

**VERBATIM RECORD OF THE
SPECIAL MEETING ON
“ESTABLISHING COOPERATION
AGAINST TRAFFICKING IN
PERSONS, ESPECIALLY WOMEN
AND CHILDREN”
HELD ON 23RD JUNE 2004 AT 10:00
A.M.**

The President H. E. Prof. Dr. Yusril Ihza Mahendra, in the chair.

President: Excellencies, Distinguished delegates, ladies and gentlemen. As scheduled by the Committee today we have the Special Meeting on “Establishing Cooperation against Trafficking in Women and Children” and we would discuss the item the whole day, from morning till afternoon and some distinguished speakers have come here. We will start the Special Meeting by the keynote address by Hon’ble Minister for Women Empowerment, Republic of Indonesia, Madam Redjeki Sumaryoto. Before Madam Minister presents her views on these matters, Amb. Dr. Kamil, Secretary General, AALCO will give his Inaugural address.

H.E. Amb. Dr. Wafik Z. Kamil, Secretary-General: Thank you Mr. President, Good Morning Ladies and Gentlemen. Thank you Minister for Women Empowerment of the Republic of Indonesia for coming to attend our meeting thank you for coming all the way. I welcome you all to this one-day Special Meeting on “Establishing Cooperation against Trafficking in Women and Children”. It has almost become a practice with the AALCO annual sessions that a one-day special meeting is held in conjunction with the annual session on a specific topic of contemporary relevance.

The present topic has been actively deliberated upon during previous sessions. In fact this item was placed on the agenda of AALCO during the 40th session held in New Delhi in 2001 at the initiative of the Government of Indonesia. While

emphasizing that the inclusion of this topic on the agenda of AALCO would facilitate the deliberations on the topic, the delegation of Indonesia proposed various issues for deliberations such as, the role of law enforcement in the trafficking in women and children cases, model legislation and international agreements, intelligence sharing and effective resource utilization and other initiatives. I hope that these issues may be explored and examined deeply by the panelists as well as the Delegations in their discussions.

Apart from the regional mechanisms in this regard, the adoption of the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children is a great step forward towards mobilizing international consensus to counter this menace. It is a positive development that both the Convention and the Protocol have come into force on 29 September 2003 and 25 December 2003 respectively. In furtherance of the Convention’s mandate the first Conference of the Parties is also going to be held very soon from 28 June to 9 July 2004 just after our Session.

Mr. President, historically, trafficking has often been understood as movement only for commercial sexual purposes, and has, thus, not been comprehensively dealt with in law as was evidenced in the early international legal instruments. Accordingly in many countries, the problem of trafficking is addressed through prostitution laws, which seek to criminalize, regulate or control the sex industry and sex trade. In this regard there is an urgent need for countries to review laws that do not take account of a comprehensive understanding of trafficking as reflected in the Protocol against Trafficking in Persons and to ensure that adequate protection is provided in national laws.

Trafficking in human beings is a global issue now, as it has become a global

business, generating huge profits for traffickers and organized crime syndicates, creating serious problems for governments of countries involved and exposing the victims to exploitation and violation of their fundamental human rights. However, the information available does not seem to be a comprehensive one, as it requires concerted cooperation among countries and agencies. Thus, there is an urgent need for cooperation between countries to formulate measures to combat this heinous crime. There is a need to strengthen the criminal justice response to trafficking through legislative reform, awareness raising and training, as well as through national and international cooperation.

However, it needs to be emphasized in this context that the problem of trafficking has to be looked at from the human rights perspective also, i.e., the victims of trafficking especially women and children should be treated keeping in view the established human rights standards rather than as criminals. In the process of dealing with the problem of trafficking, the victims of trafficking are treated as violators of law, therefore as “illegals”. However, it is necessary that they should be understood as victims of the problem and hence should not be re-victimized by national laws and policies. This re-victimization may result from the national immigration laws, which classify the victims of trafficking as illegal immigrants because they enter into the country without proper immigration documents. Therefore, there is a need for making a great distinction between victims of trafficking and other categories of illegal immigrants

Mr. President, necessary steps should be taken to see to it that measures initiated under the Protocol do not result in the adverse effect on other vulnerable groups like asylum seekers and migrant workers. An example of this could be the collateral effect on the movement of refugees due to the border control measures, particularly

sanctions against carriers for transporting persons without proper travel documents.

For any international initiative to be successful, it is necessary to have micro level implementation mechanisms at the national level and regional levels. Objectives of these initiatives should be the prevention of trafficking, prosecution of traffickers and the protection of the human rights of trafficked persons. Thus, it is hoped that this august gathering would come out with certain proposals for adoption and implementation which may include model legislation, intelligence sharing, cooperation between law enforcement agencies of various countries, protection of victims, mutual legal assistance etc.

It is a great opportunity for all of us today to have with us distinguished panelists from different international organizations working in the field of anti-trafficking. As the problem of trafficking is multidimensional in nature involving various agencies, we are fortunate enough to have people with vast experience in handling the issue. We have with us Ms. Julie Lebegue, United Nations Children’s Fund (UNICEF), Ms. Rosa Sierra, United Nations High Commissioner for Refugees (UNHCR), Mr. Akira Fujino, Representative of the United Nations Office on Drugs and Crime (UNODC), Prof. Dr. Romly Atmasasmita, Dept. of Justice and Human Rights, South Africa, Mr. Shahidul Haque, International Organization for Migration (IOM), Mr. Aryanto Sutadi, Indonesian National Police Headquarters and other eminent persons. We thank you all for coming all the way here to give us your expertise on this matter.

Excellencies, I hope that deliberations in this meeting would lead to formulating comprehensive mechanisms at the Asian and African levels for future action to eliminate this heinous crime. Thank you very much for your kind attention.

President: Thank you very much Dr. Kamil for your inaugural address. Friends, now we

are continue our discussion by presentations by main Panelists on special meeting on 'Establishing Cooperation against Trafficking in Women and Children'. The keynote address speech will be presented by Madam Redjeki Sumaryoto, Minister for Women Empowerment, Republic of Indonesia. Please Madam.

Madam Redjeki Sumaryoto, Minister for Women Empowerment, Republic of Indonesia: Mr. President, The Secretary-General of AALCO, Colleagues Ministers of State, Your Excellencies, Distinguished Delegates, Ladies and Gentlemen,

First of all, on behalf of the Government of Indonesia I would like to express my warm welcome and profound appreciation to all of you for supporting the convening of this Special Meeting on the Establishment of Co-operation Against Trafficking in Women and Children during the momentous events of the Forty-Third Session of Asian-African Legal Consultative Organization. As we all know, the inclusion of the topic Establishment of Co-operation against Trafficking in Women and Children in the agenda of AALCO was proposed for the first time by Indonesia at its Fortieth Session of AALCO in New Delhi. That Proposal was supported and since the Forty-First Session in Abuja, the issue has been an important item in the agenda of AALCO.

The objective of this special session is to exchange views, experiences and expertise as well as to share best practices in combating trafficking in women and children, especially in Asian and African regions.

For Indonesia, the issue of trafficking in women and children is pertinent since the country is not only a country of origin, but also of transit and destination. Several measures have been taken to address the issue firstly, the signing of the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons,

Especially Women and Children, which is followed by the drafting of the Law and secondly, the formulation of the draft Law on Anti- Trafficking in persons. Beside that the existing law was already implemented by law No.23, 2002 concerning child protection. Other efforts implemented are to increase the awareness of enforcement officers and the society at large on the trafficking issues and the root causes of the matter, to prepare and harmonize relevant legal infrastructures and to standardize alert system for monitoring the movement of people, fund and equipment as well as to set up networking amongst all the stake holders involved. Through this important meeting my country urges AALCO Member States to sign and ratify the said Convention and Protocol, and integrate them into their national legislation.

Your Excellencies, Distinguished Delegates, Ladies and Gentlemen. It has been recognized that trafficking in women and children has become global and international involving various parties and components in the process. Strong networking, collective actions and cooperation are needed to resolve the problems and this meeting is an appropriate media for all of us to do so. May I reassure you that Indonesia is very committed to eradicate trafficking in women and children and to work hand in hand with others. I sincerely hope that all the participants attending this meeting should have the same enthusiasm. With this, I believe, problems of trafficking in women and children can be reduced. It is also hoped that the outcome of this session would be action-oriented recommendations, which would be followed by concerted and concrete effort. Considering that, this special session would certainly be an important landmark for the effective implementation of the collective actions against trafficking in women and children.

Before closing, once again I thank the distinguished delegates and my Indonesian Colleagues, especially the panelists for participating in this important function and

giving their best to have a fruitful discussion for the establishment of cooperation against trafficking in women and children. I would like to inform the delegates that today I am leaving for Germany for some occasion, so I cannot attend the whole session.

Thank you.

President: Thank you very much Madam Minister for your keynote address. Distinguished delegates, Ladies and Gentlemen. We have a coffee break now for 20 minutes. It will enable the Committee to prepare slides, computers and everything. So after the coffee break we can continue with the panel discussions. Three speakers will be presenting their opinions. First, Mr. Akira Fujino, Representative of the UNODC, East Asia and Pacific on "Crime Control and Victim Protection under the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children", second speaker, Prof. Dr. Romly Atmasasmita, Head of the Legal Development Agency, Ministry of Human Rights, Republic of Indonesia. Ms. Rosa Sierra, Protection Officer, UNHCR, Jakarta on "Protection of Victims, especially Women and Children". We reassemble here at 10.45 and we will continue our discussions. Lunch break will be from 12 to 1'o clock. We hope that today our meeting will end at 5.30 p.m. Thank you very much Excellencies, Distinguished delegates, Ladies and gentlemen.

H.E. Ambrose Patrick Dery, Vice President: Excellencies, Distinguished Delegates, Ladies and Gentlemen. I think we finished with all our technical hiccups and we prepare to go.

Excellencies, we have a packed programme for today unlike yesterday's programme, we can't adjourn. I would ask all of us to cooperate to ensure that we expeditiously deal with this. I would now invite first speaker Mr. Akira Fujino, who is representing United Nations Office on Drugs and Crime, Regional Center, East

Asia and Pacific, Bangkok, Thailand. Mr. Fujino would be talking on "Crime Control and Victim Protection under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children." Excellencies, Ladies and Gentlemen, Mr. Akira Fujino.

Mr. Akira Fujino, UNODC: Thank you very much Mr. Chairman. Excellencies, Distinguished delegates, Ladies and Gentlemen. First of all, on behalf of the Executive Director of the United Nations Office on Drugs and Crimes (UNODC), I would like to thank the organizers for kindly inviting UNODC to be here. I am the Head of the UNODC, Regional Center for East Asia and Pacific. If I could have the first slide. This presentation will include four specific and important topics. First, Convention against Transnational Organized Crime (TOC) and the supplementing Protocols. Two, relationship between the Convention and Trafficking Protocols. Three, definition, and root causes of human trafficking and finally, distinction between trafficking in human beings and migrant smuggling. Next slide has legal instruments.

The first requirement for ratifying any Protocol is that the country concerned must first ratify the parent convention. The Protocols are separate instruments for the purpose of ratification or accession. But they are not separate stand-alone instruments in terms of their content. Effectively, each protocol and the Convention combined to form one large instrument. General powers against transnational organized crime in the Convention, specific powers or agencies dealing with specific crime problems in each protocol. Today, this slide shows the status of accession to the Convention. The United Nations Convention against Transnational Organized Crime has at present 78 Parties and 147 signatories. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially in Women and Children has 62 Parties and 117 signatories. Then, finally the Protocol against Smuggling of Migrant Workers by Land, Air and Sea has

55 Parties and 112 signatories. Next slide shows the status of accession of the Countries represented here. We note that only a small number of countries represented here have become parties to the treaty.

Now, the relationship to the Convention. Convention and Protocols were negotiated in Cairo and some sessions simultaneously, the provisions are closely related. The relationship between the Convention and Protocol is governed by article 47 of the Convention and article 1 of each Protocol. States can be Party to Convention only but cannot be party to any Protocol without first becoming party to the Convention. This means that whenever a Protocol applies, the parent Convention also applies. To ensure consistency of instruments, I interpreted together i.e at times have the same meaning unless other wise specified and Convention provisions are applied to each protocol. Protocols offences are also to be Convention offences. Thereby invoking all Convention powers, procedures, etc. Now I would like to quickly go to the human trafficking.

The Protocol against trafficking in persons was developed under the same original General Assembly mandate as the Convention. It was also negotiated in parallel with the Convention and two other Protocols around 1999 and it was completed in 2000. The definition of “trafficking” is a key element to the Protocol. Trafficking is a serious and world recognized problem but one which proved difficult to define. Trafficking consists of combination of illicit acts done by certain means and for the purpose of exploiting the victim. Have the next slide please. Action : Action pertained to the act of trafficking or that under the task of trafficking. Actions such as recruiting, transporting, transferring, harboring or taking receipt of persons. Now Means: the means pertains to the means used in trafficking human beings. The means can be violent or that can include methods that make victims completely unaware that they are being trafficked until they arrive at their

destination. That is usually done when traffickers take advantage of the person’s vulnerability or deception.

Now purpose: the purpose of trafficking is always exploitation. Exploitation can take place in many different ways and according to the UNODC database on human trafficking flows the most common purpose of trafficking in human beings is sexual exploitation. Other forms include forced labor, marriage, adoption and removal of organ. Now the issue of victim’s consent, smuggling or trafficking is one of the key issues in developing a response to human trafficking. In many trafficking cases there is an initial consent of the victim for smuggling. But this initial consent however is followed by coercive, abusive, exploitative circumstances. The trafficking protocol stipulates that consent becomes irrelevant whenever any such mean of trafficking is used. It is important to note that the child cannot give his or her consent even if none of the means of the trafficking may have been used. In other words, even if a child under the age of 18 is not threatened, no force is used against him or her, he or she is not abducted or deceived. A child cannot give consent to the act of trafficking for the purpose of exploitation.

Now this slide show the types of crimes related to trafficking in persons as we all know, that they vary largely. I would like to quickly go to the migrant smuggling. The next slide shows the definition of Migrant Smuggling Protocol in article 3. This protocol was adopted by the General Assembly together with the Convention and the Trafficking Protocol on 15 November 2000. During the High Level signatory ceremony held in December 2000, in Palermo, Italy, 77 countries and the European Commission signed the protocol. As another protocol the purpose of the migrant smuggling protocol are to combat smuggling of migrants operated by transnational organized crime in international cooperation. In other words, the definition is broken into three elements, procurement of illegal entry, financial or

other material gain and finally, across the border in to another State. By this definition many of the activities of traffickers can also be considered smuggling. If I could have the next slide, although there are many similar provisions among the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against Smuggling of Migrant Workers by Land, Sea and Air.

It is important to note that there are three major distinctions between the act of trafficking and act of smuggling of migrants. I think you can see here consent, second, exploitation and third, transnationality. Now consent, in the smuggling of migrants the victim will agree to being smuggled into another country illegally in order to find work. The key difference between smuggling and trafficking is that trafficking victim either has never consented the smuggling or if they have initially consented, they clearly never consented to the subsequent exploitation. This is not possible under international law to consent to torture, abuse or slavery or exploitation. Another key difference is the existence of ongoing exploitation of trafficking victims. In smuggling of migrants, smuggling ends when the migrant arrives at the destination. However, arriving at the destination country for trafficking victims is only the beginning or central point of their exploitation. Third element is transnationality. Smuggling is always transnational, while trafficking need not be. Trafficking can occur regardless of whether victims are taken into another country or move from one place to another with in the same country. Can I have the next slide please?

I would now quickly like to turn to the projects of the UN Office on Drugs and Crime relevant to subject matter we are dealing with today. UNODC is involved in projects all over the world to assist the implementation of the TOC Convention and Protocols. Today, I would like to cover very briefly some of the activities in Africa and in Asia.

First Africa, The ECWAAS project: this project aims to strengthen the capacity of the ECWAAS Secretariat and ECWAAS Member States in implementing ECWAAS Plan of Action, particularly as it relates to legislative activities, existing conventions, existing laws and drafting of new laws as necessary in response to the UN Protocol to Prevent, Suppress and Punish Trafficking, Especially in Women and Children. Now West Africa project, this project aims at improving data collection and analyses on trafficking in persons involving three countries Surinam, Nigeria and Tongo. This would enable better policy management and action to combat trafficking, strengthening institutional capacities. The project has conducted an Assessment on trafficking flows and involvement of organized crime groups. At the national level, the project will provide specific training to law enforcement and criminal justice officials to enhance the response of criminal justice system to combat trafficking in persons. At the regional level, the project promotes closer cooperation among key agencies in countries of origin, transit and destination. Provision of training including investigation and prosecution of international cases of trafficking.

For this part of the world, Asia has a couple of projects in the Philippines and Thailand. Now in the destination states victims of trafficking are often undocumented and lacking language skills and basic access to both basic criminal systems and social support systems in the destination countries. In the States of origin they may be stigmatized as victims, especially trafficked into prostitution and often vulnerable to the same offenders who originally trapped them. They may face retaliation for assisting law enforcement or they may face being trafficked again. Therefore following successful completion of Philippines streamlining national initiatives and policies. We now have the second phase of this project. This project aims at supporting governments to meet

under new international instruments concerning the required support and protection of victim and witness of trafficking in persons. This project will further implement the 2001 National Plan of Action against Trafficking in persons, provide for the creation and expansion of the capacity of selected rehabilitation centers and facilities to support victims and witness of trafficking in persons and enhance victim support activities including vocational training and reintegration both at the national and community level as a model for countrywide information.

