

AALCO/44/NAIROBI/2005/SD/S 9

For Official use only

ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



**ESTABLISHING COOPERATION AGAINST
TRAFFICKING IN WOMEN AND CHILDREN**

Prepared by:

**The AALCO Secretariat
E-66, Vasant Marg, Vasant Vihar
New Delhi– 110057
(INDIA)**

CONTENTS

	Page No.
I. Background	1
II. Introduction	3
III. Causative Socio-economic factors of trafficking in persons	3
IV. Prohibition of trafficking in persons in International law	4
V. International Obligation to Prevent trafficking, Protect Victims of trafficking and Prosecute traffickers	6
VI. Special Meeting on Establishing Cooperation Against Trafficking in persons, especially Women and Children, held during the Forty-third Session of AALCO	8
VII. Recent Developments	16
VIII. General Comments	25
 Annex 1 Summary of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children	 28
 Annex 2 AALCO Member States parties to the Convention Against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women And Children	 31
 Annex 3 Special Meeting Resolution on Establishing Cooperation against Trafficking in Persons, especially Women and Children	 36

ESTABLISHING CO-OPERATION AGAINST TRAFFICKING IN WOMEN AND CHILDREN

I. BACKGROUND

1. The topic “Establishing Cooperation against Trafficking in Women and Children” was included on the agenda of the AALCO at its Fortieth session held in New Delhi, in June 20-24, 2001 upon a proposal of the Government of Indonesia. In the explanatory note the Government of Indonesia pointed out that trafficking in women and children, a transnational organized crime, was truly international in nature and increasingly became a global concern since the menace of this crime has no boundary. Countries in Asia and Africa as in other regions are not immune from the menace of this crime. In response to this threat, UN Convention against Transnational Organized Crime and Protocol to Prevent, Suppress and punish Trafficking in Persons, especially Women and Children were adopted by the General Assembly at its millennium meeting in November 2000.

2. The Government of Indonesia emphasized that the UN Convention against Transnational Organized Crime, particularly its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children is intended to combat trafficking in persons and facilitate international cooperation against such trafficking. Therefore, participation in large numbers in the Convention and the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children will strengthen the cooperation in combating the crime of trafficking in human beings. In this regard the Government of Indonesia earnestly hopes that those Member States who have signed the above said Protocol consider ratifying it and that the protocol be fully implemented immediately after the ratification by the respective governments.

3. The Government of Indonesia believes that the inclusion of the topic on the agenda of the AALCO would facilitate the deliberations on the topic which would, in turn, help to establish cooperation between Member States in preventing and combating the crime of trafficking in women and children. For the scope of cooperation, significant issues were proposed by the Indonesian Government, namely, the role of law enforcement in the trafficking in women and children cases; prosecutorial strategies; model legislation and international agreements; intelligence sharing and effective resource utilization and other initiatives.

4. At the forty-third session, held in June 2004 in Bali, Indonesia, the resolution (RES/43/SP 1, please see Annex III) adopted after in depth and thought provoking presentations and discussions at the Special Meeting on the topic, reiterated *inter alia*, the request for Member States, who are not party to the Convention and its Protocol, to consider becoming parties to the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. It further requested Member States to transmit to the AALCO

Secretariat their national legislation if any on the subject, if they have not done so.¹ Also, the resolution directed the Secretary-General to develop, in cooperation with Member States, a Model Law for the criminalisation 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, specially women and children.²

5. As a first step towards fulfilling the mandate entrusted to the Secretary-General vide RES/43/SP 1 (please see Annex III) and as an initial step towards drafting a Model Law, the Secretariat shall study the national legislations received from the Member States of AALCO in light of the Protocol to Suppress, Punish and Prevent Trafficking in Persons, prepare an outline with a view to developing a concrete action plan for a joint effort against trafficking in persons, especially women and children. The model law will be prepared in following two stages: (i) **an outline of the model law to be presented at the Forty-fourth Session, which will be an addendum to the present Report**; and (ii) to place the draft articles for consideration of the Member States at the Forty-fifth Session.

In this backdrop, this brief analyses various dimensions of the issue of trafficking in persons, particularly women and children as well as outline the recent international developments on the topic.

¹ So far the Secretariat has received responses from the following Member States relating to their respective national legislations on the topic: **Tanzania, Sultanate of Oman, Singapore, People's Republic of China, Republic of Korea, Philippines, Japan, Mauritius, Cyprus, Ghana, Qatar, United Arab Emirates, Sudan, Nepal, Lebanon, Myanmar, Syrian Arab Republic, Arab Republic of Egypt, Malaysia, The republic of Uganda Thailand and Kuwait.**

² Operative Para 9 of the Resolution (RES/43/SP1).

II. INTRODUCTION

6. Trafficking in persons, especially women and children, has been recognized by the international community as a human rights violation that is considered a contemporary form of slavery. Due to the obviously clandestine nature of trafficking in persons, global and regional statistics are hard to gather. However, the estimates provide that approximately 700, 000 to four million people, primarily women and children, are trafficked globally each year and placed into the conditions of slavery and slave-like conditions and engaged in forced prostitution, forced labour, domestic work, begging or used for organ transplants. Many more are trafficked nationally.

7. The problem of trafficking in persons is multi-dimensional, for instance it has inter-linkages, *inter alia*, with the issues of illegal migration and organized crime as well as it has a human rights dimension. The studies indicate the inter-linkages between organized crime and trafficking in persons are two-fold: vertical and horizontal. Firstly, trafficking in persons consists of chains of individual, vertical offences, which are in close relationship with each other. Such crimes in vertical relationship are, *inter alia*, corruption, counterfeiting of traveling documents and violation of immigration laws. Secondly, there are horizontal connections between different criminal activities by the same organization. Criminal groups involved in particular in trafficking business are also involved in other types of criminal activities, such as various forms of sexual exploitation (including prostitution), illegal arms and/or drug trafficking. Furthermore, money received from these activities is to be laundered.

8. The human rights dimension of trafficking in persons is discussed as a cross cutting issue through out this study. However, it is pertinent to mention herein that human rights aspect is relevant in two ways: firstly, as it refers specifically to trafficking (or slavery) and second because trafficking in persons involves a wide and gross violation of many other human rights, such as the right not to be subjected to torture or inhuman treatment, right to life, dignity and security, freedom of movement, the right to work (and receive pay) and the right to health.

III. CAUSATIVE SOCIO-ECONOMIC FACTORS OF TRAFFICKING IN PERSONS

9. Extreme poverty, illiteracy, economic crisis and lack of state support at home at times together with regional and civil conflicts and other political changes create the need to migrate. Stringent visa regimes prevent entrance to states where there are better means of livelihood. Together these two factors make individuals vulnerable to human trafficking trade. Also, on the other hand the market demand for the “services” that trafficking victims are forced to provide encourages trafficking trade.

10. The above-stated reasons have a disproportionate effect on women, and combined with the low social economic and political status of women makes them more vulnerable

to trafficking. This inequality in status often results in limited educational and employment opportunities, making women more likely to fall prey to traffickers.

IV. THE PROHIBITION OF TRAFFICKING IN PERSONS IN INTERNATIONAL LAW

Anti-Trafficking and Anti-Slavery Treaties and Human Rights Conventions

11. The gravity of the issue of trafficking in human beings has been recognized far way back in the 19th century by the international community and several efforts have been made to fight against this evil. Over the years the concept of slavery and related practices has evolved and in the beginning of the 20th century the term “white slavery” was introduced to describe a new form of slave trade – forced prostitution. International agreements and treaties on this issue were signed in 1904,³ 1910,⁴ 1921,⁵ and 1933.⁶ They were all consolidated in the *1949 U.N. Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others*.

12. However, the 1949 Convention has been strongly criticized for proving ineffective, for focusing on prostitution (including voluntary prostitution) rather than on trafficking and having no implementation and supervision mechanisms to guarantee its efficiency.⁷ It is argued, “The 1949 Convention arises out of a prohibitionist perspective and seeks to criminalize acts associated with prostitution, though not prostitution itself. The 1949 Convention has proved ineffective in protecting the rights of trafficked women and combating trafficking. The Convention does not take a human rights approach. It does not regard women as independent actors endowed with rights and reason; rather, the Convention views them as vulnerable beings in need of protection from the “evils of prostitution”. Further, by confining the definition of trafficking to trafficking for prostitution, the 1949 Convention excludes vast numbers of women from its protection. Documentation shows that trafficking is undertaken for a myriad of purposes, including but not limited to prostitution or other sex work, domestic, manual or industrial labour, and marriage, adoptive or other intimate relationships.”⁸

13. The Convention also does not contain any strict implementation mechanism for the purpose of compliance with treaty provisions. Although the Convention requires States Parties to report annually to the United Nations Secretary-General in regard to implementation of the Convention at the national level,⁹ no independent treaty body has been established to monitor the implementation and enforcement of the treaty.

³ *International Agreement for the Suppression of the White Slave Traffic, 1904.*

⁴ *International Convention for the Suppression of the White Slave Traffic, 1910.*

⁵ *The International Convention for the Suppression of the Traffic in Women and Children, 1921.*

⁶ *International Convention for the Suppression of the Traffic in Women of Full Age, 1933.*

⁷ See e.g. Radhika Coomaraswamy, *Report on Trafficking in Women, Women's Migration and Violence Against Women*, Feb. 21, 2000, U.N. Doc. E/CN.4/2000/68, pp. 21-26.

