

**SUMMARY RECORD OF THE
FOURTH GENERAL MEETING
(CONTD.) HELD ON FRIDAY
7TH APRIL 2006, AT 10:00 AM**

**H. E. Mr. Narinder Singh President of the
Forty-Fifth Session in the Chair.**

**A. Report on the work of the
International Law Commission at its
Fifty-seventh Session (Contd.)**

1. **Amb. Chusei Yamada**, Member of the ILC and Special Rapporteur on the topic of Shared Natural Resources briefly spoke on the work of the ILC on Transboundary Groundwaters. He informed that they had formulated a set of 22 draft articles to be submitted to the UN General Assembly. He requested the Delegations to send their comments, which would enable him to reflect the positions of AALCO Member States.

2. **The Delegate of the People's Republic of China**, on the topic of Diplomatic Protection, appreciated the outstanding work of the Special Rapporteur and shared the view that "clean hands doctrine" should be excluded from the articles for diplomatic protection. The Delegate was pleased to see that the draft articles adopted by the first reading reflected, in substance, the customary rules of international law on diplomatic protection. He hoped that the ILC would continue its effort to improve the draft articles and the commentaries, taking into account comments from States, so that the second reading on this topic could be completed on schedule.

3. On the topic of Unilateral Acts of States, he said that they believed that it would be helpful if the Commission could take stock of its studies over the last decade to draw a preliminary and generalized conclusion and sum up what had been agreed within the Commission. At the same time, he supported the Commission to

identify some basic principles governing Unilateral Acts of States, as these principles would serve as valuable reference for state actors.

4. On the topic of Fragmentation of International Law, he appreciated the initial but delightful results achieved by the Study Group on this topic. The study of fragmentation of international law would facilitate an international consensus on the issue, further establish the primary status of the basic principles of international law, standardize international practice, and thereby help realize the objective of promoting rule of law throughout the international community. He said they looked forward to the final report by the Study Group this year.

5. On the topic of Effects of Armed Conflicts on Treaties, he said that the study under this topic should also cover treaties entered into by international organizations; the scope of "armed conflicts" in the draft articles should be strictly confined to international armed conflicts; and further in-depth study was needed on the issue of the legality of the use of force, as it did have a bearing on treaty relations.

6. On the topic of Expulsion of Aliens, he said that the focus of the study should be on how to strike a balance between the right of a state to expel aliens and the human rights of those expelled aliens.

7. On the topic of Shared Natural Resources, the Delegate said that they agree with the special Rapporteur that, though the topic entitled "Shared Natural Resources" might include groundwaters, oil and natural gas, it was more appropriate to begin with the consideration of groundwaters. He believed that the scope of the present draft articles was acceptable. He also supported the approach taken by the Special Rapporteur for a framework instrument. The draft articles should be aimed at formulating basic principles, and leave the specific rules

to the bilateral and regional arrangements, as transboundary aquifers in the world differ from one case to another. He expected that the Commission could finish the first reading of the draft articles within the current term of its membership.

8. The Delegate noted that there would be election of all the 34 members of the International Law Commission during the forthcoming session of General Assembly. He informed the Delegations that the Chinese Government had nominated Ambassador Xue Hanqin, current member of the International Law Commission for re-election. He said that his government would be very grateful if all governments lend valuable support to Ambassador Xue's Candidature.

9. **The Delegate of Islamic Republic of Iran**, on the topic of Effects of Armed Conflicts on Treaties, appreciated the Special Rapporteur's basic approach in presenting a set of draft articles to clarify the legal position and to promote the security of treaty and legal relations between States. He also took note of the observation by the Special Rapporteur, in paragraph 115 of his report, that the draft articles were intended to be compatible with the Vienna Convention on the Law of Treaties. He said that in their view, this subject was not limited to the law of treaties and had close relationship with other domains of international law; *inter alia*, international humanitarian law, particularly law of self-defense and State responsibility. He hoped the special Rapporteur would look appropriately into this intertwined relationship in his next report.

10. While commenting on specific issues, the Delegate said that draft article 2, sub paragraph (b) defined the term "armed conflict" and by referring simply to "a conflict" rather than "international conflict", the Special Rapporteur had broadened the scope of the term "armed conflict" so that the internal armed conflicts would also be included. However, internal armed conflicts

should not have any effect on treaties concluded between States. In case a State failed to meet its commitments in accordance with its treaty obligations, such failure should be dealt with under the law of State responsibility. Moreover in internal armed conflict situation, the impossibility of performance by a State, in accordance with its treaty obligations towards the third State(s), should be duly taken into consideration. This case was, evidently, one of the circumstances precluding wrongfulness of the State responsibility and, accordingly, should be discussed in the realm of the State responsibility. Furthermore, a broad definition of "armed conflict" was much more likely to jeopardize the contractual relations and was incompatible with the purpose of the Special Rapporteur in developing and strengthening the security of the treaty relations between and among States.

11. Draft article 4, subparagraph 2(b), adduced the "nature and extent of the armed conflict" as a *sine qua non* element in determining the intention of the parties to a treaty. The Delegate said that this would lead to a question whether the Commission could accept that the nature and the extent of an armed conflict should determine the intention of the parties to a treaty which existed at the time the treaty had been concluded and thus predated the conflict.

12. With regard to draft article 6, the Delegate supported the Special Rapporteur's conclusion, in paragraph 61 of his report that "the supposition that a treaty forming an element in a dispute is a nullity, simply because it forms part of the *causes* of an armed conflict, is unacceptable." He also concurred with the conclusion in the Commission that "it was unreasonable to presume that a treaty which served as the basis of an armed conflict, and, which later was the subject of some process in accordance with law, should be assumed to be annulled"

13. In the draft article 7 subparagraph 2, the Special Rapporteur designated a set of categories of treaties whose object and purpose involved the necessary implication that they continued in operation during an armed conflict. In subparagraph 2(b) simply the general title of the "treaties declaring, creating, or regulating permanent rights or a permanent regime or Status" has been presented. Although in paragraph 69 of his report, the Special Rapporteur suggested a categorical list of the treaties which were under the realm of the draft article 7 subparagraph 2(b), considering the high significance of "the treaties creating or modifying boundaries" and their essential role in the stability of international relations. The Delegate believed that these treaties must be stipulated precisely in the draft articles.

