

V. (iv) SUMMARY RECORDS OF THE FOURTH GENERAL MEETING HELD ON 19TH JUNE AT 9:45 A. M.

The President H. E. Amb. Young-jin Choi in the Chair.

(a) Jurisdictional Immunities of States and their Properties

The Meeting took up for consideration the agenda item “**Jurisdictional Immunities of States and their Properties**”.

1. **Dr. Li Zhenhua, Deputy Secretary General of the AALCO** introduced the Secretariat document AALCO/XLII/SEOUL/2003/S.7 on this item.

Dr. Li recalled that the International Law Commission had at its 43rd Session in the year 1991, adopted a set of 22 draft articles on the Jurisdictional Immunities of States and Their Properties and recommended to the UN General Assembly, for convening an international conference of plenipotentiaries, to examine the draft articles and conclude a Convention on the subject. Following this, the focus shifted to the General Assembly wherein the draft articles were reviewed first within a Working Group of the Sixth Committee and presently within the Ad Hoc Committee on Jurisdictional Immunities. The Sixth Committee has focused on resolving the outstanding substantive issues over the ILC’s draft articles and evolved a consensus towards the finalization of the draft articles.

At its 57th session, the General Assembly decided to reconvene the Ad Hoc Committee on Jurisdictional Immunities in order to make a final attempt at consolidation of areas of agreement and resolve outstanding issues with a view to elaborating a generally acceptable instrument on this topic.

In line with this mandate, the Ad Hoc Committee on Jurisdictional Immunities met at UN Headquarters, from 24th to 28th February 2003. At the end of its work, the Ad Hoc Committee adopted its report containing the text of the draft articles on jurisdictional immunities of States and their property, together with understandings with regard to some of the provisions of the draft articles. The Ad Hoc Committee recommended that the General Assembly take a decision on the form of the draft articles. In this context, Dr. Li suggested that the AALCO Member States may avail themselves of this gathering to discuss the draft articles as adopted by the Ad Hoc Committee and identify common positions where possible. This exercise could be useful in co-coordinating stances when the matter comes up before the Sixth Committee of the UN General Assembly.

Recalling that the Secretariat was mandated at the 39th Session to consider the feasibility of compiling national legislation, jurisprudence and practices of the AALCO Members on this item, he renewed the request to the Member States who have not done so, to forward to the Secretariat relevant materials.

2. The **Delegate of India** tracing the evolution and progress of the work of the ILC and Sixth Committee, welcomed the outcome of the Ad Hoc Committee's work (February, 2003) in successfully resolving the outstanding issues through a combination of amendments to some of the draft articles and "understandings" on the others. As regards the final form of the draft articles, the delegate favoured the adoption of a legally binding instrument, i.e. a Convention, as it would meet the objectives of providing clarity, certainty and uniformity to the rules of international law on the topic. However, his delegation was flexible on the question of the procedure for adopting a Convention, whether by convening of a diplomatic conference or through a resolution of the General Assembly.

3. The **Delegate of Myanmar** said that the Convention on Jurisdictional Immunities of States and their Property was not only a normal treaty, but a treaty that was mixed with principles of sovereign immunity and corporate law. He favoured analyzing the draft articles in the light of corporate law. It was a bold attempt, he said, to restrict the jurisdictional immunities of States in commercial transactions done by the State and various State commercial organizations.

Welcoming the progress made by the Ad Hoc Committee, his delegation agreed with the understanding reached among the States with respect to certain provisions of the draft articles, i.e. Articles 10, 11, 13, 14, 17 and 19. The general understanding that the draft articles do not cover the criminal proceedings, in his view, was practically in line with the scope of commercial transaction nature of the Convention.

While expressing preference for the draft articles to assume the form of Convention, the delegate wished to see early adoption of the Convention, with the preamble mentioning the principles of restrictive rules of jurisdictional immunities of States and their property concerning commercial activities and also with final clauses including time for signature indefinitely, and open for accession after the entry into force of this Convention.

4. The **Delegate of Japan** expressed his satisfaction over the progress achieved by the Ad Hoc Committee on Jurisdictional Immunities at its recent meeting in February 2003. In view of the completion of the UN, exercise to codify the important rules would certainly constitute to the stability of legal relations among States.

As regards the final form of the draft articles, there were two views. While Japan and a great number of other States prefer the form of a convention, a considerable number of other States, particularly those which have domestic laws on jurisdictional immunity, are not yet prepared to adopt a Convention.

With a view to satisfying both groups of States, as well as avoiding wrecking the consensus achieved by prematurely convening a diplomatic conference for adoption of a Convention, the delegate felt it preferable to give some time until the draft articles settle down as they were in the practice of States. In this connection, the delegate informed that Japan had floated an idea in the Sixth Committee last year of a two step approach. This

is to suggest the adoption of a resolution at the forthcoming session endorsing the draft articles and at the same time deciding to consider, after some years later, whether to proceed to adopt these draft articles as a Convention. He urged the AALCO delegations to examine this approach and come prepared to the Sixth Committee this year.

