

MINUTES

MEETING OF THE BOARD OF DIRECTORS OF THE ASIAN OMBUDSMAN ASSOCIATION (AOA) 26-04-2004 SEOUL, REPUBLIC OF KOREA

Agenda Item No.1

Approval of the minutes of the last meeting of the Board of Directors held at Macao, SAR, People's Republic of China, from 20-21 October, 2003

The President requested the Board to consider and approve the minutes of the last meeting of the Board of Directors held at Macao (SAR), People's Republic of China, from 20-21 October 2003.

DECISION

2. The Board unanimously approved the minutes of the last meeting of the Board of Directors held at Macao (SAR), People's Republic of China, from 20-21 October 2003.

Agenda Item No.2

Approval of draft Agenda for the present Meeting of the Board of Directors of the AOA

3. The President requested the Board to consider and approve the draft Agenda for the Board of Directors' meeting.

DECISION

4. The Board unanimously approved the draft Agenda of the meeting of the Board of Directors of the AOA scheduled at Seoul, Peoples Republic of Korea, on 26th April 2004.

Agenda Item No.3

Approval of the draft Resolution for General Assembly regarding membership of the AOA of: -

- i. Commissioner for Human Rights of the Republic of Azerbaijan;
and**
- ii. Provincial Mohtasib (Ombudsman) Balochistan, Pakistan.**

5. The Board in its last meeting unanimously endorsed the membership of the two applicants as they met the requisite criteria for membership and decided that their case be placed before the General Assembly for ratification in the next session.

6. Consequently, Draft Resolution for ratification of the Board's decision regarding acceptance of the two applicants as members of the AOA by the General Assembly was placed before the Board for approval to be placed before the General Assembly for consideration/ ratification.

DECISION

7. The Board unanimously approved the Draft Resolution for placing before the General Assembly for consideration/ ratification.

Agenda Item No.4

Election of the new Board of Directors of the Asian Ombudsman Association

8. The President informed the Board that the term of the present Board of Directors is ending on 19th July 2004, vide Resolution No. 4 dated 24-05-2002, of the General Assembly of the A.O.A and there may not be another possibility for the Board of Directors and the General Assembly to meet before that date. Consequently, it has been decided to hold the elections of the Board of Directors in the session of the General Assembly convened on 29-04-2004. Accordingly, in terms of Clause II Sub-Clause 2-1 and 2-2 of the Code of Conduct of Business of the Association, the nominations for all offices of the Board were invited vide Notice dated 19th February, 2004. The Executive Committee of the Board of Directors consisting of the President, the Vice President and the Secretary, duly assisted by the Executive Secretary, scrutinized the Nomination Papers and confirmed the eligibility of the panel of candidates as required under (Clause 2-6 of the Code of Conduct of Business of the AOA). The list of eligible voters was also prepared and the host of the General Assembly meeting has very kindly made all the necessary arrangements to ensure smooth holding of the elections.

9. Secretary of the A.O.A. informed the Board that for the following positions only one nomination and secondment each have been received as of 26-04-2004.

- | | |
|---------------------------|--------------------------|
| (a) PRESIDENT | Pakistan |
| (b) VICE PRESIDENT | Philippines |
| (c) SECRETARY | Hong Kong |
| (d) TREASURER | Republic of Korea |

10. For the position of member, the following nominations and secondments have been received: -

- | | |
|-------------|--------------|
| 1. Japan | 4. Macao |
| 2. Malaysia | 5. Sri Lanka |
| 3. Iran | 6. China |

11. The member from Iran said that every member has a right to convey its nomination and secondment three days before the commencement of the General Assembly. Before nominations a member has to lobby with the members to generate support in his favour. Since, Iran is a candidate for the position of the Vice President, time should be allowed to put up the nomination papers as the Code of Conduct allows at least three days for the nominations to reach the President before the date set for the General meeting.

12. The President said that since the closing date for submission of nominations for the next elections is 26.4.2004, and the General Assembly is to meet on 29-04-2004, to hold the elections, there should be no problem for any member to submit nomination papers till 5.P.M on 26-04-2004. The Secretary said that the final list of the candidates and the voters would be ready before the close of the day for circulation to the members.

13. The draft Resolution for the election of the new Board of Directors to be placed before the General Assembly for consideration/ ratification.

DECISION

14. It was unanimously agreed that: -
- (i) all those members who wished to submit their nominations for the forthcoming elections on 29-04-2004, should do so by 5 P.M on 26-04-2004, i.e. the closing date for filing of the nomination papers, as required vide notice dated 19-02-2004.
 - (ii) In future the closing date for submission of nomination papers shall be three clear days before the date of elections as stipulated vide Code II (2-5) of the Code of Conduct of the AOA.
 - (iii) the draft Resolution in connection with the election of the new Board of Directors be placed before the General Assembly for consideration/ ratification.

