

**CONCLUSIONS ADOPTED BY
THE EXECUTIVE COMMITTEE ON
THE INTERNATIONAL PROTECTION
OF REFUGEES**

1975 – 2004 (Conclusion No. 1 – 101)

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**CONCLUSIONS ADOPTED BY
THE EXECUTIVE COMMITTEE ON
THE INTERNATIONAL PROTECTION OF REFUGEES**

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**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES
ESTABLISHING A SUB-COMMITTEE OF THE WHOLE ON
INTERNATIONAL PROTECTION¹**

**NO. 1 (XXVIII) ESTABLISHMENT OF THE SUB-COMMITTEE
AND GENERAL**

The Executive Committee,

(a) *Expressed* appreciation to the High Commissioner for the way he was discharging his duties in this especially important and particularly difficult field and fully shared his concern at the numerous and flagrant violations of the human rights of refugees;

(b) *Fully endorsed* the proposal that at an appeal be made urging States Members of the United Nations and non-member States to conform fully with the humanitarian principles governing the protection of refugees and, in particular, to abide by the provisions of the 1951 Convention relating to the Status of Refugees and of its 1967 Protocol and scrupulously to observe the principle whereby no refugee should be forcibly returned to a country where he fears persecution;

(c) *Stressed* that, in keeping with the universal character of the problem of refugees, many more States should accede to international instruments relating to the status of refugees and that these instruments be fully implemented according to both the letter and spirit in which they had been conceived;

(d) *Considered* that a conference of plenipotentiaries should be convened, as envisaged, to consider the draft Convention on Territorial Asylum, and recommended that the cost involved in this conference be borne from the regular budget of the United Nations;

¹ Contained in United Nations General Assembly Document No. 12A (A/10012/Add.1)

1975 (Executive Committee—26th Session)

(e) *Recommended* that the views of the Committee in (d) above be conveyed to the General Assembly of the United Nations;

(f) *Emphasized* that, in keeping with the fundamental principles of family unity, members of refugee families should be given every opportunity to be reunited by being allowed to leave their country of origin;

(g) *Welcomed* the High Commissioner's continuing efforts to survey individual cases with a view to identifying major protection problems and recommended that Governments should contribute to achieving rapid solutions to such problems;

(h) *Decided* on the establishment of a Sub-Committee of the Whole on International Protection which would meet, in principle, during the sessions of the executive committee and would study in more detail some of the more technical aspects of the protection of refugees and would report to the Committee on its findings.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES
AND ON THE SUB-COMMITTEE OF THE WHOLE¹**

**No. 2 (XXVII) FUNCTIONING OF THE
SUB-COMMITTEE AND GENERAL**

The Executive Committee,

(a) *Was gravely preoccupied* by the serious recurring violations of human rights of refugees and of their rights under legal instruments concerning them and was particularly concerned by the situation of several groups of refugees whose safety was in danger;

(b) *Welcomed* new accessions to the 1951 Convention and 1967 Protocol and urged all Governments to accede to these instruments and scrupulously to observe their provisions;

(c) *Recommended* that the High Commission should continue to follow up on the application and implementation of the 1951 Convention and 1967 Protocol in various member States, including national practice and procedures for the recognition of refugee status, and to submit a report to the Executive Committee on the subject in due course;

(d) *Noted* with satisfaction the decision of the General Assembly to convene a Conference of Plenipotentiaries to consider and adopt a Convention on Territorial Asylum;

(e) *Recommended* that non-governmental organizations concerned with problems relating to the protection of refugees be invited to attend the forthcoming Conference of Plenipotentiaries in observer capacity;

¹ Contained in United Nations General Assembly Document No. 12A (A/10012/Add.1)

1976 (Executive Committee—27th Session)

(f) *Was deeply concerned* at the fate of asylum-seekers who had left their country in small boats and were in need of rescue or admission to a country of first asylum and eventually of final settlement;

(g) *Appealed* to States scrupulously to observe the legal provisions relating to the rescue of persons at sea, as contained in the Brussels Convention of 1910 and the United Nations Convention on the High Seas of 1958, and urged States to make every possible effort to ensure that the provisions of these legal instruments be respected by ship masters under all circumstances;

(h) *Further appealed* to States:

(i) To grant first asylum to refugees and displaced persons rescued at sea or who had come directly by sea; and

(ii) To offer resettlement opportunities to those who had been unable to obtain permanent residence in the State of first asylum;

(i) *Reaffirmed* the need to intensify its role in the field of protection and welcomed the establishment of a Sub-Committee of the Whole on protection, designed to focus attention on protection issues with a view to determining existing shortcomings in this field and to proposing appropriate remedies;

(j) *Decided* that the Sub-Committee of the whole would meet for one day before the twenty-eighth session of the executive committee.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 3 (XXVIII) GENERAL

The Executive Committee,

(a) *Was gravely preoccupied* that in a number of cases the basic human rights of refugees had still not been respected, that refugees had been subjected to physical violence, to unjustified and unduly prolonged measures of detention and to measures of forcible return in disregard of the principle of *non-refoulement*.

(b) *Welcomed* the efforts undertaken by the High Commissioner in the field of international protection and recognized the urgent need for these efforts to be continued and intensified, particularly in those areas where the basic rights of refugees are endangered.

(c) *Reiterated* its satisfaction at the establishment of the Sub-Committee of the Whole on International Protection as a forum for examining current problems and recommending appropriate solutions in this field.

(d) *Decided* that the Sub-Committee of the Whole on International Protection should meet for one full day immediately preceding the opening of the twenty-ninth session of the Executive Committee.

¹ Contained in United Nations General Assembly Document No. 12A (A/32/12/Add.1)

No. 4 (XXVIII) INTERNATIONAL INSTRUMENTS*

The Executive Committee,

(a) *Noted* with disappointment that since the Committee's twenty seventh session only one further State had acceded to the 1951 Convention and to the 1967 Protocol relating to the Status of Refugees;

(b) *Noted* further that a large number of States had still not become parties to these instruments and recommended that the High Commissioner undertake a concerted and determined initiative at the highest level to promote further accessions;

(c) *Considered* that such an initiative should also extend to promoting the withdrawal of the geographical limitation still maintained by certain States in respect of their obligations under the 1951 Convention and the 1967 Protocol;

(d) *Reaffirmed* the fundamental importance of the Statute of the Office of the United Nations High Commissioner for Refugees as a basis for the international protection function of the High Commissioner, particularly in respect of States which had not yet acceded to the 1951 Convention or the 1967 Protocol or whose obligations under these instruments were restricted by the geographical limitation.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

No. 5 (XXVI) ASYLUM*

The Executive Committee,

(a) *Noted* with satisfaction the report of the High Commissioner that States have generally continued to follow liberal asylum practices;

(b) *Concerned*, however, that according to the report of the High Commissioner cases continue to occur in which asylum-seekers have encountered serious difficulties in finding a country willing to grant them even temporary refuge and that refusal of permanent or temporary asylum has led in a number of cases to serious consequences for the persons concerned;

(c) *Requested* the High Commissioner to draw the attention of Governments to the various international instruments existing in the field of asylum and reiterated the fundamental importance of these instruments from a humanitarian standpoint;

(d) *Appealed* to Governments to follow, or continue to follow, liberal practices in granting permanent or at least temporary asylum to refugees who have come directly to their territory;

(e) *Called* on Governments to co-operate, in a spirit of international solidarity, with the High Commissioner in the performance of his functions—especially with respect to asylum—in accordance with General Assembly Resolution 428(V) of 14 December 1950.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

No. 6 (XXVIII) NON-REFOULEMENT*

The Executive Committee,

(a) *Recalling* that the fundamental humanitarian principle of *non-refoulement* has found expression in various international instruments adopted at the universal and regional levels and is generally accepted by States;

(b) *Expressed* deep concern at the information given by the High Commissioner that, while the principle of *non-refoulement* is in practice widely observed, this principle has in certain cases been disregarded;

(c) *Reaffirms* the fundamental importance of the observance of the principle of *non-refoulement*-both at the border and within the territory of a State of persons who may be subjected to persecution if returned to their country of origin irrespective of whether or not they have been formally recognized as refugees.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

No. 7 (XXVIII) EXPULSION*

The Executive Committee,

(a) *Recognized* that, according to the 1951 Convention, refugees lawfully in the territory of a Contracting State are generally protected against expulsion and that in accordance with Article 32 of the Convention expulsion of a refugee is only permitted in exceptional circumstances;

(b) *Recognized* that a measure of expulsion may have very serious consequences for a refugee and his immediate family members residing with him;

(c) *Recommended* that, in line with Article 32 of the 1951 Convention, expulsion measures against a refugee should only be taken in very exceptional cases and after due consideration of all the circumstances, including the possibility for the refugee to be admitted to a country other than his country of origin;

(d) *Recommended* that, in cases where the implementation of an expulsion measure is impracticable, States should consider giving refugee delinquents the same treatment as national delinquents and that States examine the possibility of elaborating an international instrument giving effect to this principle;

(e) *Recommended* that an expulsion order should only be combined with custody or detention if absolutely necessary for reasons of national security or public order and that such custody or detention should not be unduly prolonged.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

No. 8 (XXVIII) DETERMINATION OF REFUGEE STATUS*

The Executive Committee,

(a) *Noted* the report of the High Commissioner concerning the importance of procedures for determining refugee status;

(b) *Noted* that only a limited number of States parties to the 1951 Convention and the 1967 Protocol had established procedures for the formal determination of refugee status under these instruments;

(c) *Noted*, however, with satisfaction that the establishment of such procedures was under active consideration by a number of Governments;

(d) *Expressed* the hope that all Governments parties to the 1951 Convention and the 1967 Protocol which had not yet done so would take steps to establish such procedures in the near future and give favourable consideration to UNHCR participation in such procedures in appropriate form;

(e) *Recommended* that procedures for the determination of refugee status should satisfy the following basic requirements:

- (i) The competent official (e.g. immigration officer or border police officer) to whom the applicant addresses himself at the border or in the territory of a Contracting State, should have clear instructions for dealing with cases which might come within the purview of the relevant international instruments. He should be required to act in accordance with the principle of *non-refoulement* and to refer such cases to a higher authority.
- (ii) The applicant should receive the necessary guidance as to the procedure to be followed.
- (iii) There should be a clearly identified authority – wherever possible a single central authority – with responsibility for

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

examining requests for refugee status and taking a decision in the first instance.

- (iv) The applicant should be given the necessary facilities, including the services of a competent interpreter, for submitting his case to the authorities concerned. Applicants should also be given the opportunity, of which they should be duly informed, to contact a representative of UNHCR.
- (v) If the applicant is recognized as a refugee, he should be informed accordingly and issued with documentation certifying his refugee status.
- (vi) If the applicant is not recognized, he should be given a reasonable time to appeal for a formal reconsideration of the decision, either to the same or to a different authority, whether administrative or judicial, according to the prevailing stem.
- (vii) The applicant should be permitted to remain in the country pending a decision on his initial request by the competent authority referred to in paragraph (iii) above, unless it has been established by that authority that his request is clearly abusive. He should also be permitted to remain in the country while an appeal to a higher administrative authority or to the courts is pending.

(f) *Requested* UNHCR to prepare, after due consideration of the opinions of States parties to the 1951 Convention and the 1967 Protocol, a detailed study on the question of the extraterritorial effect of determination of refugee status in order to enable the Committee to take a considered view on the matter at a subsequent session taking into account the opinion expressed by representatives that the acceptance by a Contracting State of refugee status as determined by other States parties to these instruments would be generally desirable;

(g) *Requested* the Office to consider the possibility of issuing-for the guidance of Governments-a handbook relating to procedures and criteria for determining refugee status and circulating – with due regard to the confidential nature of individual requests and the particular situations involved – significant decisions on the determination of refugee status.

No. 9 (XXVIII) FAMILY REUNION

The Executive Committee,

(a) *Reiterated* the fundamental importance of the principle of family reunion;

(b) *Reaffirmed* the co-ordinating role of UNHCR with a view to promoting the reunion of separated refugee families through appropriate interventions with Governments and with intergovernmental and nongovernmental organizations;

(c) *Noted* with satisfaction that some measure of progress has been achieved in regard to the reunion of separated refugee families through the efforts currently undertaken by UNHCR.

No. 10 (XXVIII) PROTECTION STAFF

The Executive Committee,

Noted with satisfaction that the High Commissioner will continue to strengthen his protection staff and more particularly provide the UNHCR field offices with staff members specifically entrusted with protection functions and agreed that strengthening of the High Commissioner's protection staff, should-after due consideration of all relevant factors including such measures as may be recommended by the Administrative Management Service as a result of their recent survey-be financed from the programme reserve pending the next session of the Executive Committee.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 11 (XXIX) GENERAL

The Executive Committee,

(a) *Reiterated* the fundamental importance of international protection, welcomed the action taken by the High Commissioner and the progress achieved in this field since the Committee's twenty-eighth session and recognized the need for efforts to be continued and further intensified;

(b) *Was seriously concerned* that various problems arising in this field had not yet been resolved and that cases of non-observance of the basic human rights of refugees still continued to arise;

(c) *Recalled* the Conclusions adopted at the twenty-eighth session concerning the importance of the observance of the principle of *non-refoulement* and was gravely preoccupied that this principle had, in a number of cases, still been disregarded;

(d) *Recalled* the Conclusions adopted at the twenty-eighth session regarding asylum and expressed concern that refugees still encountered difficulties in obtaining permanent or even temporary asylum in certain areas;

(e) *Reaffirmed* the principle of international solidarity as a primary condition for the practice of liberal asylum policies and for the effective implementation of international protection in general;

(f) *Welcomed* the accession by additional States to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees but noted with

¹ Contained in United Nations General Assembly Document No. 12A (A/33/12/Add.1)

concern that a large number of States including States having sizeable refugee problems, had not acceded to either of these instruments;

(g) *Recalled* the Conclusions adopted in this matter at its twenty eighth session and expressed the hope that additional States would accede to the 1951 Convention and the 1967 Protocol in the near future;

(h) *Recognized* the need for appropriate legislative or administrative measures on the national level with a view to the effective implementation of the 1951 Convention and the 1967 Protocol and urged all States parties to these instruments which had not yet done so to, initiate necessary measures in this regard;

(i) *Recalled* in particular the Conclusions adopted at the twenty eighth session concerning procedures for the determination of refugee status under the 1951 Convention and the 1967 Protocol, reiterated the importance of such procedures, welcomed their establishment by a number of states since the Committee's twenty-eighth session and expressed the hope that further States would give favourable consideration to the establishment of such procedures;

(j) *Recognized* the value of efforts to secure a wider dissemination of the principle of refugee law through closer relations with educational and scientific institutions and more generally with circles concerned with humanitarian and refugee questions, and recommended that the High Commissioner pursue such efforts;

(k) *Welcomed* the efforts made by the High Commissioner to make available additional staff members entrusted with protection duties both in UNHCR field offices and at UNHCR headquarters, and acknowledged with appreciation the support given to the High Commissioner in this respect by the Administrative Management Service;

(l) *Noted* with appreciation the work of the Sub-Committee of the Whole on International Protection and expressed its belief that the Sub-Committee had proved its value as an institution for the examination of specific problems arising in the field of international protection and for the recommendation of appropriate solutions.