5. The **Delegate of Indonesia** expressed his appreciation to the work of the AALCO on the issue of Jurisdictional Immunities of States and their Properties, particularly its efforts to assist its Member States in the meetings of Sixth Committee of the UN General Assembly in ascertaining the feasibility of compiling national legislation, jurisprudence and legal practices.

The delegate said that work of the Ad Hoc Committee was pertinent on two accounts. First, it successfully streamlines the divergent views by forging a common understanding from those outstanding issues. Furthermore, by streamlining them the Ad Hoc Committee has generated a momentum concerning possible conclusion of the draft text in the near future.

The delegate noted with appreciation the substantial progress achieved with regard to the five substantive issues which have been reduced to three, namely, criteria for determining the commercial character of a contract or transaction, concept of a State enterprise or other entity in relation to commercial transactions as contracts of employment. The difficulty in bridging the gap on the three issues, the delegate said, was quite understandable. In this context, he called upon states to make every effort to resolve the remaining outstanding issues in the interest of arriving at an agreement.

6. The **Delegate of Pakistan**, at the outset welcomed the progress made at the Ad Hoc Committee on resolving the outstanding issues and hoped that it would serve as a basis for the adoption of model laws or a convention on the topic. The transformation of the law from the notion of an absolute restrictive immunity, has witnessed the practice of making a distinction between acts *jure gestionis* and act *jure imperii*. Such distinctions form the basis of all regional and national legal frameworks developed in recent years. The delegate pointed out that, draft article 12 of the ILC work on Jurisdictional Immunities dealing with tortious liability does not maintain this distinction. Given the strong tradition of tortious litigation in some developed countries, the delegate pointed out that the application of Draft Article 12 in its present form would expose developing country governments to costly litigations.

7. The **Delegate of the Republic of Korea** thanked the Secretariat for its excellent report on the topic.

The delegate said that the draft articles are generally acceptable and would like to commend the Ad Hoc Committee for its successful adoption of a clean text and to all participating States for their spirit of compromise.

As regards the final form of the draft articles, the delegate supported the form of a convention rather than a model law. A Convention on State Immunity, the delegate felt,

provides a strong opportunity for States to develop common rules and a starting point for the further development in this field.

Referring to the level of inter-regional cooperation among European countries, the delegate said that prior to the February 2003 Meeting of the Ad Hoc Committee, the countries of EU had prior consultations amongst themselves and were able to reach consensus on the outstanding issues concerning draft articles of 2002. During the Meetings, the EU together with several other Central European countries that are non-EU Member States formed a single negotiating position and spoke with one voice to add more weight to their views. In contrast, the delegate regretted that although many Asian and African countries actively participated in the meeting and have very similar positions on a number of outstanding issues, there was no such prior co-ordination and all cooperation between Asian and African States happened on an ad hoc basis.

Against the backdrop, he called for exploring the possibilities of reaching consensus among AALCO Member States on the final form of draft article and cooperation in the Sixth Committee on this matter. Seeking the views of AALCO States on this matter, he invited all interested States for informal consultations and discuss possible cooperation at the UN Sixth Committee.

8. **The Delegate of the People's Republic of China** was pleased to note the great breakthrough achieved by the Ad Hoc Committee. The delegate commended the AALCO Secretary-General for sending letters to its Member States encouraging them to take an active part in the Ad Hoc Committee session early this year.

As regards the draft articles, the delegate believed that the present text was the best possible outcome, which States might have achieved. As participants were under tremendous pressure and there was little room for them to negotiate remaining legal issues, her delegation was ready to accept the adopted text as a final compromise.

As regards the form of the draft articles, the delegate preferred the adoption of a convention. However, if it was not acceptable to other States, China could also consider to first adopt a resolution by the UN General Assembly with the adoption of the draft articles submitted by the Ad Hoc Committee, with a view to concluding a convention soon.

9. **The Delegate of the Arab Republic of Egypt*** commended the AALCO Secretariat for the excellent report prepared on this topic. He noted that the AALCO has been following up the developments on the matter since the inclusion of this agenda item to AALCO's work programme at the Cairo Session (2000).

Expressing appreciation for the progress made by the Ad Hoc Committee on jurisdictional immunities, he expressed satisfaction over the formulation arrived in respect of articles 10,11,13 and 14. The delegate was appreciative of the improvements effected in the definition of 'commercial transactions'.

* Statement delivered in Arabic. Unofficial translation from the interpreters version.

(b) Establishing Co-operation against Trafficking in Women and Children

The meeting took up for consideration the agenda item “**Establishing Co-operation against Trafficking in Women and Children**”.

1. **Mrs. T. Shimizu, the Deputy Secretary-General of AALCO** introduced the Secretariat document AALCO/XLII/SEOUL/2003/S.9 on this topic.

