VERBATIM RECORD OF THE FOURTH GENERAL MEETING HELD ON THURSDAY, 5TH JULY 2007, AT 10:00 AM

Her Excellency Mrs. Brigitte Sylvia Mabandla, President of the Forty-Sixth Session in the Chair.

A. The Law of the Sea

President: Welcome to today's deliberations. I will call on Dr. Xu Jie to present an introductory statement on the Law of the Sea. The floor is yours, Sir.

Dr. Xu Jie, Deputy Secretary-General, AALCO: Thank you Madam President. Madam President, Hon'ble Ministers, Excellencies, Distinguished Delegates, Observers, Ladies and Gentlemen, I have the honour to introduce the item on "The Law of the Sea" contained in the Secretariat Document AALCO/46th/ CAPE TOWN SESSION / 2007/S 2.

It may be recalled that this item has been consistently on the agenda of AALCO's Annual Sessions since 1970. The Government of the Republic of Indonesia, took the initiative to introduce this topic in 1970 and ever since then it has been regularly considered at successive Annual Sessions. The AALCO can take reasonable pride in the fact that new concepts such as the Exclusive Economic Zone, Archipelagic States, Rights of Land locked States originated and developed in the course of deliberations in the AALCO which later became part of the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

Madam President, the present Secretariat Report provides an overview of the Seventeenth and Eighteenth Sessions of the Commission on the Limits of Continental Shelf, held from 20 March to 21 April and 21 August to 15 September 2006; Seventh Meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, held from 12 to 16 June last year, and sixteenth Meeting of the States Parties, held from 19 to 23 June 2006; respectively at the UN Headquarters in New York. The Commission proceeded with its work of considering the claims filed by coastal States concerning the outer limits of their continental shelves in areas where these limits extend beyond 200 nautical miles. At the centre of discussions before the Consultative Process was the "eco-system approaches" for the management of the world oceans. The Meeting of States Parties considered statements on the progress of the work in the institutions established by the Convention on the Law of the Sea, as well as took up administrative and budgetary questions. In addition, the AALCO Report also presents an overview of the work of the twelfth session of the International Seabed Authority that took place at the seat of the Authority in Kingston, Jamaica, from 7 to 18 August 2006, consideration of Oceans and the law of the sea issues by the Sixty-first Session of the United Nations General Assembly.

Madam President, it is my pleasant duty to inform this august gathering that the Golden Jubilee celebrations of the Organization, culminated at the Headquarters, in New Delhi, with a one-day "Meeting of Experts on the Emerging Issues on the United Nations Convention on the Law of the Sea" on 24 November 2006. This highly successful meeting, organized by the Secretary-General, pursuant to the mandate received from the Forty-Fifth Session was attended by delegations from 22 Member States and one Permanent Observer – New Zealand, as well as several experts based in New Delhi. Deliberations in the Meeting took place in three substantive sessions: *First*, An overview of the United Nations Convention on the Law of the Sea – Contribution of Asian-African States; *Second*, Preservation and Protection of Marine Environment: Legal Regime and Emerging Issues; and *Third*, Maritime Zones and their Delimitation: The Law and Practice. The panelists for the Meeting were

a unique blend of seasoned practitioners of the law of the sea and eminent academics. The meeting saw some lively discussion between the Panelists and Participants from delegations of several Member States.

Based upon this Meeting, as well as the activities of institutions established under the 1982 UN Convention on the Law of the Sea and deliberations at Informal Consultative Process and the United Nations General Assembly, the Secretariat had identified *inter alia* following issues for focused deliberations: *first*, development of legal principles for the preservation and protection of marine environment in the area beyond national jurisdiction with reference to the principle of sustainable development; *second*, balancing coastal State's efforts to protect marine and coastal environment with the right to passage in straits used for international navigation; *third*, increasing international efforts to meet the challenges posed by continuing transnational organized crime and threats to maritime safety and security; and *fourth*, problem of marine scientific research vis-à-vis freedom of navigation.

The Secretariat would be grateful, if Member States, amongst other things could reflect their opinion on these points also during the course of deliberations on this topic. Thank you Madam President and I thank you all for your kind attention. Thank you.

Statement by Judge Albert Hoffman, Observer of the International Tribunal for the Law of the Sea[1]:

Thank you Madam President. Madam President, Excellencies, Distinguished Delegates, Ladies and Gentlemen, I am highly honoured to address the Asian-African Legal Consultative Organization at its Forty-Sixth Annual Session as a representative of the International Tribunal for the Law of the Sea. As a fellow South African, I am particularly pleased to see you presiding over this Session. And I know under your guidance and wise leadership this meeting would prove to be a huge success.

On behalf of the President of the Tribunal, Dr. Rüdiger Wolfrum, I would like to thank AALCO for inviting the Tribunal to your Session this year as an observer. My colleague, Judge Hugo Caminos, represented the Tribunal at the Forty-Fourth and Forty-Fifth Session of AALCO in Nairobi and New Delhi in 2005 and 2006.

My own association with your Organization goes back to the early 1990s. After South Africa became a democratic State, I attended the Thirty-Fourth Session of the Asian-African Legal Consultative Committee, the AALCC, as it was then known, in April 1995 in Doha, Qatar as the South African observer. This was followed by many meetings/discussions, mostly in New York, between me and the Permanent Observer of AALCO to the United Nations, Amb. Bhagwat Singh, that would prepare the way for South Africa joining AALCO. It was therefore personally gratifying when South Africa finally became a Member State of AALCO in May 2004.

Madam President, the Tribunal values the longstanding relationship with AALCO and follows with great interest the important work you are doing towards the strengthening of the rule of law in international relations. May I just add that, I am also proud to say that no less than 10 of the 21 judges on the Tribunal are from the African and Asian region.

I would like to recall the significant contribution of AALCO to the negotiations at the Third United Nations Conference for the Law of the Sea. I know that the President of the Forty-Fifth Session of AALCO made

[1] The Statement was delivered in the Second General Meeting, held on Tuesday, 3rd July 2007. For the sake of continuity with the agenda item on the "Law of the Sea", it is being reported here.

reference to this yesterday in his Report. The meetings of the AALCO from 1970 to 1982, though conducted outside of UNCLOS III, were acknowledged to have had an important influence on the outcome of UNCLOS III and on the 1982 United Nations Convention on the Law of the Sea.[2]

It is encouraging to note the important role that AALCO and its members continue to play in the various institutions established under the Convention and the commitment you show to dealing with the many challenges confronting Asian and African States with regard to issues concerning the law of the sea. I wish to refer in this regard to the AALCO Meeting of Experts on the Emerging Issues relating to the United Nations Convention on the Law of the Sea, which was held last November in New Delhi. I understand that these issues will be the focus of your discussions at this session.

The 1982 United Nations Convention on the Law of the Sea, generally referred to as the "Constitution for the Oceans" [3] because of its comprehensive scope, governs all aspects of the ocean space, its uses and its resources and includes, among others, such matters as fisheries, archipelagic States, maritime delimitation, regime of islands, protection and preservation of the marine environment, marine scientific research, economic and commercial activities, technology and the settlement of disputes.

The Convention currently has 154 States Parties plus the European Community (of which 40 States are members of AALCO). The number keeps growing and is steadily moving towards achieving the stated goal of universality. There is even some prospect that the United States may soon join the Convention.

As you know, the International Tribunal for the Law of the Sea is a specialized judicial body established by the Convention to play a central role in settling disputes relating to the law of the sea. It is one of four means available under article 287 for the compulsory settlement of disputes. The other means are the International Court of Justice, arbitration under Annex VII or special arbitration under Annex VIII for certain categories of disputes (fisheries, protection and preservation of the marine environment, marine scientific research, or navigation including pollution from vessels and dumping).

There is no hierarchy between these means of dispute settlement. It is up to the parties to choose which dispute settlement procedure they prefer. In article 287, paragraph 1 of the Convention, States and entities, when signing, ratifying or acceding to the Convention, or at any time thereafter, may make declarations specifying the forums for the settlement of disputes which they accept.

Unfortunately, of the 154 States Parties, only 36 States have made declarations under article 287 thus far. Twenty four States have chosen the Tribunal as first choice. Twenty-three States have chosen the ICJ as first, second or third choice. Fifteen States have made declarations in favour of arbitration as first, second or third choice. By default, in the absence of declarations, States are deemed to have chosen arbitration. This means in the majority of cases arbitration will be the compulsory means of settling disputes unless the parties agree otherwise. It should be noted that written declarations in favour of the

---

[2] T Koh and S Jayakumar, "The Negotiating Process of the Third United Nations Conference on the Law of the Sea", in M. H. Nordquist (ed), *United Nations Convention on the Law of the Sea 1982, A Commentary,* vol. 1, (Center for Oceans Law and Policy, University of Virginia, 1985), p. 59.

[3] The phrase "A Constitution for the Oceans" is attributed to Ambassador Tommy Koh in the statements made on 6 and 11 December 1982 at the final session of UNCLOS III, in M. H. Nordquist (ed), *United Nations Convention on the Law of the Sea 1982, A Commentary,* vol. 1, (Center for Oceans Law and Policy, University of Virginia, 1985), p. 11.

Tribunal under article 287 may be made at the time of ratification, accession or at any time thereafter.

I want to emphasize that declarations under article 287 are not the only way to bring a case before the Tribunal. It is always possible for the parties to a dispute to submit a case to the Tribunal on the basis of an agreement. Two cases considered by the Tribunal have been submitted on the basis of an agreement between the parties namely the *M/V Saiga Case* (Saint Vincent and the Grenadines/Guinea) and the *Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean* (Chile/European Community).

Let me now refer you briefly to the jurisdiction of the Tribunal. As you know, the Tribunal has competence to deal with any disputes concerning the interpretation and application of the Convention. The types of disputes which may be submitted to the Tribunal relate to all legal matters concerning the ocean space and its resources, such as fishing, pollution, maritime delimitation, exploration and exploitation of natural resources, navigation, status of ships, detention or arrest of a vessel and its crew, flag and port State control, and scientific research to name a few.

The Tribunal is open to States Parties to the Convention. It is also possible for non-States Parties, such as the International Seabed Authority, a State enterprise or a natural or juridical person, to appear before the Seabed Disputes Chamber of the Tribunal with respect to disputes relating to the exploration and exploitation of the deep seabed area.

The Tribunal may also acquire jurisdiction over disputes arising out of other agreements. Article 21 of the Statute provides that the jurisdiction of the Tribunal comprises all matters provided for in any other agreement that confers jurisdiction on the Tribunal. A number of agreements have been concluded which contain provisions stipulating that disputes arising out of the interpretation or application of these agreements could be submitted to the Tribunal. As an illustration, two such agreements are the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 and the 1995 Implementation Agreement of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. The most recent convention that has adopted the dispute settlement procedure of the Convention is the International Convention on the Removal of Wrecks, 2007.[4] A list of the agreements and the relevant provisions contained therein are published in the Tribunal's Yearbook and made available on the website of the Tribunal.[5] The list does not claim to be exhaustive and is based on information brought to the attention of the Registry of the Tribunal.

I wish to add that the Tribunal is not only competent to deal with contentious proceedings, i.e. cases involving disputes between States. It may also give an advisory opinion on legal questions. Indeed, the Convention provides that the International Seabed Authority may address requests for advisory opinions to the Seabed Disputes Chamber, a chamber consisting of 11 members of the Tribunal.

Requests for advisory opinions may also be submitted to the Tribunal pursuant to article

[4] Adopted 18 May, 2007.

[5] The other agreements in the list include the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas; the Agreement for the Conservation of Fishery Resources in the High Seas of the South-East Pacific; the Convention on the Protection of the Underwater Cultural Heritage; the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean; the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean.

138 of the Rules of the Tribunal, which states that the Tribunal "may give an advisory opinion on a legal question if an international agreement related to the purposes of the Convention specifically provides for the submission to the Tribunal of a request for such an opinion."

In its 10-year existence, the Tribunal has delivered decisions in 13 cases on several issues concerning the law of the sea, including the prompt release of vessels and their crews, protection and preservation of the marine environment, fisheries, the commissioning of a nuclear facility and the movement of radioactive materials, reclamation activities, freedom of navigation, nationality of claims, use of force in law enforcement activities, hot pursuit and the question of the genuine link between a vessel and its flag State.

On the occasion of the Tribunal's tenth-year anniversary, Judge Rosalyn Higgins, the President of the International Court of Justice, stated that "within a decade, the Tribunal has pronounced interesting law, built a reputation for its efficient and speedy management of cases and shown innovative use of information technology."