**No. 12 (XXIX) EXTRATERRITORIAL EFFECT OF THE
DETERMINATION OF REFUGEE STATUS***

The Executive Committee,

(a) *Considered* that one of the essential aspects of refugee status, as defined by the 1951 Convention and the 1967 Protocol, is its international character;

(b) *Recognized* the desirability for maintenance and continuity of refugee status once it has been determined by a Contracting State;

(c) *Noted* that several provisions of the 1951 Convention enable a refugee residing in one Contracting State to exercise certain rights-as a refugee-in another Contracting State and that the exercise of such rights is not subject to a new determination of his refugee status;

(d) *Noted* that persons considered as refugees under Article 1 A (1) of the Convention maintain their refugee status unless they fall under a cessation or exclusion clause;

(e) *Noted* that refugees, holders of a Convention Travel Document issued by one Contracting State, are enabled to travel as refugees to other Contracting States;

(f) *Considered* that the very purpose of the 1951 Convention and the 1967 Protocol implies that refugee status determined by one Contracting State will be recognized also by the other Contracting States;

(g) *Recognized*, therefore, that refugee status as determined in one Contracting State should only be called into question by another Contracting State in exceptional cases when it appears that the person manifestly does not fulfil the requirements of the Convention, e.g. if facts become known indicating that the statements initially made were fraudulent or showing that the person concerned falls within the terms of a cessation or exclusion provision of the 1951 Convention;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

(h) *Further recognized* that a decision by a Contracting State not to recognize refugee status does not preclude another Contracting State from examining a new request for refugee status made by the person concerned.

No. 13 (XXIX) TRAVEL DOCUMENTS FOR REFUGEES*

The Executive Committee,

(a) *Reaffirmed* the importance of the issue of travel documents to refugees for temporary travel outside their country of residence and for resettlement in other countries;

(b) *Urged* all States parties to the 1951 Convention and/or the 1967 Protocol to issue to all refugees, lawfully staying in their territory and who wish to travel, travel documents as provided for in the 1951 Convention (article 28, schedule and annex);

(c) *Recommended* that such Convention Travel Documents should have a wide validity, both geographically and in time, and should contain-as provided for in paragraph 13 of the schedule-a return clause with the same period of validity, in the absence of very special circumstances, as that of the travel document itself;

(d) *Recommended* that in order to avoid unnecessary hardship a refugee requesting an extension of validity or renewal of his Convention Travel Document should not be required to return to the issuing country for that purpose and should be enabled to secure such extension of validity or renewal of the Convention Travel Document, also for periods beyond six months, by or through the diplomatic or consular representatives of the issuing State;

(e) *Recommended* that, with a view to avoiding divergent interpretations of paragraphs 6 and 11 of the schedule and the resulting hardships to refugees, Contracting States make appropriate arrangements, including the adoption of bilateral or multilateral agreements, concerning the transfer of responsibility for the issue of Convention Travel Documents;

(f) *Expressed* the hope that bilateral and multilateral arrangements, concluded with a view to facilitating travel by their nationals, e.g. as regards the simplification of visa formalities or the abolition of visa fees, be extended

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

by Contracting States also to refugees lawfully residing in their respective territory;

(g) *Expressed* the hope that States which are not parties to the 1951 Convention or the 1967 Protocol will issue to refugees lawfully residing in their territory appropriate travel documents under conditions as similar as possible to those attaching to the issue of 1951 Convention Travel Documents;

(h) *Expressed* appreciation for the Note on Travel Documents for Refugees (EC/SCP/10) submitted by the High Commissioner, was in general agreement with its contents and recommended that, in an appropriate form and together with the above conclusions, it be communicated to Governments by the High Commissioner in support of his efforts to promote the issue of travel documents to refugees in accordance with internationally accepted standards.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 14 (XXX) GENERAL

The Executive Committee,

(a) *Reiterated* the fundamental importance of the international protection function exercised by the United Nations High Commissioner for Refugees and of the principles established in this field which are not subject to any derogation;

(b) *Noted* with appreciation the work of the Sub-Committee of the Whole on International Protection which had proved to be of great practical value to the High Commissioner's Office in its efforts to extend international protection to refugees;

(c) *Noted* with concern that refugees had been rejected at the frontier or had been returned to territories where they had reasons to fear persecution in disregard of the principle of *non-refoulement* and that refugees arriving by sea had been refused even temporary asylum with resulting danger to their lives and had in many cases perished on the high seas;

(d) *Called* upon all States to ensure that masters of vessels sailing under their flag scrupulously observed established rules regarding rescue at sea, and to take all necessary action to rescue refugees and displaced persons leaving their country of origin on boats in order to seek asylum and who are in distress;

(e) *Severely condemned* recent inhuman attacks on refugee camps in southern Africa as a result of which numerous refugees, including women and children, had lost their lives and others had become permanently

¹ Contained in United Nations General Assembly Document No. 12A (A/34/12/Add.1)

incapacitated, and expressed the hope that the necessary steps would be taken to protect refugees from such attacks and to assist the victims;

(f) *Considered* it urgent that further States acceded to the 1951 Convention and to the 1967 Protocol and that States already parties to these instruments which had not yet done so adopt appropriate measures to implement their provisions especially as regards procedures for determining refugee status;

(g) *Took note* with great appreciation of the work of the Conference on the Situation of Refugees in Africa held in Arusha (United Republic of Tanzania) from 7-17 April 1979 which it considered would represent a major contribution to the protection of refugees in Africa;

(h) *Recognized* the importance of the dissemination of refugee law in increasing the effectiveness of international protection and noted with satisfaction the efforts being undertaken by the High Commissioner's Office in this matter as described in document A/AC.96/INF.159;

(i) *Expressed* the wish to be kept regularly informed of the Office's activities and of the problems arising in the field of international protection.

**No. 15 (XXX) REFUGEES WITHOUT AN
ASYLUM COUNTRY***

The Executive Committee,

Considered that States should be guided by the following considerations:

General principles

(a) States should use their best endeavours to grant asylum to *bona fide* asylum-seekers;

(b) Action whereby a refugee is obliged to return or is sent to a country where he has reason to fear persecution constitutes a grave violation of the recognized principle of *non-refoulement*;

(c) It is the humanitarian obligation of all coastal States to allow vessels in distress to seek haven in their waters and to grant asylum, or at least temporary refuge, to persons on board wishing to seek asylum;

(d) Decisions by States with regard to the granting of asylum shall be made without discrimination as to race, religion, political opinion, nationality or country of origin;

(e) In the interest of family reunification and for humanitarian reasons, States should facilitate the admission to their territory of at least the spouse and minor or dependent children of any person to whom temporary refuge or durable asylum has been granted;

Situations involving a large-scale influx of asylum-seekers

(f) In cases of large-scale influx, persons seeking asylum should always receive at least temporary refuge. States which because of their geographical situation, or otherwise, are faced with a large-scale influx should as necessary and at the request of the State concerned receive immediate assistance from other States in accordance with the principle of equitable burden-sharing. Such States should consult with the Office of the United Nations High

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

Commissioner for Refugees as soon as possible to ensure that the persons involved are fully protected, are given emergency assistance, and that durable solutions are sought;

(g) Other States should take appropriate measures individually, jointly or through the Office of the United Nations High Commissioner for Refugees or other international bodies to ensure that the burden of the first asylum country is equitably shared;

Situations involving individual asylum-seekers

(h) An effort should be made to resolve the problem of identifying the country responsible for examining an asylum request by the adoption of common criteria. In elaborating such criteria the following principles should be observed:

- (i) The criteria should make it possible to identify in a positive manner the country which is responsible for examining an asylum request and to whose authorities the asylum-seeker should have the possibility of addressing himself;
- (ii) The criteria should be of such a character as to avoid possible disagreement between States as to which of them should be responsible for examining an asylum request and should take into account the duration and nature of any sojourn of the asylum-seeker in other countries;
- (iii) The intentions of the asylum-seeker as regards the country in which he wishes to request asylum should as far as possible be taken into account;
- (iv) Regard should be had to the concept that asylum should not be refused solely on the ground that it could be sought from another State. Where, however, it appears that a person, before requesting asylum, already has a connection or close links with another State, he may if it appears fair and reasonable be called upon first to request asylum from that State;
- (v) Reestablishment of criteria should be accompanied by arrangements for regular consultation between concerned Governments for dealing with cases for which no solution has been found and for consultation with the Office of the United Nations High Commissioner for Refugees as appropriate;
- (vi) Agreements providing for the return by States of persons who

have entered their territory from another contracting State in an unlawful manner should be applied in respect of asylum-seekers with due regard to their special situation.

(i) While asylum-seekers may be required to submit their asylum request within a certain time limit, failure to do so, or the non-fulfilment of other formal requirements, should not lead to an asylum request being excluded from consideration;

(j) In line with the recommendation adopted by the Executive Committee at its twenty eighth session (document A/AC.96/549, paragraph 53(6), (E) (i)), where an asylum-seeker addresses himself in the first instance to a frontier authority the latter should not reject his application without reference to a central authority;

(k) Where a refugee who has already been granted asylum in one country requests asylum in another country on the ground that he has compelling reasons for leaving his present asylum country due to fear of persecution or because his physical safety or freedom are endangered, the authorities of the second country should give favourable consideration to his asylum request;

(l) States should give favourable consideration to accepting, at the request of the Office of the United Nations High Commissioner for Refugees, a limited number of refugees who cannot find asylum in any country;

(m) States should pay particular attention to the need for avoiding situations in which a refugee loses his right to reside in or to return to his country of asylum without having acquired the possibility of taking up residence in a country other than one where he may have reasons to fear persecution;

(n) In line with the purpose of paragraphs 6 and 11 of the Schedule to the 1951 Convention, States should continue to extend the validity of or to renew refugee travel documents until the refugee has taken up lawful residence in the territory of another State. A similar practice should as far as possible also be applied in respect of refugees holding a travel document other than that provided for in the 1951 Convention.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 16 (XXXI) GENERAL

The Executive Committee,

(a) *Noted* that while a measure of progress had been achieved in regard to international protection since the Committee's thirtieth session, there were a number of serious problems which still remained unresolved;

(b) *Noted* with appreciation the work of the Sub-Committee of the Whole on International Protection as representing an important contribution to improving the legal situation of refugees;

(c) *Stressed* the fundamental importance of the principles established in regard to international protection and the need for these principles to be scrupulously observed in refugee situations existing in different areas of the world;

(d) *Stressed* further that while there was a need to develop legal concepts relating to international protection in the light of the special conditions prevailing in different regions, this should not detract from the absolute character of the fundamental principles already established in this field;

(e) *Expressed* serious concern that there were still cases in which the fundamental principle of *non-refoulement* had been disregarded or in which refugees had been exposed to physical danger or violence;

(f) *Reiterated* its condemnation of inhuman military attacks on refugee camps in southern Africa and the need for effective protection and humanitarian assistance to be accorded to the victims of such attacks;

¹ Contained in United Nations General Assembly Document No. 12A (A/35/12/Add.1)

(g) *Noted* that while an increasing number of States had become parties to the 1951 United Nations Refugee Convention and to the 1967 Protocol, there was an urgent need for further States to accede with a view to the provisions of these instruments acquiring universal application;

(h) *Noted* with appreciation that further States had adopted measures to implement the provisions of the Convention and the Protocol, especially as regards procedures for determining refugee status, and stressed the need for increased co-operation between Governments and UNHCR in this matter;

(i) *Recognized* the value of examining problems of international protection in a regional context with a view to arriving at appropriate solutions;

(j) *Noted* with appreciation the work of the Round Table of Asian Experts which met in Manila from 14 to 18 April 1980 and the Declaration on the International Protection of Refugees and Displaced Persons in Asia and the Declaration on Pirate Attacks on Refugees and Displaced Persons adopted by the Round Table;

(k) *Reiterated* the importance of promoting a wider knowledge and understanding of refugee law in increasing the effectiveness of international protection, and noted with satisfaction the progress achieved in this matter as described in document A/AC.96/INF.162;

(l) *Recognized* the need-in the light of its increased range of activities in the field of international protection-for the Office to be provided with the necessary protection staff to enable it effectively to carry out these functions in various parts of the world.

**No. 17 (XXXI) PROBLEMS OF EXTRADITION
AFFECTING REFUGEES***

The Executive Committee,

(a) *Considered* that cases in which the extradition of a refugee or of a person who may qualify as a refugee is requested may give rise to special problems;

(b) *Reaffirmed* the fundamental character of the generally recognized principle of *non-refoulement*;

(c) *Recognized* that refugees should be protected in regard to extradition to a country where they have well-founded reasons to fear persecution on the grounds enumerated in Article 1(A)(2) of the 1951 United Nations Convention relating to the Status of Refugees;

(d) *Called* upon States to ensure that the principle of *non-refoulement* is duly taken into account in treaties relating to extradition and as appropriate in national legislation on the subject;

(e) *Expressed* the hope that due regard be had to the principle of *non-refoulement* in the application of existing treaties relating to extradition;

(f) *Stressed* that nothing in the present conclusions should be considered as affecting the necessity for States to ensure, on the basis of national legislation and international instruments, punishment for serious offenses, such as the unlawful seizure of aircraft, the taking of hostages and murder;

(g) *Stressed* that protection in regard to extradition applies to persons who fulfil the criteria of the refugee definition and who are not excluded from refugee status by virtue of Article 1(F)(b) of the 1951 United Nations Convention relating to the Status of Refugees.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

No. 18 (XXXI) VOLUNTARY REPATRIATION*

The Executive Committee,

(a) *Recognized* that voluntary repatriation constitutes generally, and in particular when a country accedes to independence, the most appropriate solution for refugee problems;

(b) *Stressed* that the essentially voluntary character of repatriation should always be respected;

(c) *Recognized* the desirability of appropriate arrangements to establish the voluntary character of repatriation, both as regards the repatriation of individual refugees and in the case of large-scale repatriation movements, and for UNHCR, whenever necessary, to be associated with such arrangements;

(d) *Considered* that when refugees express the wish to repatriate, both the government of their country of origin and the government of their country of asylum should, within the framework of their national legislation and, whenever necessary, in co-operation with UNHCR take all requisite steps to assist them to do so;

(e) *Recognized* the importance of refugees being provided with the necessary information regarding conditions in their country of origin in order to facilitate their decision to repatriate; recognized further that visits by individual refugees or refugee representatives to their country of origin to inform themselves of the situation there—without such visits automatically involving loss of refugee status—could also be of assistance in this regard;

(f) *Called* upon governments of countries of origin to provide formal guarantees for the safety of returning refugees and stressed the importance of such guarantees being fully respected and of returning refugees not being penalized for having left their country of origin for reasons giving rise to refugee situations;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

(g) *Recommended* that arrangements be adopted in countries of asylum for ensuring that the terms of guarantees provided by countries of origin and relevant information regarding conditions prevailing there are duly communicated to refugees, that such arrangements could be facilitated by the authorities of countries of asylum and that UNHCR should as appropriate be associated with such arrangements;

(h) *Considered* that UNHCR could appropriately be called upon-with the agreement of the parties concerned-to monitor the situation of returning refugees with particular regard to any guarantees provided by the governments of countries of origin;

(i) *Called* upon the governments concerned to provide repatriating refugees with the necessary travel documents, visas, entry permits and transportation facilities and, if refugees have lost their nationality, to arrange for such nationality to be restored in accordance with national legislation;

(j) *Recognized* that it may be necessary in certain situations to make appropriate arrangements in co-operation with UNHCR for the reception of returning refugees and/or to establish projects for their reintegration in their country of origin.