⁸ Report of the Special Rapporteur on Violence against Women, its Causes and Consequences on ‘Trafficking in Women, Women's Migration and Violence against Women’. E/CN.4/2000/68, para 22.

⁹ Article 21 of the 1949 convention.

14. Since then, more international conventions have been concluded by the international community, *inter alia*, to deal with this issue. Chief among them are: the Convention on the Elimination of All Forms of Discrimination against Women, 1979,¹⁰ the Convention on the Rights of the Child, 1989,¹¹ the International Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990, The Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoptions, 1993, the International Labour Organization (ILO)'s Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 and the Optional protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000.¹²

15. The most recent development with regard to the protection of trafficking in women and children is the adoption of *the United Nations Convention Against Transnational Organized Crime* and its Protocols. The Convention was adopted by the General Assembly at its Millennium meeting in November 2000. The Convention entered into force on 29 September 2003 and at present 94 States are parties to it.¹³

16. The main goals of the Convention include the elimination of differences among national legal systems and setting standards for domestic laws so that they can effectively combat organized crimes. It also provides for strong measures allowing law enforcers to confiscate criminal assets and crack down on money laundering to put an end to transnational crime profiting. Further, it is noteworthy that all of the provisions of the Convention are also applicable *mutatis mutandis* to the protocols.

17. Of particular relevance for addressing the issues of trafficking in persons, especially women and children is *the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, which was drafted to provide a universal instrument to address all aspects of trafficking in persons. The Protocol makes trafficking in persons an explicit crime, giving the Convention a human rights focus. Essentially, the Protocol is intended to “prevent and combat” trafficking in persons and

¹⁰ Article 6 reads as follows: States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

¹¹ Articles 32, 34, 35, 36 and 39 of the Convention on the Rights of the Child deal with the issue.

¹² In addition, there are other international declarations and plans of action addressing the problem. They are: the Plan of Action of the International Conference on Population and Development (1994) the Beijing Platform of the World Conference on Women (1995), the Declaration and Agenda for Action against Commercial Sexual Exploitation of Children adopted by the Stockholm World Congress on this issue (1996) (supplemented by the Yokohama Global Commitment (2001) as the follow-up process for the Stockholm Congress and Declaration), and the document entitled “A World Fit for Children” adopted by the UN in 2002.

¹³ 37 AALCO Member States are parties to the Convention, of which 21 have signed and 16 have ratified/acceded to it.

The signatories Member States are: **Arab Republic of Egypt, India, Indonesia, Iran, Japan, Jordan, Republic of Korea, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Nepal, Pakistan, Saudi Arabia, Sierra Leone, Singapore, Sri Lanka, Sudan, Syria, Tanzania, Thailand, Uganda, United Arab Emirates, Republic of Yemen.** The countries that have ratified/acceded to the Convention are **Botswana, China, Cyprus, Gambia, Mauritius, Nigeria, Philippines, Senegal and Turkey.**

facilitate international co-operation against such trafficking. It provides for criminal offences, control and co-operation measures against traffickers. It also provides some measures to protect and assist the victims, however they are optional in nature.

18. It is interesting to note that while defining ‘trafficking’ the Protocol takes a different approach from that contained in the 1949 Convention, which focus only on prostitution and considered all prostitution, voluntary and forced, to be trafficking. The Protocol goes further to instruct on the criminal, protective, preventive and international cooperation aspects to the fight against trafficking.

V. INTERNATIONAL OBLIGATION TO PREVENT TRAFFICKING, PROTECT VICTIMS OF TRAFFICKING, AND PROSECUTE TRAFFICKERS

19. Domestic and international responses to trafficking in persons, especially women and children, have adopted a three-pronged approach: prevention of trafficking, prosecution of traffickers, and protection and reintegration of victims.¹⁴

Obligations to Prevent Trafficking

20. The Protocol establishes that a state has an international obligation to prevent trafficking. The Protocol provides that “States Parties shall establish comprehensive policies, programmes and other measures: (a) to prevent and combat trafficking in persons...”¹⁵ This should include measures “to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.”¹⁶ Further, the Protocol addresses the issue of demand, mandating states “to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”¹⁷

21. In addition to the prevention of the act of trafficking, the Protocol calls upon States Parties to take the necessary measures to prevent “revictimization” of trafficked persons,¹⁸ which as cases of trafficking demonstrate, poses a significant problem. Revictimization often occurs due to the lack of employment opportunities upon the victim’s return home, as well as to the difficulties faced by the victims in reintegrating into their communities. This could be addressed effectively, as the Protocol mandates, by adopting the necessary measures to counter the possibilities of the revictimization of victims rather than by simply prosecuting the traffickers.

¹⁴ See *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, U.N. Doc. A/53/383 (2000).

¹⁵ Article 9(1)(a), the Protocol.

¹⁶ Article 9(4), the Protocol.

¹⁷ Article 9(5), the Protocol.

¹⁸ Article 9(1)(b), the Protocol.

22. The Protocol also requires that all States Parties take the necessary measures to prevent immigration for the purpose of engaging in trafficking in persons.¹⁹ It also mandates that States Parties “strengthen to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.”²⁰

Obligations to Prosecute Traffickers

23. To tighten the net around traffickers, Parties to the Protocol agree to promulgate new laws to criminalize trafficking in persons, especially women and children, to ensure that offenders are punished. States also plan to adopt new measures to expose traffickers, such as tightening borders through stricter identity checks, as well as inspecting and seizing vehicles. Additionally, the Protocol requires that the States Parties have the responsibility to enact legislation to recognize all forms of sexual exploitation as a crime, including trafficking for the purpose of pornography and mail-order brides, among others. The states also have the responsibility to recognize trafficking in children for the purpose of illicit adoption as a form of trafficking in persons.

Obligations to Protect Victims of Trafficking

24. The key to human rights approach of combating trafficking in persons is the criminalization, or prosecution, of the traffickers on one hand, and the decriminalization, or protection, of the victim on the other. Such an approach successfully shifts the idea of criminalization away from the victims and toward the traffickers. While the Protocol calls for a crackdown on traffickers, it also stresses that victims of trafficking should be well protected. State Parties are obliged under the Protocol to:

- i. Inform victims about relevant court and other proceedings against offenders and ensure victims' privacy;
- ii. Give housing, education and care to child victims in governmental custody;
- iii. Enable victims to seek compensation for damages, including fines, penalties or forfeited proceeds as well as restitution from offenders;
- iv. Consider immigration laws permitting victims of trafficking to remain on their territory, temporarily or permanently; and
- v. Accept and aid, without delay, the return of victims of trafficking who are nationals or residents of that nation;

25. Though the Protocol has been generally commended for its holistic approach, however, it has also received criticism in regards to the optional nature of provisions dealing with victim protection. This is reflected in the phrases such as “in appropriate

¹⁹ Article 11(5), the Protocol.

²⁰ Article 11(1), the Protocol.

cases” and “to the extent possible” used in articles 6 and 7 of the Protocol and articles 24 and 25 of the Convention.

VI. SPECIAL MEETING ON "ESTABLISHING COOPERATION AGAINST TRAFFICKING IN WOMEN AND CHILDREN" HELD ON 23RD JUNE 2004 DURING THE 43RD ANNUAL SESSION OF AALCO.²¹

26. Bearing in mind the importance of the topic, a one-day Special Meeting was organized in conjunction with the Forty-third Session on the topic “*Establishing Cooperation Against Trafficking in Women and Children*” held on 23 June 2004 in Bali (Republic of Indonesia) from 21-25 June 2004. The meeting was chaired by Prof. Dr. Yusril Ihza Mahendra, Minister of Justice and Human Rights, the President of the Session.

27. The **President of the Forty-Third Session of AALCO, Prof. Dr. Yusril Ihza Mahendra**, Minister of Justice and Human Rights chaired the Special Meeting and gave a few opening remarks. He noted that the meeting was of great relevance to the Asian and African regions and gave the Session an invaluable opportunity to discuss the topic of Trafficking in persons, in particular women and children with prominent scholars and experts in the field.

28. **Ambassador Dr. Wafik Z. Kamil**, Secretary-General of AALCO made the welcoming remarks. He recalled that this item was placed on the agenda of AALCO during 40th session held in New Delhi in 2001 at the initiative of the Government of the Republic of Indonesia and gave a brief background on the global issue of trafficking in human beings and its contemporary relevance and introduced the six panelists.

29. **Sri Redjeki Sumaryoto**, the Minister of Women Empowerment of the Republic of Indonesia, gave the keynote address on the establishment of cooperation against trafficking in women and children. She made reference to the background of the inclusion of this item on the agenda of the AALCO. She outlined that the objective of this special meeting is to look deeply into the issue of trafficking in women and children from various perspectives to identify common obstacles in the joint efforts against trafficking in women and children especially in Asia and Africa, and to put together the best means for dealing with those obstacles. She emphasized that the issue of trafficking in women and children is of great significance to her country because it is not only a country of origin, but also of transit and destination of this modern type of slavery. She noted that trafficking in women and children has become a globalised and transnational crime. She also highlighted the question of protection of victims of trafficking and their special needs based on their vulnerabilities. Ms. Sumaryoto went on to outline the extent of national efforts against trafficking in women and children undertaken by Indonesia and equal importance attached to the protection of victims, root causes, development of model law, mutual legal assistance and development of best practices to combat this menace. She concluded with the hope that intensive and wide-ranging discussions represented by various perspectives and expertise would yield very fruitful results.