14. With respect to draft article 10, it was quite clear and beyond question that the State, which exercised the right of self-defense, could not be placed on the same footing as the State that committed an act of aggression. According to the State practice, an act of aggression, which was an unlawful act, could not produce legal effects. To give an aggressor State the right to suspend or terminate certain treaties would be to encourage it in an unlawful act. The draft articles on State responsibility had aimed precisely at doing everything possible to put an end to wrongful acts. Therefore, the draft article 10 was not appropriately drafted, as it would assist a State in perpetrating a wrongful act. This would certainly be contrary to general international law. He said that his delegation could not approve the elaboration of any list that might encourage an aggressor to pursue its aggressive purposes. It was quite logical, however, that the victim State should be assisted in exercising its inherent right of self-defense including by suspending or terminating, as appropriate, certain treaties which were incompatible with or might, in any way, impede the exercising of that right.

15. As regards the topic 'Expulsion of

Aliens', the Delegate shared the observation made by the Special Rapporteur that the expulsion of aliens was an old question closely linked to the organization of human societies in the form of States. He also concurred that it remained of current interest and raised important questions of international law. He believed that the decision to expel aliens was a sovereign right of State. However, the state should exercise this right in accordance with established rules and principles of international law, particularly fundamental principles of human rights. Any expulsion should be based on legitimate grounds, as defined in domestic law, taking into account issues such as public order and security or other essential national interests. Nevertheless, the grounds should not be contrary to international law. He agreed with the Special Rapporteur that collective expulsion was contrary to human rights and prohibited under international law and should not be resorted to.

16. With regard to the concepts and definition of 'expulsion' and 'aliens' he appreciated and supported the efforts of the special Rapporteur to make a clear-cut definition of both concepts in order to avoid any conceptual misunderstanding and confusion with similar concepts and terms. It should be noted that most of the seemingly similar or interwoven concepts/terms such as refugees, asylum-seekers and migrant workers had got their own international legal regime. The issue of expulsion of residents of occupied territories by the occupying power, a matter falling under the realm of international humanitarian law, was clearly beyond the mandate of this subject. The decision taken by a certain government to expel an alien, as a unilateral act of that State, should not be regarded as imposing any obligation or commitment whatsoever on any other state including the national State, to receive him/her. However this did not mean that the matter could not be settled or managed by mutual agreement(s). He supported the idea, put forward by some members of the

Commission during the discussion on the topic, that the status of the aliens who had been residing in the territory of the expelling State for a long time and/or have lost all/or almost all of their interests to the original national State or have acquired special interests in the expelling State, should be thoroughly examined.

17. He said that in their view the status of transit State(s) was also of high significance. The aliens often entered into territory of the destination State from the territory of a third State (other than their own national State and in such cases the transit State(s) had no obligation to re admit the expelling aliens or to undertake similar commitments.

18. **The Delegate of Malaysia** stated that they favoured the practice of States objecting to a reservation that they considered incompatible with the object and purpose of the treaty, but without opposing the entry into force of the treaty between themselves and the author of the reservation. The act of objecting was merely to give notice to the reserving State of their positions in relation to the legal status of the said reservation. They were of the view that if the reservation was incompatible with the object and purpose of the treaty then the reservation would be ineffective irrespective of whether any State objected to such reservation or not. A reservation would however be effective vis-à-vis the State that objects, if the reservation was not incompatible with the object and purpose of the treaty and was permitted / not prohibited by the said treaty. The main issue that was faced by most countries was as to the legal position of an objection to a reservation. A dispute would necessarily require a referee / judge to adjudicate on the matter as to whether the reservation was actually incompatible with the object and purpose of the treaty concerned. The Delegate stated that they saw the draft guidelines as a step forward in clarifying the concept of reservations to treaties. Malaysia believed that the draft guidelines would require

further in-depth analysis by the Commission before they could be adopted.

19. On the topic of “Unilateral Acts of States”, the Delegate reiterated Malaysia’s support for the continuing efforts of the International Law Commission to identify principles or guidelines on when unilateral acts of States created legal obligations in the interest of increasing legal certainty. He was of the view that the Commission should formulate concrete principles and guidelines on Unilateral Acts of States that create legal obligations before looking into the possibility of drafting legal rules for such acts. On the issue of whether a statement would create legal obligations or was merely political in nature, he reiterated that the States’ intention was an important determining factor. He was of the view that both written and oral statements were able to create legal obligations whether they were in the form of comments directed to the other Government or not. He stressed on the difficulty and complexity of the task ahead of the Commission in determining the general rules and principles that might be applicable to the operation of Unilateral Acts of States.

20. As regards the topic of “Shared Natural Resources”, the Delegate noted that the Special Rapporteur in the Report had included the term “*geological formation*” when defining these terms under draft Article 2, taking into account the fact that underground water-bearing formations were not only made of rock but also comprised other naturally occurring materials, either consolidated or unconsolidated, such as gravel and sand. In relation to draft Article 10, he said that Malaysia had proposed that the term “*harmonized*” be deleted from paragraph (1) of draft Article 10. This was because Malaysia was of the view that the word “*harmonized*” might impose too high an obligation upon aquifer States to establish standards and methodologies for monitoring transboundary aquifer or aquifer system that was applicable across the board. Though ideal, the practicality of such a requirement

should be considered, taking into account the different and varying systems in relation to the different and varying aquifers and aquifer systems in the respective aquifer States. In this respect, Malaysia shared the view of the Commission that such a requirement more appropriately belonged to bilateral or regional arrangements instead. He expressed support for the use of the word “*encouraged*” in draft Article 14 in relation to the taking of a precautionary approach by aquifer States in respect of preventing, reducing and controlling the pollution of a transboundary aquifer or aquifer system that might cause significant harm to other aquifer States.

21. He noted that draft Article 21, amongst others, protected an aquifer State from being compelled to provide data or information under the present draft Articles which was vital to its national defence or security. Draft Article 21 however did not provide for such a protection on the basis of 'national interest', which in Malaysia's understanding, was a concept encompassing numerous other components including, but not limited to, national defence and security. He said that Malaysia supported the proposal that the protection under draft Article 21 was extended to industrial secrets and intellectual property.

22. On the topic of “Responsibility of International Organizations”, the Delegate of Malaysia reiterated the view that the formulation of the Draft Articles on the Responsibility of International Organizations was timely, bearing in mind the increasing activities of International Organizations in matters relating to international affairs. In relation to draft Article 8 on the “Existence of a Breach of an International Obligation”, he noted that as per the commentaries in the ILC Report, the definition of the term “international obligation” as with regard to States was “an obligation under international law regardless of the origin”. For international organizations on the other hand, this term might include a wider scope, that is to say, it

might also include the obligations that arise from the rules of the international organizations themselves. In this respect, the “*rules of the organization*” was defined in paragraph 4 of the Draft Articles to mean ‘...*in particular: the constituent instruments; decisions, resolutions and other acts taken by the organization in accordance with those instruments; and established practice of the organization.*” Accordingly, the purpose of the paragraph 2 which specifically mentioned that it applied to “*breaches of international law established by a rule of the international organization*” was intended to dispel any doubt that breaches of these obligations were also covered by the present Draft Articles.