The Deputy Secretary-General said that trafficking in women and children has become a global business, generating huge profit for traffickers and organized crime syndicates, creating serious problems for governments of countries involved and exposing the victims to exploitation and violation of their fundamental human rights.

In this context, she said, that the adoption of the United Nations Convention against Transnational Organized Crime and the Protocols, especially the Protocol to Prevent Suppress and Punish Trafficking in Persons, was a welcome development. The convention has been well received by the world community with 147 States signing it and 30 States either ratifying or acceding to it. Till date, 30 AALCO Member States are signatories to this instrument and three of them have ratified it.

She mentioned that at the 41st session (2002), the Organization vide Resolution 41/9 urged the AALCO Member States to consider signing and becoming parties to the UN Convention against Transnational Organized Crime and its Protocols, as well as, requested them to transmit to the AALCO Secretariat their national legislations and other relevant information related to the topic.

In response to this request the Secretariat received information from 21 Member States. A brief summary of these responses has been annexed to the Report. These materials, she said, would be useful to the Secretariat in drafting model legislation on this topic.

Mrs. Shimizu, said that communications received from the Member States in respect of national legislations showed that even though many countries did not have anti-trafficking legislations per se, however, provisions in other domestic laws did deal with the offence of trafficking in women and children.

However, it was her view that a significant step for protection against trafficking in women and children could be the formulation of a model legislation, reflecting a comprehensive understanding of trafficking. This task, she suggested, could be accomplished with the technical assistance and effective co-operation from the International Organization for Migration (IOM) and the Office of the High Commissioner for Human Rights (OHCHR) with whom a Cooperation Agreement and Memorandum of Understanding were signed in the year 2000 and 2001 respectively. She said that Member States might wish to direct the Secretariat about the future course of action in this regard.

2. The **Delegate of the Republic of Korea** said that trafficking in persons, a contemporary form of slavery, victimized four million people every year and Asian – African regions were severely affected by it. He located the problem of trafficking in poverty and inequality, which made women and children more vulnerable to this problem. As women and children were irreplaceable sources of sustainable development of their communities trafficking would affect the development of these communities apart from being gross violation of human rights. Thus he said that emphasis should be laid on prevention along with protecting women and children in their own communities, as their position was vulnerable. He stated that his delegation believed that the UN convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children would provide a framework for the establishment of international cooperation to combat the problem. While asking the Member States to ratify these instruments, he emphasized the need for domestic measures incorporating provisions of these instruments. He suggested that AALCO could organize a workshop in order to provide Member States with expert advice on how to deal with legal and technical matters and also to consider appropriate forms of cooperation.

He stated that Republic of Korea was considering to ratify the UN Convention against Transnational Organized crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children in near future and expressed their commitment to cooperate in any initiative at the regional and global levels. He further expressed hope that AALCO would provide a forum for the Asian-African region to explore the possibility of concluding a regional or sub-regional agreement for fighting transnational crimes such as terrorism, corruption, human trafficking, drug trafficking, and money laundering.

3. The **Delegate of Indonesia** said that the adoption of UN Convention against Transnational Organized Crime has signified the criminalisation of trafficking in persons. While stating that impact of trafficking was manifold he stated that international cooperation was indispensable to prevent and combat this crime and asked for enhanced cooperation among Asian and African countries. He suggested that the special meeting to be held in conjunction with 43rd session of AALCO, in 2004, might be dedicated to this item. While referring to the concern of the international community and also the recent first and second Bali Conference of Asia-Pacific countries on the issue, he stated that root causes of the problem had to be addressed. He pointed out that the existing disparities between haves and have-nots and the gap between developed and the developing countries need to be addressed to understand the problem in its totality.

Pointing out that more than half of the women and children trafficked were from South and Southeast Asia the delegate expressed concern about the intertwined nature of trafficking in women and the risk of HIV/AIDS. He appreciated the cooperation between AALCO and International Organization for Migration, United Nations High Commissioner for Refugees and the United Nations Children's Fund and noted that it might reflect the principles and provisions of various international instruments. He pointed out the relevant steps initiated by the Bali Process. These were.

- Developing more effective information and intelligence sharing arrangements within the region to obtain a more complete picture of smuggling and trafficking activities and other forms of illegal migration.
- Improving the cooperation of law-enforcement agencies to enhance deterrence and to fight against illegal immigration networks.
- Enhancing cooperation on border and visa systems to improve the detection and prevention of illegal movement.
- Increasing public awareness of the facts of smuggling and trafficking operations to discourage those considering illegal movement and to warn those susceptible to trafficking, including women and children-enhancing the effectiveness of return as a strategy to deter illegal migration through the conclusion of appropriate arrangements.
- Cooperating in verifying the identity and nationality of illegal migrants, in a timely manner.

