Address of Ms. Kyung-wha Kang,
Deputy High Commissioner for Human Rights,
to the Interactive Thematic Dialogue of the
UN General Assembly on
"Taking collective action to end human trafficking"

PANEL 1: "THE STATE OF PLAY: WHERE THE UN STANDS ON A GLOBAL PLAN OF ACTION TO END HUMAN TRAFFICKING"

"The proposed global plan of action against trafficking: some important human rights considerations"

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PANEL DISCUSSION ON "THE STATE OF PLAY: WHERE THE UN STANDS ON A GLOBAL PLAN OF ACTION TO END HUMAN TRAFFICKING"
Mr. President, Mr Executive Director, Excellencies, distinguished guests, ladies and gentlemen,

I would like to begin by thanking the President of the General Assembly for convening this important forum. I would also like to congratulate the seven governments that have initiated this thematic dialogue on human trafficking.

Our task at this panel is to contribute to a broader discussion on the possible scope and implications of a global plan of action to eliminate trafficking in persons. I take this to mean collective action: collective action against a threat that affects every country in every region of the world. I would add that for our collective action to be effective, it must be based on the full consideration of the human rights of the victims caught up in this heinous crime.

OHCHR has been promoting a response to trafficking that is based on law and human rights. The Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by OHCHR in 2002 have informed our own work and the work of many others both within and outside the United Nations.

A human rights approach is founded upon international norms, including international human rights treaties, and operationally directed towards preventing trafficking, as well as promoting and protecting the rights of trafficking victims. Taking this approach in tackling human trafficking means that we not treat it simply as a matter of illicit population movements, public order, or organized crime. It means putting the victim at the center of action.

The human rights approach calls for a clear analysis and understanding of the myriad ways in which human rights violations arise throughout the trafficking cycle. Indeed, there are strong connections between trafficking and violations of human rights, in particular those of vulnerable groups such as women, children and migrant workers. The rights-based approach underscores the obligations of States under international human rights law to redress discriminatory practices and unequal power relationships that fuel trafficking, perpetuate impunity for traffickers, and deny justice to victims.

The rights-based approach to trafficking as outlined in the Principles and Guidelines also makes operational sense. For example, victims who are fully protected and supported would be better able to cooperate in the prosecution of their exploiters than those who are not, though the support should not be predicated upon their cooperation.

In relation to the proposal for a global plan of action against trafficking I would like to make a few points.
First, we are not working on a new issue or uncharted territory. The framework of an effective response to trafficking in persons has already been established in international law. The key international treaties, to which most Member States of the United Nations are now party, include the UN Convention on Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the various instruments of international human rights law, humanitarian law and refugee law that apply to this issue. It is to international law that we must turn in identifying the obligations of States related to trafficking and the various forms of exploitation with which trafficking is commonly associated. In this context, I would urge all Governments that have not yet ratified the Palermo Protocol, as well as other human rights treaties, to do so.

Any plan of action must build on these instruments and the rights and obligations that they contain. Trafficking involves prohibited practices, such as debt bondage, forced labor, sexual exploitation and slavery-like practices. It violates the most fundamental of rights: the right to life, to equality, dignity and security; the right to health; the right to freedom of movement, freedom from violence and abuse, the right to be recognized as a person before the law. These are rights to which every human being is entitled, without discrimination. Bought and sold as commodities, terrorized by violence and intimidation, victims of trafficking are denied these rights. They must be actively assisted in reclaiming them.

Prevention should be a priority. Governments bear a particular responsibility in this regard. Governments are responsible for protecting their citizens and others within their jurisdiction from both public and private wrongs. This responsibility implies a legal obligation to exercise due diligence to take all appropriate measures to prevent trafficking and related exploitation. It also includes protection of victims in the criminal justice response as well as effective prosecution of traffickers with serious penalties commensurate with the crime.

Appropriate identification of and support for the victims is critical to the success of any anti-trafficking efforts. Trafficking victims should not be subjected to summary deportations, nor should they be held in detention. They should not be prosecuted for activities that are a direct outcome of being trafficked. They should be provided with needed assistance and service. Their mobility should not be further curtailed. They should not be denied the right to make decisions. In particular, special care is needed for the protection of children who fall victim.

Procedures for the rapid identification of trafficked children and age-sensitive measures need to be taken to address their needs and protect their interests.

Second, an international plan of action against trafficking should be designed first and foremost to implement the measures provided for in the Trafficking Protocol to promote the prevention of trafficking, to facilitate the effective prosecution of traffickers, and to ensure the protection of trafficking victims. It should also reflect the major policy shifts and practical developments that have taken place over the past decade. At the international level, many of these changes are reflected in the treaties I have already mentioned as well as guiding documents such as the Recommended Principles and Guidelines on Human Rights
and Human Trafficking and the UNICEF Guidelines on the Treatment of Child Victims of Trafficking. At the regional level, we can point to a number of instruments including the Council of Europe Convention on Action against Trafficking, which sets a new standard for victim protection and support, and the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (SAARC Convention), adopted by the South Asian Association of Regional Cooperation. There are also a number of regional action plans and recommendations including the 2008 Ougadougou Plan of Action of the African Union, the Organization of American States (OAS) Recommendations on Trafficking in Persons, adopted in 2006, and the OSCE Action Plan to Combat Trafficking in Human Beings of 2003, just to name a few.

A global plan of action to address trafficking should also broadly reflect the significant developments that have taken place at the national level. The UNODC Global Report on Trafficking, released earlier this year, says that over 80% of all countries have adopted legislation against trafficking and that most countries are now working to develop and implement a detailed national plan. Over half of all countries have established specialist trafficking units within national law enforcement structures.

There is, in short, a growing consensus on how trafficking should be addressed. A global plan of action should seek to capture this consensus accurately and comprehensively and push it forward.

Third, we need to honestly address two aspects of trafficking that have been particularly susceptible to bland and empty rhetoric. The first of these is the root causes of trafficking: those factors that increase the vulnerability of individuals and groups to trafficking and related exploitation. The second is the demand aspect: the social, political and economic forces that develop and sustain a market for the so-called “products” of trafficking.

A global plan of action to address trafficking that aspires to be more than a statement of good intent will tackle these issues. It will openly acknowledge the link between trafficking and inequality; between trafficking and entrenched gender and racial discrimination; between trafficking and inefficient migration regimes.

Strong and effective collective action against trafficking is urgently needed. A global plan of action against trafficking could provide an important boost for national, regional and international efforts to end human trafficking for private profit - our modern-day slavery. And just as the abolition of slavery was driven by a determination to free humanity from this injustice, the fight against human trafficking must be sustained by our shared commitment to the primacy of human rights, and to restoring the dignity and rights of the victims.

Thank you.