²¹ For verbatim record of the Special Meeting, please see *Verbatim Record of Discussions, Forty-third Session, Bali Republic of Indonesia*, AALCO Secretariat, New Delhi, AALCO/43/BALI/2004/VR, pp. 202-252.

30. **Mr. Akira Fujino**, Representative, UNODC, Regional Centre, East Asia and the Pacific, Bangkok, in his presentation entitled "Crime Control and Victim Protection under the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children", highlighted the main provisions in the Convention against Transnational Organized Crime (TOC) and the supplementing Protocols particularly, Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children; relationship between the Convention and the Trafficking Protocol; definition and root causes of human trafficking; and distinction between trafficking in human beings and smuggling of migrants. While making a distinction between trafficking in human beings and smuggling of migrants, he said that smuggling of migrants involved migrants who have consented to be smuggled. Trafficking, on the other hand, victim had either never consented or if they initially consented, that consent had been obtained by coercive, deceptive or abusive actions by the traffickers. Smuggling ends with the arrival of the migrants at their destination, whereas trafficking involves the ongoing exploitation of the victims in some manner to generate illicit profits for the traffickers. Also smuggling is always transnational, whereas trafficking need not be. He also gave an account on the activities of UNODC in the Asian and African regions. UNODC's projects in Africa include, ECOWAS and implementing the ECOWAS Plan of Action; and drafting new legislations for the countries. In the West African countries, namely, Benin, Togo and Nigeria, UNODC was involved in advancing institutional capacity, including specific training to justice officials of national governments; and strengthening regional joint action, including data collection and strengthening regional cooperation. In Asia, particularly in Philippines and Thailand, UNODC had created rehabilitation Centres for victim support; provided vocational training to the victims; conducted law enforcement and awareness raising programmes; and pilot program for regional CBT Training.

31. **Prof. Dr. Romly Atmasasmita**, Department of Justice and Human Rights, Republic of Indonesia, made a presentation on the topic entitled, "International Cooperation on Combating Human Trafficking Especially Women and Children: A view from Indonesia", In his presentation he gave an outline on the root causes and commonly contributing factors to human trafficking. Human Trafficking is clearly, a modern form of slavery. He highlighted the five obligations of the State Parties under the Protocol of trafficking in persons. These include, to give information to the victim about the relevant court which victim had to approach and ensure victim's rights; to give housing, education and care to the child victims in governmental custody; enable victims to seek compensation for damages suffered; to consider victim's request for residences; and to accept and to aid victims without delay. He dealt comprehensively with Indonesia's efforts in the prevention and combating human trafficking. There are three levels of procedures on combating transnational crime in Indonesia. These are the National policy; legislations; and the law enforcement process. Law enforcement processes were at two levels, namely, one at the national level and second at the bilateral/international level. The panelist made some recommendations. These include, the need to harmonize different national law on combating human trafficking; the need to establish regional, sub regional levels of legal cooperation on combating human trafficking; and the need to revise the procedure of extradition and mutual legal assistance in criminal matters between Asian-African countries, and the possibility of establishing working groups in Asia-Africa to study and implement the above mentioned recommendations.

32. **Ms. Rosa Sierra**, Protection Officer, Jakarta, United Nations High Commissioner for Refugees (UNHCR) spoke on "Refugee Protection and Victims of Trafficking," in particular women and children. She provided the refugee dimension to this problem and her presentation was concerned with the victims of trafficking and their entitlement to international protection in the context of the 1951 International Convention on the Status and Treatment of Refugees and/or its 1967 Protocol. At the outset she outlined some basic facts of practices of trafficking in persons particularly in women and children, describing them as violations of the most basic human rights. She outlined the definition of refugees as provided under the 1951 Refugee Convention and specified that nothing in the Trafficking Protocol shall affect the provisions under international law, in particular the 1951 Convention and its Protocol, where applicable. She explained the requirement of well-founded fear of persecution in availing the protection under the 1951 Convention which is additional to and distinct from the protection contemplated by Part II of the Trafficking Protocol. Thereafter, she outlined the three possible durable solutions to the refugee problems and identified the principles of international refugee protection and minimum standards of treatment which complements and are complemented by recommended protection principles on human rights and human trafficking and need to be built into anti-trafficking national legislation. She provided the gender dimension and child perspectives to this problem and enumerated their vulnerabilities and need for special protection. She outlined the measures to prevent and combat trafficking in women and children, in particular the principles of best interest and non-discrimination.

33. **Ms. Julie Lebegue**, Child Protection Officer and focal point for CSEC & Trafficking, UNICEF, spoke on "On going UNICEF supported initiatives in Indonesia" which focused on cooperation with law apparatus and child participation. She started by providing a brief background regarding why UNICEF started looking into the issues of trafficking and said that initially UNICEF focused only on the needs of children, however later realized the necessity to adopt a holistic approach and thus started considering protection to children which included trafficking issues. She outlined the definition of human trafficking and state of child trafficking worldwide. She discussed the complexity of trafficking routes in Indonesia which were quite varied and could not be identified even at national level. Further, she explained the purposes of child trafficking on 'demand side' as well as the causes of child trafficking on the 'supply side' and acknowledged that though poverty is one of the causes of the child trafficking but could not be the only reason. According to her, unemployment and lack of earning opportunities was one of the main reasons that perpetuated child trafficking, especially the young children. She explained child trafficking as a gross human rights violation and outlined the international instruments against trafficking of children, in particular the Convention of the Rights of the Child and the Optional Protocol thereto on the Sale of Children, Child Prostitution and Child Pornography. Under the need for cooperation, she suggested eight steps for building a protective environment for children, both at national and international level. She highlighted the UNICEF's cooperation with the Governments and added that although the problem of human trafficking is not new however the international community started to address it very recently and therefore it required to retain some flexibility to adopt a comprehensive approach. Thereafter, she explained the situation in Indonesia, which was a source, transit and destination country for trafficking and noted

the progress and challenges in Indonesia with respect to prevention, protection against child trafficking as well as recovery and reintegration and child participation in combating child trafficking. Finally, she recommended selected good practices to prevent and combat the crime of child trafficking.

34. **Mr. Aryanto Sutadi**, Indonesia National Police Headquarters spoke on "Cooperation of law enforcement Apparatus in combating Trafficking in Persons, especially women and children". He stated that trafficking in persons is illegal in Indonesia. However, the huge profit earned from trafficking in persons, accompanied by the current conditions in Indonesia, had resulted in a chance for the proliferation of trafficking in persons, and transnational organized crime had a chance to develop secret networks with Indonesian trafficking. Poverty and unemployment in rural areas had encouraged men, women and children to migrate to other countries for jobs. However, because of lack of information and education they were prone to being trapped in trafficking in persons. However it was difficult to obtain qualitative and quantitative data. The modus operandi of trafficking in persons (TIP) is related to counterfeiting of identity, passport and visa documents. Some of the provinces are suspected to be source transit and receiving regions.

35. He further stated that TIP in Indonesia involved a workforce recruiting companies with agents. Government apparatus involved in exploitative conditions, prostitution houses is which forced women/children, marriage agents, parents and relatives sold their children and employment of under age boys in off-shore fishing platforms.

36. He highlighted that the Indonesian government had constituted a task force to eliminate trafficking in women and children at the national level to coordinate implementation endeavours to eliminate trafficking in persons. He stressed upon the need for cooperation of the law enforcement apparatus at the national, regional and international levels. He enumerated that since 2003 Indonesian police had been deployed in five countries, such as Malaysia, Australia, Thailand, Saudi Arabia and Philippines. In addition, good cooperation had been deployed between the Indonesian Police and International NGO's such as UNICEF, IOM including donor countries like USA, New Zealand and Australia.

37. In conclusion he said that Indonesia has made serious efforts to eliminate trafficking in persons especially women and children mainly by the implementation of the national action plan for the elimination of trafficking of women and children which was launched in 2002, however he said results were far from perfect. He suggested a close-knit network between government institutions, taskforce, NGO's community organizations and individuals with a view to combating trafficking. Relationship between law enforcement apparatus from different countries needed to be enhanced and periodical meetings should be maintained to intensify communication contact between law enforcement apparatus from different countries.

38. **Mr. Shahidul Haque**, IOM Regional Representative for South Asia made his presentation on "Ambiguities and Confusions in Migration-Trafficking Nexus: A Policy Challenge". He highlighted the link between trafficking and migration which presents another complexity presenting both political and substantive obstacles to resolving the problem of trafficking. He stressed that migration, globalization and development are

inextricably linked and interdependent phenomena. There are basically two generic types of migratory people, first "involuntary or forced migrants" encompassing refugees, internally displaced persons and perhaps trafficked person and "voluntary migrants" who were immigrants and labour. Trafficking in persons he said was the "dark side" of migration that placed people in harmful or exploitative situations. Rapid rise in trafficking in persons was challenging the existing migration system. He further said that nexus between traffickers and migration added further complexities to management of migration. He explained at length the interfaces between migration, trafficking in persons and smuggling in migrants. He also pointed out the basic differences between trafficked persons and migrants, and differences between smuggled and trafficked persons.

