

Statement by Amb. Dr. Wafik Z. Kamil, Secretary General, Asian-African Legal Consultative Committee at the Global Forum II, The Hague, 28 – 31 May 2001

Mr. Chairman,

Hon'ble Ministers of Justice, Excellencies, distinguished participants, Ladies and Gentlemen,

On behalf of the Asian-African Legal Consultative Committee and my own behalf, I would like to express our gratitude to you Mr. Chairman and through you to the Government of Netherlands for inviting the AALCC to participate in this noble task of combating the crime of corruption. Corruption is spreading like cancer endangering the life of the nation. Its transnational implications is a matter of great concern. It is unfortunate but true that among the negative effects of globalization and liberalization there is an increase in the scope and complex nature of the crime of corruption.

It may not be out of place to mention here that issues related to corruption have been on the agenda of the United Nations and some regional organisations for more than two decades. The fifth congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1975 recognised the threat posed by economic crimes particularly the crime of corruption at the national and international levels. Following the recommendations of that congress a draft code of conduct for law enforcement officials was developed and adopted by the General Assembly of the United Nations at its 34th Session in 1979.

The issues related to crime prevention including corruption attracted more focused attention when the General Assembly in 1991 decided to restructure its crime programme and established a new body – the Commission on Crime Prevention and Criminal Justice. A Centre for International Crime Prevention with its seat in Vienna was established as a part of the United Nations Office for Drug Control and Crime Prevention. The Centre has done commendable work in strengthening the legal framework on crime prevention, criminal justice and criminal law reforms with particular focus on combating transnational organized crimes.

Two significant initiatives taken by the General Assembly in 1996 were the adoption of the United Nations Declaration against Corruption and Bribery in International Commercial Transactions and the International Code of Conduct for Public Officials. The Declaration welcomed the adoption in 1996 by States Members of the Organisation of American States of the Inter-American Convention against Corruption and noted the continuing work of the Council of Europe and European Union to Combat International Bribery. It urged Member States to take effective and concrete action to combat all forms of corruption, bribery and related illicit practices in international commercial transactions

More recently, the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Vienna in April 2000 in its Declaration recognized the new challenges in the twenty-first century in dealing effectively with Crime Prevention. Expressing concern in particular about transnational organized crime and the relationships between its various forms the Declaration stressed the need for bilateral, regional and international co-operation and supported efforts to assist States in capacity-building, including training and

technical assistance in developing legislation, regulations and expertise. As regards specific issues concerning corruption, the Declaration reiterated the commitment to take enhanced international action against corruption, building on the United Nations Declaration against corruption and bribery in International Commercial Transaction, the International Code of Conduct for Public officials, relevant regional conventions and regional and global forums. It also stressed the need to develop an effective international legal instrument against corruption.

It is a matter of satisfaction that the Commission on Crime Prevention and Criminal Justice at its just concluded Tenth Session held in Vienna from 8 to 17 May, 2001 has focused its attention on a global programme on corruption and intends to begin negotiations concerning a legally binding international treaty on combating corruption. I understand that it plans to establish a panel of inter-governmental experts and convene a meeting of that panel in August this year.

Now, I wish to make a few general comments. Corruption is a complex issue. The drafting of an international Convention is not an easy task and even when it is achieved, its wider acceptance and implementation would pose greater challenges.

Corruption mainly originates at the national level. Many states have established independent institutions and framed national legislations to deal with these issues and to some extent they are successful also. The first task therefore should be to gather information about the functioning of such institutions and promote the establishment of such institutions in those countries which have not taken any such initiatives. As regards the drafting of national legislation, to begin with a draft model legislation could be prepared and circulated for inviting comments from governments.

The crux of the problem would be to deal with issues where corruption transcends the national boundaries. The different national legal systems do not have the same notion about establishing "criminality" regarding the crime of corruption. The lack of co-operation among the investigating agencies, the complicated issues concerning mutual judicial co-operation and the unwillingness to extradite the offenders are just a few issues which pose challenges of great magnitude. And above all, the high and mighty connections of the criminals in many parts of the world continue to allow them to function with any impunity. Indeed, because of the growing powers of the multinational corporations in the era of globalization and liberalization, many developing States are powerless to deal with any infringement of their national laws by many of these corporations. The 'Safe Havens' by establishing off-shore companies and taking advantages of bank secrecy regulations in many parts of the world, the money laundering and tax evasions and other fiscal irresponsibilities are among the causes of corruption which have added a new dimension and increased the complexity to deal with these issues at transnational level.

I do not wish to give a gloomy picture. However, these are the realities one should take into consideration before embarking upon the exercise of drafting any international legal instrument to curb corruption. I believe, the United Nations and its Agencies can and should play a vital role in promoting international co-operation and establishing an international legal regime in this field.

Against this background, the initiative taken by the Global forum assumes great importance. The ground work had been done at the forums first meeting held in Washington in 1999. The Global Forum II hosted by the Government of Netherlands is a clear manifestation of urgent consideration of the issues at the governmental level. The presence of large number of Ministers of Justice and the high level delegations from all parts of the world has raised the level of deliberations, which I have no doubt will be very fruitful. The adoption of Declaration by this Meeting on its concluding day and the subsequent discussion at the Global Forum III scheduled to be held in Seoul (Republic of Korea) in 2003, would make useful contribution to the on going work relating to the development of an international legal instrument to combat corruption.

The AALCC being an intergovernmental organization with a membership of 45 Governments from the Asian and African region, is keen to associate itself with the ongoing work in the development of an International Convention to Combat Corruption. Many of our Member Governments are actively participating in the meetings in Vienna. I would like to assure you Mr.Chairman that I shall inform our Member Governments about the outcome of this Meeting and do my best to seek their co-operation in promoting the objectives of this august assembly.

I thank you Mr. Chairman.