The General Assembly in its annual resolution on Oceans and the Law of the Sea has also recognized "the continued and significant contribution of the Tribunal to the settlement of disputes by peaceful means in accordance with Part XV of the Convention, and underlines the important role and authority of the Tribunal concerning the interpretation or application of the Convention and the Agreement."[6]

Unless otherwise provided, cases are dealt with by the 21 judges of the Tribunal. Parties to a case may also request that the case be heard by a chamber composed of three or more of the elected judges. They may choose a standing chamber: *Chamber for Marine Environment Disputes; Chamber for Fisheries Disputes; Chamber of Summary Procedure; and Chamber for Maritime Delimitation Disputes.*

They may also request the constitution of an *ad hoc* chamber, in which case the composition of the chamber will be determined by the Tribunal with the approval of the parties. Here, I would like to quote what President Wolfrum has said of the many advantages of *ad hoc* chambers in his Statement before the 61st Session of the General Assembly on 8 March 2006.

> "The system of *ad hoc* special chambers, which was used for the first time by Chile and the European Community, is a flexible mechanism that combines the advantages of a permanent court with those of an arbitral body. The parties have control over the chamber's composition, as they may choose any of the 21 judges who are to sit in the chamber and may also appoint judges *ad hoc* if the chamber does not include a member of the nationality of the parties. Under the Statute, a judgment given by any of the chambers is considered as rendered by the Tribunal. A further advantage is that the parties have at their disposal the Rules of the Tribunal, which allow the case to be processed swiftly. The parties have a certain degree of flexibility in that they may propose modifications or additions to the Rules. Interested delegations will find detailed information on the Tribunal's proceedings and its special chambers in the *Guide to proceedings before the Tribunal.*"

The Tribunal, at its Twenty-Second and Twenty-Third Sessions, dealt with a number of legal matters that have a bearing on its judicial work. One of the issues considered by the Tribunal concerned the competence of the Tribunal in disputes on maritime delimitation. Article 288 of the Convention confers jurisdiction on the Tribunal, as well

[6] Paragraph 24, A/RES/61/222.

as the ICJ or an arbitral tribunal, to deal with any dispute concerning the interpretation or application of the Convention. Therefore, disputes relating to maritime boundaries are considered disputes concerning the interpretation or application of the Convention.

The Tribunal has noted that its jurisdiction over maritime delimitation disputes also include those which involve issues of land or islands. In his Statement before the 61st Session of the General Assembly, President Wolfrum stated that:

> "This approach is in line with the principle of effectiveness and enables the adjudicative body in question to truly fulfill its function. Maritime boundaries cannot be determined in isolation without reference to territory. Moreover, several provisions of the Convention deal with issues of sovereignty and the inter-relation between land and sea. Accordingly, issues of sovereignty or other rights over continental or insular land territory, which are closely linked or ancillary to maritime delimitation, concern the interpretation or application of the Convention and therefore fall within its scope".

The expenses relating to the functioning of the Tribunal are covered by the contributions of the States Parties. Therefore, submitting a case to the Tribunal would not require the payment of court or any administrative fees. The parties to the case have only to bear the expenses relating to counsel and advocates, together with the accommodation expenses during their stay in Hamburg for the hearing.

A trust fund was set up in 2000 in order to assist developing States, which are parties to a case before the Tribunal with respect to expenses. The fund is administered by the United Nations Division on Ocean Affairs and the Law of the Sea (DOALOS). In 2005, the Fund awarded US $20,000 to Guinea-Bissau to defray expenses related in the *Juno Trader Case* (St. Vincent and the Grenadines v. Guinea-Bissau).[7] As of 31 December 2006, the balance of the fund stood at US $85,869.[8]

I would like to inform the Member States of AALCO of the regional workshops on the role of the Tribunal in the settlement of disputes under the Convention. So far, the Tribunal has organized four workshops. The first workshop took place in Dakar, Senegal from 31 October to 2 November 2006. It was attended by representatives of government ministries of 13 Western African States. The second workshop was held in Kingston, Jamaica from 16 to 18 April 2007 and was attended by government representatives of 19 Latin American and Caribbean States.

A joint workshop was also organized by the Gabonese authorities and the Intergovernmental Oceanographic Commission of UNESCO in conjunction with the Meeting of the Advisory Board of Experts on the Law of the Sea (ABELOS) in Libreville on 26 and 27 March 2007. It was attended by representatives of 17 States that participated in the meeting of ABELOS.

The fourth workshop was held in Singapore from 29 to 31 May 2007. The Singapore Workshop was attended by representatives of 17 States from the Northeast, Southeast and South Asia. In his statement at the opening of the Singapore Workshop, Deputy Prime Minister S. Jayakumar encouraged States to turn to the Tribunal in settling disputes related to the law of the sea. Singapore, as you know, was the respondent State in a provisional measures case concerning land reclamation in the Straits of Johore brought by Malaysia to the Tribunal. Singapore and Malaysia subsequently resolved the dispute. Singapore has

[7] Paragraph 55, A/60/63 of 4 March 2005.
[8] Paragraph 358, A/62/66 of 12 March 2007

acknowledged the role played by third-party institutions, including the Tribunal, in resolving the dispute with Malaysia.

I also wish to inform you that the Tribunal recently entered into an agreement with the Nippon Foundation of Japan, to organize a training programme on dispute settlement under the Convention. The programme has been developed to offer young government officials and researchers working in the field of the law of the sea in-depth knowledge of the dispute-settlement mechanisms available to States under Part XV of UNCLOS.

Five participants have been selected to join the 2007-2008 programme which will last for 8 months from July 2007 to March 2008. Lectures, case studies, and training exercises will enable participants to acquire a deeper understanding and practical experience of the dispute-settlement mechanisms under the Convention. Study visits will be made to organizations dealing with law of the sea matters. Lectures will be given on law of the sea issues, such as fisheries, marine environment, climate change, maritime delimitation, and the international seabed area.

I would like to encourage, in particular, AALCO's Center for Research and Training to take note of this training programme and of the deadlines for application. This year's application process has been completed.

In conclusion, I wish to reiterate my gratitude to AALCO for its invitation to the Tribunal to participate as an observer and for granting me the opportunity to address the Organization on matters concerning the Tribunal. On behalf of the Tribunal, I would like to wish you success in your deliberations at this Session. Thank you very much.

President: I now invite the delegates to make their comments. Japan you have the floor.

The Delegate of Japan: Thank you Madam Chairman. My Delegation appreciates greatly the efforts of the Secretariat in preparing an useful document before us on the subject of the law of the sea. As pointed out on numerous occasions, AALCO made significant contribution in the field of codification of the law of the sea over the years. It is therefore most fitting that the question of law of the sea has been taken up as one of the main deliberative items for several years now.

Last November, upon the initiative of AALCO, an important expert meeting was held on the "Emerging Issues of the United Nations Convention on the Law of the Sea", with Japan actively participating by way of sending Prof. Kanehara, competent scholar as a panelist. The meeting proved very fruitful with the stimulating discussions conducted as mentioned in the Secretariat paper.

I wish to refer now to the question of maritime delimitation, which was discussed at the said expert meeting. This question can be said to constitute one of the most important themes in the law of the sea. However, the UN Convention on the Law of the Sea does not provide clearly enough for the methods of delimitation of maritime boundaries between the states. It stipulates that to achieve an equitable solution, the delimitation shall be effected by agreement on the basis of international law. For this reason, it is important to see the methods actually applied in the international judgments over such cases. Over 20 years, the method of delimitation of maritime boundaries between opposite states, the coastlines of which are less than 400 nautical miles apart, has been: *first*, to draw a provisional delimitation line of equidistance between the coast lines of the two states facing each other, and, then, *secondly*, to consider whether there exist any factors which warrant modification of that provisional equidistance delimitation line. This method has been adopted all along in the past international judgments from the

1985 ICJ judgment on *the Case concerning the Continental Shelf Libyan Arab Jamahiriya v. Malta* up to most recent 2006 Award of the Arbitral Tribunal on the Maritime delimitation between Barbados and Trinidad and Tobago. The increasing application of such method of maritime delimitation in actual cases would be significant in bringing about further legal stability and foreseeability in the law of sea and provide guidelines for negotiations over maritime boundaries.

Madam Chairman, it is only natural that in the field of law of the sea, not only on maritime delimitation but also on other issues, differences of views or disputes arise between states from time to time. The UN Convention on the Law of the Sea has provisions for detailed and effective means and procedures for dispute settlement. Their most important feature is that they provide for compulsory judicial procedures for settlement. Japan believes that the rule of law should be further strengthened in the international community as Foreign Minister Aso has been stressing as one of the pillars of foreign policy and the utilization of dispute settlement procedures prepared in UN Convention on the Law of the Sea would certainly serve that purpose. Thank you for your attention.

President: Thank you. China you have the floor.

The Delegate of the People's Republic of China: Thank you Madam. Madam President, Excellencies, Distinguished Delegates, Ladies and Gentlemen, first of all, please allow me to extend my appreciation to Dr. Xu Jie, the Deputy Secretary-General for his introductory statement and to the Secretariat for such a comprehensive report on this topic for our meeting.

Madam President, with the development of science and technology, and further exploration of the oceans by mankind, capability of nations to utilize and protect the oceans is growing, but new issues and challenges are also emerging.

Madam President, the protection of marine environment and marine biodiversity beyond areas of national jurisdiction are focus of attention of the international community. China believes that it is necessary to take comprehensive, science-based approaches, such as "ecosystem approaches", to better manage human activities affecting marine environment and marine ecosystem. We also believe that relevant measures should be agreed upon within the framework of the United Nations Convention on the Law of the Sea and other relevant international conventions, and full consideration should be given to existing regimes governing the use of the high seas and the international seabed. Balance should be reached between conservation and sustainable use of the oceans and seas.

The sustainable development of ocean resources is important for ensuring food security, alleviating poverty, promoting economic growth and preserving social stability in all countries, especially developing countries. For developing countries, development is not merely a question of capacity-building, but also one of the fundamental objectives of the regime of the Law of the Sea and marine order. This should be the starting point of our understanding of the development issue as well as the special interests and needs of developing countries as emphasized in the Preamble to the Convention.

As for the international seabed area and its resources, which are the common heritage of mankind, all States, coastal and landlocked alike, should benefit from it. The Authority is currently developing rules and regulations on seabed mining, which will have a long-term impact on the system of deep seabed mining, including the potential proceeds from such activities. The effective functioning of the Authority calls for efforts of the international community as a whole. China hope that all Member States of the

Authority pay greater attention to it, actively attend its annual sessions and participate fully in its work.

Madam President, the work of the Commission on the Limits of the Continental Shelf is relevant not only to the delimitation by coastal States of the outer limits of the continental shelf beyond 200 nautical miles, but also to the delimitation of the international seabed. Therefore, it is of great significance to explore the resources of the Area as the common heritage of mankind. We have noted the heavy workload and the financial situation of the Commission at present. The international community should work together to ensure continued high-level professionalism and effective functioning of the commission.

Madam President, a major goal that the Convention seeks to achieve is to facilitate marine navigation. The regime established by the Convention for governing the transit passage through straits for international navigation is important for ensuring freedom of navigation at sea and should be complied with by all States. We hope that this regime of the Convention will be preserved. Laws and regulations promulgated by any coastal State to protect marine and coastal environment should be consistent with the Convention and relevant international law, and should not undermine the principle of freedom of navigation at sea.

Cooperation at all levels, global and regional, bilateral and multilateral, is vital to effectively preventing and combating threats to maritime security such as piracy and armed robbery. Asian countries have moved forward in this area. The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia formally entered into force on 4th September 2006. The Information Sharing Center was launched accordingly. Other important examples of international cooperation included the Jakarta and Kuala Lumpur Statements.

Madam President, working together with AALCO Member States and all other States, in the world, China will continue to promote the development of the law of the sea, and advance peace, justice and harmony of mankind. Thank you, Madam President.

President: Iran you have the floor.

The Delegate of the Islamic Republic of Iran: In the Name of God, the Most Compassionate, the Most Merciful.

Madam President, at the first I would like to appreciate Dr. Xu Jie for his introductory statement and the Secretariat for preparing the Report on the Law of the Sea. The Islamic Republic of Iran would like to confirm the consideration of the developments and issues relating to ocean affairs and the law of the sea. One of the main issues in the recent years is the legal regime of "marine genetic resources".

The Islamic Republic of Iran welcomes consideration of "marine genetic resources" in international levels. We would like to emphasize that adequate attention must be paid to the main issues, including socio-economic implications driving from the use of marine genetic resources; dissemination of marine scientific research; transfer of technology; incentives for sustainable use of marine genetic resources; and capacity building needs of the developing countries.