23. He said that it was, however, admitted in the commentaries that the question might be raised whether all the obligations arising from the rules of the organization were to be considered as international obligations and that the legal nature of the rules of the organization was to some extent controversial. He said that many considered that the rules of treaty-based organizations as being part of international law whilst others held that, although international organizations were established by treaties or other instruments governed by international law, the internal law of the organization, once it came into existence, did not form part of international law.

24. He said that the ILC, nevertheless, clarified in the commentaries that paragraph 2 did not attempt to express a clear-cut view on the issue. It simply intended to say that, to the extent that an obligation arising from the rules of the organization had to be regarded as an obligation under international law, the principles expressed in the present draft apply. Taking the above into account, he said that Malaysia understood that a breach of an obligation by an international organization of its internal rules per se did not fall within the scope of Draft Article 8. Instead, only when such a breach of an

obligation by an international organization simultaneously was a breach also of an obligation under international law would such an action fall within the scope of the Draft Articles.

25. **The Delegate of Kenya** welcomed the tenth report of the Special Rapporteur and appreciated the comprehensive manner in which the report addressed the core issues in the reservations regime. He said that his country endorsed the approach adopted by the Commission and the Special Rapporteur, in developing a Guide to Practice on reservations to treaties. He trusted that the guidelines and commentaries, once adopted, would reduce uncertainty and assist States and international organizations in their treaty practice. He welcomed the progress made on the draft guidelines since the Ninth report of the Special Rapporteur. In that regard, he noted with interest the Commission's debates during its fifty seventh session, on the complex questions of "validity of reservations" and "compatibility of reservations with the object and purpose of the treaty".

26. He reiterated that it saw merit in the arguments that favoured the use of the term "validity" as opposed to "admissibility" or "permissibility", in respect of reservations that went against the object and purpose of the treaty. They were of the view that the term "validity" was wide enough in scope, to encompass both conditions of form and substance. Any guidelines that were sought to develop must remain within the context of the provisions of Articles 19 to 23 of the 1969 Vienna Convention on the Law of Treaties.

27. He said that his Delegation was convinced that the approach regarding definitions adopted by the draft guidelines would ensure uniformity in the formulation and admissibility of reservations. He thought that defining core terms in the international treaty regime would alleviate interpretation problems and thereby reduce subjectivity.

He also welcomed the Special Rapporteur's efforts in defining complex concepts such as "object and purpose".

28. He said that Kenya further posited that any reservation entered into by a Member State to a Convention must not be incompatible with the objects and purposes of the treaty. That would enhance customary international law and boost the incontrovertible fact that States were still capable within their scope of unilateral acts, to refrain from committing themselves to a treaty that they might not agree with.

29. As regards the topic of Diplomatic Protection the Delegate noted the development of the doctrine that no action should arise from wilful wrongdoing so as to preclude a State from exercising diplomatic protection if the national it sought to protect had suffered an injury as a result of his wrongful conduct. That would increase the level of integrity and probity of the circumstances under which members of the various diplomatic corps in the conduct of their official and personal capacity carry themselves. It would ensure that no person should abuse the protection offered for the effective conduct of State business.

30. On the topic, "Unilateral Acts of States", the Delegate welcomed the approach taken by the Special Rapporteur in his Eighth report, which contained an analysis of eleven examples of State practice on unilateral acts. He noted that the examples highlighted in the report were acts expressed by States in varied ways, including official notes, public declarations, presidential proclamations and political speeches. He said that Kenya was persuaded that it was critically important to formulate a clear definition of unilateral acts of States; capable of creating legal obligations and to distinguish such acts from those that create political obligations.

31. On the topic of "Shared Natural Resources" his delegation recognized the need for the elaboration of an international

legal instrument to guide the use, allocation, preservation and management of trans-boundary aquifers or aquifer systems. In this regard he commended the Special Rapporteur, on his work on shared natural resources and in particular for the inclusion of a complete set of 25 articles in the 3rd report and on trans-boundary ground waters. However, he hoped that the framework would later subsequently be expanded to include other shared natural resources such as oil and gas. The Delegate noted the Special Rapporteur's report regarding the paucity of State practice on the use and exploitation of transboundary groundwaters, especially in developing countries. In this regard he appreciated the inclusion of Article 18 on scientific and technical assistance to developing States.

32. On the topic of "Effects of Armed Conflicts on Treaties", he observed that the topic should be considered on the basis of armed conflicts of international nature, that being the scope within which international law invariably applied. It might in the future proceed to include conflicts of a non-international nature, but must be done within the confines of customary international law principles.

33. The Delegate also drew attention of the Delegates to the elections for membership to the ILC to be held in the latter part of this year. In this regard, he said, the Government of Kenya had proposed the name of their Attorney General and the immediate former President of AALCO, Hon Amos Wako as a candidate. The Delegate said that Hon. Wako needed no introduction to the distinguished delegates, having served with singular dedication and commitment as the President of the Forty-Fourth Session of AALCO. He was a faithful servant of international law. He said his Delegation had circulated Hon. Wako's CV with the request that the members of this organisation support his candidature. The Delegate added that AALCO as an Organization should throw its weight behind candidates from the region in order that their

common interests might be taken into account in the codification and progressive development of international law.

34. **The Delegate of Republic of Indonesia**, on the topic of Diplomatic Protection, stated that Indonesia attached great significance to diplomatic protection, since it might be employed as a means to advancing the protection of human rights. In the context of diplomatic protection the clean hands doctrine was invoked to preclude a State from exercising diplomatic protection if the national it sought to protect had suffered an injury as a consequence of his or her own wrongful conduct.

35. The Delegate welcomed the Special Rapporteur's conclusion that the clean hands doctrine should not be included in the draft articles of Diplomatic Protection. He believed that if the doctrine was not included, it would allow the Commission to focus more on matters of a practical nature that needed further elaboration.

36. On the topic of Effects of Armed Conflicts on Treaties, the Delegate commented on three particular aspects of the draft articles presented by the Special Rapporteur, namely, draft articles 2 (b), 3, and 4.

37. Referring to draft article 2 (b) which defined the term "armed conflict", he said that it might be better to have one broader and comprehensive definition leaving the task of the application of the draft article on a case by case determination. He also noted that a possible way around this special issue might be to adopt a simpler formulation, stating that the articles applied to armed conflicts whether or not there was a declaration of war.

