedents and practice, distance between the court and the location of the alleged crime, and the use of different languages, and discussed some trial management issues. Judge Kwon concluded by saying the ICC will be a mechanism to deter the commission of atrocities and send a message that impunity will not be tolerated.

7.7 Following the presentation by Judge Kwon, and in the final wrap-up session, delegations from the following countries had comments or questions for the speakers: Oman, India, Pakistan, Korea, Russian Federation and Japan. Ambassador Dr. Deihim, Deputy Secretary-General, also made some comments on the occasion. In response, Judge Kwon made the following points:

- Although there have been more Serbs put on trial, the ICTY has pursued both the “winners” and “losers” of the war, and is doing its best to arrest those leaders who have not yet been arrested.
- Given the complementarity principle, it is regrettable that the US has rescinded its signature of the Rome Statute, and he urged the US to reconsider.
- For budgetary and historical reasons, the ICTY focuses on the “big fishes”; national courts can deal with the “smaller fishes”, they will not have impunity.
- Although the ICTY is funded by the UN, it is completely independent in terms of trials and prosecution.
- The captured Taliban armed forces have the presumption of being prisoners of war, while the status of Al Qaeda members is more difficult to determine. If there is doubt, the status should be determined by a competent tribunal.

- With respect to the legality of non-extradition agreement being signed by certain States and the USA, the so called Article 98 Agreement, he is not in a position to comment on the activities of two sovereign States. The Ambassador Dr. Deihim also commented on this, referring to the principle of complementarity, but reiterating that it is not possible to judge the sovereign decisions of States.

7.8. Mr. Jean-Philippe Lavoyer, Head of the Legal Division of the ICRC, spoke about the relevance of international humanitarian law with regard to terrorism and counter-terrorism. He stated that the question of whether IHL adequately protects victims of war has intensified since the end of the Cold War, and took on a different dimension after the September 11<sup>th</sup> attacks. He discussed the confusion arising from the use of the word “war” in the fight against terrorism, and the fact that “terrorism” has not been defined. He went on to discuss the military campaigns against Afghanistan and Iraq, both considered “armed conflicts”, and other incident of violence. He referred to those captured and held at Guantanamo Bay, and stressed that they fall under the comprehensive protection of IHL, although it is not clear what their legal status is. Mr. Lavoyer noted that many commentators feel the definition of “armed conflict” has become too broad, and questioned whether the “war on terrorism” could be considered a non-international armed conflict. He noted, however, that IHL clearly prohibits a number of acts which are commonly considered “terrorism”, and stated that IHL is an efficient tool of international law that prohibits acts considered to be terrorist acts if committed during an armed conflict. Mr. Lavoyer went on to outline the progress in the development of international humanitarian law since the Geneva Conventions. He suggested there should be debate on the expansion of the law to non-international armed conflicts, and pointed out that a study by the ICRC indicated that many customary rules of international law that apply to international armed conflicts also apply to non-international armed conflicts. Mr. Lavoyer concluded by encouraging those States in AALCO who have not yet ratified certain international humanitarian law treaties to consider becoming parties to those treaties.

7.9. Following the presentation by Mr. Lavoyer, and in the final wrap-up session, delegations from the following countries had comments or questions for the speakers: Korea, Sudan, Iran, Kuwait, Indonesia and Uganda. In response, Mr. Lavoyer made the following points:

- It will take some time to reach a definition of “terrorism”, as it is an extremely difficult and complex issue.
- Terrorism, such as the bombings in Bali and Yemen, is not normally related to armed conflict, and therefore the expansion of international humanitarian law would not assist in dealing with this.
- It is clear that some acts, such as the September 11 attacks, are imputable and therefore an international armed conflict. However, other cases are not so clear: it is necessary to have more than one party to an armed

conflict. The ICRC will continue to work on what rules apply in situations that are not “international” or “non-international” armed conflicts.

- 7.10 Mr. Lavoyer then spoke about the role of national committees for international humanitarian law. He stated that such committees are valuable because the implementation of international humanitarian law at the national level is complex, and requires cooperation between a number of Ministries and institutions. He then outlined the characteristics such national committees should have, as well as the composition of such committees. As there is no special procedure for the creation of such a committee, each State is free to have a committee which satisfies its own needs; however Mr. Lavoyer suggested that the committee should be a permanent body to help ensure continuity. He noted that the ICRC is able to give advice and support for the establishment of such committees, as well as encouraging the exchange of information between different national committees and the ICRC.
- 7.11 Dr. Shin outlined Korea’s recent experiences in establishing a national committee for international humanitarian law. He stated that the main purpose of the committee was to facilitate the dissemination and implementation of IHL at a national level. The decision was made to have a committee composed of working level representatives of various Ministries, as well as a representative of the Korean Red Cross and some scholars in the field of IHL, with plans to expand membership to the media and parliamentarians. He expressed his hope that the committee would enable Korea to faithfully comply with its obligations under international conventions and international humanitarian law, and called on other Asian and African States that have not yet done so to consider setting up such a committee.
- 7.12 Following the presentations by Mr. Lavoyer and Dr. Shin, delegations from the following countries/organizations had comments or questions for the speakers: the ILC, Pakistan, Iran and Indonesia. In response, Mr. Lavoyer made the following points:
- National committees have an advisory role, and should submit recommendations to the government/parliament.
  - The ICRC has established practical guidelines for such committees, and tools such as model rules would be useful.
  - As the committee deal with tasks that go beyond the role of the armed forces, representatives of other ministries should be on the committee as well.
  - As many committees are quite new, it is not easy to judge the efficiency of their implementation of international humanitarian law.
- 7.13 Questions and answers in the final wrap-up session are summarized according to the relevant speaker above.