It is considerable to draw distinction between the "marine genetic resources" located within national jurisdiction and the "marine genetic resources" located beyond national jurisdiction. The legal regime applicable to those resources within national jurisdiction is clearly regulated by the United Nations Convention on the Law of the Sea through the recognition of coastal States' rights and prerogatives necessary for the exploration, management and exploitation of the resources.

The resources located beyond national jurisdiction, including the marine genetic

resources, are a part of the "common heritage of mankind". With regards to those activities undertaken beyond national jurisdiction, we would like to stress the conformity of those activities with international law.

Further, in the context of sustainable development, we wish to remind that states whose nationals exploit marine resources are obliged to cooperate in accordance with principles of international law, especially the principle of equal sovereignty of states. It is important and significant to highlight the need for transfer of technology and additional financial resources to facilitate and guarantee the adequate participation of developing countries in processes relating to the Oceans and the Law of the Sea. I Thank you Madam President

President: Thank you. Malaysia.

The Delegate of Malaysia: Thank you Madam President. Madam President, the Honourable Secretary-General, Excellencies and Distinguished Delegates, Ladies and Gentlemen, on behalf of the Malaysian delegation, I would like to take this opportunity to thank the Secretariat of the AALCO for the Secretariat Report on the Law of the Sea. Indeed the said Report provides an excellent and timely opportunity for discussions on the developments undertaken thus far in the area of the Law of the Sea since the entry into force of the United Nations Convention on the Law of the Sea 1982 (UNCLOS) more than a decade ago.

With regard to the development of legal principles for the preservation and protection of marine environment, as mentioned in my General Statement yesterday, it is duly noted that Part XII of the United Nations on the Convention on the Law of the Sea 1982 (UNCLOS) provides the framework for such preservation and protection of marine environment.

For areas beyond the national jurisdiction, as provided, *inter alia*, under Articles 211, 216, 217, 218, 219 and 222 of Part XII of UNCLOS, the preservation and protection of the marine environment are imposed on the flag States. This is in cognizance of the fact that under Article 94(1) of UNCLOS which states clearly, and I quote *"every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag"*.

Madam President, under Part XII, the flag State is bound to take appropriate measures to implement the requirements of international rules and standards for navigation, including those concerned with the design, construction, equipment and manning of vessels as well as to provide for their effective enforcement regardless of where the violation occurred. These international rules and standards include the International Convention for the Prevention of Pollution from Ships, commonly known as MARPOL which was adopted under the auspices of the International Maritime Organization (IMO) in 1973, the Protocol to MARPOL adopted in 1978 and the Convention on the Safety of Life at Sea, 1974, commonly known as SOLAS. It should be noted, however, as provided under Article 236 of UNCLOS, the provisions of Part XII do not apply to any warship, naval auxiliary, other vessels or aircraft owned or operated by a State and used, for the time being, only on government non-commercial service.

In view of the fact that UNCLOS contains only basic, general principles on the protection and preservation of marine environment, the provisions under Part XII of UNCLOS further emphasize the importance of cooperation between States on a global and regional basis be it directly or through the competent international organizations in formulating and elaborating international rules, standards and recommended practices and procedures consistent with UNCLOS. In this regard, Article 237 of UNCLOS also provides that

the provisions of Part XII are without prejudice to the specific obligations assumed by states under special conventions and agreements concluded previously and to agreements which may be concluded in furtherance of the general principles set forth in UNCLOS.

By virtue of the above provisions, the principle of sustainable development has often been considered an important part of the protection and preservation of marine environment. Chapter 17 of Agenda 21, adopted in 1992 at the United Nations Conference on Environment and Development, remains the fundamental programme of action for achieving sustainable development in respect of oceans and seas. A large number of activities at the global, interregional, regional, subregional and national levels are being fostered and implemented by international organizations and national bodies, promoting, for example, safety of navigation, sustainable development of marine resources, conservation and sustainable use of marine and coastal biodiversity, protection and preservation of the marine environment, and better scientific understanding of the oceans and seas, their resources and their interactions with the earth's ecosystem. Sustainable ocean development cannot be implemented without UNCLOS, which provides the necessary jurisdictional framework, the enforcement power and the dispute settlement system.

Chapter 17 of Agenda 21 is entitled *"Protection of oceans, all kind of seas, including enclosed and semi-enclosed seas, and coastal areas and the protection, rational use and development of their living resources"* and sets out program objectives for the sustainable development of the marine environment, including coastal areas, the oceans and the seas. It calls for an integrated approach in the management and sustainable development of these resources and relies on the provisions in UNCLOS to guide this development.

Malaysia adopted Agenda 21 and strongly supports the implementation of the Programme of Action on Chapter 17. Chapter 17 of Agenda 21 fosters the implementation of a large number of activities from the global to national levels by international organizations and national bodies promoting, among others -

- Safety of navigation
- Sustainable development of marine resources
- Conservation and sustainable use of marine and coastal biodiversity
- Protection and preservation of the marine environment
- Better scientific understanding of the oceans and seas, their resources and their interactions with the earth's ecosystem

Paragraph 17.2 of Agenda 21 provides that the implementation by developing countries of the activities specified in the Work Programme under Chapter 17 shall commensurate with their individual technological and financial capacities and priorities in allocating resources for development needs and ultimately depends on the technology transfer and financial resources and made available to them.

Madam President, regional efforts play an important role in the implementation of and compliance to this effect. To this effect, Malaysia also realizes the lack of regional legal instruments regulating the conservation of coastal and marine environment in the ASEAN region. Although several environmental programs, projects and initiatives had been implemented in the region, these are of limited success. Better co-ordination of conservation measures undertaken within the region, which are surrounded by shared seas, such as the South China Sea, would be beneficial to ASEAN. As such, there is a need to protect and preserve the coastal and marine environment via harmonized and collective action in the

form of a legally binding instrument, like a treaty or convention.

Malaysia has taken the initiative to develop a common stand within the ASEAN region to conserve the coastal and marine environment in the form of a binding legal instrument. A study on various international conventions, programmes as well as initiatives were undertaken by a team of the officers of the International Affairs Division of the Attorney General's Chambers of Malaysia in December 2004. After a series of internal discussions, the *Proposal Paper on the ASEAN Agreement on the Conservation of Coastal and Marine Environment* was completed and subsequently an Executive Summary of the Proposal Paper was presented by the Honourable Solicitor General of Malaysia at the ASEAN Senior Law Officials Meeting (ASLOM) which was held from 29 – 30 January 2007 in Siam Reap, Cambodia.

Due to the complexity of the issues arising from the proposal, such as issues of sovereignty, sharing of resources and assessing the readiness and capacity of the ASEAN member countries to undertake and implement the obligations as provided in the proposed ASEAN Agreement, Malaysia had suggested at ASLOM, subject to the availability of time and resources, for a forum to be convened to enable a more comprehensive educative process and exchange of views to take place.

Madam President, the conduct of marine scientific research would further assist the coastal States in their obligation to preserve and protect the marine environment. Marine scientific research is provided under Part XIII of UNCLOS. The most important provisions under Part XIII are those related to marine scientific research in the exclusive economic zone (EEZ) and continental shelf i.e. Articles 246 to 255. Under Article 246(1) of UNCLOS coastal States have the right to regulate, authorize and conduct marine scientific research in their EEZ and continental shelf.

Accordingly, the consent of the coastal States is required before marine scientific research could be conducted in their EEZ. In this respect, even though Article 58 of UNCLOS provides for freedom of navigation in the EEZ of a foreign coastal State, ships are not allowed to engage in activities that are likely to compromise the coastal State's interest relating to marine scientific research.

Such restrictions are due to the fact that marine scientific research is concerned with the physical, chemical, biological, geological and other features of the oceans. As such, the collection and evaluation of data relating to marine scientific research are considered as information concerning resources or marine environment that would inevitably allude to the presence and quality of resources. As a result, the exploitation and exploration of these resources would be inevitable. In this regard, coastal States with less sophisticated scientific knowledge and technology may loose out.

Madam President, by making reference to our earlier General Statement, we wish to add that in addition to Articles 248 and 249 of Part XIII, Article 246(8) went on to provide that marine scientific research shall not unjustifiably interfere with activities undertaken by coastal States. In this regard, Article 253 of Part XIII gives the coastal State the right to suspend or cease a research project if conditions or requirements laid down by the coastal State are not satisfied.

By virtue of Article 253 it would seem that coastal States have the competence to board vessels for purpose of ensuring that the requirements laid down are complied with before suspension or cessation is ordered. Since arrest or detention are not envisaged under Article 253, the coastal State is not entitled to seize any property on board the vessels. So as not to become subject to claims for damages under international law, the coastal State could reserve the right of inspection as a prerequisite for its consent for the marine scientific research to be

conducted. The placement of observers on board the vessel, as permitted under Article 249(1), is another way that a coastal State would be able to counter the problem of claims for damages under international law.

In this regard, UNCLOS provides a framework within which a State could conduct marine scientific research in the EEZ of a foreign coastal State while at the same time the freedom of navigation is preserved.

Madam President, in years ahead, the efforts to cooperate in ensuring the preservation and protection of marine environment would be up to the world community as a whole building upon the principles of international law in particular UNCLOS.

The cooperation with regard to maritime safety and security are usually guided by international instruments such as the United Nations Convention on the Law of the Sea 1982 (UNCLOS) and International Maritime Organization (IMO) conventions.

Madam President, as regards to maritime safety and security, I had stated in my General Statement yesterday on the importance of the ISPS Code. In this respect, even though Malaysia has ratified SOLAS, domestically the law relating to ISPS Code has yet to be in place since the Bill is currently being tabled in Parliament. As such Malaysia has administratively implemented the ISPS Code.

Another initiative being undertaken is the one being led by the United States i.e. the Proliferation Security Initiative (PSI). The PSI establishes a coalition of countries that will impede and stop shipments of weapons of mass destructions and related materials flowing to and from States and non-States actors of proliferation concern. Currently, there are 16 participating countries to the PSI, namely, Australia, Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Singapore, Spain, United Kingdom, United States and Turkey.

Closer to home, the maritime safety and security of the Straits of Malacca and Singapore are the primary concerns of the littoral States bordering these straits. As mentioned in my earlier General Statement, the Straits of Malacca and Singapore are straits used for international navigation. As such Part III of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) is applicable to the Straits of Malacca and Singapore.

Article 38(1) of Part III of UNCLOS provides that, in straits used for international navigation, all ships and aircraft enjoy the right of transit passage. Article 38(2) of Part III of UNCLOS went on to provide that transit passage is the unimpeded exercise of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait.

Article 39(2) further provides that while in transit ships must comply with generally accepted international regulations, procedures and practices for safety at sea and the prevention of pollution. The same goes for aircraft as provided under Article 39(3). With regards to ships, the generally accepted international regulations include the 1972 Convention on the International Regulations for Preventing Collisions at Sea (COLREG), the International Convention for the Prevention of Pollution from Ships (MARPOL) and its Protocol, SOLAS and the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW).

Whereas, as for States bordering the straits, Article 42 of Part III of UNCLOS provides that such States may adopt laws and regulations in respect of, *inter alia*, the safety of navigation and the regulation of maritime traffic; and the prevention, reduction and control of pollution, by giving effect to applicable international regulations

regarding the discharge of oil, oily wastes and other noxious substances in the strait.

Madam President, even though, Part III of UNCLOS does not specifically impose any duty on foreign ships and aircraft engaged in transit passage to obey the national laws of the coastal State bordering the strait, Article 34 of Part III of UNCLOS does provide that the regime of passage through straits used for international navigation established in Part III shall not in other respects affect the legal status of waters forming such straits or the exercise by the States bordering the straits of their sovereignty or jurisdiction over such waters and their air space, bed and subsoil.

To this extent, Article 233 of UNCLOS provides that *"[n]othing in sections 5, 6 and 7 {of Part XII} affects the legal regime of straits used for international navigation. However, if a foreign ship other than those referred to in section 10 [of Part XII] has committed a violation of the laws and regulations referred to in article 42 paragraph 1 (a) and (b), causing or threatening major damage to the marine environment of the straits, the States bordering the straits may take appropriate enforcement measures and if so shall respect mutatis mutandis the provisions of [section 7 of Part XII]"*.

The above provisions duly ensure that the interests of the coastal States bordering the straits in protecting their marine and coastal environment and the right of passage in straits used for international navigation are balanced without imposing unreasonable burden on ships and aircrafts transiting the straits.