38. On draft article 3, on the termination or suspension of a treaty during an armed conflict, it appeared that armed conflict usually led to the suspension of treaties between States. The parties to an armed conflict were not obviously in a position to

comply with the rules of a treaty concluded with the actual or former enemy. In this regard, he believed that a general principle of continuity in such cases sounded rather unrealistic.

39. The Delegate said that in draft article 4, the Special Rapporteur had elevated the "intention" of the parties as the main criterion for the determination of suspension or termination of treaties. He said that Indonesia considered that there was a need to examine the question of intention further, as well as other possible criteria. Particularly, the commission should consider other criteria which should be determined in accordance with articles 31 and 32 of the Vienna Convention on the Law of Treaties as well as the nature of the armed conflict.

40. On the topic of Expulsion of Aliens the Delegate said that the topic was particularly relevant in the contemporary world where globalization had made transboundary movement of people more intensive. The topic raised also important questions of international law, particularly of human rights law, and treaty based judicial and other monitoring bodies have elaborated a series of human rights principles and standards that could apply in relation to it. He said that Indonesia shared the opinion of the Special Rapporteur that a state's right to expel aliens was a right which was inherent in the sovereignty of that state, but that this right could not be considered absolute. Furthermore, he said that the Commission should be further encouraged to undertake a detailed consideration of existing customary international law and treaty law, including a comparative study of international case law both at the global and regional levels as well as of national laws and practice.

41. **The Delegate of India** said that the work on the subject of Responsibility of International Organizations had made considerable progress since the last session. He said that they agreed with the Special

Rapporteur that wrongful act of an international Organization could consist of either an act or an omission and were satisfied that both these possibilities had been covered by the draft articles.

42. He said that Article 8 dealt with the existence of a breach of an international obligation. According to paragraph (1) of this article, "there is a breach of an international obligation by an international organization when an act of that international organization is not in conformity with what is required of it by that obligation, regardless of its origin and character". This principle was extended in regard to the breach of an obligation under international law established by a rule of the international organization in paragraph 2 of Article 8. The second paragraph of Article 8 raised a question whether all the obligations arising from the rules of the organization were to be considered as international obligations. This issue was controversial. There was no definitive answer to the question raised. He said they, however, were of the view that this paragraph would apply only to the extent that an obligation arising from the rules of the organization had to be regarded as an obligation under international law and therefore the rules, were merely procedural or administrative in nature, would not get covered. He said they were also of the view that, in certain cases, determination of the responsibility of the organization on the basis of rules of the organization would lead to the assessment of the collective responsibility of the member States who set the organization's policy.

43. The Delegate said that Article 15 was a new article. The subject matter of this article, namely, the attribution of responsibility in an international organization for the conduct of a state relying on its decisions, recommendations, involved consideration of some complex and overlapping issues. Fixing responsibility on an international organization for requiring its Member State to commit an internationally unlawful act was one such

issue, which required a careful study of precedents. Article 15(1), which provided for responsibility of an international organization when the organization adopted a decision binding a member State or organization to commit an act that would be internationally wrongful if committed by the former organization, raised a question whether a decision by an international organization would completely exonerate the State. He said in their view, an action at the behest of an international organization that was in breach of the international legal obligations of the State and the organization required further in-depth examination. Logically such an action should attract responsibility under international law for the organization as well as to the State. Article 15(2) which deals with an international organization incurring responsibility in connection with the act of a State or another organization relying on the recommendations of the international organization also needed a thorough examination given the diversity of international organizations and their mandates.

44. The Delegate said that the complex nature of international organizations and their differing mandates made it impossible to make generalizations. Further, following the general pattern of the Draft Articles on "Responsibility of States for internationally wrongful acts", in the present draft too such articles could cause a similar result of the General Assembly taking note of these draft articles without deciding on further steps to adopt them in a binding legal instrument. The Commission, therefore, needed to take a cautious and contextual approach in developing articles on this topic. The whole exercise should not go beyond the extent where it would be inappropriate to draw analogies with regard to attribution and responsibility applicable to States in order to develop and articulate principles applicable to international organizations.

45. On the topic of 'Shared Natural Resources', the Delegate said that the major

difficulties with these draft articles were that they were modelled on the provisions of the 1997 Convention on Non-navigable Uses of Water-courses, which principally dealt with surface waters and not ground water. In addition the draft articles were not supported by sufficient State practice. He believed that it would be inappropriate to apply the principle of "equitable use" embodied in the 1997 Convention on Non-navigable Uses of Water-courses, for the purpose of building a regime on ground water, where the role of "riparian rights" in the utilization of water was less pronounced.

46. Draft Article 5 of the third report, appeared to be similar to article 5 of the 1997 Convention on Non-navigable Uses of Water-courses, which posed problems during the negotiations of the Convention due to the twin principles of equitable utilization and reasonable utilization that it sought to address. He cautioned on the application of these two principles as regards ground waters.

47. He said that one had to learn much more about transboundary aquifers in general, and be cognizant of the wide variation in specific aquifer conditions and State practice. He said India had consistently maintained that context-specific agreements and arrangements were the best way to address questions relating to transboundary groundwater's or aquifer systems. This would also enable the States concerned to take appropriate account of other relevant factors in any specific negotiation. He preferred development of guidelines that could be used for negotiation of bilateral or regional arrangements, other than a universally binding legal instrument.

48. On the topic 'Effects of Armed Conflicts on Treaties' the Delegate said that the basic policy underlying the draft articles was to promote and enhance the security and stability of the legal relationship between States by minimizing occasions in which the incidence of armed conflicts had an effect on treaty relations. He said they agreed with

this approach, yet, they were conscious of the fact that this topic presented several difficulties as the nature of the subject was dominated by doctrines and supported with sparse practice. Studying State practice on this topic cutting across different legal systems, therefore, became inevitable to evolve any acceptable standards in this subject. Given the preliminary nature of the draft articles, it was premature to offer detailed comments.

49. **The Delegate of Arab Republic of Egypt**¹ thanked the Chairman of the ILC for his detailed report on the work of the ILC. The Delegate offered his comments on the topics of Reservations to Treaties, Diplomatic Protection, Unilateral Acts of States and Responsibility of International Organizations.