He mentioned the importance of intentional cooperation in combining resources. While underlining, the importance of all countries ratifying the UN Convention against Transnational Organized Crime and its Protocols he informed that a draft bill on anti trafficking was being discussed in Indonesia.

4. **The Delegate of Nepal** stated that his delegation attached greater importance to the issue. While emphasizing that the inclusion of topic on the agenda would facilitate cooperation between Member States, he emphasized that as the problem was transnational in nature it required concerted regional as well as international cooperation among States. He mentioned that Nepal was a party to more than sixteen international human rights instruments and was on the final stage of completing legal formalities for the ratification of the Convention against Transnational Organized crime and its Protocols. He stated that Nepal has also enacted and revised domestic legislations in this regard. However, he sought for international cooperation as Nepal, a developing country, did not have the required technical expertise. He welcomed the SAARC Convention on Combating the Crime of Trafficking in Women and Children for Prostitution. He suggested for following three measures to be taken up by AALCO:

- to set up a core group formulating effective modalities and mechanisms;
- to adopt an Asian African Regional Convention on the Suppression of Trafficking in Women and Children; and
- to expedite the process of formulating a model legislation reflecting dispositions of international instruments.

5. **The Delegate of the United Arab Emirates*** said that Protocol to Prevent, suppress and Punish Trafficking in Persons has shown major guidelines for adoption. He stated that protocol was in line with major principles of the UAE Constitution and also Shariat rejected slavery and trafficking. He observed that Article 7 of the U.A.E Constitution was a main source for the U.A.E. legislation and his country has been in the

* Statement delivered in Arabic. Unofficial translation from the Interpreters version.

forefront of the Arab countries in taking initiatives against trafficking. He further cited various provisions of U.A.E. law, which dealt with trafficking in persons. He further underlined that this crime did not exist in his country.

6. The **Delegate of Ghana** stated that generally in Africa, and most probably in Asia also, because of perceived and entrenched customary and traditional practices which were often outmoded and attitudinally biased, the most vulnerable in society were women and children. The cultural practices of the two regions had made them easy targets for those engaged in the criminal activity of trafficking in women and children across the world. She believed it timely to move away from some of the more harmful traditional practices such as the payment of bridal prices, polygamy, inhuman widowhood rites, etc. which only served to reinforce the perception that women, and by logical extension children, are commodities which having been purchased by their spouses, became their property, which could be sold or used at the whims and caprices of men and regrettably their women collaborators.

She recognized that the Universal Declaration of Human Rights (UDHR) of 1948 outlined the basic human rights of right to life, liberty and the security of the person, as well as the right to be free of torture and cruel, inhuman or degrading treatment. These, she said are the basic rights which were inalienable and were generally regarded as declaratory of customary international law. It was thus incumbent on States to take steps to eliminate trafficking in persons in an effort to protect the rights of citizens globally and, in particular, their fundamental rights to security of the person and freedom from cruel, inhuman and degrading treatment.

Further, it was common knowledge that women and children were the primary victims of this inhuman international trade and an increased risk of further physical violence, unwanted pregnancies, and sexually transmitted diseases such as HIV/AIDS.

Therefore, she said that due diligence be exercised to prevent, investigate and prosecute where necessary, in accordance with existing international human rights obligations and relevant national laws, the crime of trafficking in persons. International law required that States protect and remedy human rights violations. Failure to exercise due diligence in this regard and to have effective legal remedies, violates the human rights of the persons affected.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) placed an obligation on States to “condemn discrimination against women in all its forms”. Article 6 of the Convention in addition requires States Parties to take measures to “suppress all forms of trafficking in women and exploitation or prostitution of women”.

The Committee on the Elimination of Discrimination Against women in 1992 issued General Recommendation No. 19 to which her government subscribed. She briefly enumerated the various new forms of sexual exploitation.

The Delegate said that the UN Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children provided the normative and practical framework for action by international and national agencies. Unfortunately, however, it appeared that little action had been taken by Member States to incorporate these international instruments into domestic legislation, let alone, implement them.

She stated that Ghana had ratified CEDAW, and also the Convention on the Elimination of All Forms of Racial Discrimination and was the first country to ratify the International Convention on the Rights of the Child in 1989, and to incorporate it into its domestic legislation in 1989, under the Children's Act. Ghana, however, recognizes that these efforts, in themselves are not sufficient if it is to succeed in the fight against this crime, which knows no boundaries. It is therefore imperative that strong inter-state and regional co-operation be established. In furtherance of this, Ghana, in October 2001 took the initiative to host an ECOWAS sub-regional conference on trafficking in women and children, which was largely successful.

She urged States, which had not yet ratified these international instruments to do so as a matter of great necessity and to take the necessary steps to incorporate their provisions in their domestic legislation. In this way, the incidence of trafficking in women and children, even if not completely eliminated, would be substantially reduced.