In Thailand, another type of project is being carried out. That is called Computer based Training (CBT). This computer based interactive training programme was first developed for drug control authorities and has been extended having been successfully launched in many countries to other areas including human trafficking. This project aims to enhance the understanding and awareness of law enforcement agencies in Thailand on human trafficking as a special type of crime. Computer based training would improve detection in response mechanisms, raise level of skills awareness of human trafficking, a broader law enforcement community and there is also a pilot programme ongoing computer based human trafficking laws training modules, within the enforcement community in Thailand and this is to ensure subsequent expansion of region East Asia and Pacific and perhaps beyond. If I could have the next slide.

The Conference of the Parties to the UN Convention against Transnational Organized Crime and its Protocols will take place between 28th June and 9th July this year. One year after the entry into force of the Convention. The main goals of the Conference are to improve the capacity of State Parties to the Convention and promote and review the implementation of the Convention. The mandate in accordance with article 42 of the Convention, Conference of State Parties is expected to

consider the mechanism to the following: to facilitate activities by State Parties under articles 29 , 30 and 31 of the Convention including encouraging the mobilization of voluntary contributions, then to facilitate the exchange of information amongst State Parties on patterns and trends in transnational organized crime and on successful practices for combating it. Then to review periodically the implementation of the Convention and difficulties encountered as well as programmes, plan and practices. Now this Conference is also expected to explore ways for strengthening technical cooperation in accordance with the treaty. Having read the background papers presented in this conference. This is a cross sectoral issue, thus a number of international bodies are present here. There are clear linkages between drug trafficking and human trafficking. Trafficking groups have access to safe routes tested for smuggling, access to cash, drug officials. They can bribe, access to forged documents and for that matter for instance cross border cooperation there has been for special for this part of the world when effectively carried out by establishing border liaison offices. So that border people can talk to each other directly. This has been going well for drug trafficking. The same people will be dealing with the human trafficking or other types of trafficking. Those existing mechanism can be meaningfully used which are readily available and at the same time would foster mutual legal assistance. In my office I have just assigned one staff member to develop second phase of the mutual legal assistance. This should go beyond drug trafficking, money laundering and at the same time, one of the activities that my office has been traditionally covering beyond human trafficking. There are linkages already readily available and the UNODC translates to work for international regional bodies to have effective means against trafficking in anything including human beings. Thank you very much

Vice President: Thank you Mr. Fujino, for your graphic presentation. We take two

more speakers before we come to Q&As and other interventions. May I call the next speaker Prof. Dr. Romli Atmasasmitha, Department of Justice and Human Rights, Republic of Indonesia. He would be speaking on “State Action in Preventing Trafficking in Women and Children”.

Prof. Romli Atmasasmitha, Department of Justice and Human Rights, Republic of Indonesia: First of all, I wish to express my sincere gratitude and appreciation to the Secretary-General and the Organizing Committee that has appointed me as a speaker here in such a prestigious event. My title is what Mr. Vice President has said that state action on combating human trafficking especially in women and children and my paper stresses on how international cooperation should be undertaken to combating human trafficking especially women and children. I will divide this paper into five points: first short background of statements, second elaboration of the TOC Convention specially the Protocol of human trafficking, third the problems that I raise on this paper and such some conceptual suggestions, the forth is Indonesia’s experience in combating human trafficking, fifth is recommendations.

Let me look into the background statement. The short background statement says that the human trafficking or trafficking in human persons is the world’s largest crime in the twentieth century which transcends national boundaries; moreover, it becomes a transcontinental crime and indeed human trafficking has many root causes which are complex and vary from situation to situation. The important statement that I have is that human trafficking is clearly, a modern form of slavery in the Millennium Ages. The estimates suggest that nearly one-third of the global trafficking trade, or about 200,000 – 225,000 women and children, are trafficked annually from South-East Asia and most of this occurs within the region itself, about 60% and through major cities and 40% takes place from the rest of the world. Of the 50,000 women and children

estimated to be trafficked annually to the United States, approximately 60% originate from South-East Asia, thus making the region most important sources region in the world for victims of trafficking to the United States. This agenda of trafficking in persons is also very important because at the 42nd Session of the AALCO in Seoul, Republic of Korea, fifteen delegations and two observers have presented their deliberations, and they expressed concerns of the manifold impact on the life and welfare of persons especially women and children.

Let me reiterate what the guide for the implementation of the UN Convention against Transnational Organized Crime and the Protocol thereto which stated “For justice to be served, however, special attention must be paid also to victims of crime. They may be at the same time witnesses, but their protection is particularly important given the substantial harm they suffer from transnational organized criminals. News articles, government reports and academic studies are replete with disturbing accounts of the hundreds thousands who fall victim to human traffickers, illegal trades in body parts, and other transnational criminals every year. Men, women and children are subjected to forced labour and other economic, physical and sexual exploitation around the globe.”

So why the Protocol? As per the five obligations that the State Parties have to undertake, beside the law enforcement aspect. First, to give information’s to the victim about the relevant court and other proceedings against the offenders and ensure victim’s rights. So it should be/might be considered to establish a special court for these cases of human trafficking and also we should see whether the general court in any countries of Asia and Africa should be involved in such special cases. Secondly, to give housing, education and care to the child victims in governmental custody. It means that it depends on the successive budgets, human resources and facilities provided by the states. Third, to enable victims to seek

compensation for damages, including fines, penalties or forfeited proceeds as well as restitution from offenders. The key words are compensation and restitutions. There it means that we need such special law on combating human trafficking and Indonesia has finalized the draft of the law on combating human trafficking as it is known and the President has enacted such, what we call, Presidential instructions to submit to the Parliament by this year. The fourth protection is to consider victim's request for residence temporarily or permanently. It means that we should change our law on immigration or citizenship both providing with these standards with these obligations. Fifth, to accept and to aid victims without delay, and return them to their country of origin. These obligations in this principle need legal cooperation between countries of origin, countries of transit or destinations.

Therefore, I recall the strategic proposal that has been suggested by the Republic of Korea at its 42nd session that stressing the possibility of concluding a regional or a sub-regional agreement for combating transnational crimes, *inter alia*, trafficking in persons. It means that we have to enhance the cooperation of law enforcement agencies in Asia and Africa.

Moreover, there is another aspect we should seriously consider, the transnational crime characteristics. There are four characteristics of transnational crime. First it is committed in more than one state; second committed in one state but a substantial part of its preparation, planning and direction or control takes or place in another state; third characteristics, committed in one state but involves and organized criminal group that engages in criminal activities in more than one state; and forth characteristic is that it is committed in one state but has substantial effect in another state. It means the essence of these characteristics is, first transnational organized crime including human trafficking involves jurisdiction, the core issue is jurisdiction of more than one state. It means that there should be legal cooperation within

the origin countries and transit and destination countries and evidently legal cooperation is/should be one of the ultimate goals and not just protecting the victims per se.

Now, let's take a look into the efforts made in this region. There are eight efforts that had been undertaken by this region. Such as,

- Bangkok Declaration on Irregular Migration which was adopted by a ministerial conference of 18 countries, held in Bangkok in April 1999;
- Dakar Declaration which was adopted by the West African Ministerial Meeting on the Participation of Migrants in Development, held in October 2000;
- North-South Cooperation on Migration and Development (5+5 Dialogue), which was started in 1990, involving 5 countries each of the Arab region and Western Europe;
- Pueblo Process, the Regional Conference on Migration which was held in 1996 in Mexico;
- Lima Declaration, 1999;
- Inter-governmental Consultation on Asylum, Refugee and Migration Policies in Europe, North America and Australia;
- Inter-governmental Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants; and the last Bali Process, a ministerial conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, which was held in Bali in February 2002.

So the issue here is international cooperation and with this term there are three meanings attached. First, international cooperation, there should be an effective criminal justice system which is not just a matter of national interest, but of international interest and it also means sharing views and responsibility, not only political commitment of the State Party; and the third meaning is criminal justice system of State Party should provide

assistance to the corresponding State Parties in bringing the perpetrator to justice.

Even though human trafficking is a modern form of slavery but the protocol as well as the convention, the Palermo Convention, did not recognize the universality principle. The article 4 of the TOC still upholds the state sovereignty, equality as well as integrity. One problem we should consider later on and I raise some constraints. They should be considered seriously by the state parties to the conventions. I divide constraints into three: first, in fact there we still have differences of our legal systems in the world, especially in Asia and Africa; and second there are such principles and procedures of extradition, in my observation it is very crucial in having an effective and efficient criminal justice system; and the third constraint might be cultural and traditional forms in Asia and Africa.

So, the next step should be how to rearrange our criminal policy related to trafficking in persons and I propose what we call and I call, a 'balanced principle of justice'. So we should also protect both the offenders rights and victims rights because in my observation, most of the criminal justice system in common law, moves heavily on due process of law that protects the offenders more than the victims. So I think we should have this kind of international cooperation. I would recall what the European Union has undertaken recently, what they called the Convention of Arrest Warrant. In my paper, it has been described at page 12 that says that this Arrest Warrant Convention has been enacted in July 2002 and has radically abolished the formal procedures of extraditions among Member States of the EU, and consideration should be given to fast-track extradition procedure, but without prejudice to the principle of fair trial. That mandate is called, 'Recommendation 28'. In my observation, my suggestion under the EU mechanism in pursuing effective and efficient law enforcement procedure, seems to fit in most of the Asian African Member States'

situations, particularly in cross-border areas. So it might be considered by all Member States of Asian African region as one way to achieve the goals of the Convention Against Transnational Organized Crimes, particularly the Protocol of the Prevention, Suppressing and Punishing Trafficking in Persons, especially Women and Children.

Now we will move to the practice what Indonesia has undertaken in combating or preventing human trafficking. First, I will show you our position as geographically we have more than 100,000 miles, population of more than 200 millions and we have many borders, either land and sea borders and the position between the continents: Asia and Australia. This position of Indonesia is very strategic and it will be elaborately dealt with by our next speaker Mr. Aryanto Sutadi, he is from the Head Nations of Police Institutions. Next, there is that from 1999 to 2003, within 5 years there are totally 656 cases, among them has been delegated to the Attorney General Office - 336. And you can see the percentage of these efforts of our law enforcement agencies. Then we can see where are the transit provinces and receiving countries. So the resource provinces involved in human trafficking in Indonesia come from 12 provinces and destination countries: Singapore, Malaysia, Brunei, Philippines, Saudi Arabia, Taiwan, Hong Kong, Japan, South Korea, Australia, South of South America. And next there is what we call trafficking in persons in Indonesia in trafficking countries, in trafficking provinces.

Now, we come to the efforts of prevention. Indonesia has three levels of procedures on combating transnational organized crime. First, there is a national policy; second there is a legislation process; third the law enforcement process. National policy that Indonesia has Presidential Decree Number 88/2002 stating the establishment the National Plan of Action on the Elimination of Trafficking in Women and Children. This is under the coordination of the Coordinating Minister for People's Welfare

and the Ministry of Women Empowerment. And in this Plan of Action there are three objectives: first, to ensure the enhancement and achievement of the protection of victim's especially women and children; second, to implement the preventive and repressive measures in combating human trafficking; third, to promulgate new laws and/or to revise the existing laws and regulations related to human trafficking. To reach these objectives in the National Plan of Action we established a Task Force. There are five Task Forces: first Task Force on Coordination; second Task Force on Advocacy and socialization; third Task Force on Monitoring and evaluation; fourth Task Force on national, regional and international cooperation and the fifth task force is the Task Force for the reporting of the four task forces.

Through the legislation process, we have 30 laws and regulations plus Draft Laws on Combating Human Trafficking, recently has been addressed by the President, submitted by President to the Parliament. Amongst then there is Law Number 7/1984 regarding the Elimination of all forms of Discrimination against Women; Law Number 1/2000 regarding the Worst Forms of Children Labour; Law Number 23/2003 regarding Child Protection; Law Number 9/1990 regarding Tourism; Law Number 3/1990 regarding Children Court; Law Number 9/1992 regarding Immigration. Then there are two Presidential Decree Number 36/1999 regarding Convention on the Rights of the Child, and Presidential Decree Number 88/1999 regarding the National Plan of Action. And the last there is one People Consultative Assembly Decree no. X/2000: Recommendation for President of the Republic of Indonesia to combat trafficking in Women and Children with enacted Indonesian regulations, and ratifying international conventions and conducting the National Plan of Action.

Last, I try to summarize the substance of the paper. First we need to harmonize different National laws on combating human

trafficking, why because this is the Organizations' in legal cooperation so we need to organize our different national legal systems on combating human trafficking due to the differences of legal systems that I have said before. Secondly the need to establish regional/sub regional levels of Legal cooperation on combating human trafficking, that's why I stressed the importance of the Korean delegation proposal. Third, the need to revise the procedure of extradition and mutual legal assistance in criminal matters between Asian-African countries, why because we know that all the principles and procedures of extraditions is not such an effective criminal justice system, in fact what I say, Indonesia has many experiences of this kind of cooperation, mutual extradition and mutual legal assistance, which in fact ended unsuccessfully, that is the problem. So I reiterate what the European Union has, a Convention on Arrest Warrant. Forth, I recommend a possibility of establishing working groups between the countries of these regions to prepare what I recommended in first, second and third recommendations. Thank you.

Vice President: Thank you Professor for your presentation. Your Excellencies, just to recap a few things that the first two speakers have said before I have the third speaker and then we can have your interventions. I know you recall the issue of exploitation, then those of the fact that this transcends national interest and national boundaries and then you also know there is a need for regional cooperation and the interesting concept of balanced principal of justice in fast track extradition. So we now need gender balance in the presentation before you come in with your interventions. Because of that I am going to invite Ms. Rosa M. Seirra, Protection Officer, UNHCR, Jakarta. She will be speaking on "Refugee Protection and Victims of Trafficking, in Particular Women and Children."

Ms. Rosa Sierra, Protection Officer, UNHCR: First of all, I am grateful to

AALCO for inviting UNHCR to bring the refugee dimension to this Special Meeting.

Distinguished delegates, Let me first highlight some very basic facts: Trafficking in persons and trafficking related practices are violations of the most basic human rights. It is also a criminal offence, whose overall objective is the exploitation of human beings. In certain circumstances it could constitute a crime against humanity and a war crime in the context of armed conflict.

Human rights violations are therefore both a cause because they create a context for trafficking to occur - and a result of trafficking because State responses to trafficking in persons implicate fundamental human rights, affecting, amongst other victims, refugees themselves.

Slide no-2 is regarding the definition of refugee –“Any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group and this ground particularly important in case of trafficking on women that are trafficked or political opinion, is out side the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country.” So bearing that in mind, my presentation is concerned with the victims of trafficking and their entitlement to international protection in the context not only of the Trafficking Protocol, but also of Article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, protection which when applicable is additional to and distinct from the protection contemplated by Part II of the Trafficking Protocol.

That possibility is already reflected in the saving clause contained in Article 14 of the Trafficking Protocol. If I can go to slide 3 – Nothing in the Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, in particular, where applicable, the

1951 Convention and its Protocol. Therefore, in the context of trafficking, a claim for international protection can arise in two ways: 1) where the victim has been trafficked abroad and seeks the protection of that State having managed to extricate themselves from the traffickers, 2) where the victim, having been trafficked within national territory, extricates themselves from their traffickers and flees abroad in search of international protection. Due to the complex nature of trafficking and the chain of actors involved, the applicant may actually have a fear with regard to a number of countries, not only his country of origin.

In both scenarios, it is necessary to establish a well-founded fear of persecution in addition to the causal link that the fear of persecution was for reasons of one or more of the Convention grounds. In fact, trafficking frequently thrives in situations where potential victims may be vulnerable to trafficking precisely as a result of the elements present in the definition of refugee as people can be easily targeted on the basis of their ethnicity, nationality, when they are already subjected to exploitation and abuse. The agents of persecution may be non-state actors (e.g. traffickers). If sufficient measures to criminalize and prevent trafficking are not adopted and implemented we may encounter situations where trafficking is *de facto* tolerated or condoned by the State and the practice itself may also amount to persecution.

As migration management measures become tougher, more and more people (including refugees) feel compelled to resort to illegal means and the services of unscrupulous smugglers and traffickers who put people's lives at risk in exchange for money. The lack of legal migration channels also tends to increase abuse of the asylum systems by those seeking a better life.

The right to seek asylum from persecution, also reflected in Art 14 of the Universal Declaration of Human Rights, is a peaceful and humanitarian act which has likely

acquired over the years the force of customary law. States have legitimate concerns to control entry and stay in their territory, but sealing the borders alone does not work. Failure to put in place at the same time adequate procedures to identify and protect persons in need of international protection renders border control alone not a sustainable approach to the problem of illegal migration. Conflicts and instability produce movements of people fleeing violence and discrimination. Traffickers will always benefit from the lack of solutions for the victims, and border rejection of persons fleeing their countries will inevitably increase, not only human rights abuses but also secondary movements.

Offering refugee protection in the context of durable solutions and assisting countries not signatories of the 1951 Convention to include them in pragmatic arrangements to offer solutions for the benefit of all will in practice reduce trafficking in persons, related transnational crime and irregular flows by reducing the number of victims available to be exploited by international networks, of which a relatively small number are refugees.

UNHCR has in international refugee law an essential framework of principles to carry out its non-political and humanitarian activities. Resolution of refugee problems is attained through the application of three possible durable solutions: repatriation to the country of origin, which should be ideally voluntary, should be informed and minimum standards concerning, physical, material, and legal safety of returnee and ensuring viable integration for. Second possibility could be local integration, asylum and resettlement, the last of which needs to be used more strategically, as a burden sharing mechanism, as a solution for larger numbers as well as a protection tool in the individual cases; it requires identification, profiling and submission of individual cases/groups within the refugee population),

Once refugees are identified, in practice, the principles of international refugee protection and minimum standards of treatment can be summarized as follows:

Primary responsibility of Country of asylum (obligations Vs. rights);

The role of the international community (burden sharing); the main principle applicable for the protection of refugees, the non-refoulment and non-rejection at the border, basically, the right not to be send back to a country where persons are likely to face security or other risks; non penalization/prosecution for illegal entry/stay; non discrimination and it applies to non-restrictive criteria for admission and treatment, the right to be heard, to access a fair and due process of law; the principle of physical safety – right to have safe living location, relocation if necessary, special needs assessments of the more vulnerable - and right basic assistance; family unity; and enjoyment of civil rights

These principles are complemented by recommended protection principles on human rights and human trafficking and I would like to refer for the sake of brevity, the UNHCHR Report to the Economic & Social Council, 20 May 2002, in which enunciate the refugee protection mechanism need to be built into anti-trafficking national legislation.