Agenda Item No.5

Consideration of the report of the Sub-Committee of the Board of Directors of the AOA on grant of scholarships and financial support to individuals who intend to carryout research/ study in the field of Ombudsmanship in member countries (Follow up action Agenda Item No. 5 of Board's meeting held in 2003 at Macao)

15. The Board in its last meeting held at Macao from 20-21 October, 2003, unanimously agreed to the constitution of a Sub-Committee consisting of Ms. Alice TAI, Ombudsman of Hong Kong (Convenor); Dr. Lee Wun-Hyoung, Chief Ombudsman of Republic of Korea; Mr. Cheong U, Commissioner Against Corruption, Macao and Mr. Simeon Marcelo, Ombudsman of Philippines, to determine the scope of the proposal and the modalities of its implementation. All the members of the Association and the Board were required to send their proposals to the Convenor with copies to the AOA Headquarters by the 15th January, 2004, regarding areas of research studies, their scope and the modalities of their implementation for consideration of the Sub-Committee.

16. In spite of repeated reminders to the members, proposals were only received from Wafaqi Mohtasib (Ombudsman)'s Secretariat, Pakistan; Federal Tax Ombudsman, Pakistan; Provincial Ombudsman Sindh, Pakistan; Office of the Ombudsman, Hong Kong; Office of the Chief Ombudsman, Republic of Korea, Office

of the Director General, Administrative Evaluation Bureau Japan and Office of the Ombudsman, Philippines.

17. The meeting of the Sub-Committee of the AOA was held on 19-20 February 2004, at Islamabad, Pakistan, which was attended by Ms. Alice TAI, Ombudsman of Hong Kong/ Secretary AOA; Ms. Wai Fong TOU, Deputy Commissioner, Commission Against Corruption, Macao; Ms. Teresa VELOSO, Legal Advisor, Commission Against Corruption, Macao and Mr. Zaheer ud Din Babar, Executive Secretary AOA. Draft Report was prepared in the light of proposals received from the member countries/ regions and circulated for the comments of the members. No comments were received from any member as of 26-04-2004.

18. However, the Board of Directors was requested to consider the Report of the Sub-Committee of the AOA.

19. The Secretary of the AOA, pointed out the inadequate response from the members and emphasised the need for exchange and sharing of information between the members to benefit from each other's experiences. The Philippines promised to send its report in the near future. Iran suggested that it should be left open to the members whether they like to send their comments/reports or not. The President clarified, that in case any member wished to contribute something it could do so otherwise there is no compulsion.

20. The Secretary of the AOA, briefly explained the main features of the report. She said that the paper is the result of the deliberations by the committee based on the input from members quoted above. The objective of the committee was to invigorate the AOA in order to meet its objectives.

21. The President said that the AOA is in its 8th year of existence. We have discussed our experiences in various meetings, but we have yet to put our objectives in practical terms as a professional body for our collective benefit. We have tried to share our systems to learn from each other's experiences.

22. The member from Iran said that we should adopt a system, which could be beneficial to all the members. He said that, all the existing members have either structural problems or procedural problems. We should ask all the members about their means to support any research or project. Based on the above information, we

should evolve a model Ombudsman institution and introduce it to other countries for replicating it considering its suitability to their own environment. However, to begin with we may ask the members as to what kind of research can be carried out by them.

- (i) The Secretary AOA said that, presently, we have 21 members. As Convener of the Sub-Committee, we look up to the Board for leadership and show to other member countries what we have done and what we propose to do. At the end of the day, each member has to decide which system he can benefit from. We can only put up the material and members can benefit from it. The more input we have from the members the more material we can provide to benefit from.
- (ii) The President said that each member of the AOA has a distinct system, but we all have the same objective i.e. to curb mal-administration and to protect the rights of the citizens. Therefore, there is a need for research in the existing systems so that better things could be identified to be replicated in our systems considering our respective environments. Consequently, we have to be on the lookout as to what should be the subject of research, which could be beneficial for most of the members. We need to explore the avenues for generating funds for such research. Proposals have been given in the paper, which the members may like to read and give their suggestions for further improvements.

