

**SUMMARY RECORD OF THE
FOURTH GENERAL MEETING
HELD ON THURSDAY,
3RD JULY 2008, AT 11.00 AM**

**His Excellency Mr. Narinder Singh,
President of the Forty-Seventh Session of
AALCO in the Chair**

A. International Terrorism

1. **Dr. Xu Jie, Deputy Secretary-General** of AALCO introduced the agenda item 'International Terrorism' and said that International Terrorism had become a worldwide threat to the life and security of the humankind. As a common enemy, terrorism was an assault on the maintenance of international peace and security, law and order, human rights and the peaceful settlement of disputes. Therefore, the United Nations, various other international Organizations and States did not spare any effort, over the last three decades, to prevent and combat that crime. He informed that to that end 13 international conventions, 9 regional legal instruments as well as UN Declarations and resolutions had been concluded or adopted.

2. The Deputy Secretary-General informed that the item "International Terrorism" was placed on the AALCO's agenda at its Fortieth Session, held from 20 to 24 June 2001, in New Delhi, upon a reference made by the Government of India. It was felt that consideration of that item at AALCO would be useful and relevant in the context of ongoing negotiations in the Ad Hoc Committee of the United Nations on Elaboration of the Comprehensive Convention on International Terrorism.

3. The Deputy Secretary-General further elaborated that that at its 54th Session in 1999, the United Nations General Assembly decided that the negotiations on the draft Comprehensive Convention on International Terrorism based on the draft circulated by India earlier at the 51st Session

in 1996, would commence in the Ad Hoc Committee of the United Nations at its meeting in September 2000. In accordance with that mandate discussions were in progress on the draft Comprehensive Convention on International Terrorism. During the deliberations consensus had emerged on certain issues notwithstanding differences of opinion on some crucial matters.

4. The Deputy Secretary-General also added that the Ad Hoc Committee held its twelfth session from 25 and 26 February; and 6 March 2008 at the United Nations Headquarters in New York. The Committee held two plenary meetings. He informed that at its 40th meeting on 25 February, the Ad Hoc Committee adopted its work programme and decided to proceed with discussions in informal consultations and informal contacts. At its 41st meeting on 6 March, the Ad Hoc Committee decided to recommend that the Sixth Committee, at the sixty-third session of the General Assembly, would establish a working group with a view to finalizing the draft Comprehensive Convention on International Terrorism and continue to discuss the question of convening a high-level conference under the auspices of the United Nations. At the closing of the twelfth Session, though the Committee failed to reach a consensus on the draft comprehensive convention on international terrorism, the Chairman of the Ad Hoc Committee appreciated all the delegations for their participation in the discussion and providing the valuable inputs in their deliberations.

5. The Deputy Secretary-General informed that, based upon the discussions at the Ad hoc Committee as well as the Sixth Committee of the United Nations General Assembly, the Secretariat had identified, *inter alia*, following issues for focused deliberations: (1). Draft Comprehensive Convention on International Terrorism: the legal definition of terrorism distinguishing it

from self-determination and (2). Question of Convening a High-Level Conference under the auspices of the United Nations. The Deputy Secretary-General requested Member States of AALCO for focusing on the above mentioned outstanding issues in their deliberations together with other relevant issues on the topic.

6. Counselor Dr. Iskander Ghattas, Global Consultant, UNODC, Vienna in his special address expressed his heartfelt congratulations to Prof. Dr. Rahmat Mohamad on being elected as the new Secretary-General of AALCO. He also appreciated the outgoing Secretary-General Amb. Dr. Wafik Z. Kamil, for exerting great efforts, during his tenure, for realizing the objectives of AALCO. He started his presentation by informing that his comments would predominantly focus on the international cooperation in combating terrorism in general, with a special emphasis on the Plan of Action on Global Counter-Terrorism Strategy adopted by the United Nations General Assembly in September 2006. He outlined the salient features of that strategy, and said that it included a wide array of practical steps ranging from strengthening State capacity to counter-terrorism threats to improve coordination between United Nations system's counter-terrorism activities; measures to address the conditions conducive to the spread of terrorism; measures to prevent and combat terrorism; measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism.

7. He informed that in September 2008 there would be a meeting in order to evaluate the achievements of the strategy that mainly intended to protect the international community from the increasing terrorist acts. In fact the conflict between international community and terrorists or criminal gangs was a result of the events that took place mainly on 11th September 2001, in the United States of America. But there

was strong feeling of the necessity to cooperate in order to confirm terrorism in order to secure international peace and security. He said that as terrorism is not a threat only for international peace and security as has been mentioned in the Security Council but in fact it is an aggression on the right to live and attack against political stability and social and economic stability for the communities and hence it was very important to cooperate together in order to confront this phenomena. He informed that the attempt had been recognized by the first part of the last century when King Alexander the III, was assassinated on 9th October 1934. The French authorities requested the Italian authorities to extradite those accused persons in accordance with the provisions of the agreement of the extradition among both countries that goes back to 1870. But the Italian court refused to extradite and said that it was a political crime and hence, not within the domain of the agreement of the extradition of the criminals. Subsequently, there was a complaint to the League of Nations at that time. It had to be decided to conduct the defense upon two contentions, namely, pertaining to combat terrorist; but as to second contention it was related to the establishment of an international court to be in charge of conducting trials of those who had committed the crimes according to what has been stipulated in the contention. And the Conference was held in 1937 but did not acquire the necessary ratification for enforcing those two international conventions.

8. He informed that there were 16 international instruments. It was a system of convention instruments that would be required and exceeding to it, there should be harmony among the efforts exerted by each party in order to follow up on terrorist elements. He informed that in September 2006, the General Assembly of the United Nations adopted an international strategy for combating terrorism. After the terrorist attacks that took place on 11th September in

the US, a resolution was adopted by the Security Council considering that it was a threat for international peace and security and adopted the right of legitimate self defense for those who had been attacked either against the groups or countries that committed such an act. After September 2001, resolution 1373 was passed by the Security Council, which included a legal comprehensive system and different measures that the countries had to adopt since the resolution was passed according to Chapter VII of the UN Charter. Therefore, a resolution had been passed according to the rules of the Charter would enable the Security Council to take measures against those countries who violated these rules and called all member countries to accede to international instruments for combating terrorism.

9. He informed that there was a fear among the international community that if these measures were followed in order to curtail all terrorist activities, it could include a threat and an aggression against the freedom of individual guaranteeing the fair trial by any defendant what ever the crime committed would be difficult. Accordingly the former Secretary-General of the UN informed High Commission to look into passing the proposal to support the role of UN in combating international terrorism. This Committee had proposed to the UN Secretary-General to draw up a strategy to combat terrorism that would be submitted to the General Assembly. In April 2006, the Secretary-General submitted the strategy mentioning the "draft" on which UNODC is working.

10. He informed that the Human Rights Commission had established a post of Special Rapporteur for human rights to combat terrorism. The task of the Rapporteur was to follow upon all measures that were taken by countries and what ever laws were stipulated in the field in order to study whether human rights are guaranteed in such countries or not? He urged the

Member States that they should concentrate on the importance of modernizing the judicial system in their countries that infrastructure of the judiciary should be according to the international criteria for protection of human rights.

11. The **Delegate of the Sultanate of Oman**¹ stated that terrorism as a form of political violence had been a problem for hundreds of years. It was a subject that resists precise definition and whose description was often motivated by the desire to condemn rather than to analyze. Thus terrorism was defined in terms of how we would approach counter terrorism.

12. The delegate raised following questions: what if the act of terror achieves a desirable goal with minimum costs, would the act be justified? What if people who were involved were fighting for their fundamental rights, would they be considered as terrorists?

13. The delegate informed that many analysts had tried to shrug off the problems relating to the definition of terrorism with an old saying that 'one man's terrorist is another man's freedom fighter'. His delegation was of the view that yet some feel that if we develop a level of objectivity in dealing with this emotional subject, and we understand it, we would be able to create and implement policies that would counter it effectively and eliminate the underlying causes that give rise to it.

14. On defining terrorism, the delegation asked the following questions: what elements constitute terrorist acts; who are terrorists; what motivates them to use this type of violence, and whether terrorism could ever be justified?

15. The delegate informed that according to the Terrorism Research Centre,

¹ Statement made in Arabic. Unofficial translation from interpreter's version.

there was no single universally acceptable definition of terrorism. However, most definitions usually had common elements as ... “the systematic use of violence - actual or threatened – against non-combatants but with an audience broader than the immediate victims in mind, to create a general climate of fear in a target population, in order to affect some kind of political and/or social change”.

16. The delegate also said that terrorism as *the unlawful use of force* or violence against persons or property to intimidate or *coerce* a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.

17. So, as to what motivates terrorists to use violence, it could be deduced from the above definitions, that the main cause of terrorism was *dissatisfaction* with a political or social system or policy and inability to change it through *mainstream* or non-violent means. The delegate referred V. Held [(1991) *Terrorism, Right and Political Goals*, in Frey and Morris, C (eds.); *Violence, Terrorism, and Justice*, Cambridge University Press, Cambridge] and it explained that some terrorism seems to be an expression of *frustration* more than a means to anything else.

18. The delegate informed that most terrorist acts were in violation of Criminal Statutes, governments responds with some levels of policy and legal interventions to terrorism. Unfortunately, criminalization deals with the after effects and not the underlying causes of terrorism. She said that it was a powerful tool for counter-terrorism, but should not be the only tool that governments rely on.

19. The delegate said that the major stumbling block to the serious study of terrorism was the problem of definition. She added that whatever the case be, referred to Frey and Morris C. (*Violence, Terrorism, and Justice*) and it explained that “Unless

one is pacifist, one is likely to find it relatively easy to think of scenarios in which the use of force and violence against others is justified”. “If it is to be recognized that a person who kills another in self-defense is widely condoned, therefore, is it just to equate this case, as some claim, with a case of a person who explodes bombs as a self defense?”

20. The delegate said that whenever an act of terror achieved a desirable goal with minimal costs, the consequentialist might approve. To consequentialist, terrorism would have to be justifiable on balance, if it brings better consequences than its alternatives. In evaluating the justification of a given act of terrorism, the Delegate referred that *consequentialist's moral theory* would focus on the following:

- The effectiveness and efficiency of the act as a means to achieve the desired goal.
- Whether there is an alternative means available with equal or better likelihood of success at achieving the goal at a reduced cost.
- The goal to be achieved. Terrorist will portray their cause as concerned with the rectification and elimination of injustice.

21. The delegate said that the right of non-discrimination on grounds of race was recognized under the Universal Declaration of Human Rights (1948). Discrimination could be based on ethnic, religion, language, political parties, professional, and various grounds. Discrimination may have an impact on basic civil rights. Could discrimination give the persecuted minority groups the right to use violence against the state? She referred Wilkinson P. (1986) and explained that there were two circumstances in which a *prima facie* case could be made for the morally justifiable resort to political violence by a minority within a liberal democratic state:

- Case of minority whose basic rights and liberties are denied or taken away by the government or its agencies.
- The case of minority group being attacked by other minority group and does not receive adequate protection from the state.

22. Hondrick cites in Wilkinson P. (1986) that instrumental violence to redress inequality and reduce suffering is legitimate in a liberal democracy, provided:

- It has a reasonable prospect of alleviating most suffering than it causes.
- That there is no alternative method of alleviation possible.

23. In that context, the delegate quoted what Mahatma Gandhi was reported to had said "It is best of all to resist oppression by non-violent means", but also that "it is better to resist oppression by violence than to submit". (Held, 1991; 78).

24. To go back to the adage that one man's terrorist is another man's freedom fighter, the Delegate gave an example of Nelson Mandela. The Delegate said that when he was fighting against Apartheid policy which deprived a group of citizens of their rights, he was perceived as a terrorist and served 27 years imprisonment in South Africa. However, after his release from prison he was regarded by the whole world, not only as a good and wise leader, but also a peace lover. In fact, Mandela was awarded Nobel Peace Prize.