Women are disproportionately affected by trafficking. Both women and children also form the majority of the refugee population and are therefore two of the most vulnerable refugee groups. To offer them effective protection, their needs must be mainstreamed throughout prevention and combating trafficking programs and addressed through field interventions that cover the main guiding principles, the one I mentioned above, reiterating the importance of ensuring safety, confidentiality, respect for their wishes, rights and dignity (e.g. interviews in private settings, same-sex trained personnel/translators, non-

judgmental attitudes of officials..) and ensuring equal and fair treatment regardless of their race, religion, nationality or sexual orientation.

The implementation of those protection solutions involves actions taken by many actors and requires a multi sectoral approach that touches upon the health, psychosocial, legal justice and safety/security sectors. According to the Trafficking Protocol, when a child (person under 18 years) is involved in any way of the trafficking process for the purpose of exploitation, trafficking can exist without its mean(s), e.g. use of force. Child "consent" is also irrelevant. Refugee children, in particular unaccompanied and separated children, are at high risk of being trafficked, often for commercial sexual exploitation. While the principles enumerated before also apply to refugee children, their increased vulnerability also requires close application of the rights contained in the UN Convention of the Rights of the Child, and in particular of its Article 3 (the best interest of the child principle).

By definition and in today's mixed migration flows, proving 'trafficking' and offering protection to refugees will be difficult without and active investigation starting with the identification of the victims. The application of the 1951 Convention through efficient procedures in accordance with international standards will result in broadening the existing framework for international cooperation and solidarity to address refugee related trafficking matters and secure solutions, sharing, not shifting the burden.

The focus is on ensuring access to processes, which channel irregular arrivals according to their needs and vulnerability and therefore achieving complementarity between the asylum regime and asylum procedures and border management systems. Access to the territory/pre-screening of illegal migrants -- victims of trafficking and/or asylum claimants -- in country of arrival and review

of claims through a credible multilaterally resource process. Border management and access links directly with the problem of trafficking and smuggling. Increased focus on policies of deterrence and migration control means that it has become increasingly difficult for asylum seekers and refugees to reach asylum countries. Hence, many choose illegal routes at considerable danger to themselves and only to the profit of smugglers and traffickers. An interesting example: UNHCR is an active player in a 'rapid screening' exercise designed to ensure proper channeling and follow up of individual cases entering into Albania. UNHCR cooperates with other actors in an initial assessment, detecting potential cases of trafficking to ensure that they are channeled to the agencies and institutions best equipped to deal with their needs.

Access to fair and efficient asylum procedures - well researched & informed - for those to be screened to be potential refugees, enabling refugees to enjoy effective protection reducing secondary movement pressures. Destination and transit countries (with UNHCR) could benefit in that respect from joint processing arrangements in respect of asylum applicants from certain designated country of origin. In this respect, let me stress the importance of the application of the exclusion principles (clauses in article 1 F of the 1951 Convention). In the context of trafficking, those found guilty of trafficking in a due process of law would have committed a serious crime and, even if found to be refugees, would be considered undeserving of international protection.

There has to be also a fair distribution among Member States of persons to be in need of international protection and in need of resettlement as a solution. Comprehensive durable solutions need to be pursued in tandem with better-managed asylum systems.

There has to be also readmission arrangements negotiated to facilitate the

speedy return of rejected - in a full and fair procedure of asylum seekers

Slide 8- The importance of agreed indicators and formulae for predictable burden sharing, increasing victims' participation in program design, the strengthening of cooperation between national/international departments and the drafting of an dissemination of guidelines through, amongst others, targeted training programs for those involved in detection, reception and processing of irregular migrants, better targeting development assistance and improved access to and timeliness of all three solutions for refugees applicable for refugees-(voluntary repatriation, local integration and resettlement), resulting in special multilateral agreements -Comprehensive Plans of Action- all crucial to contribute to the finding of a solution to the problem of trafficking.

In sum, providing genuinely available and coordinated solutions for refugees is fighting trafficking. The key challenge will be: to identify the criteria and a region specific formula for this. UNHCR is ready to assist to move the process forward.

I will stop at this point. I am happy to take questions. Thank you very much.

Vice President: Thank You Ms. Rosa Sierra. She gave us the refugee dimension, talking about the basic human rights, criminal offence and causal effect. Also she gave us the necessary gender tilt and finally the rights of the children. Excellencies, I thank you very much for giving me the authority to extend the discussion to 12.30 p.m., so that we can have one hour for lunch. So I would take a few interventions at this stage. First of all I would begin by inviting H.E. the Secretary-General of AALCO to make an intervention. After that I would invite Qatar. So first H.E. the Secretary-General.

Amb. Dr. Wafik. Z. Kamil, Secretary-General: Thank you Mr.Vice-President, in

fact my question is for Mr. Fujino from UNODC. Of course your presentation was very eminent and brilliant. But one aspect I would like to have some clearance about and of course most of the present here would like to have it. As a legal body we would like to really demarcate the aspect of consent. When we talk about consent and when the crimes starts, if the consent is given at the right age knowing exactly what they want to do and if the smuggler fulfils the contract. Does it become a crime or when does it becomes a crime? The relationship between the element of consent and the age factor. As a legal body we have to discuss what are the conditions of consent and when does it becomes a crime. Is it not necessary to have international cooperation to be able to reach a common position on this very important component of the crime of human trafficking? Thank you

Mr. Fujino, UNODC: Thank you, I am not sure if I have the answer to the question. I would rather ask question to the practitioners representing different legal systems. If the point is the common definition or common understanding or legally binding definition and the reference I made to consent is just to illustrate the distinction between the people's smuggling, migrant smuggling and human trafficking. That was the sole purpose of it. I did not refer to any of the practical implications what so ever. The UNODC would like rather hear the possible differences in the application of the existing laws, national laws beyond boundaries and rather I would like to ask a question back to you the participants to see what in fact are the existing provisions relating to, if at all, applicable to the consent in determining whether the action is crime or not. Whether that question does arise at present. Thank you.

Vice President: Thank you Mr. Fujino. I do believe that the questions have been turned back. It is for all of us, Excellencies, to consider the various municipal legal

questions. I would now invite Qatar to make interventions.

The delegate of the State of Qatar*: Thank you Mr. Chairman. In the name of the God, the Merciful, the Compassionate. Excellency the Vice-President, Excellency the Secretary-General of AALCO, Excellencies, Ladies and Gentlemen, the participants, may God's peace and blessing be upon you all,

At the outset I would like to refer to the fact that the topic trafficking in women and children was included in the 40th Session's agenda of the AALCO and has been discussed during that Session because of how much trafficking is a violation to human rights and violation to humanity. The trafficking in women and children from the developing countries for being exploited in ethical matters which is a flagrant violation of human rights and women and children equally. This matter of trafficking in women and children is one of the universal issues due to bad economic conditions such as poverty, need and deprivation and raise of the standards of tourism and globalization which makes the trafficking process easy. Due to the importance in combating this crime it should be dealt with in a modern and scientific way which would monitor it properly in the midst of the great variables in our lives. This should make it necessary to delineate what it is exactly and its dimensions and means of combating it in order to dissipate all its impact. Reference should be made that there isn't a definition for 'organized crime' of trafficking in women and children, such as kidnapping and exploitation. According to the foregoing it is incumbent to have to map out an international strategy in order to define what is exactly this trafficking process and the way to work in having effective plans to combat this crime and provide protection to women and children from this great threat and to work on having a model legislation and having an international convention to

combat this phenomenon, a matter which can bring about cooperation among the rich countries to protect these people, that is women and children and persons. There should be national rules being promulgated in order to combat this crime taking into consideration the different practices which threaten the lives of these people who were being trafficked.

In Qatar we have total protection for women and children and thus render trafficking in them a crime. Article 29 of the Constitution of Qatar stipulate that the family is the basis for any society in which you have love for the nation and religion and values being observed and to strengthen the family and to protect motherhood and childhood and elderly people. Further, Article 22 of the Constitution provides that the country should take care of the youngsters and protect them from exploitation and protect them against any abuse and provide for them suitable atmosphere to enhance their potential and bringing them up in proper atmosphere. Qatar did acceded to the Convention on the Rights of the Child in New York in 1998 due to the importance of this convention and to protect the child from any harm and exploitation. In conclusion, Mr. Vice President, Qatar has not stopped at this point only but has passed all the necessary legislations and carried out pragmatic steps represented in establishment of the Council for the protection of family which preserves its rights. It is a Supreme Council for the family which tries to entrench the Islamic values and traditions in order to bring up youngsters in a proper atmosphere. I thank you Mr. Chairman.

Vice President: Thank you very much Qatar. What Qatar did was to give us a perspective which is quite legitimate. One of the proposal we do now is five minutes to 12.31. And 30 minutes you graciously granted me. What I suggest is that we suspend interventions now. After lunch, I propose we will move to the last presentation by Mr. Ariyandi Sutadi, which is on "The Cooperation of the Law

* Intervention made in Arabic. Unofficial translation from the Interpreter's version.

Enforcement Apparatus in Combating Trafficking in Persons Especially for Women and Children” and thereafter two presentations. . So we have three presentations. Excellencies, Oman wanted to speak. We will give Oman a chance after lunch. What I want to say now is that yesterday you reduced your schedule by an hour and I appreciated it. Today if we are punctual, then I am grateful. If you are early, then I am more grateful.

Our distinguished Panelists have taken a lot of trouble to come here and the issue of trafficking in women and children is so important for all of us. We should thus show our commitment. Thank you. Have a good lunch.

Lunch Break

Vice President: Let me that I am impressed by your attendance after lunch. Many of you are early. Most of you are punctual and on the whole it is a good performance. Excellencies, I would like, to make good of your early attendance to take off with our programme. I would invite Oman now and after that we would take three presentations and come back for interventions. So Excellencies, Oman

The Leader of Delegation of Oman:* Thank you. It is not my intention to make a statement. The Sultanate of Oman considers different legislations and different agreements that we have joined in the field of taking care of mother, the child and protecting them from the dangers that they could be exposed to. But here I would like to express my thanks and gratitude for the very valuable presentations that have been given by the Professors today and I have questions to pose. May be answers to those questions will benefit all participants. I have three questions to pose. First question is directed to Mr. Fujino. My second question is to Prof. Romly. My third question is to Ms. Rosa Sierra.

* Intervention made in Arabic. Unofficial translation from the Interpreter's version.

Prof. Romly, the main reason behind having victims particularly among women and children, poverty is the main reason behind this trafficking in women and children. The poor countries could not overcome this and hence the most important element in order to limit or overcome this crime altogether is to assist the poor countries by rich countries through humanitarian programmes. That would not be under any political view, should be sustainable programmes to combat poverty in those countries and I believe there should be a real wish and desire by the rich countries to assist the poor countries, particularly those rich countries who are importing those victims. They should give a hand of support to the poor countries.

Vice President: Oman kindly pose question for Ms. Rosa. So that we will then give an opportunity to answer.

The Leader of Delegation of Oman:* My second question is directed to Ms. Rosa. Because of the wars and conflict in the different countries, particularly in the third world countries, the number of refugees would increase . This problem is aggravating even after UN agencies are giving support and assistance. What is the role of the big countries in this field and can these countries interfere in these conflicts unbiased based on responsibility and justice . This is my second question.

Vice President: So what we will do is that we will give the two panelists the opportunity to answer for now and hopefully by the time the second speaker is through we will have the other panelist in so that you can ask your question. Excellencies, I would now invite Prof. Romly to address the issue raised by Oman.

Prof. Romly: Thank you. The intervention made by the Oman delegation, I strongly

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agree with views put forth by him. But the statement you raised in relation to human trafficking and how to combat human trafficking. If we just see in one angle, the global human trafficking or specifically or particularly, in relation with the rich and poor countries then there may be no or unending solution. Then we should stick to the two level procedures. It might be used in bilateral treaties or multilateral treaties. So, it doesn't mean that I negate about what was just raised about the unequal relationship between the poor countries and rich countries. It is true that rich countries should assist the poor countries in overcoming the problem of human trafficking, but as you mentioned that we have a Protocol on human trafficking. The important thing is how all the State Members will comply with the international standards, particularly how we should protect the victims. Protecting the victims is much more important than just relying on the unequal relationship between the rich and poor countries. But, if we could sit together, the poor countries and the rich countries, and discuss about seeking the common denominators, common perceptions, and common view of such important issues of human trafficking, then there will be no constraints. There will be no, what we call, the constraint or it is such what we call, it should be a start to begin the same perception of how important the legal cooperation between the countries. So in this method, I would recall to all delegation that this organization is focusing on such legal cooperation. Not such political dimensions as such. Thank you.

Vice President: Thank you Professor.

The Leader of Delegation of Oman*: I believe, the answer was not according to my question. We all agree that the starting point should be passing of legislations, but what I have mentioned is the duty of the rich countries, as poverty is the basis of this

problem. The rich countries, instead of emphasizing on agreements should give assistance and cooperation to assist in overcoming and eradicating poverty which is the main reason behind this problem. I want to know exactly , which country is confined only to signing agreements or it is the duty of the rich countries to give assistance to poor countries in eradicating poverty at least in limiting poverty and hence these poor countries could abide to its commitments to this victims. Thank you very much.

Another aspect of question is prevention of prostitution. This could lead to stopping this heinous crime and you did not answer this question. If you prohibit prostitution altogether, may be this could help in preventing this crime.

Vice President: Oman I think , Excellency, you hit the nail on the head, by relating between the poverty and the situation you just mentioned. It is right that we all know that genuine aid from the developed countries would solve that. That's a viewpoint. I think I agree with that. You also talk of prostitution. I would have thought that prostitution, just as an effect and not a cause , because people who are prostitutes, probably are prostitutes because they are poor and more subjected. Having said that I will still allow Professor to see how he can address your problem.

Prof. Romly: Thank you for the comments of the Oman delegation. I didn't deny that your statement is true about the relationship between the rich and poor countries in developing cooperation in combating human trafficking but as I said that if we try to seek the root causes of human trafficking and it is based on poverty as such, , then it takes long procedures to reach the goals of the protocol of human trafficking but at least it should be only rich countries and poor countries should have such common agreement, treaty or bilateral, trilateral or multilateral in preventing or combating human trafficking. I didn't deny but the relationship between

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the poverty and trafficking of women or children. Second point of prostitution, yes, prostitution has a long history, in the human kind, but I agree that if we prohibit prostitution, then it will start, to prevent or to start to prevent the human trafficking because one element of human trafficking, is the exploitation of women and children. This is my answer.

Vice President: Your Excellency, Oman, I think that we all agree with your position. I think probably the solution lies in the combination of two positions. And probably AALCO now serves us in lobbying, to see how we can get from developed countries what we wanted them to do. So I want to thank very much. I would give, the Excellency, Oman a chance to ask question to Mr. Fujino and then I can invite Ms. Rosa to respond.

Leader of the delegation of Oman*: My question to Mr. Fujino . The countries have concluded numerous agreements to combat this crime, but most of these agreements were not successful in combating this crime. In fact, some of these crimes have been increasing and widespread in this world. A trafficker may choose poverty and unawareness , to have more witness. What is your assessment about these agreements and what are the reasons behind the failure of some of these agreements. Are there any ways to assist in realizing the objectives of such agreements in a better way and do you see that it is suitable that there should be awareness in different education system in order to give awareness to the students and to strengthen their ethics and religious principles in order to have prevention and immunity in the coming generation against such crimes and tendency to exploit others, just merely to have illegitimate money. Thank you

Vice President: Thank you Oman, now I call on Ms. Rosa Sierra to take the question

from Oman and Mr. Fujino to prepare his mind to answer thereafter.

Ms. Rosa Sierra, UNHCR: Thank you very much. If I think that if I haven't mistaken your question refers to push and pull factors seen in trafficking. In my presentation, I addressed how to mainly identify the victims in order to provide protection. You are absolutely right the causes of trafficking have to be addressed. I know that Ms. Julie from UNICEF will try to pinpoint some of those causes in her presentation, which I don't want to preempt here. But let me tell you that further efforts need to be directly related. There is also need to address the issues of employment, law enforcement, international conflict prevention and management and to take into account the root causes of migration, whether they are voluntary or they are forced. This needs to be addressed through development aid. In some cases sub credits has been quite successful. And of course, technical expertise and strengthening protection and creating a reverse protection system in developing countries is crucial also, both to provide protection and to address the causes of trafficking. In sum, I think that both are important to demonstrate genuine international solidarity and responsibility sharing. So I hope that that answers your question, but in sum, I agree with you. These are all the issues that need to be addressed.

Vice President: Thank you Ms. Rosa Sierra Oman, Excellency, you realize that she was referring to Ms. Julie's presentation. Whatever inadequacies you find in her answer, you hold your question until we have the presentation by Ms. Julie and subsequent to that if your issues are still unaddressed we will deal with that. Our proposal is to have one hour after our presentations. Lets see what Mr. Fujino has to say.

