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CO-OPERATION BETWEEN THE UNITED NATIONS AND THE ASIAN-AFRICAN LEGAL CONSULTATIVE COMMITTEE

Report of the Secretary-General

A. Introduction

1. The present report on the co-operation between the United Nations and the Asian-African Legal Consultative Committee (AALCC) is prepared pursuant to paragraph 5 of General Assembly resolution 39/47 of 10 December 1984.
2. The General Assembly, at its thirty-fifth session, accorded permanent observer status to the Asian-African Legal Consultative Committee and invited it to participate in the sessions and work of the Assembly in the capacity of observer. In February 1981, AALCC established a permanent observer mission to the United Nations. At the thirty-sixth session, the Assembly commemorated the Committee's twenty-fifth anniversary and requested the Secretary-General of the United Nations to carry out consultations with the Secretary-General of AALCC with a view to further strengthening co-operation between the two organizations and widening its scope. At the thirty-seventh session, the General Assembly noted with deep satisfaction the ongoing and effective co-operation between the organizations. At the thirty-eighth session, the General Assembly further requested the Secretary-General to continue to take steps to strengthen the co-operation between the United Nations and the Committee in the field of progressive development and codification of international law and other areas of common interest. At its thirty-ninth session, the General Assembly commended AALCC for orienting its programme to strengthen its supportive role to the work of the United Nations in wider areas, and requested the Secretary-General to continue to take steps to promote co-operation between the two organizations and to report the development thereon.

B. Co-operation framework and representation at meetings

3. Pursuant to General Assembly resolution 39/47, further consultations have been conducted with the Secretary-General of AALCC with respect to representation at meetings and sessions, exchange of documentations and information, and co-ordination on matters of common interest between the two organizations. This framework of co-operation is now yielding concrete results with mutual benefit.

4. On the occasion of the twenty-fourth session of AALCC, held at Kathmandu in February 1985, the Secretary-General of the United Nations was represented by the Legal Counsel, and in a message to the Kathmandu session stressed the importance of AALCC in actively supporting the work of the United Nations for the well-being of the international community and for international development.

5. The Asian-African Legal Consultative Committee was represented at various meetings and conferences held under the auspices of the United Nations and its organs and agencies. These included the thirty-ninth session of the General Assembly, the thirty-seventh session of the International Law Commission, the eighteenth session of the United Nations Commission on International Trade Law (UNCITRAL), the second regular session of the Economic and Social Council, the third session of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, and the Trade and Development Board of UNCTAD.

C. Contribution to the fortieth anniversary of the United Nations

6. At the Kathmandu session, States members of AALCC, after having considered the question of making an appropriate contribution to the fortieth anniversary of the United Nations and in keeping with AALCC's permanent observer status, decided to prepare a study on "Strengthening the role of the United Nations through rationalization of functional modalities with special reference to the role of the General Assembly" (see A/40/726, annex) and another on "Ways and means to deal with drug trafficking through the efforts of the United Nations". The objective of the first of the two studies is to present an overall assessment of the functioning of the United Nations over the past 39 years and to focus attention on certain matters and issues for consideration in appropriate forums. An open-ended meeting under the auspices of AALCC was convened at the beginning of the General Assembly session to discuss the modalities for consideration of the suggestions made in the study. It was decided to submit this study to the General Assembly under the appropriate items for consideration.

D. Measures designed to further the work of the Sixth Committee

7. Pursuant to its programme of rendering assistance to its member Governments for active participation in the work of the General Assembly, since 1982 AALCC has prepared notes and comments on the items that are to be taken up in the Sixth Committee, including the report of the International Law Commission. As in the previous years, consultations would be arranged from time to time during the

fortieth session between the representatives of AALCC member States and other interested Governments to provide opportunities for exchange of views on those matters. An informal paper prepared by AALCC in 1983 on the rationalization of the work of the Sixth Committee was circulated as a General Assembly document during the thirty-ninth session and stimulated considerable interest.

8. The Asian-African Legal Consultative Committee has continued to maintain close collaboration with the International Law Commission whose first Vice-President, Dr. Sompong Sucharitkul, attended the Kathmandu session and participated in the discussions on the Commission's work regarding the non-navigational uses of international watercourses and jurisdictional immunities of States - two topics to which the Asian-African States attach particular importance. AALCC decided to examine the draft articles prepared by the Commission's Special Rapporteur on International Watercourses, and to undertake a study on the question of jurisdictional immunity of States from the Asian-African point of view.

9. Close collaboration has also been maintained between AALCC and UNCITRAL. The Model Law on International Commercial Arbitration prepared by UNCITRAL on International Commercial Arbitration was examined at the Kathmandu session and some of the suggestions made were subsequently reflected in the Model Law finalized at the eighteenth session of UNCITRAL in June this year.