39. He enumerated the implications of migration trafficking ambiguities on policy programmes. Over emphasizes on trafficking and on mixing it with legal migration was counter productive as efforts in combating trafficking sometimes could limit freedom of movement and livelihood options. He also outlined some fundamentals for addressing trafficking in persons and IOM's strategy to address trafficking in persons which is based on a comprehensive and integrated strategy, addressing the root causes for trafficking and addressing facilitating factors. IOM addresses the issues in origin, transit and destination countries simultaneously. He also highlighted IOM's programmes in Asia and Africa which dealt with all aspects of the trafficking problems. In this context, he shared the IOM comprehensive approach to management of migration.

40. In conclusion, he said that globalization would face difficulties and development would suffer, if facilities for safe migration were not made available in an orderly manner and trafficking in persons is not stopped. Ultimately a choice had to be made between either managing migration and harnessing its positive potentials or code control to the so called "market" forces and face more irregular migration.

41. During the Q's and A's, interventions were made by the Secretary-General of AALCO, delegates from Oman, Kuwait, Malaysia, Philippines and Yemen. Statements were made by the following delegations Qatar, Malaysia, Kenya, United Arab Emirates, Ghana, Indonesia, Nigeria, India, Sudan, Saudi Arabia, the People's Republic of China, Philippines, and Myanmar.

42. The Secretary-General of AALCO referring to the element of consent and the factor of age, said that as a legal body we have to discuss what are the conditions of consent and when it becomes a crime. Is it not necessary to have international cooperation to be able to reach a common position on this very important component of the crime of human trafficking? **Mr. Fujino** in response to the intervention questioned the practitioners of different legal systems to be able to develop a common binding definition taking into account the common denominators of the crime and the existing provisions (if any) regarding consent to determine crime.

43. **The Leader of Delegation of Oman** in his intervention directed to the panelist from Department of Justice and Human Rights, Indonesia pointed out the strong linkage between poverty and human trafficking. According to him, poverty was a root cause of the crime of human trafficking. In this regard, he asked would it not be desirable that the rich countries should assist the poor countries in eradicating poverty which in turn would help in combating the crime of human trafficking. In his view, this practical approach

would have far reaching results which could not be achieved by merely signing international conventions and agreements. He also proposed that prohibiting prostitution internationally would be an effective means of curbing the crime of trafficking. He sought the views of the panelist in this regard.

44. **Prof. Romly Atmasasmita** concurred with the views of the Honorable Minister that there was a strong linkage between poverty and human trafficking, however, combating trafficking in context of rich and poor countries would have unending solutions. Therefore, we need to have a common view to point out to the common denominators of this important issue of human trafficking. He suggested that AALCO as a legal body should focus on legal cooperation in order to reach a common position.

45. **The Leader of Delegation of Oman** was not satisfied by this answer and stated that the question was regarding the duties of rich countries towards poor countries in eradicating poverty which is the main reason behind this problem of trafficking. He also reiterated the significance of prohibition of prostitution globally in this fight against trafficking.

46. **Prof. Romly** while agreeing with his suggestions said that trying to solve the root causes, namely poverty, would take longer time to achieve the aim of the Protocol and it was more desirable to have a common position either bilaterally or multilaterally which could deal with the crime of human trafficking.

47. **The Delegate of Oman** in his question directed to Ms. Rosa Sierra, UNHCR referred to the continuing wars and conflict situations in the third world countries and the number of refugees, and said that despite efforts of the UN to give support to refugees it was still a problem. In your opinion what is the role of big countries in such situations and whether they can interfere in conflict situations without a biased view.

48. **Ms. Rosa Sierra**, Protection Officer, UNHCR referring to the continuing wars and conflict situations in the third world countries and the number of refugees, she said that despite efforts of the UN to give support to refugees it was still a problem. She agreed that the causes of trafficking had to be addressed and required broader efforts relating to trade, employment, law enforcement and prevention management. She felt that soft credits had to some extent been able to provide protection to the victims of trafficking but there was great need to take up international responsibilities and burden sharing.

49. **The Leader of the Delegation of Oman** in his question to the panelist from UNODC said that the countries had concluded numerous international conventions and agreements but most of them were not successful in overcoming crimes which were ever increasing due to poverty and unawareness. What was the assessment of the Panelist on these international agreements and the reasons for their failures and how could they be made more effective.

50. **Mr. Akira Fujino**, Representative, UNODC, referring to the effectiveness of international treaties recounted that the drug control treaties had been very effective and was cautiously optimistic that the Transnational Organized Crime Convention would also be successful.

51. **The Leader of the Delegation of Oman** in his question to Ms. Julie Lebegue, Child Protection Officer, UNICEF asked whether the employment of children under the age of 18, with very low wages could be considered as trafficking, when there was no financial assistance to family by government or international organizations. Some in the developing countries believed that rich industrialized countries place their principles, to serve their own interests. These principles were imposed on the developing countries. **Ms. Julie Lebegue**, Child Protection Officer, UNICEF, expressed the view that as regards the children from poor countries going for work, family should not be blamed. ILO Convention 138, dealt with child workers in the age group of 15-18, which were not exploitative in nature. ILO Convention 182, dealt with worst form of child labour under the age of 18. However, it should not have any impact on the child's right to education. After attending the school, he/she could go for work. Governments were totally free to decide whether to ratify conventions or not. But once they ratify the convention then it was their duty to enforce it. **The Head of the Delegation of Oman** stated that the governments of poor countries could not impose compulsory education. Even if it is imposed on parents, they could not provide education to their children, due to poverty and other economic reasons. He felt that how could the family be forced to send their children to school.

52. **The Delegate from Kuwait** was of the view that AALCO should have a role in drafting definition for the crime of human trafficking. He also suggested that countries exporting labour should take responsibility particularly in giving work license; it should be precise, especially for women and children.

53. **The Delegate from Yemen**, supported the views of the Sultanate of Oman and Kingdom of Saudi Arabia. In Yemen, punishment for crime of human trafficking is 10 years imprisonment. National legislations should be very severe and punishment, including capital punishment has to be given, since human life and dignity is affected. Suggestion for international cooperation in unifying punishment was also mooted.

54. **The Head of the Delegation of Kingdom of Saudi Arabia** strongly supported the three questions raised by the honorable delegate of Oman. He said that the Islamic Law applied by the Kingdom provided a solution to the problem, through prohibiting prostitution; legally binding on males to take full responsibility towards their families and provide the essential necessities for the women and children; and alleviating poverty through various policies and programmes such as (Takaful). He also suggested a recommendation for the revision of national legislation that legalize prostitution in order to conform with the ethical and religious traditions in the Asian and African communities.

55. **Amb. Dr. Ali Reza Deihim**, Deputy Secretary General, AALCO, also made an intervention regarding the element of consent in the process of human trafficking. The commission of crime could be ascertained only if two elements were present namely, *actus reus* and *mens rea*. As regards the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children and in light of its Article 3, three elements should be present. Firstly, *actus reus* and its related actions; secondly, means, which include fraud, deception, abuse of power, etc. and thirdly, purpose of exploitation which include, prostitution or other forms of sexual forced labor and related exploitation.

The consent of victim is important, and with regard to a child due to the lack of such genuine consent, it has been considered a crime. In the absence of the consent in the trafficking of the women and children, the victims are entitled to receive compensation. However, the existence of the consent in the smuggling does not change the character of the criminal commission of smuggling.

56. **Mr. Shahidul Haque**, summed up the proceeding of the day. He highlighted some of the important points. These are:

- Human Trafficking is a global problem and global approach is necessary to tackle it.
- Human trafficking is fundamentally a human rights problem.
- Persons who are involved in human trafficking are criminals and they should be punished.
- Women and Children are more vulnerable to trafficking; hence they should be given special consideration.
- The victims of trafficking especially women and children should be treated keeping in view the established human rights standards than as criminals.
- Increasing victim's participation in program design. . Human Trafficking is linked with migration and refugees as all these take place in a same migratory space.
- National legislation has to be in consonance with international legal instruments and initiatives.
- Concept of burden sharing is relevant. Developing countries needed assistance from developed countries to tackle this problem. Some developed countries members of AALCO have already helped the developing countries in this regard.
- Collaborative endeavors have to be encouraged.
- Malaysia supports the proposal for a study by the Secretariat on the possibility of formulating model legislation which reflects the relevant international instruments.
- Trafficking in persons has to be addressed in an integrated and comprehensive manner and within the broader migration framework.
- Protection of trafficking victims should be given due priority in developing interventions to tackle the problem.
- Women and children are overwhelmingly get trafficked/smuggled. But men also can be trafficked/ or smuggled.

57. **H.E. Mr. Ambrose Patrick Dery**, Vice President of the Session, thanked all the panelists, delegation and the Secretary General of AALCO for their contributions and cooperation. He was confident that AALCO had a bright future.

58. **Amb. Dr.Wafik Z. Kamil**, Secretary General, AALCO, suggested that we need to have more in-depth study on this topic at international and regional level. He also reiterated the need for keeping the item on the agenda for the coming session as well, so as to be able to study the multifaceted problem of trafficking in persons, especially women and children. He expressed his sincere gratitude to all Panelists, delegates,

UNHCR, UNICEF, UNODC and 10M. He further stated that the cooperation agreements with these organizations were very fruitful and the Organizations were very cooperative in this regard.