Mr.Fujino, UNODC: Thank you very much Mr. Chairman. If I understood correctly about the effectiveness of the

* Intervention made in Arabic. Unofficial translation from the Interpreter's version.

international agreements i.e. international treaties I would limit my remark on International Drug Control Treaties and then recent treaties that I briefly covered this morning. There is a difference between the two. That is, for instance, treaty on Transnational Organized Crime and other related Protocols are starting now. Ratification, accession to treaties is necessary now. Whereas the Drug Control Treaties started in 1912. The first international conference of this nature was held in Shanghai in 1909. And in 1912 the first international drug control treaty was adopted. But the international community had to wait until 1925 to see binding measures under those treaties binding for all parties. Now, in our view, those international drug control treaties are working for the purposes they were adopted. i.e. preventing diversion of control substances illicitly made into illicit traffic. Now, I have just finished my article starting as a series in my Office's quarterly publications. And I started to deal all the stories of 1920, but the traffickers were doing at that time. They were trafficking in to these regions from Europe, the drugs that we see today, heroine, morphine and cocaine.

The difference is at that time, they did not have to make drugs and sell. Today, cocaine, heroine and morphine have to be, as we know in Afghanistan. The starting point, opium, is clandestinely made. Traffickers today, drug traffickers have to make those drugs clandestinely. In 1920's and 30s they didn't have to make them. All they have to do is to divert illicitly produced drug by pharmaceutical companies, divert them into illicit trafficking, smuggle them into this part of the world. Today that is not happening. What is happening today, the traffickers making drugs clandestinely. Now to do that, starting materials are necessary. Therefore, latest drug control treaties, targets at preventing diversion from illicit channeling to illicit trafficking. Now we will see the effects being observed. Because of the practical international cooperation,

exchange of information etc. which is rarely applicable to the trafficking in human beings.

Therefore, we are cautiously optimistic that TOC Convention, will in fact work for the purposes it is intended. By analysis, drug control treaties were often referred to as failures because demand, cannot be prevented from international treaty. Therefore, supply reduction, illicit supply reduction, was the aim of those treaties. Likewise, for human trafficking that part can effectively be worked out if and when practical international cooperation working mechanisms and procedures are in fact established. Judicial cooperation mechanisms are established. We are cautiously optimistic that they would succeed. What is needed as the distinguished Oman representative was saying demand reduction in drugs or otherwise. Demand reduction may not fit in the treaty provision. There the practical international cooperation is required where the sectoral issue we are dealing with. Drugs, human beings, trafficking etc. There international bodies can work together to help with countries. I hope that touches upon the question. Thank you very much Mr. Chairman.

Vice President: Thank you Mr. Fujino. Oman, satisfied with the answer?

Leader of the delegation of Oman:* The question that was directed to Ms. Rosa, I believe that my question was that the number of refugees would increase due to the conflicts and wars that are existing and the problem was not solved because of difference in interest and contradiction in interest of countries. So what is your opinion? What is the duty of big countries in this field and whether these big countries can interfere in these conflict, without being biased to any party and depending upon the justice and responsibility, in order to

* Intervention made in Arabic. Unofficial translation from the Interpreter's version.

decrease the number of refugees who are escaping and immigrating from the countries. Whether they are oppressed when conflicts are existing. Thank you

Vice President: Your Excellency, Oman, are you satisfied with the response of Mr. Fujino. I believe you are satisfied. Ok. Thank you very much. I thought that we should give Ms. Rosa Sierra because she referred to the presentation of Ms. Julie. Let us hear Ms. Julie's presentation. After that, if your question is still unanswered then I would give priority to ask that. Your Excellencies, I believe that we have to come to a consensus to how to move forward. The importance of this topic cannot be ignored. And I know, all of you here have viewpoints and questions to ask. Ghana, Saudi Arabia and many more to come. But I want to humbly make a proposal. First of all, I propose to allow the other panelists to make their presentations. Their presentations may well answer some of the questions that we have. And the bottom line, if they don't, we would give chance to frame our questions and answer them better. Second reason, our panelists are supposed to travel back today. And their flights are believed towards the end of the day. So if we take them now, we can keep them as long as time allows us. I have no inhibitions at all. That this meeting would address all the issues as far as women and children trafficking is concerned. It is important that it stimulate constructive discussions. I ask your permission if we could have the other three panelists present their papers and then open up for you. I want to rely on your response in this matter. Do you have your approval?

Thank you Your Excellencies. Before Your Excellencies permit me to invite the next panelist Ms. Julie. She is the Child Protection Officer of UNICEF. She is going to talk to us on "Strengthening Cooperation to Combat Trafficking in Women and Children". Now I have the pleasure, your Excellencies, to call upon Ms. Julie Lebegue to do justice with the topic.

Ms. Julie Lebegue, UNICEF: Thank you Mr. Vice President. I am the Child Protection Officer in UNICEF and I am based in Indonesia. I just want to give very quick background on why UNICEF is working now on trafficking of children especially. In the old days, when UNICEF was established we were mostly looking at basic needs of children. That was mostly nutrition and education. But slowly, the overall international community including national governments at national level, realized that we also have to adopt a holistic approach for the protection of children. So we slowly moved towards protection of children, which includes basically protection from trafficking, exploitation, abuse, violence and discrimination. So that was a very quick background actually on why UNICEF is now working on these issues.

Just briefly I am not going to go back to the definition of human trafficking because that was largely covered this morning by other panelists. I would just like to stress one important point. Human trafficking is defined as a movement into a non-consensual situation of exploitation. It is a movement, its non-consensual and then you have exploitation. It results in the loss of control by an individual over his or her situation which is a non-consensual point basically and very important is that it can occur within the country or across national borders. Very often, we only focus on cross border trafficking, but actually within countries very often the situation is worse. Children and women are at more risk of trafficking and therefore require special protection.

So my presentation will mostly focus on child trafficking but the strategy that is used for addressing child trafficking can also apply to women trafficking generally. Considering, child trafficking, first, a child is defined as any person under 18 according to the Convention on the Rights of the Child. I know this is a very ambiguous definition. And at local level you may have different definitions, but for the purpose of

this presentation we will use just this definition, which is the international definition. I believe as well, that most of the countries here in the room have ratified the UN Convention on the Rights of the Child. We estimate that 1.2 million children are trafficked each year around the world. And 1/3rd of the trafficking is taking place in this region, in East Asia and Pacific region. All countries are affected, developed countries and developing countries, whether they are source, transit or destination countries. Which would probably answer the question raised by your Excellency from Oman, that no one can say that they are not responsible or they are not committed to fight this issue.

On the children's side they should always be considered as victims. Regarding the issue of consent. Children cannot consent basically. That is the basic legal matter. I will go later into that on my presentation.

With respect to the purpose of child trafficking on the demand side. First, it is a very lucrative international trade. International Labour Organisation (ILO), estimates that this trade basically, brings 12 billion dollars annually to the people who are trafficking children. So it is quite huge. Again it's only estimation. There are large number of children they are trafficked for prostitution, 'mail order' bride trade, which is something that is growing these days, exploitative labor, begging and illegal adoption and girls are especially vulnerable, usually due to their low status in societies and so less protected in many ways.

Further, just to touch on the complexities of trafficking routes which are actually linked to the demand side. Just to show an example, from Indonesia, the routes of trafficking are so varied it is impossible actually to identify all of them just even at the country level. Within the countries you have hundreds of routes basically and of course you have routes going abroad as well which makes the life of law enforcers extremely difficult, basically, because once the target, for example, you take this map.

You target the route from Indonesia, North Sumatra which is an island in the western part of Indonesia to Malaysia. Then the traffickers will move somewhere else. Then they traffic girls and boys. Brunei, for example, or to another part of Malaysia or to another country or to Singapore, to Taiwan, to Europe, to Australia. It implies, they are very quick in adjusting their moves and means as well.

Under supply side, there are several factors to discuss, one of them very often quoted is poverty. But poverty is so broad that actually it cannot be the only cause of trafficking. But it is one of the main causes. More important is the lack of opportunity for young people. Usually people who are living in a village, where there are no employment opportunities, no training opportunities. Of course they are much more at risk of saying yes to trafficker who will offer them to go to the next town to get better job or something like that. Then the low status of girls is also a cause of child trafficking. Weak law enforcement is both on the demand and the supply side. In some countries, actually, law enforcement is very difficult for the reasons I mentioned before. Therefore, it makes the life of traffickers sometimes not too complicated.

I just would like to stress one point on the demand side, there is a demand as well for cheap labour and for commercial sex and again as was mentioned previously by other panelists these we need to address as well one way or the other. Enforcing law is fine, as long as we are not interested in the demand side, trafficking business will go on. I would just stress the fact that child trafficking is gross human rights violation.

If you consider the articles on the Convention on the Right of the Child. You will see that most of them are violated when a child is trafficked. First children are separated from their family which is a basic right of a child to be with his or her family. They are deprived of the right to education, they are exposed to very serious health risk,

including sexually transmitted disease when they are trafficked for sexual exploitation. They are forced to work long hours with no rest, no recreation, they are abused physically, sexually and emotionally. They are threatened, they are scared. They are discriminated against. Which is a point that will be covered, when we talk about recovery and integration. When the child has been trafficked and later recovered from trafficking, it is very difficult for the child or women to be integrated into the society. Stigma is usually quite high. Further, trafficked children are arrested and detained as offenders, which subject them to victimization. Therefore we need to address this issue as well in the legal instruments. And of course, voices of the children are usually unheard.

Now. I will highlight the international instruments to fight trafficking of children. First, I already mentioned, Convention on the Rights of the Child. Then you have an Optional Protocol to this Convention on the Sale of Children, child prostitution, child pornography. Some of the countries in the room actually have signed or ratified this optional protocol. But it would need to be broadly ratified. Then you have the ILO Convention 182 on the Elimination of the Worst Forms of Child Labor. Child prostitution, for example, is considered as worst form of child labor. Then again, you have the UN Transnational Organized Crime Convention and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, broadly discussed this morning. Just to touch on what we need, at cooperation level, both at the national and international level, to build the protective environment around children.

The first step is that we need a strong governmental commitment to combat trafficking and fulfill the rights of children and especially, the right to protection. Then you need an open discussion and engagement, basically from all the actors in the society to address the issues. Again having this Meeting today is a progressive

step. Further, you need protective laws in place and you need to make sure that they are enforced. That's probably one of the weak part that we have touched upon. Attitudes and practices need to change. On the demand side, For example, you also need to change the approach of the people who are around the children. Very often they are forgotten in the process. It includes, of course, police, judges, prosecutors and also the teachers surrounding children on a daily basis. How can they identify those, at risk of trafficking or those who have been trafficked already and who may come back for example. The same with border guards, also very often forgotten in programs against trafficking. How can they recognize the child that has been trafficked at an airport or by road? Then we need to have services in place for recovery and reintegration for survivors of trafficking and of course ideally need to have a monitoring and reporting system of trafficking. Is a very difficult part to address? So what is UNICEF doing in cooperation with governments around the world. Of course, the State has leadership role. That's very clear. At National level, UNICEF supports government or encourage the government to ratify and implement the relevant international conventions and protocols, which we have mentioned already; to harmonize national legislation with international standards. Some times national legislation exist but they don't address sufficiently enough the way trafficking is addressed in international instruments.

UNICEF also calls upon the governments to establish an inter-ministerial body as the main coordinating law enforcement and migration officials. Further, three other comprehensive approaches to the problem of trafficking are: raise awareness among community, especially among children, and then of course UNICEF focuses lot at education, ensuring that education is recognized as a key preventive measure against child trafficking, empowering children and committing voice to children in many countries. Children who are

survivors of trafficking are very useful advocate against child trafficking for other children. They are the best usually to save other children.

Furthermore, monitoring and reporting system, which was already discussed before. As I am based in Indonesia, and I am working with most of Indonesian friends who are in the room.. I want to touch a little upon the situation here in Indonesia and work that has been done together with Indonesian government, as an example. So Indonesia is a source, transit and destination country for trafficking. Trafficking within Indonesian borders is primarily for sexual exploitation and forced labor, and victims are also trafficked abroad. We have a list of countries, which probably is not exhaustive. This is only data that we have i.e. the Indonesian Police have. But you may have other contrary data as well to be added. The problem in Indonesia is recognized recently actually. The progress is quite good. So that's why it is an interesting example. Just we will cover three key elements to assess the problem. One is prevention, second one is protection, the third one is recovery and reintegration. Fourth one is their participation. So on the prevention side, in Indonesia, significant efforts have been made recently. The Optional Protocol to the Convention on the Rights of the Child, for example, has been signed. Three National Plan of Actions have been adopted. I think, Prof. Romly mentioned this morning that Indonesia has a focal point at the Ministry level for child protection, also several agencies are working on child trafficking together and have an increased media coverage and public awareness on the issue of trafficking. Almost every week now we have reports of trafficking in Indonesian newspaper which is very good sign actually of awareness raising in the country. The challenge is still ahead. The national legislation needs to comply little more with international standards. You need, of course to ratify the Optional Protocol. The National Plan of Action, had been adopted basically at the national level as they are called, need

to be adopted and implemented at the local level. Indonesia is going through very extensive process for decentralization. So local level also need to tackle this issue. And again probably more emphasis needed in the future on the education of children. In many places actually girls, who are victim of trafficking, attended school for five to six years up to the beginning of junior high school, but then because of lack of access to junior schools or senior high school, they dropped out from the school. So they become very easy victims.

On the protection side, the UN Trafficking Protocol has been signed. But not yet ratified. There has been another dimension on child trafficking, Prof. Romly, mentioned as well, drug dealing and trafficking. Some traffickers have been prosecuted and convicted, the numbers are still very limited. But it is a progress definitely. Last year 67 traffickers have been prosecuted and 27 have been convicted. Indonesia has a very good Anti-Trafficking police unit. Its representative Mr. Aryando Sutadi is here. However, There need to have more staff. Indonesia is a country having 220 million inhabitants. You need more people. You had an extensive cooperation training programme between national, international Police and international agencies including UNICEF. And they are starting cooperation with Malaysia and Australia, which emphasis the need for broader cross border cooperation. Once you have started cooperation with one of your neighboring country, it is easier to go to the next country.

On recovery and reintegration there is a challenge in all the countries. Usually services are not really readily available for the victims of trafficking. UNICEF perceives that at the labour level, the medical level, the social level, we need collaboration of services. Indonesian government has started providing shelters abroad for victims of trafficking. For example, in Malaysia, we need to be better prepared for collaboration among countries

who are destination countries for Indonesian victims. And again, you need to train teachers, parents, community, on how to better reintegrate child victims. This stigma, of victims of trafficking is still quite high and it's a problem everywhere actually. Child participation, which is actually, very important for UNICEF, the children have started to participate in the developments of policy against trafficking. But it's just at a very beginning level. So we need to strengthen basically, at all levels, their participation to ensure children are part of the efforts in the fight against trafficking.

To finish my presentation, I just like to touch on some Good Practices around the world, of collaboration between international agencies like UNICEF and legal apparatus. It goes from working on national policies and MoUs, very formal level, that is at policy level, going up to the training of law enforcers which is very important to enforce these policies and laws that you adopt and up to the community level, this development of community based surveillance because people who are probably better to monitor what going on at community level are the people who are living in the community. So, there is a need to involve community leaders, religious leaders, parents etc. Children themselves need to be empowered to identify the trafficker as much as possible.

Thank you very much.

Vice President: Thank you Ms. Julie Lebegue. Sorry for introducing you as International Organization for Migration representative. Now, I would go to other two panelists and so now I invite Mr. Shahidul Haque, he is the regional representative for International Organization for Migration for South Asia. He we will be talking on “Ambiguities and Confusions in Migration, Trafficking Nexus: A Policy Challenge”.

Mr. Shahidul Haque, IOM: Thank you very much Mr. Chairman. I would like to recognize Dr. Kamil and the distinguished delegates for giving IOM the opportunity to

make a presentation. I would also like to specially thank Dr. Kamil for making all out efforts to make sure that we are represented. I am sure he had made similar endeavors to get others here. Thank you sir.

On behalf of Ambassador Mc Kinley, Director General of IOM, I would like to thank all distinguished delegates and the Chairperson. My presentation would primarily focus on Trafficking in Person problem from a migration perspective. Not because I am representing the IOM but because I think trafficking has to be dealt with in the broader context of population movement. That's why I think UNHCR is also represented here. I am possibly one of the few who doesn't have a legal background to talk in front of such distinguished delegates. The title suggests that there are certain ambiguities and confusions in establishing interface between migration and trafficking. I will make an attempt to how this confusion arises because on defined territory and parts. My other colleagues have said that the whole issue of trafficking although very old, but the discussions surrounding the trafficking problem are rather new specially in the UN parlor and international organizations. In a different context I was trying to stress back the history and I said recently, as back as 2002 Secretary General Kofi Annan made for the first time a statement linking migration with the trafficking rather looking at the trafficking problem he said migration puts another layer of complexity and which is a political and substantive obstacle to addressing trafficking problem.

I think at the beginning, I just want to put a scenario that trafficking is not a single issue. It is related to broader issues of globalization, migration and development. And some of the panelists today are also distinguished delegates have pointed out also. So within that broader context, I am making my presentation. There are basically two generic types of population movement. First, is the forced migrant and the second is the voluntary migrant. Now within the

forced migrant, refugee comes in, internally displaced people comes in. Trafficking in persons could be placed under forced migrant category or not. Still there is lack of consensus. And I think still we have to see how international legal instruments and the national level practices evolve to put that particular category under the forced migrant category.

And the second one is the voluntary migrant, which are immigrants and the labor migrants. It is very easier at this stage to differentiate within the two but when we start looking at, we will see how complex the process is.

Migration, the way we see it and when I am talking about migration, essentially talking about international migration. There is a dark side and a brighter side. The dark side is the trafficking and smuggling of migrants. It is essentially done because it leads to harm or exploitative situation. I will come back to defining, giving an operational definition of "harm" in the context of trafficking. And this is, trafficking itself is a problem and is posing problem on the whole issue of legal migration which is in existence for ages together. It's creating a problem for itself and also for others. And this is basically because it is very difficult to distinguish between the two. Essentially takes place in a same space which is we call often migratory based or in UNICEF terms is known as mixed migration.