7. The **Delegate of Kuwait*** stated that his Government was very much concerned with the dignity of human beings and accordingly it became party to several conventions against slavery including Convention against Racial Discrimination. He observed that their national legislation and penal code criminalizes the violation of human rights. He suggested that AALCO could come out with some recommendations for the protection of innocent victims of trafficking.

8. The **Delegate of the People's Republic of China** stated that trafficking in women and children seriously infringed on the legitimate rights of women and children and frustrated social order and security. It not only violated fundamental human rights of women and children but caused harm to international relations and legal order. Thus she observed that apart from national initiatives international cooperation should be enhanced in this regard. She mentioned that China took a series of legislative, administrative and judicial measures to deal with the problem of trafficking at the national level and underlined that it became a party to many of the human rights conventions at the international level and process of ratification of the Convention against Transnational Organized Crime was underway. She stated that China concluded about sixty bilateral treaties on judicial assistance and extradition with over forty countries and more than forty agreements on police cooperation have been concluded between Chinese police sector and its counterparts in foreign countries. She observed that AALCO could provide a forum for international cooperation and China would be willing to continue cooperation with other countries for the protection of women and children.

* Statement delivered in Arabic. Unofficial translation from the Interpreters version.

9. The **Delegate of India** observed that trafficking was a modern day version of slavery. Thousands of people including women and children were transported across borders. She pointed out that root cause of the problem was poverty. She observed that the problem had larger dimensions and it was on the increase in the SAARC region. She stated that India was completing internal formalities for ratifying the Convention against Transnational Convention and its Protocol against Trafficking in Women and Children. India was also seriously considering ratifying the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

She stated that at the national level, apart from drawing up a National plan of Action and constituting National Advisory Committee to combat trafficking, State Advisory Committees have been appointed in a number of States to draft state-wise policies and action plans. Initiatives with NGOs are ongoing, principally in community-based programmes for resettlement of victims of trafficking, especially children. Some states were linked to national anti-trafficking networks such as the Action against Trafficking and Sexual Exploitation of Children, which worked closely with the police and state departments of welfare. She stated that guidelines on dealing with trafficking have been circulated among all provincial governments and inter-state cooperation has got underway with the directive to all state governments on formulating action plans against trafficking. Apart from other initiatives, she observed that, efforts at rehabilitating and resettling victims of trafficking and commercial sexual exploitations were being reviewed. She pointed out that in this regard inputs from victims were being taken along with amendments to law.

10. The **Delegate of Thailand** informed that Thailand signed the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and observed that since the problem was transnational in character there was a need for regional and international cooperation. He emphasized that mutual legal assistance could be developed through bilateral agreements and extradition treaties. He observed that this problem had to be addressed along with other transnational crimes and sought for the ratification of key human rights instruments. He observed that mechanisms employed should be victim friendly and child and gender sensitive. He suggested that in-country and inter-country adoption should be encouraged. He informed that apart from cooperation with international organizations Thailand passed and amended laws and penal code and initiated cooperation with NGOs for law enforcement. Finally, he gave the example of a bilateral agreement that Thailand had entered with Cambodia on 31 May 2003.

11. The **Delegate of Qatar**^{*} observed that trafficking in women and children was a grave violation of human rights. He stated that economic deprivation and globalization were the major causes for trafficking and asked for the exploration of constitutional, ethical and legal implications. He underlined the need for international and national measures and cooperation for combating trafficking. He also referred to the Durban conference, which had discussed the issue of trafficking. Finally he supported the

^{*} Statement delivered in Arabic. Unofficial translation from the Interpreters version.

suggestion made by the delegate of Kuwait regarding the formulation of recommendations by AALCO addressing the problem of trafficking.

12. The **Delegate of Islamic Republic of Iran** said that large number of men, women, and children were trafficked worldwide under conditions amounting to slavery. A great majority of trafficked persons were young women and girls who were lured, abducted, or sold into forced prostitution and other forms of sexual servitude. The situation of trafficked children by no means seemed brighter. He observed that trafficking in human beings was an abhorrent and increasingly worrying phenomenon that had sadly been facilitated by globalization and modern technologies.

He said that despite increased attention and extensive efforts at national and international levels to prevent and combat trafficking in human beings particularly women and children continued to expand in many parts of the world. The problem was further exacerbated in size and seriousness by the growing involvement of organized groups that, in some cases run large enterprises and international networks with political support and economic resources in countries of origin, transit and destination.

He observed that the current legislations, policies and strategies adopted and practiced in countries that were affected by trafficking had proven inadequate to effectively prevent or suppress this heinous phenomenon, or to sufficiently protect the human rights of trafficked persons. Perhaps the most significant deficiency in existing legal system and policy was the failure of concerned government to treat trafficking practically as a serious human rights issue. Although, many human rights instruments adopted since the inception of United Nations had explicitly prohibited trafficking in persons, the Palermo Protocol on Trafficking in Persons was a major move towards preventing and combating trafficking in human beings in a comprehensive manner. The Protocol represented a new approach that struck a balance between crime control measures and measures protecting trafficked persons.