## **8. Fourth General Meeting**

### ***Agenda Item III: Jurisdictional Immunities of States and their Property***

- 8.1 Dr. Li Zhenhua, Deputy Secretary-General of AALCO, introduced the item of jurisdictional immunities of States and their property, and outlined the progress of the work on the draft articles on jurisdictional immunity at the ad hoc committee. He noted that the ad hoc committee had adopted the draft articles in February 2003, and outlined the five main issues with respect to the articles. He suggested that AALCO Member States use this Session to discuss the draft articles and identify common positions where possible, which would be useful when the final form of the draft articles and other outstanding issues are discussed at the forthcoming meeting of the Sixth Committee of the UN General Assembly.
- 8.2 Delegations from India, Myanmar, Japan, Indonesia, Pakistan, Republic of Korea, People's Republic of China and Egypt expressed satisfaction with the considerable progress that had been made on the outstanding issues and welcomed the adoption of the draft articles. On the form of the future instrument, most delegations stated that the articles should take the form of a legally-binding convention. It was felt, however, that if consensus cannot be achieved during the coming session of the General Assembly, a two-stage process could be taken, whereby a resolution is adopted by the General Assembly, endorsing the draft articles, with a view to concluding a convention later. Delegations called for AALCO States to share views and endeavour to reach agreement on the outstanding issues, in order to present a common position at the Sixth Committee.

### ***Agenda Item III: Establishing Cooperation against Trafficking in Women and Children***

- 8.3 Ms. Toshiko Shimizu, Deputy Secretary-General of AALCO, introduced the topic of establishing cooperation against trafficking in women and children. She stated that the trafficking in women and children has become a global business, causing serious problems for governments and communities and violating the human rights of the victims. She commented that the Convention on Transnational Organized Crime (known as the "Palermo Convention") and its accompanying Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children have been well-received by the international community, and was pleased to note that the Convention has been signed by 30 AALCO States. She referred to the provisions of AALCO Resolution 41/9, and encouraged those AALCO Member States who have not yet done so to consider signing and becoming party to the Convention and Protocol, as well as submitting their related national legislation to AALCO to facilitate work on a model law. She also noted the recent signing of a cooperation agreement and memorandum of understanding between AALCO and the International Organization for Migration (IOM), as well as AALCO's cooperation with UNICEF in regards to children's rights.

- 8.4 Delegations from the Republic of Korea, Indonesia, Nepal, United Arab Emirates, Ghana, Kuwait, People's Republic of China, India, Thailand, Qatar, Iran, Sri Lanka, Philippines, Nigeria, Tunisia and the ILC condemned the increase in "trafficking in persons", especially women and children, calling it a matter of serious global concern. Many delegations outlined the measures taken in their countries to prevent and suppress trafficking and violations of the human rights of women and children, as well as the steps they are taking to sign/ratify the Palermo Convention and the Protocol. Delegations noted that it is also important to combat the root causes of trafficking, such as poverty, unemployment, lack of education and some traditional cultural practices, as well as the need to deal with the rehabilitation of victims of trafficking. They stressed that it is incumbent on all States to take steps to eliminate trafficking, and emphasized the need for regional and global cooperation in this matter. Some delegations requested the Secretary-General to explore the possibility of organizing a seminar to facilitate in depth study on the subject, especially the necessity and feasibility of drafting of any model legislation.