No. 19 (XXXI) TEMPORARY REFUGE*

The Executive Committee,

(a) *Reaffirmed* the essential need for the humanitarian legal principle of *non-refoulement* to be scrupulously observed in all situations of large-scale influx;

(b) *Recalled* the conclusions on the question of temporary refuge adopted by the Executive Committee at its thirtieth session and, in particular:

- (i) that in the case of large-scale influx, persons seeking asylum should always receive at least temporary refuge; and
- (ii) that States which, because of their geographical situation or otherwise, are faced with a large-scale influx, should as necessary and at the request of the State concerned receive immediate assistance from other States in accordance with the principle of equitable burden-sharing;

(c) *Took note* of the extensive practice of granting temporary refuge in situations involving a large-scale influx of refugees;

(d) *Stressed* the fundamental importance of the provisions of the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol, and of the 1967 United Nations Declaration on Territorial Asylum and the need for constant advice by UNHCR on the practical application of these provisions by countries exposed to a large-scale influx of refugees;

(e) *Stressed* the exceptional character of temporary refuge and the essential need for persons to whom temporary refuge has been granted to enjoy basic humanitarian standards of treatment;

(f) *Recognized* the need to define the nature, function and implications of the grant of temporary refuge;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

(g) *Considered* that the practice of temporary refuge had not been sufficiently examined and should be further studied, particularly in regard to (i) procedures for the admission of refugees, (ii) their status pending a durable solution, (iii) the implications of temporary refuge for international solidarity, including burden sharing;

(h) *Decided* to request the High Commissioner to convene as soon as possible a representative group of experts to examine temporary refuge in all its aspects within the framework of the problems raised by large-scale influx and to provide the group with all possible assistance.

**No. 20 (XXXI) PROTECTION OF ASYLUM-SEEKERS
AT SEA***

The Executive Committee,

(a) *Noted* with grave concern the continuing incidence of criminal attacks on refugees and asylum-seekers in different areas of the world, including military attacks on refugee camps and on asylum-seekers at sea;

(b) *Expressed* particular concern regarding criminal attacks on asylum-seekers at sea in the South China Sea involving extreme violence and indescribable acts of physical and moral degradation, including rape, abduction and murder;

(c) *Addressed* an urgent call to all interested Governments to take appropriate action to prevent such criminal attacks whether occurring on the high seas or in their territorial waters;

(d) *Stressed* the desirability for the following measures to be taken by Governments with a view to preventing the recurrence of such criminal attacks:

- (i) increased governmental action in the region to prevent attacks on boats carrying asylum-seekers, including increased sea and air patrols over areas where such attacks occur;
- (ii) adoption of all necessary measures to ensure that those responsible for such criminal attacks are severely punished;
- (iii) increased efforts to detect land bases from which such attacks on asylum-seekers originate and to identify persons known to have taken part in such attacks and to ensure that they are prosecuted;
- (iv) establishment of procedures for the routine exchange of information concerning attacks on asylum-seekers at sea and for the apprehension of those responsible, and cooperation between Governments for the regular exchange of general

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

information on the matter;

(e) *Called* upon Governments to give full effect to the rules of general international law – as expressed in the Geneva Convention on the High Seas of 1958 – relating to the suppression of piracy;

(f) *Urged* Governments to co-operate with each other and with UNHCR to ensure that all necessary assistance is provided to the victims of such criminal attacks;`

(g) *Called* upon the United Nations High Commissioner for Refugees in co-operation with the International Committee of the Red Cross and other interested organizations actively to seek the co-operation of the international community to intensify efforts aimed at protecting refugees who are victims of acts of violence, particularly those at sea.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 21 (XXXII) GENERAL

The Executive Committee,

(a) *Reiterated* the fundamental importance of international protection as the primary task entrusted to the High Commissioner under the Statute of his Office and noted with satisfaction the progress achieved in this field since the Committee's thirty-first session;

(b) *Noted* in particular the progress made as regards further accessions to the 1951 United Nations Convention and the 1969 Protocol relating to the Status of Refugees and welcomed accession to these basic international refugee instruments by Angola, Chad, Egypt, Japan, Lesotho, Philippines, Sierra Leone and Zimbabwe;

(c) *Expressed* the hope that further States would accede to the Convention and to the Protocol and that those States which still maintain the geographical limitation in respect of their obligations under the Convention will give active consideration to the possibility of withdrawing this limitation;

(d) *Noted* with satisfaction the measures taken by various States to ensure the effective implementation of their obligations under the Convention and Protocol, in particular as regards procedures for determining refugee status as described in document A/AC.96/INF.152/Rev.3 and expressed the hope that such measures be taken by all States parties to the international refugee instruments;

(e) *Noted* that despite an increasingly broad understanding of the principles of international protection, the basic rights of refugees had been disregarded in a number of areas in the world;

¹ Contained in United Nations General Assembly Document No. 12A (A/35/12/Add.1)

(f) *Noted* with particular concern that in certain areas refugees have been refused asylum, have been rejected at the frontier or subjected to measures of expulsion or forcible return in disregard of the fundamental principle of *non-refoulement* and that asylum-seekers had been the victims of physical violence;

(g) *Expressed* its serious preoccupation that while a certain measure of progress had been achieved in this matter, asylum-seekers at sea continued to be the victims of piracy attacks and called upon the High Commissioner, in co-operation with the International Committee of the Red Cross and other interested organizations and Governments to seek the support of the international community for the continuation and intensification of efforts to protect refugees from acts of violence at sea and to assist the victims;

(h) *Noted* with grave concern the inhuman military attacks on refugee camps in southern Africa and elsewhere, involving extreme and indescribable hardships to refugees and called upon the High Commissioner to examine the serious humanitarian problems resulting from military attacks on refugee camps and settlements which are the concern of UNHCR, and the need for special measures to protect and ensure the safety of such refugees, and to report thereon at the earliest possible date to the Executive Committee;

(i) *Noted* with renewed appreciation the work of the Sub-Committee of the Whole on International Protection which has greatly facilitated the High Commissioner's efforts to extend international protection to refugees and has contributed to a clearer formulation of the standards for their treatment, and noted with particular satisfaction the work of the Sub-Committee with regard to the question of temporary refuge in situations of large-scale influx;

(j) *Welcomed* the increasing understanding for the problems of international protection shown in governmental, non-governmental and academic circles and the continuing efforts undertaken by the High Commissioner to promote a wider knowledge of international refugee law.

No. 22 (XXXII) PROTECTION OF ASYLUM-SEEKERS IN SITUATIONS OF LARGE- SCALE INFLUX*

The Executive Committee,

Noting with appreciation the report of the Group of Experts on temporary refuge in situations of large-scale influx, which met in Geneva from 21-24 April 1981, adopted the following conclusions in regard to the protection of asylum-seekers in situations of large-scale influx.

I. General

1. The refugee problem has become particularly acute due to the increasing number of large-scale influx situations in different areas of the world and especially in developing countries. The asylum-seekers forming part of these large-scale influxes include persons who are refugees within the meaning of the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees or who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part of, or the whole of their country of origin or nationality are compelled to seek refuge outside that country.

2. Asylum-seekers forming part of such large-scale influx situations are often confronted with difficulties in finding durable solutions by way of voluntary repatriation, local settlement or resettlement in a third country. Large-scale influxes frequently create serious problems for States, with the result that certain States, although committed to obtaining durable solutions, have only found it possible to admit asylum-seekers without undertaking at the time of admission to provide permanent settlement of such persons within their borders.

3. It is therefore imperative to ensure that asylum-seekers are fully protected in large-scale influx situations, to reaffirm the basic minimum standards for their treatment pending arrangements for a durable solution, and to establish effective arrangements in the context of international solidarity and burden-sharing for assisting countries which receive large numbers of asylum-seekers.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

II. Measures of protection

A. *Admission and non-refoulement*

1. In situations of large-scale influx, asylum-seekers should be admitted to the State in which they first seek refuge and if that State is unable to admit them on a durable basis, it should always admit them at least on a temporary basis and provide them with protection according to the principles set out below. They should be admitted without any discrimination as to race, religion, political opinion, nationality, country of origin or physical incapacity.

2. In all cases the fundamental principle of *non-refoulement* including non-rejection at the frontier-must be scrupulously observed.

B. *Treatment of asylum-seekers who have been temporarily admitted to country pending arrangements for a durable solution*

1. Article 31 of the 1951 United Nations Convention relating to the Status of Refugees contains provisions regarding the treatment of refugees who have entered a country without authorization and whose situation in that country has not yet been regularized. The standards defined in this Article do not, however, cover all aspects of the treatment of asylum-seekers in large-scale influx situations.

2. It is therefore essential that asylum-seekers who have been temporarily admitted pending arrangements for a durable solution should be treated in accordance with the following minimum basic human standards:

(a) they should not be penalized or exposed to any unfavourable treatment solely on the ground that their presence in the country is considered unlawful; they should not be subjected to restrictions on their movements other than those which are necessary in the interest of public health and public order;

(b) they should enjoy the fundamental civil rights internationally recognized, in particular those set out in the Universal Declaration of Human Rights;

(c) they should receive all necessary assistance and be provided with the basic necessities of life including food, shelter and basic sanitary and

health facilities; in this respect the international community should conform with the principles of international solidarity and burden-sharing;

(d) they should be treated as persons whose tragic plight requires special understanding and sympathy. They should not be subjected to cruel, inhuman or degrading treatment;

(e) there should be no discrimination on the grounds of race, religion, political opinion, nationality, country of origin or physical incapacity;

(f) they are to be considered as persons before the law, enjoying free access to courts of law and other competent administrative authorities;

(g) the location of asylum-seekers should be determined by their safety and well-being as well as by the security needs of the receiving State. Asylum-seekers should, as far as possible, be located at a reasonable distance from the frontier of their country of origin. They should not become involved in subversive activities against their country of origin or any other State;

(h) family unity should be respected;

(i) all possible assistance should be given for the tracing of relatives;

(j) adequate provision should be made for the protection of minors and unaccompanied children;

(k) the sending and receiving of mail should be allowed;

(l) material assistance from friends or relatives should be permitted;

(m) appropriate arrangements should be made, where possible, for the registration of births, deaths and marriages;

(n) they should be granted all the necessary facilities to enable them to obtain a satisfactory durable solution;

(o) they should be permitted to transfer assets which they have brought into a territory to the country where the durable solution is obtained; and

(p) all steps should be taken to facilitate voluntary repatriation.

III. Co-operation with the Office of the United Nations High Commissioner for Refugees

Asylum-seekers shall be entitled to contact the Office of UNHCR. UNHCR shall be given access to asylum-seekers. UNHCR shall also be given the possibility of exercising its function of international protection and shall be allowed to supervise the well-being of persons entering reception or other refugee centres.

IV. International solidarity, burden-sharing and duties of States

(1) A mass influx may place unduly heavy burdens on certain countries; a satisfactory solution of a problem, international in scope and nature, cannot be achieved without international co-operation. States shall, within the framework of international solidarity and burden-sharing, take all necessary measures to assist, at their request, States which have admitted asylum-seekers in large-scale influx situations.

(2) Such action should be taken bilaterally or multilaterally at the regional or at the universal levels and in co-operation with UNHCR, as appropriate. Primary consideration should be given to the possibility of finding suitable solutions within the regional context.

(3) Action with a view to burden-sharing should be directed towards facilitating voluntary repatriation, promoting local settlement in the receiving country, providing resettlement possibilities in third countries, as appropriate.

(4) The measures to be taken within the context of such burden-sharing arrangements should be adapted to the particular situation. They should include, as necessary, emergency, financial and technical assistance, assistance in kind and advance pledging of further financial or other assistance beyond the emergency phase until durable solutions are found, and where voluntary repatriation or local settlement cannot be envisaged, the provision for asylum-seekers of resettlement possibilities in a cultural environment appropriate for their well-being.

(5) Consideration should be given to the strengthening of existing mechanisms and, if appropriate, the setting up of new arrangements, if possible on a permanent basis, to ensure that the necessary funds and other material and technical assistance are immediately made available.

(6) In a spirit of international solidarity, Governments should also seek to ensure that the causes leading to large-scale influxes of asylum-seekers are

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as far as possible removed and, where such influxes have occurred, that conditions favourable to voluntary repatriation are established.

**No. 23 (XXXII) PROBLEMS RELATED TO THE RESCUE OF
ASYLUM-SEEKERS IN DISTRESS AT SEA ***

The Executive Committee,

Adopted the following conclusions on problems related to the rescue of asylum-seekers in distress at sea.

1. It is recalled that there is a fundamental obligation under international law for ships' masters to rescue any persons in distress at sea, including asylum-seekers, and to render them all necessary assistance. Seafaring States should take all appropriate measures to ensure that masters of vessels observe this obligation strictly.

2. Rescue of asylum-seekers in distress at sea has been facilitated by the willingness of the flag States of rescuing ships to provide guarantees of resettlement required by certain coastal States as a condition for disembarkation. It has also been facilitated by the agreement of these and other States to contribute to a pool of resettlement guarantees under the DISERO scheme which should be further encouraged. All countries should continue to provide durable solutions for asylum-seekers rescued at sea.

3. In accordance with established international practice, supported by the relevant international instruments, persons rescued at sea should normally be disembarked at the next port of call. This practice should also be applied in the case of asylum-seekers rescued at sea. In cases of large-scale influx, asylum-seekers rescued at sea should always be admitted, at least on a temporary basis. States should assist in facilitating their disembarkation by acting in accordance with the principles of international solidarity and burden-sharing in granting resettlement opportunities.

4. As a result of concerted efforts by many countries, large numbers of resettlement opportunities have been, and continue to be, provided for boat people. In view of this development, the question arises as to whether the first port of call countries might wish to examine their present policy of requiring resettlement guarantees as a precondition for disembarkation.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

Pending a review of practice by coastal States, it is of course desirable that present arrangements for facilitating disembarkation be continued.

5. In view of the complexity of the problems arising from the rescue, disembarkation and resettlement of asylum-seekers at sea, the High Commissioner is requested to convene at an early opportunity a working group comprising representatives of the maritime States and the coastal States most concerned, potential countries of resettlement, and representatives of international bodies competent in this field. The working group should study the various problems mentioned and elaborate principles and measures which would provide a solution and should submit a report on the matter to the Executive Committee at its thirty-third session.

No. 24 (XXXII) FAMILY REUNIFICATION*

The Executive Committee,

Adopted the following conclusions on the reunification of separated refugee families.

1. In application of the Principle of the unity of the family and for obvious humanitarian reasons, every effort should be made to ensure the reunification of separated refugee families.

2. For this purpose it is desirable that countries of asylum and countries of origin support the efforts of the High Commissioner to ensure that the reunification of separated refugee families takes place with the least Possible delay.