He said that the problem in tackling the problem of trafficking was that it was approached primarily as an illegal migration or prostitution problem. Consequently, most law-enforcement agencies targeted the people who were trafficked and not the criminal networks that traffic them. Thus, it was the victims who were arrested and deported while the traffickers continued to operate with near impunity.

Prevention and eradication of this horrible phenomenon required that its root causes are properly addressed. Rampant causes of trafficking in human beings included poverty, unemployment and lack of education and access to resources. Women and children in particular were victims of trafficking due to their unjust social status in many societies. Safe and secure environment for women and children, in the institution of the family, the basic unit of the society, which had the primary responsibility for the protection, upbringing, development and safety of these vulnerable segments of every society.

He stated that the Islamic Republic of Iran was a signatory to the United Nations Convention against Transnational Organized Crime and it attached great importance to the Convention and its three Protocols and regarded them as the most comprehensive binding UN treaties to prevent and combat organized crimes. Therefore, the Iranian Government was seriously considering the ratification of this Convention.

He observed that at the national level Iran had adopted and implemented the policy of zero tolerance towards traffickers particularly of women and children. It had also taken measures to improve the conditions of children and women in all fields.

He stressed that preventing and fighting trafficking in women and children could not be left to the action and discretion of a country alone. It called for the resolute will and determination of the entire international community. Preservation of dignity and protection of people against all forms of violence and abuse required action at national level and cooperation at international level. Conflict resolution and promotion of peace and tranquility in the first place and achievement of long-term, comprehensive and humane development were among the requisite conditions to this end.

13. The **Delegate of Sri Lanka** said that they considered this matter as an important one committed against the most vulnerable sections of the society. She pointed out that socioeconomic factors were one of the compelling reasons, which made it as a most challenging issue. She stated that Sri Lanka had taken several measures in this regard such as establishment of National Child Protection Authority and the legislation dealing with Mutual Assistance in Criminal Matters and there was a proposal to introduce a newly defined offence of 'Trafficking' to conform to that of the Optional Protocol to the Palermo Convention. She said that her country was expected to ratify the Palermo Convention in the near future. Referring to the problem of child pornography through technological means she underlined the need for preventing abuse of technology through stringent legislative measures. Underlining the difficulties in ensuring effective implementation of legislative measures she pointed out the need for having trained investigators, prosecutors and others involved in the administration of justice. For that purpose she sought the cooperation among Member States of AALCO.

14. The **Delegate of Philippines** strongly endorsed the proposal of drafting by AALCO Member States of model legislation to guide them in combating human trafficking. In this regard he suggested that a seminar could be organized to review and assess the measures taken by Member States and also to facilitate the drafting of the said model legislation. He informed that after months of controversy Philippines has passed a law prohibiting trafficking in women. He sought for the formulation of a multilateral framework as the problem has become an international crime not merely concerning to countries of origin and countries of destination.

He finally suggested that operative paragraph no. 3 of AALCO Resolution no. 41/9 be modified to read: "Requests the Secretary General to explore the possibility of organizing a seminar to facilitate in-depth study on the subject to include review and assessment of measures undertaken by Member States to protect the victims of all forms

of trafficking particularly in women and children, to facilitate the drafting of any model legislation”.

15. The **Delegate of Nigeria** appreciated the work undertaken by the AALCO and the international community. He explained the measures undertaken by his government which included the enactment of Rights of the Child Act and establishment of a separate department for the tracking down of the organizers and traffickers of women and children. He said that these efforts were being complemented by the wife of the Vice President, particularly, through her programme titled the Women Trafficking and Child Labor Eradication Foundation. While pointing out that nationals of both African and Asian regions were the victims of trafficking he sought for international cooperation to deal with the problem. He further sought for cooperation among AALCO Member States and also the AALCO Secretariat to study the matter more critically and elaborate on provisions for the compensation of victims of human trafficking.

The Delegate cited examples of bilateral agreements that Nigeria entered into with various countries. Expressing concern over the prevailing situation he said that destination countries have not taken sufficient measures against traffickers. He suggested that AALCO should encourage Member States to become parties to Palermo Convention and to its Protocol. He also pointed out the need for strengthening the instruments for the enforcement of the Palermo Convention and its Protocol. He further suggested that the destination and transit countries should stop criminalizing victims and encourage them to make claims of reparation against traffickers.

16. The **Observer from Tunisia**^{*} stated that international cooperation was required to address the problem. He said that he was the President of the International Commission on the Condition of Women and mentioned that this Commission had studied this problem and drawn some conclusions, though not adopted. While observing that AALCO could make an impact on the decisions taken at national levels he suggested that the concern expressed in this session should be transmitted to other international organizations.

