

Statement of the **Asian-African Legal Consultative
Organization (AALCO)**

at the Sixth Committee of the United Nations General Assembly
on the Report of the International Law Commission on the Work
of its Seventy-Sixth Session (A/80/10)

Delivered by

H.E. Dr. Kamalinne Pinitpuvadol

Secretary-General of the AALCO

Madam/Mr. Chair, Excellencies, Distinguished Delegates,

AALCO conveys its high appreciation to the International Law Commission (ILC) for its steadfast contribution to the codification and progressive development of international law, and takes note of the ILC Report (A/80/10).

We regret that, owing to the UN liquidity crisis, the 2025 session was reduced to five weeks, constraining the programme of work. We join our Member States in urging adequate, predictable resources for future sessions and in reaffirming AALCO's statutory role as a bridge conveying Asian-African perspectives to the Commission.

Engagement and Partnership with the International Law Commission

At the recently concluded Sixty-Third Annual Session of AALCO, held in Kampala, Republic of Uganda (8-12 September 2025), the Organization had the distinct honour of hosting several distinguished Members of the **International Law Commission** - namely **Professor Bimal N. Patel**, **Professor Dapo Akande**, **Professor Nilüfer Oral**, **Professor Masahiko Asada**, **Ambassador Xinmin Ma**, and **Professor Mārtiņš Paparinskis**.

While Professor Patel and Professor Akande joined the Session in person, Professor Oral, Professor Asada, Ambassador Ma, and Professor Paparinskis addressed the plenary virtually. Their thoughtful interventions provided invaluable insights into the Commission's ongoing work and evolving agenda, enriching the deliberations of AALCO Member States and reaffirming the enduring partnership between AALCO and the ILC.

During the Session, **AALCO Member States** delivered statements on items before the Commission's seventy-sixth session. They commended the ILC's continued work on complex and contemporary issues of international law, acknowledged its central role in shaping the international legal order, and called for a more prominent reflection of **Asian and African perspectives** in its outputs. The Organization also welcomed the inclusion of new topics in the ILC's long-term programme of work, proposed by scholars from AALCO Member States, and expressed strong support for revitalizing structured exchanges - through intersessional dialogues, expert workshops, and capacity-building initiatives - to further enhance cooperation between AALCO and the ILC.

This close relationship finds its foundation in AALCO's institutional mandate - to study subjects under consideration by the International Law Commission and to transmit the views of its Member States to the Commission. By fulfilling this mandate over the decades, AALCO has served as a vital bridge between the ILC and the nations of Asia and Africa, ensuring that their legal traditions, practices, and perspectives are meaningfully represented in the codification and progressive development of international law.

I. On the Topic of Sea-Level Rise in International Law

AALCO Member States attach great importance to this issue, which lies at the intersection of the law of the sea, statehood, and the protection of persons.

1. Legal stability of maritime entitlements.

Many AALCO Members States underscore the importance of legal certainty and the stability of maritime zones once established under UNCLOS, in order to safeguard sovereign rights and access to resources. Others emphasize that relevant customary rules - such as

historic waters and historic rights - also merit careful consideration. Some Members that are not party to UNCLOS recall that it is not the sole reference point for all ocean activities and stress attention to the broader *acquis* and special circumstances of enclosed or semi-enclosed seas.

2. Statehood and protection of persons.

AALCO Member States recognize the Study Group's final consolidated work on statehood and the protection of persons affected by sea-level rise and note the continued diversity of views on the implications of partial or total territorial loss. There is broad support for pragmatic, people-centred cooperation drawing on human rights, refugee, disaster, and (where applicable) IHL frameworks, while exploring soft-law tools to address protection gaps and cross-border movement.

3. Regional practice and institutional pathways.

AALCO Member States welcome contributions that advance institutional responses. We note support expressed for regional declarations preserving maritime zones in the face of climate change, and the value of States' participation in recent proceedings before the ICJ and ITLOS to clarify obligations relating to climate and the marine environment. Several Members also observe that the legal literature remains evolving and encourage continued consultations anchored in representative State practice.

II. Turning to the Immunity of State Officials from Foreign Criminal Jurisdiction

AALCO Member States recognize both the conceptual complexity and the practical importance of this topic for stable inter-State relations.

1. Foundational principles and balance.

Immunity flows from the sovereign equality of States and is indispensable to the effective performance of official functions abroad. Immunity is not impunity: any limitations must rest on established general international law and broadly representative practice, avoiding

politicization or abuse - including through the expansive use of universal jurisdiction.

2. Substantive scope and definitions (Draft Article 7).

Numerous Members States caution that multiple exceptions to immunity *ratione materiae* do not yet command universal support or reflect sufficiently widespread practice. Where crimes are listed, several prefer autonomous definitions rather than cross-references to treaties to which not all States are party. Views also differ on whether immunity *ratione personae* should be confined to a “troika” or extend to officials who, in practice, perform equivalent functions.

3. Procedural safeguards and domestic implementation.

There is strong support for robust procedural guarantees - timely and confidential notification to the State of the official, prior examination of immunity questions by competent authorities, and clarity on express waiver - together with effective domestic frameworks implementing immunities consistent with international and regional obligations.

III. With Regard to the Settlement of Disputes to Which International Organizations Are Parties

AALCO Member States welcome the Special Rapporteur’s focus on disputes involving private parties and supports guidance that balances organizations’ independent functioning (including immunities) with access to justice and effective remedies.