50. **The Delegate of Pakistan** said that the law on reservations ushered in by the Vienna Convention on the Law of Treaties 1969 and confirmed in the Vienna Convention on succession of States in respect of Treaties 1978 and the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations 1986 had, by and large, served well the needs of the international community of States. The rules established by the Vienna Conventions of 1969, 1978 and 1986 by their wide acceptance had acquired the status of customary norms and it might not be wise to derail them now. The existing regime of reservations, as incorporated in Articles 19 to 23 of the Vienna Convention on Law of the Treaties 1969, were sufficiently flexible and did not pose any problems. The regime established by the Vienna Conventions struck a balance between the objectives of preservation of text of the treaty by imposing a limitation on States that the reservation should not be “incompatible with the object and purpose of the Treaty”

¹ Statement made in Arabic. Unofficial translation from the interpretation.

and universality of participation in the treaty.

51. He said that Pakistan did not make any distinction between human rights treaties and other treaties with respect to the regime of reservations as all treaties stipulated normative and contractual obligations. The Vienna Convention on the Law of Treaties also did not differentiate human rights treaties from any other set of normative treaties. If a different regime was established for human rights treaties, which did not permit reservations it would impair the objective of universality of participation in such treaties.

52. He said that they were also not in favour of the establishment of monitoring body for determining the nature or validity of the reservations to treaties expressed by States. Strict regime of reservations with a monitoring body at its apex would impair the objective of universality of participation in the treaty. The treaty regime, including the regime of reservations, should aim at promoting the objective of universality of participation rather than hinder the process of ratification or accession. It should be left to the States to determine that the reservations were consistent with the purposes and objects of the treaty.

53. The Delegate said that while they supported the existing regime on reservations established by the Vienna Conventions, this did not mean that they were opposed to clarifying the ambiguities or filling the lacunae wherever they existed in the Vienna Conventions. He, however, said that the final product of the work should be in the form of guidelines for States and should not, in any way, alter the existing regime of the Vienna Conventions.

54. **The Observer Delegate of Greece** on the topic of ‘Shared Natural Resources’, said that this was largely legally uncharted territory and it was indeed important that the ILC had undertaken the study. The importance of the matter was further

emphasized by the fact that it was going to impact, unavoidably on other natural resources as well. Commenting on the draft articles produced so far, she said that they agreed with the approach taken by the ILC to follow the corresponding provisions of the 1997 Convention on the Non-Navigational Uses of Transboundary Watercourses. Draft Article 3 encouraged States where an aquifer system was located to enter into bilateral or regional arrangements among themselves. She said that States should not be urged to conclude soft law instruments alone, but also agreements, as was provided for in the 1997 Convention as well as in regional Conventions, such as the 1992 Convention of the Economic Commission of Europe on the Protection and use of transboundary waters and international lakes.

55. Article 5 established the principle of equitable and reasonable utilization of transboundary aquifers, a principle, they believed was of cardinal importance for their protection and management. However, concerning non-recharging aquifers, she believed that none of the aquifer States should be able to utilize the aquifer or aquifer systems at its own free will, even if that State claimed to take into account the needs of the other aquifer states. For this reason she considered that the conclusion of an agreement between the aquifer States should be a prerequisite for any use of the non-recharging aquifer.

56. The Observer said that the provision dealing with the obligation not to cause harm established, by making reference not simply to "harm" but to "significant harm", too high a threshold, especially for non-recharging aquifers, where, by definition, any damage could not be restored. She said that they thought that here they should depart from the 1997 Convention or any other precedent and lower the threshold to simply "harm". She believed that for the draft articles to assume their full potential it was preferable that they should take the

form of a Convention but also agreements as was provided for in the 1997 Convention.

57. Concerning the draft articles on the 'Effects of Armed Conflicts on Treaties', the Delegate said that they supported the general approach of the draft i.e. to encourage the continuity of treaty obligations in time of armed conflict in cases where there was no genuine need for the suspension or termination of these treaties. However, the effect of armed conflict on treaties depended also, it should not be forgotten, on the specific provisions of the particular treaty, its nature and the circumstances surrounding its conclusion. Perhaps it would be useful in view of this, to consider the inclusion of an illustrative list of treaties that continued to operate during armed conflict. However, it was clear that further study of the matter was required.

58. As regards the question of the definition (draft article 2), the proposed one was based on the draft adopted by the Institute of International Law in 1985, and contained useful criteria, such as the nature or extent of the armed operations, in order to determine in which situations the latter could affect the operation of treaties. Inevitably, however these criteria lent themselves to considerable subjectivity and should be studied in depth. Furthermore, the draft articles should also cover situations of military occupation, regardless of whether it was accompanied by a protracted armed conflict or operations. The question of the effects of aggression and self-defense on the operation of treaties should also be carefully examined. She said that on their part they retain doubts with respect to article 10. She noted that the draft articles did not specifically deal with the question of the application of human rights and environmental law treaties in time of armed conflict. This was an omission, which should be corrected.

59. On the topic of Reservation to Treaties, the Observer expressed the view that this was a very protracted exercise.

Certain questions had been addressed to States regarding their practices, particularly regarding the question of the effect they attributed to the objections to treaties. She said that her country's recent practice on the matter, which referred almost exclusively to human rights treaties, had followed the severability principle. This meant that they had considered that the reserving state would continue to be bound by the treaty without the benefit of its reservation (this is the super maximum effect of the objection in accordance with the terminology used by the ILC). She believed that the nature of the human rights treaties allowed and indeed initiated in favour of such a solution. Where there was a jurisdictional mechanism, as was the case of the European Court of Human Rights, it would only be that court which would ultimately decide on the admissibility of the reservation and the relevance of the objection.

60. The Vice-President Mr. Vincent Damian Lyimo in the Chair.

61. Before taking up the next agenda item, the Vice-President invited Amb. Chusei Yamada to make a statement on behalf of the United Nations University.

62. Amb. Chusei Yamada, Delegate from Japan and Former Member of the UNU Council, placed on record the message on behalf of Prof. Hans van Ginkel, Rector of the United Nations University. The message, in brief, conveyed the greetings of the United Nations University on the occasion of the Forty-Fifth session of the Asian-African Legal Consultative Organization. It said that the agenda for this session was very stimulating and covered a number of important matters and issues of a substantive character. He pointed out that the dialogue among participants would be very helpful not only to AALCO, but would also contribute to fostering better understanding among the world community. The important work of AALCO and the discussions held on this important occasion would contribute to the better understanding

of the core issues that are confronted with, as well as some innovative ideas on how best to solve these issues. It was only through understanding and respect for others that core issues such as those on the agenda of the AALCO meeting could be efficiently addressed, and in an equitable manner.

B. Establishing Cooperation Against Trafficking in Women and Children

63. The Hon'ble Mr. Vincent Lyimo, Vice-President of the Forty-Fifth Session invited Mr. Motokatsu Watanabe, the Deputy Secretary-General of AALCO for introducing the agenda item.