17. The **Observer from the International Law Commission (ILC)** made two suggestions. One was that trafficking in human beings should be categorized as crime of *jus cogens* category and the other one was that a resolution might be passed criticizing this practice in strongest terms.

I(c) Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949

^{*} Statement delivered in French. Unofficial translation from Interpreters version.

The Meeting then took up for consideration the item on **“Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949”**.

1. **Amb. Dr. Wafik Z. Kamil, Secretary-General**, introduced the Secretariat document AALCO/XLII/SEOUL/2003/S.4

He recalled that the item was placed on the agenda 15 years ago upon an initiative of the Government of the Islamic Republic of Iran at the 27th Session held in Singapore in 1988 and had since then been considered at the successive sessions.

He stated that Resolution 41/4 unanimously adopted at the Abuja Session inter alia condemned Israel’s continued acts of violence, use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and their deportation in violation of Human Rights and the Fourth Geneva Convention of 1949. It expressed concern about the continuing dangerous deterioration of the situation in the occupied Palestinian Territory including Jerusalem and the severe consequences of continuous illegal Israeli settlement activities. It expressed the hope for the success of the peace efforts exerted by the international community for the achievement of a just and comprehensive solution of the question of Palestine on the basis of Security Council Resolutions 194(1949), 242(1967), 338(1973), 425(1978) and 1397(2002).

He noted that unfortunately, until recently, the world had witnessed, with dismay, further deterioration in the situation on the ground. The occupying power continued to impose its own law – lethal incursions into Gaza, the West Bank and Jerusalem, the destruction of Property on a massive scale, the establishment of new settlements and the enlargement of the existing ones, military occupation, the closure of towns, paralyzing the economic community, imposing hardships on populations and above all shattering the trust between the two parties.

He also noted that for more than 50 years, scores of resolutions of the General Assembly, Security Council and various other international and regional organizations had underscored the importance of viable solutions to the crucial issues related to the legitimate rights of the Palestinians to live in peace and security with its neighbour. In fact, Israel deliberately disregarded all the peace initiatives to which it was a Party.

Nonetheless, significant developments had recently taken place which, if pursued positively, might be a turning point in the relations between the State of Palestine and Israel. The “Road-map for Peace” launched by the Quartet and its implementation would definitely reinvigorate the peace process in the Middle East. However, it was imperative that tangible and immediate steps must be taken to end the cycle of violence to end the occupation which itself was flagrant violation of the rule of International Law. The improvement of the humanitarian situation in the occupied territories and the return of Palestinian refugees were still the unresolved key issues.

He reiterated that the international community and AALCO supported the Palestinian determination to uphold the rule of International Law and relevant UN resolutions as the main terms of reference concerning Israeli occupation and in protection of the Palestinian people. AALCO also reaffirmed the established international consensus on the applicability of the Fourth Geneva Convention to the occupied Palestinian territories including Jerusalem, as well as to all other territories occupied by Israel since 1967.

2. The **Delegate of the Arab Republic of Egypt**^{*} stated that the world was witnessing the violation of Palestinian human rights on a daily basis. In addition to violations of international humanitarian law which was a collective punishment to Palestinians, Israel was trying to change the demographic composition of Palestine by ever increasing settlements which was in complete violation of the Fourth Geneva Convention of 1949. He stated that the legal aspects could not be separated from the political ones however, Israel continued to provoke political violations of the human rights of Palestinians and did not respect the culture of peace.

He added that international and regional organizations like the League of Arab States, Organization of Islamic Conference (OIC) as well as the Non-Aligned Movement (NAM) continued to condemn the atrocities being committed by Israel. In addition, peace plans had also been proposed by the Jordanian – Egyptian initiative as well as the initiative by the Crown Prince Abdullah of Saudi Arabia. This plan had envisaged the naturalization of relations between the Parties and recommended Israel's withdrawal from Palestinian occupied territory. He briefly outlined the "Road-map of Peace" by the Quartet and was confident that the proper implementation of the "Road-map" could bring peace to the region.

Nevertheless, he maintained that it was important that all peace loving nations should compel Israel to abide by international agreements so that a just solution could be found for the Palestinian problem.

3. The **Delegate of Kuwait**^{*} stated that brutal atrocities continue to be committed by the Israeli forces against the innocent Palestinians in violation of the well-established conventions and principles of International Humanitarian Law. Israel continues to disrespect the resolutions of the General Assembly, Security Council and various other international and regional organizations. In the prevailing circumstances, it was most important to differentiate between terrorism and the struggle for self-determination by the Palestinian people. If peace was to be attained, it was necessary that Israel discontinued all terrorist activities in the occupied Palestinian territory. His Government condemned the illegal activities of Israel against Palestinians and it was of utmost importance that it stops all settlement activities and fully withdraws from all Arab occupied territories.