3. The generally positive trends in regard to the reunification of separated refugee families are greatly to be welcomed but a number of outstanding problems still need to be resolved.

4. Given the recognized right of everyone to leave any country including his own, countries of origin should facilitate family reunification by granting exit permission to family members of refugees to enable them to join the refugee abroad.

5. It is hoped that countries of asylum will apply liberal criteria in identifying those family members who can be admitted with a view to promoting a comprehensive reunification of the family.

6. When deciding on family reunification, the absence of documentary proof of the formal validity of a marriage or of the filiation of children should not per se be considered as an impediment.

7. The separation of refugee families has, in certain regions of the world, given rise to a number of particularly delicate problems relating to unaccompanied minors. Every effort should be made to trace the parents or

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

other close relatives of unaccompanied minors before their resettlement. Efforts to clarify their family situation with sufficient certainty should also be continued after resettlement. Such efforts are of particular importance before an adoption - involving a severance of links with the natural family - is decided upon.

8. In order to promote the rapid integration of refugee families in the country of settlement, joining close family members should in principle be granted the same legal status and facilities as the head of the family who has been formally recognized as a refugee.

9. In appropriate cases family reunification should be facilitated by special measures of assistance to the head of family so that economic and housing difficulties in the country of asylum do not unduly delay the granting of permission for the entry of the family members.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 25 (XXXIII) GENERAL

The Executive Committee,

(a) *Reiterated* the fundamental importance of international protection as a primary task entrusted to the High Commissioner under the Statute of his Office;

(b) *Reaffirmed* the importance of the basic principles of international protection and in particular the principle of *non-refoulement* which was progressively acquiring the character of a peremptory rule of international law;

(c) *Expressed* concern that the problems arising in the field of international protection had increased in seriousness since the Committee's thirty-second session and that the basic rights of refugees and asylum-seekers had been violated in different areas of the world, inter alia, through military attacks on refugee camps and settlements, acts of piracy and forcible return of refugees and asylum-seekers to their countries of origin;

(d) *Recognized* the concern of Governments resulting from large-scale flows of persons and current recessionary trends in different areas of the world; expressed the hope, however, that these various developments would not lead to restrictive practices in the granting of asylum or in the application of the refugee concept, nor to an undermining of the essential principles of international protection;

(e) *Noted* with satisfaction the efforts being undertaken in other fora to examine the causes of large-scale movements of asylum-seekers and expressed the hope that these efforts would lead to a substantial reduction in

¹ Contained in United Nations General Assembly Document No. 12A (A/37/12/Add.1)

their volume; stressed, however, that such efforts should not in any way weaken the basic principles of international protection;

(f) *Noted* with satisfaction the continuing progress made since the Committee's thirty second session as regards further accessions to the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees and welcomed accession to these basic international refugee instruments by Japan, Bolivia and the People's Republic of China;

(g) *Expressed* the hope that further States will accede to the Convention and Protocol and to other international instruments defining the basic rights of refugees at the universal and the regional levels;

(h) *Noted* with satisfaction the measures taken or currently envisaged by various States to ensure the effective implementation of their obligations under the Convention and the Protocol in particular as regards procedures for determining refugee status;

(i) *Welcomed* the increasingly broad acceptance of the principles of international protection on the part of Governments and the efforts undertaken by the High Commissioner to promote a wider understanding of international refugee law; urged the continued development and elaboration of refugee law in response to the new and changing humanitarian and other problems of refugees and asylum-seekers;

(j) *Welcomed* the High Commissioner's initiative to organize courses of lectures on refugee law in co-operation with the International Institute of Humanitarian Law (San Remo);

(k) *Noted* with renewed appreciation the work of the Sub-Committee on International Protection which has continued to support the High Commissioner's efforts to extend international protection, in particular by confirming and more clearly defining and developing the basic standards for the treatment of refugees and asylum-seekers;

(l) *Expressed* the hope that an informal meeting of the Sub-Committee would be held as early as possible in 1983 to consider further the question of military attacks on refugee camps and settlements of concern to the High Commissioner, or other questions relating to the physical safety of refugees and asylum-seekers.

**No. 26 (XXXIII) REPORT OF THE WORKING GROUP ON
PROBLEMS RELATED TO THE RESCUE OF ASYLUM-
SEEKERS IN DISTRESS AT SEA ***

The Executive Committee,

(a) *Noted* the report of the Working Group of Experts on the Rescue of Asylum-Seekers at Sea (EC/SCP/21);

(b) *Reiterated* the fundamental character of the obligation to rescue asylum-seekers in distress at sea;

(c) *Stressed* the importance for coastal States, flag States, countries of resettlement and the international community as a whole to take appropriate steps to facilitate the fulfilment of this obligation in its various aspects;

(d) *Considered* that solution of the problems connected with the rescue of asylum-seekers at sea should not only be sought in the context of legal norms but also through practical arrangements aimed at removing as far as possible the difficulties which have been encountered;

(e) *Noted* that the report of the Working Group of Experts contained a number of suggestions aimed at achieving such arrangements and called upon UNHCR to examine the feasibility of these suggestions;

(f) *Noted* the preliminary report submitted by the High Commissioner (EC/SCP/24) and requested UNHCR to continue its study of the matter and to submit a report to the Executive Committee at its thirty-fourth session, through its Sub-Committee on International Protection.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

**No. 27 (XXXIII) MILITARY ATTACKS ON
REFUGEE CAMPS AND SETTLEMENTS IN
SOUTHERN AFRICA AND ELSEWHERE***

The Executive Committee,

(a) *Stressed* the fundamental importance of respecting the relevant principles of international humanitarian law as reflected in the note prepared by the Office of the High Commissioner (EC/SCP/25);

(b) *Expressed* the conviction that the Office of the High Commissioner can substantially contribute, within the scope of its mandate, to the endeavours of other bodies also concerned with the problem and assist them in discharging their respective responsibilities in this regard, while maintaining the humanitarian and non-political character of his Office;

(c) *Expressed* its profound concern at the problem of continuing military attacks on refugee camps and settlements, as illustrated by the recent tragic cruel and inhuman events in Lebanon which have rightly been unanimously condemned, and expressed the hope that measures would be taken to protect refugees against such attacks and to aid the victims;

(d) *Welcomed* the appointment by the High Commissioner of Ambassador Schnyder to carry out a survey of the various aspects of the problem of military attacks on refugee camps and settlements of concern to UNHCR and, in taking note with appreciation of his preliminary report on the matter (EC/SCP/23) expressed the hope that this survey would lead to the adoption of measures which would make refugee camps and settlements safer from military attacks than they have so far been;

(e) *Stressed* the urgency of the matter and hoped to receive the final report of Ambassador Schnyder as soon as possible and to have an opportunity to discuss its contents at an early date and in any case not later than September 1983.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

**No. 28 (XXXIII) FOLLOW-UP ON EARLIER CONCLUSIONS
OF THE SUB-COMMITTEE OF THE WHOLE
ON INTERNATIONAL PROTECTION ON THE
DETERMINATION OF REFUGEE STATUS, INTER
ALIA, WITH REFERENCE TO THE ROLE OF
UNHCR IN NATIONAL REFUGEE STATUS
DETERMINATION PROCEDURES***

The Executive Committee,

(a) *Considered* the report of the High Commissioner on the progress made in regard to the determination of refugee status (EC/SCP/22/Rev.1);

(b) *Noted* with satisfaction that since the twenty-eighth session of the Executive Committee procedures for the determination of refugee status have been established by a further significant number of States Parties to the 1951 Convention and the 1967 Protocol and that these procedures conform to the basic requirements recommended by the Executive Committee at its twenty-eighth session;

(c) *Reiterated* the importance of the establishment of procedures for determining refugee status and urged those States Parties to the 1951 Convention and the 1967 Protocol which had not yet done so to establish such procedures in the near future;

(d) *Recognized* the need for measures to meet the problem of manifestly unfounded or abusive applications for refugee status. A decision that an application is manifestly unfounded or abusive should only be taken by or after reference to the authority competent to determine refugee status. Consideration should be given to the establishment of procedural safeguards to ensure that such decisions are taken only if the application is fraudulent or not related to the criteria for the granting of refugee status laid down in the 1951 United Nations Convention relating to the Status of Refugees. In view of its importance, the question of manifestly unfounded or abusive applications for refugee status should be further examined by the Sub-

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

Committee at its next meeting, as a separate item on its agenda and on the basis of a study to be prepared by UNHCR;

(e) *Noted* with satisfaction the participation in various forms of UNHCR in procedures for determining refugee status in a large number of countries and recognized the value of UNHCR thus being given a meaningful role in such procedures.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 29 (XXXIV) GENERAL

The Executive Committee,

(a) *Reaffirmed* the fundamental importance of the High Commissioner's international protection function;

(b) *Noted* that the High Commissioner's international protection function includes, in addition to promoting the development and observance of basic standards for the treatment of refugees, promoting, by all means within his competence, measures to ensure the physical safety of refugees and asylum-seekers;

(c) *Noted* with satisfaction that many States in different areas of the world-and in particular in developing countries faced with serious economic problems-have continued to apply recognized international humanitarian standards for the treatment of refugees and to respect the principle of *non-refoulement*;

(d) *Noted*, however, with particular concern that in various regions the physical safety of refugees and asylum-seekers has been seriously violated through military or armed attacks, acts of piracy and other forms of brutality and the failure to rescue asylum-seekers in distress at sea;

(e) *Noted* also with concern that the exercise of the High Commissioner's international protection function has been rendered more difficult in many areas of the world by restrictive trends relating to the granting of asylum and the determination of refugee status;

(f) *Stressed* the importance for further States to accede to the 1951 United Nations Convention and the 1967 Protocol relating to the Status of

¹ Contained in United Nations General Assembly Document No. 12A (A/38/12/Add.1)

Refugees and welcomed the additional accessions to these important humanitarian instruments which had taken place since the Committee's thirty-third session;

(g) *Called* on all States to ensure the full and effective application of these and other instruments for the protection of refugees to which they are parties;

(h) *Noted* with satisfaction that further States have adopted national measures to ensure the effective implementation of the provisions of the 1951 Convention and the 1967 Protocol, particularly as regards procedures for the determination of refugee status, and stressed the importance for States to establish such procedures to ensure fair and equitable decision-making in line with the conclusions adopted by the Executive Committee at its twenty-eighth [No. 8] and thirty-third sessions [No. 28];

(i) *Reiterated* the importance of determining the country which is responsible for examining an asylum request by the adoption of common criteria as identified in the Conclusion on Refugees without an Asylum Country adopted by the Executive Committee at its thirtieth session;

(j) *Recognized* the importance of developing standards of protection by maintaining a constant dialogue with Governments, non-governmental organizations and academic institutions and of filling lacunae in international refugee law, particularly as regards asylum-seekers whose status has not been determined and as regards the physical protection of refugees and asylum-seekers;

(k) *Recognized* the value of the High Commissioner's continuing activities in encouraging the teaching and further development of international refugee law and welcomed his intention to enlarge his Office's legal documentation centre in co-operation with the International Institute of Humanitarian Law in San Remo;

(l) *Recognized* the essential need for the exercise of the High Commissioner's international protection function to be facilitated by the co-operation of Governments in granting asylum, in providing the durable solutions of resettlement and local integration and in creating conditions favourable to and promoting voluntary repatriation, which, whenever appropriate and feasible, is the most desirable durable solution for refugee problems; such co-operation should also include fostering in public opinion a deeper understanding of the special needs of refugees and asylum-seekers;

(m) *Noted* with appreciation the work of the Sub-Committee of the Whole on International Protection which continued to fulfil an important function in defining and further developing standards for the treatment of refugees and asylum-seekers and in supporting the High Commissioner's action in the field of international protection.

**No. 30 (XXXIV) THE PROBLEM OF MANIFESTLY
UNFOUNDED OR ABUSIVE APPLICATIONS FOR
REFUGEE STATUS OR ASYLUM***

The Executive Committee,

(a) *Recalled* Conclusion No. 8 (XXVIII) adopted at its twenty-eighth session on the Determination of Refugee Status and Conclusion No. 15 (XXX) adopted at its thirtieth session concerning Refugees without an Asylum Country;

(b) *Recalled* Conclusion No. 28 (XXXIII) adopted at its thirty-third session in which the need for measures to meet the problem of manifestly unfounded or abusive applications for refugee status was recognized;

(c) *Noted* that applications for refugee status by persons who clearly have no valid claim to be considered refugees under the relevant criteria constitute a serious problem in a number of States parties to the 1951 Convention and the 1967 Protocol. Such applications are burdensome to the affected countries and detrimental to the interests of those applicants who have good grounds for requesting recognition as refugees;

(d) *Considered* that national procedures for the determination of refugee status may usefully include special provision for dealing in an expeditious manner with applications which are considered to be so obviously without foundation as not to merit full examination at every level of the procedure. Such applications have been termed either "clearly abusive" or "manifestly unfounded" and are to be defined as those which are clearly fraudulent or not related to the criteria for the granting of refugee status laid down in the 1951 United Nations Convention relating to the Status of Refugees nor to any other criteria justifying the granting of asylum;

(e) *Recognized* the substantive character of a decision that an application for refugee status is manifestly unfounded or abusive, the grave consequences of an erroneous determination for the applicant and the

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

resulting need for such a decision to be accompanied by appropriate procedural guarantees and therefore recommended that:

- (i) as in the case of all requests for the determination of refugee status or the grant of asylum, the applicant should be given a complete personal interview by a fully qualified official and, whenever possible, by an official of the authority competent to determine refugee status;
- (ii) the manifestly unfounded or abusive character of an application should be established by the authority normally competent to determine refugee status;
- (iii) an unsuccessful applicant should be enabled to have a negative decision reviewed before rejection at the frontier or forcible removal from the territory. Where arrangements for such a review do not exist, governments should give favourable consideration to their establishment. This review possibility can be more simplified than that available in the case of rejected applications which are not considered manifestly unfounded or abusive.

(f) *Recognized* that while measures to deal with manifestly un-founded or abusive applications may not resolve the wider problem of large numbers of applications for refugee status, both problems can be mitigated by overall arrangements for speeding up refugee status determination procedures, for example by:

- (i) allocating sufficient personnel and resources to refugee status determination bodies so as to enable them to accomplish their task expeditiously, and
- (ii) the introduction of measures that would reduce the time required for the completion of the appeals process.

