AALCO
Asian-African Legal Consultative Organization
Fiftieth Annual Session
27 June to 1 July 2011
Colombo, Democratic Socialist Republic of Sri Lanka

SUMMARY REPORT
OF THE FIFTIETH ANNUAL SESSION
OF THE
ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION

1. Introduction

1.1 Thirty-two Member States of the Asian-African Legal Consultative Organization (the AALCO) participated in the Fiftieth Annual Session (hereinafter "the Session") namely, Arab Republic of Egypt, Kingdom of Bahrain, Bangladesh, Brunei Darussalam, People's Republic of China, Ghana, India, Republic of Indonesia, Republic of Iraq, Islamic Republic of Iran, Japan, Jordan, Republic of Kenya, Democratic People's Republic of Korea, State of Kuwait, Malaysia, Myanmar, Nepal, Nigeria, Sultanate of Oman, Pakistan, Palestine, State of Qatar, Republic of Korea, Kingdom of Saudi Arabia, Republic of South Africa, Democratic Socialist Republic of Sri Lanka, Sudan, United Republic of Tanzania, Thailand, Uganda and United Arab Emirates.

1.2 Representatives of the following Regional Arbitration Centres of AALCO were also present: Cairo Regional Centre for International Commercial Arbitration (CRCICA), Kuala Lumpur Regional Centre for Arbitration (KLRCA), and Regional Arbitration Centre for International Commercial Arbitration, Lagos (RCICAL).

1.3 In accordance with Rule 18 (1) of the Statutory Rules the following observers were admitted to the Session:

(i) Representatives from the following non-Member States: D.R. Congo, Republic of Kazakhstan and Russian Federation.

(ii) Representatives of the following International Organizations: International Court of Justice (ICJ), International Committee of the Red Cross (ICRC), Indian Ocean Marine Affairs Cooperation (IOMAC), International Organization for Migration (IOM), United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), United Nations Children's Fund (UNICEF) and Saudi Fund for Development

2. Inaugural Session

2.1 The Session commenced on 27 June 2011 by the Master of Ceremonies welcoming all the Delegations to the Democratic Socialist Republic of Sri Lanka for the Fiftieth Annual Session. His Excellency Mr. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka lit the traditional oil lamp and thereafter the distinguished dignitaries were invited to the dais.

2.2 **His Excellency Prof. Dr. Rahmat Mohamad, Secretary-General of the Asian-African Legal Consultative Organization (AALCO)** welcomed all the delegates to the Session and thanked His Excellency Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka, and the people of Sri Lanka for hosting the Fiftieth Annual Session of AALCO. He stated that Sri Lanka was one of the seven founding members of the AALCO, which was established in 1956 and since then had actively contributed to the work of the AALCO. The fact that the Fiftieth Annual Session was the fourth Annual Session hosted by Sri Lanka demonstrated her continued interest and commitment to the AALCO's objective of increasing the Afro-Asian influence in the progressive development and codification of international law. The earlier sessions hosted in Sri Lanka were the Third Session in 1960, Twelfth Session in 1971 and Twenty-second Session in 1981. Prof. Dr. Mohamad highlighted the significance of the activities of the AALCO in the contemporary world, taking into account the current practice of international law making. He emphasized that the role and range of activities required to be undertaken by the AALCO had multiplied several folds, therefore it was imperative that the Organization remained on a strong ideological foundation and enjoyed firm financial support from its stakeholders- the Member States. He then invited the Chief Guest to deliver the inaugural address and officially inaugurate the Fiftieth Annual Session of AALCO.

2.3 **Inaugural Address by His Excellency Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka.** In his inaugural address, His excellency stated that choosing Sri Lanka as the venue of the Fiftieth Annual Session of the AALCO, was all the more significant considering the rich contribution the Organization has made towards development of the laws and legal systems of two continents. At a time when Sri Lanka turns a new and exciting page in the process of nation-building, putting their country on the fast track to economic and social development, hosting this session had become especially appropriate. Revamping institutions in every sector and reframing laws and the agencies through which they were to be applied for the well-being of the community had become necessary. Resort to both domestic and international law as a

source of protection was very important to bring the nation into the process of reconciliation. Emphasizing the growth in the economy in Sri Lanka that placed the country in the category of most rapidly developing economies in Asia, the President was of the opinion that economic development must not be confined to mere statistics but must reflect in the lives of the people. In order to witness the fruits of progress, transformation of the legal systems and legal cultures along with the mindset of the nation was essential to attain social equity and access to opportunity, especially of the communities that had been deprived in the past.

2.4 At international level, issues like trade related matters, international terrorism, environment and sustainable development, global warming and climate change, organized criminal activities reformation of the international financial architecture and so on were important challenges that required to be addressed. In accelerating progress, the Government of Sri Lanka gave utmost priority to development of infrastructure and public-private partnership. The member countries of AALCO belonged to Asia and Africa where rich traditions of legal culture and civilizations existed, therefore the President wished that the deliberations during the session would reflect the interests of the people and their well-being. He wished every success for the deliberations during the Session.

2.5. **Hon. Celina Ompeshi Kombani (MP), Minister of Constitutional and Legal Affairs, United Republic of Tanzania and President of the Forty-Ninth Annual Session of AALCO** in her address thanked the Government of Sri Lanka for hosting the historic Fiftieth Annual Session of AALCO and expressed deep solidarity with the Government and people of Japan who were affected by earthquake and tsunami. Madam Kombani stated that as developing countries from Asia and Africa, they recalled the spirit of the 1955 Bandung Conference, which required them to join hands and exert their energy to contribute in finding solutions to the current world challenges. Armed conflicts, piracy, terrorism and other forms of organized crimes remained to be the challenges of the contemporary world. It was mentioned that much had to be attained by the Organization and Member countries in addressing common challenges, which could be achieved by the AALCO as a legal consultative organization which had continued to discharge its obligations by broadening its participation in international legal matters especially those with economic dimension. Expressing concern on the financial situation of AALCO and acute shortage of funds, Madam Kombani said that in order for the smooth functioning of AALCO, Member States could at the 50th Session honor their financial obligations to the Organization. On behalf of her Government, she extended full support to the Secretary-General in carrying forward the activities of AALCO and meeting its objectives. She also thanked the Secretariat for extending her the necessary support during her Presidency.

2.6 **Hon. Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka and the incoming President of the Fiftieth Annual Session of AALCO** in his address, thanked the outgoing President and welcomed all the distinguished delegates to the Annual Session. He highlighted the longstanding relationship that Sri Lanka had with AALCO as one of its founding members. He mentioned that it was Sri Lanka's honour and privilege to host the historic Fiftieth Annual Session of AALCO and that since the

three previous occasions when the Annual Sessions were hosted in Colombo, Sri Lanka; very significant changes had happened to the Organization, such as attaining permanent stature from its initial five-year term of functioning. He commended the work of AALCO in the areas of Law of the Sea, Vienna Convention on the Law of Treaties and so on. He further stated that the Fiftieth Annual Session would be known for the establishment of the AALCO Eminent Persons Group (EPG), which held its preliminary meeting on 26th June 2011. He reiterated that it was a matter of pride for Sri Lanka to host the Session at a historic juncture, when Sri Lanka was undergoing transformation and was engaged in nation-building, national reconciliation and resurgence. He hoped the Annual Session would be a great success.

2.7 **Hon. Hisashi Owada, President of the International Court of Justice (ICJ)** in his address thanked the Secretary-General for having extended an invitation to the International Court of Justice (ICJ) to participate at the Fiftieth Annual Session of AALCO. Justice Owada said that AALCO had during the past half century provided an important forum for the regions of Asia and Africa in the field of international law. The Organization had successfully fulfilled indispensable functions of disseminating information, conducting consultations and formulating recommendations on issues of international law from the regional perspective. Applauding the role of AALCO in the field of international law, he said it had been successful in developing a truly universal international law, through norm-making and norm-enforcement aspects. He also highlighted the increasing participation of Asian and African countries in developing the jurisprudence of the ICJ. Justice Owada cited various cases and instances where the jurisdiction of the ICJ was sought by the AALCO Member States. In conclusion, he saluted the AALCO for its contribution and achievements over the years and wished it the very best for the next fifty years. He also thanked the Government of Sri Lanka for having given him the opportunity of addressing the Fiftieth Annual Session of the AALCO.

2.8 **Hon. G.L. Peiris, Professor of Law and Minister of External Affairs, Democratic Socialist Republic of Sri Lanka** in his Keynote address stated that the hosting of the Fiftieth Annual Session was a milestone development both in the history of the AALCO and Sri Lanka. He further stated that the agenda items enumerated for deliberations at the session were of high political relevance for the countries in Asia and Africa. Issues like law of the Sea, piracy, organized criminal activities, etc., were very significant. Sustainable development vis-à-vis economic development, required to be addressed taking into account solutions based on harmony with values. He mentioned that like most of the developing countries, Sri Lanka too attached importance to the problems of migrant workers because they remit a huge amount of foreign exchange. Trafficking in women and children had been a persistent problem in many of the societies. Legal values on which restructuring was required to achieve social equity, would essentially depend on revamping of the criminal justice system. He also mentioned that the legal culture should reflect compassion and care for the society; laws must reflect people-oriented approach and justice must not be denied. He concluded the address by wishing for fruitful deliberations that would be beneficial for all the peoples of Member States of AALCO.

2.9 **Hon. Tan Sri Abdul Gani Patail, Attorney General of Malaysia and President of the Forty-Eighth Annual Session** proposed a Vote of Thanks on behalf of the Member States of AALCO to the Government of the Democratic Socialist Republic of Sri Lanka for hosting the Golden Jubilee Annual Session of AALCO. Stating that the occasion was a momentous one, he observed that it was a clear testimony of the important role played by AALCO in meeting the expectations of its Member States despite the challenges it faced since its inception in 1956. The presence of His Excellency Mahinda Rajapaksa, President of Sri Lanka added credence to the significance of the AALCO in advancing the causes of the Member States in the two continents. He thanked the President of the Forty-Ninth Annual Session of AALCO for her able leadership. He also thanked Prof. Dr. Rahmat Mohamad and the Secretariat officials and staff for their untiring efforts in carrying out the objectives of AALCO during the last few years by continuously finding solutions to address both administrative and financial constraints. He added that the Member States of AALCO would undertake necessary action to protect the interest and viability of AALCO in carrying out the mandate set out in the Putrajaya Declaration. He reiterated that it was of utmost importance that Member States of the AALCO should enhance its co-operation and stand united to speak with one voice, in order to safeguard the interest of our nations at international fora.

3. First Meeting of the Delegations of AALCO Member States

3.1 Her Excellency Celina Ompeshi Kombani (MP), Minister of Constitutional and Legal Affairs, United Republic of Tanzania and President of the Forty-Ninth Annual Session, called the Meeting to order.

3.2 **Agenda:**

The meeting adopted the following agenda for the Fiftieth Annual Session:

I. Organizational Matters

1. Consideration and Adoption of the Agenda
2. Election of the President and the Vice-President
3. Admission of Observers
4. Report of the Secretary-General on the Work of AALCO
5. Proposed Budget for the Year 2012
6. Preliminary Report of the Sub-Committee on the AALCO Secretariat's Human Resources and Financial Matters
7. Report on the AALCO's Centre for Research and Training (CRT)
8. Venue of the Fifty-First Session

II. Matters under Article 1 (a) 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. Law of the Sea

III. Matters under Article 1 (b) of the Statutes: Matters of Common Concern having Legal Implications

1. Expressions of Folklore and its International Protection
2. Environment and Sustainable Development

IV. Matters under Article 1 (d) of the Statutes: Matters Relating to the International Law Commission

1. Report on matters relating to the International Law Commission at its Sixty-Second Session

V. International Trade Law Matters

1. Report of the UNCITRAL and Other International Organizations in the Field of International Trade Law

VI. Two half-day Special Meetings

1. Special Meeting on "Trafficking of Women and Children/Migrant Workers and Protection of Children"
2. Special Meeting on "International Commercial Arbitration"

VII. Any Other Matter

3.2 ***Adoption of the Provisional Agenda and Tentative Schedule of Meetings:*** The President placed for consideration the Provisional Agenda and Tentative Schedule of meetings during the course of the Fiftieth Annual Session of AALCO. There being no comments and observations from the participating delegations, the same were declared adopted.

3.3 ***Admission of Observers:*** The Admission of Observers to the Session, pursuant to Statutory Rule 18, was unanimously approved.

3.4 ***Election of President and Vice-President:*** The President of the Forty-Ninth Annual Session, Her Excellency Ms. Celina Ompeshi Kombani (MP) invited the Member States to propose candidates for the posts of President and the Vice-President of the Fiftieth Annual Session of AALCO. The **Leader of the Delegation of Kenya** proposed the name of **His Excellency Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka to be the President of the Fiftieth Annual Session of the AALCO**. The proposal was seconded by the **Leader of the Delegation of Japan**. With regard to the position of **Vice-President, the Leader of the Delegation of the People's Republic of China** proposed the name of **Her Excellency Mrs. Ifeyinwa Rita Njokanma, Director,**

International Law Department, Federal Ministry of Justice, Nigeria. The proposal was seconded by the **Leader of Delegation of Brunei Darussalam**. The Member States unanimously elected with acclamation, His Excellency Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka and Her Excellency Mrs. Ifeyinwa Rita Njokanma, respectively as the President and the Vice-President of the Fiftieth Annual Session of AALCO.

3.5 The Outgoing President, Her Excellency Ms. Kombani in her farewell remarks thanked the Member States for the co-operation extended to her in the discharge of her duties as the President of AALCO. She also expressed her gratitude to the Secretary-General of AALCO and the Secretariat for faithfully observing the mandate entrusted to them by the Forty-Ninth Annual Session of AALCO. The outgoing President called upon the Member States to render full support to the Secretariat so as to enable it to perform the responsibilities entrusted to it in an efficient manner. Commending the electees for the posts of the President and Vice-President, the outgoing President stated that there could not have been a better choice than those elected for those positions.

3.6 Thereafter, the newly elected President and the Vice-President assumed their positions on the dias.

3.7 The newly elected President in his opening speech thanked the Member States for the support extended to him in his election to the post of President. His Excellency appreciated the agenda of the Fiftieth Annual Session and hoped that with the co-operation of the participating delegations the deliberations would be conducted in a friendly spirit to achieve consensus. He also warmly welcomed the Delegates to the historic city of Colombo and hoped that they would find time during their hectic schedule to see some places of historical and tourist interest in Sri Lanka. The President applauded the National Organizing Committee and the AALCO Secretariat for their efforts in preparing for the Fiftieth Annual Session and stated that the presence of delegations from several Member States was ample testimony to such efforts.

3.8 The newly elected Vice-President in her opening remarks thanked the delegations for the support extended to her on her election to the post of Vice-President.

3.9 ***Establishment of the Drafting Committee:*** The President announced the establishment of an open-ended Drafting Committee to prepare the drafts of Resolutions, Summary Report and the Message of Thanks to the President of the Democratic Socialist Republic of Sri Lanka. Ms. Sriyangini Fernando, Former Additional Legal Draftsman and Current Consultant to the Ministry of Justice, Democratic Socialist Republic of Sri Lanka and Mrs. Indika Demuni de Silva, Deputy Solicitor-General, Attorney General's Department, Democratic Socialist Republic of Sri Lanka were appointed as Chairperson and Co-Chair respectively of the Drafting Committee to steer its activities.

4 First and Second General Meetings

4.1 The Delegations from the following Member States made General Statements during the

First and Second General Meetings: **Malaysia, Sudan, Bangladesh, Japan, People's Republic of China, Thailand, Kingdom of Saudi Arabia, Arab Republic of Egypt, State of Kuwait, Nigeria, Republic of Korea, Pakistan, Nepal, Ghana, India, Kenya, Republic of Indonesia, Republic of the Union of Myanmar, Palestine, Republic of South Africa, Islamic Republic of Iran, Republic of Iraq, Democratic People's Republic of Korea, State of Qatar, Democratic Socialist Republic of Sri Lanka, Uganda and Bahrain.** The Observer delegation from the **International Committee of the Red Cross (ICRC)** also made a general statement.

4.2 The delegations congratulated His Excellency Mr. Rauff Hakeem, Minister of Justice, Democratic Socialist Republic of Sri Lanka, on his election as President of the Fiftieth Annual Session of the AALCO. Delegations also congratulated Her Excellency Mrs. Ifeyinwa Rita Njokanma, Director, International Law Department, Federal Ministry of Justice, Nigeria, on her election as the Vice-President of the Fiftieth Annual Session of the AALCO. The delegations also thanked the Government of Sri Lanka and the AALCO Secretariat for their warm hospitality and the excellent preparations for the meeting.

4.3 The **Delegation of Malaysia** stated that in compliance with the mandate received by the Secretary-General of the AALCO from the Forty-Ninth Annual Session of the AALCO to constitute an open-ended Committee of Experts to conduct a study on ways and means to enhance mutual legal assistance in criminal matters, the Attorney-General's Chambers had hosted a "*Workshop on Trafficking in Persons, Smuggling of Migrants and International Co-operation*" in collaboration with the AALCO Secretariat in Putrajaya in November 2010. At the conclusion of the Workshop, Malaysia proposed to begin work on the elaboration of an international instrument on international cooperation, particularly toward formalizing mutual legal assistance channels amongst the AALCO Member States. The delegation further stated that incidents of piracy in the Gulf of Aden that affected navigational access of the international shipping community to international sea lanes, continued to be a threat to the good order of the sea. In that regard, the delegation suggested that the AALCO Member States should strive to enact specialized and comprehensive laws on piracy and the delegate proposed that the issue of piracy should be deliberated at the next session of the AALCO. The delegate also informed that in pursuance of the mandate received from the Forty-Ninth Annual Session of the AALCO to convene a Workshop in collaboration with the International Criminal Court (ICC) in Kuala Lumpur specifically for the AALCO non-State Parties to the Rome Statute of the ICC, a workshop entitled "Meeting of Legal Experts on the Rome Statute of the ICC" has been tentatively scheduled for 19 and 20 July 2011 in Putrajaya, Malaysia.

4.4 The delegation mentioned that Malaysia supported the establishment of the AALCO Foundation. However, the delegation cautioned that the AALCO Foundation's process of garnering financial support either through "*no-strings attached donations*" or through strategic collaboration with corporate entities should be both transparent and void of any conflicts of interests. It was also announced that the Attorney General's Chambers of Malaysia had set up an International Centre for Law and Legal Studies (I-CeLLS), dedicated to legal research and capacity-building through collaboration and strategic partnerships with leading international institutions of learning, regional and international

organizations, and legal practitioners. In that regard, the delegation thanked the Secretary-General for accepting the offer to enter into a collaborative partnership with I-CeLLS.

4.5 The delegation of Malaysia noted that the term of the current AALCO Secretary-General, His Excellency Professor Dr. Rahmat Mohamad would be ending in 2012 and placed on record Malaysia's intention to take necessary steps to formally place a request for the extension of the term of the present Secretary-General for another term if a Member State has not put forward any nomination for the post. The delegation hoped to receive support and consensus of the AALCO Member States for the extension of the term of Professor Dr. Rahmat Mohamad as the Secretary-General of AALCO.

4.6. The **Delegation of Sudan** stated that the international regime should be committed to the implementation of the concept of supremacy of the law in a plain and just way on the basis of equality and non-discrimination among the countries of the world irrespective of their economic, political or military status. The delegation emphasized the need to uphold the principles of sovereignty, justice and equality as envisaged in the UN Charter. The delegation stated that the decisions of the International Criminal Court against the State of Sudan constitute a fundamental violation of the principles of sovereignty and principles of international law because of several key issues: firstly, Sudan not being a signatory to the Rome Statute of the International Criminal Court, hence, it was not applicable to Sudan based of the provisions of the Vienna Convention on the Law of Treaties. Secondly, the contradiction between the decisions of the ICC and the Charter of the United Nations. The delegation stated that the situation in Darfur was an internal dispute and not a case of breach of international peace and security. The perpetrators of the crimes would be prosecuted nationally and would also be punished if found guilty. The delegation observed that the AALCO should adopt a resolution on the immunity of State Officials based on the principle of sovereignty and also integrated legal vision regarding decisions of the ICC in harmony with the foundations of international law. The delegation denounced the illegal Israeli practices in the Occupied Palestinian Territories. The delegation also deplored human trafficking and observed that bilateral agreements could be entered into to combat trafficking.

4.7 The **Delegation of Bangladesh** commended AALCO for its positive contribution in the codification and development of laws in pertinent areas of international law, such as International Law Commission, Law of the Sea, Deportation of Palestinians and other Israeli Practices and related areas, Legal Protection of Migrant Workers, International Terrorism, Establishing Cooperation against Trafficking of Women and Children, International Criminal Court and so on. The delegation extended their cooperation to AALCO to create an equitable and fair international law regime that would reflect the concerns of developing countries, as it binds members linked by similar historical and cultural legacies. The delegation elaborated the relevance of the recent Dhaka Declaration under the Colombo Process for the protection of migrant workers and listed a number of recommendations. The delegation briefly highlighted the measures taken by their government to tackle the menace of trafficking in persons, especially women and children. The delegation also stated the efforts of their government towards mitigating

climate change, environment protection and extending support to the Palestinian people in the occupied territory. The delegation reiterated the need to effectively deal with the peace process on the Palestinian issue and work towards common endeavours to develop and expand cooperation among themselves for the common benefit of their peoples and for global peace and prosperity.

4.8 The **Delegation of Japan** highlighted the increasing participation and role of countries from Asia and Africa in the field of international law which was always Eurocentric or West oriented and still had a dominant influence on the making of international law. The delegation extended their profound appreciation to all the Member States on behalf of the Government and the people of Japan for the support and solidarity extended during the natural disaster that struck the nation in March 2011. The delegation stated that the government had taken all measures in the best practicable means under international law to resolve the nuclear power station accident at Fukushima Dai-ichi, and informed that Japan was open for business and travel. It was also reiterated that the Member States should comply with their financial obligation of paying the full annual contribution for the effective functioning of the Secretariat. Mention was also made about the adoption of Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS) and the Strategic Plan for Biodiversity 2011-2020, including Aichi Biodiversity Targets at the 10th Meeting of the Conference of the Parties to the Convention on Biological Diversity (COP10) and the 5th Meeting of the Conference of the Parties Serving as the Meeting of the Parties to the Cartagena Protocol (COP-MOP5) in Nagoya. It was pointed out that the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress was adopted during that meeting.

4.9 The **Delegation of the People's Republic of China** was fully convinced that, as the AALCO expands its activities in various fields, it would play a more significant role on the stage of international law development and international affairs. The delegation stated that the Asian-African countries should make good use of the important platform of AALCO, to promote further co-operation and build consensus in the field of international law, in order to jointly ensure the development of international law to better reflect the interests and positions of the developing countries, and accordingly promote the building of a more just and equitable international, political and economic order. With regard to the future development of AALCO, the delegation presented the following views and suggestions: firstly, the delegation hoped that AALCO would continue to strengthen its cooperation with the UN legal organs and other international organizations and actively reflect the views and positions of its member states on issues concerned, and increase its influence steadily. Secondly, AALCO needs to closely follow the major international issues and events and make an in-depth analysis of the international law issues involved, thus helping the Member States to exchange views and reach consensus. Thirdly, AALCO needs to conduct in-depth studies on new issues, trends and developments in all the areas of international law and make reports as appropriate, so as to enhance its academic influences. Fourthly, AALCO should step up its efforts in recommending candidates from Member States to international legal organs; and finally, AALCO should strengthen its training, continue to enrich the scope and content of seminars and training

programs and develop itself into a cradle of talents on international law for Asian and African countries.

4.10 The **Delegation of Thailand** stated that Thailand had always attached great importance to the work of the AALCO ever since she joined the Organization in 1961. Further, it had the honour and privilege of hosting the AALCO's Annual Sessions in 1966 and 1987 and informed that Thailand would be pleased to offer to be the next Asian host of the AALCO's Annual Session. The delegation explained Thailand's updates on the issues of people smuggling and human trafficking, countering international terrorism and piracy. The delegation informed that since the last Session of the AALCO, Thailand had become a State Party to the UN Convention on the Law of the Sea 1982 and UN Convention against Corruption. It was further revealed that Thailand had launched an initiative to uplift the treatment of women prisoners to international standards by proposing the United Nations resolution: *"The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders"*, or the *"Bangkok Rules"*, which were adopted by the UN General Assembly at its 65th session last December. The Bangkok Rules aims to supplement the existing standard of the 1955 United Nations Minimum Rules for the Treatment of Prisoners by introducing a female gender perspective.