64. Mr. Motokatsu Watanabe, Deputy Secretary-General of AALCO, introduced the Agenda item on the topic contained in the Document no. AALCO/45/HEADQUARTERS (NEW DELHI) S 9 and the Addendum S 9 / ADD. He stated that the report explored the conceptual aspects and socio-economic reasons for trafficking, as well as nature and scope of international obligations to prevent trafficking, to protect the victims of trafficking and to prosecute the perpetrators. The report gave a brief outline on the topic being dealt under the document and how it had been studied by other international organizations. The report also provided with a summary of the regional measures taken in order to combat trafficking particularly by the South Asian Association for Regional Cooperation (SAARC countries) and the activities undertaken at the Bali Process.

65. He stated that even after this topic being seriously addressed at both international and regional level it still remained significant. Hence, there should be an emphasis on the necessity to detect the crime and prevent trafficking along with punishing the traffickers by all possible means and measures. The topic, which was of such a social and international significance, was introduced as an agenda item in 2001 on a referral by the Government of Republic of Indonesia at the

Fortieth Session of AALCO held at its Headquarters (New Delhi) in 2001.

66. Trafficking in persons, especially women and children, had been recognized by the international community as human rights violation that was described as a contemporary form of slavery. It deprived the victims of their sexual and reproductive rights and also negated them with their basic human rights such as right to live with human dignity and security, freedom of movement, right to work and right to health, etc. Trafficking in persons for sexual exploitation, forced labour, forced marriage and forced adoption was one of the world's fastest growing criminal business. It had dangerous links with trafficking in drugs and arms, money laundering and terrorism. Trafficking in human beings, therefore, also had acute security implications.

67. He emphasized that this evil had no boundaries and hence no region was immune from this growing menace. Any country or international organization acting alone cannot take measures to eradicate trafficking in human beings; it needed international and regional cooperation to eliminate trafficking. Being sensitive to the extreme vulnerability of the victims, a coordinated approach that integrated migration policy issues, judicial cooperation, law enforcement, and human rights concerns, was needed in order to fight this crime. It was, therefore, imperative that international legal instruments be universally ratified. As a first – and highly necessary – step towards reinforcing the legal base of the fight against human trafficking, States needed to consider becoming parties and implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which supplemented the United Nations Convention against Transnational Organized Crime. The Convention had been well received by the world community with 147 States signing it and 118 States either ratifying or acceding to it while the Protocol had been signed by 117

States and 97 States were party to it. It was noteworthy that, till date, 34 AALCO Member States were signatories to that Convention and 21 of them had ratified it. Also, 22 AALCO Member States were signatories to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and 16 had ratified or acceded to it. At this juncture, States had a pivotal role to play by formulating rules and regulations in the form of national legislation, which would prevent and prohibit trafficking in persons besides including necessary provisions, which shall prevent such crimes from occurring in future.

68. In this regard, it was recalled that a one-day Special Meeting was held during the Forty-Third session of AALCO at Bali, in 2004, with a view to exchange-varied experiences and to build on their collective knowledge. As a result of the discussions held during the Special Meeting a Resolution RES/43/SP 1 was passed by the Member States which, *inter alia*, directed the Secretary-General to develop, in cooperation with Member States, a Model Legislation for the criminalization of trafficking in persons as well as protection of victims of trafficking, before, during and after criminal proceedings, based on human rights approach with a view to developing a concrete action plan for a joint effort against trafficking in persons, especially women and children.

69. He also recalled that the Secretary-General was entrusted with the mandate to prepare an outline on model legislation and also a set of draft articles to be considered by the Member States. He recalled that the Secretariat had prepared an outline of the model law and had presented the same for the consideration of the Member States during its Forty-Fourth Session and during that session it was proposed to submit a set of draft articles for the consideration of Member States. The Secretariat had prepared and circulated the outline after conducting a preliminary study of the

national legislations received from the Member States of AALCO and during the present session a set of draft articles of the Model Legislation was presented as an addendum.

70. It was stressed that the Member States law enforcement agencies and judicial authorities experience difficulties in apprehending traffickers and successfully bringing them to justice. The nature of this evil being global and many regions being severely affected, several regional and sub-regional initiatives were taken and they were in operation at various levels. He listed those initiatives which had taken pace at regional level, emphasizing that AALCO level may gain considerably when it undertakes its initiatives along with the cooperation of other international organizations like the Bali Process, IOM and the OHCHR. This could be substantiated by the very fact that AALCO had signed cooperation agreements with the IOM and OHCHR.

71. He urged the Member States that for the purpose of drafting an effective Model Legislation, the Member States had to come out with concrete suggestions reflecting their experiences. In addition to it, the draft preamble and first set of draft articles of the proposed Model Legislation contained in the addendum was circulated for the kind consideration of Member States. Further, the Secretariat earnestly requested the Member States to give their valuable comments and changes if any.

72. The **Delegate of Thailand** viewed that apart from categorizing the issue relating to trafficking in persons, in particular women and children as multifaceted and multidimensional, he portrayed it as a heinous crime that violated the fundamental right of an individual especially right to live with human dignity and security, freedom of movement and right to work with adequate pay. He commented that both women and children in developing countries, particularly of Asian and African region were the most vulnerable

victims who suffered from forced labour, slavery and forced prostitution and was a transnational crime and hence concerted efforts should be taken at national, regional and international level. The Delegate accentuated that this crime against women and children was a form of sexual exploitation, forced labour, forced marriage and forced adoption and they were contrary to their Constitution. The efforts made by the Royal Thai Government in combating trafficking in persons, especially women and children, was evident since they had hosted the Eleventh United Nations Congress on Crime Prevention and Criminal Justice in Bangkok in 2005. The root causes of trafficking being complex, the domestic measures in combating trafficking women and children should be effectively made by cooperation among various government and non-governmental agencies focusing to increase its efficiency to tackle international crimes by enhancing cooperation in extradition and mutual assistance in criminal matters.

73. Few methods that had been adopted by the Government of Thailand in order to prevent and suppress such crimes included providing the basic education and health care to reduce the numbers of abused women and children were also mentioned. Poverty being another significant factor leading to problem, the government had established village funds to tackle the same. The Delegate pointed out the amendments that their national legislations including the Criminal Procedure Act, had undergone to impose severe penalties for illegal immigrants and forced labour. In response to the urgent need to provide protection and justice to the victims of trafficking, the Royal Thai Government was trying to draft the Prevention, Suppression of Human Trafficking Act in conformity with the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

74. The **Delegate of Malaysia** noted the growth in trafficking in persons cases with growing concern, citing that this menace had become a profitable business that would generate billions of dollars since it was closely connected with money laundering, drug trafficking, document forgery and human smuggling. Trafficking in persons had a direct impact on a country due to the pervasive presence and criminal activities of organized criminal groups and the detrimental effects on law and order as well as indirect impact since the reputation of the country was tarnished. This had further undesirable repercussions on a country's ability to attract foreign aid and foreign investment and ultimately affects its economy. And so the vicious cycle spiralled. It caused untold suffering for too many innocent men, women and children who gambled on finding a better life in a foreign country.