25. In summing up, the Delegate said that according to some analysts, terrorism cannot be ruled out as unjustifiable by definition. It can be justified, in some cases if, on balance, it brings about better consequences than its alternatives. However, this needs to be ruled out very carefully and after taking into consideration the above mentioned conditions.

26. The delegate conveyed the above said discussions to AALCO Member States, and said that this contribution would be considered at the ongoing negotiations on the Draft Comprehensive Convention on International Terrorism, and at other times as and when applicable. The Delegate also informed that in January 2007, Sultanate of Oman had promulgated the law on Combating Terrorism, in which Terrorism had been criminalized.

27. **The Delegate of the Republic of Kenya** recalled that the item International Terrorism was first placed on the agenda of AALCO's Fortieth Session, held in New Delhi, from 20-24 June 2001 upon reference by the Government of India. This was with a view to complement the negotiations by the Ad Hoc Committee of the United Nations on the elaboration of a Comprehensive Convention on International Terrorism.

28. The delegate said that his country had been a target of terrorism over the years. Although the act of terrorism was not targeted primarily at the Kenyan people, it was Kenya that bore the brunt of these acts. In addition to the loss of lives, there was untold suffering to the injured and to family members, not to mention destruction of property worth millions of shillings. These attacks also affected the tourist industry adversely and created tension in the economy.

29. The delegate said that his Government believed that terrorism was a vice that must be tackled by all means available and therefore, had put in place several measures which were as follows:

- In the Department of Public Prosecutions, State Law Office, a new section was created to specifically deal with the prosecution of terrorist cases. It was hoped that the legislation on terrorism would be enacted soon.

- Creation of Anti-terrorism Police Unit to deal with terrorist threats and investigate the same.
- Co-operation and collaboration with other countries and security agencies.
- Enhancement of Airport Security: aimed at meeting International Civil Aviation Authority (ICAO) and the United States of America Federal Aviation Authority (FAA) Security and Safety Standards.
- Enhancement of Sea and Coastal Security: A port facility security plan had been developed in conformity with International Maritime Organisation (IMO)
- Enhancement of Immigration Control: The Immigration Department had installed the Personal Identification Secure Comparison and Evaluations System (PICECS) a computer system that immediately captures and compares passport information.
- The Government is reviewing and tightening laws and regulations governing the importation and ownership of firearms. It established the Kenyan Focal Point on the Proliferation of Small Arms and Light Weapons.
- Kenya had ratified 12 United Nations Conventions related to terrorism. In addition, Kenya had also ratified the OAU Convention against Terrorism.

30. The delegate informed that his Country was yet to enact the necessary legislation on suppression of terrorism. He also informed that his Government published the Suppression of Terrorism Bill, in 2003 but publication of the Bill elicited various comments from different stakeholders. The Kenyan Government subsequently decided that the Bill should get further input from a team comprising of representatives from the Legislative Drafting Department in the State Law Office, the

Kenya Law Reform Commission and the Office of the President in order to incorporate the various comments from the stakeholders. Some of the comments touched on the definition of terrorism, which itself is a major task since it had to be drafted in such a manner that the root causes and underlying factors of terrorism are into account.

31. The **Delegate of State of Kuwait**² condemned acts of terrorism. He referred to the contentious issues in the Ad hoc Committee, particularly that relating to the definition of terrorism. He added that the Member States should support the work of the Ad hoc Committee. However, he stressed that Arab countries would like to make a distinction between terrorism and just struggle.

32. The **Delegate of Malaysia** noted that significant efforts have continued to be undertaken in the past year to implement General Assembly resolution 62/71 – “Measures to Eliminate International Terrorism”. The Report of the UN Secretary General also established that Member States and international/regional organizations were undertaking concerted efforts to prevent and fight the threat to international peace and security as a result of terrorist activities in line with Security Council resolutions 1373 (2001), 1540 (2004), 1566 (2004) and 1624 (2005). Malaysia further noted that the Report of the Ad Hoc Committee established by General Assembly resolution 51/210 and the outcome of the 12th session convened on 25 and 26 February, and 6 March 2008.

33. The delegate reiterated its commitment to work with the United Nations and its Member Countries in taking concerted action to combat international terrorism. Further to the United Nations Counter-Terrorism Strategy, the Delegate

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

said that his country continue to focus its primary counter-terrorism efforts on preventive as well as prescriptive measures. The Delegate believed that in order to succeed in the fight against terrorism, its root and underlying causes must be identified. In that regard, the Delegate welcomed the renewal of the mandate of the Counter-Terrorism Executive Directorate (CTED) vide Security Council Resolution 1805 of 6 March 2008 in line with its revitalized Work Programme comprising continued efforts to monitor the implementation of Security Council Resolution 1373 and to enhance the counter-terrorism capacities of Member States through technical assistance and international cooperation.

34. The Delegate said that his countries' commitment to respond to the international call for cooperation to combat terrorism was reflected in the actions it had taken to strengthen its domestic legal framework to implement the obligations under the 16 international counter-terrorism conventions and protocols as well as its continued cooperation with foreign law enforcement authorities in their investigations and criminal prosecutions of alleged terrorists.

35. The delegate informed that his Country was party to 9 of the international counter-terrorism conventions and protocols. Malaysia acceded to the International Convention against the Taking of Hostages and the International Convention for the Suppression of the Financing of Terrorism on 29 May 2007. Most recently, his Country acceded to the Convention on the Marking of Plastic Explosives for the Purpose of Detection on 26 January 2008.

36. The delegate informed that his country continued to do its part in domestic and regional capacity building through, among others, the South-East Asia Regional Centre for Counter-Terrorism (SEARCCT) which was established in 2002. Focused training was provided by SEARCCT in

collaboration with partners such as the United States, United Kingdom, European Union and Russia. Malaysia also collaborated with the UNODC to organise the Inter-Regional Workshop on Strengthening International Legal Cooperation between Central Asia and East Asia in Combating Transnational Organised Crime from 14 to 16 November 2007 in Kuala Lumpur. Further, from 7 to 9 April 2008, Malaysia organised a Workshop on Money Laundering, Terrorism Financing and Proliferation Financing in partnership with the Asia/Pacific Group on Money Laundering.

37. The delegate said that his country remained committed to the early conclusion of the Comprehensive Convention on International Terrorism (CCIT). With this perspective in mind, the delegate invited its AALCO counterparts to remain active in the ongoing discussions on the CCIT and to stay focused in resolving the outstanding issues, in particular those centered on Article 18. In this regard, the Delegate welcomed the continued efforts of the Chair of the Ad Hoc Committee established under General Assembly resolution 51/210 to narrow the differences between the pending proposals and urges Member States to seriously consider ways to move that process forward. For that purpose, the Delegate considered it important that, without undermining the value of bilateral contacts and informal consultations, discussions be carried out through multilateral negotiations with a representative format.

38. The delegate reiterated its support for the convening of a high-level conference under the auspices of the United Nations as part of sustained efforts to combat terrorism and address the extensive political issues underlying such efforts by the international community. Discussions on the substantive provisions in the draft Comprehensive Convention on International Terrorism should in no way be compromised by other issues discussed in parallel thereto. The

Delegate hoped that the two tracks of discussions would ultimately lead to well-rounded solutions.

39. The **Delegate of India** thanked the Secretariat for providing an exhaustive Report on the Agenda item: International Terrorism. The delegate stated that terrorism continued to remain one of the major threats facing the international community. He informed that since last year the terrorists had struck in India, United Kingdom, Yemen, Lebanon, Algeria, Turkey and many other places. He stressed that terrorism was a threat to all states, to all peoples, which could strike anyone, anytime, anywhere. It was a global threat that required a global response.

40. The delegate rejected the notion that any cause could justify terrorism. Nothing could ever justify the targeted killing of innocent men, women or children. The senseless slaughter of innocents reinforced the urgency with which they need to unitedly and resolutely confront terrorism everywhere and at all levels and clearly proclaim that terrorism could never be accepted or justified. The international community should send a clear signal to terrorists that their actions would not be tolerated, irrespective of the motivations underlying them. He said that this principle was affirmed in the 1994 Declaration and various United Nations General Assembly resolutions on measures to eliminate international terrorism that unequivocally asserted that "criminal acts of terrorism intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes were, in any circumstances, unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them".

41. The delegate informed that the United Nations Global Counter Terrorism Strategy also condemned in tough terms the

international terrorism. World would no longer tolerate the actions of the sponsors and abettors of terrorism or of those who willfully fail to prevent terrorists from utilizing their territories. A strong response to terrorism required broad-based international cooperation, compressing the space available to terrorists, and increasing the capability of States to address terrorist threats. It required sustained and specific cooperation by a variety of national, regional and global agencies. The Delegate hoped that the Strategy would provide the impetus to unite the international community in its fight against terrorism via practical measures that facilitate cooperation by way of extradition, prosecution, information exchange, and capacity building.

42. The delegate informed that India remained committed to fully cooperating with all existing counter-terrorism mechanisms, as a State with a long experience of dealing with terrorism, the delegate was of the view that better cooperation between the Security Council and the General Assembly would provide collective efforts greater legitimacy and ownership. There were also operational benefits to be achieved from greater collective pragmatism in tackling terrorism through multilateral mechanisms.

43. The delegate reiterated India's abiding determination to work towards concluding the long-pending effort to finalize a Comprehensive Convention on International Terrorism (CCIT), moving beyond debates that essentially missed the larger point. A CCIT must be agreed upon to create a strong interlocking network of Member States, international organizations and specialized agencies working in unison to counter terrorism. The adoption of a CCIT, through exercising the law-making powers of the General Assembly, was in the interests of all Member States and would reinvigorate the multi-lateral and collective dimensions of counter-terrorism efforts.

India continued to call upon the world to act as one in denying terrorists, their ideologues and financiers access to arms, funds, means of transportation of their deadly goods, as well as safe havens.

44. The delegate said that his country continued to believe that agreement on it was attainable. The definitional issue was a red herring. The CCIT was not concerned with terrorism as a philosophical category but terrorist acts that were specific crimes and these have defined. The delegate informed that the new proposal submitted by the facilitator after extensive bilateral consultations was an attempt to narrow down differences.

45. The delegate urged all delegations participating in the Annual Session of AALCO, who being also members of the UN, to seriously examine the proposals and work together to reach a compromise that would satisfy all parties and help in the finalization and adoption of the CCIT. The delegate believed that when adopted, CCIT would provide a solid legal basis for the fight against terrorism. Most of the proposals made the CCIT perfectly consistent with international humanitarian law. The Delegate stressed that without the early adoption of the Comprehensive Convention against International Terrorism, the global struggle against terrorism would remain incomplete.

46. The **Delegate of Myanmar** thanked the Secretariat for its useful document No. AALCO/47th/HEAD QUARTERS (NEW DELHI) SESSION/2008/S7. The delegate also thanked Dr. Iskandar Ghattas for his presentation.

47. The delegate informed that terrorism was indeed a great measure and threat to humanity and mankind. It was also a vital issue in the global scenario. His country opposed the acts of terrorism in all their forms and manifestations, regardless of where they were committed or by whom

they were committed. In conformity with that stance, his country was committed to combating terrorism in close cooperation with the international community and regional organizations.

48. The delegate informed that out of the thirteen United Nations Conventions and Protocols on terrorism, his country had acceded to 10 Conventions and Protocols with signatory to one. Myanmar enacted the Control of Money Laundering Law and Rules in 2002 and in 2003 respectively. The Mutual Assistance in Criminal Law Matters and Rules were enacted in 2004. Moreover, in 2005, the Anti-trafficking in Persons Law were also enacted. In addition, the delegate informed that legislative draftsmen were now in the process of drafting anti-terrorist law, called a general Anti-Terrorist Law which would absorb obligations of all the anti-terrorism treaties. The delegate informed that his country had nine special laws to combat terrorism and the new laws would add to the existing laws.