4.11. The **Delegation of the Kingdom of Saudi Arabia**, having congratulated the President and the Vice-President of the Fiftieth Annual Session of the AALCO on their election, mentioned that throughout its existence, the AALCO has always been a great source of support to its Member States and their people. The delegation opined that after having contributed significantly to the progressive development and codification of international law for the past fifty years, it should focus on finding ways and means to further make effective contributions on issues of common concern to the Asian-African States. Commenting on the agenda items found in the Fiftieth Annual Session of AALCO, the delegation stated that they were indeed of critical relevance to the Members and that they were eager to listen to the experts of international law on those areas.

4.12 The **Delegation of the Arab Republic of Egypt** identified a host of issues which in their opinion were the focal points of their statement. The first issue being the struggle of the people of Palestine, it was stated that the continuation of the Palestinian issue posed a threat to the stability and security of the Middle East in particular, and the world in general. The delegation emphasized the need to find an early solution to that issue based on comprehensive and just peace was of immense significance. However, the delegation added that the creation of an Independent State of Palestine based on the borders of 1967 should form an integral part of any such solution.

4.13 The second point that the delegation stressed pertained to the need to uphold the fundamental principles of human rights, social justice, rule of law and freedom of individuals in all societies. The failure to adhere to these basic principles, they added, would not only increase the suffering of the people, but also trigger violence and extremism.

4.14 As regards the third point, being the need to combat corruption, the delegation pointed out that corruption resulted in the wastage of opportunities for development, wastage of precious resources and the looting of people's wealth. It was pointed out that in this regard, Egypt had already ratified the United Nations Convention Against Corruption and implemented the necessary domestic measures to accelerate the fight against corruption. While briefly outlining these measures, they noted that the Government of Egypt had established two National Commissions for fighting corruption. The first being the Government Commission for Fighting Corruption. while, the second being the NGO Commission for Fighting Corruption which guaranteed the participation of civil society. Furthermore, the delegation opined that corruption could not solely be eliminated by the efforts of Governments alone and that, an active and co-ordinated response from the non-governmental sectors also was needed to tackle the menace of corruption.

4.15 The fourth point related to the issue of terrorism and it was remarked that acts of terrorism constituted a threat to international peace and security. It was further pointed out that Egypt had laid down a wide variety of strategies aimed at dismantling the sources of terrorism. The delegation emphasized that terrorism, which affected a whole range of issues, including justice, supremacy of law and human rights, needed to be tackled in an effective manner.

4.16 Speaking on the fifth issue which related to the prevention of crimes and the implementation of criminal justice system, they stated that acts of human trafficking and smuggling, piracy, trafficking of drugs and internet crimes should be treated very seriously by the international community and that, the spreading of these evils adversely affected the development prospects of States. Commenting on the efforts that their Country had taken on some of these issues, they informed that Egypt had ratified the United Nations Convention on Transnational Organized Crime and that adhering to the provisions of international legal instruments that dealt with these issues was of utmost importance in order to make a dent on these problems.

4.17 Finally, the delegation pledged their Country's support to the proposal made by Tan Sri Abdul Gani Patail, the Attorney General of the AALCO, that the Secretary-General of the AALCO, Prof. Dr. Rahmat Mohamad be given the second term as the Secretary-General of AALCO.

4.18 The **Delegation of Kuwait** while appreciating the long journey of the AALCO since its inception and in meeting its aims and objectives, emphasized that the AALCO requires the complete participation of its Member States in the activities of the AALCO. It was highlighted that strengthening co-operation in a peaceful manner supporting human foundation and human civilization was a must. The delegation condemned the occupation of the Palestinian territories by the Israeli forces. The issue of human trafficking which was on the agenda of the Session was identified as being very important and it was suggested that a model legislation on same was essential to be drafted. In conclusion, they stated that the welfare and stability for all peoples should be the objective of the deliberations and efforts at the Session.

4.19 The **Delegation of Nigeria** highlighted the contribution of the AALCO to the global affairs, particularly in the area of progressive development and codification of International Law as evidenced by its contributions to the work of the International Law Commission. Nigeria had particularly benefitted from the work of the AALCO in the area of Seabed Authority under the Law of the Sea and the Exclusive Economic Zone. The enthronement of the Rule of Law in all facets of our national life was being championed by the Nigerian Government. In tackling those challenges, Nigeria would continue to rely on the contributions and assistance she had enjoyed from the AALCO over the years and especially the capacity building programmes initiated by the Secretariat. The delegation expressed their views on the release of the International Humanitarian Law Data base on Treaty /Accession and National implementation by the AALCO Member States, Trafficking in Women/Children, Migrant Workers and the Protection of Children and 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. Nigeria joined other delegations in calling for the extension of the tenure of the Secretary-General for another term to enable him to continue with the good work.

4.20 The **Delegation of the Republic of Korea** in their statement touched various topics. The delegation stated that the Law of the Sea is an area to which the AALCO had contributed greatly, by helping to incorporate new concepts for the governance of the oceans, including the Exclusive Economic Zones and the Archipelagic States, as evidenced by the 1982 United Nations Convention on the Law of the Sea. The delegation emphasized the need to pay attention to the fact that the subtle balance reached at Montego Bay in 1982 was being challenged and as such there may arise a need to revisit the Convention in the near future. They also pointed out that there were those who were dissatisfied with the lax enforcement under the current system and emphasized the growing need for tighter enforcement at sea for the common good. In the area of environment and sustainable development, the Korean government launched with international assistance, the Global Green Growth Institute (GGGI) on June 16, 2010 in Seoul to support developing countries' shift from traditional manufacture towards the "Green Growth" paradigm. On May 12, 2011, Korea formed the Green Growth Alliance with Denmark, while other nations including the United Arab Emirates and Japan also decided to support the GGGI. The Korean government appreciated their support and hoped that more nations would take part in that effort for sustainable development. In addition, the Korean government had committed to host the 18th Conference of the Parties to the UNFCCC in 2012 (COP 18) so as to contribute to the global agenda of climate change. The delegation observed that territorial and maritime disputes remained serious problems in Asia and Africa, while ethnic friction was still causing the death of numerous people. The delegation highlighted the use of the AALCO as a regional fora to discuss those issues and find proper solutions.

4.21 The **Delegation of Pakistan** highlighted the delegation's point of view on two items which were placed in the category of non-deliberated agenda items for the Annual Session. In the area of International Terrorism the delegation identified certain broad steps, namely, promotion of tolerance in the society through education and the media;

creation of economic opportunities on an immediate basis in the areas particularly impacted by terrorism; payment of compensation to the victims of terrorism and efforts for their rehabilitation; strengthening of law enforcement and intelligence capabilities in the vulnerable areas; and promoting a moderate vision of Islam that emphasized on the social aspects, rather than political and punitive aspects. On the topic of corruption, the delegation stressed the importance of Article 51, which clearly stated the return of assets is a fundamental principle of the Convention and that State Parties should afford one another the widest measure of co-operation and assistance in this regard. The delegation urged all States to facilitate recovery of assets to their legitimate owners – the government of the countries of origin. The delegate extended full support to H. E. Prof. Dr. Rahmat Mohamad on behalf of his government, for second tenure to the position of Secretary-General of AALCO.

4.22 The **Delegation of the Nepal** at the out set noted that that the Fiftieth Session of AALCO should be considered as a special session and hence should be used to revisit the commitments made during last forty-nine sessions. He stated that the AALCO has made significant contributions towards the codification and progressive development of international law, through submitting its views to the General Assembly of the United Nations by collecting and consolidating the positions of its members on particular subjects under consideration of the International Law Commission, General Assembly and Sixth Committee. AALCO has played an important role in setting the norms and standards in various fields of international law, he added. While noting that AALCO had developed and disseminated model laws and agreements in order to ensure that its Members have proper laws and regulations in new and emerging areas, he went on to add that the Special Studies and Yearbooks prepared by the AALCO Secretariat constituted an important source of information on international law issues.

4.23 Commenting on the special meeting on *Trafficking in Women and Children and Migrant Workers and Protection of Children',* he pointed out that trafficking, which was an important concern of almost all the developing countries, including Nepal, posed a serious challenge to humanity, human rights and development, besides being the worst form of modern day slavery. While noting that Nepal is a party to almost all the international and regional Conventions relating to trafficking in persons, the delegation informed that his government was in the process of ratifying the United Nations Convention Against Transnational Organized Crime and acceding to its Optional Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children. He also brought attention to the recent report published by the UNODC which revealed that Nepal's legal and policy frameworks were harmonious with international standards.

4.24 While noting that migration can be regarded as a process that could enhance social progress in both the origin and destination countries, he pointed out that the main challenges of migration were smuggling in migrants, particularly the exploitation of irregular migrants. He stated that within the migration phenomenon, the situation of child migrants was more passive, vulnerable and exploited one and that to resolve this problem what was needed was to take initiatives, first by the ratification of the UN Convention on

the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention on the Rights of the Child and its two Optional Protocols, Optional Protocol to Prevent, Suppress and Punish Trafficking in persons and International labour Organization Convention No.182 Against the Worst Forms of Child Labour. In that regard, the delegation added that *'The Draft Regional Model Cooperation Agreement between States of Origin and States of Destination/employment within AALCO Member States'* prepared by the AALCO Secretariat would be useful in guiding the initiatives of the AALCO Member States to move ahead. On the problem of climate change, after noting that this has been a serious problem for Nepal, the delegate added that something concrete needed to be done in this regard immediately to save the life and livelihood of the people of the Asian and African region.

4.25 The **Delegation of the Republic of Ghana** while making remarks on the current developments that have taken place in the international arena, stated that the recent rise of ordinary people in some parts of the world against un-democratic governments, oppression, corruption and impunity, acknowledged the right of people everywhere to democratic rule and the fundamental human rights and freedoms which were embodied in various international human rights instruments. While noting that the basic tenets of international law should be applicable to all the States equally, they pointed out that the UN Charter was as relevant as ever in the current era, and that it was time for the international community *"to reaffirm its faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small"*. As regards the development of nuclear energy for peaceful purposes, they were of the view that there should be co-operation between States and that nuclear facilities should be made accessible to the international community, especially to the International Atomic Energy Agency to ensure that through its system of inspection and control, nuclear energy would not be developed for uses other than peaceful purposes.

4.26 The **Delegation of India** noted that all the delegations had referred to the Origin of the Organization as a tangible outcome of the Bandung Conference. It had seen a phenomenal growth in its membership from 7 founding members to a strong membership of 47 Member States. The delegation added that India was one of the founding members and had gifted the AALCO its Headquarters in the prestigious diplomatic area of Chanakyapuri. Mr. Singh recalled the extensive contributions made by Mr. B. Sen, the first Secretary-General of the Organization, who had worked tirelessly to lay the strong foundations for the AALCO. He highlighted that Mr. B. Sen believed in the noble work of the Organization and had served it voluntarily, which was the primary reason that the AALCO could work on a limited budget. Having said that the delegation referred to the timely agenda for the Session and specially referred to the topic, UN Convention on Jurisdictional Immunities of States and their Property, which had been proposed by the Delegation of Japan. It was pointed out that this Convention was of particular interest to the Asian-African States and urged the Member States to ratify it at the earliest. India, it was said, had ratified it. Referring to the contributions made by the AALCO in the progressive development and codification of International law, the delegation mentioned that although earlier it had made a significant contribution in the area of the Law of the Sea, no significant contribution had been made thereafter. Therefore, it was time that the

Organization reassessed its method of work and give more time towards discussing substantive matters. It was also pointed out that referring the documents of the Session to the Drafting Committee was a recent phenomenon, which had increased the procedural work and left that thought for the consideration of the delegations.

4.27 The **Delegation of Kenya** congratulated the Government and the people of the Democratic Socialist Republic of Sri Lanka for having overcome one of the biggest challenges to the sovereignty and territorial integrity of Sri Lanka. With peace restored, an enabling environment for the development of the people has been created. The delegation recalled that one of the main objectives of the AALCO was its role in serving as an advisory body to its Member States in the field of international law. The AALCO's close relationship with the International Law Commission, the UN General Assembly and other International Organizations indicated the importance of having annual sessions to allow for a regular forum to formulate the positions on the various legal issues. The delegation stated that the AALCO should not lose sight of the factors that led to the founding fathers to form this Organization. As H.E. Mahinda Rajapaksa, President of the Democratic Socialist Republic of Sri Lanka had reminded at the opening of this Session – *"law is an instrument of social engineering to ensure economic and social development for all with each realizing his/her full potential"*. At the international level, it had to be ensured that international law developed in a manner that took into account the interests of third world countries.

4.28 The delegation added that just as the third world countries came up with the concept of Exclusive Economic Zone in the Law of the Sea, the Organization should, enrich the development of the law on any subject under international law by its input. The AALCO was the only organization that could co-ordinate its efforts to achieve the objective of ensuring that international law does not serve the rich and powerful but the poor and developing nations and the people of the world. They identified many areas which should be of particular interest to developing countries such as: The universal jurisdiction of Domestic Courts, International standards in the treatment of aliens, the issue of environment and armed conflicts, Investment laws including Most Favoured Nation Clauses and Dispute Resolutions, Legal protection of the atmosphere, the responsibility of terrorists, armed groups or militia under international law, Jurisdictional immunities of states and Responsibility of international organizations; etc. Thus, the delegation opined it was timely to re-examine the Statute of the AALCO with a view to making it a strong but flexible organization able to effectively discharge its mandate. Kenya also supported the renewal of the term of office of the current Secretary-General H.E. Prof. Dr. Rahmat Mohamad who had already suggested some innovative ideas to rejuvenate and strengthen the AALCO.

4.29 The Delegation mentioned that on 27 August 2010, a new Constitution was promulgated in Kenya which replaced the 1963 independence Constitution thereby marking the birth of the Second Republic. The delegation also enumerated the key changes made by the new Constitution. Further, the delegation informed that on 6 May 2009 Kenya had submitted to the Commission on the Limits of the Continental Shelf, in accordance with Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea,

information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea was measured. They stated that there was lack of capacity among the third world countries, including Kenya, in the area of preparing, submitting and defending submissions made to the Commission on the Limits of the Continental Shelf and in this regard Kenya had proposed the establishment of a pool of experts in that field who could assist the Commission in the discharge of its duties. Kenya had also requested the Division of Ocean Affairs and the law of the sea to come up with more programmes that would help build capacity in that technical field especially among developing countries. The delegation added that piracy and armed robbery against ships at sea off the coast of Somalia remained a grave concern for Kenya. The Leader of Delegation also stated that Kenya was in the process of setting up the Nairobi Regional Arbitration Centre. In conclusion, the delegation added that this was his last Annual Session before demitting office and in view of his experience in the Organization appealed to those states in Africa and Asia who were not yet members to become members immediately.

4.30 The **Delegation of the Republic of Indonesia** recalled the significant contribution in the work of the Law of the Sea and stated that it helped the Member States to formulate their respective positions on different issues on the Law of the Sea when considered at the Conference of the Law of the Sea. However, the delegation claimed that at present their concern related to the outstanding issue of Genetic Resources, Traditional Knowledge and Folklore. Recounting the initiatives taken by Indonesia to organize the Like Minded Countries meeting on GRTKF issues, which was held in Bali, Indonesia from 27th to 30th June 2011, he stated that its purpose was the facilitation of the work of the Committee in establishing International legal Instruments on the protection of GRTKF. Another issue of concern was the Palestinian issue and in that regard Indonesia supported a peaceful solution as expressed in the Outcome Document of the XVI Ministerial Conference and commemorative meeting of Non-Aligned Movement which took place from 23rd to 27th May 2011, and which called for an Independent State of Palestine. Lastly, the delegation mentioned that trafficking in persons was a heinous crime and stressed the importance of international co-operation in the fight against such crime, as no country could fully succeed in combating transnational crime without the assistance of other countries.

4.31 The **Delegation of Republic of the Union of Myanmar** informed that their country attached great importance to the AALCO in its work on the development of international law and its codification. She added that it was an important hub for the two continents giving assistance to consolidating their legal issues at the regional level. Sharing Myanmar's experience on changing from the old to a new political system, from the perspective of legal progressive development, the delegation claimed that the new legal developments mainly concerned the constitutional changes in Myanmar. The Constitution also contained provisions on Human Rights, national ethnic groups, promotion of literature and culture, promotion and protection of social economy in the least developed areas and promotion and protection of workers' and peasants' rights.

4.32 The judiciary, had the power to issue the Five Writs, which were universally known to provide legal redress for the breach of human rights. The delegation also spoke about the

measures required for the improvement of the economic infrastructure and plans to carry out an in-depth analysis of the monetary policy, financial policy and investment policy sector wise to make amendment to the laws, regulations and procedures in the interest of the nation and the people. Thereafter, the delegation highlighted that it was important and necessary to carry out programmes on education, creative industry and common interest of ASEAN nations. Thereafter, the Delegation highlighted the important agenda items on the work programme of AALCO and renewed its commitment to closely cooperate with it based on the five principles of peaceful coexistence and continued cooperation in all legal matters and development of practical response to specific issues of common concern.

4.33 The **Delegation of Palestine** highlighted the illegal activities of Israel, including settlements in the Occupied Palestinian Territory. The delegation was of the view that whoever commits a crime should be brought to justice. The delegation recalled that despite scores of resolutions having been adopted by the UN General Assembly and the Security Council remained unimplemented on the ground. The delegation also sought the support of other member States for the establishment of an Independent Palestinian State with East Jerusalem as its capital. The delegation also deplored human trafficking and highlighted the need for protection of women and children. The Delegation also stated that democracy cannot function for states under occupation.

4.34 The **Delegation of the Islamic Republic of Iran** stated that the AALCO played a significant role in developing international legal norms, especially in areas of common concern or interest to the member states. The delegation stated that for the past 55 years, the Organization had provided a workable forum for its member States and this encouraging fact could make the Member States deliberate on how best it could revitalize the Organization and turn it into a more effective and productive forum in international law. It was also emphasized that the common interests and challenges shared and faced, offered the necessary ground to promote interaction and cooperation within AALCO.

4.35 Thereafter, the delegation shared their views and concerns regarding the occupation of Palestine which continued to pose the most immediate challenge to the region and beyond. The blockade of Gaza was deplored, which caused immense suffering and hardships for the people. Mentioning that the Islamic republic of Iran had ratified the important UN Convention on Jurisdictional Immunities of States and Their Property encouraged other Member States to join the Convention. They also mentioned the differing positions of states on the application of the 1982 Convention on the Law of the Sea, in areas of marine biodiversity and genetic resources in areas beyond national jurisdiction, which was mainly because of the gap between two groups of countries over the appropriate legal regime for exploitation of marine genetic resources in areas beyond national jurisdiction. The Islamic Republic of Iran shared the view of the G77 and the People's Republic of China and regarded the principle of common heritage of mankind as part of customary international law codified by the Convention

4.36 The Delegation mentioned that another area which required attention related to the marine environment and felt that Asian and African countries should play a more active

role in the relevant international processes concerning the marine environment. In that regard the delegation informed about the holding of the 4th Economic Co-operation Organization Ministerial Meeting on Environment that was held in Tehran on 7 and 8 June 2011. The delegation was of the view that co-operation between the International law Commission and Sixth Committee should be strengthened. The delegation welcomed the various initiatives undertaken by the Secretariat and said that the lectures delivered should be published in the AALCO Yearbook. In conclusion they stated that a Revitalization Plan was needed to deal with the financial issues of the AALCO with a view to developing a financial policy based on financial discipline and sustained financial resources. In this regard, the delegation suggested the establishment of an open-ended working group to examine all the aspects of the proposals and initiatives related to the revitalization of the AALCO and table the possible conclusions at the next Annual Session.

4.37 The **Delegation of the Republic of Iraq** complemented the Government of the Democratic Socialist Republic of Sri Lanka for organizing the annual session very efficiently and the warm gesture extended to their delegation. The delegation mentioned that their Government had made efforts to strengthen national unity, establish democracy, and make progress in the re-construction process and in combating terrorism as well as dealing with the crime of human trafficking. On the issue of combating terrorism, their Government had adhered to all the United Nations Security Council Resolutions as well as the Four Geneva Conventions.

4.38 The **Delegation of the Democratic People's Republic of Korea** mentioned that due to the unilateral sanctions and blockade imposed by the United States, progress of DPRK and other Member States had been hindered in respect of their national development, politics, the economy and culture. The delegation remarked that imposition of sanctions and blockades by an individual State against a third State especially selective States by invoking its domestic legislation was a clear violation of the general principles of international law which stipulate respect for sovereignty of States, non-interference in internal affairs of the other, equality and reciprocity and the right to free development of the State. On the matters relating to terrorism, their Government had consistently adhered to the position of opposing all forms of terrorism and any support to it. They extended their Government's support for the AALCO to take measures in the establishment of an international legal regime to combat terrorism. The delegation also supported the Government of Malaysia's proposal directing the AALCO Secretariat to conduct a study on the legal aspects of human rights standards based on the western values on Asian and African countries.

4.39 The **Delegation of the State of Qatar,** congratulated the Secretary-General and his team for the efforts in organizing the Session in a very able manner. The delegation mentioned that the AALCO should possibly review the Organization's work and its activities in order to keep up with the pace of time. The Delegation informed that one of the functions of the AALCO was to bring co-operation between Member States on the international legal issues concerning them. In that regard, they mentioned that on the

matters relating to the International Criminal Court, the AALCO had done a commendable job in gathering the views of Member States by organizing a Legal Expert Meeting before the Kampala Review Conference in Putrajaya.

4.40 The **Delegation of Democratic Socialist Republic of Sri Lanka** expressed appreciation for the work done by the AALCO as an Advisory Body to the Member States and for making a significant contribution towards the progressive development of international law. On the issue of trafficking in persons, the delegation informed that their country had established a National Task Force which comprised officials from all relevant Ministries and Departments. With regard to the Law of the Sea, the delegation mentioned that the issues relating to maritime safety and security and the development of legal principles for the preservation and protection of the marine environment would take precedence. Further, they hoped that the AALCO would continue its role as a Consultative Organization on important international legal affairs and would continue its cooperation with other international Organizations, especially the relevant legal bodies of the United Nations.

4.41 The **Delegation of the United Republic of Tanzania** informed that in her country, the general elections were held peacefully in October, 2010, where His Excellency, Jakaya Mrisho Kikwete, was re-elected as the President for a second term of five years. Further, it was informed that the country had embarked on a Constitutional Review with the objective of drafting a new Constitution of the United Republic of Tanzania. As regards the work of AALCO, the delegation called upon the Member States to acknowledge the achievements of the AALCO in the field of international law and stressed that there was a need to engage more in research work and train young lawyers on international legal aspects. They informed that they would like to exchange their views on the agenda items relating to environment and sustainable development, expressions of folklore and its protection under international law during the course of deliberations.

4.42 The Delegation mentioned that their country had taken appropriate measures in dealing with the threat posed by piracy, trafficking in women and children, migrant workers and protection of children, environment and sustainable development. They were working with other partner States of the East African Community (EAC), the Southern African Development Community (SADC), and the Common Market for Eastern and Southern Africa (COMESA) towards the establishment of a Tripartite Free Trade Area. The Delegation supported the recommendation made by some other delegations, on the re-election of H.E. Prof. Dr. Rahmat Mohamad as the Secretary-General of AALCO in recognition of his excellent work.

4.43 The **Delegation of Uganda** stated that since joining the Organization, the delegation benefitted from the various Annual Sessions and the general working relationship that it enjoyed with the AALCO. The delegation noted that the matters relating to the Environment and Sustainable Development, UNCITRAL and other international trade law Organization related issues, and Expressions of Folklore and its International Protection were some of the issues of importance that the delegation would like to deliberate upon. The Delegation informed that their country had signed a Protocol on the

Protection of Traditional Knowledge and Expressions of Folklore within the framework of the African Regional Intellectual Property Organization, which itself indicate that the country was already acknowledged as having recognized the value of protecting Expressions of Folklore at the international level.

4.44 The **Delegation of the Kingdom of Bahrain** commended the work of the AALCO and extended their support to all its activities. The delegation also mentioned that the AALCO should look forward to working closely with regional organizations like the Arab League.