Madam President, with regards to the Straits of Malacca and Singapore, Malaysia, together with Indonesia and Singapore held consultations during UNCLOS III in 1982 with delegations of States that were major users of the straits. The outcome of these deliberations was an Interpretative Statement on Article 233 of UNCLOS, officially recorded as UN Doc. A/CONF./62/L/145.[9]

---

[9] Interpretative Statement on Article 233 of UNCLOS, officially recorded as UN Doc. A/CONF./62/L/145 reads as follow:

1. Laws and regulations enacted by States bordering the Straits under article 42, paragraph 1 (a) of the convention, refer to laws and regulations relating to traffic separation schemes, including the determination of under keel clearance for the Straits provided in article 41.

2. Accordingly, a violation of the provision of resolution A.375(X), by the Inter-Governmental Maritime Consultative Organization adopted on 14 November 1977, whereby the vessels referred to therein shall allow for an under keel clearance of at least 3.5 metres during passage through the Straits of Malacca and Singapore, shall be deemed, in view of the peculiar geographic and traffic conditions of the Straits, to be a violation within the meaning of article 233. The States bordering the Straits may take appropriate enforcement measures, as provided for in article 233. Such measures may include preventing a vessel violating the required under keel clearance from proceeding. Such action shall not constitute denying, hampering, impairing or suspending the right of transit passage in breach of articles 42, paragraph 2 or 44 of the draft convention.

3. States bordering the Straits may take appropriate enforcement measures, in accordance with article 233, against vessels violating the laws and regulations referred to in article 42, paragraph 1 (a) and (b) causing or threatening major damage to the marine environment of the Straits.

4. States bordering the Straits, shall, in taking the enforcement measures, observe the provisions on safeguards in Section 7, Part XII of the draft convention.

5. Article 42 and 233 do not affect the rights and obligations of States bordering the Straits regarding appropriate enforcement measures with respect to vessels in the Straits not in transit passage.

To further ensure the safety of the Straits of Malacca and Singapore for international navigation, in 1971 Malaysia, Indonesia and Singapore initiated the establishment of the Tripartite Technical Experts Group (TTEG) Meeting on the Safety of Navigation in the Malacca and Singapore to implement preventive measures against the threat of marine pollution from maritime activities in the Straits of Malacca and Singapore.

The TTEG Meeting on Safety of Navigation comprises technical officials from the three littoral states and its discussions are aimed at enhancing safety of navigation in the Straits. Subjects covered include routing of ships, traffic separation schemes, deep water routes, hydrographic surveys of the Straits, aids to navigation, production of up-to-date navigational charts and verification of wrecks and shoals and their removal or marking as necessary.

The TTEG Meeting on Safety of Navigation has been able to make many achievements over the years. A direct result of this successful partnership was the implementation of the IMO's Traffic Separation Scheme in 1981, following the *Showa Maru* incident, to regulate and enhance overall navigational safety in the Straits as well as the recent development of the Marine Electronic Highway pilot project in 2005 to develop and establish a marine electronic highway system in the Straits of Malacca and Singapore for enhanced maritime services, improved navigational safety, integrated marine environment protection and sustainable development of the coastal and marine resources of the three littoral States of Indonesia, Malaysia and Singapore.

Due to the events of September 11, the TTEG is currently working towards organizing a series of familiarization meetings with major user states and other stakeholders to introduce them to its efforts in maintaining safety in the Straits, as well as on the new safety measures that it hopes to introduce in co-operation with stakeholders.

In this respect, at the IMO Jakarta Meeting held from 7th – 8th September 2005 which was organized in cooperation with the Governments of Indonesia, Malaysia and Singapore, it was agreed that the work of the TTEG on Safety of Navigation in enhancing the safety of navigation and in protecting the marine environment in the Straits, including the efforts of the TTEG in relation to the implementation of article 43 of the United Nations Convention on the Law of the Sea 1982 in the Straits of Malacca and Singapore should continue to be supported and encouraged.

It was further agreed at the IMO Jakarta Meeting that a cooperative mechanism be established by the three littoral States i.e. Malaysia, Indonesia and Singapore to meet on a regular basis with user States, the shipping industry and others with an interest in the safe navigation through the Straits of Malacca and Singapore to discuss issues relating to the safety, security and environmental protection of the Straits of Malacca and Singapore, as well as to facilitate co-operation in keeping the Straits safe and open to navigation, including exploring the possible options for burden sharing.

At the IMO Kuala Lumpur Meeting, which was held from 18th – 20th September 2006,

---

6.Nothing in the above understanding is intended to impair:

(a) the sovereign immunity of ships and the provisions of article 236 as well as the international responsibility of the flag State in accordance with paragraph 5 of article 42;

(b) the duty of the flag State to take appropriate measures to ensure that its ships comply with article 39, without prejudice to the rights of States bordering the Straits under Parts III and XII of the draft convention and the provisions of paragraphs 1, 2, 3 and 4 of this statement."

the proposed co-operative mechanism was further discussed by the three littoral States. The proposed co-operative mechanism was finalized by the three littoral States at the 31st TTEG Meeting which was held in Singapore. With the establishment of the co-operative mechanism a forum for open dialogues and discussions will be formed under the TTEG which will focus on matters pertaining to safety of navigation and environmental protection in the Straits. The forum would allow for the participation of user States and other interested parties with an interest to contribute in the maintenance of safety of navigation and marine environmental protection in the Straits of Malacca and Singapore.

It is hoped that the cooperative mechanism initiated by the littoral States would further enhance the safety of international navigation in the Straits.

Madam President, on the increasing workload of the Commission on the Limits of the Continental Shelf, it is duly noted that at the point of the conception of the Commission it was only estimated that there would be 33 submissions. Now it is projected that at least 65 submissions would be presented to the Commission before the 13th of May 2009 deadline.

The increasing workload of the Commission has been discussed since the 15th session of the Meeting of the States Parties to the United Nations Convention on the Law of the Sea. The increasing workload is further saddled by the constraints of time and funding. In view of the fact that the Commission has an essential role in the process of establishing the outer limits of the continental shelf, increasing the manpower and resources would be necessary to meet the increasing workload. In this respect, the contributions by States to the voluntary trust fund established by the Secretary-General, which finances the participation of members of the Commission from developing States, are welcomed and appreciated. Apart from the above, the establishment of three GIS laboratories equipped with adequate hardware and software by the Secretariat has greatly assisted the Commission in carrying out its work.

Madam President, Malaysia is well aware that a well-prepared submission would further assist the Commission in its work. However, States, especially that of developing States, face insurmountable difficulties in obtaining the necessary data due to limited budget and lack of technical, financial and scientific resources. In view of this many States had completed their desktop studies on their own based on existing data and information which may lack scientific accuracy. This could be disadvantageous to the States concerned since such data and information may be insufficient and incorrect.

In view of the fast approaching deadline for submission, States concerned should cooperate together and consider undertaking joint survey in gathering the necessary data and information.

Such an undertaking would enable States, which have the necessary expertise and resources to take the lead whilst at the same time it would ensure that no State would be left behind in meeting the deadline for the submission.

States concerned should seriously consider such cooperation since Article 76(10) of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) explicitly provides that the provisions relating to the establishment of the outer limits of the continental shelf under Article 76 are without prejudice to the delimitation between States. As such Article 76 is not concerned with the delimitation of overlapping claims between States. In fact Article 76 guarantees the rights of the States concerned in cases where the delimitation of the continental shelf are at issue. Madam President, I am thankful for your kind consideration and listening to me. Thank you.

President: Thank you. Kenya.

The Delegate of the Republic of Kenya: Thank you Madam President. Madam President, most of the Member States of AALCO derive considerable part of their livelihood from the sea and its resources. So far, 155 countries have ratified the United Nations Convention on the Law of the Sea (UNCLOS). Out of the 155 State Parties to UNCLOS, Africa and Asia have 41 and 42 states respectively. This translates to a total of 47.6% of the total percentage of members to UNCLOS. Kenya ratified UNCLOS in 1989.

Under the NEPAD Shared Action Programme Kenya has taken the lead in championing Africa's voice on Ocean and Marine issues at the United Nations.

Madam President, under UNCLOS, States are required to have established their continental shelf ten years after ratification. The deadline was extended to the year 2009 and like most States, Kenya has approximately 22 months to make submission to the Commission on the Limits of the Continental Shelf under UNCLOS. In this regard, Kenya established a Task Force in the year 2005 to delineate the outer continental shelf and to formulate an integrated ocean management policy. The Task Force has already completed preparation of the Desk Top Study and has taken steps to initiate the acquisition of the relevant data required for determining the outer limit of Kenya's continental shelf.

Madam President, the implementation of Article 76 of UNCLOS continues to pose serious financial and technical challenges to the coastal developing States. The circumstances that define whether a coastal State can extend its jurisdiction beyond 200 nautical miles is based on a complex set of rules that involve the analysis of the depth and shape of the seafloor, as well as the thickness of the underlying sediment. Thus the proper implementation of Article 76 requires the collection, assembly, and analysis of a body of relevant hydrographic, geologic, and geophysical data in accordance with the provisions outlined in the Scientific and Technical Guidelines. The complexity, scale and the costs involved in such programmes, though varying from State to State according to the different geographical and geophysical circumstances require enormous amounts of resources.

The provisions in Article 4 of Annex II to the Convention provides for the ten-year time limit for the submission on the extended continental shelf by States. States Parties have made a decision that the deadline be kept under review.

Madam President, it is fundamental to safeguard the rights of developing coastal states over their continental shelves beyond 200 nautical miles. To this end and in view of the difficulties experienced in the preparation of submissions, States Parties should undertake constant review of the ability of States to meet the deadline and make necessary recommendations. These recommendations could include putting in place modalities for acceptance by the Commission on the Limits of the Continental Shelf of late submissions on a "case-by-case" basis or in the alternative a general extension for the developing coastal States be considered.

However, in order not to be time barred, states should expedite the work in this regard. Submission of Desk Top Study is sufficient for stopping the clock with regard to the submission deadline even as states work on the data required.

Madam President, while the important work being carried out by the Commission on the Limits of the Continental Shelf is appreciated, the report of the Chairman of the Commission to the just concluded seventeenth meeting of States Parties to UNCLOS indicates that due to the constantly increasing work load of the

Commission, it requires more resources in terms of time and finances.

The Commission Chairman, Mr. Peter Croker informed the seventeenth meeting of States Parties to UNCLOS that there are about 65 states with extended continental shelves as of 2005, up from 33 in 1978. Africa is the main growth area. In a rush to beat the deadline for submissions, states are making more submissions that are overwhelming the seven-member Commission.

At the current rate the Commission processes only 2 submissions per year since it meets 10 weeks per year. It means processing 65 submissions at the current rate will be finished in the year 2035 which is unacceptable to coastal States that need to exploit the resources in their extended continental shelves. In these circumstances, it will become burdensome for nominating member states to support members of the Commission as required under paragraph 5 Article 2 of Annex II to the Convention. However, due to the impending deadline, submissions from states are queued in the order that they are received.

Madam President, the proposal that members of the Commission receive emoluments and expenses while performing Commission duties concerning the consideration of submissions made by coastal States on the outer limits of their continental shelf should be considered. Such emoluments and expenses may be defrayed through modalities agreed by states including through the regular budget of the United Nations.

Madam President, the need for capacity building and technology transfer for the benefit of developing countries is also important. There is a need for the sharing among all States of knowledge from research programmes, including the availability and maintenance of data, samples and research findings.

The Division of Ocean Affairs and Law of the Sea (DOALOS) and other UN agencies have in the past undertaken training and sensitization campaigns. AALCO should continue working with these organizations on targeted approaches for maximum return.

Madam President, while a Trust Fund was established to assist developing coastal States to comply with the requirements relating to submissions to the Commission, we believe that this objective is not being achieved. This is because, among others, States are required to expend resources first and thereafter seek reimbursement from the Trust Fund. The reason a State would apply to the Fund is because it doesn't have the funds. This therefore defeats the purpose for which the Fund was established.

In order to achieve the objectives of the Trust Fund, there is need to review the Rules of the Fund to make it easier for developing coastal States to access the funds.

Madam President, the most complex and expensive part in the preparation of a submission is the data acquisition, yet this component is not supported under the Trust Fund. We urge the State Parties to explore the possibility of expanding the scope of the Trust Fund to cover this component and to encourage and promote cooperation in data sharing between Member States in the spirit of Article 244 of the Convention.

Madam President, the work of Informal Consultative Process on marine genetic resources is critical in the preservation and protection of marine environment. Due to the usefulness of the informal process the future session should focus on other related topics.

Kenya supports the expanded role of the meeting of the States Parties to UNCLOS. We believe the deliberations of meetings of States Parties should not be limited to budgetary and administrative issues. We find it useful that this being the supreme organ under UNCLOS it should continue to

discuss substantive issues concerning the implementation of the Convention.