***Agenda Item III: Deportation of Palestinians and other Israeli Practices Among Them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949***

- 8.5 Ambassador Dr. Wafik Z. Kamil, Secretary-General of AALCO, introduced the item concerning the deportation of Palestinians and other Israeli practices in the Occupied Territories, noting that this was a very important item that has been dealt with continuously by AALCO for the past 15 years. He outlined the provisions of Resolution 41/4 concerning this matter and referred to some of the recent events that have taken place in the Occupied Territories. Dr. Kamil discussed some of the peace efforts that have been made in the past, as well as to the recent "Road Map" for peace, which envisages a permanent two States resolution to the problem. He noted that the broad support enjoyed by the "Road Map", and the important actors involved, means that it should be given serious consideration. He stressed that implementation of such a plan requires sincere, well-intentioned dialogue and immediate tangible steps to be taken by Israel.
- 8.6 Delegations from Egypt, Kuwait, Pakistan, Indonesia, Iran, Sudan and Tunisia shared the view that Israel is in flagrant violation of international law, particularly the Fourth Geneva Convention and various UN Resolutions, in its practices with respect to Palestinians and the Occupied Territory. These practices include coercive deportation of Palestinians, settlement of Israelis in the Occupied Territory, collective punishment, destruction of homes, the indiscriminate use of force and recent assassination attempt of Palestinian officials. They expressed their support for Palestinian self-determination and their right to live in their homeland. They called for the cessation of settlements and Israeli's immediate withdrawal from the Occupied Territory, as well as for steps to be taken by the international community to ensure Israel's compliance with international law.

## **9. Fifth General Meeting**

### ***Agenda Item III: Human Rights in Islam***

- 9.1 Ambassador Dr. Wafik Z. Kamil, Secretary-General of AALCO, introduced the topic of human rights in Islam, noting that this topic was originally proposed by the Kingdom of Saudi Arabia at the fortieth session in New Delhi. He stated that Islam can be equated with peace, purity, submission to the will of God and obedience to God's law. He further noted that Islam protects human rights and respects human dignity. He stated that he regretted to see the emergence of a trend, particularly since the terrorist attacks of September 11<sup>th</sup>, linking people of certain religions and ethnic groups with terrorism.
- 9.2 Delegations from Indonesia, Saudi Arabia, Kuwait, Qatar, Iran, United Arab Emirates, Sudan and Malaysia expressed their pleasure that this topic was included on the agenda. They pointed out the tolerance and the respect for human dignity and equality in the Muslim religion. They also stressed that Islam respects human rights, although some noted that there are a few provisions of the Universal Declaration of Human Rights that are inconsistent with the Muslim religion. The delegations emphasized that Islam is not a religion of violence and terrorism, but rather is one of peace, justice, wisdom and dialogue.

### ***Agenda Item V: WTO as a Framework Agreement and Code of Conduct for World Trade***

- 9.3 Dr. Li Zhenhua, Deputy Secretary-General of AALCO, introduced the item of the WTO as a Framework Agreement and Code of Conduct for World Trade. He summarized the progress of the implementation of the Doha mandate, and highlighted three issues of concern to developing countries. He expressed regret that little progress has been made on reaching understanding on these issues, despite the proactive approach by developing and least-developed countries. He suggested that the time between this Session and the September WTO Ministerial Conference in Cancun could be utilized to endeavour to arrive at a consensus on substantive issues, with the goal of going to Cancun with as many issues resolved as possible. Dr. Li noted that the Secretariat would continue to monitor developments and would serve as an institutional framework for discussions where necessary.
- 9.4 Delegations from India, Kenya, Malaysia, Republic of Korea and Pakistan spoke on this topic. Many delegations expressed disappointment with the lack of progress on such areas as dispute settlement, implementation-related issues, the Agricultural Agreement, the TRIPS Agreement, special and differentiated treatment, and the Trade and Services Agreement. Delegations expressed the desire to see balanced negotiations, reflecting the interests of both developed and developing countries.

### ***Agenda Item VI: Environment and Sustainable Development***

- 9.5 Ms. Toshiko Shimizu, Deputy Secretary-General of AALCO, introduced the topic of environment and sustainable development. She noted that AALCO has been monitoring the progress of the implementation of Agenda 21 and three main environmental conventions: the UN Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity (CBD) and the United Nations Convention to Combat Desertification (UNCCD). She then outlined the important developments concerning these three conventions. Ms. Shimizu also outlined an initiative proposed by the Secretary-General to establish an energy and environmental law center, and welcomed suggestions from AALCO Member States on this initiative.
- 9.6 Delegations from the Republic of Korea, India, People's Republic of China, Nigeria, Malaysia and Indonesia outlined steps taken by their countries to sign/ratify and implement various environmental treaties, including the Kyoto Protocol. Many delegations emphasized the difficulties faced by developing countries in implementing such treaties, however, due to lack of financial resources and technical know-how. They called for the transfer of technology from developed countries, as well as training and financial support, in order to enable them to implement environmental programs. A representative from the Permanent Court of Arbitration (PCA) also spoke. She outlined the history and background of the PCA, and outlined some of its recent activities in the field of environmental dispute resolution.