VII. RECENT DEVELOPMENTS

A. First Conference of the Parties (CoP)

59. The Convention Against Transnational Organized Crime, under article 32, provides for the establishment of a Conference of the Parties to promote and review the implementation of the Convention and supplementing Protocols, which should meet within one year of the Convention's entry into force. In accordance with the above-stated Convention mandate, the Conference held its first session in Vienna, Austria from 28 June to 9 July 2004.

60. The provisional agenda for the first session of the CoP was prepared by the Secretariat pursuant to consultations held in Vienna, on 24 March and 4 May 2004 with the Chairmen of the regional groups, the Chairman of the Group of 77 and China and the Presidency of the European Union. The provisional agenda provided, *inter alia*:

- i. Consideration of mechanisms for achieving the objectives of the CoP in accordance with article 32, paragraphs 3-5, of the Convention;
- ii. Consideration of notification requirements in accordance with the relevant articles of the Convention (art.5, para.3; art.6, para.2 (d); art.3, para.5; art.16, para.5 (a); art.18, paras.13 and 14; and art.31, para.6);
- iii. Consideration of matters pertaining to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;
- iv. Consideration of matters pertaining to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

61. At the request of the CoP to the United Nations Convention against Transnational Organized Crime, the Secretariat prepared a multi-year programme of work. Such a programme of work enabled the Conference to structure its activities in a manner that would permit it to promote and review the implementation of the United Nations Convention on Transnational Organized Crime in more detail and in more depth. The Secretariat submitted for consideration of the Conference the following workplan:

- a) Second session (2005): Consideration of the implementation of the following articles: 5 (Criminalization of participation in an organized criminal group); 6 (Criminalization of the laundering of proceeds of crime), 7 (Measures against corruption), 10

(Liability of legal persons), 11 (Prosecution, adjudication and sanctions), 12 (Confiscation and seizure), 22 (Establishment of criminal record), 23 (Criminalization of obstruction of justice) and 34 (Implementation of the Convention);

- b) Third session (2006): Consideration of the implementation of the following articles: 16 (Extradition), 17 (Transfer of sentenced persons), 18 (Mutual legal assistance), 13 (International cooperation for purposes of confiscation), 14 (Disposal of confiscated proceeds of crime or property), 19 (Joint investigations), 20 (Special investigative techniques), 21 (Transfer of criminal proceedings), 27 (Law enforcement cooperation) and 15 (jurisdiction);
- c) Forth session (2008): Consideration of the implementation of the following articles: 24 (Protection of witnesses), 25 (Assistance to the protection of witnesses) and 26 (Measures to enhance cooperation with law enforcement authorities)

62. The Conference began by the message delivered by the Division for Treaty Affairs of the United Nations Office on Drugs and Crime, on behalf of the Secretary-General. In that message, the Secretary-General noted that organized crime was prominent among the new threats to peace and security and that it undermined efforts towards sustainable development and respect for rule of law.

63. The President of the Conference stated that, while implementation of the instruments was the responsibility of Governments, the international community would have to assist Governments, in particular the developing countries, in fulfilling that responsibility.

64. The Director-General of the United Nations Office at Vienna and Executive Director of the United Nations Office on Drugs and Crime drew attention to the importance of providing technical cooperation to assist those State Parties which were willing to comply with the instruments but did not have the necessary means to do so.

65. At the session, the CoP had before it, in addition to the documents prepared by the Secretariat, documents containing proposals and contributions submitted by the Governments of Australia, Mexico and New Zealand.²²

Consideration of mechanisms for achieving the objectives of the Conference of the Parties in accordance with article 32, paragraph 3-5, of the Convention and Documentation

66. The Conference under this agenda, considered the desirability and feasibility of establishing a multi-year programme of work.

²² CTOC/COP/2004/L.3 and CTOC/COP/2004/L.4.

67. Many speakers acknowledged with gratitude the proposal made by Mexico concerning the establishment of a multilateral review mechanism along the lines of the peer review process under the Convention on Nuclear Safety²³ and the Multilateral Evaluation Mechanism of the Organization of American States. However, it was pointed out that the Organized Crime Convention did not warrant the same type of review system as the Convention on Nuclear Safety. Many speakers expressed concern regarding the human and financial cost of such a review mechanism.

68. Most speakers expressed their appreciation for the work carried out by the United Nations Office on Drugs and Crime in connection with the Convention and its Protocols.

69. The various proposals contained in the note by the Secretariat²⁴ were also discussed. Concerning the multi-year programme, many speakers indicated that the Conference should remain flexible and that, while setting the workplan for the second session (2005) was necessary, however for the subsequent sessions (2006 and 2008), should remain open for later changes. Several speakers recognized the importance of focusing the first session on review of the implementation of the criminalization requirements of the Convention, same being the foundation on which the fulfillment of international cooperation obligations and other obligations under the Convention was based. Many speakers stressed the crucial importance of technical assistance under the international cooperation in enabling domestic authorities to tackle implementation of the Convention. Thus, they deemed it essential for technical assistance to be placed on the agenda of the Conference as a priority and favoured the establishment of an open-ended working group to consider in detail the issue of provision and financing of technical assistance.

70. In order to pursue the exchange of views on this agenda item, the Conference decided at its sixth meeting to consider an informal open-ended working group, based on the note by the Secretariat and the proposals submitted by Australia and New Zealand. Non signatory States and other observers were invited to participate in the working group.

71. The outcome of the work of the working group was brought to the attention of the Conference in the form of draft decisions.²⁵

Consideration of notification requirements in accordance with the relevant articles of the Convention (art.5, para.3; art.6, para.2(d); art.3, para.5; art.16, para.5(a); art.18, paras.13 and 14; and art.31, para.6)

72. The Conference had before it the note by the Secretariat on notifications, declarations and reservations received by the Secretary-General.²⁶

²³ United Nations, *Treaty Series*, vol. 1963, No.33545.

²⁴ CTOC/COP/2004/L.5.

²⁵ CTOC/COP.2004/L.6, CTOC/COP/2004/L.7 and CTOC/COP/2004/L/8.

²⁶ CTOC/COP/2004/4.

73. With regard to notifications, specific provisions of the Organized Crime Convention and the Migrants Protocol required States parties to provide Secretary-General with information concerning the status of legislation on specified matters as well as the name and coordinates of designated competent authorities for mutual legal assistance and cooperation.

74. Some speakers noted that article 16, para.5 (a) of the Convention required States parties to make extradition conditional on the existence of a treaty at the time of deposit of their instrument of ratification, acceptance, approval of or accession to the Convention to inform the Secretary-General whether they would take the Convention as the legal basis for cooperation on extradition with other States parties. In that context, several speakers emphasized that such information was crucial to the implementation of the provisions on extradition.

Consideration of matters pertaining to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

75. On 5 and 6 July, the Conference considered the above-stated agenda item. Several speakers commented on the increase in trafficking in persons and how it had affected their countries as countries of origin, transit or destination. They also pointed out the effect of globalization on trafficking in persons by opening up borders. Factors such as poverty, unemployment, lack of development and gender inequality were highlighted by several speakers as root causes that needed to be addressed in order to combat trafficking in persons more effectively. Some speakers pointed out to the need to curtail the demand side of trafficking in the countries of destination.

76. The need for awareness-raising as a preventive measure was mooted. Many speakers emphasized victim support protection as an important issue for maximizing the effectiveness of law enforcement measures against traffickers.

77. Several speakers made reference to specific examples of bilateral, multilateral, regional and sub-regional agreements, arrangements and projects that were being put in place with a view to galvanizing anti-human trafficking policies and strategies.

78. In this context, Ambassador DR. ALI REZA DEIHIM, the representative of the AALCO to the Conference made a statement. By referring to the Special Day Meeting, organized within the Forty-third Annual Session of the AALCO in Bali-Indonesia (21-25 June 2004), on 'Establishing cooperation against trafficking in persons, especially women and children', he briefly highlighted the main issues raised by the panelists as regards the causes, effects, ways and means to tackle this problem. In order to emphasize the role of the regional organizations, such as AALCO, he referred to the mandate given to the

Secretary-General, by Resolution²⁷. This along with the letter addressed to the Chief Crime Conventions sections,²⁸ was officially circulated among the delegations.

79. The Conference based its discussion on the matter on a proposal made by Norway, which was subsequently amended in informal consultations and further debate in plenary.

Consideration of matters pertaining to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

80. On 6 July, the Conference considered the above-stated agenda item. Several speakers emphasized that implementation of the Protocol should not impinge on the freedom of movement of migrants, but rather focus on measures directed against those smuggling migrants. Migration as an aspect of globalization, where migrants sought better chances and opportunities for better life, had brought development, prosperity and cultural enrichment.

81. Many speakers mentioned preventive measures, including enhanced border control, surveillance of points of entry and exit and computerized information systems on travel documents and control of movements across international borders. Several speakers called for more extensive international cooperation in preventing the smuggling of migrants.

82. The Conference based its discussion on a proposal made by Nigeria. The Conference adopted that decision on the understanding that the exchange of views on and experience in the implementation of articles 15 and 16 of the Protocol would not imply collection of information by the Secretariat, but would serve as a guide for the preparations by States parties and observers for the second session of the Conference.