Madam President, as indicated earlier, out of the 155 State Parties to UNCLOS, Africa and Asia are 41 and 42 states respectively. This represents 23.8% each for the total percentage of members to UNCLOS. Based on the principle of proportional equitable geographical representation enshrined in the convention, the Asian-African Group are entitled to 5 permanent seats each to the two bodies with an extra one seat rotating between them. Although there was no consensus on the joint Asian African proposal on this item during the just concluded seventeenth meeting of State Parties to UNCLOS, it should be noted that it was agreed that the agenda be in the next meeting of the States Parties. Member States of AALCO should continue pursuing the matter in order to achieve the representation equitable to the membership to UNCLOS. I thank you Madam Chair.

President: Indonesia you have the floor.

The Delegate of the Republic of Indonesia: Madam President, Excellencies, Distinguished Delegates, Ladies and Gentlemen, the 1982 United Nations Convention on the Law of the Sea represents a landmark document providing a universal legal framework for the world's oceans and seas, including the sustainable development of its resources. My delegation is therefore pleased to recognize that the number of state parties to this Convention is significantly increasing. As of 8 November 2006, the total number was 152 states parties. This represents considerable progress towards universality since the entry into force of the Convention on 16 November 1994.

Madam President, despite of the achievements of the Convention, international community has challenges in the governance of ocean affairs such as the issue of maritime security, safety of navigation and marine environment particularly in straits used for international navigation. In responding those issues, allow me to convey our Government's point of view.

Maritime security has always been a significant concern for the Government of Indonesia. However, any attempt to deal with threat to the maritime security should not prejudice international law, in particular the law of the sea. International law provides a strong legal basis for coastal States by virtue of their sovereignty and sovereign rights to take appropriate measures to deal with maritime threat.

In this regard, the Government of Indonesia is of the view that maritime security has to be perceived both from the perspective of traditional and non-traditional issues. Furthermore, maritime security has to cover all integrated aspects of transnational crimes and addresses the issue comprehensively, not only covering one isolated issue but also other related maritime issues, namely safety of navigation and environmental matters.

However, it is of the essence that any attempt to deal with threat to the maritime security should not prejudice international law, in particular the law of the sea. International law provides a strong legal basis for coastal states by virtue of their sovereignty and sovereign rights to take appropriate measures to deal with maritime threat. Furthermore, the Indonesian delegation would like to recommend that the annual formal meeting of the State Parties of the UNCLOS shall be the appropriate forum for the discussion on all aspects related to the implementation of the Convention.

Madam President, before the adoption of the 1982 Convention on the Law of the Sea, the right of navigation through straits which are used for international navigation has been recognized under customary International Law as confirmed by International Court of Justice in 1949 and under international law as stipulated in the 1958 Territorial Sea Convention. Furthermore, the 1982 Convention had established a regime

governing transit passage through straits used for international navigation which differs from the regime governing innocent passage through territorial seas, as set forth in Article 34 concerning legal status of the straits used for international navigation and rights and duties of ships while exercising its right as prescribed in Article 38 and 39 of the Convention. The 1982 Convention has also regulated that states bordering straits might adopt laws and regulations to transit passage through straits as stated in Article 42.

With regard to the mentioned above, Indonesia as one of the States bordering Straits of Malacca, the well known straits in the world used for international navigation, has responsibility under the provisions of the Convention on the Law of the Sea, to enhance the safety of navigation along the strait as well as maritime security and preservation of marine environment.

Moreover, the Indonesian Government has conducted various measures to enhance safety of navigation in the Straits among others by applying IMO standards regarding the Automatic Identification System to avoid further grounding or collision of ships an also increased the number of navigational aids such as lighthouses. Due to the increasing traffic of the ships in the Straits, Indonesia recognizes the need to further enhance the provisions of aids to navigation in order to avoid accidents. In this regard, assistance and contribution of user States in the form of technical assistance and capacity building to enhance these capabilities are welcome.

Madam President, under Article 43 of the 1982 Convention regarding cooperation to promote safety of navigation and environmental protection in the Straits used for international navigation, the Government of Indonesia is cooperating closely with other States, particularly with other states bordering the mentioned strait, to overcome the challenges posed by continuing transnational organized crime and threats to maritime safety and security. It is within this context that under Indonesian proposal, which has been approved by the 93rd Session of the International Maritime Organization Council, to convene an IMO-sponsored conference on the Straits of Malacca and Singapore to consider ways and means not only to enhance security but also safety and environmental protection therein.

The said meeting which was convened by the three coastal States, namely the Government of the Republic of Indonesia, the Government of Malaysia and the Government of the Republic of Singapore, in cooperation with International Maritime Organization, took place in Batam in August 2005, followed by the meeting in Jakarta in September 2005, and Kuala Lumpur in September 2006.

During those meeting which entitled "Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection", the three Governments have reached an agreement, among others, on the principle of "burden sharing" which welcomed the assistance of the user States, relevant international agencies and the shipping community in the area of capacity building, training, and technology transfer, and other forms of assistance in accordance with the 1982 Convention.

Madam President, in relation to the preservation and the management of shared stocks and straddling and highly migratory fish stocks with reference of sustainable development, it is essential that international community continuously encourage for the improvement of the implementation, supervision, and development of the specific conditions for the developing countries. In addition, it is necessary to share obligations and rights between the coastal states and long distance water fishing nations in the implementation of the conservation of shared stocks and straddling and highly migratory fish stocks.

In view of the ecosystem approach in the management and conservation of ocean resources, it should be reaffirmed the importance of giving consideration to the state sovereignty and sovereign rights of coastal States, particularly the developing coastal States as acknowledged by the legal principles of international law and international customary law. It is also important to find mutual understanding among States on the definition of ecosystem approach to avoid different perception on that issue between developed countries and developing countries. This will ensure the balance of interest among States.

On the issue of conservation and management of fisheries, it should be conducted with respect to the provisions of the UN Convention on the Law of the Sea, in particular to the provisions concerning sovereignties and sovereign rights of the coastal States.

Madam President, finally, Indonesia has and will continue to implement the Convention through the adoption of the relevant provisions of the Convention, including their administrative arrangement. Furthermore, Indonesia believes that our discussion on the law of the sea in this forum would lead to fruitful outcomes for the benefit of Asian-African countries. Thank you, Madam President.

President: Egypt you have the floor.

The Delegate of the Arab Republic of Egypt:[10] Thank you Madam President. I would like to reiterate that the Egypt gives much importance to the United Nations Convention on the Law of the Sea, 1982 and the work of the AALCO on this topic. Egypt was among the first countries to accede to this Convention in 1984. Egypt has participated through its experts in the strenuous talk on the Convention on how to use Seabed and Oceans. It has also participated in the long negotiations on the establishment of the International Seabed Authority, comprising Seabed Assembly and Council, since the early nineties. Egypt has also taken part in the work of the Legal Committee, especially regarding the work related to sea-bed mining. Egypt has also participated through its experts in the Commission on the Continental Shelf. I would like to inform that as per the provisions of the Convention Egypt has recently made its submissions before the Commission as regards the delimitation of its Continental Shelf, with Cyprus and Greece. Furthermore, Egypt is expanding its cooperation through Saudi Arabia and Jordan on conducting scientific studies and research in Gulf, in order to get to know the impact of any projects made on maritime environment and the lives of people. Egypt would also like to underline the importance of the work of the Informal Consultative Process on Oceans and the Law of the Sea, particularly as regards the issue of marine genetic resources in areas which fall within the national jurisdictions and high seas in order to preserve the economic rights of the countries of the natural resources and also to restore the environment to its sound and proper condition and food security and for improving the conditions of lives in support of the objectives of development in line with the Millennium Declaration of the United Nations. In conclusion, Egypt would like to underline the importance of the ocean and the law of the sea issues. I thank you Madam President.

President: Thank you. Bangladesh.

The Delegate of Bangladesh: Madam President. Thank you very much. Madam President, due to time constraint I would be very brief and I would touch upon Bangladesh's position on certain issues on this subject. First of all regarding the area beyond the national jurisdiction, which has been declared as the common heritage of mankind. Bangladesh firmly believes that resources in this area should be equitably distributed. All living marine resources

[10] Statement delivered in Arabic. Unofficial translation from the Interpreter's version.

should be protected and the present bio-diversity in this area should be preserved. Bangladesh attaches special attention to the rising temperature of the seawater, which will have devastating effect on many countries like Bangladesh in future. In this respect Bangladesh believes that drastic actions should be taken to reverse the trend of continuous degradation of the environment of this area and the capacity of the developing countries should be strengthened to deal with this challenging problem.

Bangladesh is also concerned at the increasing rate of crime committed in territorial waters and in high sea and feels that proper action should be taken to curb this crime. With this end in view, Bangladesh is an active member of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) which is the first government-to-government agreement to enhance the security of regional waters.

On the issue of the problem of marine scientific research vis-à-vis freedom of navigation, Madam President, Bangladesh feels that AALCO should make useful contribution to study this topic further a marine scientific research is a very important issue for all countries especially developing countries. Thank you Madam President.

President: Thank you. Before we break for Tea, Hon'ble Members once more you are reminded to please submit your statements to the Interpreters, before you present it in the House. The Interpreters have requested us to please assist them in that regard. We now break for tea.

President: Thank you. Republic of Korea, you have the floor.

The Delegate of the Republic of Korea: Madam President, Thank you for giving me the floor. I would like to extend my deepest appreciation to the Secretariat for its excellent preparation for the report on this issue, and to Dr Xu Jie for his introductory remarks.

I also welcome the presence here of the representative of the International Tribunal for the Law of the Sea, who gave us a very informative statement on the activities of the International Tribunal on the Law of the Sea the other day.

Madam President, Distinguished Delegates, let me take this opportunity, very briefly due to time constraint, to share with you a few issues relating to the law of the sea.

First, it appears not necessary to repeat what contribution it was that AALCO has made to the law of the sea. The Government of the Republic of Korea attaches a lot of importance to this issue, and, thus, it hopes that it will remain on the agenda of AALCO for some years to come.

Second, the law of maritime delimitation is not clear enough to guide the State Parties to the LOS Convention, as rightly pointed out earlier today by the distinguished delegate from Japan. It is worth noting that there was a deliberate change in their respective relevant provisions from the 1958 Geneva Convention on Continental Shelf to the Law of the Sea Convention of 1982. Therefore, in spite of some recent developments in the field of maritime boundary delimitation, the Government of the Republic of Korea is of the view that it will take some more time the more elaborate jurisprudence by international courts or tribunals on the law of maritime boundary delimitation to emerge.

Third, the Republic of Korea has been an active and enthusiastic supporter of the International tribunal for the Law of the Sea since its inception. One of the members of the Tribunal is Judge Park, who is the national of the Republic of Korea. I would like to make one more observation with respect to the procedure of international

litigation. I note that there are some provisions of the Statutes of the ICJ and the ITLOS, for example, Art. 36 of the Statute of the ICJ and Art. 21 of the Statute of the ITLOS, which are quite similar in nature. In this regard, I would welcome if the ITLOS could, to the extent possible, strike a balance between "unity in diversity" and "diversity in unity", i.e., the uniform interpretation of, and the unique jurisprudence on, the relevant provisions of the Law of the Sea Convention, which are to some extent rather similar to the relevant provisions of the Statute of the ICJ. Madam President, I thank you for your kind attention.

B. Status and Treatment of Refugees

President: I now give the Secretary-General the floor to introduce the topic on "Status and Treatment of Refugees".

Secretary-General: Thank you Madam President**.** It is indeed my privilege and honour to introduce the item "The Status and Treatment of Refugees" contained in the Secretariat Document AALCO/46/CAPE TOWN SESSION/2007/S3. The problem of refugees both at the global and the regional level has come to dominate the global policy agenda. A major challenge for countries today is the management of complex flows of refugees, asylum seekers, economic migrants and others on the move. The problem lies precisely here that this has to be done in a way that upholds human rights and humanitarian principles.

Ever since this topic was introduced on the agenda of AALCO at the reference of Arab Republic of Egypt, AALCO has had a distinguished record of contribution to the cause of refugees, which include the adoption of the "Principles Concerning the Treatment of Refugees" (The Bangkok Principles) at its 8th Session in 1966, and finally adopted the Revised Bangkok Principles in 2001.

Further study improved upon these principles by adopting two addenda. The first, which contained an elaboration of the 'right to return' of any person who because of foreign domination, external aggression or occupation, has left his habitual place of residence, was adopted at the 11th Session in 1970. As a result of further study, the second addendum was adopted on "Burden sharing principles" which highlighted the growing trend towards finding durable solution to the refugee's problem at its 26th Session held at Bangkok in 1987.