This is a chart. I know this is a very complex one, very colorful one but we attempted to look at the interface. Essentially because one of unidimensional nature of the chart it is very difficult also to suggest that how it really functions. If you look at your left, there are certain factors, which determine population mobility. In this chart you see there is a supply side. There is a demand side. And there is an outcome. So it is very economic. It looks like a nuclear cycle theory of supply and demand. If you look at the supply side. It is not only the individual, at least in the Asian context decides as to

whether he or she would move even the movement leads to some difficult situation. It is individual's need. It is family, its the community and its overall environment, both in the supply country and in the demand country. Now once a person decides to migrate, either for own personal reason or for family reasons, then his or her movement could take two different directions. If it takes blue direction, that essentially leads to migration, which is very regular, accepted development process. If he or she moves to the red area that will essentially end the person in a trafficking situation. Conceptually, it very clear. but if you look at individual cases, if you put somebody in that situation we would see not essentially people end up either in the blue box or in the red box. There are people who are essentially in the big tunnel which is shown by an arrow in the presentation and which we call the gray area. And people continue to move in the process from the blue box to the red box. Some of the migrants end up in red box and vice versa. It is little complex. But that's what we realize after looking at various cases. In which situation people will end up in essentially will determine by the demand factor. Some of the other participants have already said, how demand plays a role in the whole process. Let me share with you demand is a major factor and that's why we need cooperation between the supply side countries and demand side countries.

This is "harm" that we define. It is little different from Polemo Declaration, but this the operational definition we are using in South East Asia. That coming out of the legal definition and this definition is based on basically an outcome. We are saying how a person travels is important. But it is much more important in which situation he/she is in. That will define, the outcome should define, not the process, with some one in trafficked or in a migrant situation

The way we have tried to define "harm" is we don't have essentially any control on your life. There are two definitions of loss of

control. Having two approaches at looking at this. One is the whole issue of agency, when individual loses his or her agency. And agency is not absolute concept. Then one ends up in the race. Another way if we take professor Sen's definition of well-being. When one cannot ensure his/her well-being, that means, essentially that person is in a trafficked situation.

And opposed to that, when a person has relative control on his life including movement, then person is in a safe migration situation. I will come back to this issue if there are questions because I don't think at this stage I will elaborate this.

As distinguished colleague from UNODC has differentiated between the trafficking in person and migrants I will not go into it, at this stage. Lets pass this.

Look at how this interface between the two concepts is creating policy ambiguities. Now there is apparently a focus, a global concern especially in the development partners- the trafficking has to be stopped, it is bad, which you all agree. But in doing so, what's happening in terms of policies, there are cases where it's getting mixed up with legal migration. And that's the policy concern and that has also been raised by the document which came out of the Human Rights Commission suggesting guideline and principle for developing intervention to combat trafficking where it has been said that any intervention before taking into consideration that it is not taking away the rights of the people legally move for livelihood purposes. That is one implication if you do mix it up together. The third one is the whole issue of livelihood option. Now gradually there is recognition that international migration, even internal migration is a livelihood option. And this is rather a late realization by both international organization and individual companies, like UK had come out with a policy statement saying that international migration is a livelihood option for poor. World Bank, IMF and ADB gradually looking at

migration as well of livelihood options for the poor. Earlier, assumption was only rich people with in the poor country move. Poor do not move. That assumption, which was there in 15-10 years back, came out of the Oxford University has been reevaluated. It has been seen that poor people also move. They move in a different circumstances and situations. And essentially move across borders not across continents and that becomes another clear challenge in the trafficking because they are the most vulnerable segment of the population. Now the other challenges that whole trafficking issue mixing up with migration, is the whole issue of passport. Now some of the traffickers may make very good use of passports, that are not very transparent, that are not very difficult to change and that's coming into force, gradually that passport regime that is there may possibly have to be looked at. Not only the passport booklet but also the issuance system. Some of the developing countries have to look at because traffickers network do use the passport issuance system and the passport. So it is challenging also that particular system and it is suddenly making it very difficult for those who are manning the immigration both in the origin country and destination country. Next is the whole issue of image. Trafficking can be a big image problem. It can be a diplomatic nightmare for countries of origin who face to putting effective systems to combat trafficking and last but not the least it has gradually been seen as a security threat for countries of origin, countries of transition and countries of destination equally.

There are fundamental issues that we need to take into consideration for developing intervention in the trafficking. First, trafficking is a multi dimensional phenomenon. So any effort to look at trafficking problem as a immigration problem or as a labor problem or employment problem is doomed to fail.

It is not an event, it is a phenomenon which exists over a longer period than an event is and it is multidimensional. Second one, the

process vs. outcome. The process is important. Most of the trafficking and migration literature, if we look at five six years back, they focus on why people move, how people move. But I think equally important is what happens when a person moves and becomes a migrant or trafficked. So linking the two is extremely important and possibly we have to deal more with the outcome now, than with the process. Because the demand and supply issue. The third one is the vulnerability. I am very happy that distinguished colleague from Qatar raised the whole issue of demand. There are certain types of vulnerabilities, which are peculiar for potential traffic victims. First, is the poverty. But poverty is not the only cause. The other one is the systematic discrimination perpetuated against women and children in various societies. If the two get mixed up then it become very difficult territory and in most of the cases it is so. The fourth is the whole issue of trafficking migration. It is becoming a real challenge for countries who are both origin, transit and destination. If you are in origin countries much easier for you to address this issue, but if you are simultaneously become three: transit, origin and destination . Then it becomes a very difficult policy mix. Because in the whole policy formulation we have to be balanced, in terms of your opportunities and in terms of your protection and I have said what the supply and demand side and sixth one is the whole issue of recovery and integration. I have not used the word reintegration. Traffic victims when becomes traffic survivor he/she cannot be reintegrated into the same environment and society. So it is not reintegration, it is integration, a new step of issue that comes into force and not essentially all recovery and integration is progressive. We have seen some of the recovery and integration can be extremely derogative, extremely counterproductive, which we term regressive. So there has to be a code of practices for organizations who are getting engaged in the recovery and integration issues. And the last one, most of the Panelists have agreed that there has to be

a holistic and integrated approach, which would adequately look at trafficking. These are some of the fundamentals I thought will share before you make interventions we have to look at it also.

Now IOM, I will not elaborate their hand out. You may wish to look at it. Basic principle that IOM stands for is orderly and humane movement of persons, which benefits all. That means there are in disorderly and inhumane migrations which can take away your benefits. So that is the premise that we work on and this strategy I don't elaborate some of the things fundamental that they are in the strategy and IOM looks at all different ways of trafficking.

We believe that trafficking in person problem should be looked within a broader migration management framework. How that management framework may perhaps look like.

This is a chart which is there in your front. We suggest that every country needs to look at migration in a broader perspective. Migration is a development issue. It has to be facilitated. It is to be regulated. Whole issue of border management and passport issuance and possibly forced migration issue have also had to be integrated into the migration management concept. There are cross cutting issues. This is rather complex endeavor to put in some of the difficult task that needs to be put in to look at migration and trafficking in an integrated manner. So I will not elaborate this here. Now this is basically IOMs counter trafficking intervention. We have programmes, projects, both in origin and destination countries. I think some of you are familiar with some of the regional consultative processes that IOM is providing including the Bali process, where there is an endeavor to bring in both transit and origin countries together to thrash out various policy issues.

These are some of the countries in which we have programmes . You can see it almost covers from Central Asia to South East Asia.

In Africa, we have one of the largest regional projects and also the country based project. Now the conclusion is that in a global world if we do not make enough room for people to move for various livelihood options. And at the same time if you cannot address or stop trafficking every country will face difficulties. Some countries will face more. Some will face less. Every country is going to be victim. The policy option is very clear. Either we manage migration for positive outcomes or relate the market forces. There is a market. There is a demand and supply. In fact, 12 billion market as ILO has come out with possibly much larger than that. It is second to drugs and arms smuggling. Option is very clear and what has happened is, the whole issue of trafficking policies, instruments, practices, is lacking behind the physical mobility of the people that are moving at a higher rate. Because of various reasons. And the policy option that were developed in the post-cold war or during the cold war period we some how couldn't keep up with it. And some of the endeavors like Protocols and the whole issue of global consultations on the refugee issues and for migration is an effort to really match the two. The physical mobility verses the policy mobility, which has not taken a leap. And we possibly have to change the mindset. This is not my word. One of the Harvard professors says that migration itself is an issue, if you want to deal with it, I would say both black side and good side. There has to be a change in the mindset. That can only come about through social revolution, which I didn't put it there. There has to be a comprehensive rights based migration framework. Gradually the debate is coming up. The list look at migration, both trafficking and legal migration from a rights based perspective as opposed to need based or welfare based perspective. There need to be a major shift in development thinking in that context. And the framework as I said that it has to have same framework for regular migration and irregular migration which is essentially trafficking. And it has to be consistent with individual country development trend,

priorities and concern. It should take all into consideration. And some of the work has already begun at the regional level like Berne initiative, Bali Process, ACP and others. Thank you very much.

Vice President: Your Excellencies, As I said we would take the last Panelist before we come to interventions. Yes, your Excellencies, last panelist, so that we will be able take tea break and then. So I invite the last panelist, Mr. Aryando Sutadi, from Indonesian National Police Head quarters, I invite him to talk about "The Cooperation of the Law Enforcement Apparatus in Combating Trafficking in Persons Especially for Women and Children".

Mr. Aryando Sutadi, Indonesian National Police: Thank you Mr. Chairman, distinguished delegates, ladies and gentlemen. On behalf of the chief of the Indonesian National Police, I would like to extend my appreciation for the Asian-African Legal Consultative Organization for organizing this 43rd Session. It is a great honor for me, to have an opportunity to address this occasion. On this occasion, I would like to share the Indonesian experience, in handling trafficking in persons, especially in the filed of cooperation of the law enforcement apparatus in combating trafficking in women and children. I divide my presentation into three parts. First is information regarding trafficking in persons in Indonesia. Second part is the task force in elimination of trafficking in women and children and cooperation of the law enforcement apparatus. We can move to the first part.

Trafficking in persons is illegal in Indonesia. However, the huge profit earned from trafficking in persons, accompanied by the current conditions in Indonesia, which remains in the recovery process from devastating multidimensional crises, has resulted in a chance for the proliferation of trafficking in persons, and transnational organized crime quickly takes the chance to

develop secret networks with Indonesian traffickers.

Poverty and unemployment in rural areas have encouraged men, women, and even children to migrate to other countries for jobs. However, because of lack of education and information, they become prone to being trapped in trafficking in persons, which has put women and children in vulnerable position. They become prone not only physical, mental and spiritual problems but also to violence, unwanted pregnancy, and contagious sexual infection including HIV / AIDS.

Victims of trafficking in persons usually come from vulnerable groups of people including children of poor families in rural areas or urban slums, school dropouts, victims of violence including rape, job seekers, street women, children, abduction victims, and divorce resulting from early marriage, as well as a strong drive from their environment to leave their social and cultural environment to seek jobs in spite of limited skill and capabilities

Modus operandi of trafficking in persons is closely related to counterfeiting of identity, passport, and visa documents. Such counterfeiting is possible as it is predicted that 37% of births in Indonesia are not registered. Without certificate of birth, people will ask for documentation of their identity from their village heads, who, for certain reasons, elevate their ages or change their origins so as to get fake Identity Cards and passport. The uses of fake documents have made immigrants anxious, and traffickers use the situation for exploitation.

Although trafficking in persons is proliferating, because of its illegal and secretive nature, it is difficult to obtain qualitative and quantitative data. Police departments can only record reported cases of trafficking in persons or trafficking cases discovered by law enforcements. Therefore, existing data cannot describe the true facts of trafficking since many victims are reluctant to report cases for various reasons. According to the data of Indonesian Police

Headquarters (2003) the number of geographic scope of trafficking fluctuates from year to year as you can see in the slide (1999: 173 cases in 14 regions; 2000: 24 cases in 14 regions; 2001: 179 cases in 17 regions; 2002: 155 cases in 18 regions; 2003: 125 cases in 9 regions)

Trafficking involves not only transnational organized crime but also legal and illegal organizations, individuals, and even public figures often not realizing that they have been involved in trafficking in persons:

- Workforce recruiting companies in cooperation with agents in regions or brokers who provide facilities for counterfeiting ID cards and passports, illegally lock potential migrant workers up to at shelters, employ migrant workers in the wrong jobs, and forcefully employ potential migrant workers in the sex industry.

- Agents or brokers can be foreigners visiting villages, neighbors, friends, and a head of village. They shall can be deemed traffickers if in recruitment they use lies, fraud or document counterfeiting.

- Government apparatus who are involved in document counterfeiting, let violations take place, and facilitate illegal border crossing.

- Employers who employ workers in exploitative conditions by not paying wages, locking their workers, committing physical and sexual violence against their workers, forcing workers to keep working, and setting up workers in debt bondage.

- Prostitution houses are deemed to have violated the law. Moreover, if they force women to work in unwanted jobs, do not pay their salaries, or recruit and employ children under 18 years old.

- Marriage agents shall be considered traffickers when a marriage under their arrangement has caused a wife to fall into slavery and exploitative conditions.

- Parents and relatives who consciously sell their children or relatives directly or

through brokers to an employer in sex industry

-A husband who marries a woman and subsequently sends her to a new place to be exploited for economic benefit, places her in the status of a slave, or forces her to be a prostitute.

-“Mail order brides”: It is a forced marriage arranged by parents by ignoring their children's choice, and subsequently the wife lives in exploitative family and in slave-like condition.

-Employment of very young boys in offshore fishing platforms in North Sumatra. They are not given any prior information about conditions of the work place. They have to stay in very dangerous place, work long hours, and suffer from physical and sexual violence from older colleagues.

Based on several studies, several provinces in Indonesia are suspected to be sources regions, while several other provinces are suspected to be transit and receiving regions.

As we can see in the map the source regions are North Sumatra Province, Lampung Province, West Java Province, Central Java Province, East Java Province, Bali Province, West Kalimantan Province, West Nusa Tenggara Province, North Sulawesi Province, South-east Sulawesi Province. Transit regions are given in the chart.

Receiving regions are Southeast Asia: (Singapore, Malaysia, Brunei, Philippine,); Middle East (Arab Saudi): Japan, South Korea, Australia, South America. Now I will move to Next part of my presentation: Task Force for the Elimination of Trafficking in Women and Children. The Indonesian Government considers it necessary to form a task force unit at the national level to coordinate implementation of endeavors to eliminate trafficking in persons especially women and children, carried out by the government and people in accordance with their function and qualifications in the national, regional and international level. The Task Force Unit for Elimination of

Trafficking in Women and Children as decided in Presidential Decree No.88 Year 2002 constitutes a steering committee led by the Coordinating Minister for People's Welfare and consisting of ten ministers, the Indonesian National Police Chief, the Head of Central Statistics Bureau and an organizing committee led by the State Minister for Women's Empowerment and consisting of echelon-I officials from 16 government institutions, the Head of National Narcotics Bureau, the Director of Criminal Intelligence of the Business Women's Organization, Chamber of Commerce and Industry, and Indonesian Journalist Association.

The general objective of the National Plan of Action for the Elimination of Trafficking of Women and Children (NPA- TWA) are: To produce norms, laws, and legal actions against traffickers; to implement social rehabilitation and reintegration for trafficking victims with legal guarantee; to implement prevention from any kind of trafficking in women and children in families and societies; to create cooperation and coordination among departments in suppressing trafficking in persons especially women and children at national and international level.

In the new autonomy era, regions are expected to form the similar task force units which will outline regional action plans. Minister of Internal Affairs has given support by issuing a Circular of the Ministry of Internal Affairs No.560/1134/PMDI2003 for all governors and regents in Indonesia. The circular mentions that the implementation of suppression of trafficking in persons in region shall be carried out by regional government's work units which are authorized to handle affairs related to women and children through official coordination meetings aimed at: (1) Making minimum standards in meeting children's need; (2) Forming task force units to address trafficking in persons in regions; (3) Carrying out strict supervision over work force employment; (4) Allocating Regional Budgets for Implementation.

In accordance with its purpose, the Task Force focuses itself on efforts to eliminate trafficking in women and children, while efforts to address the root problems: poverty in various aspects of life and lack of education involve various agencies, both at the national, regional levels, under the coordination of the Coordinating Minister of People's Welfare.

Last part of my presentation is Co-operation of the law enforcement apparatus.

Trafficking in persons has become a threat against domestic security since in addition to arms and drug dealing, trafficking is a huge source of income for international criminal syndicates. Trafficking is also a threat against human healthy because men, women and children are trafficked inhumanly.

An activity of transnational organized crime, trafficking in persons cannot be fought partially or individually, by any country. Country that are anti-slavery and intend to protect their citizens' lives should unite and cooperate to fight trafficking. National and international cooperation between governments (G-to-G), among NGOs, social organizations and individuals should be promoted and developed so a force that is able to combat the organized crime will be established.

The cooperation of law enforcement between Indonesian Government and neighboring countries and other receiving countries have long been developed, example with the Australian Government and Hongkong Government, based on Law No.1 Year 1999 concerning Treaty Between the Republic of Indonesia and Australia on Mutual Assistance in Criminal Matters, and Law No.1 Year 2001 concerning Agreement between the Government of Indonesia and the Government of Hong Kong for the Surrender of Fugitive Offenders.

The cooperation development continues to be extended by for instance, a follow-up meeting after the Bali Process (Declaration on People Smuggling, Trafficking in Person

an Related Transnational Crime) in Korea, on April 23-28, 2003, coordinated by NGOs, county members and Non-UN International Organizations. It was attended by several countries and it has agreed on: Conducting PAC in Indonesia to fight trafficking; Implementing the technical cooperation in various fields to fight trafficking; and Conducting bilateral cooperation in prosecution and training.