75. The Delegate further explained, how Malaysia being a transit, destination and source country was generally being used by Asian trafficking syndicates as a transit country since (i) the trafficked persons from the Asian region blend easily into the community en route to the developed countries where there was an ever-ready market for their services. (ii) The quite liberal visa policies also contribute to this "pull factor" and the passports are well accepted in other countries. As a result foreign women who travel to Malaysia as legitimate tourists or students then "disappear" without ever being recorded as having left the country. (iii) Being an economically prosperous country than some of its neighbouring countries it invariably becomes a destination country for trafficked persons, particularly for the sex trade. The bottom line was that for so long as there was demand and a profit to be made, there would be supply. Hence, it was incumbent upon Malaysia as a responsible global citizen, to take all measures to combat trafficking as per its obligations under the United Nations Convention against Transnational Organized Crime and the other related international

treaties, including the various human rights instruments to which it was a party.

76. The Delegate reaffirmed that it adopted and implemented the three-pronged approach advocated internationally, that was prevention, the prosecution of traffickers and the protection of victims by exchange of information, coordinated operations, extradition and mutual legal assistance in criminal matters through international and regional cooperation. It tried to prevent the crime by (a) creating awareness of the inherent dangers of trafficking in persons, educating the public (in particular women and girls) and sensitizing law enforcement authorities and front liners (police, immigration, consular, medical, social services, prosecutors and judges); and (b) improving the socio - economic lot of the people especially those in the rural and lower income groups who may be particularly susceptible to promises of riches elsewhere. The generally practiced methods of combating trafficking were through strengthening the existing legislative framework, which included enhancing immigration powers to deal with the smuggling of migrants, enhancing border security, the use of biometric travel documents, criminal laws to prosecute traffickers and related persons.

77. From the prosecution perspective, increased public and law enforcement awareness as well as public cooperation would lead to the detection and rescue of genuine trafficked persons as well as the detection and dismantling of the operations of trafficking in persons syndicates. It was pertinent to note that in the area of regional and international cooperation to combat trafficking in persons, Malaysia had entered into several bilateral and multilateral arrangements for cooperation to combat transnational crime, including preventing and suppressing trafficking in persons. This included border and security arrangements with neighbouring countries, the use of INTERPOL and ASEANAPOL, the Agreement on Information Exchange and

Establishment of Communication Procedures with the Republic of the Philippines and the Republic of Indonesia, and the multilateral Treaty on Mutual Legal Assistance in Criminal Matters among like-minded ASEAN Member Countries initiated by Malaysia in June 2003. The Delegate pointed out that it had taken all efforts to facilitate legal migration through Government-to-Government arrangements and even offered regularization exercises to assist and solve the illegal migrant issue.

78. The Delegate recommended that the Secretariat should ensure that its guidelines for drafting the draft Model Law and the proposed Draft Model Law does not create inconsistent obligation as it would place the Bali Process countries, including Malaysia, in a very, very untenable position. The principles under Article 6 of the Trafficking Protocol and the 'Recommended Principles and Guidelines on Human Rights and Human Trafficking' of the Office of the High Commissioner for Human Rights (OHCHR) should also be taken into consideration.

79. The **Delegate of Myanmar** stated that the Union of Myanmar had drafted a separate law namely; Anti-Trafficking in Persons Law in conformity with its obligation under the UN Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (TIP), the Protocol against Smuggling of Migrants by Land, Sea and Air (SOM). Apart from imposing penalties of the trafficker, the reparation of trafficked victims reintegration into mainstream of society, resettlement and rehabilitation the trafficked victims would be carried out by the Central Body. That law strived to ensure internationally recognized norms and standards and thus had received favourable reviews from regional as well as international sectors.

80. In the sphere of international cooperation, the delegation stated that

together with the countries of the Asia-Pacific Region, Myanmar had been actively implementing the task of combating trafficking in persons contained in the Bali Process. The MOU was signed between Myanmar and Australia on Asian Regional Cooperation to Prevent People Trafficking (ARCPPT) Project. As recommended by ARCPPT, an Anti-Trafficking Unit was formed in March 2004 to investigate human trafficking. In addition, the MOU on Coordinated Ministerial Initiative against Trafficking (COMMIT) was signed by the six countries of the Greater Mekong Sub-region.

81. The **Delegate of Arab Republic of Egypt**² suggested some important areas which needed to be stressed such as economic and social causes like poverty, unemployment, etc. resulting in trafficking wherein poverty was one such area that was difficult to be handled. The definition of trafficking in persons needs to be exhaustive and wider so that it encompasses regional approach too. The punitive measures for the perpetrators should be more stringent and stricter in order to make it a deterrent. Therefore, the AALCO Secretariat should include this suggestion while drafting the Model legislation for the Member States. All Member States should exchange information and give their national legislation on this topic to the Secretariat which could be put in AALCO's website. Laws that would be drafted should have measures and procedures in order to rehabilitate the victims.

82. The **Delegate of Republic of Indonesia** explained the efforts that they had taken up in Indonesia to combat trafficking. These were initiated at three levels, namely: (1) Legal Framework level; (2) National Policy level, and (3) Law Enforcement Process level. On the Legal Framework level, the Government of Indonesia had already submitted the United

² Statement delivered in Arabic. Unofficial translation from the Interpreter's version.

Nations Convention against Transnational Organized Crime (UN TOC), along with its two Protocols to be ratified by the Indonesian House of Representative. On the National Policy level, Government of Indonesia had specifically endorsed a special Presidential Decree to set up a National Action Plan to Eliminate the Trafficking of Women and Children, including by establishing an intersectional Task Force to implement such action plan. It was expected that all efforts to prevent and combat trafficking of women and children would be more integrated to intensify the eradication of elements that caused the trafficking namely poverty, inadequate education, chronic unemployment, broken family, gender imbalance and patriarchal culture, consumerism, weak legal enforcement against the perpetrators.