Madam President, it is well known that while the international refugee protection regime is rooted in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, the instruments were not envisaged to cover all the situations wherein refugees might be in need of protection. Though they constitute the pivot around which the protection regime revolves, they do not adequately address or offer a framework for meeting other protection imperatives.

Also critical is the question whether the 1951 Convention is capable of encompassing claims based on economic destitution? This requires the identification of the conceptual and analytical challenges that 'mixed flows' present, in an effort to try to apply that within the matrix of 1951 Convention by a creative interpretation of its provisions. The primary thrust of this year's deliberations would be on these issues and the need to make a distinction (if at all) between the political refugees and the economic migrants. This is sought to be done in the light of the international and regional refugee protection regime.

Madam President, at this juncture I feel immensely pleased to release the special study that AALCO has jointly undertaken with UNHCR entitled, "Statelessness: An Overview from the African, Asian and Middle Eastern Perspective". This study explores the various facets of one of the pressing humanitarian problems of our day, i.e., the problem of statelessness as prevailing in Africa, Asia and the Middle

East. It was necessitated by the fact that this problem is so invisible that even the approximate number of stateless people is unknown. However, what is certain is that stateless people, whether they are refugees or not, face innumerable hardships since they cannot claim the protection of any state. It is to be emphasized here that this study is only the first step in a 'series' of studies to be undertaken by both AALCO and UNHCR jointly, focusing on Africa and Middle East on a case study basis. I sincerely feel that Member States of AALCO would find this study to be an indispensable reference point when they deal with this problem domestically.

Madam President, I am proud to release the study and the Secretariat will distribute one copy to each Delegation. Thank you**.**

President: Hon'ble members before I open the floor for discussion let me inform you to the fact that we are out of time and that I would like to request every member speaking not to exceed ten minutes. However the hard copy of the statement could be given to the Secretariat for the official records. This measure is only to save time. I thank you. Now I invite the Islamic Republic of Iran to make their statement.

The Delegate of the Islamic Republic of Iran: Thank you Madam President. At the outset let me commend the Secretariat for the well-prepared report presented by the Secretary-General, which is an excellent elaboration of the problem of refugees in today's world. I had the privilege to work under his leadership for more than three and a half years. Once again I witnessed his eloquence and diligence in mastering the preparation of this report. Therefore allow me to express the thanks of my Delegation for such an elucidate report given to us.

Madam President, please allow me to refer to some of the substantive shortcomings of the actual refugee problems. The 1951 Convention was prepared after the Second World War, when the European countries were tackling with the problem of refugees. Therefore, this Convention, although it was amended in 1967, nonetheless it is mostly confined to the problems characterized by the European countries.

After decades, particularly after the 1970's and 1980's the world witnessed a different character of the refugee problem that the European countries were facing. Therefore we saw the different international and regional instruments, such as the African Convention, and the Cartagena Declaration. Fortunately, the regional documents have tried to amend and to some extend to expand the scope of the definition of the term "refugee" as given in the 1951 Convention, adapted to the situation of these regions, namely Asia and Africa. One of the main features of the difference lies in the definition of the term "refugee". The definition in the 1951 Convention defines and limits persecution to the individual problem. However, the definition in the African Convention expands it to the situation in the country of origin. The Cartagena Declaration expands it further to cover internal disturbances and the problem of human rights.

Nonetheless, the world has been witnessing another phenomena which is to some extent peculiar to European countries, and which mainly comes from the Asian and African countries, namely the mass influx of displaced persons. These could not be taken in the context of refugee definition, namely fleeing from persecution. Therefore, in my view the problem of displaced persons can be tackled more efficiently by the Asian African Legal Consultative Organization. This could be added in the form of a new Additional Protocol.

Giving an example for well over the past 27 years the Islamic Republic of Iran and Pakistan have generously continued hosting millions of refugees and displaced persons with its limited national resources. Such refugee and displaced population hosting took place in spite of the lack of adequate

international assistance and while the Islamic Republic of Iran was confronted with its own economic challenges. According to the 1951 Convention these could not be considered as refugees, rather they have been seen and considered as economically displaced people, but when we say that Refugee law is based on human rights, then we should tackle this problem, if not, the mass of influx of such persons would not be dealt with adequately.

This is the reason that we are going to propose that some of the articles in the 1951 Convention be amended accordingly. For example, the case of *non-refoulement*, which now has another definition, when some countries particularly European countries, don't allow such influx of refugees, and they let them return, their interpretation is that these are not *non-refoulement* principles contained in this document. However, if the Convention is amended then *non-refoulement* will be accepted and adapted to the new conditions and situations.

Even the voluntary repatriation has not been dealt with in the 1951 Convention. This is one of the programme that my country and Pakistan have taken into consideration with the UNHCR. In order to have voluntary repatriation. After having hosted 3 million refugees in my country, still there are 1 million 94 thousand Afghanis in my country, according to the 1951 Convention they have not been considered as refugees. My country is also hosting 600thousand Iraqi refugees. As I mentioned before, these problems should be tackled in the Additional Protocol. When the former High Commissioner for Refugees took part in a conference in India, I had the honour to represent AALCO at that conference. In that meeting of High Level of Experts I had mentioned that we should have an Additional Protocol in order to rectify the shortcomings of the 1951 Convention.

Madam President, in the conclusion let me make some comments on the Protocol or Additional Protocol or Optional Protocol whenever we deal with it. I do hope that in the next Session the difference and dichotomy between the refugees and displaced persons should be narrowed, in order to face this phenomena, as has been seen in the African Convention concerning Refugees which expands the scope of the definition of the term refugee and also the Latin American Cartagena Declaration. Secondly, we do hope that Convention and the Additional Protocol could be adapted to the new situations in particular in the Asian and African countries. Thirdly, I do believe that as in the academic area there are some new interpretations as the cartel of principles contained in the 1951 Convention as regards the *non-refoulement* principle, we should interpret these principles according to the new realities of the actual world and not to restrict the interpretation as is now taking place.

I apologize for not reading the statement as written before. I am going to submit my statement to the Secretariat as it tackles some more points that have not been said by me. Thank you Madam President.

President: Thank you very much. Tanzania you have the floor.

The Delegate of Tanzania: Hon'ble Madam President and distinguished delegates.

Tanzania is one of Africa's leading refugee receiving country and therefore a key actor in the global refugee regime. Tanzania has provided shelter and protection for refugees from a number of sending neighborhood states that experienced wars and other forms of insecurity. In 1994-2003, for example, Tanzania was providing shelter and protection for over a million refugees at any particular time.

The problem of refugees is a global one. Tanzania believes that the problem of refugees ought to be adequately addressed unless we continue to agonize with the resultant outcome of the needy refugees who

are forced to leave their homes in search of protection. Refugees unfortunately have caused enormous problems in the host countries, Tanzania inclusive. So when we discuss about how best to treat refugees, we should not avoid looking at the negative impacts of refugees in some host States. As we evolve legal principles for the protection of refugees, some of us receiving States have to bear blame for actions or decisions we took in addressing the problem of refugees. For example, the approach to participate in addressing problems in the sending States giving rise to the refugees followed by voluntary repatriation as per the laws of nations have sometimes been perceived as forcible repatriation.

Hon'ble President, in the early 1960's to early 1980's, the government of Tanzania practiced an "Open Door" refugee policy, in that refugees were liberally admitted and were awarded magnanimous social-economic rights. They could only be repatriated to their countries of origin after conditions improved and were conducive for their return. However, in the 1990's, the open door policy could no longer be feasible. Temporary protections were awarded to refugees and were to be voluntarily repatriated as soon as conditions in their countries stabilized. This was necessitated by negative impacts of refugees that escalated in the 1990's. Instead of allowing refugees to stay anywhere in the country, they were to be confined in "safe zones". This move was taken in order to mitigate the negative effects brought by the increased number of refugees. The negative impacts leading to the turn of policy can be summarized as follows:

Firstly, the influx of refugees in the 1990's resulted in the 1990's resulted in the compromise of external and internal security. For example, Tanzania's relation with some of its neighbours was strained. Some of them for example repeatedly accused Tanzania of harboring, training and arming rebels. At first the government responded by asserting its sovereignty and obligation to protect refugees on Tanzanian soil at whatever cost. But, later on this position was reviewed in order to build confidence in international relations and to avoid the possibility of a costly war with its neighbours.

Internal peace and security has been affected by the increase in heinous criminal activities such as murder, armed robbery and the use of arms and ammunition. The impact of these crimes on local populations has been devastating, resulting in internal displacement of host populations, individuals, families, communities and even villages. Agricultural activities and other businesses for the subsistence of our people were disturbed resulting in tension between refugees and the host population.

Secondly, the increased number of refugees brought to bear to our country, pressure on the environment. There has occurred a serious deforestation, devegetation, soil degradation, pollution of water sources and catchment areas, poaching, illegal fishing and overgrazing. Efforts by humanitarian organizations, and the government, to try to mitigate these impacts by implementing environmental education, awareness and conservation programmes, did not bear good results. The areas occupied by refugees have not and may never be the same again.

Thirdly, heavy influx of refugees in the early 1990's had an impact on physical and social infrastructure. This was compounded by the subsequent roll off in international humanitarian agencies. Road bridges, airstrips and school buildings were run-down or destroyed, and social services such as education, health and water were severely strained.

Fourthly, increase in refugee population had an impact on local governance and administration. The administration of refugees' related issues, especially those related to security, consumed up to 50% of local government officials' time and energy and the increase in population and crime has

placed additional pressure on the police and the courts. It is understandable that Tanzania as a member to the 1951 Convention, has an obligation to ensure security of the refugees, but it must also be realized that the pressure resulting from these social disturbances negatively impact on poor economies such as that of Tanzania.

Lastly, there was also impact on socio-economic development and internal security resulting in loss of property, valuables and in some cases life. The cultural norms and values of local people were heavily affected as well. All these matters made Tanzania to reconsider its policies in order to address the problem of refugees in a sustainable manner. The Tanzanian government believes that concerted efforts to find a solution to the refugees' problem should focus on addressing root causes for displacement. That is why Tanzania, is in the forefront in supporting peace efforts in all the major neighbouring sending States of DRC, Burundi and Rwanda.

It is in this background that we strongly support the revision of the 1951 Convention, in the light of the Bangkok Principles in order to establish "safety zones" in the sending States where displaced persons and the people in need of asylum can be resettled. Whereas the 2003 National Refugees Policy of Tanzania allows asylum seekers to be admitted into our country for the first one year, it also provides that within that time efforts must be made to ensure they are taken back home where concerted efforts are made by involving all the concerned parties to restore peace, build confidence and to establish "safety zones" for their resettlement.

This change of policy is done in good faith. Peace efforts, which have proved to be very successful in Rwanda, Burundi and the DRC, are a clear sign of success of prompt peaceful resettlement. There is no justification for the continued stay in a receiving country like Tanzania, of refugees from such states where efforts to resettle them are sustainable. These efforts can also address the challenge brought by illegal immigrants. There are strong rules against illegal immigrants all over the world. So their admissibility to the country should not be viewed in the light of the principle of *non-refoulement* as if such persons are refugees.

It ought to be remembered that had the principle of cost sharing been enforced appropriately in a manner that addresses all the foregoing concerns, a country could not be obliged to undertake a commitment, such as of hosting refugees single handedly, at the expense of its own subjects. Refugees, properly so called, are not allowed to engage in criminal activities that disturb the security of the host population that also create tension among the local population thereby rupturing their relationship with the host population. The increase in incidence of banditry, robbery, rape and widespread use of arms and the presence of illegal arms in refugee hosting areas has resulted in a perceived culture of violence to our peace loving people.

Madam President, we need to reiterate that Tanzania is committed to its obligation under international law to protect refugees and ensure that refugees are accorded all rights and benefits defined under the UN Convention on Refugees, the 1967 Protocol and other regional instruments related to refugees. Tanzania, however, is of the view that the international community should strive to solve the root causes of refugees. Efforts should be made to address conflicts before they escalate into wars and consequently create refugees' crisis. The international community ought to encourage creation of "safety zones" within the country of origin or Sending States that will serve for quick reintegration of refugees to their communities once the root causes of their problems are addressed and mechanisms to resolve disputes must evolve and form an important part of the solution to the problems of refugees. I thank you all for listening.

President: I thank you for the statement. Pakistan.

The Delegate of Pakistan: Madam President thank you for giving me the floor. Owing to time constraint I will be very brief on this topic. The Hon'ble delegate of the Islamic Republic of Iran has already referred to Pakistan and Iran hosting the world's largest refugee population.