49. With respect to Draft Comprehensive Convention on International Terrorism, the delegate was of the view that his country would have maximum flexibility to achieve a solution to reach an overall agreement. In conclusion, the delegate reiterated that his country opposed terrorism and joined hands with the international community to combat it.

50. The **Delegate of Thailand** thanked Dr. Iskandar Ghattas, for his excellent presentation on the topic "International Terrorism," which would be a basis for fruitful deliberations under the Agenda item.

51. The delegate said that international peace and security had been threatened by terrorism in various forms and manifestations. However, the development of international law to fight against terrorism seems to be more or less of a piecemeal approach. He also stressed that time had come for a universal instrument on counter-

terrorism to address that threat to the international community. For that reason, he said his delegation wished to underline Thailand's commitment towards the conclusion of the draft Comprehensive Convention on International Terrorism (CCIT).

52. The delegate stated that his country would like to draw attention of the Member States of AALCO to the fact that the current text of the draft Article 18, although may be acceptable in principle, still needed careful review to ensure that it would not impose International Humanitarian Law (IHL) standards to countries beyond their treaty obligations or standards recognized as customary international law. Moreover, he stressed that the right to self-determination should be in accordance with Vienna Declaration and Programme of Action, as adopted by the World Conference on Human Rights on 25 June 1993.

53. While awaiting the final conclusion of the draft CCIT, the delegate believed that regional instruments on counter-terrorism were useful to serve as a common structure for the fight against terrorism. As shown in South-East Asia, the ASEAN Convention on Counter-Terrorism (ACCT) was recently concluded and had been ratified by Singapore and his country and would soon take effect. The development of the ASEAN Comprehensive Plan of Action on Counter Terrorism was now under consideration to facilitate the implementation of the Convention. These imply homogenizing terrorism law of countries in the region, making an effective tool in dealing with transnational terrorism in South-East Asia. In addition, he said that the central authority of each ASEAN country on counter-terrorism would be designated, and eventually creating direct linkage between countries in the region to achieve swift response whenever a threat of terrorism occurs.

54. The delegate recognized the suppression of terrorist financing as one of a key factor in fight against terrorism. He said that it was important to note that terrorist groups had become increasingly adept at eluding detection through use of cash, sophisticated money-laundering operations, or legitimate front companies, resulting in difficulty in tracking down terrorist financial links. Coupled with the fact that devastating terrorist attacks could be accomplished at relatively low cost, measures to cut-off money flows to individual terrorists and terrorist organizations thus become crucial in the global effort against terrorism. The delegate informed that his country currently was in the process of drafting the Proceeds of Crime Act which contained a comprehensive package of measures to disrupt organized crime gangs and deprive criminals of their financial gains, thereby strangling the flows of fund into terrorists' hand. Nevertheless, more was needed to be done in order to strengthen the integrated effort among governments to curb financing of terrorism.

55. The delegate urged the Member States to increase effort to consolidate and maintain momentum of existing initiatives, namely to implement the United Nations Global Counter-Terrorism Strategy and early adoption of the Comprehensive Convention on International Terrorism.

56. **The Delegate of the People's of Republic of China** said that terrorism constituted a serious threat to international peace and security. Currently, international terrorism was still rampant with the international anti-terrorism situation far from satisfying. At the same time, it was encouraging to note that the international community including the Asian and African countries was making great efforts to prevent and combat terrorism through various forms of cooperation. He informed that the struggle against international terrorism was fruitful and promising as well as long and arduous. The United Nations

Counter Terrorism Strategy had reflected the consensus and determination of all countries in the fight against terrorism.

57. The delegate said that his government had consistently opposed and condemned Convention on the Physical Protection of Nuclear Material. He informed that China was in favour of finalizing the Comprehensive Convention on International Terrorism at an early date so as to strengthen the international legal framework against terrorism. He also informed that his country would continue to participate in the formulation of the Convention in an open, cooperative and constructive spirit. The delegate hoped to see confidence and goodwill shown by other states in seeking an early solution. He said that China supported the proposal of convening a high-level meeting on counter terrorism under the auspices of the UN. That would help provide the policy guidance for combating international terrorism.

58. He said that the Chinese government was ready to continue to work with other Asian and African countries and the rest of the international community, fight more effectively against international terrorism and uphold international peace and security.

59. The **Delegate of Japan** considered that the international community continues to face the threat of international terrorism, which presented a serious threat to the peace and security of the world. The problems related to terrorism had become very complex with sophistication of the technique and know-how used by radical terrorist groups and their intrusion into immigrant community, etc.

60. The delegate stressed more strongly than before, international cooperation was called for to share information on terrorists, to make rules and standards on counter-terrorism measures, to assist capacity-building on anti-terrorist measures and also

to look into the root causes of terrorism. The Delegate said that having in mind such needs, Japan had been making efforts on three pillars: to strengthen national counter-terrorism measures, to promote further a wide-range of international cooperation, and to assist the developing countries to improve capacity to cope with terrorism.

61. To prevent and eradicate terrorist activities, the Delegate stated that it was vital to enhance international legal framework to deal effectively with international terrorism. The Delegate informed that in mid-June, the Justice and Home Affairs Ministers of the G8 States, met in Tokyo and focused on various measures to counter transnational organized crime and international terrorism and discussed how they can collaborate and enhance their efforts. They also discussed the importance of capacity building assistance to countries that require support in developing more effective legal systems and law enforcement capacity, and adopted two declarations, one on Counter-terrorism and another on Capacity Building Assistance.

62. The delegate said that his country attached great importance to Comprehensive Convention on International Terrorism and sincerely hoped that the Convention would be finalized by way of overcoming remaining difficulties as it could complement well the existing 13 international conventions to all of which Japan was a party.

63. The **Delegate of the Republic of Korea** stated that his country had participated in international cooperation in the fight against international terrorism. He informed that his country was now a State Party to 12 counter-terrorism conventions and protocols, and had faithfully carried out their domestic implementation.

64. The delegate said that terrorism was a serious threat to the values that define the

international community, such as respect for human rights and the peaceful resolution of conflicts. He said also that in order to deal with the threat, the international community as a whole must make its best efforts.

65. The delegate stated that the existing sectoral counter-terrorism conventions were major achievements of such efforts and constituted a useful framework for the promotion and strengthening of international cooperation in the fight against terrorism. He said that many of the recent terrorist activities were carried out through ever-shifting terrorist networks and in a more clandestine manner that exploited the benefits of globalization.

66. The delegate stated that terrorist activities could truly be addressed through a more coherent and comprehensive approach and, in that regard, a Comprehensive Convention on International Terrorism would be an effective tool in dealing with the ever-developing terrorist activities, to contribute to establishing a more seamless network of international cooperation in preventing terrorist activities.

67. In conclusion, the delegation reaffirmed strong support for international efforts to combat terrorism and stressed the need for the adoption of a Comprehensive Convention on International Terrorism.

68. The **Delegate of the Democratic People's Republic of Korea** stated that terrorism had become the major source threatening world peace and security as well as state sovereignty. He also believed that correct definition on terrorism had to be made and a comprehensive international legal regime combating terrorism should be instituted as early as possible to eliminate its root cause.

69. The delegate informed that his country had consistently maintained its principled position and opposed all forms of terrorism and any assistance towards it. He

also said that his country fully supported the efforts being made by the international community in instituting an international legal system against terrorism and assured his country's active cooperation in taking any effective measures for it.

70. The **Delegate of the Islamic Republic of Iran** stated that the fight against terrorism remained as a priority for the international community. Terrorism was a serious security threat that had a negative impact on development, driving away investment, tourism and business, and diverting resources away from much-needed public expenditure.

71. The delegation said that the rule of law was the basis on which the international community should fight terrorism and counter-terrorism legislation should include respecting human rights, fundamental freedoms and international humanitarian law as well as a strong criminal justice approach to ensure that perpetrators were brought to justice by promoting effective international cooperation for the prosecution, adjudication and sentencing of terrorist cases.

72. The delegate informed that the United Nations had an indispensable role to play in any action against terrorism and cooperation of the international community was vital to win the fight against the scourge. The role of the United Nations in addressing the menace was of great magnitude and the important contribution that it could make to tackle the problem deserved recognition and appreciation. He said that the United Nations counter terrorism mechanisms were embodiment of joint forces under the umbrella of the United Nations in order to eradicate the menace of terrorism, and had thus far had commendable achievements. He also said that the international community's efforts to eradicate terrorism had been facing some hurdles along the way that needed to be addressed appropriately. For instance, an opposing unilateralist trend had, from the

very beginning of that effort, ran the risk of arresting the momentum and shattering the universal consensus, and thus undermining the overall and effective fight against terrorism.

73. The delegate said that the decisive stage in the war against terrorism was one of capturing the minds and hearts of peoples, the abuse of the fight against terrorism by some demagogues to spread hatred and bigotry among various cultures and religions and their efforts to demonize and defame certain religions or cultures by unfair and unfounded attribution of terrorism to them, might in fact prove to be no less serious in its gravity than terrorism itself. He also added that in its endeavors to fight terrorism, the United Nations should also consider proper mechanisms to rescue the much abused term of terrorism from those countries that unfairly and baselessly used it as a pejorative term for any other country which dissent from their policies.

74. The delegate said that terrorism must not be associated with any race, religion, faith, theology, values, culture, society or group. There was no religion or accepted religious doctrine, which could be falsely, portrayed as encouraging or inspiring acts of terrorism. Recent instances where other cultures and religions were maligned, including Islam, serve to reinforce political divisions. He said that in this globalized world, understanding, harmony and building of bridges among all cultures and people was necessary.

75. The delegate said that terrorist activities by any individual, groups, or non-state entities have to be checked by all possible means. International law was one of the tools to prevent and punish terrorist activities. He also added that it was a positive step that a Comprehensive Convention on International Terrorism was being discussed by Member States of the United Nations which might reflect the views of the whole international community.

However, it should be pointed out that counter-terrorism initiatives should not be used as a pretext for interfering in the domestic affairs of other countries. Each country's sovereignty and territorial integrity should be respected and not to be violated under any circumstances.

76. The delegate stated that defining terrorism itself was a major task. Although it had diverse versions, there was a growing demand that it needed a universally acceptable definition to solve the problem. The definition may be drafted in such a manner that the root causes and underlying factors of terrorism should be taken into account, as well as protection of human rights and fundamental freedoms.

77. The delegate stressed that the manifestation and root cause of terrorism should be tackled effectively and measures should be taken simultaneously in the fields of prevention, legislation and enforcement. He also added that every State should have an internal mechanism on the issue of countering terrorism. This mechanism should have representation from the concerned ministries and departments who deal with terrorism at various levels.

78. The delegate recognized that application of double-standards in dealing with terrorism and terrorist groups was yet another important matter of grave concern, which seriously undermine the international community's collective campaign against terrorism. The delegate said that there were not good and bad terrorism. Terrorism was bad and should be condemned and combated with no discrimination.

79. The delegate said that as a victim of terrorism, his country had always strongly condemned terrorism in all its forms and manifestations and has demonstrated its strong conviction in fighting terrorism by all means. He emphasized that, among other factors, enhancing dialogue among civilizations, promoting tolerance and

preventing the indiscriminate targeting of different religions and cultures, addressing unresolved conflicts and ending foreign occupation, would contribute to enhancing international cooperation, which in turn was among the most effective tools to combat terrorism.

80. The delegate informed that his delegation would like to declare that the Iranian Parliament ratified the Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal Convention 1991) and instruments of accession would be deposited with the International Civil Aviation Organization in timely manner.