Coordination was also established in a meeting of Senior ASEAN officials who handled counter-trafficking work in Bangkok. This meeting was sponsored by ILEA and USAID as an effort to improve counter-trafficking managerial and substantial capabilities. The ASEAN Cooperation Meeting on Crime Cases: Mutually Legal Assistance was also held in Kuala Lumpur. Its objective was to make arrest of perpetrators and victims handling become more intensive, integrated and better. Unfortunately, in this meeting Singapore was absent.

In the Third Senior Officials Meeting Transnational Crime (SOMTC) held in Hanoi, Vietnam, on June 9-13, 2003, in relation to the issue of trafficking in persons, it agreed that: (a) The focal point for elimination of trafficking in persons in Indonesia is Ministry of Women's Empowerment; (b) the Indonesian Proposal on holding a Regional Counter-Trafficking in Persons' meeting has been accepted, and it would be conducted on June 24-26, 2004 in Batam, Indonesia.

Development of cooperation with other countries continued with a Conference on International Law Enforcement on Trafficking in Persons, held on February 4-5, 2004, in Batam, Indonesia. It was attended by investigating officers from Indonesian, Malaysian and Singaporean police forces. This conference was attended by the US Ambassador for Indonesia, who called on investigating officers of police forces from the participating countries to punish traffickers and people involved in it with the most possible severe penalty. This

conference was also aimed at establishing a mutual commitment among the Indonesian, Malaysian and Singaporean law enforcers to address trafficking in persons.

The cooperation development has also been done with the trafficking receiving countries, demonstrated by the visit of John R. Miller, Director of the Office to Monitor and Combat Trafficking in Persons, US Department of State, to Indonesia via Batam. Quoting the statement of President Megawati Soekarnoputri to make Batam and Bali free from sex industry that victimizes women and children, the US supported efforts to fight trafficking in Indonesia, starting from Batam.

At more operational levels, in addition to an MOU between Royal Malaysian Contingent Sabah and Regional Police of East Kalimantan (December 7, 2002) for cooperation to fight terrorism and others criminal activities such as crimes committed on the seas, wood smuggling, illegal drugs, arms etc., including trafficking in women for prostitution, the cooperation has been extended, for example, between Regional Police of West Kalimantan and Royal Malaysia Police Contingent Serawak, between Regional Police of Riau and Royal Malaysia Police Johor. The government is also building similar cooperation with the Police Departments of Singapore, Timor Leste and the Philippines.

At the field level, an example of the cooperation of the law enforcement apparatus is collaboration between Criminal Investigation Division of the Indonesian National Police and Australian Police Department. Thanks to the collaboration, in June 2003, a group of traffickers were arrested for trafficking in persons and documents falsification with Australia as the receiving country. These three victims had been lured on job offers as waiters in Australia with big salaries. However, the promise was never fulfilled and they were forced to work as sex workers instead. So they ran away and were caught by Australian Police. The cooperation between

Australia and Indonesia has made it possible not only to catch the traffickers in Indonesia, but also to facilitate teleconference between some witnesses in Indonesia and the AFP investigators.

Regional Police of Riau in cooperation with Royal Police Kota Tinggi Johor, uncovered transnational baby trafficking syndicate. Healthy, pretty, fair-skinned and *HIV/AIDS-free* babies bought in Batam Island and Tanjung Balai Karimun for an average of IDR 3.5 million were sold well in Singapore or Malaysia for IDR 60-100 million/baby. The Regional Police of Riau arrested 5 suspects, while the Royal Malaysia Police Johor caught 2 suspects of which one was a former police officer. However, the mastermind of the syndicate was still at large.

In order to enhance the cooperation of law enforcement apparatus, mainly between the INP and the receiving countries, since 2003 five Senior Liaison Officers have been deployed in five countries, such as Malaysia, Australia, Thailand, Royal Arab Saudi and Philippine. The result is very significant. During the year of 2003-2004 the INP SLO in Malaysia discovered 236 cases of Indonesian workers victimized by illegal traffickers. Meanwhile, the SLO in Royal Arab Saudi uncovered the cases of unregistered Indonesian illegal workers. Knowing such a success, the program of SLO deployment will be enhanced to some other receiving countries, such as Kuwait, Taiwan, Japan etc. Of course, this plan will depend on the availability of the budget.

In addition, a good cooperation has been developed between the INP and International NGOs such as: UNICEF (United Nations Children's Fund), IOM (International Organization for Migration), including donor countries, like: USA (through ICIT AP-US), New Zealand and Australia. The cooperation is in the form of Aid Programs which are mainly aimed to enhance the capability of the apparatus in combating trafficking in persons. The Aid Programs involve training for investigators

and data base computerization for trafficking in persons. In the year of 2003 - 2004 the projects have trained 191 police officers.

So to conclude, Indonesia has made serious efforts to eliminate trafficking in persons especially women and children, mainly by the implementation of the National Action Plan for the Elimination of Trafficking of Women and Children, which had been launched since 2002. However, the results are still far from perfect.

The cooperation of law enforcement apparatus in combating trafficking in women and children, combining with the high spirit to intensify the capacity building of the apparatus which had been made by the Indonesian Government, either in national or international scope, have revealed better result not only in the apprehending of perpetrators but also in protecting the victims of trafficking in persons.

Some suggestions proposed are: a close-knit network between the government institutions, taskforce, NGOs, community organizations and individuals who are concerned with the trafficking issue, need to be developed in order to reach accumulated forces in combating trafficking in persons. Relationship between the law enforcement apparatus from different countries needs to be enhanced, for example, by appointing a key person or institution as for the channel of communication among the apparatus, and periodical meetings should be held to maintain and to intensify communication /contact between the law enforcement apparatus from different countries. Thank you

Vice President: Thank you Mr. Sutadi, Excellencies, it was wonderful listening to all these presentations. We will now take a break. So that your Excellencies could have some tea and then after tea we shall come and listen to our Excellencies statements about your experiences and ask question. I would give Oman a chance to start. At 3.30

p.m. we will be back here. Now Excellencies who want to make interventions please indicate.

Tea Break

Vice President: Excellencies, Good Afternoon. As I indicated before the break, I think one or two of our panelists have already left for the airport. It is important that we start now. So that we could make use of the benefit of the Panelists who are here. The information I got, I don't know whether it is right, Prof. Romly has left, Mr. Fujino is also on his way to the airport. I would like to invite Oman to make comments.

The leader of Delegation of Oman:* Thank you very much. Although I didn't receive reply for some of my questions and it was not sufficient answer for some of them. Yet I would like to express certain questions namely, will we consider the employment of children under the age of eighteen with low wages? Could this be a sort of trafficking in children? And if so, what do the families which do need and in need in order for their very sustenance to have their children working who have not yet attained 18. In the light of the absence of any financial assistance be given to them for families from their countries or from the international community. Whether the international conventions treat these matters and in a way which would render them to be balanced, in conventions, agreements and can we decrease the legal age for employment to be 13 or 15 years, for example with the provision of some guarantees to be made by the countries to those children, by which they can preserve their rights. Some in the developing countries are of the view that the attention given by rich developed countries with the employment of children under the age of 18 years and to prohibit their work with low wages is in fact to prevent competition from developing countries, to

* Intervention in Arabic. Unofficial translation from the Interpreter's version.

prevent their product to those industrialized countries. Meaning that rich industrialized are the ones which plays with the principles for their interest and are incorporated in this convention. This convention which are applied to the developing countries, in one way or other, whether they desire or not or due to economic reasons which are being imposed by the rich countries. So how can we answer these doubts? Thank you

Vice President: Excellency, Oman. Thank you. Of course, I do remember that in the presentation made by the representative of UNICEF the provision relating to the Convention on the Rights of the Child, the Convention effective age is 18 and various systems got different ages. But Ms. Julie, if you like to take this question.

Ms. Julie, UNICEF: Thank you Excellency for your very good question. The fact that children are involved in labor in poor families. Of course should never be blamed for this. There are several conventions actually on child labor. One of them is ILO Convention 138, which set up minimum age for any kind of employment to the age of 15, meaning, any child who is between 15 and 18 can work. As you mean it is not exploitative work and it doesn't harm the child in any way. Then ILO complimented this Convention by another Convention 182 on Worst Form of Child labor. So for example, child prostitution is abusive worst form of child labour and cannot be tolerated for any child under 18. So there is distinction basically, and there is scope and flexibility in law, of course for poor families and children from poor families to support their families. But that as you mean it doesn't impact on the right to education. For example, if a child goes to school and after school he or she works to help the family, for example, in a farm or something like that for a couple of hours. Its fine. That's OK. As long as it doesn't impair basically his or her right to education, his or her right to recreation and his or her right to grow and develop normally. So that's basically very well set up in the international conventions.

Again on the ratification of the Convention, the governments are totally free to ratify the Convention or not to. We may have a standard international level pushing countries to ratify the Convention. But as long as the government has signed and even further ratified the Convention, then it is the responsibility of the government to ensure that the standards set up in this Convention are met at the national level. So I hope that this answer your question. Your Excellency.

Vice President: Thank You Ms. Julie. I believe Oman that your issues have been addressed. Your Excellency. Is it OK Oman.

The Leader of Delegation of Oman:*
Thank you, if the poor government cannot impose compulsory education to be imposed on the parents of the children because it cannot provide education to certain levels due to its poverty, so how can we have the families being forced to give its children school education as long as not have the expenses to live and provide for the basic requirements because there are poor and does not get any assistance from any authority so will they live on charity and send their children to school or will they prefer their children go to work . Together committing their governments providing the proper guarantees to protect the rights of these children and not to work in prostitution or any other work, which is not dignified to them. Thank you

Vice President: Excellency, I think that your point is well made. I thought, you are talking about regulations that are imposed on countries and I think Ms. Julie has referred to the ILO Conventions which allows which are not exploitative between 15 and 18. Every country can do some assistance from outside. Ms. Julie rightly said we are not forced to sign or ratify agreement. but I think your point is well made . Thank you very much.
Now we have Malaysia

* Intervention made in Arabic. Unofficial translation from the Interpreter's version.

The Delegate of Malaysia: Thank You Mr. Vice-President, Mr. Vice President, the Honourable Secretary General, Excellencies and Distinguished Delegates, ladies and Gentlemen.

My Delegation is thankful to all the panelists for their informative papers. My delegation is especially thankful to Mr Haque from 10M for his very thoughtful insights into the "Ambiguities and Confusions in Migration – Trafficking Nexus: A Policy Challenge". We take note of his conclusion where he states that countries need to make a choice between either managing migration and harnessing its positive potential or ceding control to so called "market forces". This choice, Mr Vice President, is to the Malaysian delegation akin to Hobson's choice in that the preferred choice would be managed migration. However, Mr. Vice President, we would be grateful for an elaboration in regard to this conclusion of Mr. Haque.

Mr. Vice President, since I have the floor I wish to state Malaysia's position in relation to trafficking in persons. Malaysia recognizes that trafficking in persons, especially women and children, is a serious problem in the Asian African region with the increasing involvement of organized criminal groups.

Malaysia will continue to adopt a multifaceted approach in combating this threat. This includes addressing the underlying factors contributing to the trafficking in persons, adopting and implementing legislative measures, undertaking strict and firm law enforcement measures, enhancing the capacity of law enforcement agencies, carrying out prosecution against the perpetrators, promoting cooperation among domestic enforcement agencies, forging close working relationships with other countries at the regional and global stage and adhering to the existing international legislative framework on trafficking in persons.

Malaysia has signed the UN Convention against Transnational Organized Crime on 26 September 2002 and is currently taking steps to ratify it. The two related Protocols, *vis*, the Protocol to Prevent and Punish Trafficking in Persons, Especially Women and Children ("the Trafficking Protocol") as well as the Protocol against the Smuggling of Migrants by Land, Sea and Air ("the Smuggling Protocol") are currently being studied by Malaysia.

Malaysia accepts the definition of "trafficking in persons" in the Trafficking Protocol subject to its domestic laws and policies. Although Malaysian law does not specifically criminalize "trafficking in persons" as defined in the Trafficking Protocol, its laws already criminalize the component elements of the definition.

Malaysia is now considering a more comprehensive legislation that provides protection for victims and witnesses of crimes in the form of the Witness Protection Act. However, any assistance and protection would first require the person to be classified as a "victim of trafficking" according to the Malaysian criteria. At present, victims of trafficking are placed in transit centres before being deported back to their country of origin.

Malaysia already provides assistance to victims through the Social Welfare Department and NGOs subject to their financial and manpower resources. This assistance includes shelter, medical care, legal and other counseling. Malaysia makes special arrangements to temporarily legalize the stay of victims of trafficking where their assistance or evidence is required in a pending criminal matter.

Trafficked persons are immediately deported without being charged for any immigration offence unless they have committed other offences under Malaysian law or unless their assistance are required in criminal proceedings against the traffickers.

Malaysia already has several bilateral and multilateral arrangements for cooperation to combat transnational crime, including to prevent and suppress trafficking in persons. This includes border and security arrangements with neighboring countries, the use of INTERPOL and ASEANAPOL, the Agreement on Information Exchange and Establishment of Communication Procedures with the Republic of the Philippines and the Republic of Indonesia that was signed on 7 May 2002 (and later acceded to by Cambodia, Thailand and Brunei). Further, Malaysia has initiated the Mutual Legal Assistance in Criminal Matters Treaty among interested ASEAN Member Countries. Malaysia hopes to conclude the proposed Treaty soon and have this as the basis for a regional mutual legal assistance arrangement.

Malaysia has also taken the efforts to manage legal migration through Government to Government arrangements and even offered regularization exercises to reduce the number of illegal migrants.

At the ASEAN level, the ASEAN leaders adopted the ASEAN Declaration on Joint Action to Counter-Terrorism in November 2001 and the ASEAN Plan of Action to Combat Transnational Crimes in May 2002.

We have also participated at the Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crimes in Bali from 27 –28 February 2002. Malaysia also supports the works of other bodies and organizations such as the International Organization for Migration (IOM), the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Development Programme (UNDP) and the South Asian Association for Regional Cooperation (SAARC) which have initiated measures against trafficking in women and children.

Malaysia notes that many countries, Malaysia included, may need to overhaul and improve their current legislation on trafficking in persons and take measures, both bilaterally and multilaterally, to effectively combat trafficking in persons. Malaysia supports the proposal for a study by the Secretariat on the possibility of formulating model legislation which reflects the relevant international instruments. Thank you.

Vice President: Thank You Malaysia, I would now ask Mr. Haque to react to Malaysia's question.

Mr. Haque, IOM: Thank you Malaysia. I would like to thank the distinguished delegate from Malaysia for his kind words. The conclusion that I was trying to suggest is that migration, whether it is in the origin country or in the transit country or in the destination country is primarily essentially not managed. It is either considered part of the labor market issue or human rights issue but what we essentially suggest is that this is very much a development issue. The movement of population is a development, whether that movement brings in benefit or brings misery to the country. If you take that into consideration and allow the way in most of the country, now let the market forces depending on the demand and supply take decision and regulate, essentially what happens is that, is mostly irregular migration. That has been the experience in some of the countries, if not all. This is one aspect.

The other aspect is migration is an issue possibly for couple of more years. The governments need to manage and regulate. You can't at this stage leave it to the private sector or market to decide. It has to be a regulated endeavour and government has to play a role. When I say government has to play a role in terms of regulating, means putting a policy. Most of the countries do not have a migration policy. It is part of either immigration policy or labor policy. There has to be a mechanism to implement

that policy which is in most of the cases absent in the developing countries. In developed countries some or other it is in a better shape. Let me go back to the whole issue of development. I mean if labor education help could be a development issue and I suppose migration also should be a development issue not because of the trafficking but because of the legal migration that perhaps is needed to sustain the global growth. I will not go into that area now but it is seen that there are that countries which need labor and the type of labor they need possibly cannot be provided on labor market, mechanism that people can go and work and come back, if the market and country so demands. I am suggesting that either we manage both at the national level, regional level, global level or let it go the way it is going and some of the criminal network benefit out of, which could possibly have been very productive endeavor provided the government decide to manage it. Thank you.

Vice President: Thank you Mr. Haque.

The delegate of Kenya: Mr. Vice President, Secretary-General, distinguished delegates, Kenya supports the views held by a number of delegates that we need to go further than just concluding international Agreement that penalize the perpetrators of these heinous crimes. For these Agreement and laws to be enforced the root causes have to be identified and addressed. Victims or would be victims should be a target of focus not only for rescue and protection but also to empower them to be able to be economically independent.

In Kenya, there has been an increase in female migrants as well as commercial sexual exploitation of children particularly at the coast. Kenya has also had growing number of refugees and asylum seekers from neighboring countries now are vulnerable to exploitation.

There are a number of factors that precipitate exploitation.

- **Poverty:** The demand of survival for the poor push women and children to towns to look for employment. Particularly with children they find there are no jobs in urban areas and so they turn to commercial sex exploitation.
- **HIV/AIDS:** The AIDS pandemic is leaving million of children orphaned or dependant on one parent. These children are extremely vulnerable to exploitation, as they have to rely on themselves, their siblings, ageing grand parents or other relatives for economic and social support.
- **Traditions and perceptions;** perpetuate gender inequalities, practices such as wife inheritance, female genital mutilation, and forced early marriage's contribute significantly to exploitation by serving of a platform for exploitation or forcing girls to run away from home and into situation for their exploitation
- **Drug and alcohol:** Teenagers between the ages of 14-27 years are becoming addicted to these practices. Children between 9-17 years are being introduced or given intoxicating substances like alcohol and drugs to make them yield to sexual manipulation.

The government has put several measures in place. These include such as, the Government has set up crisis desks at the national and provincial levels that receive information on children easier and make referrals to the relevant departments and agencies. The police Department has also initiated child rights education curriculum at their training college. An integral part of the measures against trafficking is co-operation and the Government, has strengthened partnerships with United Nations and the International Agencies.

Since last year the Government through its local authorities has undertaken a national programme towards the rehabilitation of street children, which includes counseling and educating the children, and some of them include sexually exploited girls.