4.45 The **Observer Delegation of the International Committee of the Red Cross (ICRC)** at the outset thanked the AALCO and the Government of Sri Lanka for providing the ICRC the opportunity to take part in its Fiftieth Annual Session. The Observer delegate mentioned that the ICRC had a mandate under international law to take impartial action for detainees, the wounded and sick, and civilians by armed conflict and other situations of violence. The Observer delegation observed that the ICRC's association with the AALCO had helped in the promotion of international humanitarian law, a task given to the ICRC by the States Parties to the Four Geneva Conventions, 1949, which include the Member States of AALCO. Towards that, the two Organizations undertook the task of compiling a database on the ratification and national implementation of the core international humanitarian law treaties by the AALCO Member States. A preliminary draft of which had been released during the Session would require the comments of the Member States for further improvement of the publication. During the presentation, the delegation highlighted some of the issues that were of significance for the protection of victims of armed conflicts and other situations of violence.

5 Second Meeting of Delegations of AALCO Member States

5.1 ***Release of AALCO Publications and International Humanitarian Law: Preliminary Database on Treaty Ratification/Accession and National Implementation by AALCO Member States:*** The following AALCO publications were released by H.E. Rauf Hakeem, President of the Fiftieth Annual Session of AALCO.

1. *AALCO@50: Some Reflections on International Law*
2. *Basic Facts about the Asian-African Legal Consultative Organization*
3. *Yearbook of the Asian-African Legal Consultative Organization (2010)*

5.2 Also, a joint AALCO-ICRC publication entitled **International Humanitarian Law: Preliminary Database on Treaty Ratification/Accession and National Implementation by AALCO Member States** was also released.

5.3 ***Report of the Secretary-General on Organizational, Administrative and Financial Matters:***

5.4 The Secretary-General at the outset profoundly thanked all the Member States of AALCO for their constant support and cooperation extended to him in discharging his duties. He extended special thanks to Her Excellency Ms. Celina Ompeshi Kombani

(MP), Minister for Constitutional and Legal Affairs, United Republic of Tanzania; and President of the Forty-Ninth Annual Session of AALCO for her guidance in steering the work of Organization and also to H.E. Tan Sri Abdul Gani Patail, Attorney-General of Malaysia and President of the Forty-Eighth Session of AALCO for giving unwavering and endless support to AALCO and himself. He also thanked the International Organizations and institutions which collaborated with AALCO in organizing several inter-sessional events. He extended special appreciation to the Deputy Secretaries-General and the Secretariat staff for their sincere efforts.

5.5 The Secretary-General's statement was divided into three parts. First, it focused on the implementation of the Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization; secondly, Activities and projects undertaken since the Forty-Ninth Annual Session of AALCO; and thirdly, Plan of Action for the coming year. He recalled the Putrajaya Declaration adopted at the Forty-Eighth Annual Session of AALCO and explained the measures taken for the implementation and meeting the target of Putrajaya Declaration in the organizational and substantive matters.

5.6 While discussing the financial matters of AALCO, the Secretary-General informed that the Republic of Iraq and Sudan had partly cleared their arrears. He also thanked the Government of Malaysia and Turkey for their voluntary contributions and proposed that any voluntary contribution made by a Member States would not be added to the regular budget of the Organization. He also touched on the revised scale of assessed contribution of Member States and the AALCO Reserve Fund. Regarding the Secretariat matters, he informed that a "Sub-Committee had been established to look into the Human Resources and Financial Matters of AALCO". The Secretary-General also reviewed the work done by AALCO so far. He also explained the rationale for the establishment of the Eminent Persons Group (EPG) and its mandate.

5.7 While dealing with the activities and programmes of AALCO, the Secretary-General highlighted seven key areas in his presentation, which included: AALCO Meetings in New York and ILC; capacity building programmes; research and publication; developing data base of legal experts; seminar and lecture series; internship programs; and visit by high level dignitaries to the AALCO Secretariat.

5.8 The Secretary-General further explained how AALCO could be developed as a knowledge organization. He also made a proposal regarding an AALCO Foundation and its proposed activities. He emphasized that based on the experience of United Nations Foundation; "no-strings" attached, AALCO Foundation could seek project based donations from corporate entities. This fund could be used, among others, for various capacity building exercises.

5.9 In his concluding observations, the Secretary-General highlighted some of the challenges and proposals for the year 2011-12. The issues identified were, increasing the Membership of the Organization; improving the financial base of the Organization; creation of AALCO Database of Legal Experts and national legislation; Legal Experts Meeting; capacity building programmes; strengthening the Secretariat with human and

technical support from the Member States; establishing cooperation with international and regional organizations and academic institutions; expanding internship projects; upgrading the website of AALCO; Arabic version of the AALCO website; strengthening the library and special studies/briefing papers on various specialized topics of international law.

5.10 In the ensuing deliberations on the report on the work of the Organization, the Leaders of the Delegations from **Thailand, Brunei Darussalam, Kingdom of Saudi Arabia, Malaysia, Japan, India, Indonesia, Islamic Republic of Iran and Kenya** participated. The activities of the Secretariat in pursuance of the mandate given by the Forty-Ninth Annual Session were appreciated by the Member States and they applauded the efforts exerted by the Secretary-General in that regard.

5.11 The **Delegation of Thailand** emphasized that the role of capacity building in international trade law and policy was crucial for developing countries in preserving their interests. Garnering such a capability demands international assistance in training. The delegation was of the view that partnership with regional training centres with expertise in the field of international trade would achieve this goal. Therefore, the delegation proposed partnership between AALCO's Center for Research and Training and the International Institute for Trade and Development (ITD), a prominent training centre on international trade in Bangkok, Thailand. The ITD was a government-supported public organization established in accordance with an agreement between the government of Thailand and the United Nations Conference on Trade and Development (UNCTAD). The delegation also explained the aims of ITD.

5.12 The **Delegation of Brunei Darussalam** congratulated the efforts made by the Secretariat in finding a pragmatic approach to tackle the financial situation of the Organization. The delegation was of the view that the Secretary-General had found creative ways to collect arrears from the non-paying Member States, as well as streamlining the budget. The delegation stated that Brunei Darussalam has benefited a lot from AALCO especially through its capacity building programmes and also the Annual Sessions. The delegation recalled the assurance of the Hon. Attorney-General of Brunei Darussalam for its continuous support during the Forty-Ninth Annual Session. The delegation announced that their country was planning to organize a joint seminar with the AALCO Secretariat sometime next year. The proposal would be further discussed with the Secretariat especially in deciding a topic of common interest among Member States for the joint seminar.

5.13 The **Delegation of the Kingdom of Saudi Arabia** appreciated the Report of the Secretary-General. The Delegation informed that their country had participated in the programmes in Jakarta and New Delhi. The delegation highlighted that they would benefit more from such progrmmes provided interpretation facilities were made available.

5.14 The **Delegation of Malaysia** was of the view that the Secretary General of AALCO had successfully steered the Organization to a direction as mandated by the Member States of

AALCO, in line with the *Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization* which was adopted on 20 August 2009 during the 48th Annual Session of AALCO. The activities and programmes which had been charted and undertaken by the Secretary-General and his Secretariat had inevitably and significantly contributed towards ensuring and implementing the visions and aspirations of the Member States for a revitalized and strengthened AALCO, as the main centre for harmonizing the actions of Asian-African States in international legal matters. The delegation was pleased to note that many of the programmes implemented by the Secretariat had benefitted the legal fraternity in both the Member States of AALCO and non-Member States. Malaysia in particular, had gained a great deal from the activities and programmes initiated by the AALCO Secretariat. The delegation also commended the AALCO Secretariat for its Capacity Building Programmes and initiating the Eminent Persons Group. The delegation also took note on the update by the Secretary-General on measures that he and his office had undertaken in order to improve the financial situation of AALCO. Malaysia also welcomed voluntary contributions to AALCO by the Member States in order to secure a solid financial footing for AALCO. Malaysia noted the Secretary General's proposal that any voluntary contribution made by a Member State should be utilized for project specific action for which the Member State had made such voluntary contribution. While Malaysia generally supported the establishment of the AALCO Foundation, the delegation cautioned that the AALCO Foundation's process of garnering financial support either through "*no-strings attached donations*" or through strategic collaboration with corporate entities should be both transparent and void of any conflicts of interests. The delegation was also of the view that the spirit of cooperation and mutual assistance between AALCO and I-CeLLS would spur both institutions to greater heights.

5.15 The **Delegation of Japan** stated that two years had passed since the Member States made a decision to revise the assessed scale of contributions and in the Putrajaya Declaration they confirmed their commitment to support and to revitalize AALCO. As a result of the strenuous efforts of the Secretary-General they could see some improvement. The delegation also reminded that there still remained a significant number of members which had not yet paid their contributions. Under those circumstances, the delegation regarded that it was highly significant that on the initiative of the Secretary General a Sub-Committee to Look into the Human resources and Financial Matters of AALCO had been set up and that an examination of most appropriate size of the Secretariat was going to be conducted in due course. Japan supported the initiative of the Secretary-General and would actively participate, together with the other members, in the discussions on this important question of reforming the Secretariat. The delegation also welcomed the proposal of the Secretary-General to explore "no-strings " attached donations from private entities in the member states as such donations would certainly serve to ameliorate the financial situation and to reactivate the activities of AALCO. Japan valued greatly such positive attitude of the Secretary-General to explore various ways and means to overcome the financial difficulties of the AALCO. With regard to the budget proposal for 2012, he said that Japan would not be against its adoption at this Annual Session. However, at the same time, the delegation pointed out that in the light of the prospect for no substantial improvement in the total amount of payments of contributions by the

Member States as a whole, it was essential that various reforms should be carried out urgently in one or two years time and, in particular, the delegation hoped very much that the afore-mentioned examination of reforming the Secretariat would be carried out with a specific time-frame. The delegation also stated that it was becoming increasing difficult to persuade the financial authorities in Japan when so many other members did not honor their obligations, while Japan was in a very difficult financial situation. For this reason also, the delegation urged members to pay their assessed contributions as soon as possible.

5.16 The **Delegation of India** appreciated the efforts of the Secretary-General for establishing the AALCO Sub-Committee on human resources and financial matters, with the mandate to look into working conditions of the staff. He stated that AALCO has a longstanding relationship with Government of India because they host the Headquarters of AALCO and for that reason salary structure of the locally recruited staff was based on the Government of India rules and standards. Due to the increased inflation and other reasons, Government of India had revised the scale of salary according to the Sixth Pay Commission. However, for the past five years, AALCO has not paid retiral benefits and other monetary benefits to its staff. The delegate emphasized that at the present Session, a decision addressing those issues must be endorsed. He reiterated that Member States who had not paid their annual contribution must make prompt payment of full annual contribution and in that regard, India also joined hands with Japan in supporting the creation of the AALCO Foundation Fund with 'no-strings' attached directives, provided it must be within the objectives of AALCO.

5.17 The **Delegation of Indonesia** thanked the Secretary-General for a comprehensive statement and also applauded the efforts in enhancing the activities of AALCO.

5.18 The **Delegation of Islamic Republic of Iran** stated that it was essential to rethink on the outcome of the adopted resolutions, whose contents must reflect in policy papers so as to formulate customary international law and *opinio juris*. He also welcomed the proposal of internship projects in AALCO which would be a platform for young students and diplomats working within the field of international law.

5.19 The **Delegation of Kenya** informed that their Government was aggressively pursuing the establishment of Nairobi Regional Arbitration Centre. He also raised concern about the salaries of the locally recruited staff being given as per Government of India rules, but rather stated that the salary must be paid as per the standards of International Organizations, like the United Nations.

5.20 ***Adoption of the Proposed Budget for the Year 2012:*** The **Secretary-General** introduced the Proposed Budget for the Year 2012 contained in document AALCO/50/COLOMBO/2011/ORG.2. He informed that the budgetary papers were adopted at the 311th Meeting of the Liaison Officers in accordance with Statutory Rules 24 (2) and were placed for final approval before the Annual Session as per Rule 24 (4) of the Statutory Rules of AALCO. He explained that the total amount of the proposed budget for the year 2012 was USD 570,268 (US Dollars Five Hundred and Seventy

Thousand, Two Hundred and Sixty Eight) which was calculated as per expected assessed contribution of Member States as per the revised and adopted scale of annual contribution of Member States during the Forty-Eighth Annual Session of AALCO held at Putrajaya, Malaysia in the Year 2009 vide resolution AALCO/RES/48/ORG.2.

5.21 The Secretary-General explained that during the Forty-Ninth Annual Session of AALCO held in United Republic of Tanzania in 2010, some Member States had urged the Secretary-General to prepare a realistic budget on the basis of actual contributions received. Therefore, the budgeted expenditure for the year 2012 had been divided into two parts, (i) the realistic budget of USD 501,621 on the basis of expected contributions from regularly paying Member States; and (ii) the remaining amount of USD 68,647 would fall under the heading 'other projected expenditures', which would be incurred depending upon contributions received from Member States in arrears. The Proposed Budget could be divided into two main heads namely: (i) Expenses incurred in relation to maintenance of the Headquarters, Pay and Allowances to Secretary-General and Locally recruited Staffs, emoluments to Deputy Secretaries-General, expenses in relation to Annual Session and inter-sessional meetings printing, publication and so on amounting to USD 496,621 and (ii) Expenses under Centre for Research and Training (CRT) was USD 5,000.

5.22 He recalled that to replenish the Reserve Fund, during the Forty-Eighth Annual Session, the resolution adopted had urged the Member States to ensure that it always had a six-month operational fund. As of May 2011, the total amount of the Reserve Fund was only for an operational period of three months. With regard to collection of arrears from Member States who were in large amount of arrears, certain measures were proposed. He thanked the Government of Iraq for having paid their first and second installment of arrears of contribution in compliance with the Memorandum of Understanding (MoU) signed with AALCO. He also said that the Government of Sudan had also paid their first installment of arrears of contribution based on the calculations under the draft MoU. The Secretary-General hoped that other Member States with large amount of arrears should also follow suit. He stated that the AALCO had received annual contribution from 36 Member States for the year 2010 (until May 2011). Arrears of contribution were received from 12 Member States in the year 2010. On those lines, he urged Member States who had not paid their annual contribution and arrears to fulfill their financial obligations. He also thanked the Secretariat staff for effective streamlining of the expenses and for extending their full cooperation in reducing the expenses.

5.23 The **Delegation of India** raised three pertinent issues on the Proposed Budget. Firstly, on reduction of allocated budget for activities under the Research and Training for the year 2012 from USD 73,000 to USD 5000 that would it not affect the activities of AALCO. Second, why was the pay and allowances to the locally recruited staff identical in 2011 and 2012 and third, how to resolve the issue of fluctuating dollar rates.

5.24 To those queries, the **Secretary-General** responded that, the budgeted amount for research and training activities has been reallocated for paying off the retiral benefits for the staff. The salaries of the Secretariat Staff remained identical because there was a

decline in the staff strength. He also mentioned that activities of AALCO had been convened due to full sponsorship by certain Member States of AALCO.
The **President** then declared that the Draft Budget for the Year 2012 was adopted.

5.25 ***Report of the Chairman of the AALCO-Eminent Persons Group (EPG) Meeting:*** The preliminary meeting of the AALCO-EPG was convened on Sunday, 26th June 2011 at Hotel Cinnamon Lakeside, the venue of the Fiftieth Annual Session of AALCO being held in the Democratic Socialist Republic of Sri Lanka. Present at the meeting were: H.E Dr. Abdullah Mohamad Said Al-Saidi, Minister of Legal Affairs, Sultanate of Oman; Hon. Amos Wako, Attorney-General of Kenya and Member of ILC; Dr. Rohan Perera, Member of ILC, Sri Lanka; Prof. Shinya Murase, Member of ILC, Japan; Mr. Narinder Singh, Member of ILC, India; Prof. Djamchid Momtaz, Former Chairman of ILC, Islamic Republic of Iran; Mrs B. Kiondo, Liaison Officer of the United Republic of Tanzania (Representing Ms. Celina Kombani, Minister of Constitutional and Legal Affairs and the President of the Forty-Ninth Annual Session of AALCO); Prof. Dr. Rahmat Mohamad, Secretary-General, AALCO; Dr. Xu Jie and Dr. Hassan Soleimani, Deputy Secretaries-General, AALCO[1].

5.26 **Prof. Dr. Rahmat Mohamad**, the Secretary-General in his welcome remarks recalled that the Forty-Ninth Annual Session of AALCO held in Dar es Salaam, United Republic of Tanzania in August last year, endorsed the proposal relating to the constitution of an AALCO Eminent Persons Group (AALCO EPG). He also noted that the EPG would serve as an informal guidance mechanism, an "Advisory Body", for the Secretary-General to steer the work of the Organization. The aim of this group would be to suggest to the Secretary-General the short, medium and long term measures needed for the substantive work of the Organization, he added.

5.27 He outlined that the primary task of the Eminent Persons Group would be; (i) how to enhance the profile and relevance of AALCO in the international arena; and (ii) how to contribute significantly to the substantive aspects of AALCO.

5.28 ***Election of the Chairperson of the EPG:*** Mr. Rohan Perera, Member of the ILC, who was unanimously elected by the Members of the EPG as its Chairman, expressed hope that by the active contribution of all its Members, the EPG would be able to achieve its aims and objectives in the best possible manner.

5.29 As regards **enlarging the Membership of AALCO**, the Secretary-General noted that since his assumption of office, despite his best of efforts, he had not been able to persuade so far any other Asian-African State to become a Member of AALCO, and that his efforts were continuing and special attention was being paid to bring the Central Asian Group of States into the fold of AALCO.

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[1] Besides the names of the Members referred above, the following persons were also present at the meeting as Observers; Ms. Sarah Al-Sharji , Sultanate of Oman; Neil D.B. Unamboowe, Deputy Solicitor-General, Sri Lanka, Mr. PG Indera Jaya Shamsu , Liaison Officer of the Brunei Darussalam. The AALCO Secretariat officials present at the meeting were: Mrs Anuradha Bakshi, Assistant Principal Legal Officer, Mr. Mohammed Hussain K.S., Senior Legal Officer and Mr. S. Pandiaraj, Legal Officer, who assisted the Members of the EPG.

5.30 As regards the **ways and means to raise additional funds for AALCO**, the Secretary-General mentioned that the annual contributions from the Member States was the only source of income available to the Organization and that it was well-known that generally, the contributions were regularly paid by only 30-35 Countries. In view of this state of affairs, he remarked that, the Secretariat of AALCO was hard-pressed to find new and innovative ways of generating income so as to deal with the increasing activities of the Organization.

5.31 **Mr. Amos Wako**, the Attorney-General of Kenya and a Member of the ILC, stated that the problem of arrears was a common problem faced by many international organizations and supported in principle the suggestion of project-based financing as suggested by the Secretary-General. However, he noted that a detailed proposal from the AALCO Secretariat indicating the areas in which such project-based funding could be undertaken was necessary in this regard, in order to explore the matter further.

5.32 **Mr. Narinder Singh,** while broadly agreeing with the suggestions proposed by the Secretary-General and Mr. Amos Wako, however noted that, contributions from the Member States should be the primary source of income for the Organization and that, the proposed projects should be related to areas of common concern to the Member States and be beneficial for them.

5.33 As regards **the current agenda items of AALCO**, the Secretary-General informed that, in view of the paucity of human and financial resources obtaining in AALCO, it was difficult to focus on all the 16 agenda items of AALCO, and hence, the work of AALCO needed to be prioritized. While noting that the Secretariat of AALCO was not in a position to meet the mandates contained in the resolutions adopted at the annual Sessions, he added that Working Groups could be set up to look into certain specific areas of work of AALCO so as to receive a tangible outcome in the form of model laws, soft laws or guidelines. The Chairman, while agreeing with this suggestion noted that the practice of AALCO in the 1970s and 1980s was to draft model laws and guidelines on various issues for Member States and this past practice could be revived.

5.34 **Prof. Murase**, while agreeing with the Secretary-General that 3 or 4 specific issues could be focused upon, stated that AALCO should only focus on legal issues and should not venture into the political terrain. In this connection, Prof. Momtaz remarked that AALCO has already been doing this by making a distinction between deliberated and non-deliberated items. However, Prof. Momtaz pointed out that a distinction between legal issues and political issues was not always feasible and that many issues involved both elements. While making his intervention on this issue Mr.Narinder Singh stated that it was indeed necessary to prioritize the work of AALCO and that the agenda items of the ILC should be given priority in this regard. He added that AALCO should continue to monitor those issues that have already been completed by the ILC and are being dealt with by the Sixth Committee until they are brought to their logical conclusions.

5.35 While agreeing with the general thrust of the suggestions proposed by the Members, **Mr. Amos Wako** remarked that the issues which are of critical concern to the developing

countries as a whole, have to be given utmost consideration in any scheme for prioritization of the work. This was necessary taking into consideration the original purposes for which the Organization was set up, he added.

5.36 In this regard the Chairman stated that when the Secretary-General presents his report containing the viewpoints of its Member States at the Annual ILC Sessions, it should focus more on substantive issues. The Chairman stressed the importance of highlighting the key decisions taken at the Annual Session of AALCO, when the Secretary-General submits his Report to the ILC, leaving sufficient time for a productive interaction with the Members of the ILC, which in turn, would be beneficial both to the Organization and the ILC.

5.37 As regards the **future agenda of AALCO**, two topics, namely, (i) Protection of the Atmosphere and (ii) Model Rules of Decision-Making Procedures for International Conferences and Conference of Parties to Multilateral Conventions were proposed by Prof. Shinya Murase. He circulated background papers on each of the proposed items to all the Members for their consideration. The utility of exploring these proposed topics were welcomed by the Members of the EPG.

5.38 The Chairman of the EPG also made a suggestion that a third topic, namely, 'Contemporary Problems and Challenges in the field of International Investment law' could also be taken up by AALCO in future. He stressed that this issue would be of particular importance to developing host States of Asia and Africa which are keen on attracting investment. On the modalities it was agreed that Working Groups could be established on these areas to identify the current relevance and the future challenges that these topics present to the Member States of AALCO. However, as a first step detailed questioners on all the three proposed items could be prepared by the Secretariat under the guidance of the EPG and circulated to all Member States for inviting their comments, on each topics, he added.

5.39 The last issue that was discussed by the EPG pertained to the number of meetings to be convened. In this regard, it was pointed out that the official visits of the Secretary-General to both New York and Geneva could also be utilized to further deliberate upon the issues identified by the EPG, in addition to having the EPG Meeting on the sidelines of the annual sessions. It was felt that, this modality, could lessen the financial burden of the EPG Members, and could also at the same time achieve impressive results, it was felt.

5.41 The **President** then declared the Report of the Chairman of the AALCO-EPG as adopted.

5.42 ***Preliminary Report of the Sub-Committee for the Advisory Panel of Liaison Officers to Look into the Human Resources and Financial Matters of AALCO:*** Mr. PG Indera Jaya Shamsu, the Liaison Officer of Brunei Darussalam and the Chairman of the Sub-Committee presented the preliminary report. In his report he informed that the sub-committee was established at the Resumed 308th Meeting of Liaison Officers of AALCO Member States which was convened at the Headquarters of AALCO, on Wednesday, 1st December 2010. The sub-committee was entrusted with three main tasks, namely: (i)

salary structure of the Staff; (ii) right size of the AALCO Secretariat; and (iii) ways and means to generate income for AALCO other than the contributions received from its Member States. The Chairman informed that in the Meeting Mr. Yu Peng, the Liaison Officer of the People's Republic of China at the outset expressed deep appreciation to the Secretary-General for the excellent work done. He said that as the only inter-regional consultative Organization AALCO had played a positive role in taking up legal issues of common concern in the Asian-African region. He said that the Government of the People's Republic of China had always supported the activities of AALCO and would always continue to support it in the future as well. He also supported the initiative of the Secretary-General to set up a sub-committee to look into the administrative and financial matters of AALCO. He proposed the name of Mr. PG Indera Jaya Shamsu, the Liaison Officer of Brunei Darussalam as the Chairman of the sub-committee in view of his vast diplomatic experience and long association with AALCO. The Liaison Officers of the Islamic Republic of Iran, Malaysia and Indonesia raised their hands and supported the appointment of the Chairman. The Secretary-General informed that the sub-committee would be open-ended and it would present its report to the Liaison Officers after three months and thereafter at the Annual Session in Sri Lanka. The Chairman informed that due to time constraints, the Sub Committee could not meet in the intervening period even though the first meeting was scheduled on 17 February 2011. The sub-committee would hold its meetings after the fiftieth Annual Session and hopefully report could be finalized and presented in the 51st Annual Session of AALCO. The Chairman explained that the sub-committee had in hand challenging tasks which involved ascertaining the human resource requirement and planning and salary structure of the Secretariat Staff. He stated this required detailed study and research.