DECISION

23. The Board unanimously approved the report of the sub-committee with focus on the points mentioned by the President.

Agenda Item No.6

Consideration of working paper on making the Ombudsman/ like Institutions more independent and autonomous in their working for greater efficiency and credibility (Follow up action Agenda Item No. 8 Of Board's meeting held in 2003 at Macao)

24. The Board in its last meeting held at Macao from 20-21 October, 2003, unanimously approved that each member of the Association should submit a self-contained paper on the Financial and Administrative Dispensation under which their respective Organizations were functioning, the extent to which these met the criteria of autonomy and independence, and improvements, if any, proposed to be reflected therein. These papers were required to be submitted to the AOA Secretariat by the 15th February 2004, for preparing an integrated working paper for the information and consideration in the next meeting of the Board of Directors. In spite of repeated reminders by the AOA Secretariat, papers were only received from Ombudsman's Office of Hong Kong, Office of the Commissioner Against Corruption Macao, Federal Tax Ombudsman of Pakistan, Provincial Ombudsman Sindh, Pakistan, Lokayukt, Madhya Pradesh, India and Wafaqi Mohtasib (Ombudsman) Pakistan. However, on the basis of proposals received from the above quoted members, the AOA Secretariat has prepared a draft integrated working paper.

- (i) After the President briefly explained the background of the proposal and conclusions of the draft working paper, he requested the Board to consider the draft working paper.
- (ii) The Secretary requested the members who had not submitted their papers to do so now so that AOA could be energised and the objectives given in the Bye- Laws and the Code of Conduct could be achieved. She further said that less than 1/3rd of the members and even less than half of the Board's members provided the requisite information.
- (iii) The member from the Philippines expressed his satisfaction over the present Financial and Administrative dispensations under which they were presently working and also regretted not having provided the requisite material to the AOA secretariat earlier and requested for some more time for submission of the paper.

- (iv)** The member from the Republic of Korea said that it was on account of change at the top in the Ombudsman's office in their country that the paper could not be sent in time.
- (v)** The member from Iran said that they have an independent office, which submits its budget to the management and budget department. They have 18 sub- organisations in 18 provinces, which are working independently. Their office has the authority to inspect the government departments, which are within their purview.
- (vi)** The Secretary AOA, said that we only want to make this organisation relevant which was the reason for her requesting the members for a response.
- (vii)** The member from Iran said that if the Board had created a format it would have been a lot easier to obtain the requisite material from a country as the reason for collecting this information were not clear. This type of research topic should not give impression of an intrusion in the system of another country and should not be mandatory also. Rather, it should be in the form of a request on a prescribed format or questionnaire.
- (viii)** The President said that nowhere in the working paper a uniform system has been suggested for all member countries. Each institution of the ombudsman is the product of the legal and administrative structures existing in a country. The intention is not to prescribe solutions across the board for member countries, but to bring to their notice the systems prevailing in the member countries so that they might like to incorporate certain good things in their systems. No proposal as such has been made to prefer a certain system over the dispensations under which some other country's function.
- (ix)** Regarding the Iranian proposal that a questionnaire should have been drafted for obtaining material for research, the President said that although questionnaires are useful for focussing the issue and determining the parameters for research, yet could be restrictive which is not the objective of the proposed research.

- (x) Regarding Malaysia's point for incorporating best practices of an institution to enhance the efficacy of our own systems, the President said the best practices are to be gleaned from various papers and benefits drawn in the context of our respective environments.
- (xi) The Secretary AOA on a point raised by the member from Malaysia as to how to make the ombudsman's institution more effective said, that a detailed discussion on this point at this level will not be appropriate as we are at present in the initial stage of our existence. For the present, if the Board could only provide material for an academic research that would be a big step. It would be at a later stage that we can take up the matter in detail.
- (xii) The member from Iran said that requisite information could be provided but it should not be made mandatory.
- (xiii) The Secretary said that when we requested the Board to contribute, it was with a confidence and the degree of cooperation that we expect from it.
- (xiv) The member from Macao said that in the last meeting, we wanted to make the AOA, more dynamic. We are happy that the A.O.A is trying to increase its membership. The working paper prepared by the Sub-Committee could be very useful in improving the working of the AOA. He hoped that the remaining members would send their respective contributions to the AOA Head Office which would issue a newsletter to this effect.

DECISION.

25. It was unanimously agreed that those members of the Board who wish to send their papers could do so now. After the papers have been received, the AOA Secretariat should make a gist of these papers and circulate it to all the members to make use of it in the manner they want.