83. On the Law Enforcement level, Indonesia's effort to prevent and combat trafficking were set into two sub levels, namely, one at the national level and second at the bilateral/regional/international level. Since the nature of trafficking of women and children was transnational/global issue, no country could ever successfully combat trafficking without the assistance of another country, hence, the urgency of collaboration among nations through bilateral, regional and multilateral forum as it was addressed by the Resolution made at the Special Meeting on the "Establishing Cooperation against Trafficking in Women and Children" held at the Forty-third Session of AALCO in Bali on June 23rd, 2004, was reiterated by the Delegate.

84. In relation to the efforts to protect Indonesian migrant workers abroad, Indonesia urged/demanded to Member States not to make declarations/different interpretations when ratifying the Protocol, especially by drawing a distinction between genuine victims of trafficking (as defined in the Protocol) and self/voluntary trafficked persons who voluntarily allowed themselves becoming the object of trafficking to seek economic gain in destination countries. The consequences of such distinction was that

voluntary trafficked persons would not had immunity from prosecution if they violated the law, such as having visit/tourist visa to work as a migrant worker, most of Indonesian citizens became the objects of trafficking to other countries were migrant workers deceived by traffickers classified as voluntary trafficked persons who consciously allowed themselves to be trafficked to seek economic gain in destination countries. Indonesia also recommended the Secretary-General of AALCO to coordinate Bali Process without overlapping the exercises.

85. The Delegate recommended all member States to initiate an in-depth discussion or workshop on the topic "The Consequences of distinguishing the genuine victims of trafficking (as defined in the Protocol) and self/voluntary trafficked persons consciously allowed themselves to be trafficked to seek economic gain in destination countries" at the Forty-sixth Session.

86. The **Delegate of Nigeria** stated that their efforts at combating the menace of human trafficking had been well laid out at the Forty-Fourth session in Nairobi. The Delegate wished to inform the AALCO that Nigeria would be hosting a regional conference on trafficking in persons in Abuja in July 2006. The conference would be co-sponsored by the UNICEF, Economic Community of West African States (ECOWAS) and Economic Community of Central African States (ECCAS) in corroboration with the National Agency for the Prohibition of Traffic in Persons (NAPTIP) of Nigeria. He invited all the delegates cordially to this very important conference.

87. In conclusion, the Delegate requested all the Member States to adopt the model legislation on trafficking in persons, especially women and children contained in the Secretariat document Addendum 1. Such initiative would promote inter-regional cooperation among AALCO Members

States from Asia and Africa whose nationals were the main victims of trafficking.

88. The **Delegate of the People's Republic of China** described Trafficking in women and children as a brutal crime, which caused severe harm to the physical and mental health of the victims, infringed seriously on the fundamental human rights of women and children concerned. It triggered a series of other crimes and posed a threat to stability and development of the countries concerned. At present, transnational feature of this crime had been obvious. The Delegate gave an overview on how this topic had been considered as punitive and made the offences penal.

89. China had acceded to a number of International Conventions in this field such as the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, and the Convention against Transnational Organized Crimes. The Chinese Government had fulfilled its obligations under those Conventions seriously. In April 2005, China submitted its first report on the implementation of the Optional Protocol to the Convention on the rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

90. The **Delegate of Japan** expressed its interest in studying the Draft Model Legislation and urged other Member States too to study and provide valuable suggestions to the Secretariat on this aspect. Further, since there existed a Bali Process and almost 19 Member States of AALCO were Parties to the Bali Process, there should be coordinated approach to bring all the Member States together along with Australia and certain other countries.

91. The **Delegate of Sri Lanka** reaffirmed that many issues like the forced labour, forced prostitution, begging etc,

should be addressed in the Model law vis-à-vis punishing all the acts and activities engaged in trafficking. The punishment for such offences should be enhanced in order to curtail the crime and accord protection to the victims. It was also significant that the courts should have extraterritorial jurisdiction in Sri Lanka wherein the legal provision stated that any nationals of Sri Lanka who committed the crime in some other country should be tried as per the law of the nation and the place of commission of crime was immaterial in that case. Therefore, such provisions could be incorporated in other national laws.

92. The **Delegate of State of Qatar**³ stated that as per the Constitution of Qatar a society should be build on ethics and they had enacted a new law which would prevent young children not to be taken for camel race as it constituted slavery. The Delegate had requested that there should be an Afro-Asian Social Committee to Combat Trafficking in Persons, Especially in Women and Children.

93. The **Delegate of Bahrain**⁴ stated and narrated the national efforts that had been taken to combat trafficking. Firstly, the Convention and the two Protocols had to be signed and then national efforts were to be initiated to accord protection to the victims through government bodies. The Kingdom of Bahrain realized trafficking to be a real crime. These crimes took place through transboundary way and were used mainly for the purpose of prostitution. He said that they were studying the acuteness of the problem and then would be given to the Ministry of External Affairs to study the matter in detail.

94. The Delegate opined that the Draft law would be first of its kind in the region, which would have a financial fund and have

³ Statement delivered in Arabic. Unofficial translation from the Interpreter's version.

⁴ Statement delivered in Arabic. Unofficial translation from the Interpreter's version.

General Secretariat of Arab-Gulf countries. This law should emphasize on the methods of rehabilitation, establishing diplomatic mission, combating trafficking in persons etc.

95. The **Delegate of Sultanate of Oman**⁵ in his brief remark suggested that this item should not be discussed and removed from AALCO's Agenda.

General Statement of Nigeria

96. **The Leader of the Delegation of Nigeria**⁶ congratulated the President and the Vice President on their election. He reiterated his country's commitment to the cooperation between the continents of Asia and Africa to find a common ground for evolving international legal principles of mutual benefit to member States. He welcomed all the items on the agenda of the session, which he considered were of utmost importance to members towards the modernization of the diverse political, social, economic and cultural problems facing most of the Asian and African countries.

97. He said that the challenges AALCO faced today were no less daunting than those faced by its founding fathers. He asked for re-dedication to the lofty ideas that propelled the establishment of the Organization. He said that we were still confronted by various challenges - the problem of poverty, diseases, threat of nuclear warfare, armed conflicts, instability of political institutions, inadequate infrastructure, fragile economies, gross shortage of capital and finance and the debilitating effects of globalization and liberalization which portend serious

uncertainties and risks. He further said that various thematic issues before the AALCO, reflected that our discussions were all focused towards finding acceptable platform and compromise to these issues. He also commended the Government of India for bequeathing a befitting edifice to AALCO on the auspicious moment of the Golden Jubilee anniversary.

The Meeting was thereafter adjourned.

⁵ Statement delivered in Arabic. Unofficial translation from the Interpreter's version.

⁶ The General Statement was delivered at the commencement of the fifth day of the Session. In order to ensure the continuity of the consideration of the agenda items it is being placed here.