**No. 31 (XXXIV) RESCUE OF ASYLUM-SEEKERS IN
DISTRESS AT SEA ***

The Executive Committee,

(a) *Noted* with concern that, according to available statistics as contained in document (EC/SCP/30), significantly fewer numbers of asylum-seekers in distress at sea are being rescued;

(b) *Welcomed* the initiatives undertaken by UNHCR to meet this grave problem by promoting measures to facilitate the rescue of asylum-seekers in distress at sea and expressed the hope that those initiatives would receive the widest possible support of governments;

(c) *Recommended* that States seriously consider supporting the efforts of UNHCR to promote the Rescue at Sea Resettlement Offers (RASRO) scheme, as described in document (EC/SCP/30), and providing the necessary quotas and other undertakings to enable UNHCR to initiate the scheme on a trial basis;

(d) *Welcomed* the support given by States to the DISERO scheme;

(e) *Commended* the initiatives undertaken by UNHCR in co-operation with the International Maritime Organization aimed at identifying joint action for facilitating the rescue of asylum-seekers in distress at sea.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

**No. 32 (XXXIV) MILITARY ATTACKS ON
REFUGEE CAMPS AND SETTLEMENTS IN
SOUTHERN AFRICA AND ELSEWHERE**

The Executive Committee,

(a) *Expressed* profound concern at the continuation of military or armed attacks on refugee camps and settlements which was causing untold suffering to refugees, including women and children and elderly persons;

(b) *Stressed* the utmost importance and urgency of responding to this grave humanitarian problem;

(c) *Took note* of the report of the Sub-Committee of the Whole on International Protection (A/AC.96/629) which includes a draft statement of principles on the Prohibition of Military and Armed Attacks on Refugee Camps and Settlements;

(d) *Noted* with regret that it had not been possible to reach a consensus on these principles in the time available;

(e) *Requested* the Chairman to continue his consultations in order to seek final agreement on these principles with the least possible delay.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 33 (XXXV) GENERAL

The Executive Committee,

(a) *Noted* that while progress had been achieved in the field of international protection since the Committee's thirty-fourth session, the exercise of the High Commissioner's international protection function had become increasingly complex and difficult due to changes in the nature and scope of refugee problems and the emergence of restrictive trends in different areas of the world;

(b) *Noted* that special international protection problems have arisen due to the changing character of refugee movements, expressed satisfaction at the steps taken by the High Commissioner to address these problems, and looked forward to any further initiatives which the High Commissioner might find it appropriate to take in this regard;

(c) *Noted* with concern that in different parts of the world the fundamental principle of *non-refoulement* had been violated;

(d) *Noted* with deep regret that restrictive practices were being followed with respect to the granting of asylum, the determination of refugee status and the treatment of asylum-seekers and refugees;

(e) *Noted* with particularly grave concern the continuing serious violations or disregard of the physical safety of refugees and asylum-seekers in various regions of the world, including military or armed attacks, acts of piracy and the failure to rescue asylum-seekers in distress at sea;

(f) *Expressed* satisfaction that despite these disquieting trends, States continue to grant asylum to large numbers of refugees and ensure that they

¹ Contained in United Nations General Assembly Document No. 12A (A/39/12/Add.1)

are treated in accordance with recognized international humanitarian standards;

(g) *Took note* of the discussions in the Sub-Committee of the Whole on International Protection concerning military and armed attacks on refugee camps and settlements and of the addendum to the report of the Sub-Committee's ninth meeting (A/AC.96/649/Add.1), and requested the Chairman to take appropriate action for the continuation of consultations regarding the prohibition of military or armed attacks on refugee camps and settlements and to report on the results of these consultations to the Executive Committee at its thirty-sixth Session;

(h) *Stressed* the importance of UNHCR's being granted access to asylum applicants and refugees in order to enable the Office to carry out its protection functions in an effective manner;

(i) *Welcomed* the additional accessions to the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees which had taken place since the Committee's thirty-fourth session and expressed the hope that further States – and in particular States confronted with large-scale refugee problems – would accede to these basic international refugee instruments in the near future, thereby strengthening the framework of international solidarity and burden-sharing of which these instruments are an essential part;

(j) *Expressed* satisfaction at the continuing efforts of the High Commissioner to promote a greater knowledge and understanding of international refugee law, and recognized the positive contribution made by the International Institute for Humanitarian Law in San Remo in this important area of the High Commissioner's activities;

(k) *Reiterated* the need for Governments to support the exercise of the High Commissioner's international protection function by granting asylum, by providing durable solutions and by fostering in the public opinion a deeper understanding of the special situation and needs of refugees and asylum-seekers.

**No. 34 (XXXV) PROBLEMS RELATED TO THE RESCUE OF
ASYLUM-SEEKERS IN DISTRESS AT SEA ***

The Executive Committee,

(a) *Noted* with concern that rescue of asylum-seekers in distress at sea has decreased significantly in 1983 and again in 1984;

(b) *Recalled* the Conclusion on the Rescue of Asylum-Seekers at Sea adopted by the Executive Committee at its thirty-fourth session recognizing the need for promoting measures for facilitating the rescue of asylum-seekers in distress at sea;

(c) *Welcomed* the actions taken by UNHCR to draw attention to the continued need to rescue asylum-seekers in distress at sea and expressed the hope that these actions would receive the widest possible support of Governments;

(d) *Strongly recommended* that the Rescue at Sea Resettlement Offers (RASRO) Scheme be implemented on a trial basis as soon as possible and that additional resettlement places be provided as a matter of urgency;

(e) *Recognized* the need for continued support for the DISERO (Disembarkation Resettlement Offers) Scheme and recommended that States renew their contributions to this scheme.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

No. 35 (XXXV) IDENTITY DOCUMENTS FOR REFUGEES*

The Executive Committee,

(a) *Recognized* the need for refugees to have documentation enabling them to establish their identity and noted that Article 27 of the 1951 United Nations Refugee Convention requires Contracting States to issue identity papers to any refugee in their territory who does not have a valid travel document;

(b) *Recalled* that in a conclusion adopted at its twenty-eighth session (A/32/12/Add.1, para. 53 (6)(e)) the Executive Committee recommended that recognized refugees should be issued documentation certifying their refugee status;

(c) *Noted* with approval the general practice of States to provide refugees with documents, in the form prescribed by their national legislation, enabling them to establish their identity and their refugee status, and recommended that States which have not yet done so should ensure that refugees are provided with such documentation;

(d) *Recommended* that asylum applicants whose applications cannot be decided without delay be provided with provisional documentation sufficient to ensure that they are protected against expulsion or refoulement until a decision has been taken by the competent authorities with regard to their application;

(e) *Noted* that in countries where there is no provision for the formal recognition of refugee status, it may be necessary for UNHCR, with the consent of the authorities of the asylum country, to certify that a person is considered a refugee within the UNHCR mandate; and

(f) *Recognized* the value of registering and issuing appropriate documentation to refugees in large-scale influx situations, and recommended that States which have not yet done so should undertake such registration and documentation programmes, where appropriate in cooperation with UNHCR.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 36 (XXXVI) GENERAL

The Executive Committee,

(a) *Recognized* the crucial importance of the High Commissioner's international protection function, the exercise of which had become increasingly difficult due to the growing complexity of present-day refugee problems;

(b) *Reiterated* that the High Commissioner's international protection function can only be effectively carried out with the full support of Governments; of particular importance is the provision of durable solutions by Governments in co-operation with the High Commissioner;

(c) *Noted* with satisfaction the progress achieved in the further development of international refugee law and the strengthening of internationally recognized standards for the treatment of refugees;

(d) *Welcomed* the fact that a large number of States had now acceded to the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol and expressed the hope that further States would accede to these instruments in the near future, thereby strengthening the framework of international solidarity and burden-sharing of which these instruments are an integral part;

(e) *Welcomed* the fact that one country has recently withdrawn the geographical limitation in respect of its obligations under the 1951 United Nations Refugee Convention and that the question of such withdrawal is being given favourable consideration by another country; recommended consideration of the withdrawal of the geographical limitation by those States which still maintain it;

¹ Contained in United Nations General Assembly Document No. 12A (A/40/12/Add.1)

1985 (Executive Committee—36th Session)

(f) *Noted* with serious concern that despite the development and further strengthening of established standards for the treatment of refugees, the basic rights of refugees in different areas of the world had continued to be disregarded and that in particular refugees are being exposed to pirate attacks, other acts of violence, military and armed attacks, arbitrary detention and refoulement;

(g) *Noted* that the General Assembly has adopted by consensus resolution 39/140 of which paragraph 3, inter alia, relates to military and armed attacks on refugee camps and settlements;

(h) *Stressed* the importance of the question of military and armed attacks on refugee camps and settlements being kept under constant review by the Executive Committee and requested the Chairman to continue consultations on this matter;

(i) *Welcomed* the fact that States in many parts of the world, including States confronted with economic and developmental difficulties, continue to grant asylum to large numbers of refugees;

(j) *Noted* with concern the growing phenomenon of refugees and asylum-seekers who, having found protection in one country, move in an irregular manner to another country and expressed the hope that the problem this represents can be mitigated through the adoption of global solutions in a spirit of international co-operation and burden-sharing, and requested the High Commissioner to continue consultations with a view to reaching agreement on this matter;

(k) *Welcomed* the convening by the High Commissioner in May 1985 of the Consultations on the Arrivals of Asylum-Seekers and Refugees in Europe;

(l) *Reaffirmed* the importance of creating a deeper understanding in the public mind of the special plight of refugees in order to facilitate the exercise of the High Commissioner's international protection function;

(m) *Reiterated* the importance of the Office's continued efforts to promote the development and strengthening of international refugee law, in particular through its cooperation with the International Institute of Humanitarian Law in San Remo.

**No. 37 (XXXVI) CENTRAL AMERICAN REFUGEES AND
THE CARTAGENA DECLARATION**

The Executive Committee,

(a) *Recognized* the complexity and gravity of the refugees situation in the Central American region which has recently received special attention;

(b) *Acknowledged* the provisions relating to refugees in the Contadora Act for Peace and Co-operation in Central America;

(c) *Noted* with interest the Cartagena Declaration, embodying the conclusions of the Colloquium on International Protection of Refugees in Central America, Mexico and Panama: Juridical and Humanitarian Problems, held in Cartagena, Colombia from 19 to 22 November 1984, under the auspices of the Government of the Republic of Colombia;

(d) *Welcomed* the use of regional approaches in resolving refugee problems of regional scope, as amply demonstrated by the Colloquium.

**No. 38 (XXXVI) RESCUE OF ASYLUM-SEEKERS
IN DISTRESS AT SEA***

The Executive Committee,

(a) *Reaffirmed* the fundamental obligation under international law for shipmasters to rescue all persons, including asylum-seekers, in distress at sea;

(b) *Recalled* the conclusions adopted by the Executive Committee at previous sessions recognizing the need to promote measures to facilitate the rescue of asylum-seekers in distress at sea [No. 20, No. 23, No. 26, No. 31, No. 34];

(c) *Expressed* satisfaction that the rescue of asylum-seekers in distress at sea has increased significantly in 1985 but at the same time expressed concern that many ships continued to ignore asylum-seekers in distress at sea;

(d) *Welcomed* the fact that the provision of an appropriate number of resettlement places had made it possible for the Rescue at Sea Resettlement Offers (RASRO) scheme to commence on a trial basis as from May 1985;

(e) *Welcomed* the wide-ranging initiatives undertaken by UNHCR to promote the rescue of asylum-seekers in distress at sea and the support given to these initiatives by States;

(f) *Strongly recommended* that States maintain their support of UNHCR action in this area and, in particular, that they:

- (i) join or renew contributions to the DISERO (Disembarkation Resettlement Offers) and to the RASRO (Rescue at Sea Resettlement Offers) schemes, or to either of them, as soon as possible;
- (ii) request ship owners to inform all shipmasters in the South China Sea of their responsibility to rescue all asylum-seekers in distress at sea.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

**No. 39 (XXXVI) REFUGEE WOMEN AND
INTERNATIONAL PROTECTION***

The Executive Committee,

(a) *Welcomed* the initiative of the Office in organizing the Round Table on Refugee Women in Geneva in April 1985;

(b) *Welcomed* further the recommendations regarding the situation of refugee and displaced women adopted by the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women held in Nairobi (Kenya) in July 1985;

(c) *Noted* that refugee women and girls constitute the majority of the world refugee population and that many of them are exposed to special problems in the international protection field;

(d) *Recognized* that these problems result from their vulnerable situation which frequently exposes them to physical violence, sexual abuse, and discrimination;

(e) *Stressed* the need for such problems to receive the urgent attention of Governments and of UNHCR and for all appropriate measures to be taken to guarantee that refugee women and girls are protected from violence or threats to their physical safety or exposure to sexual abuse or harassment;

(f) *Noted* with satisfaction the measures already undertaken by UNHCR to address the protection problems of refugee women and to ensure that they are adequately protected;

(g) *Called upon* States to continue to support UNHCR programmes established with a view to securing protection for refugee women, and UNHCR assistance programmes for refugee women, especially those aimed at helping refugee women become self-sufficient through educational and income-generating projects;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

(h) *Recommended* that States, individually, jointly and in co-operation with UNHCR, redefine and reorient existing programmes and, where necessary, establish new programmes to meet the specific problems of refugee women, in particular to ensure the safeguard of their physical integrity and safety, and their equality of treatment. Women refugees should participate in the formulation and implementation of such programmes;

(i) *Stressed* the importance of a more detailed knowledge and understanding of the special needs and problems of refugee women in the international protection field and of gathering statistical, sociological and other data concerning refugee women and girls in order to identify and implement appropriate mechanisms to ensure their effective protection;

(j) *Requested* the High Commissioner to report regularly to members of the Executive Committee on the needs of refugee women, and on existing and proposed programmes for their benefit;

(k) *Recognized* that States, in the exercise of their sovereignty, are free to adopt the interpretation that women asylum-seekers who face harsh or inhuman treatment due to their having transgressed the social mores of the society in which they live may be considered as a "particular social group" within the meaning of Article 1 A(2) of the 1951 United Nations Refugee Convention.