Agenda Item No.7

Consideration of working paper on creating awareness among general public about effectiveness and usefulness of the office of Ombudsman in the society (Follow up action Agenda Item No. 9 of Board's meeting held in 2003 at Macao)

26. The Board in its last meeting held at Macao from 20-21 October, 2003, unanimously approved that country specific papers on creating awareness about the powers, functions and jurisdiction of the Office of the Ombudsman (Ombudsman like institution) should be submitted to the AOA Secretariat by 15th February, 2004, indicating the existing position and pointing out the improvements/ modifications needed, if any. The essence of these would be integrated into a paper by the Secretariat for consideration of the Board in the next meeting. In spite of repeated reminders by the AOA Secretariat, contributions were received only from Office of the Ombudsman of Hong Kong; Office of the Commissioner Against Corruption, Macao; Federal Tax Ombudsman of Pakistan and Wafaqi Mohtasib (Ombudsman) Pakistan. Based on the papers received from the above-mentioned members, the AOA Secretariat has prepared a draft working paper.

27. After the President briefly gave the background and conclusion of the report of the sub- committee, he requested the Board to consider the draft Working Paper.

DECISION.

28. It was unanimously decided to circulate the paper prepared by the sub-committee to all the members to benefit from it in the manner they like.

Agenda Item No.8

Invitation and consideration of the proposals (if any) for holding 9th and 10th AOA Conferences

29. Keeping in view the commitments of some member countries of the AOA, who are also active members of the IOI, change in the schedule of AOA conference from even to odd years without prejudice to the next conference was suggested by the Secretary AOA, Ms Alice TAI, during the Board of Directors' meeting in 2003. The issue as to when the first biennial odd year conference should be held, also came up. The choice was between the years 2005 and 2007. In this context, it was felt that the year 2005 would be preferable as year 2007 was a long way off and members could loose interest by then.

30. The Board in its meeting held on 20-21 October 2003, at Macao, decided that: -

- (i) efforts would be made to hold the conference in the year 2005, in Malaysia or Thailand;
- (ii) in case it is not possible to hold the conference in the year 2005, being too close, then Malaysia would be requested to be the host in the year 2007; and
- (iii) matter regarding the venue of the Conference in 2005, should be placed before the General Assembly for consideration/approval, if required by the Bye-laws/Code of Conduct of the AOA.

31. As of 26-04-2004, no formal response/ proposal either from Malaysia or Thailand, in connection with, holding of General Conference in 2005 or 2007, was received by the AOA Secretariat.

32. The Board of Directors was requested to discuss the issue and even consider inviting fresh proposals from the member countries regarding holding of the General Conference in 2005, Board's meeting in 2006 and the General Conference in 2007. On receipt of formal proposal and finalizing the hosts of the next Conference/ meeting, a draft Resolution will be submitted to the General Assembly for consideration/ ratification.

33. The Secretary AOA, said that a formal reply from Thailand, has been received. In view of the political changes in the country, it is not possible for it to host the conference in 2005.

34. The representative of Malaysia stated that subject to confirmation of his government, the Conference of 2007 would be hosted by them.

35. The Secretary AOA, said that since it is not possible for Thailand, to host the conference in 2005, Hong Kong offers to host the next conference in 2005.

36. The President expressed his and the Board's gratitude to Hong Kong, for the offer to hold the next General Assembly meeting in Hong Kong and to Malaysia for offering to do so in 2007.

DECISION

37. (a) It was decided that the next meeting of the General Assembly would be hosted by Hong Kong, in November or December 2005. Draft Resolution to this effect to be placed before the General Assembly for consideration/ ratification was approved.

(b) It was further decided that Subject to confirmation within six months time from Malaysia, the Conference in 2007, would be held in Malaysia, in May or June 2007.

Agenda Item No.9

Payments of outstanding dues by the Association's members

38. While discussing the schedule of the outstanding dues from the Association's members in the Board of Directors' meeting in 2003, it was unanimously decided that the letters to the members would be issued by the Secretary AOA for meeting their financial obligations at the earliest, failing which invocation of the relevant clauses of the Bye-laws and Code of Conduct of Business of the AOA could jeopardize their membership of the Association and also their right of vote in the elections for the membership of the Board in the next meeting. In case of Iraq, it was decided that the matter be taken up on return of normalcy to that country. As to Maldives, it was decided that since it has not been paying the Annual Membership Fee of the AOA since inception, a letter be issued to it and all other members to meet their up-to-date financial obligations by 30-12-2003, failing which relevant provisions of the Bye-Laws and the Code of Conduct of Business would have to be invoked and the case placed before the General Assembly for a decision. Accordingly, the Secretary AOA, issued reminders to the defaulters including Maldives requesting therein for clearance of outstanding dues.