5.43 Another challenging task before the Sub Committee was to suggest ways and means to generate income for AALCO other than the contributions received from its Member States. It was well known that AALCO completely depended on the Annual contribution of member States for meeting its budgetary expenses. However, there was a lot of difference between the expected contribution from Member States and actual contribution received. For executing both these tasks successfully, the Chairman stated that the Sub Committee needs the cooperation and assistance of all Member States and requested the Member States to actively participate in the Meetings, so that the Committee could come up with a productive report to be placed at the Fifty-First Annual Session. The Preliminary Report of the Sub Committee was endorsed by the Annual Session and the meeting was thereafter adjourned.

6. Third General Meeting

Agenda Item: Report on the Matters relating to the Work of International Law Commission at its Sixty-Second Session

6.1 The **Secretary-General**, while introducing the agenda item, noted that one of the statutory obligations of AALCO was to examine the questions that are under consideration of the International Law Commission, and thereafter, to forward the views of its Member States to the Commission.

6.2 While giving a brief overview of the work of the Commission on its Sixty-Second Session, he stated that there were as many as nine topics on the agenda of the aforementioned Session of the ILC, namely, Reservation to Treaties; Expulsion of Aliens; Effects of Armed Conflict on Treaties; Protection of Persons in the Event of Disasters; The Obligation to Extradite or Prosecute (*aut dedere aut judicare*); Immunity of State Officials from Foreign Criminal Jurisdiction; Treaties over time; The Most-Favored-Nation clause and Shared Natural Resources.

6.3 After briefly highlighting the progress under each of the topic mentioned above, he remarked that inputs provided by the Member States of AALCO would be of immense significance to the ILC in formulating the future trajectory of its work, and that the feedback and information on the state practice of AALCO Member States would enable the Commission to take into consideration the views of diverse legal systems.

6.4 ***Mr. A. Rohan Perera, Member of the International Law Commission (ILC)*** and current Rapporteur, speaking in his personal capacity, expressed his appreciation for the Report presented by the Secretary-General of AALCO that outlined the work of the ILC at its Sixty-Second Session held in 2010. He remarked that, in view of paucity of time, he would focus only on two key topics, viz., "The Effects of Armed Conflicts on Treaties" and "Immunity of State Officials from Foreign Criminal Jurisdiction" that were specifically dealt with in the first half of the Sixty-Third Session of ILC that took place from 26th April to 3rd June, 2011. The comments/viewpoints on these two items on the part of Member States would be of extreme importance to the work of the Commission, he added.

6.5 As regards the topic "The Effects of Armed Conflicts on Treaties", he pointed out that the text of draft articles on that issue along with the commentaries thereto, were adopted by the Commission at its first part of its Sixty-Third Session held in 2011. Giving a bird's eye view of the provisions of the draft articles, he informed that the draft articles have been structured into 3 parts. The first was entitled 'Scope and Definitions'. The second which was entitled 'Principles' contained two Chapters, and that the third part pertained to 'Miscellaneous'. The draft articles are followed by an annex related to draft article 7, he explained. He noted that these draft articles as a whole reflected the general proposition that armed conflicts, *ipso facto*, does not terminate or suspend the operation of treaties, and that this rationale ran through the entire set of draft articles adopted on that issue. As regards the determination of whether a treaty survives an armed conflict or not, he noted that firstly, recourse should be made to the language of the treaty itself as provided for in the draft article 4 and that, in the absence of an express provision, resort would next be had under draft article 5 to the traditional rules of treaty interpretation contained Article 31 of the Vienna Convention on the Law of Treaties. If no conclusive answer was found following the application of these draft articles, the enquiry would then shift to a consideration of matters extraneous to the treaty as provided for in draft article 6, he added. He clarified that draft article 7 contained an indicative list of treaties that included *inter alia*, treaties creating permanent regimes such as land and maritime boundary, and treaties on human rights and international humanitarian law which were, on the basis of their subject matter, deemed to survive even in times of armed conflict.

6.6 As regards the topic "Immunity of State Officials from Foreign Criminal Jurisdiction", he revealed that the Second Report of the Special Rapporteur on that subject was considered at the first part of the Sixty-Third Session of ILC. Explaining the difficulties contained in framing the boundaries of that topic, he pointed out that there are two questions that needed to be addressed in a concrete way for progress to take place on this issue. The first in his view was: Is there an exception to immunity in respect of what are called grave crimes under international law? The second was the question of the precise categories of persons apart from the well-known troika (the Heads of States, the Heads of Governments and the Minister of Foreign Affairs), who would be considered to enjoy immunity *ratione personae*. In that regard, he explained that the crux of the Report of the Special Rapporteur on this issue was that immunity of state officials from foreign criminal jurisdiction should be the norm and that, any exception thereto needed to be proved. In summarizing the main trends of the debate, he noted that there were two streams of thought that informed the entire debate on the topic. According to one view, sovereignty must be limited, and that one could not talk of absolute immunity when grave crimes are committed. The principle of non-impunity was a core principle, and that one could not speak of absolute immunity where grave crimes are committed even by high-ranking officials. According to another view, the principle of immunity, which was well-established in international law, including the international customary law, does not brook any infringement and that, it was critical in preserving the stability of international relations. The challenge for the Commission, he added, lied in striking a proper balance between the two schools of thought. He also made a plea that the Member States of AALCO should give their most serious consideration to this topic when the Report on that issue was before the Sixth Committee during the forthcoming United Nations General Assembly. It was important for the future work of the ILC to receive the views and policy guidance of Member States of AALCO on the sensitive issues which arise in the consideration of these topics, he added.

6.7 **Prof. Shinya Murase, Member of the International Law Commission**, also speaking in his personal capacity, focused his address on two points, namely, future topics that the International Law Commission should take up, and the need to follow-up the work of ILC. He mentioned that ILC had concluded its work on three of its topics and therefore new topics were to be chosen for the next quinquennium. Selection of the topics was based on practical, technical and political feasibility of the topic, moreover the work had to reflect the new developments in international law and the pressing concerns of the international community as a whole. Prof. Murase, had made a proposal to include 'Protection of Atmosphere' as a topic and prepare a comprehensive convention to address the whole range of atmospheric issues such as transboundary air pollution, depletion of ozone layer and climate change which could be similar like Part XII of the Law of the Sea Convention on the protection and preservation of maritime environment. He hoped that the Sixth Committee would endorse this proposal. In relation to the relationship between ILC and the Sixth Committee, the need to follow-up developments of draft articles was required. He recalled that the conclusion of draft articles on transboundary aquifers completed in 2008, which could adopt a resolution in the form of a General Assembly 'declaration' on the principles and rules applicable to transboundary aquifer,

which could be a basis for future a framework convention. On the UN Convention on Jurisdictional Immunities of States and their Property, he recalled the contribution of the Special Rapporteur Amb. Sompong Sucharitkal and expressed his belief that his contribution would be duly recognized when the Convention comes into force with the necessary ratifications.

6.8 The **Delegation from the Islamic Republic of Iran** thanked the representative of the ILC Dr. A. Rohan Perera for his excellent presentation on the work of the ILC at its Sixty-third session. On the work of the Commission on 'Effects of Armed Conflicts on Treaties', the delegation stated that Article 2 includes express reference to the applicability of the draft articles to non-international armed conflicts. The delegation stated that it continue to deem it inappropriate to include those armed conflicts. The possible effects that this category of conflicts might have on treaties were indeed governed by the provisions of draft articles on "International Responsibility of States" under circumstances precluding wrongfulness. Further, article 73 of the Vienna Convention on the Law of Treaties, which is the basis of ILC's work on the subject, refers exclusively to the effects on treaties of armed conflicts between states. On the topic "Expulsion of Aliens" the delegation was of the view that the expulsion must be made with due respect for fundamental human rights of the deportees. On the topic "Protection of Persons in the Event of Disasters", the delegation observed that it was for the affected State to determine whether receiving external assistance in the event of disaster is appropriate or not. Any suggestion to penalize the affected States would be contrary to international law. The delegation underlined the importance on the set of draft articles on Responsibility of International Organizations adopted on second reading by the drafting committee during the present session of the Commission and recommended that the AALCO Secretariat could undertake a study on it and present to the next Annual Session a comprehensive report on the subject.

6.9 The **Delegation of People's Republic of China** at the outset welcomed the long-standing and mutually-beneficial cooperation existing between the ILC and AALCO. As regards the topic "The Effect of Armed Conflicts on Treaties", he stated that the definition of armed conflict provided inadequate restrictive conditions that could easily be construed to any use of force and that this in turn could affect the stabilization of treaty relations. As regards the topic "Expulsion of Aliens", he noted that nothing should stand in the way of extradition of an alien to a requesting State when all conditions for expulsion had been met and the expulsion itself did not contravene international or domestic law. He expressed hope that the Commission would pay sufficient attention to the concerns raised by his delegation in its future consideration of the topic.

6.10 The **Delegation of Malaysia** noted that their delegation considered the work of ILC as one of the important agenda items of the AALCO and appreciated the Secretariat report prepared on the topic. The delegation mentioned that the topics on which they would like to have deliberations were on Reservation to Treaties, Expulsion of Aliens, Effects of Armed Conflicts over Treaties, Protection of Persons in the Event of Disasters, Obligation to Extradite or prosecute, Immunity of State Officials from Foreign Criminal Jurisdiction, Most-Favoured Nation Clause and Shared Natural Resources. The

delegation supported the proposed topic "International Environmental Law" as the Commission would be able to contribute effectively towards clarifying and redefining the basic principles and rules of international environmental law. The delegation also favoured the topic proposed by Prof. Shinya Murase on the 'Protection of Atmosphere'. The delegation also supported any efforts to send young officers for attached or internship programme at ILC. The delegation proposed that the ILC Members from the Asia and Africa continent open their doors to accept attachment or internship on the recommendation of the respective governments, subjects to applicable ILC rules and procedure. The delegation also proposed to make available the report of the ILC at least one month before it came up for consideration by the Sixth Committee. They also made a suggestion that AALCO should devote one full-day to the deliberations of the agenda items on the ILC so that in-depth discussions could take place.

6.11 The **Delegation of Indonesia** emphasized on the following topics, namely; expulsion of aliens and protection of persons in the event of disasters. On expulsion of aliens, the delegation mentioned that their country had observed the topic as stated in the international human rights law, particularly in consonance with principles of sovereignty and non-intervention. It was noted that in addition to the general protection afforded to all foreigners, certain categories of foreigners, such as refugees and migrant workers, could be afforded additional protection against expulsion and other procedural guarantees. According, utmost importance to the topic protection of persons in the event of natural disasters, the delegation mentioned that humanitarian assistance should be undertaken solely with the consent of the affected country and with utmost respect for national sovereignty, territorial integrity, national unity and the principle of non-intervention in the domestic affairs of States.

6.12 The **Delegation of India**, after thanking the Secretary-General for presenting a detailed and comprehensive introduction to the work of ILC at its Sixty-Second Session, remarked that the ILC should receive views/comments from the Member States of AALCO while formulating the draft articles. The delegation pointed out that there are three ways for the Commission to obtain the opinions of the Member States. The Commission could seek the opinion before the topic was taken up, and secondly, it could elicit the view points of States by means of circulating questionnaires to them, and finally, it could also seek opinions through comments on the draft articles that it adopts. The delegation urged the Member States of AALCO to respond to these requests, and also to participate in the Sixth Committee's consideration of the ILC report so that their views and positions could also make an impact on the outcomes of the ILC's work. While agreeing with the suggestion made by the Leader of Delegation of Malaysia that the Annual Session of AALCO should devote one full day for deliberating the agenda item on ILC, the delegation added that it would enable the delegates to have in-depth discussions on the items on the agenda of the ILC. Commenting on the work of the ILC at its Sixty-Third Session, the delegation pointed out that the first part of the session of ILC that took place from April to June 2011, focused on the second reading of the text of the draft articles on three issues namely, effect of armed conflicts on treaties, responsibility of international organizations and reservations to treaties. The delegation added that the second part of the ILC Session would focus on adopting commentaries on

these draft articles. In that regard, the delegation urged the Member States of AALCO to send their comments to the Commission. As regards the UN Convention on Jurisdictional Immunities of States and Their Property of 2004, the delegation informed that India had already signed the Convention and was in the process of adopting a national law on the subject before finally ratifying the Convention. The delegation also urged other Member States of AALCO to ratify this Convention which was adopted after in-depth consideration in the ILC and in the Sixth Committee, and represented a fair balance between the different views on the subject.

6.13 The **Delegation of Japan** at the outset expressed his appreciation for the introductory statement made by the Secretary-General on the agenda item. The delegation remarked that in the past AALCO had made important contributions to the works of the ILC by providing valuable inputs and views of its Member States. While noting that the codification works undertaken by the ILC must be followed up by the UN General Assembly in order to give effect to the works of ILC, the delegation stated that Japan was planning to take up two subjects at the forthcoming session of the UN General Assembly. They were, the UN Convention on Jurisdictional Immunities of States and Their Property and the Draft Articles on the Law of Transboundary Aquifers. As regards the law of transboundary aquifers, the delegation highlighted that the ILC, in an effort to provide a legal framework for the proper management of groundwater resources, had formulated a set of 19 draft articles on the issue based on the texts drafted by Ambassador Chusei Yamada, the Special Rapporteur on the topic. The delegation reminded that the draft articles were received favorably by the UN General Assembly, and that it decided to examine the question of the form that might be given to them in its forthcoming session this year. In this regard, he suggested that the draft articles could either be adopted as an universal treaty at a diplomatic conference or as a Declaration of the UN General Assembly. As regards the topic "Reservation to Treaties", the delegation noted that Japan had submitted its comments on the draft guidelines on the item to the Secretariat of AALCO and that Member States should study the draft guidelines carefully in the light of their respective practice and express their positions in the debate on the topic in the Sixth Committee of the UN General Assembly.

6.14 While expressing support for the proposal made by Prof. Shinya Murase, Member of ILC from Japan that the ILC study the "Protection of the Atmosphere" as a possible future topic, the delegation remarked that the proposal was made essential by the fact that there existed significant gaps in the applicable principles and rules of international law on this issue. In this regard, the delegation requested the Member States of AALCO to consider the proposal seriously and to agree to authorize this proposal as a new topic. While stressing the need for the Asian-African States to make a substantial contribution towards the work of ILC, the delegation suggested that AALCO Secretariat could make questionnaires on each topic that is dealt with by the Commission and, in this regard, made a request that the Member States of AALCO provide their answers to those questionnaires. The AALCO Secretariat, could, then, compile those answers and submit them to the Secretariat of ILC. Such exercise, in their view, would gradually but certainly affect the formation and substance of customary international law.

6.15 The **Delegation of Kuwait** stated that their delegation gave more importance to the topic relating to the Expulsion of Aliens. The delegation explained in detail the laws governing expulsion of aliens in Kuwait.

6.16 The **Delegation of the Kingdom of Saudi Arabia** remarked that the ILC has made substantive contributions to the codification and progressive development of international law over the years. As regards the topic "The Effects of Armed Conflict on Treaties", he stated that the work of the Commission in this area was commendable. As regards the topic of Expulsion of Aliens, the delegation noted that it should be based on the application of draft articles and of the conventional international legal principles. Finally, the delegation appreciated the work of ILC on jurisdictional immunity.

7. New Proposal made by Japan: UN Convention on Jurisdictional Immunities of States and their Property

7.1 The **Delegation of Japan** stated that the UN Convention on Jurisdictional Immunities of States and Their Property was adopted by the UN General Assembly in 2004. It took twenty-seven years since the drafting work was first started in the International Law Commission (ILC). The codification work by the ILC on jurisdictional immunity required thorough studies, taking 13 years. The ILC completed its drafting work and adopted the final text of the draft articles in 1991. Examination of the draft articles started in the Sixth Committee of the UN General Assembly in 1992 and the difficult negotiations took 14 years, and finally adopted in 2004 as a convention.

7.2 The delegation noted that the Government of Japan was concerned about the situation of state practice in regards to State Immunities. It was an established fact that a state enjoyed immunities from the jurisdiction of the courts of another state in principle, but the principle of jurisdictional immunities underwent gradual but fundamental changes from the so called 'absolute rules' to the 'restrictive rules'. The modalities of such 'restrictive rules' varied considerably depending on the forum states.

7.3 In view of the fore going circumstances, the Government of Japan considered that it was very important to establish basic rules of the modalities of State Immunities at the international level. Ambassador Chusei Yamada, as the Representative of the Government of Japan, took an active role to accelerate the negotiations during the examination of the draft articles in the Sixth Committee. Traditionally, Japan placed importance on the codification of customary international law. Codification of customary international law was an important function of the UN. In order to remove such ambiguity and to establish common understanding of customary international law, the UN had undertaken codification so far on many subjects on the basis of the works done by the UN International Law Commission. In the case of State Immunity, customary international law had largely developed as customary law. Codification of such customary law would certainly contribute to stable and equitable relations among states.

7.4 The delegation informed that while the process in the Sixth Committee was going on, at the proposal of the Government of Japan the subject was taken up for discussion in the

AALCO. During the thirty-ninth Session (Cairo Session) of the AALCO in 2000, the Government of Japan prepared a background paper explaining that it was of utmost importance for the AALCO members to make an active and positive contribution in the work of the General Assembly for codification of the subject. The subject was actively discussed during the Cairo Session. The delegation added that, AALCO had made important contributions to the works by the ILC by providing valuable views of its Member States. The delegation emphasized that the codification works by the ILC should be followed up by the UN General Assembly in order to give effect to the ILC's works. And for that, reason the States must take initiative. Thereafter, the delegation highlighted the salient features of the Convention and why it was important to ratify it at the earliest. The delegation informed that Japan signed the convention on January 11, 2007, enacted its implementing legislation in April 2009, and deposited its instrument of acceptance on May 11, 2010 with the UN Secretary-General. In Japan, the 'absolute rules' of State Immunities had been in force since 1928, but the 'restrictive rules' were in conformity with the current international standard. In order to achieve smooth transition to the restrictive rules, it was preferable for the Government of Japan to legislate its municipal laws to be consistent with the Convention.

7.5 The delegation stated that until now, eleven States, including some of the AALCO member States such as Iran, Saudi Arabia and Lebanon, had members of the Convention. However, it would enter into force on the thirtieth day following the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession with the Secretary-General of the UN, and it could take at least several more years before the 30th ratification was to be deposited.

7.6 The **Delegation of Republic of Indonesia**, at the outset extended their appreciation to Japanese Delegation for proposing the agenda. The delegation pointed out that the Convention represents a fair and delicate balance between the concerns expressed by Member States. It also represents a common ground and consensus among States representing different legal system providing stability and predictability in corporate law, business practices and commercial transaction between States and private parties. They believed that the Convention would enhance the rule of law and legal certainty, particularly in dealings of States with natural or juridical persons, and would contribute to the codification and development of international law and harmonization of practice in that area. Further, the delegation believed that the Convention was of their interest. For any Diplomatic and Consular Mission which were having legal suits, would certainly create a conflict on applicable law as the Diplomatic and Consular Missions were considered having immunities and privileges, the Convention on Jurisdictional Immunities of States and their Property would help to clarify the scope and nature of those immunities.

7.7 The **Delegation of the Republic of South Africa** pointed out that their country since 2001 had been involved in the deliberations on the UN Convention on Jurisdictional Immunities of States and Their Property. The delegation mentioned that in South Africa that important issue was dealt with by the Foreign States Immunities Act 87 of 1981(as amended in 1985 and 1988). The delegation was of the view that the UN Convention

represented a workable solution for reflecting universal principles of State immunity in the various legal systems of the international community. The delegation therefore supported the statement made by Japan and recommended the increased ratification of the Convention.

7.8 The **Delegation of Kenya** welcomed the proposal to have a short discussion on the Convention at the Session due to its importance. The delegation mentioned that the Convention covered the immunity of foreign States and their property from the jurisdiction of the courts of a forum State and stipulates such cases as when States Parties could not apply jurisdictional immunities to its own State and property in other States' courts. The delegation supported the UN Convention on Jurisdictional Immunities of States and their Property and they were in the process of considering ratification of the Convention. Further, they urged other Member States of AALCO to consider ratifying the UN Convention on Jurisdictional Immunities and their Property.

8. Fourth General Meeting

Agenda Item: Law of the Sea

8.1 **Dr. Xu Jie, Deputy Secretary-General of AALCO**, introduced the Secretariat's Report on the agenda item. The DSG recalled that the agenda item was taken up for consideration at the initiative of the Government of Indonesia in 1970. He mentioned that the United Nations Convention on Law of the Sea, 1982 was fast moving towards universal participation and he hoped that all the Member States of AALCO would soon accede to the UNCLOS as well as its two implementing agreements. Further, he highlighted the increase in pirate attacks and armed robbery against ships at alarming rate had raised a serious threat to international commerce and maritime navigation. He called on the Member States to take adequate measures to curb the menace of piracy by enacting adequate national legislation to criminalize acts of piracy and armed robbery at sea. The DSG also highlighted the importance of protecting the marine environment as well as preserving marine species. In that regard, he invited Member States to consider formulation of necessary legal framework on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

8.2 The **Delegation of Japan** informed that their country attached great importance to the role played by the International Tribunal for the Law of the Sea (ITLOS) on the peaceful settlement of maritime disputes and the maintenance of legal order relating to the sea. The delegation welcomed the expansion of activities of the ITLOS in the recent years. On the matters relating to the Commission on the Limits of the Continental Shelf (CLCS), the delegation observed that CLCS was confronted with the serious 'workload issue' caused by a large increase in the numbers of submissions which had been earnestly discussed by the State Parties of the UNCLOS. They also informed that at the 21st Meeting of State Parties to the UNCLOS held in New York, their Government had announced to contribute US dollars 211,000 to the Trust Fund for the purpose of defraying the costs of participation of the members of the Commission from developing

States in the meetings of the Commission. They hoped that would facilitate the more number of participation of developing countries in the CLCS meetings in the future.

8.3 The **Delegation of Republic of Indonesia** stated that they attach great importance on the role of the Organization in the development of the law of the sea in particular to the implementation and application of the 1982 UNCLOS. The delegation mentioned that the year 2012 would mark the 30th Anniversary of the Convention. The delegation also noted with appreciation and welcomed the Kingdom of Thailand for joining as a Member to the UNCLOS recently in the month of May. They wished to invite all other Member States of AALCO to ratify or accede the Convention soon. The delegation also informed that their country hosted the 35th Annual Conference on the Law of the Sea and Ocean Policy in Bali. The said Conference was attended by 115 participants from 14 countries aimed at sharing their experiences *inter alia*, in maritime border diplomacy. They expressed great concern on the issues relating to pirate attacks and armed robbery in the waters off the coast of Somalia.

8.4 The **Delegation of the People's Republic of China** expressed appreciation to the Secretariat for its comprehensive report on the Law of the Sea item. The delegation pointed out that in view of the 30th Anniversary on the adoption of UNCLOS, the Organization should deliberate upon that agenda item at its next Annual Session. He also elaborated upon three key issues, namely, i) issues relating to sustainable development of oceans, ii) safety and navigation of shipping, and iii)conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. While discussing the issues relating to safety and navigation of shipping, the delegation stressed that piracy remains a major threat to safety of navigation. The issue of piracy was more severe especially in Asia and Africa. To solve the root causes of piracy, they would be willing to work with all countries in facilitating the peace process of relevant countries, and promoting their political stability, economic development and social order.

8.5 The **Delegation of Thailand** thanked the Secretariat for preparing the document on the agenda item. The delegation informed that he himself represented Group of 77 (G 77) at the 12th Meeting of the UN Open-Ended Informal Consultative Process on Oceans and Law of the Sea (ICP 12), as a panellist held at the UN Headquarters in New York which was focused on ocean related matters which would be due to the Rio+20 Meeting in 2012. The delegation mentioned that at the ICP 12, many AALCO Member States actively participated in the deliberations of ICP 12. The delegation further recommended that the AALCO Member States to consider the outcome document of ICP 12 prepared by two co-chairs from Mauritius and New Zealand, and comment on it under the agenda "the Law of the Sea" at the forthcoming UN General Assembly session, in order to enhance their collective maritime security interests at the Rio+20 Summit in June 2012.