83. Finally, the Conference of the Parties adopted the draft provisional agenda and proposed organization of work for the second session of the Conference of the Parties.²⁹

B. The Asia and Pacific regional preparatory meeting for the Eleventh Crime Congress³⁰

84. The Asia and Pacific regional preparatory meeting for the Eleventh Crime Congress was convened, in pursuance of the General Assembly resolution 58/138, in Bangkok, Thailand from 29-31 March 2004. The Congress was organized by the United Nations Office on Drug and Crime (UNODC), in cooperation with the Economic Commission for Asia and the Pacific (ESCAP). This meeting was the second of the four

²⁷ Res/43/SP.1 dated 25 June 2004.

²⁸ CTOC/COP/2004/CRP.2 of 5 July 2004.

²⁹ CTOC/COP/2004/L.2.

³⁰ Report of the Asia and Pacific Regional Preparatory Meeting for the Eleventh Crime Congress, A/CONF.203/RPM.1/1

regional preparatory meetings being organized for the world Congress that will take place in Thailand in April 2005.

85. Over 120 experts from Member States of Asia and the Pacific region, as well as observers from Member States, representatives of inter-governmental organizations, United Nations bodies, United Nations-affiliated and regional institutes, and non-governmental organizations participated in the meeting. They discussed, from the Asian and Pacific perspective, the issues to be considered at the Congress, in order to highlight the problems and concerns, as well as experiences and approaches.

86. On the five substantive agenda items of the Congress, the Meeting made various recommendations, including on “Effective measures to combat Transnational Organised Crime” that all States should become parties to the United Nations Convention Against Transnational Organised Crime and its three Protocols. It also recommended that in the age of rapidly growing technology, telecommunication and computer network systems and their increasing abuse, the Eleventh Congress consider proposing the negotiation of a new convention against cyber crime.

87. In regard to “Making standards work: fifty years of standard-setting and crime prevention and criminal justice”, the Meeting recognized the importance of the United Nations standards and norms in crime prevention and criminal justice and recommended that States pay particular attention to juvenile justice and to measures to ensure adequate treatment of children in conflict with the law.

C. Latin American and Caribbean Regional Preparatory Meeting for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice³¹

88. The Latin American and Caribbean regional preparatory meeting for the Eleventh Crime Congress was held in San Jose, Costa Rica from 19-21 April 2004. The meeting was organized by the UNODC, in cooperation with the Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), and hosted by the Government of Costa Rica. The meeting was the third of four regional meetings being organized for the world Congress scheduled to take place in Thailand in April 2005.

89. Many experts from Member states and Associate Members of the Economic Commission for Latin American and the Caribbean, as well as the observers from other Member States, representatives of intergovernmental organizations, United Nations bodies, United Nations-affiliated and regional institutes and NGOs participated in the meeting. The discussed, from the regional perspective, the issues to be considered at the Congress in order to flag out the problems and concerns and to share their experiences and approaches.

³¹ Report of Latin American and Caribbean Regional Preparatory Meeting for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice, A/CONF.203/RPM.2/1.

90. The meeting deliberated on the five substantive items on the agenda of the Congress and made various recommendations. On “Effective measures to combat transnational organized crime”, the meeting recommended that all States in Latin America and the Caribbean participate actively in the upcoming conference of the Parties to the United Nations Convention against TOC, to be held in June 2004.

91. Particularly, while stressing that States continue efforts to implement the Protocol to Prevent, Suppress and Punish Trafficking in persons, especially Women and Children and the Protocol against Smuggling of Migrants by Land, Sea and Air, the San Jose meeting recommended that specific protection and assistance be provided for persons applying for refugee status, and thorough analysis of individual cases involving victims of trafficking should precede the repatriation of those persons to their countries of origin. The meeting also recognized that kidnapping was one of the most serious and profitable forms of organized crime, often committed with the objective of funding organized crime and terrorist activities, and strongly recommended that urgent measures be devised to combat it.

92. The meeting also discussed the other themes of the upcoming Congress, and made a variety of recommendations on the six workshops to be held within the framework of the Eleventh Congress.

D. Western Asia Regional Preparatory Meeting for the Eleventh Congress on Crime Prevention and Criminal Justice³²

93. The Western Asia regional preparatory meeting for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice was held in Beirut, Lebanon from 28-30 April 2004. The meeting was organized by the UNODC and hosted by the Ministry of Justice of the Government of Lebanon. The regional preparatory meeting was the fourth and final regional preparatory meeting being organized for the world Congress to be held in Thailand in April 2005.

94. Delegates from Member States of the Economic and Social Commission for Western Asia as well as observers from the host country of the Congress, representatives from intergovernmental organizations, United Nations bodies, United Nations-affiliated and regional institutes, and non-governmental organizations participated to discuss, from the regional perspective, the issues to be considered at the Congress, in order to highlight problems and concerns.

95. The meeting made a variety of recommendations on the five substantive agenda items of the Crime Congress, namely: effective measures to combat transnational organized crime; international cooperation against terrorism and links between terrorism and other criminal activities in the context of the work of the UNODC; corruption: threats and development; making standards work: fifty years of standard-setting in crime

³² Report of the Western Asia Regional Preparatory Meeting for the Eleventh Congress on Crime Prevention and Criminal Justice, A/CONF.203/RPM.4/1

prevention and criminal justice. The meeting also made various recommendations on the six workshops to be held within the framework of the Eleventh Congress.

E. Thirteenth Session of the United Nations Commission on Crime Prevention and Criminal Justice in Vienna

96. The United Nations Commission on Crime Prevention and Criminal Justice held its thirteenth session in Vienna from 11-20 May 2004. Over 600 delegates reviewed the activities of the UNODC focusing on the rule of law and development, the session's main theme, terrorism, the ratification of the Conventions against Transnational Organised Crime and on Corruption, standard norms in crime prevention and criminal justice and other forms of crime related matters.

97. Key resolutions by the Commission call for action on "Strengthening the rule of law and the reform of criminal justice institutions with emphasis on technical assistance, including in post-conflict reconstruction.

98. The Rule of Law and Development was the main theme of this year's thematic discussion. A high-level panel initiated the discussion, which emphasized that development was not sustainable without the rule of law but that the establishment of the rule of law in post-conflict societies was a long-term effort. It was emphasized that all stakeholders, including government authorities, civil society, local communities and NGOs needed to be involved.

99. In respect to the agenda item "United Nations standards and norms in Crime Prevention and Criminal Justice," the Commission discussed new areas for elaborating standards and norms, namely: justice for child victims and witnesses of crime and access to prevention and treatment of HIV/AIDS for prison populations. The Commission was presented with a set of four questionnaires relating to person in custody, alternatives to imprisonment, juvenile justice and restorative justice that would be used to assess the use and application of standards and norms in Member States and to evaluate needs for technical assistance in the area of criminal justice reform. The Commission also discussed a number of good practices in crime prevention and the issue of the prevention of crimes that infringe on the cultural heritage of people in the form of moveable property.

100. Resolutions aiming at reducing urban crime, illicit trafficking in human organs, kidnapping, money laundering and at protecting child victims and witnesses of crime were adopted during this session. In particular, the resolution adopted on "Preventing, Combating and Punishing Trafficking in Human Organs" noted the potential growth of exploitation by criminal groups of human needs, poverty and destitution for the purpose of trafficking in human organs, using violence, coercion and kidnapping, especially kidnapping of children, with a view to exploiting them by means of organ transplant operations, and encouraged the Member States to adopt necessary measures and to

exchange experiences and information on preventing, combating and punishing the said crime.

F. Special Rapporteur on Trafficking in Persons appointed by the Commission of Human Rights

101. The chairman of the UN Commission of Human Rights appointed Sigma Huda of Bangladesh as the Special Rapportuer on trafficking in persons, especially women and children. The Special Rapporteur on trafficking is mandated by the Commission to make recommendations on ways to uphold the rights of trafficked persons based on gathered and received information from relevant sources. The Special Rapportuer is also mandated to respond effectively to reliable information on possible human rights violations with a view to protecting the human rights of actual or potential victims of trafficking.

VIII. GENERAL COMMENTS

102. Despite the positive developments, serious obstacles remain to prevent and combat trafficking and restoring dignity to all victims of trafficking. It is necessary to bear in mind that trafficking in persons, especially women and children, will not be weeded out without a long-term address to the underlying causes for trafficking in persons – extreme poverty and severe lack of economic opportunities in home countries, inequality of women and absence of adequate state support on one hand and inability to migrate legally from deprived to prosperous countries (while in reality there is a demand for foreign labour in developed countries). Long-term development and poverty reduction strategies together with human rights, democracy and women empowerment promotion must be a part of any approach and solution devised to combat the growing menace of trafficking in persons as well as approaches to the question of migration and the rights of migrants.

103. As noted above that the existing international legal framework is inadequate and narrow. Thus, it is averred that ‘to successfully combat trafficking in persons we need to take a three-pronged approach involving prevention of trafficking, prosecution of traffickers and protection of human rights of trafficked persons.’³³ It is further argued that any efforts to understand and analyze the problem of trafficking would remain incomplete if it is approached from the point of view of prevention of crimes only. Thus it is felt that human rights approach should remain the *sine qua non* of any mechanism against trafficking in persons. The existing international legal framework is also critiqued on similar lines including the UN Trafficking Protocol and the UN Convention against Transnational Organized Crime. Therefore, it is necessary that any approach should equally focus on the effects on the victims of trafficking and their rights as reflected in various human rights and other instruments under international law. Recent ‘Recommended Principles and Guidelines on Human Rights and Human Trafficking’ of the Office of the United Nations High Commissioner for Human Rights are of significant importance in this direction.