81. The **Delegate of the State of Qatar**³ condemned all forms of terrorist acts and practices, and ways and means of conducting it. Such acts need to be condemned wherever being perpetrated and whoever perpetrating and how far the State considers terrorism was as a phenomenon against the values, and international covenants related to terrorism. The delegate informed that Qatar affirms its keenness to take all legislative measures and executive measures which aim to prevent this international parasite and to have the perpetrators send to trial and order to punish, and maintain proper justice. He also added that his country affirms its commitment to the UN's convention and all documents and international law pertaining to terrorism and expressed its full cooperation to all other countries in the different domains which combat terrorism and take the necessary measures according to international law, relevant measures and the legislations of human rights all that to combat international terrorism. He also said that at the national level Qatar had arrived for a number of laws and measures to combating terrorism and had also taken necessary measures to prevent financing of terrorism through the

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

financial and banking systems and money laundering and to adopt number of security measures relevant to prevent any terrorist acts through supervision and activities of associations and social clubs and apply law in all spheres into act of terrorism. At the international level, he said his country was a party to a number of international agreements and covenants and on its way to study all the relevant treaties and covenants.

82. The **Delegate of Pakistan** strongly condemned terrorist activities in all their forms, whether perpetrated by individuals, and groups of States irrespective of the motivations involved. The delegate added that a draft convention on terrorism should make no exceptions for any form of terrorism, including State terrorism that was the most ignoble form, particularly when it was perpetrated against liberation movements. Pakistan vigorously condemned the perpetration of that policy in the Indian held Kashmir. The struggle for the inalienable right of self-determination could not be suppressed through fear and terror. The delegate strongly condemned use of state power for such suppression and the use of violence against innocent civilians. The struggle of liberation movements had to be recognized as legitimate right.

83. The delegate informed that his country fully shared the concerns of the international community on the alarming increase in acts of terrorism. She condemned terrorist activities whether perpetrated by individuals, groups or States resulting in violence or threat of violence against innocent persons irrespective of the motivations involved. The delegate favoured concerted action at the international legal level to prevent terrorism in all its forms and manifestations. The delegate supported anti-terrorism measures in the UN, in the OIC, in SAARC and other concerned international organizations such as the ICAO (International Civil Aviation Organization). The delegate informed that his country, in fact had been the primary target of terrorism

as a result of the regional developments over the past twenty years.

84. The delegate stated that the fight against terrorism, however, should not transgress the principles of non-interference and non-intervention as well as of the non use or threat of use of force in international relations. She added that her country therefore, did not approve of the US action against Libya, and condemned the then racist South African governments attack against Zimbabwe, Zambia and Botswana.

85. The delegate believed that it was necessary to eliminate the underlying causes of terrorism. The international community must pay special attention to all situations, including colonialism, racism, alien domination, foreign occupation and infringements or denial of right of self-determination, that might give rise to international terrorism and might endanger international peace and security, with a view to the application, where feasible and necessary of the relevant provisions of the Charter of the United Nations, including Chapter VII thereof.

86. The delegate informed that his country and a large number of NAM countries emphasized that there should be a comprehensive definition of "terrorism" before the convention could be finalized. He also informed that his country took a position in the context of Kashmir that a distinction must be drawn between terrorism and the legitimate struggle of the peoples for their right of self-determination. She informed that his country had signed or ratified 11 out of 12 UN anti-terrorism conventions and also signed the OIC Convention on combating International Terrorism and the SAARC Regional Convention on the suppression of Terrorism. The delegate added that his country would encourage facilitating the consensus adoption of the Draft International Convention for the Suppression of Acts of

Nuclear Terrorism proposed by Russia had withdrawn its proposals.

87. The delegate informed that her country supported the need for convening a high level conference under the auspices of the UN to formulate a joint organized response of the international community to terrorism in all its forms and manifestations.

88. The **Delegate of the Republic of Indonesia** stated that terrorism constituted one of the most serious threats to peace and security to all nations and all peoples and a challenge to all States and all of humanity. It endangered innocent lives and the dignity and security of human beings, threatens the social and economic development of all States and undermine global stability and prosperity. He also added that it violated the most fundamental of all human rights: the rights to life.

89. The delegate said that contemporarily, no individual or community was safe from devious reach of acts of terrorism; recognized no borders or boundaries; it dictates its terms through anger, death and destruction and it deceived people through mischievous dogma and doctrines.

90. The delegate informed that negotiating a Comprehensive Convention on International Terrorism had been a long and intense process. The legal regime to be created by that instrument had significant legal and political consequences. He said that the absence of a definition seriously undermined international efforts to tackle a grave threat to humanity and the reflection of the non-understanding of the root causes of acts of terrorism. In order to tackle acts of terrorism, the delegate welcomed and fully supported the efforts of the Ad Hoc Committee in the United Nations Sixth Committee in formulating the Draft Comprehensive Convention on Terrorism.

91. With regard to the defining terrorism, the delegate was of the view that

the discrepancy in reaching an agreement on terrorism was to link the background of international terrorism particularly between terrorism and legitimate armed struggle for self determination. He said that an international definition of terrorism was essential to consider the struggle of people. It might come as a surprise to learn that, in spite of the considerable amount of attention devoted to the subject in recent years, there was at present no generally accepted definition of "international terrorism", as demonstrated by the cliché, "One man's terrorism is another man's heroism".

92. In relation with the ongoing debate on article 18 of the Draft Comprehensive Convention on Terrorism, the delegate was of the view that article 18 should guarantee and fully take into account the fundamental principles of international humanitarian law and human rights law and should not allow interpretations that could weaken accepted principles and practices of the said laws. He said that the draft convention should boldly delineate a demarcation between what was covered in the draft comprehensive convention as the acts of terrorism and the legal status of any other acts or activities undertaken in pursuit of the right of self determination, as those activities were understood under international humanitarian law.

93. The delegate was of the view that a definition of terrorism should establish a clear distinction between acts of terrorism and the legitimate struggle of peoples in the exercise of their right to self-determination or against foreign occupation. The delegate was also of the view that the fight against international terrorism should be conducted in conformity with international law, including the Charter of the United Nations, as well as relevant instruments concerning international human rights law, international humanitarian law and international refugee law. However, any counter-terrorism initiatives should not be used as a pretext for interfering in domestic affairs of other

countries since each country's sovereignty and territorial integrity should be respected and should not be violated under any circumstances.

94. The delegate informed that his country had spearheaded cooperation in law enforcement, border control and the enactment of legislative framework for counter-terrorism. He also informed that the Bali Counter-Terrorism Process, for instance, had established strong bonds of collaboration among legal and law enforcement practitioners in the region. The delegate informed that Indonesia had developed practical solutions to some of the challenges facing effective national and regional counter-terrorism efforts. The Jakarta Centre for Law Enforcement Cooperation (JCLEC) provides structured training for law enforcement officers of the region.

95. The delegate informed that the contribution of Indonesia was also evident in the regional effort to bring about the conclusion of the ASEAN Convention on Counter-Terrorism (ACCT). Indonesia and other members of ASEAN had signed the ASEAN Convention of Terrorism in January 2007 reflecting the strong commitment of the countries in the region to cooperate in fighting terrorism, including prevention measures, rehabilitative programs and addressing the root causes of terrorism. The Convention provided for the framework for regional cooperation to counter, prevent and suppress terrorism in all its forms and manifestations and to deepen cooperation among law enforcement agencies and relevant authorities in the ASEAN Member Countries in countering terrorism.

96. The delegate said that as a party to the UN Conventions dealing with international terrorism, Indonesia consistently fulfilled its obligation to communicate its written reports to the relevant committees of the UN Security Council. With regard to those Conventions

adopted under the UN umbrella, he stated Indonesia was now Party to 6 of the 13 UN Anti-Terrorism Conventions and Protocols.

97. To show its strong commitment to the international cooperation in combating terrorism, the delegate said that Indonesia had signed bilateral agreements to counter terrorism with India, Pakistan, Sri Lanka, Romania, Australia and Egypt. Besides, his country signed 7 (seven) bilateral agreements on extradition with Australia, Hong Kong, South Korea, Malaysia, the Philippines, Singapore and Thailand respectively. The delegate also informed that his country had signed mutual legal assistance agreements with Australia, China and Republic of Korea. In that regard, Indonesia supported the efforts of Member Countries to cooperate in legal matters, including in extradition and mutual legal assistance.

98. The delegate informed that his country had been implementing a program of deradicalization by involving not only the law enforcement authorities but also moderate religious leaders and religious organizations. The Program was organized by the Coordinating Desk for Eradication of Terrorism under the Coordinating Ministry for Political, Legal and Security Affairs.

99. The delegate informed that his country had established, in cooperation with the United Kingdom, an Indonesian-UK Islamic Advisory Group (IAG), to function as a medium for interaction between Muslim leaders in the East and the West. He also added that the IAG would bring together Islamic representatives from both countries to advice on countering radicalism and promoting mutual understanding and tolerance between Islam and the West. The objectives include developing constructive dialogue among both civilizations, and eliminating stigmatization of religions and/or any attribution of terrorism to a certain religion.

100. The delegate stated that building bridges between communities, especially in times of heightened cross-cultural tensions, has indeed not been a one stop exercise. He said it was a sustainable effort that needed consistent support from the international community. For that reason, the delegate welcomed the establishment of the Alliance of Civilizations and a medium for tripartite cooperation between member states, the UN and civil society, through the Interfaith Dialogue for Cooperation and Peace.

101. The delegate reiterated that his country would not justify terrorism in any circumstances and also do not accept the possibility to fight terrorism successfully unless his country comprehend its roots and springboard. The delegate believed that it was critical to identify these fundamental causes that were often manifested in the form of political and socio-economic injustice at the global level.

102. The delegate was of view that unless that was effectively accomplished, the proposed Convention could not be a reliable instrument for effectively combating that menace to the international peace and security.

103. The **Delegate of Ghana** acknowledged the need to find lasting solutions to the problems that breed terrorism. The Delegate wished that the fight against terrorism must not be used as a subterfuge to interfere with the internal affairs of other countries. He informed that his country had ratified the African Union Convention on the Prevention and already had a draft bill on Terrorism under consideration for passage into law in line with the African Union Convention and Security Council Resolution 1373.

104. He also informed that the Ghana draft bill focused on the acts, which if performed in furtherance of political, religious and other reasons would constitute terrorist acts. The delegate was of the view

that the bill when passed into law would go a long way in combating terrorism. The delegate said that his country fully supported the international community in its relentless fight against terrorism and invited all AALCO members to join in that crusade.

105. The **Delegate of the Republic of South Africa** welcomed the opportunity to address the meeting on the important issue of countering terrorism and to share with the meeting important initiatives that had taken place in the past year in the area of international cooperation to combat terrorism.

106. The delegate stated that his country condemned acts of terrorism and had pledged its support for the global campaign against terrorism within the framework of the United Nations and its structures. He also informed that in the past year South Africa had continued to contribute to international efforts to counter terrorism, and had participated in a large number of international conferences in that regard and continued to co-operate on an operational level in law enforcement, mutual legal assistance and extradition to combat the threat of terrorism.

107. In addition, the delegate informed that his Government had recently hosted multilateral delegation of anti-terrorism experts who visited South Africa from 2-9 June 2008 to assess South Africa's national capacity to implement United Nations Security Council resolutions on terrorism and to continue and enhance the dialogue and cooperation between South Africa and multilateral bodies dealing with terrorism. He also informed that the delegation hold in-depth technical discussions with 21 South African national departments and other bodies that work to counter the threat posed by terrorism and other forms of crime.

108. He also informed that South Africa was party to thirteen universal conventions on terrorism, had national legislation in

place and had a proven capacity to prosecute offenders as demonstrated by specific cases discussed during the visit. He said that the delegation was also of the view that whilst the South African authorities exercised vigilance with respect to any potential acts of intolerance and incitement to violence, they were steadfast in their commitment to the constitutional right to freedom of expression. He informed of the concerted effort made by his government to maintain dialogue with and understand the concerns of many different religions and ethnic groups in the country

109. The delegate stated that his government was committed to continuously improving its anti-terrorism systems and therefore welcomed the positive contribution made by the CTED delegation. He also said that his government looked forward to continuing its dialogue with CTED and the other multilateral bodies, in line with its policy that international threats such as terrorism were best dealt with collectively in multilateral fora and in particular at the United Nations.