No. 40 (XXXVI) VOLUNTARY REPATRIATION*

The Executive Committee,

Reaffirming the significance of its 1980 conclusion on voluntary repatriation as reflecting basic principles of international law and practice, adopted the following further conclusions on this matter:

(a) The basic rights of persons to return voluntarily to the country of origin is reaffirmed and it is urged that international co-operation be aimed at achieving this solution and should be further developed;

(b) The repatriation of refugees should only take place at their freely expressed wish; the voluntary and individual character of repatriation of refugees and the need for it to be carried out under conditions of absolute safety, preferably to the place of residence of the refugee in his country of origin, should always be respected;

(c) The aspect of causes is critical to the issue of solution and international efforts should also be directed to the removal of the causes of refugee movements. Further attention should be given to the causes and prevention of such movements, including the co-ordination of efforts currently being pursued by the international community and in particular within the United Nations. An essential condition for the prevention of refugee flows is sufficient political will by the States directly concerned to address the causes which are at the origin of refugee movements;

(d) The responsibilities of States towards their nationals and the obligations of other States to promote voluntary repatriation must be upheld by the international community. International action in favour of voluntary repatriation, whether at the universal or regional level, should receive the full support and co-operation of all States directly concerned. Promotion of voluntary repatriation as a solution to refugee problems similarly requires the political will of States directly concerned to create conditions conducive to this solution. This is the primary responsibility of States;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

(e) The existing mandate of the High Commissioner is sufficient to allow him to promote voluntary repatriation by taking initiatives to this end, promoting dialogue between all the main parties, facilitating communication between them, and by acting as an intermediary or channel of communication. It is important that he establishes, whenever possible, contact with all the main parties and acquaints himself with their points of view. From the outset of a refugee situation, the High Commissioner should at all times keep the possibility of voluntary repatriation for all or for part of a group under active review and the High Commissioner, whenever he deems that the prevailing circumstances are appropriate, should actively pursue the promotion of this solution;

(f) The humanitarian concerns of the High Commissioner should be recognized and respected by all parties and he should receive full support in his efforts to carry out his humanitarian mandate in providing international protection to refugees and in seeking a solution to refugee problems;

(g) On all occasions the High Commissioner should be fully involved from the outset in assessing the feasibility and, thereafter, in both the planning and implementation stages of repatriation;

(h) The importance of spontaneous return to the country of origin is recognized and it is considered that action to promote organized voluntary repatriation should not create obstacles to the spontaneous return of refugees. Interested States should make all efforts, including the provision of assistance in the country of origin, to encourage this movement whenever it is deemed to be in the interests of the refugees concerned;

(i) When, in the opinion of the High Commissioner, a serious problem exists in the promotion of voluntary repatriation of a particular refugee group, he may consider for that particular problem the establishment of an informal ad hoc consultative group which would be appointed by him in consultation with the Chairman and the other members of the Bureau of his Executive Committee. Such a group may, if necessary, include States which are not members of the Executive Committee and should in principle include the countries directly concerned. The High Commissioner may also consider invoking the assistance of other competent United Nations organs;

(j) The practice of establishing tripartite commissions is well adapted to facilitate voluntary repatriation. The tripartite commission, which should consist of the countries of origin and of asylum and UNHCR, could concern itself with both the joint planning and the implementation of a repatriation

programme. It is also an effective means of securing consultations between the main parties concerned on any problems that might subsequently arise;

(k) International action to promote voluntary repatriation requires consideration of the situation within the country of origin as well as within the receiving country. Assistance for the reintegration of returnees provided by the international community in the country of origin is recognized as an important factor in promoting repatriation. To this end, UNHCR and other United Nations agencies as appropriate, should have funds readily available to assist returnees in the various stages of their integration and rehabilitation in their country of origin;

(l) The High Commissioner should be recognized as having a legitimate concern for the consequences of return, particularly where such return has been brought about as a result of an amnesty or other form of guarantee. The High Commissioner must be regarded as entitled to insist on his legitimate concern over the outcome of any return that he has assisted. Within the framework of close consultations with the State concerned, he should be given direct and unhindered access to returnees so that he is in a position to monitor fulfilment of the amnesties, guarantees or assurances on the basis of which the refugees have returned. This should be considered as inherent in his mandate;

(m) Consideration should be given to the further elaboration of an instrument reflecting all existing principles and guidelines relating to voluntary repatriation for acceptance by the international community as a whole.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 41 (XXXVII) GENERAL

The Executive Committee,

(a) *Recognized* that the exercise of the High Commissioner's international protection function had become increasingly complex due to the growing number and changing composition of current movements of refugees and asylum-seekers;

(b) *Recognized* that in view of the nature of contemporary refugee problems, the provision of solutions must be considered as an important aspect of the High Commissioner's international protection function;

(c) *Recognized* the importance for Governments to provide their full support in making available durable solutions for refugee problems, whenever possible in regions of origin, in order to facilitate the effective exercise of the High Commissioner's international protection function; noted with appreciation the efforts undertaken by the High Commissioner since the Executive Committee's thirty-sixth session to arrange for consultations between concerned Governments in order to deal with problems relating to specific refugee groups and, in particular, the problem raised by the movement of refugees and asylum-seekers from one region to another;

(d) *Reiterated* the crucial importance of voluntary repatriation as a solution to present-day refugee problems and welcomed the continuing efforts of the High Commissioner to promote voluntary repatriation taking into account Conclusions Nos. 18 and 40 adopted by the Executive Committee at its thirty-first and thirty-sixth sessions respectively;

(e) *Recognized* that the search for durable solutions includes the need to address the causes of movements of refugees and asylum-seekers from

¹ Contained in United Nations General Assembly Document No. 12A (A/41/12/Add.1)

countries of origin and the causes of onward movements from countries of first asylum;

(f) *Welcomed* the recent accessions of Equatorial Guinea, Tuvalu, Papua New Guinea and Venezuela, to the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees, thereby bringing to over 100 the number of States parties to these basic humanitarian instruments and welcomed the efforts of the Office to promote further accessions to these instruments to which it was hoped that all members of the United Nations would in due course become parties;

(g) *Reiterated* the importance of national legislative and/or administrative measures to ensure the effective implementation of the standards defined in applicable international refugee instruments and welcomed the efforts of the High Commissioner to promote the further adoption of such measures;

(h) *Reaffirmed* the importance of the Office's efforts to promote the development and strengthening of international refugee law through the organization or support of round tables, seminars and discussion groups in different areas of the world and to ensure that the principles of international refugee law are as widely disseminated as possible;

(i) *Recognized* the value of international instruments defining standards for the treatment of refugees at the regional level and noted with appreciation the progress achieved in this field through the efforts of the Arab League, the Asian-African Legal Consultative Committee, the Council of Europe, the Organization of African Unity, the Organization of American States, the Organization of the Islamic Conference;

(j) *Noted* with concern that in different areas of the world, the basic rights of refugees and asylum-seekers have been seriously violated and that refugees and asylum-seekers have been exposed to physical violence, acts of piracy and forcible return to their country of origin in disregard of the principle of *non-refoulement*;

(k) *Noted* with concern that since the Committee's thirty-sixth session refugee camps and settlements have continued to be the subject of military or armed attacks and expressed the hope that ongoing efforts to find a solution to this problem will lead to positive results in the near future;

(l) *Recalled* its Conclusion No. 39 on Refugee Women and International Protection and called upon the High Commissioner to continue to give due attention to the specific protection needs of refugee women and to continue to report to the Executive Committee on this matter;

(m) *Noted* that the situation of refugee children also required special consideration and called upon the High Commissioner to report regularly to the Executive Committee on the needs of refugee children, and on existing and proposed programmes for their benefit;

(n) *Recognized* the valuable contribution of the non-governmental organizations in supporting the High Commissioner's efforts in the field of international protection;

(o) *Noted* the importance of promoting a favourable climate of public opinion in order to facilitate the exercise of the High Commissioner's international protection function; stressed the necessity for the special situation and needs of refugees and asylum-seekers to be brought fully to the attention of the public; and welcomed UNHCR's efforts in this regard which should be fully supported by Governmental authorities and concerned nongovernmental organizations.

No. 42 (XXXVII) ACCESSION TO INTERNATIONAL INSTRUMENTS AND THEIR IMPLEMENTATION*

The Executive Committee,

(a) *Recalled* that in numerous earlier conclusions the Executive Committee had appealed to States to accede to the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees and that similar appeals had also been addressed to Governments in various resolutions of the United Nations General Assembly;

(b) *Noted* with satisfaction that more than 100 States had now become parties to the 1951 Convention and/or the 1967 Protocol;

(c) *Recognized* that these instruments incorporate fundamental principles of refugee law including the principle of *non-refoulement* and lay down minimum standards for the treatment of refugees and thus constitute the corner-stone of international protection;

(d) *Stressed* that accession to the 1951 Convention and the 1967 Protocol implies a commitment to and a reinforcement of the fundamental principles which these instruments embody, underlines the importance attached by each acceding State to international efforts to solve refugee problems and reflects the universal character that the refugee problem has now assumed;

(e) *Recognized* that widespread accession to these instruments reaffirms their universal applicability and serves to reinforce the international legal framework for the protection of refugees and thereby facilitates the exercise of the High Commissioner's international protection function;

(f) *Called* on States not having acceded to the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees to accede to these instruments;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

(g) *Recommended* consideration of the withdrawal of the geographical limitation and reservations to these instruments by those States which still maintain them;

(h) *Recalled* that the 1951 Convention and the 1967 Protocol are complemented by various international instruments of relevance to refugees adopted at the universal level as well as by a number of standard setting instruments adopted at the regional level and called upon States to consider acceding to such additional universal instruments and to such other instruments as are applicable to their region;

(i) *Noted* that accession to the various international refugee instruments, whether of a universal or regional character, is now of utmost importance in view of the magnitude and the seriousness of the contemporary refugee problem and requested the High Commissioner to continue his efforts at the highest level to promote further accession to the international refugee instruments;

(j) *Recommended* to States which have not yet done so, to consider adopting appropriate legislative and/or administrative measures for the effective implementation of the international refugee instruments, making the necessary distinction between refugees and other aliens.

**No. 43 (XXXVII) GENEVA DECLARATION ON THE 1951
UNITED NATIONS CONVENTION AND THE 1967
PROTOCOL RELATING TO THE STATUS OF REFUGEES***

Whereas serious and large-scale refugee problems continue to exist in many regions of the world;

Whereas accession to the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees is of importance in strengthening the legal situation of refugees and in facilitating the exercise by the High Commissioner of his international protection function;

Whereas accession to these basic humanitarian instruments defining the legal status of refugees by a large number of States in different regions of the world reflects the fundamental importance, often recalled in resolutions of the General Assembly, of the principles they contain and assists in establishing their universal applicability;

Whereas recent accessions to the Convention and the Protocol have brought the number of States parties to these instruments to one hundred and one;

Now therefore,

The *Executive Committee*, recalling the need for universal accession to these instruments,

1. *Solemnly* calls upon States that have not yet become parties to these basic humanitarian instruments to accede to them so that they can acquire a truly universal character;

2. *Expresses* the hope that by the 40th anniversary of the adoption of the 1951 Convention relating to the Status of Refugees all Member States of the United Nations will have acceded to these instruments;

* DECLARATION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

3. *Stresses* that, in addition to accession, effective application of the principles and provisions of the 1951 Convention and the 1967 Protocol are of the utmost importance;

4. *Calls* upon the Chairman and Member States of the Executive Committee to assist the High Commissioner in his efforts to promote further accessions to the 1951 Convention and the 1967 Protocol.

**No. 44 (XXXVII) DETENTION OF REFUGEES
AND ASYLUM-SEEKERS**

The Executive Committee,

Recalling Article 31 of the 1951 Convention relating to the Status of Refugees.

Recalling further its Conclusion No. 22 (XXXII) on the treatment of asylum-seekers in situations of large-scale influx, as well as Conclusion No. 7 (XXVIII), paragraph (e), on the question of custody or detention in relation to the expulsion of refugees lawfully in a country, and Conclusion No. 8 (XXVIII), paragraph (e), on the determination of refugee status.

Noting that the term "refugee" in the present Conclusions has the same meaning as that in the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, and is without prejudice to wider definitions applicable in different regions.

(a) *Noted* with deep concern that large numbers of refugees and asylum-seekers in different areas of the world are currently the subject of detention or similar restrictive measures by reason of their illegal entry or presence in search of asylum, pending resolution of their situation;

(b) *Expressed* the opinion that in view of the hardship which it involves, detention should normally be avoided. If necessary, detention may be resorted to only on grounds prescribed by law to verify identity; to determine the elements on which the claim to refugee status or asylum is based; to deal with cases where refugees or asylum-seekers have destroyed their travel and/or identity documents or have used fraudulent documents in order to mislead the authorities of the State in which they intend to claim asylum; or to protect national security or public order;

(c) *Recognized* the importance of fair and expeditious procedures for determining refugee status or granting asylum in protecting refugees and asylum-seekers from unjustified or unduly prolonged detention;

(d) *Stressed* the importance for national legislation and/or administrative practice to make the necessary distinction between the situation of refugees and asylum-seekers, and that of other aliens;

(e) *Recommended* that detention measures taken in respect of refugees and asylum-seekers should be subject to judicial or administrative review;

(f) *Stressed* that conditions of detention of refugees and asylum-seekers must be humane. In particular, refugees and asylum-seekers shall, whenever possible, not be accommodated with persons detained as common criminals, and shall not be located in areas where their physical safety is endangered;

(g) *Recommended* that refugees and asylum-seekers who are detained be provided with the opportunity to contact the Office of the United Nations High Commissioner for Refugees or, in the absence of such office, available national refugee assistance agencies;

(h) *Reaffirmed* that refugees and asylum-seekers have duties to the country in which they find themselves, which require in particular that they conform to its laws and regulations as well as to measures taken for the maintenance of public order;

(i) *Reaffirmed* the fundamental importance of the observance of the principle of *non-refoulement* and in this context recalled the relevance of Conclusion No. 6 (XXVIII).

**No. 45 (XXXVII) MILITARY AND ARMED ATTACKS ON
REFUGEE CAMPS AND SETTLEMENTS***

The Executive Committee,

Recalling the continuous efforts undertaken by the Executive Committee to draft a set of principles or conclusions on the subject of military and armed attacks on refugee camps and settlements;

Commending the Chairman of the Executive Committee and the High Commissioner for their efforts to promote agreement on a draft set of conclusions on this subject;

Regretting that after so much debate it has not been able to arrive at a common position;

Noting that the General Assembly had by consensus adopted resolution 39/140, of which paragraph 3, inter alia, relates to military and armed attacks on refugee camps and settlements;

Gravely concerned that despite the development and further strengthening of established standards for the treatment of refugees, the basic rights of refugees in different areas of the world have continued to be disregarded as evidenced, in particular, by the large number of victims and material damage occasioned by the various military and armed attacks on refugee camps and settlements which continue to occur;

(a) *Stressed* the urgency and importance of the question of military and armed attacks on refugee camps and settlements being kept under constant review by the Executive Committee with a view to reaching agreement on a set of principles or conclusions in order to reinforce the international protection of refugees; and

(b) *Requested* the Chairman and the High Commissioner to continue consultations on this matter, review developments and submit detailed

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reports in accordance with their respective mandates on the various aspects of the subject to the thirty-eighth session of the Executive Committee.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE ON
INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 46 (XXXVIII) GENERAL

The Executive Committee,

(a) *Recognized* that the increasing complexity of the present day refugee problems throughout the world underlines the fundamental importance of the High Commissioner's protection function, his primary task;

(b) *Recognized* that the changing nature and elements of the contemporary refugee problem required greater understanding on the part of the international community of the special needs and circumstances of asylum-seekers and refugees and the full support of all States for the efforts of the High Commissioner on their behalf;

(c) *Noted* with particular concern the continued violation of the principle of *non-refoulement* in various parts of the world;

(d) *Noted* with serious concern the deteriorating situation of refugees and asylum-seekers in southern Africa;

(e) *Expressed* concern about the lack of adequate international protection for various groups of refugees in different parts of the world, including a large number of Palestinians, and hoped that efforts would be undertaken within the United Nations system to address their protection needs;

(f) *Reiterated* the High Commissioner's leading role in respect of the protection of refugees and called on him in particular to continue to take, alone or in co-operation with concerned States and agencies, all possible measures to ensure their physical security, inter alia, with respect to physical violence, piracy, military and armed attacks, and arbitrary detention;

¹ Contained in United Nations General Assembly Document No. 12A (A/42/12/Add.1)

(g) *Took* into account that refugee women have special protection and assistance needs as well as special resources which can be utilized for the benefit of all refugees, reiterated the need to give particular attention to their situation with a view to improving existing protection and assistance programmes and called on all States and concerned agencies to support the High Commissioner's efforts in this regard;

(h) *Recognized* the need to collect reliable information and statistics about refugee women, to increase awareness about their situation and to incorporate information about their needs in the Office's training programmes and called upon the High Commissioner to report in detail at the thirty-ninth session of the Executive Committee on the particular protection and assistance problems and needs of refugee women and on the concrete measures taken to meet them;