E. Promoting wider use of the International Court of Justice

10. The General Assembly, in adopting the Manila Declaration on Peaceful Settlement of Disputes in 1982, drew the attention of States to the facilities offered by the International Court of Justice for settlement of disputes, especially since the revision of its Rules in 1978. By resolution 3232 (XXIX) of 12 November 1974, the General Assembly had called upon States to keep under review the possibility of identifying cases in which use could be made of the Court and, in this connection, attention was also invited to the possibility of making use of chambers as provided in Articles 26 and 29 of the Statute of the Court. In the context of co-operation in wider areas between the United Nations and AALCC, a meeting of the Legal Advisers of AALCC member States, held in November 1983, recommended the preparation of a study for its consideration on the question of possible wider use of the Court by a compromis when the parties so agree. A study was accordingly prepared focusing attention on the advantages to be obtained by using the Court or its chamber in preference to ad hoc arbitral tribunals. At the Kathmandu session, AALCC approved the study and decided to submit it to the General Assembly under the appropriate item for circulation to Members of the United Nations.

F. Measures for the implementation of the United Nations Convention on the Law of the Sea

11. Pursuant to its work programme for assisting Governments in considering the question of ratification and implementation of the United Nations Convention on the Law of the Sea, AALCC, at its Kathmandu session, took up for consideration the question of delimitation of the exclusive economic zone and continental shelf; and

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the question of right of access for land-locked States to it from the sea and transit through coastal States on the basis of the preliminary studies prepared by the AALCC secretariat. Appreciation was expressed for the co-operation and assistance received from the United Nations Office of the Special Representative of the Secretary-General for the Law of the Sea. The Asian-African Legal Consultative Committee has also continued to assist its member Governments in their participation in the work of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea particularly in areas relatable to the preparations for the Enterprise. Two papers have already been prepared and presented in this connection, and a third paper is now under preparation, pursuant to the desire expressed at the meeting of Special Commission 3 on Enterprise at Geneva in August 1985. At its Tokyo session held in May 1983, the Asian-African Legal Consultative Committee took an initiative on the economic, scientific and technical co-operation in the use of the Indian Ocean and this matter was further discussed at the Kathmandu session.

G. Concept of a zone of peace in international law

12. Another area of AALCC's work programme relates to the elaboration of a concept of a zone of peace in international law. The Committee gave consideration at the Kathmandu session to this concept in the context of Nepal's proposal for a zone of peace, on the basis of a preliminary study prepared by the secretariat. The study focused attention on the efforts made within the United Nations on such matters as "Elimination of foreign military bases in Asia, Africa and Latin America", which had been discussed in the General Assembly from its twenty-first session in 1967; the resolution declaring the Indian Ocean as a zone of peace in 1971, as also to the United Nations efforts on denuclearization of Latin America leading to the conclusion of the Treaty of Tlatelolco, and the efforts towards promoting denuclearized zones in Africa, the Middle East, South Asia and the South Pacific. The objectives of the study, based on the work within the United Nations, was to develop legal norms and principles supportive of these efforts.

H. Status and treatment of refugees

13. In co-operation with the Office of the United Nations High Commissioner for Refugees (UNHCR), AALCC has, since 1964, been actively engaged in the study of refugee law and refugee situations. Its work on these subjects led to the adoption of AALCC's Bangkok principles in 1966 and an addendum thereto in 1970. This existing pattern of co-operation was further reactivated following the adoption by the General Assembly of resolution 36/38 and AALCC's decision at its Tokyo Session in 1983 to place the item of refugees on its agenda once again. The deliberations at that session paved the way for closer co-operation between AALCC and UNHCR. AALCC gave detailed consideration to the "principle of burden-sharing" at its Kathmandu session and reached unanimity on the question that the principle had become through practice of States a principle of humanitarian refugee law. An appropriate formulation on this question would be pursued by AALCC at its next session so as to recognize the special role of the United Nations High Commissioner for Refugees in this context. AALCC is also studying the question of State responsibility in regard to refugee situations, which has been on the agenda of the

General Assembly since its thirty-fifth session. A further point under consideration of AALCC, which has relevance to the United Nations efforts on peace and security in South-East Asia, is to discuss the legal status of safety zones in border areas in the context of refugee situations.

I. International economic co-operation for development

14. Since the eleventh special session of the General Assembly in 1980, AALCC has been devoting considerable attention to the question of international economic co-operation for development, and to this end it has participated in the sessions and meetings of the Economic and Social Council, UNCTAD, UNCITRAL and UNIDO, and put forward various suggestions for consideration by Governments. A project in this regard, undertaken by AALCC, has been the preparation of models for bilateral agreements for promotion and protection of investments with a view to generating a wider flow of capital and technology to the developing countries of the Asian-African region. At the Kathmandu session, AALCC finalized its recommendations on this topic and approved the model agreements drawn up by expert groups. AALCC is also preparing a framework for joint ventures in the industrial sector.