110. With regard to the ongoing initiatives on counter-terrorism in the United Nations General Assembly and specifically the Comprehensive Convention against Terrorism, the delegate informed that his government supported the early finalization of the Convention and continued to participate in the negotiations in that regard in the Sixth Committee and its Ad Hoc Committee in order to find a compromise solution to that difficult matter.

111. The delegate informed that another important matter in the fight against terrorism on the United Nations' calendar was the review of the Global Counter Terrorism Strategy that was adopted by the United Nations General Assembly in 2006.

112. The delegate said that the Global Strategy was an important document that focused on concrete measures that could be

taken to combat terrorism. The fact that it adopts a holistic approach to combating terrorism that also took into consideration factors conducive to the spread of terrorism (also known as the root causes of terrorism) as well as human rights considerations that set it apart from other initiatives in that field. He urged AALCO Member States to participate in its review in order to ensure that this holistic approach is maintained and taken forward.

113. The **Delegate of Republic of Yemen**⁴ informed that his country was one of the countries which were affected from terrorist acts. He said that since an early time his government had called international community to deal with the terrorism issue and studied results emanating from it. He believed that terrorism does not belong to any ethnic or religion. He also said that when the western world had been affected by the phenomena of terrorism, it started combat it and started to divide the world into different sectors. He also informed that his country was trying domestically to have certain final decisions and formulations for defining the terrorism. He also informed that Yemen had ratified a number of international and regional treaties related to terrorism dealing with money laundering, hijacking and collective funds. Moreover, his government had promulgated a law on combating of law and it was before the Parliament. He hoped that as a proposal to be presented at the AALCO Session in future and through the secretariat trying to find a clear cut definition on terrorism on which the member countries agree and then presented to the UN's under the name of AALCO.

114. The **Delegate of Nigeria** said that its position on the item international terrorism was substantially captured in the General Statement. However, the delegate re-emphasised certain areas and said that his

government believed that terrorism constituted a threat to global peace and security. He also added that there was an urgent need for global consensus on the definition of terrorism in order to engender concerted action against it. He assured the support for the Draft Comprehensive Convention on Terrorism. He was of the opinion that terrorism should not be confronted from a faith based approach; and legislation and enforcement measures against Terrorism must not abridge human rights. The delegate was of the view that a delicate balance should be struck between legitimate security concern of States and the need to protect human rights.

115. The **Delegate of the Libyan Arab Jamahiriya**⁵ stated that international terrorism is a great crime in the contemporary world and it is one of the crimes which had been noticed throughout the history, because in most of the times the crime had killed innocents whom had no relationship for any conflicts. The victims were always elderly people, children, women and infants, and there was no certain objective except killing for killing and bringing about terror. He added that terrorism doesn't care for life. He stressed that there should be a definition of terrorism. Legitimate armed struggle of people for independence should not be taken as terrorists acts. And the struggle of the Libyan people against Italian aggressor use to be taken as terrorist acts, and the Palestinian peoples struggle against Israel was considered as terrorism.

B. An Effective Instrument Legal Instrument against Corruption

116. **Dr. Xu Jie, Deputy Secretary-General of AALCO**, in his introductory remarks recalled that the Secretariat had prepared and presented to the Member States two books, namely, *Combating*

⁴ Statement made in Arabic. Unofficial translation from interpreter's version.

⁵ The statement was delivered in Arabic. Unofficial translation from interpreter's version.

Corruption: A Legal Analysis (in 2005) and *Rights and Obligations under the United Nations convention against Corruption* (in 2006) on the topic being discussed.

117. Commenting on the UN Convention against Corruption of 2003, he stated that indeed it was a defining movement in the history of international anti-corruption efforts. However, he added that much needed to be done to realize the objects and purposes laid down in the Convention. Outlining the effort needed to implement UNCAC effectively he stated that the first and foremost task was to ensure that the Convention was effectively implemented through all the measures envisaged in the Convention and the failure to address that issue in the current text was the most serious shortcoming of the Convention. He added that the other two issues which were of critical importance to the developing countries were the issues of Asset Recovery and Technical Assistance.

118. The Deputy Secretary-General informed that at the first Conference of States Parties to the UNCAC held in Jordan, in December 2006, the States were able to establish a Working Group on Review of Implementation appropriate mechanism or body to assist in the effective implementation of the Convention. The Conference was also successful in establishing two Working Groups - on Asset Recovery and on Technical Assistance, to advise and assist the Conference in the implementation of its mandate on the return of proceeds of corruption and on technical assistance.

119. The Second Conference of Parties (CoSP 2) held in Bali, Indonesia 2008 seemed not to have achieved the intended thrust that it was believed to have achieved. The most important failure of the CoSP 2 was the lack of agreement on a monitoring mechanism which was crucial for the Convention's success. While there was an agreement among the CoSP to establish a

mechanism during the Conference, no concrete measures had been taken in this direction. During the Conference, the proposals of the negotiating blocks diverged widely on the form of the monitoring mechanism. The disagreement at the Conference means a further delay in taking concrete step till the next Conference on the Convention in late 2009 he added.

120. He expressed hope that the views expressed during that Session by the Member States of AALCO would reflect on their positions and that they could be presented before the Working Groups for further deliberation and action. While endorsing the recommendation made by some of the AALCO Member States to establish a Group of Legal Experts from the AALCO Member States to prepare a Model Law in line with the UN Convention against Corruption, he stated that that would be of immense help to the Member States of AALCO wanting to implement the UNCAC effectively. The Group of Experts would not only help complementing the work of the three Working Groups established by the Conference but also could bring forth a common understanding among the Asian and African countries on these issues he added. One of the fundamental challenges faced by the international community on this count, he opined that, was to ensure that the obligations under the Convention are implemented in letter and spirit by both the developed and developing countries.

121. The **Delegate of Myanmar** at the outset congratulated the AALCO Secretariat for preparing a comprehensive document on corruption. Commenting on the need for States to cooperate with each other to root out that evil, he opined that, the menace of corruption had grown to such an extent that it was almost impossible for any Country to single handedly deal with that phenomenon. He illustrated that by explaining that the offence of corruption was committed in one country and the proceeds were transferred to

another forcing cooperation between both States.

122. Commenting on the legal regime established in his country, he mentioned that, though Myanmar was not a Party to the UNCAC it was in the process of drafting anti bribery and corruption law. This was despite the fact that it had already had a number of laws on the issue of corruption. While explaining further, he stated that, under the provisions of the Penal Code adopted in 1861, the offences of bribery and corruption could be punished with a maximum of seven years of imprisonment. A special law by name, the Suppression of Corruption Act had been adopted in 1948 with provisions related to those in the Penal code and the Code of Criminal Procedure of 1898. He added that Myanmar had 23 laws on this area, which also included the Myanmar Mutual Assistance in Criminal Matters Law that had been enacted in 2004.

123. On the issue of prevention of corruption, he stated that Myanmar had a public reporting system according to which complaints could be lodged against those public officials suspected of having indulged in corruption. To facilitate this procedure the telephone numbers, facsimile numbers and e-mail addresses of Ministers and other Government departments were published in the media he added. This process had contributed a lot in rooting out corruption in Myanmar, he concluded.

124. The **Delegate of the Republic of Indonesia** was of the view that corruption was one of the greatest threats that the world had been facing during the last decades and it was an extra-ordinary crime. Corrupt practices –often in the form of bribery, extortion, and nepotism took place in all aspects of human society. Often it involved the sacrifice of public interest for personal gain, or the violation of a public trust.

125. Commenting on the domestic measures that Indonesia had taken in this

regard, he informed that Indonesia had been undertaking extensive measures to reduce the incidence of corruption as well as to improve and strengthen the institutional capacity and the legal infrastructure. The current United Indonesian Cabinet had been giving high priority to improve governance, including combating corruption. To accelerate the eradication of corruption, President of the Republic of Indonesia had enacted Presidential Decree No. 5/2005, which later served as basis for the establishment of the National Action Plan (2004-2009) on Preventing and Combating Corruption, he added.

126. On the strategy that Indonesia had adopted in this area, he maintained that, by 2009, Indonesia would embark on a National Strategy to Eradicate Corruption, taking into account the lessons' learned from the existing National Action Plan. He added that he was pleased to inform that Indonesia was currently amending its national law on anti-corruption to incorporate the provisions of the UNCAC, as part of her global commitment to combat corruption.

127. Commenting on the UNCAC, he informed that, at the beginning of this year, from January 27th to 1st February 2008, Bali had hosted a successfully Conference of the States Parties to the United Nations Convention Against Corruption (CoSP 2), which produced a lot of ground and had made significant progress in setting the framework for further work in implementing the provisions of the Convention. He also noted that prior to the CoSP 2 meeting in Bali, Indonesia had also facilitated negotiations during the 62nd Session of the United Nations General Assembly on the resolution entitled "*Preventing and Combating Corrupt Practices and the Transfer of Assets of Illicit Origin and Returning such Assets, in particular to the Countries of Origin*". Through this resolution, Indonesia garnered the commitment of every United Nations Member State to combat corruption,

encourage all state parties to submit information through the self-assessment checklist as follow-up mechanism, encourage all governments to prevent, combat and penalize corruption and to work for the prompt return of such assets through asset recovery, invite member states to work on identifying and tracing financial flows linked to corruption and the return of such assets, stress the importance of mutual legal assistance and to encourage member states to enhance international cooperation and provide technical assistance that strengthen human and institutional capacity.

128. Commenting on the implementation aspects of UNCAC, he opined that, compliance with the provisions of the UNCAC had never been easy. A country might find it difficult to comply because of the level of its development and the deficiencies of its institutions and legal frameworks. Indonesia therefore welcomed the introduction of the self-assessment checklist of the pilot programme on the mechanism for review implementation he stated.

129. On the work of CoSP, he noted that Indonesia together with 16 other States Parties had participated in the voluntary Pilot Programme on the review of implementation, the aim of which was to test the effectiveness and efficiency of using a method of combining self-assessment with group and expert reviews. Hence it provided the Conference with an option for its consideration on the establishment of an appropriate review mechanism, he added. .

130. Commenting on the need to have technical assistance among different States, he stated that it could take the form of (a) advisory services to support the development and adoption of anti corruption policies and actions plans, (b) training and capacity building for relevant institution. In order to bring technical assistance successfully delivered, Indonesia strongly believed that States needed to identify their

own specific needs for assistance and to set priorities. One way to identify those needs was to simply use the already available checklist introduced by the Pilot Programme on review of implementation.

131. Commenting on the utility of the Pilot Programmes, he mentioned that it enabled Indonesia to better understand the impact of the implementation of relevant articles of the UNCAC. This had been brought about by comparing measures taken, including experiences and lessons learned by Indonesia in regards to its own implementation of the relevant articles of the Convention, he added. Hence Indonesia was of the view that the participants of the voluntary Pilot Programme should be expanded to encompass more developing countries. Therefore, the extension of the Pilot Programme to the end of June 2009 was significant and relevant, he added.

132. On the issue of asset recovery, Indonesia was of the view that the States should have as many as extradition treaties with each other and that the basis for international cooperation could be derived from the provisions of UNCAC. In this regard, he encouraged all AALCO Member States to intensify regional cooperation so as to deny a safe haven to officials and individuals guilty of corruption, and to prosecute those engaged in bribery, including in international business transactions. Efforts to fight corruption cannot be completed without a strong and solid international cooperation he added.

133. The **Delegate of the Republic of South Africa** at the outset outlined the international legal commitments that his country had on the issue of corruption. He stated that South Africa was Party to four anti-corruption instruments, namely the SADC Protocol against Corruption, the United Nations Convention against Corruption (UNCAC), the African Union (AU) Convention on Preventing and Combating Corruption and the OECD

(Organisation for Economic Cooperation and Development) Convention on Combating Bribery of Foreign Officials in International Business Transactions. South Africa also was a member of the OECD Working Group on Bribery in International Business Transactions.