(i) *Noted* with concern the growing phenomenon of refugees and asylum-seekers who, having found protection in one country, move in an irregular manner to another country and called upon the High Commissioner to implement paragraph (j) of Conclusion 36(XXXVI);

(j) *Called* upon States that have adopted a number of measures aimed at discouraging abusive use of asylum procedures to ensure that these measures have no detrimental effect on the fundamental principles of international protection, including on the institution of asylum;

(k) *Stressed* the close link between durable solutions and root causes and called upon the international community to do its utmost to address the causes of movements of refugees and asylum-seekers from countries of origin as well as from countries of first asylum;

(l) *Reaffirmed* the importance of voluntary repatriation as the most desirable durable solution, particularly in the context of many of today's mass-influx situations, emphasized the need for States to respect the fundamental principles that must always guide action in this area and called upon the High Commissioner and States to continue their efforts in achieving this solution whenever appropriate;

(m) *Called* for the strengthening of the Office's international protection function, both in Headquarters and in the field, in particular through increased co-ordination between the Division of Refugee Law and Doctrine and the Regional Bureaus, and through enhanced training for UNHCR staff in discharging the Office's protection function;

(n) *Recognized* that international protection is best achieved through an integrated and global approach to protection, assistance, and durable solutions, and invited the High Commissioner to develop further his efforts in this regard, including the collection of statistics on refugee populations, with the co-operation of States concerned;

(o) *Reiterated* the importance of promoting a wider knowledge and understanding of refugee law and noted with satisfaction the efforts of the Office in this regard, in particular the training programmes instituted for UNHCR staff as well as government officials;

(p) *Noted* with satisfaction that despite difficulties connected with the continued influx of refugees and asylum-seekers into their territories, States have, by and large, respected the internationally recognized standards for their treatment;

(q) *Welcomed* the further accessions by States to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, and requested the High Commissioner to continue his efforts to promote accessions to these and other relevant instruments, in particular by States confronted with large-scale refugee problems;

(r) *Welcomed* the recent adoption by a number of States of national administrative and legislative measures to implement effectively the provisions of the international refugee instruments, including the establishment of appropriate procedures for the determination of refugee status;

(s) *Noted* with renewed appreciation the contribution of nongovernmental organizations in actively supporting the High Commissioner's efforts in the field of international protection;

(t) *Emphasized* the need for all concerned, including States, intergovernmental, national and non-governmental organizations, to sensitize public opinion to the special circumstances and needs of refugees and asylum-seekers to help generate a feeling of empathy and respect for refugees with a view to developing a more positive attitude towards them.

No. 47 (XXXVIII) REFUGEE CHILDREN*

The Executive Committee,

(a) *Expressed* appreciation to the High Commissioner for his Report on Refugee Children (EC/SCP/46) and noted with serious concern the violations of their human rights in different areas of the world and their special needs and vulnerability within the broader refugee population;

(b) *Recognized* that refugee children constitute approximately one half of the world's refugee population and that the situation in which they live often gives rise to special protection and assistance problems as well as to problems in the area of durable solutions;

(c) *Reiterated* the widely-recognized principle that children must be among the first to receive protection and assistance;

(d) *Stressed* that all action taken on behalf of refugee children must be guided by the principle of the best interests of the child as well as by the principle of family unity;

(e) *Condemned* the exposure of refugee children to physical violence and other violations of their basic rights, including through sexual abuse, trade in children, acts of piracy, military or armed attacks, forced recruitment, political exploitation or arbitrary detention, and called for national and international action to prevent such violations and assist the victims;

(f) *Urged* States to take appropriate measures to register the births of refugee children born in countries of asylum;

(g) *Expressed* its concern over the increasing number of cases of statelessness among refugee children;

(h) *Recommended* that children who are accompanied by their parents should be treated as refugees if either of the parents is determined to be a refugee;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

(i) *Underlined* the special situation of unaccompanied children and children separated from their parents, who are in the care of other families, including their needs as regards determination of their status, provision for their physical and emotional support and efforts to trace parents or relatives; and in this connection, recalled the relevant paragraphs of Conclusion No. 24 (XXXII) on Family Reunification;

(j) *Called* upon the High Commissioner to ensure that individual assessments are conducted and adequate social histories prepared for unaccompanied children and children separated from their parents, who are in the care of other families, to facilitate provision for their immediate needs, the analysis of the long term as well as immediate viability of existing foster arrangements, and the planning and implementation of appropriate durable solutions;

(k) *Noted* that while the best durable solution for an unaccompanied refugee child will depend on the particular circumstances of the case, the possibility of voluntary repatriation should at all times be kept under review, keeping in mind the best interests of the child and the possible difficulties of determining the voluntary character of repatriation;

(l) *Stressed* the need for internationally and nationally supported programmes geared to preventive action, special assistance and rehabilitation for disabled refugee children and encouraged States to participate in the "Twenty or More" Plan providing for the resettlement of disabled refugee children;

(m) *Noted* with serious concern the detrimental effects that extended stays in camps have on the development of refugee children and called for international action to mitigate such effects and provide durable solutions as soon as possible;

(n) *Recognized* the importance of meeting the special psychological, religious, cultural and recreational needs of refugee children in order to ensure their emotional stability and development;

(o) *Reaffirmed* the fundamental right of refugee children to education and called upon all States, individually and collectively, to intensify their efforts, in co-operation with the High Commissioner, to ensure that all refugee children benefit from primary education of a satisfactory quality, that respects their cultural identity and is oriented towards an understanding of the country of asylum;

(p) *Recognized* the need of refugee children to pursue further levels of education and recommended that the High Commissioner consider the provision of post-primary education within the general programme of assistance;

(q) *Called* upon all States, in co-operation with UNHCR and concerned agencies, to develop and/or support programmes to address nutritional and health risks faced by refugee children, including programmes to ensure an adequate, well-balanced and safe diet, general immunization and primary health care;

(r) *Recommended* regular and timely assessment and review of the needs of refugee children, either on an individual basis or through sample surveys, prepared in co-operation with the country of asylum, taking into account all relevant factors such as age, sex, personality, family, religion, social and cultural background and the situation of the local population, and benefiting from the active involvement of the refugee community itself;

(s) *Reaffirmed* the need to promote continuing and expanded co-operation between UNHCR and other concerned agencies and bodies active in the fields of assistance to refugee children and protection, including through the development of legal and social standards;

(t) *Noted* the importance of further study of the needs of refugee children by UNHCR, other intergovernmental and non-governmental agencies and national authorities, with a view to identification of additional support programmes and reorientation as necessary of existing ones;

(u) *Called* upon the High Commissioner to develop further, in consultation with concerned organizations, guidelines to promote cooperation between UNHCR and these organizations to improve the international protection, physical security, well-being and normal psychosocial development of refugee children;

(v) *Called* upon the High Commissioner to maintain the UNHCR Working Group on Refugee Children at Risk as his focal point on refugee children, to strengthen the Working Group and to inform the members of the Executive Committee, on a regular basis, of its work.

**No. 48 (XXXVIII) MILITARY OR ARMED ATTACKS ON
REFUGEE CAMPS AND SETTLEMENTS***

The Executive Committee,

Remained gravely preoccupied with the continuing incidence of unlawful attacks on refugees and asylum-seekers in different areas of the world, including military or armed attacks on refugee camps and settlements and, in view of the tragic and indiscriminate consequences of these attacks, resulting in untold human misery for the refugees and asylum-seekers, believed it was necessary and timely at this session to express its humanitarian concern and condemnation in the strongest terms;

Noted with appreciation those Resolutions of the General Assembly of the United Nations, adopted by consensus, in particular General Assembly Resolution 39/140 (1984), which condemned all violations of the rights and safety of refugees and asylum-seekers, in particular those perpetrated by military or armed attacks against refugee camps and settlements;

Predicating this Conclusion on the assumption, inter alia, that refugee camps and settlements have an exclusively civilian and humanitarian character and on the principle that the grant of asylum or refuge is a peaceful and humanitarian act that is not to be regarded as unfriendly by another State; hoping to assist in guaranteeing the safety of refugees and asylum-seekers, as well as to reinforce their rights, obligations and responsibilities and those of States and international organizations pursuant to relevant rules and principles of international law; and underlining that the rights and responsibilities of States pursuant to the Charter of the United Nations and relevant rules and principles of international law, including international humanitarian law, remained unaltered;

1. *Condemns* all violations of the rights and safety of refugees and asylum-seekers and in particular military or armed attacks on refugee camps and settlements.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

2. *Strongly* urges States to abstain from these violations, which are against the principles of international law and, therefore, cannot be justified.

3. *Calls* upon States and competent international organizations, in accordance with the principle of international solidarity and in order to alleviate the burden of the country of refuge, to provide, according to their means, all necessary assistance to relieve the plight of the victims of such military and armed attacks on refugee camps and settlements if ever they occur.

4. *Urges* States and other parties to be guided by the following considerations in promoting measures to enhance the protection of refugee camps and settlements;

(a) *Refugees* in camps and settlements have, together with the basic rights they enjoy, duties deriving from the refuge and protection granted or afforded to them by the country of refuge. In particular, they have duties to conform to the laws and regulations of the State of refuge including lawful measures taken for the maintenance of public order and to abstain from any activity likely to detract from the exclusively civilian and humanitarian character of the camps and settlements.

(b) *It* is essential that States of refuge do all within their capacity to ensure that the civilian and humanitarian character of such camps and settlements is maintained. All other States are called upon to assist them in this regard. To this end relevant organs of the United Nations, within their respective terms of reference, are also called upon to co-operate with all States in providing assistance whenever necessary.

(c) *UNHCR* and other concerned organs of the United Nations should make every effort, within their respective terms of reference and in keeping with the principles of the United Nations Charter, to promote conditions which ensure the safety of refugees in camps and settlements. For UNHCR this may include maintaining close contact with the Secretary-General of the United Nations and providing liaison, as appropriate, with all the parties concerned. It may also involve making appropriate arrangements with States of refuge on methods of protecting such refugee camps and settlements including, whenever possible, their location at a reasonable distance from the frontier of the country of origin.

(d) *States* have a duty to co-operate with the High Commissioner in the performance of his humanitarian protection and assistance functions, which can only be effectively accomplished if he has access to camps and settlements of his concern.

No. 49 (XXXVIII) TRAVEL DOCUMENTS FOR REFUGEES*

The Executive Committee,

Reaffirming the importance of the issue of travel documents to refugees for temporary travel outside their country of residence and for resettlement in other countries;

Recalling its Conclusion No. 13 (XXIX) on Travel Documents for Refugees;

Recalling further Article 28 of the 1951 United Nations Convention relating to the Status of Refugees and the Schedule and Annex thereto;

(a) *Welcomed* the Note of the High Commissioner on follow-up to the earlier Conclusion of the Executive Committee on Travel Documents for Refugees (EC/SCP/48);

(b) *Expressed* satisfaction that the great majority of States parties to the 1951 U.N. Convention and/or the 1967 Protocol follow or sometimes exceed the above-mentioned provisions of the 1951 U.N. Convention and Conclusion No. 13 (XXIX) concerning the issue of travel documents to refugees;

(c) *Noted*, however, that in some countries problems concerning Convention Travel Documents continue to exist as regards arrangements for their issue, their geographical and temporal validity, the return clause, their extension or renewal, the transfer of responsibility for their issue and the obtaining of visas;

(d) *Urged* all States parties to the 1951 U.N. Convention and/or the 1967 Protocol which have not yet done so to take appropriate legislative or administrative measures to implement effectively the provisions of these instruments concerning the issue of Convention Travel Documents (Article 28, Schedule, Annex), including the giving of clear instructions to national

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

authorities competent to issue, renew and extend travel documents and grant visas to holders of Convention Travel Documents;

(e) *Urged* all States not parties to the 1951 U.N. Convention and/or the 1967 Protocol which have not yet done so to take appropriate legislative or administrative measures to ensure that refugees are issued with appropriate travel documents under conditions as similar as possible to those attaching to the Convention Travel Documents;

(f) *Expressed* appreciation for the various types of assistance the High Commissioner provides Governments with respect to the issue of travel documents for refugees and requested him to continue his efforts in this regard, in particular by examining the possibility of modernizing the format of Convention Travel Documents.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 50 (XXXIX) GENERAL

The Executive Committee,

(a) *Reiterated* the primordial nature and fundamental importance of the High Commissioner's protection responsibilities;

(b) *Noted* the direct relationship between the observance of human rights standards, refugee movements and problems of protection;

(c) *Stressed* that States must continue to be guided, in their treatment of refugees, by existing international law and humanitarian principles and practice bearing in mind the moral dimension of providing refugee protection;

(d) *Emphasized* the cardinal importance of dealing with the underlying causes of refugee movements, not only to avert new flows of refugees, but also to facilitate resolution of existing problems;

(e) *Noted* the close nexus between international refugee protection and durable solutions and called upon the High Commissioner to continue his efforts to provide international protection through voluntary repatriation, local integration in countries of first asylum or resettlement in third countries;

(f) *Expressed* concern about the lack of adequate international protection for various groups of refugees in different parts of the world, including a large number of Palestinians, and hoped that efforts would continue within the United Nations system to address their protection needs;

(g) *Recalled* its Conclusions No. 6 (XXVIII) and 7 (XXVIII) respectively on *non-refoulement* and expulsion and expressed deep concern

¹ Contained in United Nations General Assembly Document No. 12A (A/43/12/Add.1)

that the fundamental prohibitions against expulsion and refoulement are often violated by a number of States and appealed to all States to abide by their international obligations in this regard and to cease such practices immediately;

(h) *Reaffirmed*, in the context of the continuing violations of the rights and safety of refugees and asylum-seekers in different areas of the world, its Conclusion No. 48 (XXXVIII) adopted at the thirty-eighth session of the Executive Committee;

(i) *Called upon* States, the High Commissioner and other concerned parties to take all necessary measures to ensure that refugees are protected from arbitrary detention and violence;

(j) *Recognized* that the enhancement of basic economic and social rights, including gainful employment, is essential to the achievement of self-sufficiency and family security for refugees and is vital to the process of re-establishing the dignity of the human person and of realizing durable solutions to refugee problems;

(k) *Encouraged* all States hosting refugees to consider ways in which refugee employment in their countries might be facilitated and to examine their laws and practices, with a view to identifying and to removing, to the extent possible, existing obstacles to refugee employment;

(l) *Noted* the close connection between the problems of refugees and of stateless persons and invited States actively to explore and promote measures favourable to stateless persons, including accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, as well as the adoption of legislation to protect the basic rights of stateless persons and to eliminate sources of statelessness;

(m) *Emphasized* the need, in the context of improving the general protection of refugees, for increased public awareness and information activities, bearing in mind the particular requirements of each country concerned and the valuable contribution which nongovernmental organisations are able to make in this, as in other, areas of refugee protection;

(n) *Noted* with concern the growing phenomenon of refugees and asylum-seekers who, having found protection in one country, move in an irregular manner to another country and called upon the High Commissioner to implement paragraph (j) of Conclusion 36 (XXXVI).