4. The **Delegate of Pakistan** stated that no concrete progress has been made in eliminating the gross violation of international law principles and the occupation of

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territories in violation of the General Assembly and Security Council resolutions. Further, deportation of Palestinians and Settlement of Jews, indiscriminate use of force had been continuing in violation of principles of international law as well as provisions of international instruments and conventions such as the Hague Convention of 1899 and 1907, and the Geneva Convention of 1949, all of which prohibit deportation as a form of punishment in an occupied territory.

He deplored the continued suppression of right to self-determination of Palestinian people, despite the fact that this right had been recognized as *jus cogens* norm of international law. Finally, he fully supported the struggle of Palestinians for their right to self-determination in accordance with the resolutions of the United Nations General Assembly.

5. The **Delegate of Indonesia** expressed his deep concern about the continuing dangerous deterioration of the situation in the occupied Palestinian territory and the severe consequences of continuous illegal Israeli settlement activities. He also deplored the excessive and disproportionate use of force and the policy of collective punishment by Israel against the Palestinians. He called upon the international community to give special attention to the violation of international humanitarian law being continuously committed by Israel and said that in this context it was imperative that the International Community in accordance with Article 1 of the Fourth Geneva Convention, takes steps to secure Israeli compliance with relevant provisions of international Humanitarian Law.

He believed that lasting peace in the Middle East required the impartial implementation of Security Council Resolutions 194 (1949), 242 (1967), 338 (173), 425 (1978) and 1397 (2002). He welcomed the Peace Plan offered by the Quartet and called upon the Parties to the conflict to take parallel and reciprocal steps for the effective implementation of the Road-map which set out clear phases, targets and aimed at progress in the political, security, economic, humanitarian and institution building fields. He hoped that the Road-map would be able to provide an acceptable and fair settlement for both Parties to the conflict. Lastly, in order to bring an end to the Palestinian Israeli conflict, it was of paramount importance that the Palestinian refugee problem be addressed which could indeed bring a just and lasting peace settlement.

6. The **Delegate of Islamic Republic of Iran** stated that the item entitled “Deportation of Palestinians and other Israeli practices” was self explanatory on account of the gravity of the situation in the Palestinian occupied territories. He pointed out that the deportation of Palestinian people by Israel from the occupied territories constituted a violation of the principles of international law as well as provisions of international instruments and conventions such as the Hague Conventions of 1899 and 1907, and the Geneva Convention of 1949, all of which prohibited deportation as a form of punishment in an occupied territory.

He stated that since September 11, terrorist attack in the United States of America, Israeli regime had made the most sinister use of anti-terrorism climate. In the wake of such an atmosphere, Israel unleashed its military and security forces against

innocent Palestinian people. He then briefly enumerated the atrocities being committed by Israel in the occupied Palestinian territory.

The delegate noted that Human Rights Commission, in its resolution of 27th October 2000 had expressed grave concern at the wide spread, systematic and gross violations of Human Rights of the Palestinians by Israel. The Commission also decided to establish on an urgent basis an international commission of enquiry and compile information on violations of Human Rights and acts which constituted grave breaches of International Humanitarian Law by the Israeli occupying power in the occupied Palestinian territories. He also stressed explicit applicability of the Fourth Geneva Convention of 1949. He believed that the Security Council should act more resolutely and demand the compliance with its resolutions and seriously consider the deployment of an international force to provide basic protection for the defenseless Palestinian civilians.

7. The **Delegate of Sudan*** stated the deportation of Palestinians and the killing of innocent people including children, elderly and women were grave violations of the Fourth Geneva Convention of 1949 and International Humanitarian Law. As a result of the violation of human rights by the policies and practices of Israel, the Palestinians did not even have the right to live on their own land and Israel's occupation was a flagrant violation of international law. His country supported the Palestinian struggle and the right of an independent state of Palestine, which was the only prescription for peace. He saluted the Palestinian people for their steadfastness.

8. The **Observer from Tunisia*** underlined the urgent necessity to distinguish between the legitimate struggle for self-determination and terrorism. We all condemn all acts of terrorism especially those directed against civilians, but since the 11th of September terrorist attacks in the US, Israel exploited the world-wide condemnation of these acts to spread the confusion between terrorism and the legitimate opposition and struggle of the Palestinian people against the occupation. He suggested that AALCO within its mandate, as a legal organization, should try to help in the definition of terrorism and the difference between it and the legitimate militant action against the occupation.

As Israel continues to disregard the provisions of the United Nations Charter as well as the Security Council resolutions, the International humanitarian laws and the 4th Geneva Convention, the deployment of an international force to protect the Palestinian people from the state terrorism perpetrated by Israel on a daily basis, has become a vital necessity. The monitoring by an international presence in the occupied territories of the implementation of the Road Map is a *sine qua non* condition to prevent Israel from its continuous attempts to derail the chances for a lasting peace in the Middle-east.

9. The Meeting was thereafter adjourned.

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