The way forward: the expansion of the phenomenon geographical and in terms of typology of victims calls for a more tailored approach by the international community to effectively combat trafficking. As trafficking in persons generally occur across borders it is necessary to improve regional co-operation in this area particularly by timely exchange of information and joint efforts in border patrols and criminal investigation. Any strategy to address the issue of trafficking of persons including women and children should be with a rights-based perspective and should also respond to the issue of illegally and criminalization of the victims. A significant step towards the protection against trafficking in women and children could be the formulation of a model legislation that was supported during the 40th session of AALCO. Thank you.

Vice President: Thank you Kenya. United Arab Emirates.

The delegate of United Arab Emirates:* I thank the panelists for their very well presentations. My question is for Ms. Rosa. In your paper you have written about the responsibilities and duties entrusted on the shoulders of the governments, what about these duties and responsibilities would be exploited, what about that?

Vice President: Your Excellency can you repeat the question?

The delegate of United Arab Emirates:* My question is for Ms. Rosa. You have written in your paper about the

responsibilities and duties beset on the shoulders of the government what if these duties have been exploited. Thank you.

Ms. Rosa: I would really request the distinguished delegate to be a little bit more specific about which duties and what kind of exploitation he is referring to?

The delegate of United Arab Emirates:* In your paper you have reviewed the duties on the state in facing what concerns the trafficking in persons such as acceptance of victims in regions and help the victims. What about if these duties are being exploited by the country or the government vis-à-vis these victims?

Ms. Rosa: Well, if I get this correctly, you are referring to certain intention from the victims of trafficking to get some kind of profit or reward from the actual process of trafficking and to getting into the country. Is that what you are referring to?

Ok, I think that the definition of victims means that they are not able to consent, that they have no free and informed decision being made in the whole process. I don't understand how they can exploit when they are being exploited. If that is the case then you have to investigate on case-by-case basis. Sorry I cannot be more specific, you are being more general.

Vice President: Thank you Ms. Rosa. Ghana.

The delegate of Ghana: Mr. President, at the 42nd Session in Seoul, Republic of Korea, the Ghana Delegation raised the issue with the customary and traditional practices of States, especially in Africa, that tend to make women and children easy targets for trafficking. Accordingly, we called on Member States to take steps to ensure the protection of the rights of women and children, in particular, their fundamental

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rights to security of the person and freedom from cruel, inhuman and degrading treatment.

We also brought to the fore the increased risk of physical violence, unwanted pregnancies and sexually transmitted diseases such as HIV / AIDS, which women and children are exposed to.

Mr. President, it is reported that at the end of 2003, an estimated 26.6 million people south of the Sahara, out of a world total of 65 million were HIV positive. More than 3 million, half of who were women, died from AIDS related diseases in 2003. The spread of AIDS among women is due mainly to the cultural practices, religious beliefs, violence and adverse economic circumstances that they often found themselves in. In Africa, the alarming spread of AIDS has the potential of undermining the economic gains made in recent years.

Another aspect of the problem of trafficking is the violence perpetrated against women and children in conflict situations. From the conflict in the former Yugoslavia in the 1990s to the civil wars and intra-ethnic conflicts in Sierra Leone, Liberia, Burundi, Rwanda, Democratic Republic of Congo and the Sudan, to the brutalities meted out by the Lord's Resistance Army in Uganda; rape, forced prostitution and sex slavery have been perpetrated against women and children by troops as a tool of ethnic cleansing. Women have been trafficked out of war zones to be used as sex workers and forced labourers. These new levels of violence against women within the context of conflict and war have been perpetrated with impunity and there is the need for investigations and redress under the auspices of the International Criminal Court to bring the perpetrators of these crimes against women and children in conflict situations to justice. This violence is an infringement on the rights of women to self determination, to choice and the right to quiet enjoyment of a life free from violence.

In West Africa, a study by the African Centre for Human Development has shown that apart from internal trafficking in women and children, international trafficking occurs between Ghana, Togo, Cote d'Ivoire, Burkina Faso, Benin and Nigeria. This form of trafficking involves both children and young girls between the ages of 16 and 25 years. These children or their parents are lured mostly by the promises of a better life, but they end up in brothels engaged in forced prostitution, or organised labour in a variety of informal work place environments such as fishing communities or local restaurants (commonly referred to as "chop bars" in the sub-region). The countries in the West African sub-region also serve as transit points for onward transmission of women and children to other parts of Africa, the Middle East, Asia, Europe and America. UNICEF estimates that over 200,000 children are trafficked every year in this region. Trafficking in this region is rampant because of a number of factors. It takes place through unapproved border crossings; because customs officials are not very active on human traffic and travel documents are not rigidly enforced.

The ECOWAS Initial Plan of Action Against Trafficking in Persons requires all Member States to set up National Committees on Trafficking to combat trafficking in the sub-region. The Executive Secretariat of ECOWAS has a co-ordinating and monitoring responsibility over national efforts at combating trafficking. Various non-governmental organisations - Danish International Development Agency (DANIDA), Action Aid, Catholic Action for Street Children, World Vision International and the International Labour Organisation, International Programme for the Elimination of Child Labour have contributed to the fight against trafficking by providing welfare services. It is the view of the Ghana Delegation that measures to combat trafficking should be tailored to meet the following goals: - rescue and rehabilitation of victims, prevention of the crime of trafficking and protection of victims. These

will include sensitisation and awareness programmes, the training of law enforcement personnel to enhance their capacity to check movements of women and children and to take a serious view of trafficking in women and children and inter-ministerial cooperation. As we speak, the Attorney General's Office in Ghana has drafted a legislation on trafficking for submission to the Ghana Parliament. This Bill seeks to replace the existing legislation which relates to some extent to trafficking, but which is inadequate to deal with the crime of trafficking. This legislation takes a broader look at trafficking and all its ramifications and does not focus on criminalizing this activity on the basis of prostitution only. It also takes into consideration the various international conventions on trafficking.

In addition to the various programmes to curb trafficking, it is the hope of the Ghana Delegation that when this Bill is passed into law, it will help to curtail the spread of trafficking, not only in Ghana but in the West African sub-region. Thank You

The delegate of Republic of Indonesia: question is addressed to Prof. Romly, but I would be delighted if one of the present panelists respond to my question. Prof. Romly recommends among other things as a solution, the balanced principal the rights of the offender vis-à-vis the rights of the victims, in this trafficking business. In law enforcement case and right of offender to defend his or her case, but the victims should be solaced or rewarded with the right treatment, not only from the legal point of view but also from social point of view, lets say social rehabilitation etc. If we talk about justice, we talk about the truth by applying provisions of laws not on the balance between the rights of two opposing sides. I am afraid Mr. Chair, if we talked about balanced rights of the offender and victims, it may encourage the potential offender to take action and become real offender. So this is my concern. A question related to this is, what is the background of this principle,

if any. I thank you Mr. Chair and would be delighted if any of the present panelists can respond to this.

Vice President: Thank you Indonesia. Before I have one of the panelists offer, if I do remember correctly, what Prof. Romly was talking about was a balance between due process in common law as you know, which has to do with a proof beyond reasonable doubt and principle in common law is that it is better to have nine criminals can go free, and not one innocent to go to jail. I think in that context he was talking about the principle of balanced justice. I would now like to invite any of the panelists who would like to respond. You want to, it is the legal content and it is dangerous talking to legal luminaries if you are not sure of the subject. So, I thought that that was it and then he alluded to the EU approach where they are very innovative with fast track extradition. Fortunately Prof. Romly is in Indonesia and may be you could catch up with him later. Thanks for your intervention. So, I call on Nigeria.

The delegate of Nigeria: Thank you Mr. Chairman. First of all I would like to congratulate the panelists for giving very incisive presentation on various aspects of migration management and human trafficking. We have just had few observations to make and one or two questions. Nigeria being a country of origin, transit and destination, all in one, we are in a better position to make some contribution. First issue, is the question of, if we want to put of issue of human trafficking passive with in the framework of migration management, the view of Nigeria is that, the premises could have a basis, there is a problem area here and problem is loosing focus on what is human trafficking really is. Human trafficking is very different from involuntary or voluntary illegal migration. And the way developed countries or the rich countries are seeing it is in one-way fast track. Pick the offender, book him and deport immediately, which is ok for somebody who consciously became an

illegal migrant. However, in the case of human trafficking the people are coerced in to it, forced by other circumstances, in some cases they are kidnapped physically and smuggled out of the country. In this case I don't think it would be very good to place this category of people in the same manner of voluntary illegal migrant. Let me just tell you one thing. If you pick somebody like them, the problem is nobody wants to accept the fact that human trafficking is a basic aspect of the economies of some of these states. If a child, hypothetically, of nine year old is smuggled out of a place like Nigeria, taken to some good place in Europe, a trafficker procures around \$750 - \$1500 a night. In a year he would have made \$ 365,000 for the trafficker. After gaining money for three or four years, his total value has depreciated and he is released. Consequently he has given an offer. Either you join us, we give some money to manage you, protect you and when you are going we will pay you. Or you go back. If he refuses to do either, he is picked up by the immigration or police and is returned to the country of origin. At that point, he is a problem. He is traumatized, deprived of basic childhood, education and livelihood and becomes totally useless in his community. I don't know what the panelist will advise to help such a person in the circumstances of policy management. That is one aspect.

I also want to know whether the panel give us an idea of how this to be dealt with, where the victim could have get justice in these circumstances.

Thank you very much.

Vice President: Thank you Nigeria for sharing your immense experience. I do recall that Mr. Fujino who tried to make a distinction between smuggled migrants and then trafficking and what he said was that in case of smuggled migrant, the exploitation end after smuggling, while in the case of trafficking, exploitation continues. It would appear therefore your position is conceptual. If the exploitation continues, I think that it

fall within the ambit of trafficking. I would like policy area to be dealt by Mr. Haque and Ms. Julie would take the aspect of re-victimization. Thank you Nigeria.

Mr. Haque: Thank you Mr. Chairman. Let me thank the Nigerian colleague for raising this important issue. The whole issue of demand vs. supply. If there is a demand, as we could see it is a hidden demand not exposed to normal labour market? This problem is being discussed in the destination countries, especially, in the European Union, Australia, Canada, and America for quite some time. The reason being that as you very quickly elaborated most of the time the survival of traffic victim send back home and who ever has exploited his or her labor for substantial number of years get away with it and it is very organized criminal gang they do. In response to that some of the countries, has provision for traffic survivors to get residency and fight the individuals involved in the trafficking business. The countries like United States, Austria, Belgium, Canada, Italy, Netherlands, Spain, etc. has made legal provisions for giving residency to traffic victims. The primary aim is to give them protection both from the origin country and from the destination country. Secondly to make sure that whoever was involved gets punished in the process. That was the reason that I was emphasizing trafficking within the broader migration framework. Market will take an illegal course if there is absence of legal means to meet the labor demand and get the cheap labor from wherever it is available. So it is labour demand vs. immigration law that has to be made consistent. Policy mobility vs. physical mobility has to be addressed. Thank you.

Ms. Julie: on the issue of re-victimization, actually it's a very crucial issue. I mean any one who is victim of trafficking; you have three levels of victimization. First one is from traffickers or the trafficking network. Then you can be revictimised by the law enforcement officials. You are treated like an offender. Then at the community level.

Very strong social stigma as you said, victims of trafficking when they go back home, not that they are useless, but they are seen as useless. Also because of the psychological, physical damage, it is very difficult for them to be integrated in to their community. So we address these three levels.

Vice President: Now, India

The Delegate of India: Thank you Mr. President. The Beijing Platform for Action (PFA) succeeded in bringing to the forefront of the international human rights agenda, the issue of trafficking of women and children. The PFA resulted in an intensification of international discourse at the ideological level. At the regional level, further empowered by the PFA, women's organizations in South Asia lobbied for an inter-country instrument that would provide a framework for preventing and controlling trafficking. The Rawalpindi Resolution, 1996, urged Member States to combat inter- and intra-country trafficking in children; abolishing hazardous child labour by the year 2000 and to end all forms of child labour by 2010.

Mr. President, at the SAARC Summit in Male, 1997, Member States (including India) agreed to work together to eliminate trafficking, and towards this end the creation of a regional convention on trafficking was initiated. The Convention on Preventing and Combating Trafficking of Women and Children into Prostitution has been drafted and is expected to be ratified at the next SAARC Summit. This convention seeks to take measures to prevent cross-border trafficking through enhancing international and governmental coordination, as well as harmonizing legal provisions relating to trafficking and rehabilitation of rescued victims.

Mr. President, at UNIFEM's South Asian regional workshop on trafficking in women and children (May 2000), the inter-country South Asia Forum against Human

Trafficking (SAFATH) was established to facilitate and support activities of national, regional and local networks and organizations, as well as to facilitate an exchange of information and experience among members.

India is a party to most of the international human rights instruments that are relevant to the prevention of all forms of sexual abuse and exploitation and to the effective protection of women and child victims. The process to ratify the Optional Protocol on Sale of Children, Child Prostitution and Child Pornography as well as the Protocol to Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime is almost complete.

Mr. President, India has a National Plan of Action for combating trafficking and in this context a number of initiatives have been taken. Our experience shows that while considering strategies to eliminate trafficking, the difficulties of rehabilitating the victims after they have been freed from the trade must be recognized. One of the factors which makes the rehabilitation of trafficked victims extremely difficult is the likelihood that they will be ostracized by their own communities. Hence, given the victims' culture of intense subordination and limited financial resources, it is essential that any interventions to address trafficking should focus on prevention, targeting both the exploiters and the exploited. These include broad policy shifts, improved law enforcement and promotion of awareness and education amongst the community in supply and traffic prone areas.

Thank you Mr. President.

Vice President: Thank you India. Now Sudan

The Delegate of Sudan: Thank you Mr. vice president, I would like first to thank the panelists for their lucid presentations.

Mr. Vice President, I would like now to share with you our experience in Sudan to stem this phenomenon. Sudan is Signatory to the UN Convention on Transnational Organised Crime and the ratification of this Convention and its Protocol regarding Trafficking in Women and Children is underway.

Trafficking in human beings, is one of the most horrendous forms of illegal trade which the international community has to stand up against, by establishing a tight legal and administrative regime.

On Legislative and regulatory regime in place, we have the 1991 Criminal Code which prohibits all acts of kidnapping, prostitution, and servitude. We also have Terrorism Combating Act 2001 that prohibits the illegal detention of any person whether in public or private place, or infringing on his or her freedom, or inflicting any corporal or psychological pain on any person. The 2004 Children's Act Provides a wide ranging protection of the child and further prohibits the exploitation of children in servitude or sexual exploitation, or pornography or any illegal trade, or exploitation in armed conflicts. Cyber Crimes Bill (2004) considers that anyone who creates or electronically publishes a page in the web, or any other computer or similar system with the intention to traffic in persons, or facilitate it is committing an illegal act.

Nationally we have The Committee for the elimination of Women and Children Kidnapping (CEW ACK). It is the National Committee established as a mechanism to eliminate this phenomenon in the former conflict areas in southern Sudan. It worked closely and successfully with the United Nations and other international organs. It has to a large degree been able to tackle

reported cases in conflict areas.
Thank you Mr. Vice President.

Vice President: Thank you Sudan, Saudi Arabia

The Delegate of Saudi Arabia:* In the name of the God, the Most Compassionate. The delegation of my country would support the Sultanate of Oman in three questions that were posed. And I believe that the representative of the Sultanate of Oman has touched the basis of this problem. He also referred to the Islamic legislation, which is implemented in my country, a solution to this problem. When you are speaking you are confined to women and children and the exploitation of women and children. You did not tackle man and his role and responsibility. Man in Islam is requested to provide the fundamental mental needs for children and women, housing, food and medicine as well. Man shouldering his responsibility and duty according to this, will participate in solving this problem or at least in mitigating it. It has been referred to by H.E. Minister of Justice of Sultanate of Oman concerning different aspects relating to prostitution and his proposal that the laws should prohibit prostitution; it is one of the rulings of Shariat of Islam. If our meeting recommends the importance of revising the laws in the countries that would allow prostitution, in order that we would try to prevent this in harmony with the values of our religion and ethics of the African Asian countries. I would support the calling to look into the reasons for such problems and to try to go back to our religious values and ethics. Thank you Mr. Vice President.

Vice President: Thank you Saudi Arabia. Now People's Republic of China

The Delegate of the People's Republic of China: Mr. President, Distinguished delegates and colleagues,

* Intervention made in Arabic. Unofficial translation from the Interpreter's version.

Today, Trafficking in human beings has become a global issue, creating serious problems for governments of countries concerned and exposing the victims to violation of their fundamental human rights. Trafficking in women and children especially does great harm to their physical and mental health, and women and children in developing countries are most victims of such crime. It is therefore necessary to strengthen cooperation at international, regional and bilateral levels.

Mr. President, in the late 1990's, trafficking in women and children was very serious in China and posed a great menace to the social order. The Chinese Government attaches great importance to the issue, and has taken a series of measures, including legislative, judicial and administrative measures to tackle the problem. In terms of legislative measures, crime of trafficking in women and children was incorporated into the Penal Law when it was revised in 1997. Under Article 240, Article 241 and Article 242 of Penal Law, trafficking in, sale of a trafficked woman or child, obstruction through violence or threat of rescuing a trafficked woman or child are all punishable with a maximum penalty of life imprisonment or even death penalty.