Well-drafted headquarters agreements, credible internal justice systems, and narrowly tailored waivers where necessary can help strike this balance. Continued work on diplomatic protection, forms of arbitration, compensation, and procedural rule-of-law guarantees is encouraged.

IV. Concerning Non-Legally Binding International Agreements

While coherent terminology is helpful, several Members caution against using the term “agreement” in a manner that may generate confusion with the Vienna Convention on the Law of Treaties and its *travaux préparatoires*.

The Commission is encouraged to provide clear criteria distinguishing non-legally binding instruments from treaties and to remain open to alternative formulations mindful of different legal systems.

V. As Regards the Prevention and Repression of Piracy and Armed Robbery at Sea

AALCO Member States support a comprehensive framework integrating treaty law, customary law, and evolving practice - including technological developments such as uncrewed vessels and maritime autonomous surface ships (MASS), as well as the complex issues raised by privately contracted armed security personnel (PCASP).

There is broad support for enhanced cooperation against piracy, while many reaffirm **coastal State jurisdiction** with respect to armed robbery at sea and counsel caution regarding any universal-jurisdiction approach to that offense. We encourage Members to submit updated legislation, jurisprudence, and practice - **by 1 December 2025** as invited - so that the ILC’s work reflects diverse Asian-African experience.

VI. On the Question of the Succession of States in Respect of State Responsibility

Member views diverge. Some support continued exploration toward clear and fair guidance; others welcome the Commission’s decision to discontinue the topic in light of limited, ad hoc practice.

AALCO stands ready to compile concrete regional practice (including ad hoc arrangements) to inform any future reconsideration and to assist States confronting practical questions in this area.

VII. Regarding General Principles of Law

AALCO Member States welcome language reflecting sovereign equality “community of nations” and underscores:

- the central role of **State recognition** for principles derived from national legal systems;
- the need for prudence regarding any category of principles “formed within the international legal system,” given difficulties distinguishing such principles from customary international law; and
- commentary clarifying boundaries between general principles, custom, and **jus cogens**.

VIII. Moving Forward to Subsidiary Means for the Determination of Rules of International Law

AALCO Member States appreciate progress on the draft conclusions and invite further clarity on:

- evaluative criteria for teachings and outputs of expert bodies;
- the status of decisions of quasi-judicial entities relative to “courts and tribunals”; and
- the **non-binding** nature of judicial decisions as subsidiary means.

While judicial reasoning is respected, Members recall that decisions do not create binding precedent *erga omnes* and that dissents or separate opinions may, in some instances, be more persuasive - underscoring the importance of careful, case-by-case assessment when using jurisprudence as evidence of general rules.

IX. On the Broader Maritime Security Context

Beyond these specific topics, AALCO Member States reaffirm their commitment to freedom of navigation and the rule of law at sea. Ongoing regional conflicts and instability heighten risks to seafarers and commerce;

sustained cooperation, de-escalation, and adherence to international law remain essential to maritime security.

X. Looking Ahead: Strengthening the AALCO-ILC Interface

Finally, looking forward, AALCO seeks to strengthen its cooperation with the ILC to ensure that Asian-African perspectives are systematically reflected in the Commission's outputs.

To this end, AALCO will:

1. **Compile an Annual Dossier** of Member State practice, legislation, and jurisprudence on ILC topics for timely transmission to the Commission;
2. **Convene Intersessional Consultations** (virtual and in-person) with ILC members and national experts from our regions on priority items (sea-level rise; immunities; piracy/armed robbery; sources of international law); and
3. **Support Capacity-Building** for capital-based officials to respond to ILC questionnaires and calls for information.

We invite all Member States to contribute, beginning with inputs on piracy and armed robbery at sea, immunities (procedural safeguards and domestic frameworks), general principles and subsidiary means, and practical experiences relating to sea-level rise.

XI. Promoting Knowledge Exchange and Informed Engagement

In recent years, the AALCO Secretariat has taken a proactive and forward-looking approach to enhancing Member State engagement with the Commission's work. We have organized a series of **high-level webinars** that bring ILC members into direct dialogue with officials and experts from our regions.

In April this year, AALCO hosted a webinar on “**Immunity of State Officials from Foreign Criminal Jurisdiction**,” featuring **Professor Phoebe Okowa**

and **Professor Masahiko Asada**, whose expert insights deepened understanding of the legal dimensions of foreign official immunity.

In July, another session entitled “**Shaping International Investment Law: The International Law Commission’s Past Contributions and Future Potential**,” brought together **Professor Mārtiņš Paparinskis** and **Ambassador Vilawan Mangklatanakul**, offering a comprehensive view of the ILC’s role in the evolution of investment law and stimulating dynamic discussion on emerging challenges and opportunities.

These webinars serve multiple purposes: they facilitate exchange of experience among Member States, build awareness of the Commission’s ongoing work, and equip our members to engage more effectively in the progressive development of international law. Following each webinar, AALCO disseminates comprehensive proceedings to serve as a lasting resource for governments and the wider legal community.

Madam/Mr. Chair,

Guided by the Bandung Spirit, AALCO reaffirms its commitment to a credible, inclusive, and forward-looking international legal order. We will continue working with all delegations and with the ILC so that Asian-African practice and perspectives are fully reflected in the codification and progressive development of international law.

Thank you.