8.6 The **Delegation of Malaysia** stated that UNCLOS was well recognized as the "constitution of the oceans" and "cornerstone of the maritime order". The breadth of the Convention's provisions embrace issues such as the safety of navigation as well as the protection and preservation of the marine environment. Nevertheless, the Convention could not resolve jurisdictional issues arising from unresolved maritime boundaries, the

delegation remarked. On the issue related to piracy, the delegation mentioned that although it was an age-old phenomenon, its latest incarnation off the coast of Somalia poses grave cause of concern. The delegation welcomed the concerted and consolidated response plans initiated by UN through Chapter VII of the Charter of the United Nations. In order to counter the menace of piracy, they were in the process of reinforcing its anti-piracy legislative framework with reference to the UNCLOS, the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) and SUA Protocol. In that regard, the delegation stated that AALCO should come forward to provide necessary technical assistance to its Member States to deal with the need to enact specialized and comprehensive laws on piracy and other maritime security offences. Further, AALCO should explore the possibility of bringing out a comprehensive study and a legislative drafting workshop on anti-piracy legislation in order to assist the Member States on the subject matter.

8.7 Further, the delegation of Malaysia proposed that the issue of piracy be placed on AALCO's agenda for further deliberation at a special session at its Fifty-First Session of AALCO and the Special Session could focus on the cooperative legal measures and actions that could be undertaken by AALCO Member States for the purpose of preventing and combating piracy. The delegation also pointed out issues relating to the capacity building in the areas of ocean affairs and the law of the sea and preservation of marine environment and overexploiting of marine resources.

8.8 The **Delegation of the United Republic of Tanzania** mentioned that their country signed and ratified the UNCLOS in 1985 and they consider that it was an instrument which was put in place for a more coherent management of the sea. The delegation stressed on the importance of maintaining international peace and security, sustainable use of ocean resources and the navigation and protection of marine environment. The delegation raised concern on the issue of piracy which posed a big problem to trade and security. In order to check the menace of piracy, their Government amended its penal legislation in order to ensure that there were adequate and comprehensive legal mechanisms for combating crimes related to piracy.

8.9 The **Delegation of the Republic of Kenya** at the outset welcomed Thailand as the 162nd Member State of the UNCLOS. As regards the workload of the CLCS was concerned, the delegation supported to have a full time Commission working in New York for a given initial duration until such time when the workload reduces. The delegation noted with grave concern on the issue of piracy and armed robbery against ships at sea off the coast of Somalia. Acts of piracy had adversely affected the fishing, tourism and shipping industries in East Africa. In that regard, they welcomed efforts made by the international community to combat piracy, including the establishment of a Contact Group on Piracy off the Coast of Somalia which had some deterrent effect on Piracy and armed robbery in the region. The delegation also welcomed the recent interim guidance by the International Maritime Organization (IMO), on the employment of private contract armed security personnel on board ships transiting the high risk piracy area off the coast of Somalia and in the Gulf of Aden and the wider Indian Ocean was approved by IMO's Maritime Safety Committee in May 2011.

8.10 The **Delegation of the Islamic Republic of Iran** while reiterating the high importance it attached to the agenda item, expressed its deep appreciation to the UN General Assembly for its useful consideration about the issues relating to the law of the sea and sustainable fisheries, including the 1995 Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and called upon all the Member States to bolster their support for the United Nations framework established by the 1982 United Nations Convention on the Law of the Sea. The delegation stated that it was now acceptable that maritime piracy and armed robbery against ships at sea now in threshold of 21st century which renewed its life despite of its reduction in the through previous centuries. The delegation urged the Member States to criminalize acts of piracy and prosecute pirates. The delegation also emphasized that AALCO Member States should take lead in formulating a legal framework in order to conserve as well as sustainable use of marine biodiversity in areas beyond national jurisdiction.

8.11 The **Delegation of India** stated that the topic of the Law of the Sea was of great importance to India and the delegation recalled the significant contributions made by AALCO to that agenda item. The delegation also welcomed Thailand as a new Member to the UNCLOS. On the issues relating to piracy, the delegation stated that Indian crew and seafarers were victims of piracy and in order to combat piracy, the Indian Navy was cooperating with other countries in the region. The delegation also mentioned that their country was in the process of updating its law on piracy, and it would soon come up with new legislative measures. The delegation was of the view that as the fishery resources were depleting at the increasing rate and stressed on the need to utilize the fishery resources at a sustainable basis. In that regard, the delegation was of the view that coastal States must be given power to enforce the regulation of fishery resources not only in the territorial sea but also there was a need to have higher role in enforcing the conservation measures of fishery resources in high seas adjoining the Exclusive Economic Zone.

8.12 The **Delegation of the Arab Republic of Egypt** expressed its concern on growing piracy and its threats to safe international navigation. The delegation highlighted that due to increased rate of piracy activities, the cost of navigation and insurance had increased and caused great challenge to international community. Then, the delegation condemned the Israeli action in the international waters against the humanitarian fleet carrying food and medicines for the besieged Gaza strip and stated that UN and other Organizations should evolve necessary punitive actions. The delegation was of the view that it constituted clear violation of safety navigation and international law. The delegation observed that stern laws were required to suppress piracy and terrorism at Sea. In connection to it, the delegation recommended that AALCO should take up piracy as a priority item and incorporate the topic in the next Annual Session of AALCO and invited the Member States serious consideration on the issues related to piracy.

8.13 The **Delegation of Pakistan** highlighted its role in combating piracy and explained the recent actions taken against piracy thus saving people of different nationalities.

9. Fifth General Meeting

Agenda Item: 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

9.1 **Dr. Hassan Soleimani, Deputy Secretary-General of AALCO** introduced the agenda item and Excellencies, said that the Blockade of Gaza, a very critical aspect of the Israeli/Palestinian conflict, was put in place by Israel in June 2007. On 15 June 2011 the Gaza Strip has entered the fifth year of a full blockade by land, air and sea. Since the blockade started, it had left more than 1.5 million Palestinian men, women and children trapped in the Gaza strip. The closure of all its borders, had in fact taken away from the Palestinian civilians their "right to seek refuge in other territories", a situation that had the potential of acquiring yet another violation of human rights of Palestinian people. He added that the blockade of Gaza was a form of "collective punishment", and Israel's continuing blockade of Gaza represented a flagrant violation of international law. The massive military operation in the occupied Gaza Strip had caused grave violations of international humanitarian law and the human rights of the Palestinian civilians therein. The illegal Israeli siege imposed on the occupied Gaza Strip, including the closure of border crossings and the cutting of supply of food, medicine and fuel, constituted collective punishment of Palestinian people and had lead to terrible humanitarian and environmental consequences. Recently the UN Relief and Works Agency for Palestine Refugees (UNRWA) had estimated an unemployment rate of 45.2 percent, one of the highest rates in the world.

9.2 Thereafter, he that the Israeli settlement of Jewish population in OPT was in clear violation of article 49 of the Fourth Geneva Convention. These acts were intended to change the physical character and demographic changes in the OPT. The delegation added that equally disturbing were the recent developments in East Jerusalem, including the increase in the number of demolitions. The DSG recalled that in July 2004, the International Court of Justice (ICJ) had issued its landmark Advisory Opinion confirming the illegality of building the wall in the West Bank and the illegality of building settlements in the Occupied Territory, and deplored that the historic ruling ICJ remained a dead letter and the Israeli Government had continued the construction of the wall and building settlements in defiance of the Advisory Opinion and in violation of the Fourth Geneva Convention and the General Assembly resolutions. The DSG mentioned that in September 2011 the Question of the Statehood of Palestine (UN Resolution 377, "Uniting for Peace") would be discussed at the Sixty-Sixth Session of the United Nations General Assembly. Thereafter he noted that deliberations at the previous Annual Sessions of AALCO reaffirmed that the resolution of the Israeli-Palestinian conflict through negotiations should be firmly placed on the principles of international law. It was also very important to take into account the widely supported United Nations Security Council and UN General Assembly resolutions 242, 338 and 1515 which affirm the legal obligation of Israel to withdraw from Palestinian territories obtained in 1967.

9.3 The Delegations of **Palestine, Japan, Pakistan, Democratic People's Republic of Korea, Islamic Republic of Iran, Arab Republic of Egypt, Bangladesh, Republic of Indonesia, State of Qatar,** and **Malaysia** presented their statements on the topic.

9.4 The **Delegation of Palestine** made a power point presentation wherein the delegation traced the history of the Israeli-Palestine conflict since the 1967 war and the subsequent developments that had adversely affected Palestine in all aspects. The delegation decried the continuing colonial settlement put in place by Israel in violation of the principles of international law, humanitarian law and the human rights law. The delegation emphasized that they had come to participate at the Fiftieth Annual Session of AALCO with a collective dream of a whole nation which was sick and tired of the ongoing conflict for more than six decades and unfortunately the agony continued. The delegation said that the international community through the United Nation's General Assembly in 1947 decided to partition Palestine into two States. The Jewish State had been in existence sine 1948 and the time had come that the Palestinian people got their independent State. Deportation of Palestinians, the delegation said, had started even before the creation of Israel with the objective of displacing the Palestinians with Jewish settlers and since then the Palestinian people has been subjected to a systematic campaign of displacement either at the hand of Israel or indirectly as a result of the difficult situation that existed. Therefore the time had come to address the issue of the displaced Palestinians. In conclusion the delegation hoped that when the matter was taken up at the forthcoming Sixty-Sixth Session of the UN General Assembly, their aspirations would be met. In that regard, the delegation sought the support of Member States of AALCO.

9.5 The **Delegation of Japan** shared the concerns expressed by many delegations about the conditions in the occupied territories, particularly in the Gaza Strip. The delegation recognized new measures announced by Israel regarding the admission of entry into Gaza of civilian goods, but would keep an eye on their full and prompt implementation so that it would lead to actual improvement in the social and living conditions of the Palestinian people. The delegation was glad to inform that six humanitarian assistance projects in Gaza, undertaken by Japan which had been suspended by Israel were recently admitted to restart.

9.6 With regard to the Israeli settlement activities in the West bank, including East Jerusalem, Japan had repeatedly called Israel to completely freeze those activities. Having said that, the delegation added that Japan firmly supported a two-state solution whereby Israel and a future independent Palestinian State live side-by-side in peace and security, which would most probably be achieved based on 1967 lines, with mutually agreed swaps. At the same time, the delegation was convinced that the best and only way to achieve that goal was through direct negotiation, based on the relevant UN Security Council Resolutions, the Madrid Principles, the Road Map, the agreements previously reached by the parties and the Arab Peace Initiative. The delegation requested AALCO members to help create an environment conducive to such direct negotiations between the Palestinians and the Israelis.

9.7 The **Delegation of Pakistan** stated that presently the situation in the occupied Palestinian territories was experiencing substantial developments. The ceasefire was a positive development which had created an atmosphere of relief, and hoped that the situation in the Palestinian territories would improve to the satisfaction of the Palestinian people. On the other hand the hope that the Annapolis process had given seemed to be fading due to the continued illegal settlements being pursued by Israel, in total disregard of the relevant UN resolutions, international law and norms were aimed at changing the demographic structure of the areas and were detrimental to the interests of the Palestinian population. However, on the economic front the Donors Conference in Paris and the Investment Conference were encouraging.

9.8 The delegation added, that Pakistan denounced the illegal practices of settlements and desecration of the Al-Aqsa, which has immense spiritual importance for the Muslims throughout the world. Such and other Israeli actions aimed at changing the demographic composition and character of Al-Quds Al-Sharif, were against the provisions of international law, UN Resolutions as well as the voice of the international community and would seriously jeopardize the peace process. Pakistan supported the international efforts of the international community on ending such Israeli violations and called on Israel to respect international humanitarian law and stop the illegitimate activities, lift the seize on Gaza and take all measures for preservation of the Holy places. Finally, the delegation supported the resolution of the Palestinian issue in accordance with the relevant United Nations Security Council and UN General Assembly resolutions, with Al Quds Al Sharif as its capital.

9.9 The **Delegation of the Democratic People's Republic of Korea** said that despite the number of UN Security Council and General Assembly resolutions adopted to end the violation of international law by Israel in the occupied Palestinian Territories on the well established principles of international law yet there was no solution in sight to the plight of the people of Palestine. The delegation appreciated the fact that AALCO had since a long time deliberated on the important issue and represented the positions of its Member States in other international fora like the United Nations. The delegation reaffirmed their country's support and solidarity to the struggle of the Palestinian people for the restoration of their legitimate right including the right of self-determination; right to return to the State, the right to establish an independent State and the struggle of Arabian people to achieve lasting peace in the Middle East.

9.10 The **Delegation of the Islamic Republic of Iran** appreciated the document prepared by the AALCO Secretariat on the topic. The delegation condemned the Israeli Authorities for breaching the International human rights and humanitarian law by preventing the humanitarian aids from the people of Gaza strip. The delegation added that the experts in the Human Rights Council had confirmed that Israeli political and military officials had committed international crimes, in particular war crimes and crimes against humanity and the crime of genocide. The result of investigations done by some regional and international organizations lead to the fact that Israeli officials and soldiers were responsible for committing those crimes in Gaza. These facts the delegation added were in full public knowledge and in that regard posed a question, what was the "shared

responsibility" to react against those heinous crimes and what role the organization could play in that respect.

9.11 The delegation added that the Government of Iran on many occasions and in different forums had announced that the Israeli criminals should be brought to justice for their actions or omissions. The delegation believed that currently the international community was confronted with a situation, in which all the governments as well as the international community could demonstrate that "all are equal before the law" and to show its veracity and impartiality to confront the international crimes. Finally, the delegation said that Islamic Republic of Iran believed that the world community should in a united manner take urgent measures to stop future criminal attacks which bore all the trademarks of collective punishment, crimes against humanity and war crimes. In addition the international community must urge the occupying power to fulfil its obligations and pay due attention to the conclusions of the ICJ Advisory Opinion presented in the case concerning the "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory".

9.12 The **Delegation of the Arab Republic of Egypt** said that the Israeli actions in the occupied Palestinian territories were in flagrant violation of all established principles of international law and were a grave threat to the peace and security of the Middle East and the world in general. Therefore it was vital that the international community cooperated to bring that dangerous situation to an end. For that it was necessary that Israel remove all the illegal settlements from the Palestinian Occupied Territories and remove the separation wall, which were the cause of major hardships to the people of Palestine. The delegation said that the new Government in the Arab republic of Egypt was doing its best to ease the situation in the Middle East. The delegation said that the Egyptian position had been made in many previous sessions of the Organization, and maintained that Israel should end its occupation of Palestinian territories and restore the 1967 borders, and arrive at a solution based on the principles of peace and justice.

9.13 The **Delegation of Bangladesh** appreciated the report prepared by the AALCO Secretariat on the topic and agreed with the draft resolution annexed therewith and accordingly called upon AALCO member countries to take necessary measures to implement the items contained in it. The delegation through their General Statement had stated that Bangladesh position had been categorical and consistent in extending full support to the Palestinian people including their right to have an independent State of their own with Jerusalem as its capital based on the various principles of international law, the four Geneva Conventions and the implementation of the relevant United Nations Security Council resolutions particularly 338, 425 and 242 and General Assembly resolutions on the formula for peace calling upon Israel to withdraw from all occupied Palestinian territories and also relevant resolutions on the return of Palestinian refugees to their own land . Bangladesh also extended full support to any development aimed at resolving the Arab-Israel dispute calling for a lasting and durable peace. The following important issues were flagged which had to be taken into account by the international community: (i) inalienable rights of the Palestinian's return to their homeland; (ii) taking into account the pre-existing border before the 1967 Arab-Israeli war; (iii) recognizing

the rights of the Palestinian people to have Jerusalem (Al Quds Al Sharif) as its capital and (iv) Israeli settlements in all the occupied Palestinian territory must be stopped.

9.14 The **Delegation of the Republic of Indonesia** said that the Israeli-Palestinian conflict had been a fundamental and lasting dispute between Israel and the Arab countries due to which a long suffering had been caused to the innocent civilian people. Many efforts to reach peace had been made but they had been halted by Israel's accelerated establishment of illegal settlement and wall construction in West Bank including East Jerusalem. The delegation felt that that atrocity undermined all efforts to restart peace talks between Palestine and Israel, jeopardizes the vision of the two-state solution and further complicates the conflict in the region. The delegation stressed the urgency of undertaking efforts to help advance a fair and credible peace process based on the relevant UN resolutions, including the UNSC resolutions 242, 338, 425, 1397, 1515 and 1850, the Madrid terms of reference, including the principle of land for peace, the Arab Peace Initiative and the Quartet Roadmap, bearing in mind the objective of achieving a peace settlement by September 2011.

9.15 Indonesia believed that illegal Israeli actions in the Palestinian Occupied Territories could neither help the cause of peace, nor could Israel reasonably expect them to be allowed to stand unchallenged. The delegation added that it was time to halt the illegal policies that bread hatred, violence and tension. The delegation reiterated their governments support to the Palestinians legitimate struggle to establish their own state based upon the vision of two states living side by side in peace and harmony. Lastly, in line with the result of the 16th Ministerial Conference and Commemorative Meeting of the Non-Aligned Movement held in Bali, Indonesia on 23-27 May 2011, the delegation urged the Members of AALCO that had not yet extended recognition to the State of Palestine to do so and hoped that AALCO members would remain at the forefront of support for the historic march of the Palestinian people to freedom and peace.

9.16 The **Delegation of the State of Qatar** said that the establishment of Israel was illegal and its atrocities against the unarmed people of Palestine were in flagrant violation of principles of international law. The delegation said that it was difficult to imagine the suffering of the people of Gaza who were denied access to all humanitarian and medical aid, and whatever aid was forthcoming it was blocked by Israel, therefore the delegation requested the members of AALCO to continue to give legal support to the people of Palestine.

9.17 The **Delegation of Malaysia** stated that Israel's occupation of Palestine had been an issue of concern at the international fora for a very long time. The delegation maintained that these atrocities in Palestine had been going on for a long time and these acts of violence were against the Security Council Resolution 446 (1979) which called upon Israel as the occupying power to bide by the Fourth Geneva Convention of 1949. These acts had been condemned by the world community being inhuman and amounting to grave beaches of international law particularly human rights law and international humanitarian law. The denial of rights to the Palestinian people had worsened due to the continuous illegal settlements. The delegation also condemned the blockade of Gaza which severely

hindered the progress towards reconstruction in the Gaza strip and hamper the movement of people. The delegation said that even though Israel had lifted the blockade the attack by Israel on MV Mavi Marmara, a humanitarian convoy went against principles of international law. Lastly, the delegation urged the international community to compel Israel to end its inhuman and illegal practices immediately; including the building of settlements in the occupied territories and the time had come for the international community to turn the words to tangible action by bringing to halt Israel's violation of Palestinian rights. The delegation added that violence had undermined the foundation of the peace process between Palestine and Israel and the solution to that must be based upon compromise between both Parties and not on conflict and violence.

10. Agenda Item: Expressions of Folklore and Its International Protection

10.1 **Dr. Hassan Soleimani, Deputy Secretary-General of AALCO** introduced the Secretariat's Report on the agenda item. The DSG recalled that the topic had been on agenda of the Organization since its Forty-Third Annual Session held at Bali, Indonesia in 2004. The DSG mentioned that Expressions of Folklore were considered to be an important aspect for developing countries in terms of identifying their community's history, cultural and social values. The matters relating to Expressions of Folklore were extremely important for the Asian-African countries, as they own vast cultural and biological resources. Therefore, it was important to negotiate a legally binding instrument to prevent the misuse and misappropriation of folklore at the international level. Further, he pointed out that the World Intellectual Property Organization's Inter-governmental Committee on Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions (WIPO-IGC) had convened eighteen sessions till then. As an update, he informed that the matters relating to Expressions of Folklore were considered at the Inter-sessional Working Group I (IWG 1) to discuss the possible text for an international legal instrument on the protection of Expressions of Folklore. In that regard, the DSG called on Member States to fully involve themselves in the process of adopting international legal instrument in a fair and effective manner for the benefit of the AALCO Member States. Further, he invited Member States to consider a joint seminar or expert meeting in cooperation with AALCO on the agenda in order to formulate such legal instrument on Expressions of Folklore.

10.2 The **Delegation of Democratic Socialist Republic of Sri Lanka** stated that they attached great importance to the agenda item. The delegation mentioned that it was of paramount importance to provide protection against misappropriation and unauthorized commercial exploitation. In order to protect the rights of relevant sectors, the delegation endeavoured to consider following: i) To create a Committee constituting experts in the relevant field; ii) identify tangible and intangible forms of folklore and compilation of a database; iii) formulate a scheme for benefit sharing in a fair and equitable basis; iv) consider the creation of a system to prevent unauthorized misuse and misappropriation of folklore; and v) suggest an effective method for implementation as well as to recognize the source of Folklore.

10.3 The **Delegation of the Republic of Indonesia** made few remarks on the issues related to the Genetic Resources, Traditional Knowledge and Folklore (GRTKF). The delegation noted that AALCO meeting had shown serious concern about the progress achieved in the WIPO IGC meetings. They attached great importance to the progress achieved in many areas of intellectual property which had developed considerably, but not the issues relating to GRTKF where the developing countries had interest at large. Further, the delegation informed that they were hosting 2nd Like Minded countries Meeting from 27th June to 30th June 2011 in Bali, Indonesia. It was a complementary discussion forum for some Member States that were like-minded on GRTKF issues and with the purpose of facilitating the work of the Committee in establishing international legal instruments on the protection of GRTKF.

10.4 The **Delegation of Japan** shared the importance of protection of traditional cultural expressions/folklore. The delegation welcomed the intensive discussions on the technical aspects which were conducted at the WIPO-IGC and its inter-sessional IWG meetings. They were concerned that even after the intensive discussions, there were no agreed views on what should constitute the traditional cultural expressions/folklore. It would cause a legal instability and therefore would not be desirable to impose a legal obligation upon an object which they were unable to define precisely, therefore, it would be detrimental to creative activity to foster culture.

10.5 The **Delegation of Democratic People's Republic of Korea** at the outset supported the agenda item which was included in the deliberations of Annual Session of the Organization. They appreciated AALCO's work and thereby represent the stand and interests of the Member States in establishing an international legal regime for the protection of folklore. To protect the culture in their country, they formulated policies to inherit and develop the national cultural heritage and were making strenuous efforts to develop and complete the domestic legislation to that end.

10.6 The **Delegation of Malaysia** appreciated the comprehensive report on the agenda item by the AALCO Secretariat. The delegation welcomed the work done by the experts participating in the IGC Inter-sessional Working Group as their participation had effectively support and facilitate the negotiation of the IGC. In order to further understand the work of IWG and IGC, the delegation proposed the AALCO Secretariat to organize seminars or expert meetings on Expressions of Folklore to facilitate the exchange of views by Member States on issues relevant to the protection of Expressions of Folklore. They also reiterated their commitment to support all efforts to deal with the misuse, misappropriation and commercial exploitation of expressions of folklore.

10.7 The **Delegation of Nepal** expressed their sincere appreciation to the Secretariat Staff for the comprehensive report prepared on the agenda item. Their country had many types of folklore, traditional knowledge and belief systems. Therefore, they attached great importance to the protection of folklore and traditional knowledge. He mentioned that the recently adopted National Cultural Policy, 2011 of Nepal had emphasized the protection of traditional cultural expressions of various ethnic communities living in the country. They also formed a Committee to recommend necessary changes in the

copyright legislation in order to accommodate all the pertinent issues including the protection of traditional cultural expressions within the ambit of copyright law.

10.8 The **Delegation of the Islamic Republic of Iran** stated that in the absence of the internationally binding rules for effective protection of traditional knowledge, expressions of folklore and genetic resources, bio-piracy and misappropriation of the GRTKF for commercial benefit had become a prevailing phenomenon all over the world and particularly in developing countries. The delegation stressed the need for the protection of ancient civilizations heritage, as a foundation and base for traditional knowledge and cultural heritage, through developing legally binding instruments. Further, the delegation said that the working documents relating to traditional knowledge and traditional cultural expressions were a few giant steps compared to that of the genetic resources, so one should not lose sight because of that. In that regard, the delegation pointed out that the negotiations pertaining to the UN Convention on Biological Diversity, to establish an International Protocol on Access and Benefit Sharing could assist and complement the efforts in WIPO for ensuring the effective protection of genetic resources.