However, Madam President, I would like to take the opportunity of thanking the Secretary-General for giving a very lucid report on the item. I also appreciate the work of AALCO that it has undertaken since long.

Madam President, Pakistan is not a party to both the 1951 Convention and the 1967 Protocol of Refugees. However, Pakistan being host to the largest refugee population for over twenty-seven years and has made outstanding contribution towards Afghan refugees.

Madam President, we need International Community's support to Pakistan in the spirit of "burden sharing" as well as the need for International Community's increased and result oriented engagement in Afghanistan for creation of environment conducive to safe and voluntary return of refugees to their country.

Madam President, Pakistan not being a party to both the 1951 Convention and the 1967 Protocol was under no obligation to extend the level of assistance that it has continued to extend to the refugees in hosting the world's largest case load of refugees for over twenty-seven years despite the enormous social, economic and ecological costs.

Madam President, in the end Pakistan strongly supports the importance of economic, political and social rehabilitation of the countries of origin and financial support to the programme and activities of the High Commissioner for Refugees. Thank you Madam President.

President: Thank you. Indonesia you have the floor.

The Delegate of the Republic of Indonesia: Thank You Madam President, Madam President, Excellencies, Distinguished Delegates, Ladies and Gentlemen,

On behalf of the Indonesian Delegations to this session, allow me at the outset to shed some light on our efforts to manage the status and treatment of refugees.

The problem of refugees and stateless person remains one of the central issues that the international community faces today. The two world war and more than 130 armed conflicts have resulted in mass exodus of refugees in various parts of the world.

The risk of refugees' problem was recognized by the UN more than fifty years ago when it adopted convention relating to the status of the refugees (1951) and its protocol (1957). Besides those two international special instruments, which specifically regulated refugees, there are a number of other international instruments related to the problems brought by refugees.

Madam President, Ladies and Gentlemen, in relation to the UN convention on the status of refugees, 1951 and its protocol, 1967, Indonesia is not a contracting party to that convention. However, on the ground of humanitarian aspects, Indonesia applies standards of treatment, which highly respect human rights in dealing with asylum, and status of refugees. Although Indonesia has not ratified the convention, it applies article 31 of the convention, that is, no immigration action taken in relation to the asylum and refugees. And article 33 of the convention recognizes "*non refoulement*" principle, which means refugees and asylum seeker,

cannot be forced to be return to their homeland.

Under Indonesian law, refugees and asylum seekers are principally protected. We are pleased to inform you that Indonesian government has implemented and carried out its obligation to give exceptional policy to the asylum seekers and refugees. Those who wish to seek asylum will not be deported under the immigration law, rather Indonesia will ask advice from the UNHCR to decide their status.

This policy has become a burden to the Indonesian government in providing accommodation and other costs during their living in Indonesia. Most of this burden has been the responsibility of the IOM and UNHCR. Meanwhile, those who are rejected by UNHCR remains to be the responsibility of the Indonesian government. At this point, we think that Indonesia should not take this burden alone. Based on voluntary return, we urge that the country of origin, the transit country, the destination country as well as international organization should work hand in hand with Indonesia to solve the problem.

Madam President, Distinguished Delegates, our delegation would like to inform you that Indonesian government and IOM as well as UNHCR has been working closely to improve the protection of refugees and asylum seekers. This close cooperation focuses on supervision of permanent settlement of refugees or by voluntary repatriation and resettlement to the third country.

Madam President, Ladies and Gentlemen, in conclusion, Indonesia hopes that through good spirit of cooperation, and intensive and wide-range discussion, this Session would result in concrete joint actions to solve the problems of refugees in our regions.

My delegation strongly encourages the AALCO member countries to make an effort through an international cooperation to assist non-signatory of the convention in serving rejected persons of refugee status. It is highly recommended to have an international legal instrument, which provides procedures on determination of the rejected refugees' status. This legal instrument must constitute a legal binding for the all stakeholders; the country of origin, transit country, destination country, UNHCR and IOM to work together to solve the problems. Thank you

President: Thank you. Japan you have the floor.

The Delegate of Japan: Madam President, my delegation wishes to take this opportunity to explain Japan's policy and the contribution it is trying to make on the question of refugees.

Japan has been party to the 1951 Geneva Convention and the 1967 Protocol on the Status of Refugees and has been accepting refugees in accordance with the domestic law entitled " Immigration Control and Refugee Recognition Act. ". The Ministry of Justice has been administering the task of accepting refugees, which adapts the definition of refugees stipulated in that Convention.

The procedures for application for refugees however, have been easened over the years.. For instance, the period in which an application for refugee status used to be 60 days after the entry into the country but now has been extended to six months and, under special circumstances, could be a further longer period in which an applicant can continue a provisional stay.

For the reason of Japan's large population over a small land and its immigration policy the total number of refugees accepted has been small but has been increasing steadily. It now also includes refugees recognized as fitting the definition in the convention but also some who were specially allowed for stay in the country for humanitarian reasons.

I would like to mention that when the outflow of a large number of refugees was caused from the Indochina peninsula in 1970's, Japan actively participated in the international cooperation to accept them. The numbers of Indochina refugees accepted for settlement in Japan totaled more than 11,300 persons during the period from 1978 to 2005 when the program for Indochina refugees came to an end.

Madam President, Japan has been giving its fullest possible support to the work of the Office of United Nations High Commissioner for Refugees. It is known that Ms. Sadako OGATA of Japan, when she served as UNHCR for tenure of ten years, expanded the scope of work of the organization to include assistance for internally displaced persons.

Japan has been one of major (second or third largest) financial contributor in recent years to the UNHCR. I wish to conclude my remarks by informing you that recently Japan took the measure to provide emergency assistance for internally displaced persons in Chad and Central African Republic caused by the Darfur Conflict. More specifically, the Government of Japan, on June 26, decided to extend emergency assistance totaling about 4 million dollars to the Office of UNHCR, UNICEF, and the ICRC with a view to improving the humanitarian situation of the internally displaced persons in the eastern part of Chad and the northeastern part of Central African Republic who have been displaced by the Darfur Conflict in Sudan. Thank you.

President: Thank you. Senegal you have the floor.

The Delegate of Senegal[11]**:** Thank you madam President. I will be very brief. I want to reiterate the fact that the refugee problem is closely linked to the capability of States or parties in a conflict to respect international law. As long as there will be conflicts there will be immigrants and refugees, and of course the parties to these conflicts should respect the rights of refugees. Now I have in mind some incidents that took place in some parts in Bosnia and Herzegovina and more recently some incidents in Darfur where it is imperative to consider that one of the parties does not respect the rights of refugees under international law. These violators should be punished for such acts and should not find safe havens this is the responsibility that the international community should take upon itself. Thank you.

President: South Africa you may have the floor.

The Delegate of the Republic of South Africa: Madam President, Excellencies, Distinguished Delegates, Ladies and Gentlemen, may I also join those who have congratulated the Secretary General with a very thoughtful and insightful input on the topic under discussion. There was a period a while back when many South Africans knew from first hand experience what it meant to be far away from home because of the political and humanitarian situation in their own country. Many were exiles or refugees, people for whom the absence from home was not voluntary. It was a painful experience, as much as we were inspired by the vision that we would one day be home again, in a free and democratic South Africa ruled by a Constitution promising equality and dignity to all. It is these experiences of ours as exiles and refugees, which provides us with a reason to speak on the important issue of the status and treatment of refugees.

Madam President, South Africa is a signatory to the international legal framework on refugee protection, such as the 1951 UN Convention Relating to the Status of Refugees, and the 1967 Protocol thereto, as well as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. These have been further translated and find expression

[11] Statement delivered in French. Unofficial translation from intepreter's version.

in our domestic legislation through the Refugees Act of 1998. At the end of 2006, South Africa hosted approximately 2,65, 680 asylum seekers and about 36, 471 recognized refugees.

The above legal instruments provide a solid foundation for the protection of refugees and asylum seekers in our country. Moreover, the South African Constitution, clearly states in the Preamble that "South African belongs to all who live in it, united in our diversity". This profound pronouncement is based on the common humane principle that all of us are human beings of equal value, irrespective of our backgrounds and diversity. It is exactly the same principle that teaches us that refugees and asylum seekers are no less human than we are but that they share the same human values as citizens of this country.

It is important for governments across the world to re-affirm the values upon which international agreements of refugee protection are based. It is also an appropriate time for all sectors of our society to reflect on their role; to examine, form and strengthen partnerships on how best to find lasting solutions to the challenges faced by refugees.

Madam President, in South Africa these challenges relate mainly to access to refugee documentation that enables self-reliance and access to socio-economic services, mainly health and education. In addition to these issues, refugees are also subject to particular hardships such as family separation, exploitation, violence and generalized discrimination. The Department of Home Affairs in South Africa, has established a Directorate dealing specifically with refugee matters whose activities are informed by the fact that whilst in the country, refugees need to rebuild their lives and empower themselves.

Madam President, South Africa finds herself home to a diverse population of both legal and illegal immigrants. This phenomenon poses a very serious challenge if we are to ensure an efficient and effective immigration system. The major challenge in our context has been the abuse of our refugee system by those who seek to legalize their stay in the country even though they fall outside the definition of a refugee. Such people apply for refugee status although they may not have left their countries as victims of political or ethnic persecution. Many people who come to South Africa do so as economic migrants. They are not refugees under South African law, and they would not be recognized as refugees in other countries either. The belief that refugees status is an easy way to obtaining permission to stay in the country is clogging our refugee processing systems and is a major factor in creating the backlogs we are currently experiencing.

Madam President, South Africa is aware of the tensions that some communities have experienced in relation to the presence of foreigners, particularly of those who are indeed refugees. It is particularly in this context that as a country we intend to embark on a process of integrating refugees into the local communities.

Madam President, South Africa also places much emphasis on building the United Nations, the African Union, and SADC, which are at the heart of the international multilateral system for us. This is because our own experience during the days of the struggle against apartheid was that the international multilateral institutions have a very important moral voice in the world, most often standing on the side of the oppressed, dispossessed and the vulnerable.

And it is because we understand that without the multilateral organizations we will never achieve the development, the economic growth, the stability and the democratic dispensation, which Africa needs, to stop producing refugees. Last month, Chairperson, South Africa welcomed President Kabila of the Congo on a state visit. He is the duly elected head of state of a

country which just a few short years ago was stuck in a bloody war which killed hundreds of thousands and displaced many more. It was a war, which has produced huge numbers of refugees, many of who found their way to South Africa.

Madam President, by putting our best efforts into supporting the peace process and the elections in the Democratic Republic of Congo (DRC) under the auspices of the AU and the UN, South Africa with others, have contributed to stability and the chance for democracy and economic growth in the DRC. The DRC is now in a position to welcome its people back home.

When South Africa deploys its National Defense Force or sends its diplomats or senior politicians to other African countries, this is done in the interests of stability and peace. We are convinced that stability and peace are the minimum requirements for ensuring that our continent steers away from conflicts, which force people to flee their homes and the countries of their birth.

Finally, Madam President, South Africa is proud of the contribution it is making towards the resolution of conflicts on our continent. We are proud of the contribution we are making as members of the African Union and of SADC. We are proud of the role we are currently playing as members of the UN Security Council. We have a track record of absorbing and supporting those who come to us having fled from persecution. We intend to keep doing so. I thank you.

The Delegate of the Republic of Korea: Madam President, Distinguished delegates, Ladies and Gentlemen, first I would like to thank our Secretary- General and Secretariat for the excellent publication on this issue.

In recent years there have been positive developments in some regions in terms of the repatriation and resettlement of refugees. Nonetheless, the issues surrounding refugees and internally displaced persons (IDPs) in many other parts of the world still pose formidable challenges to the refugee protection system. These issues include the impact of rising intolerance and certain aspects of policies regarding terrorism, human trafficking and migration.

Finding a lasting solution to the plight of refugees remains a difficult task for all of us. I am pleased to observe that the UNHCR, given its effective organization, carefully planned strategies and expertise, is actively addressing the pressing refugee needs around the world. From our side, AALCO Member States, which are State Parties to the 1951 United Nations Convention on the Status of Refugees and its 1967 Protocol, should strive to comply with the obligations there under. I would like to reaffirm my government's commitments to seeking lasting solutions to refugee issues around the world. I also hope that at this Session of AALCO we will strengthen our commitment to fulfilling our respective responsibilities. Thank you for your kind attention.

President: Thank you. Egypt you have the floor.

The Delegate of the Arab Republic of Egypt[12]: Thank you Madam Chair. The time is very short and I want to be very brief in giving the Egypt's Statement. Madam President, on the issue of refugees, Egypt is of the considered opinion that, it is a problem that is of concern, not only to the specific country concerned, but also to the entire international community as a whole. Hence, we should have international solidarity in confronting this problem either in receiving and sheltering them or in assisting the countries who are bearing big burden in receiving the refugees in their land.