In terms of administrative measures, 23 Government departments and Non-government Organizations formed a National Joint Committee, with a view to concert actions against and find comprehensive solutions to trafficking in women and children. Meanwhile, in provinces where trafficking is serious, heads of local governments and related institutions such as public security, procuratorate, court, civil affairs and education, have also formed groups to supervise the fight against trafficking. The Chinese government has also launched the fourth five-year national law education campaign beginning from 2001, through which various laws closely linked with protection of women and children were publicized among ordinary citizens, such as Law on Protection of

Rights and Interests of Women and Law on Protection of Minors. Last year, through joint effort of the Judiciary and Law enforcement institutions concerned, some 4,600 cases have been dealt with and some 2000 women and children have been rescued. At the same time, China is paying great attention to international cooperation. The Government, non-governmental organizations, especially All China Women's Federation (ACWF) have been cooperating very well with UN institutions and specialized organizations in this respect. In 2001 and 2003, ACWF, in cooperation with International Labour Organization (ILO), conducted a Project of Combating Trafficking in Women and Children in Mekong Basin, which formed a good basis for establishment of comprehensive anti-trafficking mechanisms in that region.

The new cooperation project 2001-2005 between China and the United Nations Children's Fund is also in progress. China is a State Party to such international conventions as the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, and the Convention against Transnational Organized Crimes.

China sticks to its obligations under those Conventions and is committed to promote and protect the rights of women and children. Apart from international conventions, China has concluded about 60 bilateral treaties on judicial assistance and extradition with over 40 countries, and more than 40 agreements on law enforcement cooperation have been concluded between Chinese police sector and its counterparts of foreign countries.

The above-mentioned conventions, treaties and agreements have established the legal framework of international cooperation in combating trafficking in women and children between China and many countries.

Mr. President, combating the crime of trafficking in women and children is a long-term task. The Chinese Delegation is of the view that we must not only establish cooperation among AALCO member states, but also enhance cooperation between AALCO Member States and others states, including EU States and American States. Over the past years, AALCO has provided a forum for international cooperation in this respect. It is our sincere hope that AALCO will continue to play its part in promoting regional cooperation.

Thank you, Mr. President.

Vice President: Now Amb. Dr. Deihim, Deputy Secretary-General, AALCO.

Dr. Ali Reza Deihim, Deputy Secretary-General, AALCO: Thank you Mr. Vice President. As I see there were questions and references to the element of consent, allow me to explain a little bit the criminal element of consent and its role as regards the trafficking and smuggling. When we want to criminalize any act, we should have both elements. First is *actus reus*. Second is *mens rea*. The *actus reus* in these protocols or actions and means; and *mens rea* is purposes. What role plays in the first and what role plays *mens rea* in the second, which was the question raised by a Panelist from UNODC and to some extent interpreted by the distinguished Minister of Oman and observation from distinguished delegate from Saudi Arabia. Allow me to be very brief. According to the international humanitarian law and international criminal law some acts have not been considered criminal act, if the *mens rea* is not existing. For example, in the prostitution, according to the Article 3 of first Protocol, recruiting, transporting, transferring, harbouring by means of fraudulent deception or by any other means, if the existing criminal activity could be identified. In the Islamic law if it is referring to the prostitution, such intention means, fraud, deception, it doesn't need to exist. Prostitution is a criminal act even with

the consent of the person or without his or her consent. That is the difference. But according to the international criminal law, if such intention doesn't exist, in some countries, such activities are not a matter of international criminal law. The other point is that the second protocol intends to criminalize even after consent of the smuggled is existing. If there is root causes of have and have not or any forced labor from developing to other countries and is going against the rules of law, means that the intention is existing. Then it is criminalized. What is the difference? In the first protocol comes with compensation, but in the second the compensation doesn't realize. Thank you Mr. Vice President.

Vice President: Thank You Your Excellency, Next Philippines.

The Delegate of Philippines: Thank you, Mr. Vice President, Distinguished Delegates, Ladies and Gentlemen, On behalf of my country, allow me to congratulate the Secretary General and the Secretariat, and the Republic of Indonesia, for organizing this timely and productive discussion on the difficult issue of trafficking in women and children. My congratulations also goes to our panelists for their excellent presentations in today's Special Meeting on Establishing Cooperation against the Trafficking in Women and Children.

Mr. Vice President, first of all, the Philippines supports and endorses to AALCO members, the preparation of a model legislation to guide them in the fight against human trafficking. For its part, the Republic of the Philippines has gone farther than this. As reported during the 42nd Session of the AALCO in Seoul, Republic of South Korea last year, the Philippines passed into law "The Anti-Trafficking in Persons Act of 2003", to institute policies to eliminate trafficking in persons, and to establish the necessary institutional mechanisms for the protection and support of trafficked persons, and provide penalties for its violation.

We would like to report, Mr. President, fellow delegates, ladies and gentlemen, that since the law's enactment, we have also promulgated the law's implementing rules and regulations, and we are conducting seminars for members of the criminal justice system on the provisions of this law. This involves the Philippine National Police, Prosecutors, Judges, and even NGOs.

Mr. Vice President, as the crime of trafficking in women and children, has become an organized international crime, it is necessary that AALCO address the continued cooperation among countries of origin and countries of destination as well as transit points, so that their measures and efforts be complementary, for better chances of success. For this, the Philippines recommends the holding of multilateral forum where model legislation can be drafted, and humbly offers itself to participate and/or to discuss the Philippines' enacted legislation, and its subsequent implementation.

Mr. Vice President, Philippines encourages to the other AALCO Members to accede to and ratify and implement the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees. We believe that the convening of regional fora together with the UNHCR, will facilitate this for the concerned members. The Philippines would be more than willing to help other AALCO members in the establishment of guidelines to facilitate said accession and ratification, always in cooperation with UNHCR.

The Philippines has had its law, even before the 1951 Convention, concerning refugees under Section 47(b) of Commonwealth Act No.613 (The Philippine Immigration Act of 1940). Further to this, in 1981, the Ministry of Justice issued its prescribed procedures for the processing of applications for the issuance of visas or change of admission status to special non-immigrant (refugees for humanitarian consideration) under said Immigration Act. As our experience with

refugees widened, we have now a standard Procedure for Processing Applicants for Refugee Status, adopted by the Department of Justice in 1998, when it also constituted a Refugee Processing Unit in DOJ.

As the Philippines foresees that the refugee issue will be confronting us still in the future, we have also taken efforts to include in the curriculum of our law universities the Philippine law on refugees. We have conducted a number of forums on refugee law for law practitioners, professors, and students.

We would like to end, Mr. Vice President, by repeating our suggesting for the accession to and ratification of the 1951 Convention and the 1967 protocol by concerned AALCO members. The refugee issue is with us now, and will most likely be around us for some time. With multilateral cooperation, we will be better prepared to deal with it. Thank you Mr. Vice President.

The delegate of Myanmar: Mr. Vice President, thank you for giving me the floor. Mr. President, first of all, I thank the Secretariat for its document No.AALCO/43/Bali/2004/SD/9 on Establishing Cooperation against Trafficking in Women and Children.

Mr. President, the issue of human trafficking is one of the immense problems the world today has to tackle. Therefore, all the nations across the world are having to work together to keep a curb on it through various ways and means, taking effective measures and increasing cooperation among themselves.

Trafficking in women and children is in the form of the brokers exploiting simple-minded people. Myanmar has been combating this problem in all seriousness as a national duty as it does social harm to young girls and interferes with our safeguarding of lineage that we in Myanmar value much. As trafficking in persons is the problem of unscrupulous human traffickers

destroying the lives of poor and innocent young girls. It cannot be ignored but calls for serious attention. Therefore, Myanmar is taking systematic measures to curb it. We are approaching the problem from the point of view of administrative and legal perspective and through organizational and educational means.

Mr. Vice President, Myanmar had laid down a National Plan of Action for trafficking in women and children. The Plan of Action contains, among others, making situation assessment of the domestic and cross-border trafficking, formation of a national task force, organizing national workshops and providing training to officials concerned, rehabilitation of victims of trafficking and exploitation, the role of NGOs, both local and international and the production and distribution of educational materials on prevention and trafficking of women and children. Moreover, Myanmar has also laid down a National Initiative on the Trafficking of Women and Children, which includes preventive strategies, protection and enforcement strategies, prosecution strategies and reintegration strategies. To increase the effectiveness of the fight against human trafficking, a separate Working Committee for Prevention of Trafficking in Persons, was formed on 17 July, 2002. For the actual implementation of the work of the National Working Committee, working committees have been established at state, division, district and township level. Today, there exist working committees for women's affairs in all the 324 towns in the nation. In accordance with the relevant laws, law enforcement agencies have taken strict action against human traffickers and the offenders were sentenced to long prison sentences up to 14 years.

Mr. Vice President, regarding Myanmar participation in the international co-operative efforts, we are signatory to the Convention for the Suppression of the Traffic in Persons and Exploitation of the Prostitution of Others and we are a Party to the Convention on the Elimination of

Discrimination Against Women and in conformity with the treaty obligations has submitted its report to the Committee. Myanmar is also a party to the Convention on the Rights of the Child. The Child Law of 1993 also contains provisions to protect children from sale or trafficking, unlawful exploitation, unlawful employment, maltreatment and illegal acts.

Myanmar has recently acceded to the United Nations Convention Against Transnational Organized Crime and its supplement Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Myanmar is now in the process of drafting a special law on Trafficking in Persons with the inclusion of international legal provisions. We actively participate in regional meetings on trafficking. In 1997 Myanmar attended the Regional Conference on Trafficking in Women organized by Mekong Law Centre. We attended international conferences on trafficking in Laos, Thailand, Australia, Indonesia, China and Japan. We will have ongoing collaborations with China, Laos and Thailand. We have signed MOU on labour migration with Thailand on 22 June 2003 and we have also signed MOU with the Government of Australia to combat trafficking on 22 December 2003.

Mr. Vice President, allow me to conclude that as can be seen from the above, Myanmar is fully aware of the issue of trafficking in persons and Myanmar is politically committed to resolving it. It has taken a multi-sectoral approach involving prevention, prosecution, protection of victims as well as cooperation with the international community including the United Nations system and AALCO member States.

Thank you Mr. Vice President.

Vice President: Thank you Myanmar. Kuwait.

The delegate of Kuwait:* Thank you Mr. Vice President. I would like at the outset all the panelists and the Secretariat for tabling this important and vital matter and have it figured on our agenda in this session.

International community could take long leaps in the protection of intellectual properties. We hope and this is a right avenue to support this strongly, which is the protection of intellectual property. We would also like that this strength of support would be in the same way in support for combating trafficking in women and children because this is a matter which is related to the life of an individual and his dignity and his freedom besides it being accompanied by matters for which we all feel sorry. At the same time those children are taken for medical experiments and part of their limbs taken for experiments. This is a very complicated matter and requires and calls upon the international community and your organisation as well to take right steps in this direction.

I believe in this connection, the subject matter does require three matters to be taken into consideration: first, that this organisation should have a role to play in having a definition about this trafficking process and it is not an easy matter because the definition about this crime could be mixed with other interrelated crimes such as kidnapping, embezzlement, slavery, forced labour, prostitution and many other matters. If we take into consideration that this crime of trafficking is one of the crimes which of the very present time has not been totally defined and have a definition about it. So we believe that this organisation which comprises of people of highest level in the legal domain, can find a definition which would be submitted to us in future to be taken in future as a convention to be prepared in this direction.

* Intervention made in Arabic. Unofficial translation from the Interpreter's version.

Second, matter is I believe that the countries exporting labour to shoulder part of this responsibility, namely to be very precise in giving license to women and children to come or in giving permits to women and children to come to other countries or exported to other countries. So such a permit should be done through certain mechanism and through a proper invasionment of companies, lets call them to restrict the employment companies.

The third point to be taken into consideration is that there should be an international convention and agreements in which all countries, particularly labour exporting countries should share its following up of this matter and implementation of such convention, if reached, and to punish those people who are trafficking in persons. Thank you.

Vice President: Thank you Kuwait, now Yemen.

The Delegate of Yemen:* Mr. President, I would like to express my thanks to the panelists. At the very start I would like to support what has been said by the Sultanate of Oman and what has been said as well by the representative of Saudi Arabia. Different criminal legislations that would prohibit trafficking in different peoples, there is a punishment of imprisonment of 10-15 years and in Yemen, we have punishment for trafficking that requires 10 years imprisonment and this law is to be amended according to different constitutions. Trafficking in human beings is a real crime. Trafficking violates humanity and dignity of person and his freedom as well. So our legislation when it is strong and it has different code of conduct, so I find that the punishment in different national legislations should be very strict that would reach to the capital punishment or sentence of death because we are facing a crime that is trafficking in human beings and his dignity

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and freedom. There are some exceptions so this general trend that is existing internationally and this punishment when it is severe I feel this is a way to stop and hold such crimes. Hence, we request that there should be an international cooperation in unifying this punishment because this is a real international crime.

Thank you Mr. President.

Vice President: Thank you Yemen. Your Excellencies I take Yemen as the last contributor. Thank you Yemen. I will now call upon Mr. Haque from the IOM to sum up in five minutes and I will have a few remarks and over to H.E. the Secretary-General to wind up for the day. So Your Excellencies, Mr. Haque.

Mr. Haque, IOM: Thank you very much Mr. Chair.

It is very difficult and challenging to really sum up such a diverse and rich discussion that we had. Nevertheless, I will give an attempt and I am sure my colleagues may wish to come if I missed something.

The special meeting was divided into four main segments, inaugural session, two working sessions and a closing session. In the two working sessions, there were six papers presented, and if one is to group it together, there were one set of papers looked at the agency, approaches and experience: UNODC, UNICEF, UNHCR and IOM and another set of papers essentially looked at the country case: Indonesia, looking at their approach, policy and examples.

For this particular session, must mention there are three important background materials distributed by the Secretariat which is very useful even for us who are essentially engaged in this. Now, there are couple of main elements that we could point out that has come out of both the panel discussions and the broad discussions by the delegates.

First, trafficking is a global problem and needs a global approach and intervention.

Second, trafficking is a human rights violation and the rights of victims, survivors needs to be protected.

Third, the traffickers are criminals and they should be treated as such.

Fourth, traffickers have to be punished and victims have to be protected, so it is essentially the basic approach that is being suggested by the participants. As women and children are extremely vulnerable, they have to be given special attention, but men can also be trafficked and smuggled that has been mentioned by couple of delegates in their interventions.

The next is, the demand aspect of trafficking has to be taken into account while taking the supply side certainly into consideration.

Next is, trafficking problem is inextricably linked with other types of population movements, migration, migrants and refugees, what the UNHCR colleague has said this has mixed migration and it is very immediate to distinguish between a refugee/asylum seeker and migrants and trafficking to make sure that everybody gets its due protection and rights.

Next point was, States need to balance the rights of trafficking survivors with individual States' rights which was not very apparent but reading in between the statements one can see that there are always dilemmas, how much state sovereign rights could be given in while protecting the rights of trafficking. National level policy needs to be in conformity with the international legal instruments and in harmony with the state level instruments as the problem essentially is a bilateral or multilateral endeavour. This has been specially emphasized by the panelists. I will just at this point add that discussion did not look at essentially the contribution that has been made by some of the developed countries in really helping the

developing countries to address this issue and also the assistance given to the agencies present here for undertaking this endeavour. I think that's needs to be taken into consideration the whole issue of burden sharing is very essential and some of the countries present here has taken the lead in this and they have to be given their due recognition, specially countries like Japan, Australia and others in this region have been very forthcoming in giving assistance to the developing countries to come forward with the assistance, also to the agencies. At the end, it looks like a collaborative endeavour has been suggested both at the regional level and at the global level and Malaysia proposed to set up a study group to develop a model law for addressing trafficking problem which was subsequently supported by Philippines. This is all I don't know whether you would like me to highlight some of the salient features of the papers or not. (That's all). Thank you very much indeed then.

Vice President: Thank you Mr. Haque for doing so well on this difficult issue. There is no gain in saying that this issue of trafficking in women and children is very important. So to ignore issues discussed here in respect of trafficking in women and children is at the very least to condone the destruction of human kind. The fact that the motivation for this vice is monetary and figures such as 12 billion dollars have been mentioned here is perhaps a basis for me to quote from the deserted village and I quote: "Ill phase the land to hasten an illwhen world accumulates a man decay."

I know that Your Excellencies will not condone that and what has happened here would be motivation for us to check this vice back in our countries. Permit me now to thank the panelists for their authoritative positions on the topics that they were assigned and to you Your Excellencies, I sincerely thank you for your cooperation that you have made everything possible today and I am grateful. I know that

AALCO has a bright future and tomorrow we would do better than we did today and finally in thanking His Excellency, the Secretary-General, AALCO to wind up, so permit me to say for now thank you His Excellencies.

Amb. Dr. Wafik Zaher Kamil, Secretary-General: Thank you Mr. President for your very very well chairing this meeting, summing up and putting a very alive spirit to the, as you said very rightly, very important subject. As a matter of fact it is very difficult to sum up but if you have to say something that the last word has not been said yet and as a head of the Organisation I think we should keep very much alive this item on our agenda for sessions to come because to eradicate this evil we need lot of time, lot of concerted efforts and lot of political will and lot of fighting the greediness of human beings to exploit other human beings. So I think we need to exchange experience between the Member States. We need to have more in-depth studies and more concerted efforts on international, regional as well as national levels.

I will fail in my duty if I don't put on record my sincere gratitude to all the panelists of course and through them the Organisations who deputed them to come and illuminate us about this matter and UNODC, UNHCR, IOM and UNICEF, I could tell you that with in less than a week the Director-Generals or the Heads of these organizations responded to my appeal in less than a week and in less than a week we had these wonderful panelists with us. So if this has a meaning it reflects that cooperation agreements signed with all these organizations within the last two years are very fruitful and the organizations are very cooperative. So thank you and thank you all of you and thanks to all the participants.

Before we leave I have a small announcement. On behalf of the Head of the Delegation of Japan I would like to remind all the participants that Prof. Yamada would like to invite all the participants at the

session and the members of the Indonesian Organising Committee, all the AALCO Secretariat, the interpreters at the reception tonight at the starting from 7:30 p.m. at Samudra room, which is at the third floor, north wing of the hotel and dress is informal. Thank you.