134. Commenting on the position of South Africa vis-a-vis UNCAC, he opined that, it complied with the mandatory requirements of the UNCAC and would continue to ensure that the letter and spirit of the UNCAC was translated into policy, legislation and execution and that they had put in place measures to ensure the successful implementation of Chapter V of UNCAC dealing with asset recovery. While advocating the notion of civil asset forfeiture, he added that civil asset forfeiture had considerable advantages as a weapon to fight corruption and recover the proceeds. Advantages included not having to obtain a conviction either in the Republic of South Africa or in the victim State.

135. On the issue of the implementation of UNCAC, he mentioned that South Africa had a degree of fatigue related to the review of implementation. At a practical level they had been conducting various reviews this year and that these reviews had implications for the same resources (departments and agencies), including the following:

- a. The African Union Convention on Preventing and Combating Corruption self-assessment on compliance;
- b. The examination on compliance with the OECD anti-bribery Convention;
- c. The voluntary self-assessment checklist on the UNCAC; and
- d. Related but not corruption-specific, South Africa was undergoing the FATF (Financial Action Task Force) and terrorism reviews.

136. Commenting on the anti-corruption measures taken by his Country, he stated that, in 2007, South Africa had completed the African Peer Review Mechanism in South Africa which reviewed corruption and the efficacy of anti-corruption measures. It had also played host in 2007 to the Africa Forum on Fighting Corruption and the Global Forum V on Fighting Corruption and Safeguarding Integrity he added. Outlining the strategies adopted by his Country, he opined that, South Africa subscribed to methodologies of self-assessment, country visits, dialogue, peer review and a developmental approach that supported the State in meeting global standards. Indeed these evaluations also assisted South Africa in defining its anti-corruption programme of action including popular participation, cooperative partnerships and technical assistance. The methodologies were resource intensive and required the participation of civil society. South Africa thus supported a review methodology that sought cooperation and complementarity without duplicating existing mechanisms. He also reiterated South Africa's commitment to engage in the inter-governmental working group on review of the implementation of the UNCAC that had been established by the 1st session of the Conference of the States Parties and further mandated by the 2nd Session.

137. According to the delegate South Africa was of the firm view that the participation of all non-State actors was the key ingredient to a successful national integrity system. To ensure the participation of such non-State actors, South Africa had established a National Anti-corruption Forum to forge a national consensus against corruption. In August that year the Forum would convene the 3rd National Anti-corruption Summit in which both State and non-State actors participated. That Summit would collectively review the progress that South Africa had made in its fight against corruption and also would provide impetus and direction towards a new National Anti-

corruption Programme. This Programme will then be implemented through the Forum and again reviewed in 2010 at the next Summit, he added.

138. Emphasizing the commitment of South Africa in the context of corruption, he was happy to observe that the OECD Working Group on Bribery, which had adopted a report on the review of implementation of the OECD Anti-Bribery Convention on 20 June 2008, found his Country's legislative framework to conform to the standards of the OECD. This was a clear indication of the commitment of South Africa to root out corruption, he added.

139. The **Delegate of Japan** at the outset stressed the importance of international cooperation on the question of corruption and opined in this regard that the UNCAC was a vital instrument in fostering international cooperation. Commenting on the position of Japan vis-à-vis UNCAC, he stated that, Japan was in the final stages of ratifying the Convention and that the Japanese Diet had already approved the Convention and the necessary domestic legislation was under the consideration of the Diet.

140. With regard to the question of mechanism to review the implementation of UNCAC, Japan believed that it was indispensable that each State Party must make every effort on its own responsibility. In the opinion of Japan, the check-list for self assessment was a very useful means to enable each country to make self-assessment of its own implementation and that it could be linked to the needs of technical assistance as well, he added.

141. Commenting on the need to have the technical assistance programmes, he opined that technical assistance, both through bilateral arrangements and through appropriate international agencies was extremely important for States. He added that Japan had been doing such assistance

programmes for a long time that included training and sending experts for the prevention of corruption, criminal justice assistance, and analysis of information on corruption crimes through the Japan International Cooperation Agency (JICA).

142. The **Delegate of the Republic of Korea** supported vehemently the efforts of the international community to eradicate corruption and reiterated the pivotal nature of the UNCAC in this regard. He was happy to inform that his Country had ratified the UNCAC in March 2008, after three years of preparation with full implementing legislation. He added that with the ratification of UNCAC the Republic of Korea had come to acquire a more solid foundation in the eradication of the evil of corruption. He also added that his Country was willing to cooperate with all the States in rooting out this problem.

143. The **Delegate of the Republic of Kenya** at the outset maintained that the Government of Kenya had placed high priority on the fight against corruption and had vowed that there were no sacred cows in this war on corruption. He further added that since corruption, as a social problem was multi faceted, any effective instrument to fight the vice must necessarily be multi-dimensional. Corruption which was a complex social, political, economic, moral and cultural problem required a fundamental change in people's attitudes and behaviour – a social transformation and that there was a need to create a new culture of integrity.

144. Commenting on the situation of Kenya, he opined that corruption networks had permeated several aspects of its lives and that it posed a great development challenge to his Country. The Government's core strategy for fighting corruption had concentrated on creating effective institutions for investigation, prosecution and the punishing of corruption, as well as institutions for prevention and public education. In the absence of functioning

investigatory, prosecutorial and judicial institutions, punishment based anti-corruption efforts had been protracted and frustrating he added.

145. Commenting on the mechanisms and strategies that his Government had put in place, he observed that an Anti-Corruption Strategy that consisted of the following five pillars had been erected:

- (i) Enactment of the necessary legislation to establish a legislative framework on which to anchor the war on corruption.
- (ii) Vigorous enforcement of anti-corruption laws through investigation of offences of corruption and economic crimes as well as recovery of corruptly acquired property.
- (iii) Identification and sealing of corruption loopholes through the institution of effective public sector management controls.
- (iv) Conducting public education aimed at stigmatizing corruption and inducing behavioural change.
- (v) Implementation of macroeconomic and structural reforms to reduce the incidence and demand for corruption by scaling down the role of the public sector and bureaucracy.

146. Commenting on the spatial nature of corruption, he stated that Kenya was deeply aware of the fact that corruption was no longer a matter of domestic concern and that it had a cross-border and international dimension with the necessity of international cooperation, security and development. It was for this reason that Kenya was the first country to sign and ratify the UNCAC. It had also acceded to the United Nations Transnational Organized Crime Convention as well as signing the African Union Anti-Corruption Convention. The UN Convention against Corruption not only made corruption an international crime but also contained

elaborate mechanisms for international cooperation in the recovery of stolen assets.

147. Commenting on the need for cooperation among the States, he maintained that there was an urgent need to intensify their global solidarity and cooperation against corruption. That would, indeed, assist them in their asset tracing and recovery efforts. The Government of Kenya had initiated action at international level to recover billions of shillings looted from the public coffers, he added.

148. Commenting on the possible future role of AALCO in that area, he opined that in the area of anti-corruption transitional justice, also an area in which Kenya faced the greatest challenge, AALCO could offer its expertise to all the Member States. He added that Kenya was grateful for the useful exchange of ideas and interactions that the Forty-Seventh Session had witnessed.

149. The **Delegate of Ghana** informed that his country had signed the UNCAC in 2004 and had ratified it later. Ghana had also ratified the African Union Convention on the Prevention and Combating of Corruption and was yet to ratify the UN Convention on Transnational Organized Crime (UNTOC). He opined that, the fact that these legal instruments had been ratified by Ghana indicated the policy of Zero Tolerance that she was following in that area. He also informed that the Government of Ghana had submitted itself to assessment under the African Peer Review Mechanism.

150. Commenting on the legal regime of his country on corruption he stated that the Constitution of Ghana enjoined the State to take steps to eradicate corrupt practices and abuse of power. It had also enabled the country to set up a host of anti-corruption mechanisms and institutions to combat corruption. There was also the Commission on Human Rights and Administrative Justice (CHRAJ), an autonomous and independent institution, which had the power to

investigate any matter any issue of abuse of power or violation of human rights by public official. By giving the Commissioner and his deputies the security of tenure, any attempt on the part of political leaders to meddle with their functioning had been pre-empted, he added.

151. Besides this, he observed that, a Serious Fraud Office (SFO) had also been established in 1993 to investigate cases of fraud, corruption and embezzlement of public funds, which created financial loss to the State. On the legislation that Ghana had adopted to counter that problem, he observed that, they had adopted the Public Procurement Act 2003 (Act 663), the Financial Administration Act 2003 (Act 654), the Internal Audit Agency Act 2003 and the Financial Administration Regulations of 2004 in an effort to deal with corruption comprehensively. Commenting on the utility of these enactments, he stated that, while the Public Procurement Act 2003, if managed properly could lead to substantial savings for the Government, the Internal Audit Agency Act 2003 empowered the Board to audit all public procurements of Ministries, Departments and other Governmental Agencies.

152. In an effort to strengthen these laws and institutional mechanisms, Ghana was also planning to have two legislations enacted, one a Whistle Blowers Law and the other the Freedom of Information Act, he stated. With these umpteen number of laws and mechanisms, he expressed hope that, Ghana would be able to reduce the incidents of corruption to a considerable extent even if not eliminating them altogether.

153. Commenting on the need to have cooperation among States in that area, he mentioned that, fighting corruption was not and can not be an individual pursuit but a team sport. In other words, issues such as transborder crimes, computer frauds, false credit cards and all other frauds connected with e-Commerce could only be tackled by

States acting in concert, he added. Hence, Ghana supported mechanisms for exchange of information and best practices among AALCO Member States and any effort to repatriate the proceeds of corruption.

154. The **Delegate of the State of Kuwait**⁶ stated at the outset that corruption was like a disease that shattered the body of international community greatly. He informed that this malaise affected both the developing world and the developed world. Stressing the need for States to cooperate with one another, he stated that without this vital factor any effort to tackle that evil would not bear fruit. He also informed that his Government had established a National Supreme Commission to combat corruption effectively. In that regard, he announced that the State of Kuwait was willing to cooperate with AALCO in all manners and ways including the exchange of information on this area.

155. The **Delegate of the People's Republic of China** at the outset was happy to note that the Parties to the UNCAC had increased to 117 since the Convention entered into force nearly three years ago. That fully illustrated the fact that the international community endorsed and attached great importance to international cooperation on anti-corruption.

156. Commenting on the Second Session of the Conference of States Parties (COSP) that was held in Bali he opined that, it identified and defined the focal areas for reviewing the implementation of the Convention, which was of immense positive significance to promoting effective implementation of UNCAC on the whole. He also pointed out that the developed countries and the developing countries still had large differences over the issues of review mechanism, asset recovery and technical assistance.

⁶ The statement was made in Arabic. Unofficial translation from interpreter's version.

157. The delegate further maintained that the review mechanism should be shaped in accordance with resolutions adopted by the two previous sessions of the Conference of States Parties, that was “transparent, efficient, non-intrusive, inclusive and impartial and that it should not produce any form of ranking”. The establishment of the mechanism should be proceeded gradually. Initially, the terms of reference of the mechanism should be proposed by the Inter-Governmental Working Group, and submitted to the Conference of States Parties for approval and adoption. Then, the Conference might develop an appropriate step-by-step approach to establish the mechanism. The review mechanism, should give priority to mutual legal assistance, extradition, law enforcement cooperation and asset recovery prescribed by the Convention rather than prevention measures formulated by States Parties on their own, he added.

158. Commenting on the salient features of the UNCAC, he noted that asset recovery was a unique and innovative legal system established by the Convention. Given the reality of lack of judicial practice on asset recovery, that issue should be given the highest priority on the agenda of the Conference and States Parties. He also expressed hope that the Conference of States Parties would take effective measures to strengthen the political will of cooperation between the developed countries and the developing countries, and to overcome the difficulties arising from existing legal obstacles, so as to facilitate asset recovery.