104. Historically, trafficking has often been understood as movement only for commercial sexual purposes, and has thus not been comprehensively dealt with in law as was evidenced in the early international legal instruments. Accordingly in many countries, the problem of trafficking is addressed through prostitution laws, which seek variously to criminalize, regulate or control the sex industry and sex trade. In this regard there is clearly an urgent need for countries to review laws that do not take account of a comprehensive understanding of trafficking as reflected in the Protocol against Trafficking in Persons and to ensure that adequate protection in law is provided. Further, it is not enough to enact legislation that makes trafficking in persons a serious crime, without complementing it with effective law enforcement mechanisms. Without effective law enforcement and prosecutions of traffickers, traffickers continue their criminal

³³ Elaine Pearson, Trafficking Programme Officer, Anti-Slavery International, “*The Need for effective Witness Protection in the Prosecution of Traffickers: A Human Rights Framework for Witness Protection*” Paper presented at the First Pan-African Regional Conference on Trafficking In Persons, Abuja, Nigeria, 19-23 February 2001. <http://www.antislavery.org/archive/other/witnessprotection.pdf>

activities unhindered. Therefore, it is desired that effective enforcement mechanisms as well as integrated legal frameworks should be developed with international co-operation.

105. What is most often overlooked in regard to successful enforcement of even the best pieces of legislation is that not only must the law itself be changed to impose liability on traffickers and on patrons of places where trafficked victims may be forced into prostitution; but more importantly, to reform the functional equivalent of the law, that is, the customs, the traditions, and acceptable behaviour. Countries that tolerate, accommodate, or normalize prostitution should review their policies and inquire whether such tolerance, accommodation or normalization contributes to the rising numbers of trafficking victims. It is also relevant to recognize the significance of addressing traditional systems that may play a part in the trafficking infrastructure, for sexual exploitation as well as for forced labour.

106. The UN Convention against Transnational Organised Crime address and require States Parties to adopt effective measures to promote integrity and prevent, detect and punish the corruption of public officials.³⁴ Although there have been some cases of prosecution of public officials for their involvement in trafficking, many states are still unwilling to expose and punish corrupt public officials. In many countries, corruption is rampant and continues to remain a major contributor to the trafficking infrastructure. Therefore, the issue of trafficking in persons should be addressed in the larger context in light of the existing obligations of States under the various regimes of international law and human rights law.

107. It is encouraging to note that most of the AALCO Member States are already Parties to the Convention on the Elimination of all Forms of Discrimination against Women as well as the Convention on the Rights of the Child. These measures could facilitate in addressing these issues effectively and systematically. Communications received by the AALCO Secretariat from Member States in respect of national legislations show that even though many countries do not have anti-trafficking legislations per se, however, provisions in other domestic laws do deal with the offence of trafficking in women and children. An early ratification of the Convention and its Protocols specially the Protocol to Prevent, Suppress and Punish Trafficking in persons especially Women and Children would go a long way in dealing with the crime of trafficking.

108. A significant step towards protection against trafficking in women and children could be the formulation of model legislation, reflecting the dispositions of International instruments, a proposal that was supported during the Fortieth session of AALCO. Further, during the discussions held during the Special Meeting on 'Establishing Cooperation against Trafficking in Persons, especially Women and Children' in Bali during the Forty-third Session, many delegations reiterated the importance of having a model legislation on the said subject, particularly they emphasized the need of having a common definition for the 'crime of trafficking in persons', as has been reflected hereinbefore in the Summary of the Special Meeting (pp. 8-16 of the present Report). The

³⁴ Articles 8 and 9 of the Convention against Transnational Organised Crime.

preparation of model legislation may also facilitate consideration by Member States of becoming parties to the UN Convention Against Transnational Organized Crime and its Protocols. This task could be accomplished with the technical assistance and effective co-operation from the IOM and OHCHR with whom a Cooperation Agreement and Memorandum of Understanding were signed in the years 2000 and 2001 respectively. In this connection, Member States may be requested to communicate to the Secretariat their national legislation relating to preventing and combating the crime of trafficking in women and children as well as protecting victims.

109. The Forty-fourth Session of AALCO would provide a good opportunity for Member States to deliberate upon various issues involved and find ways and means in tackling the issue and establish an effective cooperation among Member States against trafficking in women and children and to approve the guideline drawn up for formulating the model law.

ANNEX I

SUMMARY OF THE PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN

1. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children entered into force on 25 December 2003 and presently 76 States are parties to it.³⁵
2. The definition of trafficking in persons is intended to include a range of cases where human beings are exploited by organised criminal groups where there is an element of duress involved and a trans-national aspect, such as the movement of people across borders or their exploitation within a country by a trans-national organised crime group. The definition reads as follows:
3. “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation,³⁶ forced labour or services, slavery or practices similar

³⁵ 25 AALCO Member States are parties to this Protocol, of which 12 have signed this protocol. They are: **India, Indonesia, Japan, Lebanon, Republic of Korea, Saudi Arabia, Sierra Leone, Sri Lanka, Syrian Arab Republic, United Republic of Tanzania, Thailand, Uganda.** The 13 Member States have ratified or acceded to it are: **Arab Republic of Egypt, Bahrain, Botswana, Cyprus, Gambia, Libyan Arab Jamahria, Mauritius, Myanmar, Nigeria, Philippines, Senegal, South Africa and Turkey.**

³⁶ The terms “exploitation of the prostitution of others” and “sexual exploitation” are the only terms in the definition of trafficking that are intentionally left undefined and are also not defined anywhere else in international law. The delegations that negotiated the Trafficking Protocol at the UN Crime Commission were unable to agree upon definitions for these two terms and so they decided to leave them undefined. There was an understanding that countries have different laws and policies on adult sex work and that many countries would not or be able to sign the Trafficking Protocol if it forced them to change their prostitution laws. Some delegations felt that all adult prostitution, including voluntary and even legal prostitution involving adults, should be classified as trafficking. Many rejected the notion that voluntary, non-coerced participation by adults in sex work, factory work or any other work is trafficking. While such work can be abusive and exploitative, it is only trafficking if it amounts to the internationally recognised human rights violations of forced labour, slavery or servitude. A consensual proposal was made to encourage all countries to sign the Trafficking Protocol, including countries that have laws criminalizing adult sex work and countries that have laws decriminalizing and/or regulating adult sex work. All delegations agreed that trafficking involves slavery, forced labour or servitude. As there is no international agreement on the meaning of ‘sexual exploitation’ there was a proposal to include the term but leave it undefined. Therefore the *travaux préparatoires* indicated “that the Protocol addresses the exploitation of the prostitution of others and other forms of sexual exploitation only in the context of trafficking in persons. The terms “exploitation of the prostitution of others” or “other forms of sexual exploitation” are not defined in the Protocol, which is therefore without prejudice to how States parties address prostitution in their respective domestic laws”.

to slavery, servitude or the removal of organs.” (Art.3).³⁷ This is the first international instrument that provides for a broad definition encompassing various dimensions of the issue. Various aspects of the Protocol may be summarized as follows.

a. Requirement of New Domestic Legislations

4. To tighten the net around traffickers, parties to the protocol agree to pass new laws to criminalize trafficking in persons, especially women and children, to ensure that offenders are punished. States also plan to adopt new measures to expose traffickers, such as tightening borders through stricter identity checks, as well as inspecting and seizing vehicles. Law enforcement provisions in the Trafficking Protocol and the Convention are mandatory as these provisions use the phrase “shall adopt”. Therefore States that become parties to these instruments must formulate legislation to that effect.

b. Protection of Victims

5. While the Protocol calls for a crackdown on traffickers, it also stresses that trafficking victims should be well protected. State parties are obliged under the Protocol to:

1. Inform victims about relevant court and other proceedings against offenders and ensure victims' privacy;
2. Give housing, education and care to child victims in governmental custody;
3. Enable victims to seek compensation for damages, including fines, penalties or forfeited proceeds as well as restitution from offenders;
4. Consider immigration laws permitting victims of trafficking to remain on their territory, temporarily or permanently; and
5. Accept and aid, without delay, the return of trafficking victims who are nationals or residents of that nation;

6. The trafficking Protocol is primarily a law enforcement instrument and not a human rights instrument as it has been developed by the UN Crime Commission but not by a human rights body. Therefore, the drafters created a strong law enforcement tool with comparatively weak language on human rights protections and victim assistance.

³⁷ Though the terms “exploitation of the prostitution of others” and “sexual exploitation” are not defined anywhere, the other terms used in the definition are defined elsewhere. The term “forced labour” is defined in article 2.1 of the International Labour Organisation Convention Concerning Forced Labour No. 29, 1930. The term “slavery” is defined in article 1.1 of the UN Slavery Convention, 1926. “Practices similar to slavery” are contained in article 1 of the UN supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956. Servitude is not defined in international law but it is understood that the practices similar to slavery are forms of servitude. The Supplementary Convention lists specific instances of servitude or practices similar to slavery. Other forms of servitude can be drawn from the principles evident in the Supplementary Convention.