Egypt is of the opinion that, the Geneva Convention of 1951 and its 1967 Protocol needs to be reconsidered with regard to the

[12] The statement delivered in Arabic. Unofficial translation from the interpreters version.

definition of refugee and concerning the scope of jurisdiction of the UN High Commissioner for Refugees, in order to enhance the concept of refugee. The definition of 'refugee' contained in the Geneva Convention of 1951 takes into account one definitional criteria, namely, "fleeing from persecution either for political, ethnical or religious reasons etc.. Hence, the 1951 Convention does not deal with many other causes that trigger refugee flows which include, the civil wars, military conflicts, the imperialism and the deportation of citizens from their lands and depriving them from their right of repatriation to the countries.

It is pertinent here to state that, the Convention of OAU 1969 is much wider in its scope and more realistic than the 1951 Convention, since it includes in the definition of refugee, persons who are victims of armed conflict. It is also important to point out that the OAU 1969 Convention explicitly provides for voluntary repatriation as a right to refugees who are deported from their countries. Also Egypt is of the opinion that we should discriminate between the refugee and the economic immigrants at once to elevate the standard of living. We should exclude the perpetrators of terrorism and crimes against humanity and crimes of corruption from the definition of refugee and hence, we hold the necessity of convening an International Conference to formulate a definition of refugee to be agreed upon. This is essential because until today, we do not have a single, comprehensive definition for the term refugee encompassing all the situations that trigger refugee flows. Though a definition is found in the 1951 Geneva Convention that has been amended by way of the 1967 Protocol and also in the OAU Convention as well as the Bangkok Principles adopted by AALCO, it is necessary to reformulate it in the light of the current developments that have taken place in the recent era. In order to tackle these issues that sometimes threaten international peace and security, and to find solutions for them, we are going to have an International Conference convened to that effect. That said, the Conference would study the main causes of the refugee problem and also try to evolve a comprehensive definition for the term refugee so as to protect them in all possible situations. Also, Egypt feels the need to have an international fund, which could be placed at the disposal of those countries that receive a large number of refugees wanting to confront the problem of refugees effectively. The need to share the responsibility in this regard is extremely important. I thank you very much.

President: Thank you. Malaysia you have the floor.

The Delegate of Malaysia: Thank you Madam President. Distinguished Delegates, Ladies and Gentlemen, Malaysia had always been a transit or destination country when it comes to refugees. One can only maintain the burden on a developing economy like Malaysia. The impact is political, cultural and economic among other things. Malaysia does not deny the presence of its administrative problems too.

Madam President, Malaysia will not waste your precious time, but will only put up a written response to the joint publication of AALCO and UNHCR entitled "Statelessness: An overview from the African, Asian and Middle East Perspective", which was released now. I would however like to take note of the voluminous materials and parties cited in that Study. They seem to be based on a Malaysian internet newspaper MalaysiaKini, an internet newspaper and Tenaganita, an NGO, apart from a few other sources. There are numerous other newspapers and NGOs both programmes which were never cited.

I wish to state with reference to Page 25 Para 2 of the Study which reads thus;
"…. a problem that is acute among the first two categories of people causing them to be potentially Stateless is the non-registration of birth. In April 1999 a national legislation department official in *Sabah* stated that over

two million people living in Sabah did not have any birth certificate".

Madam President, unfortunately, I have to recollect to you that I have a birth certificate and I am born and bred in *Sabah*. There are hardly any two million people in my State. It is very strange for me to note that the report talks about two million people not having birth certificates, because obviously, I would rank among one of them. Madam President I can assure you that I do have a birth certificate.

But I also quote the qualifier made in this paper and I quote from page 2;

"Case Studies in this are publication represent the views of independent experts and not to be construed as the position of AALCO or UNHCR. These analysis are intended to shed light on these complex problems and to generate discussions".

Madam President, this now demands me to state that AALCO should be wary, the Secretariat should be wary, while taking views simply from anywhere. AALCO should always remain as a purely legal Organization, interested in nothing else but truth and justice. Definitely, in any case, it cannot and should not be used as a political Organization for the furtherance of whatever agendas. Thank you very much Madam President.

President: Thank you. Bangladesh, you have the floor.

The Delegate of Bangladesh: Madam President, the subject that we are discussing today is of great importance to all of us. Refugees are often victims of gross human rights violation. The UNHCR recently announced that the number of refugees in the world has increased for the 1st time since 2002 largely as a result of the crisis in Iraq. The number of refugees under that Agency's mandate rose last year by 14% almost 10 million, needless to say Madam President this concerns all of us. Protection of refugees simply defined is a responsibility to safeguard the most basic of rights to the people not least the right to life, dignity and the preservation of family. Protection is also about ensuring an enabling environment so that refugees can enjoy these and other rights. Also about bringing about durable solution to the refugee problems. It is however important not to over-compartmentalize the refugee problem issue. Refugees are also human beings and they are entitled to all the fundamental human rights.

Madam President, Bangladesh takes a very holistic both human rights and humanitarian based approach, to the issue of refugee protection. It is also important to remember that many of the world's refugees currently find themselves trapped in deteriorating circumstances, more dangerous and difficult than those which they experienced 5 or 10 years ago. Security has become more tenuous and levels of assistance have declined. Providing security and long-term solutions to such refugees is a humanitarian imperative. At the same time Madam President, Bangladesh believes that it is not easy to solve the refugee problem without full cooperation of all concerned.

Madam President, although Bangladesh is not a party to the Geneva Convention Relating to the Status of Refugees 1951 and to its Optional Protocol but we have remained committed to the principle of international protection of refugees. This reflects our broader commitment to the protection of all human rights and the respect for international humanitarian laws. We have as you perhaps know Madam President, provided shelter and protection to the Myanmar refugees for nearly 3 decades. Bangladesh, in the spirit of upholding human rights and international humanitarian laws never pursued forced repatriation of the refugees.

Madam President, in this regard I think the international community needs to approach the refugee issue in the context of broader

development agenda. After all prevention is better than cure. We must address the root causes of conflict, which often stems from economic reasons, both within a country and regionally. We will also have to find ways and means for a more egalitarian growth. There should be renewed efforts and more resources committed to reduce poverty and prevent a rise in income in equality among States. In this regard the challenge before us is to ensure a pro-poor globalization.

Madam President, as you perhaps also aware Bangladesh is the current Chair of the Asia-Pacific Consultation on Refugees, Displaced Persons and Migrants. Since 1996 APC has been a very effective regional forum to discuss the issues of migration and refugees. It recognizes the inter connected nature of displacement refugee issue and migration. APC will be holding its Plenary Session in Bangladesh later this year and we hope that this will provide all of us an opportunity to further deliberate and find optimal solutions to their challenges. Thank you Madam President.

President: UNHCR, you have the floor.

Mr. Abel Mbilinyi, UNHCR Deputy Regional Representative as Observer Delegate: Thank you very much Madam President for giving the UNHCR an opportunity to speak.

Excited being for the first time, it is not too late to congratulate you on your being elected as the President of this Forty-Sixth Session. That said, I would also take note of various interventions by States including Malaysia. I am happy to note that the Delegate is not a Stateless person. I have also taken note of various discussions and suggestions on the shortcomings of the 1951 UN Convention on Refugees. I would like to remind States that during the 50th Anniversary of the 1951 Convention the main question was whether to revise the Convention was raised by some States and it was agreed generally by State Parties that for the time being they did not see the need to do so. However, if AALCO would like to make this proposal formally I think it is a welcome idea. It could be a very good opportunity to review refugee issues in the context of what is happening now. As the delegate of Bangladesh pointed out, last month UNHCR released the Statistics of Refugees for the year 2006. One of the major producers of refugees in 2006 was certainly Iraq with about 1.2 million people, half of them are in Iran as the delegate from Iran has pointed out and part of them are in Syria and the rest of them are in neighbouring States and added to that there are 2 million internally displaced persons in Iraq. In Africa also there has been some increase in refugees in many Countries.

However, as we all know that many of the AALCO Member States are hosting large numbers of refugees in Africa I think Tanzania is one of them which spoke today. And increasingly the protection of refugees is becoming quite complex issue now. In terms of AALCO Member States we heard from Japan. On behalf of UNHCR, to thank the generous donations that AALCO Member States have been providing to UNHCR. The UNHCR last year also published some guidelines related to asylum seekers who opt to travel by Sea and these guidelines and principles which are more applicable to ship masters are available to AALCO Members as well.

The UNHCR is also engaged with more UN Agencies, NGOs and governments on issues of human trafficking. More specifically we are concerned about trafficking of women and children and particularly the specific cases of children who are sold by their own parents to traffickers. As more and more refugees are caught up in mixed migration flows the issues of identification documentations are also becoming more complex. I think the government of South Africa has given us an example. But it is also the same problem for the governments in North of Africa and elsewhere in the Middle East. However we are also concerned as UNHCR that in the context of

these complex migratory movements, the asylum space is becoming narrower as governments continue to apply more stringent immigration rules and also provide a very wide interpretation of exclusion clauses under the 1951 Refugee Convention.

Madam President, UNHCR has been associated with the work of AALCO for many years and we value the contribution of Member States not only to hosting the refugees and protecting and assisting them but also for advocacy work that is being done. We are also very proud to be associated with the study and of course we will be very much interested in the feedbacks such as the one pointed out by Malaysia on not how the report is but how important the issue is to many countries in Africa. We understand that a Stateless person is normally a person who is not recognized as a citizen of any State by the operation of any law. As such Stateless people normally do not enjoy any rights of the citizens or any diplomatic protection. Potentially Stateless persons are undocumented, unrecognized a lot although they like among us and they are people with rights and deserve their protection.

Increasingly we note that many States are interested in the issue of Statelessness and I am encouraged to see from Member States that the main issue is to look at the root causes of refugees and also I would encourage the States to look more closely on incidents which can lead to Statelessness. In terms of the Publication, which we jointly issued, with AALCO we know that copies are not enough. However this document would be available on the website and that also we can reproduce them on request.

Madam President, let me end this short intervention by thanking again all governments here present that host refugees to make the life of refugees and Stateless persons dignified and meaningful. Let me reiterate that UNHCR is ready to work with governments, NGOs and of course our partner UN Agencies to achieve the maximum protection for refugees, internally displaced persons and stateless persons. Madam President, I thank you very much.

Secretary-General: Thank you Madam President. I just want to take the floor to apologize to His Excellency, the Head of Delegation of Malaysia. I would like to just explain that this document AALCO received it here with you at the same time by the representative of UNHCR in South Africa. So we did not even have time to read it or to review it. So I am sorry for the matters found in page 25 and as soon as we go back to Delhi we will scrutinize it with UNHCR representative at New Delhi and we will make sure that a corrigendum will be sent to all the Member States. Moreover in my, statement I said, this is only a first step towards a series of studies that took a long time and it will be verified and enhanced very meticulously. Thank you.

Madam President: Senegal, you have the floor.

The Delegate of Senegal[13]: Thank you Madam President. It is understandable that this is not an official document of AALCO. Yes, it is an official document of AALCO if there were some mistakes in the text we will correct them and send it to you and still that you have told us that after the remarks made by the Head of Delegation of Malaysia that this we have just received this document and it seems that this document does not take into consideration the view point of the Secretariat. Yes this text takes into consideration the viewpoints of the Secretariat please allow me to continue.

This text, unless it would reflect the point of view of the Secretariat cannot be set forth to the meeting because it expresses the view point of the Secretariat and all that has been said by Malaysia for example and may be many Countries who would have made their remarks on this document but what has been

[13] Statement delivered in French. Unofficial translation from the interpreter's version.

said by Malaysia should be withdrawn from the text. Please let me know exactly what I do not know your stand vis-à-vis this matter Mr. Secretary-General and I want you to make an explanation to that.

Secretary-General: Your Excellency, I said that we have just received from the UNHCR, this document here we did not have time to review it but this study was done with the cooperation of UNHCR and AALCO. In the second page it is written very clearly that this study represents the views of independent experts and are not to be construed as the position of UNHCR and AALCO. This analysis is intended to shed light on this complex problem and to generate discussion towards solutions. We would like to have the time to go through it as AALCO, because we have just received from UNHCR after publication and if there are any mistakes and if any Country has any comment, please do send it to the Secretariat and we will do accordingly send a corrigendum to all the Member States, about all the comments which we have found or which came to us from Member States. Thank you.

Madam President: Thank you.

The Meeting was thereafter adjourned