11. Half-Day Special Meeting on "Trafficking in Women/Children, Migrant Workers and Protection of Children" Jointly Organized By Government of Sri Lanka, AALCO, International Organization for Migration (IOM) and United Nations Children's Fund (UNICEF)

11.1. A Half-Day Special Meeting on the Trafficking in Women/Children, Migrant Workers and Protection of Children" in conjunction with the Fiftieth Annual session of AALCO was jointly organized by the Government of Sri Lanka, AALCO, IOM and the UNICEF. The meeting deliberated upon a wide range of issues pertaining to trafficking, its nexus with migration, effects of trafficking on women and children and child trafficking in Asia and others.

11.2. **Prof. Dr. Rahmat Mohamad, Secretary-General** in his introductory statement stated that over the decades, smuggling of migrants and trafficking in human beings, especially women and children, remained a perennial challenge faced by the international community. Organized criminal activities like trafficking in persons and migrant workers, has affected every region of the world, and was recognized internationally as a major law enforcement, human security, and human rights issue. Smuggled migrants were vulnerable to life-threatening risks and exploitation; and unfortunately those exploitations were considered as modern form of slavery. Trafficking in human beings, particularly in women and children, constituted a crime, and massively violated the human rights of the trafficked persons. Yet, millions of people around the world continued to be subjected to trafficking, forced labour and other contemporary forms of slavery, despite the fact that such abuses were prohibited by a considerable number of international legal instruments.

11.3. The Secretary-General opined that in the fight against trafficking the key challenges for countries around the world were to craft and implement sounder and more effective responses that produced meaningful results. A more sophisticated understanding of

human trafficking was needed to improve the operational effectiveness of appropriate anti-trafficking laws, policies and practices. The complexity of the trafficking-migration nexus demanded special attention to each and every aspects of that scourge so as to create appropriate legal and policy responses that address various aspects of trafficking which included: Prevention, Protection and Prosecution.

11.4. The President then invited the Panellists to make their presentations on their respective topics. While delivering her key note address on "The Legal Framework on Human Trafficking", **Hon'ble Justice Shiranee Tilakawardane**, **Judge of the Supreme Court of Sri Lanka** remarked that the overwhelming majority of those trafficked are women and children and that, it has become a highly attractive business for criminal groups all over the world. While trying to identify the gaps contained in the international legal instruments on trafficking, she pointed out that the Palermo Protocol of the UNTOC Convention had a number of structural weaknesses in that, they failed to deal with poverty, unemployment, gender discrimination through cultural and religious factors and the denial of access to education. Addressing all these factors, she added, would go a long way in making a significant dent on the trafficking of women and children. As regards the definition of trafficking contained in domestic laws around the world, she pointed out that Sri Lanka, when compared to many other countries, had one of the best laws in the region on the issue of trafficking. It has a broad comprehensive (inclusive) definition of the term 'trafficking' encompassing a lot of situations.

11.5. **Mr. Richard Danziger, Chief of Mission, IOM, Sri Lanka,** made a presentation on "Combating Human Trafficking, the Exploitation and Abuse of Migrants: A Systemic Approach". The Panellist stated that a systemic approach incorporating the whole panoply of illicit trade was warranted, and not just because of the varieties of trade but, even more importantly, because of its inter-linkages with major global risks such as corruption (both a driver and consequence of illicit trade), terrorism (which was partly fuelled by profits from illicit trade), fragile states (massive illicit trade often being their cause and nearly always an important consequence) or economic disparities (which contribute to and are exacerbated by illicit trade.) On those lines, a systemic approach to address the problem also required the engagement of all concerned parties, namely private sector, governments and civil society, all of which had a stake in the elimination of that phenomenon that harms business, society and state sovereignty. These stakeholders had key roles to play whether in developing and enforcing regulatory frameworks, monitoring supply chains and eliminating illicit trade components, or raising social awareness. Guarding against the commodification of migration and the consequent risk of underestimating the motivations, experiences and rights of individual migrants, were essential tools for building a safer global migration framework wherein migration should be viewed as a form of exchange much like international trade. The panellist said that global trade regime which was both free and fair required a strong regulatory framework that would leave little space for the operators of the shadow economy to engage in illicit trade.

11.6. **Mr. Ron Pouwels, Regional Advisor-Child Protection, UNICEF Regional Office for South Asia**, while giving a brief account of the work of UNICEF in the area of child

trafficking remarked that targeted anti-trafficking efforts have been undertaken in a number of Asian Countries that include: Bangladesh, Cambodia, People's Republic of China, India Indonesia, Lao PDR, Malaysia, Mongolia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam. That included, he noted, the advocacy and the provision of technical support to various Governments to help them meet obligations arising from the Palermo Protocol and the UN Convention on the Rights of the Child.

11.7. In the ensuing deliberations the delegations from **Thailand, United Republic of Tanzania, People's Republic of China, Ghana, Uganda, Arab Republic of Egypt, United Arab Emirates, State of Kuwait, Japan, Sultanate of Oman, Republic of Indonesia, India, Kenya, Bahrain, Bangladesh, Myanmar, Malaysia, Republic of Korea, Democratic People's Republic of Korea, Nepal, Nigeria, Kingdom of Saudi Arabia, Republic of Iraq** and **State of Qatar** made their statements.

11.8. The **Delegation of Thailand**, while noting that their Country had long been active in combating human trafficking and smuggling of migrant workers, pointed out that on 11 May 2011, the Thai government had announced that the fight against human trafficking was a national priority and accordingly, launched the National Action Plan for the year 2011 to 2015 to tackle the issue. Dwelling on that Action Plan, the delegation stated that the plan which emphasized anti-human trafficking and migration regime covered four inter-related elements "4Ps" that included; Policy measures, Preventive measures, Protection measures and Prosecution measures.

11.9. Commenting on the government agencies operating on that issue in their country, the delegation remarked that the Centre Against International Human Trafficking (CAHT) operating under the Office of the Attorney General has been functioning since May 2007 and that the Ministry of Labour has set up a hot line number 1546 to receive reports on abuse of labour by employers. Likewise, the Bureau of Anti-Human Trafficking and the Department of Immigration under the Royal Thai Police were responsible for the suppression of human trafficking and smuggling of labour. The delegation also added that at the moment the Ministry of Justice was in the process of amending the Special Case Investigation Act of 2004 to include human trafficking as an offence under the Department of Special Investigation's jurisdiction and that these agencies collaborate under the umbrella of the Nation Action Plan.

11.10 While pointing out the need to reform the judicial system in prosecuting the offenders of human trafficking, the delegation stated that several laws have been enacted to serve as effective tools for law-enforcement officers that included; the Anti-Prostitution Act, the Child Protection Act, the Immigration Act, and the Prevention and Suppression of Trafficking in Women and Children Act. The delegation added that on 5 May 2008 the Prevention and Suppression of Human trafficking Act of 2008 came into effect and accordingly May 5 has been designated as Thailand's National Anti-Human Trafficking Day.

11.11 The **Delegation of the United Republic of Tanzania** stated that trafficking in persons was one of the global challenges in the 21st century. Their country also faced that

challenge and increasingly both women and children were trafficked within the country for forced labour on farms, mines and the informal business sectors. Women and children migrate from rural areas to urban centres for domestic works, commercial sex and hawking.

11.12 In order to deal with that scourge, the Government has enacted the Anti-Trafficking in Persons Act in 2008, which prohibits all forms of human trafficking, including but not limited to, transporting or receiving any person for the purpose of slavery, sexual exploitation, forced labour, pornography and debt bondage. Also any person convicted of an offence under the Law was liable to a maximum sentence of twenty years of imprisonment.

11.13 The delegation reiterated that the main challenge in the fight against human trafficking was the ignorance on the part of the victims of trafficking and the communities from where women and children were drawn. To address such challenges, public awareness was necessary to enable women and children to understand and appreciate the problem and its negative impact to countries. At the international level, a response to preventing and combating trafficking in women and children, communities were facing challenges not only because of the extent and nature of the problem, but rather the difference on the capacities across countries and regions to address the challenge. For that reason, strengthening capacity at the national level remained necessary so that AALCO Member States could develop institutional and technical capacity to develop, implement and assess their own anti-human trafficking policies and strategies. It was also mentioned that AALCO Member States, could agree to start by strengthening their capacity to analyse and develop national policies and strategies for the implementation of the United Nations Trafficking Protocol, in support by national inter-agency coordination mechanisms in consultation with the civil society.

11.14 It was also suggested that Member States of AALCO could be able to develop and carry out *inter alia*, information and awareness-raising programmes for policy makers and criminal justice practitioners, border and immigration authorities, labour inspectors, workers and employers organization, health and social workers, in order to effectively prevent and combat trafficking in women and children globally. The delegation stated that understanding the increasing challenges facing the Member States while fighting against trafficking in women and children, their country encouraged the identification of more areas in which cooperation was needed from AALCO Member States for better success.

11.15 The **Delegation of People's Republic of China**, at the out set noted that trafficking in persons amounted to a brutal violation of human rights and led to the impairment of the physical and psychological well-being of women and children. While detailing with the anti-trafficking efforts of their government, the delegation remarked that the Chinese government had always attached great importance to suppression of trafficking in persons and protecting the rights and interests of women and children and made significant progress in that respect. Explaining it further the delegation pointed out that at the policy level, the State Council of China had promulgated China National Plan of Action on

Combating Trafficking in Women and Children (2008-2012) in the year 2007. At the level of legislation, the delegation pointed out that China had acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Translational Organized Crime (TOC) in 2010 and actively fulfilled its responsibility in accordance with it and the above mentioned Protocol. To comply with the definition of human trafficking as contained in Article 3 (a), China had twice amended criminal law. At the Judicial and law-enforcement level, the delegation informed that China's Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security and Ministry of Justice had jointly issued Opinions concerning Punishment of Trafficking of Women and Children.

11.16 Stressing the importance of forging cooperation in the fight against human trafficking the delegation stated that Chinese government has signed 110 treaties on legal assistance and extradition with more than 50 countries and on that basis their government had carried out cooperation with other countries on a number of specific cases. The delegation also went on to add that political and legal differences should not become a barrier between countries in extending cooperation with one another in the fight against human trafficking and smuggling. The need on the part of the developed countries to extend technical assistance to the developing countries was stressed by the delegation.

11.17 The **Delegation of Ghana** remarked that in furtherance of its commitments under various international conventions such as the Convention on the Rights of the Child, the Convention for the Elimination of All Forms of Discrimination Against Women, Ghana had established a Ministry of Women and Children's Affairs in 2001 to coordinate and champion the cause of women and children in their country. In 2005, Ghana had enacted the Human Trafficking Act with the Ministry of Women and Children's Affairs as the focal Ministry to coordinate anti-human trafficking activities, particularly against women and children, the delegation informed. Explaining the details of the Act, the delegation stated that the Act sought to prevent, suppress and punish persons engaged in human trafficking and initiate interventions to promote the protection and welfare of victims of human trafficking. The delegation also pointed out that the Human Trafficking Act reinforced the Children's Act and the Criminal Offences Act, which dealt with the prevention and prosecution of offences against women and children.

11.18 Stressing the cooperation needed to combat trafficking, the delegation informed that the government of Ghana had just received a proposal from the Government of the Republic of Mali to enter into a Cooperation Agreement for the purposes of developing appropriate measures to combat cross-border trafficking between the two countries. The Agreement would ensure that child trafficking was tackled between the two countries regardless of its purpose or form and that the interest of the child would be paramount in issues of trafficking, the delegation added.

11.19 The **Delegation of Uganda**, while noting that Uganda was affected by the malaise of trafficking in women and children, stated that adoption in Uganda was regulated by the Children Act. Explaining the procedures involved in the adoption of an Ugandan child by a foreigner, the delegation clarified that Section 46 of the Children Act allowed a child to

be adopted only when the foreigner has stayed in the Country for three years and fostered the child for three years under the supervision of the probation and social welfare officer. That in their view made the adoption process very difficult. As regards the issue of guardianship, the delegation remarked that legal guardianship was not regulated by any law and that though the Court order granting guardianship may direct the intending adopting parent to make periodical reports on the progress of the child, there was no follow-up in order to ensure that the reports are filed and if they are filed, they reflect the right situation of the children. In that regard, the delegation noted that the Hague Convention which provides for the coordination between the country of origin of the child and that of the adoptive parent was not adhered to by many countries. Since the Convention also focused on the need for countries to work to prevent the abduction, sale or trafficking of children, the delegation felt that it was necessary for AALCO to look into that matter.

11.20 The **Delegation of Arab Republic of Egypt** stated that Egypt has addressed the issues dealing with trafficking through measures including legislative framework, role of stakeholders, and best practices and experiences. Effective legislative framework on combating human trafficking includes international legal instruments and national legislations. Major international instruments dealing with these issues had been ratified by their country. Recently their country in 2010, has passed a specialized law on human trafficking which addressed the entire gamut of predicate offences of human trafficking. There had been amendments to penal laws, labour law, child rights law and anti-money laundering law.

11.21 On the role of stakeholders and the importance of cooperation and coordination, the delegation said that they had adopted a national strategy to include stakeholders starting from government, the executive authorities like Ministry of Justice, etc., including the role of the law enforcement like the police and the judicial authorities, in that field. Role of civil society in combating these crimes could not be undermined and they played an important role in Egypt. The delegation added that Egypt had developed a three-year strategic plan to prevent and combat human trafficking to assist and protect victims of human trafficking. Increasing public awareness and strengthening the law enforcement agencies focusing on the rights of the victims were very pertinent issues. The delegation also explained the role of Ministry of Justice in fighting human trafficking in their country.

11.22 The **Delegation of the United Arab Emirates** narrated their country position in addressing the issue of human trafficking. In 2006, a regulation combating human trafficking with other laws of Emirates was framed. It regulated the entry of foreigners and migrant workers into their country those who could potentially fall victims of human trafficking. Those foreigners or migrant workers were transported through threat or use of force for involving them for sexual exploitation.

11.23 A national committee had been established to support and implement the law to combat trafficking in all manifestations. Under national and international strategy, their country had signed various international legal instruments dealing with that issue. Legislators

have been working towards finalizing certain provisions of law for measures to protect victims of trafficking. Twenty-four cases for prosecution of perpetrators have been conducted. The punishment included 10 years of imprisonment; however the intent would be to increase the support to the victims. Various institutes and collaboration with academic bodies to increase public awareness and protect victims, particularly women had been initiated. Series of measures taken by the government were also highlighted by the delegation.

11.24 The **Delegation of State of Kuwait** informed that the law-makers of their Country had enacted the Kuwaiti Penal Code No: 16 of 1960 and its amendments thereto, in an effort to tackle the issue of human trafficking and to guarantee the protection of the rights of women and children who are victims of trafficking. The Penal code, which has got a number of punitive protections for the victims of trafficking, also has provisions to protect the rights and freedoms of workers. The Penal code also contained a number of provisions dealing with various issues such as murder, violence, abduction, detention and slavery, the delegation further clarified. As regards the issue of slavery, the delegation informed that Article 185 of the Kuwaiti Penal Code prohibited the buying and selling of human persons for slavery purposes and that it also regulated the issues of entry and exit of aliens.

11.25 As regards the laws and institutions that function in the area of anti-trafficking in their country, the delegation pointed out that the Ministry of Justice had prepared draft legislation on the situation of human trafficking and migrant smuggling and sent it to the Council of Ministers. The legislation which was sent to the Legislative Committee of National Assembly for its approval was unanimously accepted by it, the delegation pointed out. On the institutions dealing with that issue, the delegation stated that two special departments, viz., Department of Immigration Issues and the Department of House Workers, had been created by their government in order to monitor and investigate cases of trafficking, particularly in women and children. The delegation also noted that a General Department had also been established to tackle complaints regarding violations of human rights of workers and aliens in general.

11.26 The **Delegation of Japan** mentioned that the Japanese Government considered trafficking in persons as a serious crime and a grave violation of human rights and dignity, and that as a result of globalization and widening of economic gaps among countries, it has become a serious cross-border problem for the international community as a whole was required to tackle the problem. On that standpoint, Japan in December 2009, adopted the "Comprehensive National Action Plan 2009 for comprehensive measures to combat trafficking in persons" to prevent and eradicate trafficking and to protect victims in Japan. Their government also financially contributes every year to IOM and intends to contribute a substantially increased amount (US$288,152) for the current fiscal year, with a view to facilitating the return to home countries and society of victims of human trafficking.

11.27 In addition to that, since 2004, Japan has sent governmental consultative survey missions totally to 20 countries. In Bangkok, on the occasion of the visit of that mission, the third

meeting of Japan-Thailand joint task-force was held and a Standard Operating Procedures (SOP) was agreed upon to deepen the mutual understanding of the procedures of protecting the victims, and furthermore, an action plan was made, and an active exchange of information on the measures for prevention, law-enforcement and protection was conducted. The delegation extended on behalf of their government full cooperation with other countries concerned.

11.28 The **Delegation of the Sultanate of Oman** stated that human trafficking has evolved as one of the most dangerous crimes of that time and fastest growing. The Sultanate of Oman continued its efforts at combating human trafficking, since the issuance of its Law on Combating Human Trafficking in 2008. It established a national plan for combating human trafficking which aims at sensitizing various sections of society to the seriousness of that crime and how to address it through real partnerships. There were also focuses on providing care to the victims. For that purpose, the delegation mentioned that Oman has established a shelter for victims of human trafficking that receives victims and provides with the necessary care such as medical and psychological care, housing, legal aid and other assistance to mitigate the effects of their exposure to abuse. In several cases, the Sultanate also covered their travel expenses to their home countries.

11.29 The delegation informed that the National Committee for Combating Human Trafficking collaborated with several entities in the implementation of the National Plan for combating Human Trafficking through raising awareness among the community about the forms of trafficking and informing the groups targeted by traffickers of the procedures and measures available to them in the event of trafficking, in addition to providing legal aid, medical assistance and shelter in cooperation with the public Prosecution, The Royal Oman Police, The Ministry of Social Development and the Ministry of Health. The need to address the issue of abuse of foreign labour was also raised. National labour laws and measures to deal with rights of workers were also highlighted. The Sultanate of Oman was keen for its efforts in those regards to be in line with international standards to counter that scourge which threatens vulnerable groups made up of women and children. The continued cooperation by the Oman government with various countries and organizations to find solutions to the problem of trafficking was also affirmed.

11.30 The **Delegation of Republic of Indonesia** at the out set maintained their county's commitment to eliminate trafficking in persons by strengthening its national law and its enforcement along with widening international cooperation. As regards the domestic efforts that Indonesia has taken to tackle that issue, the delegation stated that it had enacted anti-trafficking law to address that issue and that it has also strengthened its legal instruments by ratifying the UN Convention against Translational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons and also Protocol against Smuggling of Migrants in 2009. Indonesia has also enacted new law on immigration which served as an effective legal framework for combating trafficking and people smuggling. In that regard the delegation highlighted that eradication of trafficking in persons in Indonesia had become increasingly efficient with the establishment of the Task Force for Preventing and Handling Trafficking in Persons.

11.31 Commenting on the importance of bilateral, regional and global cooperation in the fight against trafficking, the delegation stated that bilateral cooperation was needed particularly in establishing direct contact between institutions that handle the eradication of trafficking in both the countries. Indonesia has also initiated cooperation at the regional level by encouraging the process of establishment of a legal framework for ASEAN cooperation on trafficking in persons, while at wider Asia-Pacific region, it had organized "Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and related Translational Crimes", the delegation added. Explaining the Bali Process the delegation informed that it was forum that brought participants together to work on practical measures to address people smuggling, trafficking in persons and related transnational crimes in the Asia-Pacific region and beyond that fifty countries, along with numerous international agencies, did participate in the process. The delegation also highlighted that the efforts to combat trafficking in Indonesia which are multi-pronged, involved legal enforcement socio-economic development and international cooperation.

11.32 The **Delegation of India** at the out set thanked all the Panellists for their excellent presentations which provided a wealth of information on the scope and extent of the problem and on the actions taken to address them. Commenting on the strategies pursued by their government on that issue, the delegation pointed out that the Government of India had adopted a National Plan of Action to combat trafficking and commercial sexual exploitation of women and children. The strategy for combating trafficking focused on income generation, literacy, and skills up gradation including enforcement of laws and regulations as well as rehabilitation of the victims of trafficking, the delegation added.

11.33 Commenting on the international instruments existing in the area of trafficking, the delegation remarked that India was a Party to a number of international conventions that provide for cooperation among countries in combating the growing menace of trafficking. These include, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, the United Nations Convention on Transnational Organized Crime and its Protocols to prevent trafficking in persons, especially women and children and the Protocol against smuggling of migrants, the delegation pointed out. The fact that India was also a Party to the SAARC Convention on the subject was also highlighted by the delegation.

11.34 As regards the institutions operating at the state level, the delegation stated that apart from drawing up National Plan of Actions, State Advisory Committees have also been appointed in a number of States to prepare state-wise plans and action policies and action plans which are concerned with the issue of trafficking. Initiatives with the NGOs are on-going and that community based programmes for resettlement of victims of trafficking, especially women and children were being given priority. These include a range of activities starting from creating social awareness to informing the public as to how to be vigilant about traffickers, to pay attention to the preventive aspects of the issue, the delegation explained. While expressing satisfaction with the results obtaining in these efforts, the delegation also cautioned that a great deal still needed to be done and that in

that regard, India was looking forward to cooperating with all Countries around the world, including in their region.

11.35 The **Delegation of Kenya** welcomed the Special meeting on Trafficking of Women/Children, Migrant Workers and Protection of Children discussed during the session of AALCO.

11.36 The delegation stated that Kenya was facing the increasing challenge of trafficking of women and children for the purposes of sexual exploitation and forced labour. Some of the main reasons for upsurge in trafficking include the following reasons: prostitution, illegal adoption, sale of organs, sexual exploitation or for immigration benefits such as housing. Referring to their new Constitution of 2010, the delegation said that any form of slavery or forced labour, inhumane treatment, or torture whether physical or psychological was prohibited. The Constitution further prohibited any form of inhuman and degrading manner, which would be brought about in human trafficking.

11.37 Kenya has enacted the Counter-Trafficking in Persons Act, 2010 to implement Kenya's obligations under various international conventions dealing with protection of women and children. The Act makes provision for offences relating to trafficking in persons, trial of offenders and remedies for victims of trafficking in persons. Many other measures adopted by the Act were also described by the delegation.

11.38 The **Delegation of the Kingdom of Bahrain** stated that their Country has been taking continuous efforts to promote respect and protection for human rights, including those relating to women, children and foreign workers and that the basis of those efforts were the national laws and the contents of its international legal obligations as affirmed by the reform project of His Majesty the King.

11.39 The Delegation indicated that their Country had established the Supreme Council which was charged with the protection of the rights of women and children and which was headed and patronaged by Her Royal Highness Princess Sabeeka bint Ibrahim Al Khalifa, the wife of His Majesty the King of Bahrain. The supreme council continued its work regarding women since its establishment within the framework of its power, on the development of Bahrain women's status and strengthening their position and active participation either in formal institutions of state or institutions of civil society, as well as the council continues its cooperation with Arab Women Organization, United Nations, especially its development programme, Economic and Social Commission for West Asia, Industrial Organization and Arab Gulf Programme for United Nations Development Organizations, the delegation clarified. As regards the protection of children, the delegation pointed out that, the Kingdom of Bahrain has ratified the United Nations Convention for the Rights of the Child and has developed legislation and laws that preserved all the rights of the children. The delegation added that, in an effort to enhance the legal protection available to children, the legislative authority, considered, the adoption of a draft integrated law on the rights of the child.

11.40 On the situation of the rights of migrant workers, the delegation informed that the Kingdom of Bahrain has enacted legislation and laws to ensure protection of the worker and the building of the relationship between the employer and the workers and to prevent the exploitation of foreign workers by employers. Drawing attention to the cancellation of the sponsor system and the allowing of free movement of foreign workers between employers within the framework of the rules dealing with it, the delegation pointed out that the issuance of law No (1) for the year 2008 on combating trafficking in persons had established a National Committee to Combat Trafficking in persons, which specializes in a number of issues.

11.41 The **Delegation of Bangladesh** at the out set expressed their deep appreciation and special thanks to the Hon'ble Justice Shiranee Tilakawardane, Judge of the Supreme Court of Sri Lanka who, in her presentation on the topic not only had appreciated the efforts of Bangladesh in combating trafficking but also termed its anti-trafficking efforts as representing a 'role model'. Explaining their country's position on the issue of trafficking the delegation remarked that Bangladesh maintained zero tolerance for the perpetrators in persons and related crimes and that upholding and protecting the rights of women and children was at the top of the agenda of their government. The Constitution of Bangladesh also guaranteed that all citizens are equal before law and are entitled to equal protection of law, the delegation added.