### ***Agenda Item I: Report on AALCO's Regional Centres for Arbitration***

- 9.7. Ambassador Dr. Ali Reza Deihim, Deputy Secretary-General of AALCO, gave a report on AALCO's Regional Centres for Arbitration. He noted that the launch of the arbitration centers has been one of AALCO's most successful ventures, and urged AALCO member governments and business communities to consider availing themselves of the facilities at these Centres.
- 9.8. The delegate from the Islamic Republic of Iran outlined the functions of the Tehran Arbitration Centre, and was happy to report that the legal procedures necessary for the establishment of the Centre in Tehran had very recently been completed. Delegations commended Iranian efforts for hosting the Centre.
- 9.9. Dr. Zakaria bin Yatim, director of the Kuala Lumpur Arbitration Centre, expressed his pride in the 25<sup>th</sup> anniversary of the Arbitration Centre. He noted that, when established, it was the first of its kind in the Asian region. He stated that the Centre's aim is primarily to promote commercial arbitration in the region, and he pointed out that it was a neutral venue, not subject to Malaysian law. Dr. Yatim also outlined plans for a three-day conference to commemorate the 25<sup>th</sup> anniversary of the Centre.

## 10. Second Meeting of the Delegations of AALCO Member States

### *Adoption of the Resolutions*

10.1 The following Resolutions were adopted at the Second Meeting of the Delegations of AALCO Member States on 20 June 2003:

- RES/42/ORG.1 Report of the Secretary-General on Organizational, Administrative and Financial Matters
- RES/42/ORG.2 AALCO's Budget for the year 2003
- RES/42/ORG.3 Progress Report on Regional Centres for Arbitration
- RES/42/ORG.4 AALCO's Center for Research and Training
- RES/42/ORG.5 Reappointment of the Secretary-General
- RES/42/ORG.6 Establishment of the Permanent Headquarters of the Asian African Legal Consultative Organization
- RES/42/ORG.7 Admission of Brunei Darussalam as a Member State
- RES/42/ORG.8 Review of AALCO's Statutes and Statutory Rules
- RES/42/ORG.9 Venue of the Forty-Third Session
- RES/42/ORG.10 AALCO's Documentation Policy
- RES/42/1 Matters Relating to the Work of the International Law Commission
- RES/42/2 Law of the Sea
- RES/42/3 The Status and Treatment of Refugees
- RES/42/4 The Deportation of Palestinians and Other Israeli Practices Among Them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949
- RES/42/5 Legal Protection of Migrant Workers
- RES/42/6 Extra-Territorial Application of National Legislation: Sanctions Imposed Against Third Parties
- RES/42/7 Jurisdictional Immunities of States and Their Property
- RES/42/8 International Terrorism
- RES/42/9 Establishing Co-operation Against Trafficking in Women and Children
- RES/42/10 The International Criminal Court: Recent Developments
- RES/42/11 Environment and Sustainable Development
- RES/42/12 An Effective Legal Instrument Against Corruption
- RES/42/13 Progress Report Concerning the Legislative Activities of the United Nations and Other International Organizations Concerned with International Trade Law
- RES/42/14 WTO as a Framework Agreement and Code of Conduct for World Trade
- RES/42/15 Human Rights in Islam
- RES/Seoul/42/SP.1: The Special Meeting on "The Relevance of International Humanitarian Law in Today's Armed Conflicts" held in Seoul on 18 June 2003.

### *Venue of the Forty-Third Session*

- 10.2 It was decided that the forty-third session of AALCO would be held in Bali, Indonesia, in accordance with Resolution RES/42/ORG.9.

### *Adoption of Summary Report*

- 10.3. The Summary Report of the Forty-Second Session of the Asian-African Legal Consultative Organization was adopted.
- 10.4. The provisional Summary Records of the First Meeting of the Delegations of AALCO Member States and the First to Fifth General Meetings were distributed. Member States were asked to review the Summary Records and submit their views and/or corrections to the Secretariat within the following two months.

## **11. Sixth General Meeting**

- 11.1 The Sixth General Meeting was opened by the President, His Excellency Choi Young-jin, who summarized the accomplishments of AALCO and its forty-second Session and thanked all those who made the Session a success.

### *Closing Statements*

- 11.2 Several delegations, on behalf of the Member States, Observer States and International Organizations, expressed their appreciation to their fellow delegates, the President and Vice-President, the Secretary-General, the AALCO Secretariat and the government of the Republic of Korea for hosting the Session.
- 11.3 Ambassador Dr. Wafik Z. Kamil, Secretary-General of AALCO, delivered a “Message of Thanks” addressed to His Excellency Roh Moo-hyun, President of the Republic of Korea, which was reviewed by the Drafting Committee. He also made a statement expressing his gratitude to all the delegates, the President and Vice-President, the Secretariat and all those involved with organizing and hosting the Session.
- 11.4 The President, His Excellency Choi Young-jin, closed the forty-second Session.