159. Commenting on the issue of technical assistance envisaged under the UNCAC, he stated that the developed countries should provide technical assistance to developing countries with regard to the implementation of the Convention. However, China was against linking technical assistance, with development assistance and taking the establishment of

national anti-corruption strategy as precondition for technical assistance. He further maintained that the ultimate goal of any technical assistance should be the effective implementation of the Convention to which no political conditions should be attached.

160. Commenting on the need for the Asian-African States to cooperate in that issue, he informed that at the previous Sessions of the Conference of States Parties and relevant Expert Working Group Meetings, Asian-African countries took advantage of “Group of 77 and China” to safeguard the interests of developing countries. While welcoming this solidarity, he maintained that this should continue to take place in the ensuing meetings of Inter-governmental Expert Working Groups for Asset Recovery and Review Mechanism. This he added would go a long way in effectively implementing the UNCAC.

161. **The Delegate of the Republic of Cameroon** congratulated Mr. Narinder Singh and Prof. Dr. Rahmat Mohamad on their becoming the President and the new Secretary- General of AALCO respectively. While applauding the commendable role played by the outgoing Secretary-General Amb. Dr. Wafik Z. Kamil, he stated that, it was because of his relentless efforts that Cameroon became a Member of AALCO.

162. Commenting on the various dimensions of corruption, he stated that the evil of corruption appeared to take innumerable forms and that it certainly included corruption committed, by not only public officials but also private individuals, corporations and other entities.

163. Commenting on the legal regime on corruption, he stated that there had been a proliferation in the adoption of legal instruments at the international, regional and state level. On the important features of the UNCAC, he opined that it had two flaws; firstly, according to it, the State Parties were

not bound to ensure the repatriation of the funds embezzled in a country and hidden abroad. Secondly, it failed to address the issue of the liability of transnational companies, foreign banks and other financial institutions involved in corruption.

164. He mentioned that Cameroon had ratified the UNCAC some years ago and was implementing the obligations of it effectively. The need to have adequate cooperating mechanisms in place to combat corruption was also emphasized by the delegate.

165. The **Delegate of the Islamic Republic of Iran** at the outset mentioned that corruption slowed and impeded the consolidation of democratic institutions, weakened the rule of law, diverted resources from productive use, distorted economies, reduced growth, and caused enormous social tension. Hence the need to promote, facilitate and support all measures in order to enhance combating corruption more effectively at the national, regional and international levels was the need of the hour, he stated.

166. Commenting on the UNCAC, the delegate pointed out that under the UNCAC a number of issues needed to be sorted out in order for that instrument to make a significant dent on corruption. Firstly, on the issue of implementation and monitoring mechanism, he noted that, the precise duties of State Parties under the UNCAC were to be identified clearly. Secondly, identifying the appropriate mechanisms which were suited to the best practices of Member States was also important.

167. The Delegate also had come out with a number of suggestions to improve the working of the UNCAC. They included the setting up of a peer review mechanism and an expert review body. It also included a role to be given to the Secretariat of UNODC along with a potential reporting

mechanism by the States to the Assembly of the Conference of the Member States.

168. Commenting on the Global Forums established in that regard, he noted that he had been invited to make presentations on both the Global Forum IV in 2004 and V in 2007. He had submitted a comparative study of the similar regional instruments that included the African Union, the Council of Europe, and the American States he added. He also proposed that an **Expert Meeting of the AALCO** be convened that could focus on a range of issues arising out of the UNCAC.

169. Commenting on the technical assistance needed to make the UNCAC a success, he opined that there was a pressing need to identify the important areas in which it could be forged. Recovering proceeds of corruption was one of the key elements in dealing effectively with corruption and had become a significant issue for many States especially developing countries. According to the delegate, asset recovery must be considered "a fundamental principle of the Convention", with States parties agreeing to afford one another "the widest measure of cooperation and assistance", as set out in Article 51, and it should be promoted, facilitated and supported, according to Article 1 of the Convention.

170. He categorically stated that the Islamic Republic of Iran was of the view that Technical Assistance was a cross cutting issue throughout the United Nations Convention against Corruption (UNCAC), and its provision was an essential part of its effective and efficient implementation. The Islamic Republic of Iran emphasized that in order to promote UNCAC implementation, adequate assistance should be provided, in particular, for the benefit of developing countries. Moreover, assuring sufficient and stable funding to the Conference of State Parties and the United Nations Office on Drugs and Crime was essential to promote programmes and projects he added.

171. The **Delegate of the State of Qatar**⁷ at the outset, quoting from the report of Transparency International stated that corruption threatened economic development and made a significant negative impact on poverty. Commenting on the position of Qatar vis-à-vis UNCAC, he opined that it had ratified the same in 2007 and as per Article 6 of UNCAC, it had promulgated a domestic law. It had also established a National Commission for Transparency and Honesty comprising of various Ministries of the State of Qatar. He concluded by informing that the State of Qatar had hosted an International Conference under the aegis of the Ministry of Foreign Affairs which discussed the salient features of UNCAC threadbare.

172. The **Delegate of Malaysia** at the outset reiterated his country's firm support to the legal instruments in general and UNCAC and UN Convention against Transnational Organized Crime (UNTOC) in particular. He added that, the proper implementation of these two instruments would make a significant dent on corruption. Detailing the domestic legislation that his country had adopted in pursuance of the obligations arising out of both the UNCAC and the UNTOC, he mentioned that they were primarily implemented through the Anti-Corruption Act 1997 and the Anti-Money Laundering and Anti-Terrorism Financing Act 2001. He added that the two institutional mechanisms that had been established to deal with various aspects of corruption in his country namely, Anti-Corruption Agency and the Financial Intelligence Unit were effectively addressing that issue.

173. Commenting on the review mechanism envisaged under the UNCAC, he stated that it was a very significant provision and that the Resolutions adopted at the First

and Second Conferences of State Parties (COSP) on this count were indeed laudable. However, Malaysia emphasized the need to develop technical assistance and capacity building more than that of the creation of review mechanism.

174. With regard to the requirement of enacting a domestic law as mandated by the UNCAC, he opined that Malaysia was yet to criminalize the bribery of foreign public officials as required under the UNCAC. Malaysia hoped to contribute constructively to the discussions of the Inter Governmental Working Groups established by the COSP and that its outcome would be reported to the third COSP scheduled to be convened in 2009 at Qatar he added. While noting that the above said meeting would predominately focus on the issues surrounding the review mechanism, Malaysia would prefer to have a flexible, practical, and a non-institutionalized process like the peer review process of the Financial Action Task Force and the Asia Pacific Group.

175. The **Delegate of Thailand** at the outset congratulated the Secretariat of AALCO for preparing a comprehensive report on the issue of corruption that highlighted the main aspects of the evil of corruption in proper light.

176. Commenting on the destructive impacts of corruption, he opined that, his country was fully aware of the notorious impact of it in causing damage to national economies and development besides jeopardizing national security of States. It also undermined rule of law to a significant extent. He underlined the fact that the detrimental impacts of corruption were felt worldwide through its evolving and emerging forms and complexity. As a consequence, the international community was in urgent need to effectively implement international legal instruments against corruption, in particular the UNCAC, he added.

⁷ Statement made in Arabic. Unofficial translation from interpreter's version.

177. Commenting on the position of Thailand vis-à-vis UNCAC, he stated that ever since his country became a Signatory to it in 2003, many significant moves pertaining to its ratification process had already been undertaken. The Thai Parliament had approved the UNCAC in principle and three Draft Laws incorporating the obligations of UNCAC were under the consideration of the Council of States. He clarified further that Thailand would be able to ratify the UNCAC once these three proposed laws were approved by the Parliament.

178. Commenting on the need to have the necessary technical assistance and international cooperation to combat corruption, he mentioned that, in December 2007, the Office of the Attorney-General of Thailand in cooperation with the United Nations Asia and Far East Institute for the Prevention of Crime and UNODC, had hosted a regional seminar under the theme "Corruption Control in Judiciary and Prosecutorial Authorities". The seminar had successfully brought about substantive recommendations to strengthen the anti corruption measures in the legal systems. Recognizing the fruitful outcome of their first seminar, these three Organizations had agreed to co-host another regional seminar on "Corruption Control in Public Procurement" later that year. Furthermore, their Ministry of Justice recently co-hosted an international conference on "New Strategic Directions in Controlling Corruption: The Recovery of Stolen Assets" with the World Bank and the UNODC. The topics covered had included basic concepts, legal framework, on-hand experience, practical issues and technical assistance needs. That conference, again, marked a good example for rendering technical assistance support and international cooperation in this field. Implementing agencies of various countries from a range of economic and social backgrounds were able to share experience and receive advice.

179. Commenting on the need for international cooperation, both bilateral and multilateral, he opined that it was very critical to the implementation of the UNCAC and in the fight against corruption. Sharing of experience on the part of all the States was also critical in the process of our fight against trans-national corruption he added.

180. Explaining the interface between the issue of corruption and the 'diffusion of powers', he opined that, an independent agency to provide for checks and balances between various instrumentalities of power along with legislations such as "Freedom of Information Act" was also of immense importance in this context, he added. He concluded his comments by expressing his country's willingness to cooperate with all the States so as to root out corruption.

181. The **Delegate of India** at the outset reiterated the need for international cooperation to root out this evil of corruption. Commenting on India's position vis-à-vis UNCAC, he maintained that India was a signatory to the Convention and was in the process of ratifying the Convention by having a implementing legislation. On the laws that exist in India on the issue of corruption, he informed that the Anti Corruption Act 1988 and the Money Laundering Act 2003 were of immense importance to the rooting out of corruption.

182. The **Delegate of the Arab Republic of Egypt**⁸ informed that his country had ratified the UNCAC in 2004 and that it was implementing the obligations effectively domestically. On the institutional mechanisms established in his country, he stated that a Commission for Transparency and Integrity had been established along with a Unit within the Central Bank of Egypt to deal with money laundering crimes. He also noted that Egypt had also

⁸ The statement was made in Arabic. Unofficial translation from interpreter's version.

signed the African Convention on Combating Corruption and that had entered into a number of bilateral agreements with other states for cooperation.

183. The **Delegate of Singapore** expressed his country's support to the UNCAC and opined that Singapore was working towards ratification. He added that all the issues pertaining to the UNCAC should be discussed in detail and that they had to be worked out at the ensuing meeting of the Working Group on the Review of the implementation of the UNCAC.

C. Environment and Sustainable Development

184. **Amb. S. R. Tabatabaei Shafiei, the Deputy Secretary-General** introduced the agenda item "Environment and Sustainable Development". The DSG said that the topic constituted a very important element of the work programme of AALCO and had been consistently on its agenda for more than three decades. He said that the current work programme includes follow-up of the developments in the three Rio Conventions, namely, United Nations Framework Convention on Climate Change (UNFCCC), Convention on Biological Diversity (CBD) and United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994 (UNCCD) and Follow-Up in Progress of the Implementation of the outcome of World Summit on Sustainable Development (WSSD). In view of the importance of the climate change issues in the present time, the focus of the Secretariat Report contained in document AALCO/47th/HEAD QUARTERS (NEW DELHI) SESSION/ 2008/S 10 was on Climate Change regime. In addition, it reported on pertinent developments as regards Biodiversity and Desertification Conventions, and WSSD implementation agenda.

185. Reiterating the necessity to mitigate climate change, the DSG said that there were a series of international meetings that had taken place, like consideration of the climate change issues for the first time, by the UN Security Council in April 2007; a high-level event as part of the Sixty-second Session of the United Nations General Assembly, in September 2007; the United Nations Climate Change Conference at Bali in December 2007; General Assembly thematic debate entitled "Addressing Climate Change: The United Nations and the World at Work", in February 2008; followed by the frequent meetings of the Subsidiary Bodies of the Climate Change Convention and its Kyoto Protocol have all made climate change a priority issue on international political agenda.