11.42 Outlining the measures that Bangladesh has been taking in its fight against trafficking, the delegation remarked that, the government of Bangladesh, under the leadership of Prime Minister Sheikh Hasina has been making sincere efforts to combat trafficking in persons, in particular, trafficking in women and children. The measures included; reactivating the judicial system, strengthening of law enforcement agencies, advocacy and awareness raising programmes for parents and communities, promotion of girls education, sexual and reproductive health programmes, expanding the scope of micro-credit programmes, micro-entrepreneurship development schemes and enhancing other economic activities for poor families, the delegation pointed out.

11.43 As regards the cooperation needed to combat trafficking, the delegation stated that the government of Bangladesh was ready to cooperate internationally, regionally as well as multilaterally including with the United Nations in particular to combat trafficking in persons. While noting that Bangladesh was a Signatory State of several international/UN instruments concluded in that regard, the delegation also pointed out that regionally, Bangladesh was a Party to the SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution.

11.44 Commenting on the laws and regulations existing on that issue, the delegation remarked that Bangladesh had developed a National Action Plan in 2008 to combat human trafficking and that Counter-Trafficking Committees have also been formed at different tiers of the government in an effort to strengthen preventive measures aimed at combating trafficking. The delegation also noted that efforts were underway to enact a Human Trafficking Prevention Act 2011 that would cover the trafficking of men, women and children to strengthen the legal framework to combat all forms of trafficking. As

regards the welfare measures adopted to take care of migrated labour, the delegation pointed out that the initiatives of their government towards the protection and promotion of the rights of migrant workers had been spelt out in their general statement. In that regard, the delegation also made a brief reference to the "Dhaka Declaration", which resulted from the successful holding of Colombo Process Ministerial level Meeting held in April 2011 and which signified the commitment of their government to the protection of migrant workers rights.

11.45 The **Delegation of Myanmar** stated that they had taken all necessary measures against human trafficking in women and children, which included national plan of action, legislation and cooperation at bilateral, multilateral levels and instituted awareness campaigns. Myanmar had formulated a Human Trafficking Act in 2005 and also strict rules and regulations relating to emigration. The 2005 law prescribed heavy penalty of minimum 10 years of imprisonment and maximum of life imprisonment. The delegation mentioned that they have acceded to various UN conventions dealing with these crimes. In the cross-border cooperation, they were of the view that forms of assistance such as executing powers of search and seizure, information exchange were very crucial. Their domestic law supported mutual legal assistance with great caution that procedures and outcomes should not be a violation of human rights. Their legal system gave priority to the victims in terms of assistance and rehabilitation. They received 48 victims in 2010 with cooperated efforts with UNICEF, IOM and so on to address their concerns.

11.46 With a view to start a new life, vocational training courses had also been initiated as well as for small income-generated businesses for victims as a measure of rehabilitation. Educational and social awareness campaigns were conducted across the country in vulnerable villages and mostly in slum areas.

11.47 The **Delegation of Malaysia**, while making a distinction between the crime of trafficking in persons and the crime of smuggling of migrants, noted that that distinction was clearly reflected in the recent amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007. While pointing out that the punishment accorded to the crime of trafficking in Malaysia was very stringent, the delegation stated that despite their continuous efforts taken and comprehensive legislative, judicial and administrative and policy measures, Malaysia was on the Tier Two Watch List in the recently published United States Department of State Trafficking in Person Report. Explaining the main reasons for finding on Malaysia not fulfilling the "minimum standards" were, in their opinion; labour trafficking and debt bondage; 68% acquittal rate and excess recruitment by Malaysian 'outsourcing companies'.

11.48 While noting that the US Department of State Trafficking in Person Report on Malaysia concurs with the views that Malaysia had on that issue all along, the delegation stated that the problem must be shouldered by the sending, transit and destination countries equally. Reminding that Malaysia was not a sending country, the delegation stressed that source countries must take higher responsibility to deal with their domestic problems that lead to the problems on trafficking in persons and people smuggling. Expressing their agreement with the findings of the Secretariat, the delegation reaffirmed that the main root causes

for the rampant proliferation of the crime of trafficking in women and children are *inter alia*, poverty and lack of education including lack of awareness of potential victims to the consequences and repercussions of the crime of trafficking in persons, namely in the sex trade and prostitution, to the victim's physical, mental and emotional well–being. As regards the measures taken by their government on that issue, the delegation highlighted that Malaysia had recently signed a Protocol with Indonesia to amend the MOU on Domestic Workers. Among others, the Protocol would now allow domestic workers from Indonesia in Malaysia to hold their own passports. The delegation also informed that Malaysia was currently negotiating an arrangement with Australia to deal with the transfer of refugees as part of their regional efforts to deal with the problem of Trafficking in persons and people smuggling. The delegation also noted that Malaysia was working closely with the IOM and the UNHCR in that effort.

11.49 The **Delegation of Republic of Korea** mentioned some of the efforts of the Republic of Korea to ensure the rights of migrant workers. The Republic of Korea has participated in most of the efforts of the international community for the protection of human rights including those of migrant workers. The delegation stated that they had ratified four out of eight core conventions designated by the International Labor Organization (ILO), especially Convention No. 182, which prohibits harsh labour of children.

11.50 Various domestic laws establishing the framework to protect the rights of the migrant workers were also highlighted. Being one of the destinations for migrant workers, it was essential to guarantee their health, safety and employment through provisions in domestic laws.

11.51 The **Delegation of the Democratic People's Republic of Korea** noted that trafficking in women and children which represented an act of crime, constituted a serious infringement of their human rights and presented an obstacle to the implementation of the goal of putting an end to exploitation of man by man as enshrined in UN Charter and international human rights law. It also represented an unquestionable obligation on the part of States to take legislative and administrative measures to protect the human rights of all persons, especially women and children.

11.52 On the domestic laws existing in their country on the issue of trafficking, the delegation pointed out that its Constitution stipulated that the social status and rights of women and children shall be respected and protected and that the State shall be responsible and provide for the education of children. He also added that their Country was constantly strengthening the legal regime for providing women and children with proper rights by enacting, amending and elaborating the sectoral laws. As an example, the delegation cited the enactment of the "Law on the Provision of Women's Rights of the DPRK" and "Law on Children's Rights of the DPRK" which had been promulgated on 20th December 2010. The delegation added that these two laws provided a legal regime for the measures to thoroughly protect women's rights of socio-political, economic and cultural nature.

11.53 The **Delegation of Nepal** said that Nepal was in the process of ratifying the UN Convention against Transnational Organized Crime. Nepal being a source country was

concerned about various push factors political, social and economic factors that lead to human trafficking. But pull factors, are more problematic. In order to address that issue, Nepal has cooperated with bilateral, sub-regional, regional and multilateral level, especially among the countries of origin, transit and destination were required.

11.54 Migration should be considered as a process of economic betterment, but poses challenges when smuggling of migrants involves exploitation of migrant workers. In order to solve, there was a need to take initiatives by ratifying relevant international legal instruments and then by implementing them at national level.

11.55 The **Delegation of Nigeria** solicited cooperation from AALCO Secretariat and Member States towards cooperation. Nigeria had ratified Child Rights Convention but faced challenges in the area of general acceptance through other countries. Nigeria practices federalism with various states and some of the states has very different divergent religious and cultural practices. The delegation solicited AALCO's support on the application of that law in multi-cultural and religious states.

11.56 The **Delegation of the Kingdom of Saudi Arabia** said that combating trafficking in women and children in all its manifestations at every level was very essential. The delegation then highlighted the laws formulated by their country to combat the issue, which includes rigorous punishment. The labour laws of the country prohibit employment of persons under the age of eighteen years. However, some organizations export or send workers for illegal material gains by manipulating their age. All care and facilities were given to the victims because that menace affects the human dignity and relates to violence against a person.

11.57 The **Delegation of the Republic of Iraq** mentioned that the Ministry of Human Rights has conducted inspection of the prisons to take stock of the condition of prisoners and urged the judicial authority to expedite that trial with full justice. Also, the national coalition government of Iraq has introduced the subject of human rights in the curriculum of the Iraqi Universities.

11.58 The **Delegation of the State of Qatar** said that apart from putting in place strict laws to curb human trafficking and exploitation of women and children, the State of Qatar had also joined a number of relevant international conventions. Also, it has set up local departments and committees with the aim of combating the menace.

12. Sixth General Meeting

Agenda Item: Report on the Work of UNCITRAL and other International Organizations in the Field of International Law

12.1 **Dr. Xu Jie, Deputy Secretary-General of AALCO,** in his introductory statement stated that the topic, international trade law was first included in the agenda at the Third (Colombo) Session in 1960. The DSG informed that the Report of the Secretariat covered mainly three areas which were namely: i) the finalization and adoption of a revised

version of the UNCITRAL Arbitration Rules, 2010, ii) the finalization and adoption of a draft supplement to the UNCITRAL legislative guide on security transactions with security rights in intellectual property, and iii) the finalization and adoption of part three of the UNCITRAL legislative guide on insolvency law on the treatment of enterprise groups in insolvency. The DSG hoped that the Member States would continue to support and actively participate in the work of UNCITRAL and its Working Groups. The DSG also called on Member States to closely monitor the developments at the UNIDROIT and Hague Conference on Private International Law (HCCH) in order to build upon their domestic legislation on the issues relating to private international law which was increasingly influenced the AALCO Member States in the recent times.

12.2 The **Delegation of the Republic of Indonesia** believed that the UNCITRAL's role in building a better and more just order in international trade were undeniable. The delegation generally supported the UNCITRAL's work on the Model Law on international commercial conciliation, privately financed infrastructure projects, insolvency law, transport law, microfinance, security interests and recently possible future work in the areas of electronic commerce and online dispute resolution. The delegation further hoped that AALCO would provide developing countries with programmes which provide training, technical assistance and capacity building to close the gap between developing countries and developed countries on the subject matter. The delegation stated that their country was not a member of UNCITRAL and remained as an Observer. They would continue to consider its membership in UNCITRAL taking into account of the importance of involvement in the development of international trade law and international trade procedures. They also suggested expanding the membership of UNCITRAL based on the principle of equitable distribution.

12.3 The **Delegation of the People's Republic of China** stated that their delegation was pleased to see that the issues of UNCITRAL remained on the agenda item of AALCO. Their Government would continue to follow closely and take part in the work of UNCITRAL, and make joint efforts with other Member States to promote the integration of the international trade law and development of international trade. The delegation pointed out that in the process of implementation of UNCITRAL instruments, the instruments sometimes could not be adapted to domestic law to be implemented, because of the big differences between instruments and relevant domestic systems.

12.4 The **Delegation of Pakistan** expressed appreciation for the Secretariat's Report on the work of UNCITRAL and other International Organizations in the Field of International Trade Law. The delegation informed that the Convention on the Recognition of Foreign Arbitral Awards had played an important role in the development of international trade law. The delegation also appreciated the finalization and adoption of a supplement to the UNCITRAL Legislative Guide on Secured Transactions dealing with security rights in intellectual property. The delegation mentioned that it was important to facilitate cross-border e-commerce with global online dispute resolution mechanisms. The delegation wanted to underline the debate on the online dispute resolution system must take into account the digital divide of the world. The views of developing countries on modalities

of online dispute resolution mechanism need to be heard carefully in the debate on the issue.

12.5 The **Delegation of Japan** stated that UNCITRAL had been playing an important role for unification and harmonization of international trade law and values highly that a revised version of arbitration rules and other instruments were finalized and adopted at the 43rd session of UNCITRAL.

12.6 The **Delegation of Malaysia** said that on the issues relating to the Revised UNCITRAL Arbitration Rules, 2010, the AALCO Member States and the Regional Arbitration Centres of AALCO should study the Revised Arbitration Rules for future implementation within their arbitral systems in order to stay relevant with the progress and development in the resolution of disputes. On the issue of investor-State arbitration, the delegation called upon the AALCO Member States to pay heed and contribute to the discussions at UNCITRAL Working Group II to voice their concerns and ensure that a balance was reached between protecting national interests and that of the interest of foreign investors. Further, the delegation was of the view that AALCO Secretariat should undertake study of those issues of transparency for investor-State arbitration and online-dispute resolution in collaboration with the UNCITRAL and other interested stakeholders, which would contribute in shedding light to AALCO Member States on the way forward in implementing and enforcing such practices.

12.7 The **Delegation of the State of Kuwait** appreciated the Report prepared by the AALCO Secretariat for the benefit of Member States. While explaining a general view on the work of UNCITRAL related matters, the delegation stated that the finalization and adoption of draft supplement to the UNCITRAL legislative guide on security transactions with security rights in intellectual property which would help the Member States in assessing the economic efficiency of their security transaction regimes as well as their intellectual property regimes. The delegation mentioned that the State of Kuwait had a national legislation namely, law of general tenders. Further, the delegation informed the Member States about the law of general tenders.

12.8 The **Delegation of Thailand** stated that it was undeniable that international trade law played a significant role in enhancing economic growth in every country. The delegation mentioned that the Government Agencies in their country had been following with great interest the work of UNCITRAL. Their country had adopted several UNCITRAL Model Laws, harmonized along with Thai legal context. As a developing country, Thailand envisaged that AALCO would be a reliable legal forum where lawyers from developing countries in Asia and Africa could work together in order to formulate a common position or coherent policy that assured their mutual interest on legal development under the purview of UNCITRAL. To achieve that end, their country hoped to encourage AALCO Member States to work collectively to fortify the position in UNCITRAL.

13. Agenda Item: Environment and Sustainable Development

13.1 **Dr. Hassan Soleimani, Deputy Secretary-General (DSG) of AALCO** introduced the agenda item "Environment and Sustainable Development". The DSG said that the Organization had been following the developments on Environment and Sustainable Development since 1975 with the contemporary focus being on the implementation of the three Rio Conventions namely, the: United Nations Framework Convention on Climate Change, 1992; Convention on Biological Diversity, 1992; and United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994; and Follow-Up on the progress in the Implementation of the outcome of World Summit on Sustainable Development, 2002. While referring to the Secretariat document prepared for the Fiftieth Annual Session, he mentioned that it contained developments in the area of International Regime on Climate Change, 1992; International Regime on Biological Diversity; and Follow-Up on the progress in the Implementation of the outcome of World Summit on Sustainable Development.

13.2 On climate change issues, the DSG mentioned that the international community has been engaged in various rounds of negotiations for elaborating on a framework of action after 2012, when the Kyoto Protocol's first commitment period would expire. The DSG requested Member States to recall that in December 2007, negotiators meeting at the United Nations Climate Change Conference in Bali had approved the Bali Action Plan and Roadmap setting the Fifteenth meeting of Conference of Parties in December 2009 at Copenhagen as the deadline for agreeing on a framework for action after 2012. The plan laid out the four-fold action roadmap for climate change action – mitigation, adaptation, technology and finance. It was essentially a mandate to finalize two things: one, the emission reduction commitments of industrialized countries for the second phase of the Kyoto Protocol, and two, the global goals for long-term cooperative action until 2050. Although, those negotiations were to conclude at Copenhagen, the Conference failed to achieve the requisite breakthrough.

13.3 It was informed that at the Sixteenth Conference of Parties of the United Nations Framework Convention on Climate Change (COP) held in Cancun, a balanced package of decisions known as "Cancun Agreements" were adopted. The call for countries to list under the Climate Change Convention the emission reduction targets and actions which were announced in 2010, was described as forming the collective basis for the largest mitigation efforts the world had ever seen. It was also agreed to build a comprehensive system of mutual accountability towards those goals. However, the issue of the legal form of the agreement was not resolved in Cancun and would be discussed in 2012 in Durban, Republic of South Africa. That meant that Parties still need to decide whether to adopt a legally binding agreement that complements the Kyoto Protocol, an inclusive legally binding agreement for all country that would replace the Kyoto Protocol, or another option where Parties cooperate through Conference of Parties decisions rather than a new treaty.

13.4 In the field of biological diversity protection, the adoption of Nagoya Protocol on Access to Genetic Resources and Benefit Sharing, 2010 and Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress, 2010 by the Tenth Conference of Parties to the Convention on Biological Diversity and Fifth Meeting of Parties to the Cartagena Protocol on Biosafety were significant developments towards enhancing the international commitment to protect biological diversity. Those instruments held several implications, for biologically diverse countries while dealing with the 'liability and redress' and 'access and benefit sharing' options. Implementation of those instruments would be difficult, if they were not signed and ratified by biotech rich countries. The DSG informed that there existed many criticisms of the Nagoya Protocol on Access and Benefit Sharing which could be considered as crucial for indigenous communities within the developing countries. To add on, obligation for compliance for countries with users in their jurisdiction to establish 'effective, appropriate and proportionate measures', required state parties to be well equipped to deal with issues regarding access and benefit sharing of genetic resources. Therefore, AALCO Member States that were parties to those Protocols could consider taking effective, appropriate and proportionate measures taking into account the biologically rich and diverse environment.

13.5 In conclusion, the DSG stated that while preparing for the Rio+20 Summit commemorating 20 years of Rio Conference and 10 years of World Summit on Sustainable development, it was essential that countries take adequate efforts for protection of the environment besides safeguarding their national interests.

13.6 **Mr. Masa Nagai, Acting Deputy Director and Senior Legal Officer, United Nations Environment Programme,** made a short presentation on "Initiatives for strengthening the rule of law for environmental sustainability". The speaker mentioned that there was a need to strengthen implementation of international commitment and enforcement of national environmental law. The presentation focused on the legal frameworks for environmental sustainability, such as supporting progressive development of international law in the field of environment, implementation of multilateral environmental agreements, and strengthening capacity of countries to develop and enforce national environmental law. Asia-Africa cooperation to advance environmental law, he added needs to be promoted. Other challenges that were to be addressed related to combating transnational environmental crime as illegal traffic in wildlife/wildlife products; illegal exploitation of natural resources; hazardous wastes and chemicals, and so on. Advancing environmental justice through enhancing environmental awareness and capacities of judiciary; guidelines for strengthening national legislation, etc., were crucial in the area of promoting rule of law in international environmental law. Looking Forward to Rio+20, the speaker said that participation of Member States of AALCO was very essential.

13.7 The **Delegation of the Sultanate of Oman** stated that their country attached great importance to the environment and its sustainable development. The Omani Government was in the process of its comprehensive development, as the protection of the environment and human health from all types of pollutants, as well as laying the foundations for a balanced and sustainable development with equal economic, social and

environmental considerations were some of the main objectives of the Sultanate of Oman.

13.8 The delegation mentioned that it has also prepared a national plan to combat drought and desertification. The Sultanate has put together an integrated system of natural reserves in the country, besides developing environmental laws to be in line with the requirements of environmental protection from the dangers of pollution emanating from requirements of environmental activities, as well as raising awareness amongst citizens and residents of the importance of the conservation of natural resources in the achievement of the principles of sustainable development.

13.9 The **Delegation of Pakistan** briefly outlined the strategies and measures adopted by their Government to mitigate issues relating to climate change, environmental degradation, and so on. The delegation mentioned that their country had witnessed reasonable long-term economic growth, amidst natural calamities. It was reiterated that there was a dire need to amend policies of capital-driven growth and to focus on policies that gave due cognizance to 'capitals' that sustained human well-being including natural, human and socio-cultural capital. The delegation also highlighted the details of the National Sustainable Development Strategy (NSDS) of Pakistan that stressed the framing and implementation of complementary policies that address environmental as well as social issues while facilitating economic growth to capture the maximum development dividend of that growth.

13.10 The **Delegation of the People's Republic of China** raised concerns about the climate change issues. In order to achieve economic development, sustainable development must be kept as a priority. Sustainable development was both the means and the end for effectively addressing climate change. Within the overall framework of sustainable development, environmental protection, economic development and poverty eradication should be considered in a holistic and integrated manner to safeguard the basic rights of developing countries for development. Equal emphasis had to given to mitigation and adaptation and principle of common but differentiated responsibility. The delegation applauded the Cancun Agreement for providing a political foundation for future negotiations.

13.11 The delegation mentioned that due importance must be accorded to the forthcoming Durban Conference to formulate second commitment period under the Kyoto Protocol. Three important concerns that were addressed were: (i) deeper quantified emission reduction targets should be set for developed countries for the second commitment period under the Kyoto Protocol, and those developed countries that are not Parties to the Kyoto Protocol should also take comparable emission reduction commitments. (ii) Effective institutional arrangements should be established to ensure that developed countries fulfill their commitments to provide technology, financing and capacity building support to developing countries. (iii) In the context of sustainable development, developing countries should take nationally appropriate mitigation and adaptation actions, supported by technology, financing and capacity-building assistance from developed countries. The

delegation stated that their country was willing to enhance pragmatic cooperation with countries in the area of energy saving and clean energy.

13.12 The **Delegation of the Republic of Indonesia** said that the climate change negotiation process ranging from Copenhagen, Cancun, Bangkok to Durban, had all been intended to make the Bali Action Plan adopted in 2007 a success. The delegation reiterated the need to push forward the process based on common but differentiated responsibility. Three important points were made: first, need to build on Copenhagen Accord; second, Durban negotiation must have a workable decision; and third, addressing the trust deficit by building an open, transparent and inclusive process for achieving goals at Durban.

13.13 The **Delegation of Malaysia** took note of the Cancun Agreements reached by the Parties during the 16th session of the COP to the UNFCCC and the 6th MOP to the Kyoto Protocol held in 2010. In the context of the future negotiations on climate change, Malaysia was aligned to the principle "common but differentiated responsibilities" whereby developed countries must assume a leadership role, and developing countries, supported through technological, financial and other assistance, should continue to implement their sustainable development policies. The delegation briefly narrated the biodiversity strategy and action plan introduced by their country. The delegation also took note that The Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety was now opened for signature by Parties to the Convention on Biological Diversity, and as a party to the Convention on Biological Diversity; Malaysia was considering to sign the said Supplementary Protocol.

13.14 The **Delegation of Nepal** raised concerns of climate change issues having adverse effects on lives and livelihood of the peoples living in Asia and Africa. Nepal had been on the receiving end of the climate change calamities. The delegation mentioned that their Government, understanding the seriousness of that problem had been continuously participating in all the international negotiations and has made all efforts to implement measures for complying with its obligations under the legal instruments.

13.15 The **Delegation of Japan** said that environmental issues were critical problems faced by the international community. The delegation stated that their country was making all efforts to recover from the recent disasters, earthquakes, tsunami, the worst ever experiences faced by Japan and at the same time, the country was determined to continue its active participation in international efforts to mitigate climate change. In that regard, the delegation confirmed its support towards adopting a new single undertaking or comprehensive legal instrument for addressing climate change issue in the forthcoming negotiation in Durban, South Africa.

13.16 The **Delegation of Bangladesh** thanked the representative from the UNEP for a detailed presentation. Commenting upon the presentation which emphasized on formulating binding environmental laws and regulations, the delegation said that one must be cautious while formulating the rules of international environmental governance The questions that had to be asked were: (i) whether a comprehensive and binding environmental laws was

possible, (ii) who would assume the responsibility of international environmental governance and whether it would be generally acceptable to all.

13.17 The delegation said that Bangladesh being a least developed country (LDC), has been adversely impacted by climate change. However, they were a victim of adverse climate due to unsustainable production and consumption pattern mainly practiced in the developed countries. Due to environmental degradation, loss of biodiversity and ecosystem loss, Bangladesh had been experiencing adverse climatic changes like drought, excessive flood, heavy rainfall, storms and cyclones. Therefore, as a country worst affected by the climate change, the delegation called upon the developed countries to fulfill their pledges and commitments made at various Multilateral Environmental conference (MEC) like the World Summit on Sustainable Development.

13.18 It was further mentioned that Bangladesh has been advocating for a new climate change regime embedding the principles of responsibility, differentiated capacity to pay and equity. In terms of climate change funding, Bangladesh made its viewpoint clear that the financing had to be in the form of grants and in addition to ODS which has to be binding, well-designated, easily accessible, stable and predictable. Also, it has to be disbursed through the UNFCCC.