Delegates concentrated on creating a strong law enforcement instrument and many of them did not believe that human rights are appropriate in the trafficking Protocol. This resulted in the law enforcement provisions containing mandatory language, such as “states parties shall”, while the protections and assistance provisions (Protocol articles 6 and 7 and Convention articles 24 and 25) containing weaker terms, such as “in appropriate cases” and “to the extent possible”.

c. Prevention, Cooperation and other Measures

7. The protocol emphasizes that Governments should seek to prevent trafficking, in addition to hunting down and punishing traffickers. It urges them to adopt social policies and programmes to prevent trafficking and the revictimization of trafficked persons, especially women and children. States are also urged to undertake information campaigns about trafficking in persons, especially women and children, to warn potential victims and discourage budding traffickers.

d. Exchange of Information and Border Measures

8. To boost links between law enforcers in countries of trafficking origin, transit and destination, States Parties agree through the Protocol to exchange information relating to the identity of the traffickers and victims, trafficking techniques, means of transportation as well as trafficking routes. For the purpose of preventing trafficking the protocol also asks for initiating border control measures including sanctions against carriers for not taking required measures to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.³⁸

e. Non-Discrimination

9. Keeping in view the complex nature of the problem of trafficking, the Protocol recognizes that its application does not affect the rights of victims of trafficking simply because they were trafficked. It further prohibits discrimination on the grounds such as race, religion, sex, nationality etc., that are enshrined under other international legal instruments, such as human rights, humanitarian law and refugee law. Accordingly, it emphasizes that the application of the Protocol should be consistent with the internationally recognized principles of non-discrimination.

³⁸ In this regard UN Interpretative Note reads: “The *travaux préparatoires* should indicate that measures and sanctions applied in accordance with this paragraph should take into account other international obligations of the State Party concerned. It should also be noted that this article requires States Parties to impose an obligation on common carriers only to ascertain whether or not passengers have the necessary documents in their possession and not to make any judgment or assessment of the validity or authenticity of the documents. It should further be noted that this paragraph does not unduly limit the discretion of States Parties not to hold carriers liable for transporting undocumented refugees.”

ANNEX II

AALCO MEMBER STATES PARTIES TO THE CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME AND PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN

Convention Against Transnational Organized Crime

Country	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a)	Member States that have sent their national legislations
Arab Republic of Egypt	13 December 2000	05 March 2004	24 May 2002
Bahrain		7 Jun 2004 a	
Botswana	10 April 2002	29 Aug 2002	
China	12 December 2000	23 Sep 2003	5 November 2004
Cyprus	12 December 2000	22 April 2003	24 May 2002
Gambia	14 December 2000	05 May 2003	
Ghana			18 November 2004
India	12 December 2002		
Indonesia	12 December 2000		
Iran (Islamic Republic of)	12 December 2000		
Japan	12 December 2000		15 January 2002
Jordan	26		

	November 2002		
Kenya		16 June 2004 a	
Kuwait	12 December 2000		31 December 2004
Lebanon	18 December 2001		8 March 2002
Libyan Arab Jamahiriya	13 November 2001	18 Jun 2004	
Malaysia	26 September 2002	24 Sep 2004	1 November 2004
Mauritius	12 December 2000	21 April 2003	25 November 2004
Myanmar		30 March 2004	2 April 2002
Nepal	12 December 2002		6 March 2002
Nigeria	13 December 2000	28 June 2001	
Oman			16 December 2001
Pakistan	14 December 2000		
Philippines	14 December 2000	28 May 2002	7 October 2004
Qatar			1 December 2004
Republic of Korea	13 December 2000		12 October 2004
Saudi Arabia	12 December 2000		
Senegal	13 December 2000	27 Oct 2003	

Sierra Leone	27 November 2001		
Singapore	13 December 2000		20 December 2001
South Africa	14 December 2000	20 Feb 2004	
Sri Lanka	13 December 2000		
Sudan	15 December 2000		22 December 2004
Syrian Arab Republic	13 December 2000		6 May 2002
Thailand	13 December 2000		
Turkey	13 December 2000	25 March 2003	
Uganda	12 December 2000		
United Arab Emirates	09 December 2002		7 February 2002
United Republic of Tanzania	13 December 2000		
Yemen	15 December 2000		

Protocol to Prevent, Suppress and Punish Trafficking in persons, especially Women and Children

Country	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a)
Bahrain		7 Jun 2004 a
Botswana	10 April 2002	29 August 2002
Cyprus	12 December 2000	06 August 2003
Egypt	01 May 2002	05 March 2004
Gambia	14 December 2000	05 May 2003
India	12 Dcember 2002	
Indonesia	12 December 2000	
Iran (Islamic Republic of)		
Japan	09 December 2002	
Lebanon	09 December 2002	
Libyan Arab Jamahiriya	13 November 2001	24 Sep 2004
Mauritius		24 September 2003 a
Myanmar		30 March 2004 a
Nigeria	13 December 2000	28 June 2001
Philippines	14 December 2000	28 may 2002
Republic of Korea	13 December 2000	
Saudi Arabia	10 December 2002	
Senegal	13 December 2000	27 October 2003
Sierra Leone	27 November 2001	
South Africa	14 December 2000	20 February 2004
Sri Lanka	13 December	

	2000	
Syrian Arab Republic	13 December 2000	
Thailand	18 December 2001	
Uganda	12 December 2000	
United Republic of Tanzania	13 December 2000	

ANNEX III

SPECIAL MEETING RESOLUTION ON ESTABLISHING COOPERATION AGAINST TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN (RES/43/SP 1)

The Asian-African Legal Consultative Organization at its Forty-Third Session,

Mindful of the views expressed by the Chairman, the Secretary-General, delegations, panelists and other related statements on the need for the international community to collectively make efforts to prevent and combat trafficking in women and children and having completed the special meeting on “Establishing Cooperation Against Trafficking in Persons, Especially Women and Children” on 23rd June 2004 during the Forty-Third Session of AALCO held in Bali;

Having taken note of the Secretariat Document AALCO/43/BALI/2004/SD/S 9 prepared on the topic;

Welcoming the coming into force of the United Nations Convention Against Transnational Organized Crime on 29 September 2003 and its Protocols, in particular the entry into force on 25 December 2003 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children;

Taking note of the Recommended Principles and Guidelines on Human Rights and Human Trafficking by the Office of High Commissioner for Human Rights (OHCHR);

Recalling the International Labour Organisation Convention No.182 (ILO) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999;

Acknowledging the measures initiated against trafficking in women and children by United Nations Children’s Fund (UNICEF), United Nations Development Programme (UNDP), United Nations High Commissioner for Refugees (UNHCR), International Organisation for Migration (IOM) and the South-Asian Association for Regional Cooperation (SAARC);

Recognizing the increasing number of women and children who are being exploited by traffickers especially from developing countries and convinced of the need to eliminate all forms of sexual violence and human trafficking which violates the dignity and worth of the human persons;

Condemning trafficking in persons as an abhorrent form of modern day’s slavery and as an act which violates in a flagrant manner the fundamental human freedoms and universal human rights and other international human standards;

Being deeply concerned at the world-wide occurrence of trafficking in women and children for the purpose of exploitation of all kinds by transnational organized criminal groups;

Also being alarmed by the fact that trafficking in persons is a growing and profitable trade in most parts of the world, aggravated by, *inter alia* poverty, armed conflict, inadequate social and economic conditions;

Underlining the urgent need for broad concerted and coordinated cooperation at the international, regional, bilateral trilateral and multilateral levels among all Member States, employing a multidisciplinary, balanced and global approach, including adequate technical assistance, in order to combat trafficking in persons;

1. **Commends** the AALCO Secretariat and the Government of Republic of Indonesia for their initiatives in organizing this Special Meeting;
2. **Thanks** the Experts from the United Nations, United Nations Office on Drugs and Crime (UNODC), United Nations High Commissioner for Refugees (UNHCR), United Nations Children Fund (UNICEF), International Organization for Migration (IOM) and the Republic of Indonesia for their valuable contributions to enrich the deliberations in the Special Meeting;
3. **Urges** Member States to take measures to ratify or accede to the United Nations Convention Against Transnational Organized Crime and its Protocols, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children;
4. **Recognizes** that broad international concerted and coordinated cooperation among Member States and relevant inter-governmental organizations is essential to counter effectively the threat of trafficking in persons;
5. **Invites** Member States to promote the legislative and other measures necessary to establish a wide range of assistance, including legal assistance or proceeding system related to investigation, prosecution and punishment, as well as the procedures for extradition and mutual legal assistance;
6. **Urges** Member States in particular countries of origin, transit and destination, to create awareness in civil society concerning the seriousness of the crime of trafficking and its various forms;
7. **Encourages** Member States to take measures to strengthen national capacity-building and to develop networking among national task forces and offices responsible, in order to cooperate in taking measures to prevent, suppress and punish trafficking in persons;

8. **Recommends** that AALCO undertake an in-depth study to explore further the possibility of establishing regional cooperation relating to the effort to combat trafficking in persons, especially women and children;

9. **Directs** the Secretary General to develop, in cooperation with Member States, a Model Law 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, specially women and children; and

10. **Decides** to place the item “Establishing Cooperation Against Trafficking in Women and Children” on the agenda of the Forty-Fourth Session.