186. He informed the Member States that the "Bali Road Map" adopted by the UN Climate Change Conference at Bali, Republic of Indonesia in December 2007, unfurled the process for the elaboration of the most complex international agreements that the history would have ever seen. He stated that there was an emerging consensus that adaptation, mitigation, technology and financing would form the building blocks of the post 2012 emission control regime. The four major issues that could be culled out from the above-mentioned on-going negotiations were to form an International Agreement on stronger international action on climate change for the period beyond 2012, as laid down in the Bali Action Plan. He said that the other issues were (i) to define, in a measurable, reportable and verifiable way and nationally appropriate, emission limitation commitments for developed countries and mitigation action for developing countries; (ii) (iii) emerging liability and redress legal regime for damage arising from the transboundary movement of living modified organisms; and (iv) raising awareness and commitment to the implementation of the United Nations Convention to Combat Desertification.

187. The **Delegate of Japan** stated that Japan considered environmental issues as very critical problem that the present world faced and chief among them was the climate change issue and that it needed to be tackled by strengthening the concerted efforts of the international community. The delegate appreciated the developments at COP-13 held at Bali to establish a new forum to discuss pro-Kyoto or Post-2012 framework, namely; Ad Hoc Working Group on Long-Term Cooperative action (AWGLCA) under the auspices of the UNFCCC. He said that Japan took lead in mitigating climate change issues by presenting specific ideas and proposals concerning a long-term target and had made a proposal of Cool Earth 50. Further, the Japanese government stressed on the need to realize a Low Carbon Society and to develop new innovative technology. Along with that, he opined that it was essential to reduce the emission of GHGs by half by 2050. He requested that to mitigate climate change, it was essential that along with developed countries, developing countries also took vital efforts.

188. The **Delegate of Islamic Republic of Iran** appreciated the Secretariat Report. He stressed that UN environmental activities must not only be supportive of the objectives of major UN Conferences and Summits in the economic, social and related fields, but also preserve the integrity of the three pillars of sustainable development, as agreed in Agenda 21, the Millennium Summit, the World Summit on Sustainable development and 2005 World Summit. He raised concern on slow implementation of the capacity building and technology transfer under the Bali Strategic Plan. He emphasized on the need to provide safe water and sanitation without contamination of water in distribution, so on and so forth as a measure to sustainable access to safe drinking water.

189. The **Delegate of the State of Kuwait**⁹ said that there was no doubt to the fact that the modern technology was harmful to the environment leading to damage to human health, water, air pollution, etc. hence, it was a serious problem. Proper solution to such problems had to be reached. He also suggested that AALCO could organize some training programmes, seminars and workshops, for those who work in this area in order to render proper guidance and skill.

190. The **Delegate of the Republic of Indonesia** observed that economic development and environment protection should be balanced in order to prevent the environment from destruction. His delegation reiterated that decisions taken at the COP-13 to the UNFCCC held at Bali. He hoped for success for the negotiations on the post-2012 commitments and reiterated that the developed countries should share the larger responsibilities to take action to reduce the threat of climate change, in accordance with the principle of common but differentiated responsibility.

191. The **Delegate of the Sultanate of Oman**¹⁰, observed that Oman was a party to all major international environmental conventions and at the national level, enactments were passed in order to conserve environment and combat pollution, protect sources of drinking water from pollution, and law for the conservation of natural resources and wildlife. She also mentioned that initiatives were taken to make individuals and companies also participate in protection of the environment.

192. The **Delegate of the Democratic Peoples' Republic of Korea** drew attention to the point that it was important to institute an international liability and redress regime

⁹ Statement made in Arabic. Unofficial translation from the interpreters' version.

¹⁰ Statement made in Arabic. Unofficial translation from the interpreters' version.

with particular attention towards compensating damages that were of interests to the developing countries. He stated that as a measure to join efforts of the international community, his country had joined Kyoto Protocol and had made every effort to implement resolutions and decisions of the World Summit on Sustainable Development and the millennium development target.

193. The **Delegate of the People's Republic of China** thanked the Secretariat for the report. He stated that Bali Roadmap was a very good initiative by the international community in order to strengthen the comprehensive implementation of the Convention and the Protocol. He stated that the Chinese government had always maintained that the world community should address through common efforts and sincere cooperation. In that regard, the delegate pointed out five principles that were essential namely, climate change within the framework of sustainable development, principle of common but differentiated responsibility, principle of paying equal attention to mitigation and adaptation, principle of maintaining the Convention and Protocol as the main channel and effective framework for addressing climate change and the principle of bringing together technology innovation and transfer.

194. The delegate said that his Government said that it attached great importance to the issue of climate change, and that they had addressed climate change by taking a series of policy measures, with a responsible attitude towards its own people, the people of the world and the future. Accordingly, the government had set up the National Climate Change Leading Group. The Chinese Government had issued and implemented National Climate Change Program, which defined China's concrete goals, basic principles, priority areas and related policy measures to address climate change by 2010.

195. Addressing the importance of the biodiversity, the delegate said that Asian and African countries enjoyed vast territories and rich biodiversity. The Convention on Biological Diversity had provided the Asian and African nations with strong support for protecting biodiversity. However, the rich biodiversity resources of developing countries were now under severe threats with economic development and population growth. To ensure a more effective role played by the Convention in the protection of global biodiversity, it was necessary to enhance dialogue and cooperation in that regard, offer more financial and technical assistance to developing countries, improve biodiversity's ability to adapt to climate change and encourage wide participation of all sides.

196. He emphasized that the Chinese Government was fully aware of the grave nature of biodiversity reduction. It had enhanced its capacity building in the conservation of biodiversity and improved its legislation in recent years. As one of the first countries to ratify the Convention, China had earnestly fulfilled its international obligations. It had kept close contacts and collaborations with the Convention Secretariat, actively participated in the discussions of relevant topics, completed its national report on time and attached great importance to international cooperation. China had contributed to the global biodiversity conservation through its concrete actions. Issue of biosafety had remained a top issue on his Government's agenda. The delegate informed that China signed the Biosafety Protocol in August 2000 and approved the Protocol on 27 April 2005.

197. Desertification, as an environmental problem was a severe challenge confronting the Asian and African nations in sustainable development. The UNCCD was an effective legal framework for the world community to take joint actions to combat desertification and mitigate the impact of drought. The delegate said that, they would appreciate if

any Member States of AALCO wanted to share their experiences in these issues and actively involve in dialogue and cooperation with the international organizations and other countries.

198. The **Delegate of India** conveyed on behalf of his delegation sincere thanks to the Secretariat for providing them with a comprehensive report on Environment and Sustainable Development. He reiterated that India shared the concerns raised by developing countries at various international fora on the issue of increasing food insecurity, rising energy prices, declining ODA and continuing land degradation. These problems severely hampered the efforts of developing countries in eradicating poverty, which still remained an indispensable requirement for achieving sustainable development goals, including those contained in Agenda 21, the JPOI, the MDGs and the broader Internationally Agreed Developmental Goals.

199. The delegate stated that the countries in Africa, SIDS and LDCs, among others, faced special challenges in their pursuit of sustainable development. He said that Indian government would like to reaffirm India's long-standing support to these countries. He stated that at the recent India-Africa Forum Summit held in New Delhi, India had pledged credit lines worth US\$ 5.4 billion and grants in excess to US\$ 500 million to Africa for over the next five years. Similarly, India had committed US\$ 350 million in concessional loans and credit lines to the SIDS, in addition to project aid of US\$ 70 million.

200. The delegate observed that India was very conscious of the challenge of climate change and the serious impact it would have on the present and future generations. Therefore, like any other developing countries, India also had to ensure accelerated and sustained development so that millions of poor people can secure a better life. This would

inevitably require increased energy consumption. On that issue, his delegation referred to reiterate that the UN Framework Convention on Climate Change (UNFCCC) remained the only comprehensive framework to deal with climate change issues, a fact reaffirmed during the recent Bali meeting. Efforts to address climate change, including the thematic debate, must enhance support to the ongoing processes under the UNFCCC rather than create parallel processes. He observed that it must be ensured that such efforts were also based on the provisions and principles of UNFCCC, particularly the principle of common but differentiated responsibilities and respective capabilities.

201. The delegate emphasized on the role of technology and financing which were vital for effectively addressing climate change. Current mechanisms to promote cost-effective and affordable access to advanced clean technologies for developing countries were not yet very successful. He opined that the UN must play a leading role in these areas by promoting joint research; country-driven approaches incorporating existing capacities; adoption and diffusion of technology; greater focus on adaptation technologies; and most important of all, a facilitative IPR regime that balanced rewards for innovators with the common good of humankind. Similarly, there was an urgent need to provide new and additional financial resources to developing countries for addressing climate change, without diverting resources meant for development.

202. The Indian delegation also reaffirmed that the developed countries must honour their legally binding obligations under the UNFCCC. Adaptation efforts of developing countries, particularly in the interlinked areas of agriculture, drought and desertification, and land, must receive adequate attention and financial support from the developed countries. Climate Change must be addressed in the context of sustainable development, rather than

attempting to integrate it with trade, social, economic, security, migration or humanitarian issues. The Indian government cautioned against using discussions on climate change to influence other ongoing UN processes like the System-wide coherence or the International Environment Governance. While the UN Chief Executives Board for Coordination can play a role in coordinating UN system efforts, he said that they would like to see much greater member state oversight.

203. The **Delegate of Malaysia** stated that climate change was one of the global challenges of our time which had been discussed everywhere. The Fourth Assessment Report of the IPCC, had reported that in Africa, by 2020 between 75 to 250 million of people may be projected to be exposed into increased access to water due to climate change. The delegate said that the focus of the Bali meetings was on negotiations on further commitments by developed/industrialized countries to reduce their greenhouse emissions beyond Kyoto Protocol's 2008-2012 first commitment periods.

204. The Malaysian delegate took note of the view that there must be mechanism to bring the largest emitter of the greenhouse gases the United States of America under check. This could be possible by bringing the United States within the Kyoto regime. Lack of fulfillment by developed countries of their commitments in the Kyoto Protocol was one of the formidable challenges in the Kyoto Protocol. Further, the principle of common but differentiated responsibilities should be the guiding principle in the future agreements relating to climate change. The delegate stressed that the new post-2012 international climate regime should not be binding commitments on developing countries to cut their greenhouse gas emissions.

205. In that regard, Malaysian delegate called upon for efforts to address climate

change in a manner that enhanced the sustainable development and sustained economic growth of the developing countries and universal elimination of poverty hunger and disease.

206. Another source of GHGs, was the energy sector and the Malaysian government had decided to adopt renewable Energy as the 5th fuel in addition to oil, gas, coal and hydro-electric power. It was said that Malaysia had been practicing sustainable forest implementation, committed to implementation of sustainable forest development as enshrined in the resolution of the UNCED as well as WSSD.

207. The **Delegate of Republic of Cameroon** emphasized that critical issue as far as the protection of environment was concerned was to find out a balance between the necessity of conservation of environment and the necessity of development. He said that the call for some of the developing countries for incentives to preserve some of their natural resources such as rain forest to prevent the threat from climate change and desertification was very important. His country had raised the issue of such incentives in early 1990s. At that time, this raised scholarly debate and now this was being considered by the international community. He informed that the second most important biosphere after rainforests was in Cameroon.

208. He stated that Cameroon had signed and ratified all the international instruments in the field of the environment protection including the Congo Basin Convention, 1999.

209. However, he reiterated that as many developing countries, Cameroon was of the view that a special effort to protect the environment in the interest of the whole international community, by freezing the exploitation of their forest cannot be asked for until, these countries compensated or a special and sustainable assistance were

provided for their development programmes.

210. The **President** informed the delegates about the invitation extended by the Government of Malaysia, in honor of newly elected Secretary-General.

The meeting was thereafter adjourned.