13.19 The **Delegation of the Republic of South Africa** informed that the 17th Session of the Conference of Parties (COP-17) to the United Nations Framework Convention on Climate Change and the 7th Session of the Conference of Parties serving as the meeting of the Parties to the Kyoto Protocol would be held in Durban, South Africa from 28 November to 9 December 2011. In that regard, the delegation suggested some minor changes to the AALCO draft resolution on Environment and Sustainable Development held in April 2011. The delegation added that the resolution adopted at the recent Bangkok Session must be preserved, in order to keep the delicate balance between the Bali Road-Map and the Cancun Decisions. Also that both the negotiations must be read together and one could not be highlighted over the other.

13.20 The **Delegation of the Republic of Korea** commented on Korea's interest in the 16th Conference of the Parties to the UN Framework Convention on Climate Change, or COP16, which were held in Cancun, Mexico last year. The delegation was of the view that with the Cancun Agreement, the COP 16 established an important milestone for the COP17 to be held in Durban, South Africa in December 2011. Even though the Copenhagen Accord was just taken note of, the Cancun Agreement specified and developed the Copenhagen Accord. In order to draw genuine transformation in the measures against the climate change, "common but differentiated responsibilities" were needed. In order to take appropriate measure against the climate change, the delegation considered that the difference in positions between developed and developing countries should be narrowed in terms of core issues such as the Second Commitment period for the Kyoto protocol. In addition, two-track negotiation system, which divides developed countries' duty and developing countries' action to reduce greenhouse effect gases, must be supported. The delegation then gave an overview of the measures adopted by their

country to mitigate climate change. Against that backdrop, the delegation reminded that Republic of Korea wished to host the COP 18 in 2012. The delegation requested all the Member States of AALCO to extend support for the Republic of Korea in hosting the COP 18.

13.21 The **Delegation of the United Republic of Tanzania** took note of the developments at the Cancun negotiations. The delegation summarized the measures undertaken by their country to deal with climate change issue and biodiversity conservation problem, like finalization of Environmental Impact Assessment (EIA) regulations and Guidelines; review of relevant sector policies to incorporate management of biodiversity issues; involvement of communities through establishment of Wildlife Management Areas and Community Forest Inter Sectoral Wetlands Steering Committee (NAWESCO) and National Wetlands Working Group (NWWG) for the implementation of the Tanzania Wetland Management Plan.

13.22 Further, on the forthcoming Durban Conference, it was mentioned that main objective was to discuss on the implementation for the UNFCCC and Kyoto Protocol. The delegation hoped to work within the framework of Bali Road-map.

13.23 The **Delegation of the Arab Republic of Egypt** highlighted the challenges faced by the Member States of AALCO, namely climate change. The delegation expressed deep concern on the recent calamities that occurred in Japan and extended solidarity with peoples of Japan. The problems of globalization and liberal trend negatively impacted on the environment, active role of civil society in dealing with issues relating to environment along with the governmental authorities was very essential. In that regard, expanding environmental friendly products and sustainable development are major steps on those lines.

14. Half-Day Special Meeting on "International Commercial Arbitration" Jointly Organized by the Government of Sri Lanka and the AALCO

14.1 Prof. Dr. Rahmat Mohamad, the Secretary-General of AALCO made introductory remarks on the theme 'International Commercial Arbitration. In his remarks, he stated that AALCO's association with the subject went back to 1970's where there were hardly any permanent arbitral institutions in the Asian-African region. AALCO adopted the Integrated Scheme for Settlement of Disputes in 1978 at Doha Session, with a view to creating stability and confidence in the economic transactions with the countries of the region. The said scheme envisaged the development of national arbitral institutions under the auspices of AALCO. Pursuant to the scheme, the AALCO Regional Arbitration Centres were established in Kuala Lumpur, Cairo, Lagos and Tehran. The fifth such Centre was in the process of functionalization in the near future. He pressed upon the revitalization of the Arbitration Centres on their effective functioning in order to cater to the needs of the Asian-African region. The Secretary-General in that regard, called on the Directors of the Arbitration Centres to have a coordinated approach among the AALCO Regional Arbitration Centres and they could consider host biannual arbitration conferences.

14.2 In the Working Session-I, **Hon'ble Mr. Salim Maroof, Judge, Supreme Court of Sri Lanka** made a presentation on the "Recent Developments of UNCITRAL: New York Convention on the Rules of Arbitration". He stated that the United Nations Commission on International Trade Law (UNCITRAL) which was established in 1966, mandated to unify and harmonize international trade law, had played a major role in strengthening the infrastructure for the effective resolution of international commercial disputes through arbitration. The UNCITRAL Rules were now adopted in a vast majority of international commercial arbitration and even a fair proportion of investor-State arbitrations. While UNCITRAL played a significant part in popularizing international commercial arbitration, several other factors had also contributed to its popularity. As regards the Revised UNCITRAL Arbitration Rules, 2010, he stated that the new Rules deserved the attention of all in the arena of arbitration. He further stated that although the Revised UNCITRAL Arbitration Rules, 2010 had not significantly departed from the 'structure', 'spirit', or 'drafting style' of the 1976 version, there were several significant modifications, amendments and adjustments in a number of important respects. A number of innovative features in the Rules which aimed to enhance procedural efficiency, including revised procedures for the replacement of an arbitrator, the requirement of reasonableness of costs and a review mechanism relating to the cost of arbitration.

14.3 The second presentation was made by **Mr. Sundra Rajoo, Director of the Kuala Lumpur Regional Centre for Arbitration** on the topic, "Current Role and Functions of AALCO's Regional Arbitration Centres: The Revitalization Process". During the presentation, he stated that at the dawn of 21st century, the world had seen huge shifts and transformation in the way people thought and what they wanted. People had seen major shifts in international arbitration in Asia with centres and institutions coming out of their localities to the larger pool of international trade community. The revitalization process was ongoing in all the regional centres under the auspices of AALCO at different pace, scale and experience. He discussed about the role and functions of the Regional Arbitration Centres of AALCO. Then he explained the Road Map for Revitalization of the Regional Centres. In that regard, he suggested some of the initiatives that the Organization could consider for the purpose of Revitalization of AALCO Regional Arbitration Centres and they were: uniformity of rules in all regional centres-adoption of UNCITRAL Arbitration Rules 2010; offer range of products in terms of rules to cater for both the domestic and international trade requirement within its set up; promotional activities – packaging of products, training, road shows and participation in regional conferences with other centres. He also emphasized the revitalization through host governments and organized private sectors. Finally, he observed that the revitalization could be made through AALCO by various means and he explained on that.

14.4 In the Working Session-II, there were two presentations made by **Mrs. Eunice Oddiri, Director, Lagos Arbitration Centre** and **Dr. Abdel Raouf, Director, Cairo Regional Centre for International Commercial Arbitration (CRCICA)** on the theme, "The Arbitration Experience in the Asian-African Region". Mrs. Oddiri explained the measures aimed at promoting arbitration in Africa. Thereafter she described on the

adaptation of UNCITRAL Model Law and UNCITRAL Arbitration Rules. She also updated the arbitration laws of Nigeria and availability of institutional arbitration infrastructure, availability of international arbitration rules in the African region. She also informed about the Uniform Act on Arbitration of OHADA and challenges. In the concluding observations, she invited the attention of AALCO to ensure that the international character and neutrality of each of its regional centre would be honoured by the respective host Governments. In that regard, she requested that AALCO should take necessary steps to renegotiate the Headquarters agreement in relation to the Lagos Centre with the host Government of Nigeria in order to rectify the erroneous classification in the Headquarters Agreement of the Lagos Centre which was mentioned as an Organization belonging to the host Government of Nigeria.

14.5 Dr. Abdel Raouf in his presentation highlighted the CRCICA's new arbitration rules and its caseloads. He also explained the types of contracts that they entered in 2011. Further, he informed about the nationalities of arbitrators keeping in view of the expanding nature of the Organization. He also explained about the Centre's events and activities, institutional cooperation agreements it had entered and its plans for the future.

14.6 After the presentations by the Panelists, the Delegations from **Arab Republic of Egypt, Kingdom of Bahrain, Sultanate of Oman, Thailand, Republic of Indonesia, Islamic Republic of Iran, People's Republic of China, Uganda, Japan, Sri Lanka, Ghana, India and Nigeria** made their statements.

14.7 **The Delegation of the Arab Republic of Egypt** commended the presentations made by the Panelists on international commercial arbitration. The delegation stated that in order to enhance the role of commercial arbitration in their region, the Ministry of Justice continuously supported the activities of the Cairo Regional Centre for International Commercial Arbitration. Further, the delegation stated that his country had ratified most of the international treaties pertaining to arbitration. In order to give further importance to arbitration related matters, the delegation stated that the Arab Republic of Egypt established an Arbitration Working Group within the Ministry of Justice to deal with international commercial arbitration matters and informed that the Department of International Cooperation had engaged with international trade organizations. They also proposed to train judges on arbitration matters and committed to establish a new conciliation system in their country.

14.8 **The Delegation of Bahrain** attached great importance to the agenda item, especially in the light of growing and increasing volume of international trade and expanding its relations with the outside world, where the parties of international trade were always looking for dynamic mechanisms to settle their disputes such as arbitration, conciliation, mediation and other alternative means of resolve trade disputes.

14.9 The delegation stated that his country was one of the first Arab countries that had adopted the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration in 1985, as Decree Law No. 9 of 1994 with respect to the issue of the law of international commercial arbitration.

15.0 The delegation pointed out that there were many centers and institutions of arbitration in addition to the Commercial Arbitration Center for the States of the Gulf Cooperation Council (GCC). The system of Center was approved during the 14th summit of GCC, held in Riyadh in 20/12/1993, and the Center had started functioning officially in March 1995. Further, hosting the G.C.C. Commercial Arbitration Center by the Kingdom was considered as one of the positive signs on the pursuit of the Kingdom to assume a leading regional and international center for arbitration, rehabilitation and training of arbitrators.

15.1 **The Delegation of the Sultanate of Oman** attached great importance to the agenda item and congratulated the AALCO Secretariat for organizing such a Special Meeting on the agenda item. The delegation stated that Arbitration as an alternate dispute resolution system commenced in their country in mid eighties. A much more comprehensive enactment was brought in the year 1997 by the Royal Decree No. 47/97 which derived most of the provisions from UNCITRAL law. The delegation mentioned that the Law of Arbitration in Civil and Commercial Disputes recognized the enforcement of foreign arbitral decisions in the Sultanate. Further, the delegation stated that they recognized the existence of AALCO Regional Arbitration Centres and their work in the field of international commercial arbitration.

15.2 **The Delegation of Thailand** stated that as the international trade activities were increasing, disputes between States could be expected. If such disputes were not properly addressed, such disputes could develop into obstacle to trade and business transactions.

15.3 The UNCITRAL Model Law on International Commercial Arbitration had been successful in addressing such concerns. A number of countries adopted the Model Law into their domestic legislations, lead to predictability and clarity of the arbitration system. With regard to newly revised UNCITRAL Arbitration Rules, the Rules were adopted not only in international and domestic commercial contracts between private persons, they were also incorporated into many existing bilateral investment treaties and free trade agreements which contained investment protections provisions as a choice for investor-state dispute settlement. Further, the Rules were used to supplement other existing arbitration rules such as ICSID.

15.4 The delegation stated that currently, UNCITRAL was considering the drafting of a legal standard on the transparency in treaty-based investor State arbitration. This was in response to the need of ensuring transparency in treaty-based investor-State arbitration in the context of foreign direct investment as a tool for long-term sustainable growth of developing countries. In addition, ensuring transparency and a meaningful opportunity for public participation in treaty-based investor-State arbitration constituted some important means to promote the rule of law, good governance, due process, fairness, equity and right to access information, as well as an important step to respond to the increasing challenges regarding the legitimacy of international investment law and arbitration as such.

15.5 **The Delegation of the Republic of Indonesia** stated that they attached great importance to arbitration, in particular, international commercial arbitration. The delegation informed that in 1999, Indonesia enacted a new arbitration law (Law no. 30/1999) which repeated the provisions on arbitration contained in the First Section of Chapter III of the Law on Civil Procedure of 1847 which was inherited from the Pre-War colonial administration. The new arbitration law was intended to cope with the development of the domestic/national and international trade as well as the development of Law in general. It would regulate arbitration in general and includes general provisions regarding other forms of alternative dispute resolutions (ADR) such as negotiation, mediation, conciliation and technical evaluation.

15.6 The delegation highlighted the fact that they recognized the existence of the various regional arbitration centres which were established under the AALCO cooperation scheme. The BANI Arbitration Centre was established in 1977 to administer the domestic arbitration and international arbitration, as well in Indonesia. The Centre had cooperation agreements with arbitration centres in various countries. The cooperation would include exchanges of views and information, joint training programs and exchanges of listed arbitrators. Besides that, BANI was an active member of the Regional Arbitral Institutes Forum (RAIF) and the Asia-Pacific Regional Arbitration Group (APRAG).

15.7 **The Delegation of the Islamic Republic of Iran** stated that the AALCO Secretariat's Report as a useful and informative document which touched upon a matter of high significance. The delegation appreciated the work of the AALCO's Regional arbitration centres, especially Tehran Regional Arbitration Centre (TRAC). TRAC was quite well-known among specialists in the Region, the delegation informed. The insertion of TRAC arbitration clause had gained momentum in various type of contracts pertaining to general trade, oil well drilling both on-shore and off-shore and related services, bank guarantees, etc. The TRAC, in pursuance of one of its objectives, provided opportunity for legal advisors of companies in different sectors and legal experts to participate in more than 30 workshops and seminars which have been held at TRAC in Tehran on related issues.

15.8 The delegation stated that finalization and adoption of a revised version of the UNCITRAL Arbitration Rules were one of the important achievements of the Commission. On the future work in the field of settlement of commercial disputes, his delegation believed that the adoption of new topics should be in line with the character and function of the institution of arbitration. Further, they viewed that the issues of transparency in treaty-based investor-State arbitration needed to be further examined, taking into account the nature and mandate of the Commission. They fully concurred with the prevailing view in the Commission that it was too premature to make any decision on the form and scope of a future instrument on treaty-based arbitration.

15.9 **The Delegation of the People's Republic of China,** expressed appreciation to the Secretariat for offering the opportunity to share the experiences of international trade arbitration among AALCO Member States. Then, they introduced the work of two arbitration institutions in China. The first one was the China International Economic and

Trade Arbitration Commission (CIETAC). CIETAC was established by the China Council for the Promotion of International Trade (CCPIT) in April 1956 on the approval of the State Council in 1954. It was the best-known arbitration agency of China and one of the leading permanent arbitration agencies in the world. In the past 55 years, CIETAC made prominent contributions to the formulation of China's Arbitration Law and the development of China's arbitration cause with its arbitration practice and theoretical research. The number of cases CIETAC accepted indicated that it was way ahead in the international arbitration fields. In 2010, CIETAC accepted 1352 cases with the amount in controversy of more than 2 billion US dollars. CIETAC concluded 1382 cases in 2010. The parties to the cases were from more than 50 countries and districts, including US, UK, Japan, South Korea and etc.

16.0 The second was the Chinese Maritime Arbitration Commission (CMAC). CMAC was a permanent arbitration agency which would accept the maritime dispute cases from home and abroad. The CMAC settled the maritime disputes, maritime commerce disputes, logistics disputes and other contractual or non-contractual disputes independently and fairly to protect the legitimate interest of parties and to promote the development of international and domestic trade and logistics. In 2010, CMAC accepted 54 cases. The parties were from mainland China, Japan, Cambodia, Panama, Turkey, St. Vincent, and Hong Kong SAR. The cases involved were ship contract, ship collision, ship repairing, ship sales, bareboat chart, voyage charter and etc. CMAC concluded 58 cases in 2010.

16.1 **The Delegation of Uganda** stated that they had made tremendous development in the area of litigation, by amending their former Arbitration Ordinance dated from 1939 and replaced it with the Arbitration and Conciliation Act CAP 4 Laws of Uganda, based on the UNCITRAL Model Law. The Act established a body known as the Center for Arbitration and Dispute Resolution (CADER), which was intended to fulfill various functions defined elsewhere in the Act. The Center also devised rules for the implementation of arbitration, conciliation and ADR processes, established a code of ethics for and maintain a list of qualified arbitrators, conciliators and experts, sets fees for arbitrators, and facilitate certification, registration and authentication of arbitral awards and conciliation settlements.

16.2 The delegation mentioned that another feature of the Act was a set of model forms for use by the parties or the arbitrator at different stages of arbitral proceedings. They included an agreement to submit to arbitration following the occurrence of a dispute, an agreement on the appointment of a single arbitrator and a form relating to the extension of time allowed for the arbitrator to make his award.

16.3 **The Delegation of Japan** stated that they attached great importance to the agenda item and expressed their appreciation to the Secretariat for organizing the Special Meeting on the important subject.

16.4 **The Delegation of Sri Lanka** stated that the time was opportune to consider revising the grounds on which award could be refunded. Sri Lanka incorporated and passed in a law in 1995, the Arbitration Act (No. 11 of 1995). One of its objects was to make

"comprehensive legal provision" for the conduct of arbitration proceedings and the enforcement of arbitral awards. The second object was to make legal provision to "give effect", to the principles of the Convention on the Recognition and Enforcement of Foreign Awards of 1958 (the New York Convention). There were several grounds on arbitral awards which were found in UNCITRAL Model law, a party was objecting was enforcement, as a catch hole clause to refuse enforcement. The time had come whether in addition to what New York Convention there could be other grounds, for setting aside an award. Sri Lankan's experience was nowhere statutorily noted down and could not be brought under any head and it was incompatible in Sri Lanka's policy, the delegation remarked. Further, the delegation stated that there was a challenge of consensual nature of arbitration itself. It was the time to look at all the aspects of the arbitration. Sri Lanka had two main arbitration centres and from their side, steps were taken to amend the existing laws which could be made, so that the arbitration process could be expedited.

16.5 **The Delegation of Ghana** profoundly thanked the Panelists for their effective presentations. The delegation thanked the Director of the Lagos Arbitration Centre for ably providing the scenario in the region. The delegation stated that international commercial arbitration had become very topical in African region. Each of the countries in the region had domesticated the arbitration process. The delegation extended his Government's support to the Lagos Arbitration Centre. Further, he stated that the current legal regime governing enforcement of foreign commercial arbitration in Ghana was the Alternative Dispute Resolution Act, 2010 (Act 795). The Act had made significant changes to the enforcement of foreign arbitral awards in Ghana. Prior to 2010, the arbitration act, 1961 governed enforcement of foreign commercial arbitration awards in Ghana.

16.6 **The Delegation of India** at the outset, expressed appreciation to the Secretariat for organizing the Special Meeting on a very important agenda item. The delegation mentioned that India was a party to the New York Convention and played an active role in formulating UNCITRAL Model law and based on that amended its national law, the Indian Arbitration and Conciliation Act, 1996. Further, he pointed out that while operationalizing the Act, they found difficulties and were in the process of reviewing it. The delegation also mentioned that they were using the rules in bilateral investment agreements.

16.7 **The Delegation of Nigeria** stated that they were aware of the rules and functions of the Lagos Arbitration Centre and always supported the activities of the Centre. As regards the lacunae with respect to domestication, the delegation assured that they would take all necessary steps to remove the lacunae and expressed support to the Lagos Arbitration Centre in its independent functioning.

16.8 Finally, Dr. Xu Jie, the Deputy Secretary-General of AALCO proposed a vote of thanks to all the panelists, Member States and the host Government for making the special meeting a successful one.

17. Third Meeting of the Delegation of AALCO Member States

Agenda Item: Report on the AALCO's Centre for Research and Training (CRT)

17.1 **Dr. Xu Jie, Deputy Secretary-General of AALCO** introduced the Organizational Agenda Item, "Report on the Centre for Research and Training of the AALCO". In his statement he gave a brief background on the establishment of the CRT. The CRT functioning as an integral part of the Secretariat of the Asian-African Legal Consultative Organization (AALCO), evolved from the AALCO's "Data Collection Unit", which was established based on the proposal made by the Government of Republic of Korea at the Twenty-Eighth Session of AALCO held in Nairobi in 1989. The Data Collection Unit was renamed as the Centre for Research and Training in the Fortieth Annual Session of AALCO in the Year 2001. This marked, as envisaged, a new chapter in the efforts of the Member States towards undertaking research activities, as well as training programmes, within the AALCO. The mandate was further strengthened at the Abuja Session, Nigeria in the Year 2002. The Deputy Secretary-General gave a brief account on the activities undertaken by CRT in the period under review on the following heads, namely, Capacity building programmes, publications, seminars and workshops. He also stated that Secretariat is in the process of upgrading and also creating an Arabic version of AALCO website.

17.2 The DSG stated that in the period 2011-2012, the AALCO Secretariat intends to further strengthen the existing programmes and introduce new programmes. Some of the proposed programmes are: Training Programme in international law issues organized at the Headquarters (New Delhi)/any interested Member State(s); Regional Workshop on Treaty Law and Practice; Expert Group Meetings/Workshops on International Law; Workshop/Seminar on UNCITRAL and Young Jurist Conference. The Secretariat is also intending to formulate a database on the national legislation of the Member States of AALCO on the various fields of international law.

17.3 The DSG informed that to promote and strengthen Research and Training under the CRT, and to provide a sustainable financial base to the Centre to undertake its mandated activities, any Member State of AALCO could provide voluntary contribution to the "Research and Training Fund". The Fund would be exclusively devoted to research on international law issues of common interest to Member States and for the training of the officials of Member States.

18. Report of the Chairperson of the Drafting Committee

18.1 **Ms. Sriyangini Fernando, Chairprson of the Drafting Committee** presented her Report on the Working of the Drafting Committee. She stated that the main task The main task entrusted to the Drafting Committee was to look into the documents prepared by the AALCO Secretariat for the Fiftieth Annual Session, i.e. the draft resolutions on organizational and substantive matters, the summary report and a text containing a Message of Thanks to His Excellency Mahinda Rajapaksa, the President of the Democratic Socialist Republic of Sri Lanka. With a view to facilitate the adoption of the draft documents by the Plenary Meeting, the Members of the Drafting Committee had

done their best to prepare the draft resolutions in such a way that it was acceptable to all the delegations and also that the resolutions reflected the ideas and views commonly shared by the delegations.

18.2 In that regard, she seized the opportunity to thank her able co-chair Ms. Indika de Silva, and all the delegates who participated and enriched the discussion during the Drafting Committee proceedings. She also extended her sincere appreciation to all the delegates for the maximum flexibility exercised during the deliberations. Further, she noted with appreciation the excellent cooperation and assistance of the AALCO Secretariat firstly, in preparing all the aforementioned documents and secondly, coordinating the smooth functioning of the Drafting Committee.

19. Adoption of Message of Thanks to the President of the Democratic Socialist Republic of Sri Lanka

19.1 The Secretary-General on behalf of the Member States of AALCO read out the Message of Thanks to the President of the Democratic Socialists Republic of Sri Lanka. The same was unanimously adopted.

20. Adoption of Resolutions of the Session

20.1 The following Resolutions were adopted at the Third Meeting of the Delegations of AALCO Member States on 1 July 2011:

RES/50/ORG 1	Report of Secretary-General on Organizational, Administrative and Financial Matters
RES/50/ORG 2	AALCO's Budget for the Year 2012
RES/50/ORG 4	Report on the Centre for Research and Training of the AALCO
RES/50/S 1	Report on Matters relating to the Work of the International Law Commission at its Sixty-Second Session
RES/50/S 2	The Law of the Sea
RES/50/S 3	The Status and Treatment of Refugees
RES/50/S 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/50/S 6	Extra-Territorial Application of National Legislation: Sanctions Imposed Against Third Parties
RES/50/S 7	International Terrorism
RES/50/S 9	International Criminal Court
RES/50/S 10	Environment and Sustainable Development
RES/50/S 11	Challenges in Combating Corruption: The Role of the United Nations Convention against Corruption
RES/50/S 12	Report on the Work of UNCITRAL and Other International Organizations Concerned with International Trade Law

RES/50/S 13	WTO as a Framework Agreement and Code of Conduct for World Trade
RES/50/S 14	Expressions of Folklore and its International Protection
RES/50/S 16	Managing Global Financial Crisis: Sharing of Experiences
RES/50/SP 1	Resolution on the Special Meeting on "Trafficking in Women/Children, Migrant Workers and Protection of Children"
RES/50/SP 2	Resolution on the Special Meeting on "International Commercial Arbitration"

21. Consideration of the Summary Report

21.1 The Draft Summary Report of the Fiftieth Annual Session of AALCO was placed for consideration of the Member States