- (i)** Updated schedule of the outstanding dues as of 24.4.2004, was placed before the Board for information and consideration.
- (ii)** The member from Iran said that our objective has been to attract more members; therefore, it would not be advisable to strike out the members for US\$1000 i. e. the Annual Membership Fee, as it would not be conducive to the growth of the Association. In International Associations the practice is that the defaulting members lose the right to vote but not the membership.
- (iii)** The President, said that in this session we are only taking up a position to be put up to the General Assembly.
- (iv)** The Secretary AOA, said that the IOI struck out 47 members for non-payment of IOI dues. We would like to have members but we would also like to have members who could contribute. She proposed that the matter should be put up before the General Assembly for a decision.
- (v)** The member from Malaysia said that in the last meeting we decided to have more members. Striking the members out for non payment of dues could discourage them from coming back to the AOA as it could be embarrassing for them. He proposed that rather than striking them out, they should not be allowed to vote and also precluded from nominating or seconding any candidate. He further said that the defaulters should not be allowed in the conference.
- (vi)** The member from the Philippines said that the defaulted member is inactive. The membership can be resumed on payment of dues. He proposed that the matter should be brought before the General Assembly for a decision.
- (vii)** The President said that the other two viewpoints of Iran and Malaysia should also be reflected in the proposal for the General Assembly in the form of a draft to be placed before it.

- (viii)** The member from Iran referred to the Bye- Laws of the AOA, which stipulate that Annual Fee is to be paid in the account of the AOA and cheque paid on the last date fixed for filing of the nominations for elections to the Board, should not be accepted and the member be held as ineligible.
- (ix)** The Secretary AOA asked as to which Bye- Law the member from Iran was referring to. In response the member stated that he was not referring to any Bye- Law of the AOA but to a principle of General Law as such.
- (x)** The Secretary said that the method of payment has not been specified in the Bye-Laws or the Code of Conduct of the AOA. We have not had any problem of dishonoured cheques so far. In case the cheque is not honoured, we can always reserve the right to take action against that member.
- (xi)** The member from Iran said that in case a cheque is dishonoured, would the elections be required to be held afresh? It may become a precedent and everybody would be presenting cheques at the last moment.
- (xii)** The member from Malaysia said that if the cheque has the backing of the government, then it should be accepted.
- (xiii)** The member from the Philippines said that the cheque could have been delivered earlier, but on account of the visit of some delegations, the matter got delayed. Therefore, it was considered safe to make the payment personally.
- (xiv)** The member from Iran said that it was not the action of a particular member that was being discussed, but a principle. If the amount has not been credited in the AOA account then the cheque is not money but just a piece of paper.

(xv) The member from Malaysia said that the clearance of cheques sometimes takes a long time. Therefore, we have to accept the cheques presented as valid.

(xvi) The member from Iran objected to the confirmation of the Philippines as a candidate for the Vice President's position without clearance of the cheque.

39. The President then put the matter before the Board whether a cheque presented to the Secretary or the Executive Secretary on the closing day of the nominations is a valid document in terms of the AOA Bye- Laws for proof of payment of outstanding dues enabling a member to contest elections. All the members, except Iran, confirmed that a cheque so presented was valid.

DECISION

40. It was decided that: -

(i) the cheque presented by the Philippines to the Executive Secretary of the AOA as payment of dues was valid and payment is to be considered as having been made.

(ii) a new Bye-Law 5(11), authorising the General Assembly to suspend the membership of those members who are in default of payment of their membership fee be incorporated in the Bye-Laws of the AOA. Draft Resolution to this effect was approved for placing before the General Assembly for consideration/ ratification.

Agenda Item No.10

Consideration and approval of the Financial statements of the AOA Accounts for the period from 16th October, 2003 to 24th April, 2004

41. The financial statements of the accounts of the AOA, including income and expenditure statements and balance sheets as of 24th April 2004, prepared by the AOA Secretariat, were placed before the Board for consideration and approval to be put up to the General Assembly for consideration/ ratification.

DECISION

42. The Board noted with satisfaction the financial statement as of 24-04-2004. The Philippines requested that the cut off date for the financial

statement should be 26-04-2004, and circulated to the members. Draft Resolution to this effect was approved for placing before the General Assembly for consideration/ ratification.

Agenda Item No.11

Approval of the Conference arrangements and Agenda of the General Assembly meeting

43. The host of the 8th AOA Conference, Republic of Korea, has finalised the programme/ arrangements for the meeting of the Board of Directors and the General Assembly.

44. The programme along with the Agenda for the General Assembly, was submitted to the Board of Directors for consideration and approval.

DECISION

45. The Board unanimously approved the programme /arrangements of the meetings of the Board of Directors and the General Assembly.

Agenda Item No.12

Any other item, which any member of the Board of Directors may like to discuss

46. No other item was discussed.