**No. 51 (XXXIX) PROMOTION AND DISSEMINATION
OF REFUGEE LAW***

The Executive Committee,

Reaffirming that the promotion and dissemination of refugee law is one of the fundamental responsibilities of the Office of the United Nations High Commissioner for Refugees and is directly related to the effective international protection of refugees;

Recalling Conclusion No. 42 (XXXVII) on Accession to International Instruments and their Implementation and Conclusion No. 43 (XXXVII) being the Geneva Declaration on the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees adopted at its thirty-seventh session;

1. *Reiterated* the need for promoting a wider knowledge and understanding of the principles of refugee law and protection and for intensified activities by UNHCR in the area of the promotion and dissemination of refugee law subject to the availability of sufficient resources for this purpose and with the active co-operation and support of States.

2. *Called upon* all States which have not yet done so to accede to the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees and, if applicable, to the 1969 Organization of African Unity (OAU) Convention governing the specific aspects of refugee problems in Africa in order to ensure the widest possible application of the basic principles of refugee law.

3. *Welcomed* the various initiatives undertaken by the High Commissioner in regard to the dissemination of refugee law including through publications and the various information services offered by the Centre for Documentation on Refugees as well as through cooperation with non-governmental organizations (NGOs) who play an indispensable role in the promotion of refugee law.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

4. *Underlined* the need to develop practical applications of refugee law and principles and the importance of training courses in refugee law and protection to be undertaken or facilitated by UNHCR for governmental and other officials involved in refugee activities and urged States to initiate or collaborate in the organization and implementation of such courses as well as to undertake similar promotional activities to benefit other interested target groups.

5. *Requested* UNHCR to provide information to the Executive Committee on specific promotional activities worldwide including their financial implications on a regional basis.

**No. 52 (XXXIX) INTERNATIONAL SOLIDARITY AND
REFUGEE PROTECTION***

The Executive Committee,

Remaining deeply concerned about the gravity and complexity of refugee problems throughout the world, the serious violations of human rights which accompany them and the dislocation and distress they cause for the millions of individuals involved;

Reaffirming that refugee problems are the concern of the international community and their resolution is dependent on the will and capacity of States to respond in concert and wholeheartedly, in a spirit of true humanitarianism and international solidarity;

Noting that States have obligations or responsibilities to accord protection and a basic standard of treatment to refugees and that these must be performed in good faith;

Noting also that the Office of the United Nations High Commissioner for Refugees was created in the context of an urgent need to provide protection to refugees and that it is this protection function which uniquely characterizes the Office;

1. *Underlined* that States, which have defined the protection role of the Office, have a responsibility to co-operate with it in the fulfilment of its mandate on the basis of the fundamental humanitarian principles which motivate its work;

2. *Noted* that States and UNHCR are joined in the common pursuit of solutions for refugee problems and the international protection of the fundamental rights of refugees;

3. *Stressed* that the principle of international solidarity has a fundamental role to play in encouraging a humanitarian approach to the grant

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

of asylum and in the effective implementation of international protection in general;

4. *Recalled* that, in all circumstances, the respect for fundamental humanitarian principles is an obligation for all members of the international community, it being understood that the principle of international solidarity is of utmost importance to the satisfactory implementation of these principles;

5. *Invited* all States to continue actively to support the protection functions of the High Commissioner through all appropriate means, both bilateral and multilateral, as well as to abide by their own humanitarian responsibilities towards refugees, including, particularly, to safeguard the right to seek and enjoy asylum from persecution and to ensure full respect for the principle of *non-refoulement*.

No. 53 (XXXIX) STOWAWAY ASYLUM-SEEKERS*

The Executive Committee,

Recognizing that stowaway asylum-seekers often find themselves in a particularly vulnerable situation in need of international protection and durable solutions;

Recalling its Conclusion No. 15 (XXX) on Refugees without an Asylum Country adopted at the thirtieth session of the Executive Committee;

Reaffirming the necessity of giving proper attention to the needs of stowaway asylum-seekers including arranging for their disembarkation, determining their refugee status and, whenever required, providing them with a durable solution;

Noting that there are at present no general and internationally recognized rules dealing specifically with stowaway asylum-seekers and at the same time recognizing that asylum-seekers should be given the special consideration that their situation demands;

Recommended that States and UNHCR take into account the following guidelines when dealing with actual cases of stowaway asylum-seekers:

1. Like other asylum-seekers, stowaway asylum-seekers must be protected against forcible return to their country of origin.
2. Without prejudice to any responsibilities of the flag State, stowaway asylum-seekers should, whenever possible, be allowed to disembark at the first port of call and given the opportunity of having their refugee status determined by the authorities, provided that this does not necessarily imply durable solution in the country of the port of disembarkation.
3. Normally UNHCR would be requested to assist in finding a durable solution for those found to be refugees, based on all relevant aspects of the case.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

No 54 (XXXIX) REFUGEE WOMEN

The Executive Committee,

Expressed appreciation for the Note on Refugee Women (A/AC.96/XXXIX/CRP.1), particularly its emphasis on the interdependence of the problems and special needs of refugee women in regard to assistance, protection and durable solutions;

Recognized that with regard to international protection, there are situations in which refugee women face particular hazards, especially threats to their physical safety and sexual exploitation;

Called for the reinforcement of the preventive measures initiated by the Office and concerned agencies to enhance the physical security of refugee women;

Called on host Governments to strengthen their support of the Office's protection activities as they relate to women, and for relevant Governments to support the Special Resettlement Programme for Women-at-risk;

Supported the High Commissioner's recognition of refugee women as a vital economic force and of the need to promote their participation as agents as well as beneficiaries in the planning of protection and assistance programmes;

Requested the High Commissioner to introduce further effective measures towards the integration of women's issues within the programme-planning cycle at all stages, in particular: check lists within technical sector guidelines, gender issues in the Executive Committee country chapters, detailed reference in the UNHCR Programme Manual. Also requested that all project documents submitted for funding purposes include a paragraph on its impact on the problems and special needs of refugee women and that the periodic narrative reports refer to this aspect as well;

Stressed the ongoing need for an active senior level Steering Committee to co-ordinate, integrate and oversee the process throughout UNHCR;

Urged the High Commissioner to explore and build upon the experience obtained by other United Nations organizations, donor community and NGOs, and adapt this information to UNHCR's specific orientation;

Encouraged the High Commissioner in his public information activities on refugee women and called upon him to expand this area in the future;

Encouraged the High Commissioner to develop training modules to be offered to UNHCR staff and implementing partners to increase their awareness of the specific needs of refugee women and practical means of addressing these needs;

Requested the High Commissioner to provide, at the fortieth session of the Executive Committee, a detailed progress report on the implementation of the Office's policies and programmes for refugee women, including an evaluation of the effectiveness of the UNHCR internal guidelines relating to the international protection of refugee women;

Called upon host countries, the donor community and NGOs to actively support the High Commissioner in the implementation of this programme.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 55 (XL) GENERAL

The Executive Committee,

a) *Reiterated* the primary nature and fundamental importance of the High Commissioner's protection responsibilities;

b) *Expressed* deep concern about UNHCR's present financial situation and, in this context, called on UNHCR as well as States, governmental and non-governmental organizations and the international community at large to continue to give the necessary priority to protection activities and to work to ensure their efficiency and effectiveness;

c) *Recognized* that the safety and physical integrity of refugees depend on respect for the basic protection principles and urged States to continue to admit and receive refugees, pending identification of their status and of an appropriate solution to their plight;

d) *Expressed* deep concern that refugee protection is seriously jeopardized in some States by expulsion and **refoulement** of refugees or by measures which do not recognize the special situation of refugees and called on all States to refrain from taking such measures and in particular from returning or expelling refugees contrary to fundamental prohibitions against these practices;

e) *Noted* with concern that applications for refugee status by persons who clearly have no valid claim to be considered as refugees under the relevant criteria continue to constitute a serious problem in a number of States and may be detrimental to the interests of those applicants who have good grounds for requesting recognition as refugees;

¹ Contained in United Nations General Assembly Document No. 12A (A/44/12/Add.1)

f) *Emphasized* in this context the importance of quick and effective status determination procedures in accordance with internationally accepted criteria and appropriate legal guarantees;

g) *Noted* with deep concern that large numbers of refugees and asylum-seekers in different areas of the world are currently the subject of detention or similar restrictive measures by reason of their illegal entry or presence in search of asylum, pending resolution of their situation and reiterated its Conclusion No. 44 (XXXVII) which circumscribes the grounds for detention of such persons;

h) *Expressed* strong concern about serious violations of the rights and security of refugees and asylum-seekers in different parts of the world including through forced recruitment of refugees into armed forces;

i) *Reiterated* its Conclusion No. 48 (XXXVIII) concerning military or armed attacks on refugee camps and settlements and urged all parties concerned to respect the guidelines, including on UNHCR access, contained therein;

j) *Expressed* concern about the lack of adequate international protection for various groups of refugees in different parts of the world, including a large number of Palestinians, and hoped that efforts would continue within the United Nations system to address their protection needs;

k) *Expressed* the strong hope that, consistent with international practice, States will ensure that their extradition legislation or arrangements maintain the protections or exemptions necessary to safeguard the basic rights of refugees;

l) *Noted* with satisfaction that large numbers of refugees had found a durable solution to their problem by availing themselves of voluntary repatriation and recalled in this context the relevance of Conclusion No. 40 (XXXVI) on Voluntary Repatriation;

m) *Underlined* that resettlement is not only a possible solution for some refugees, but is also an urgent protection measure in the individual case, welcomed the fact that several African States provide such resettlement opportunities, and invited all states to make places speedily available to respond to urgent or emergency protection situations facing individual refugees;

n) *Noted* the accomplishments of the Office in the promotion and dissemination of refugee law, including particularly the organization of protection training courses for government and other concerned officials, and urged the High Commissioner to pursue his activities in this regard, making every effort to ensure that such protection training courses continue on a significant scale;

o) *Welcomed* the recent accession of Hungary to the 1951 United Nations Convention and the 1967 Protocol relating to the Status of Refugees and encouraged the High Commissioner actively to promote further the universal applicability of these instruments;

p) *Reaffirmed* the crucial role played since its inception by the Sub-Committee of the Whole on International Protection in identifying existing shortcomings and problems in the field of refugee protection and by formulating conclusions which serve as international guidelines to be drawn upon by States, UNHCR and others when developing or orienting their policies on refugee issues;

q) *Decide* that, in view of the importance of this task and in order to allow the Sub-Committee to consider all aspects of any issue in depth, the agenda for the Sub-Committee should preferably be limited to one or two subjects of practical benefit to refugees, that greater use could be made of informal working groups between annual meetings and that, whenever required, a particular issue should be considered at consecutive sessions of the Sub-Committee.

**No. 56 (XL) DURABLE SOLUTIONS AND
REFUGEE PROTECTION***

The Executive Committee,

Recalling that the protection of refugees and seeking solutions to refugee problems are mandatory functions of the United Nations High Commissioner for Refugees;

Reaffirming that the process of achieving solutions must respect the fundamental protection principles and concerns;

Convinced that the contemporary problem of refugees and asylum-seekers, because of its dimensions and complexity, requires coherent and comprehensive approaches to meet the current reality;

a) *Took note*, with appreciation, of the background study for and the subsequent report (reproduced in Document (EC/SCP/55) of the informal Round Table of a group of experts on Solutions to the Problem of Refugees and the Protection of Refugees which was held in San Remo, Italy from 12 to 14 July 1989;

b) *Welcomed* the importance given in the report, in particular, to:

- i) the inter-relationship between protection and solutions, as well as the desirability of prevention, including through the observance of human rights, as the best solution;
- ii) the strengthening of joint international efforts to deal with causes of flows of asylum-seekers and refugees in order to avert new flows and to facilitate the voluntary repatriation of refugees where this is the most appropriate solution to their problem;
- iii) the active promotion of solutions by countries of origin, asylum and resettlement, as well as by the international community at large, in accordance with their respective obligations and

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

responsibilities;

- iv) the promotion of solutions by international initiatives aimed at encouraging and facilitating, directly or through intermediaries, contacts between the parties concerned;
- v) development co-operation in both its curative and preventative aspects;
- vi) the examination, where required, of existing law and doctrine in the light of the real situations being faced by refugees, taking into account the relevance of human rights principles in this context;
- vii) the promotion and strengthening of the traditional principles and safeguards, which remain fundamental to the protection of refugees in countries of asylum or refuge as well as, on return, in countries of origin;

c) *Decided*, given the importance, scope and complexity of the issues involved and the need for their further in-depth study, as a first step, to call on the High Commissioner, in consultation with the Chairman of the Executive Committee, to convene an open-ended working group of members of the Executive Committee to examine protection and solutions in a coherent and comprehensive manner, bearing in mind the mandate of the High Commissioner, with a view to reporting to the Executive Committee at its forty-first session.

**No. 57 (XL) IMPLEMENTATION OF THE 1951 CONVENTION
AND THE 1967 PROTOCOL RELATING TO THE
STATUS OF REFUGEES***

The Executive Committee,

Bearing in mind that the fortieth anniversary of the 1951 Convention relating to the Status of Refugees will be celebrated in 1991;

Reiterating the fundamental importance of the 1951 Convention and the 1967 Protocol relating to the Status of Refugees for the protection of refugees and the enhancement of their status in countries of asylum;

Taking into account Conclusions 42 and 43 (XXXVII) adopted by the Executive Committee at its Thirty-seventh Session, which inter alia stressed the utmost importance of effective application of the Convention and Protocol;

Underlining again the need for the full and effective implementation of these instruments by Contracting States;

Bearing in mind that, pursuant to Article 35 of the 1951 Convention, States Parties are required to facilitate UNHCR's supervisory duty in relation to the Convention, including through the provision of information and statistical data concerning implementation;

a) *Stressed* the need for a positive and humanitarian approach to continue to be taken by States to implementation of the provisions of the Convention and Protocol in a manner fully compatible with the object and purposes of these instruments;

b) *Reiterated* its request to States to consider adopting appropriate legislative and/or administrative measures for the effective implementation of these international refugee instruments;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

c) *Invited* States also to consider taking whatever steps are necessary to identify and remove possible legal or administrative obstacles to full implementation;

d) *Requested* the High Commissioner to prepare a more detailed report on implementation of the 1951 Convention and the 1967 Protocol for consideration by this Sub-Committee in connection with activities to celebrate the fortieth anniversary of the Convention and called on States Parties to facilitate this task, including through the timely provision to the High Commissioner, when requested, of detailed information on implementation of the convention and/or Protocol in their respective countries.

**No. 58 (XL) PROBLEM OF REFUGEES AND
ASYLUM-SEEKERS WHO MOVE IN AN
IRREGULAR MANNER FROM A COUNTRY IN
WHICH THEY HAD ALREADY FOUND PROTECTION***

a) The phenomenon of refugees, whether they have been formally identified as such or not (asylum-seekers), who move in an irregular manner from countries in which they have already found protection, in order to seek asylum or permanent resettlement elsewhere, is a matter of growing concern. This concern results from the destabilizing effect which irregular movements of this kind have on structured international efforts to provide appropriate solutions for refugees. Such irregular movements involve entry into the territory of another country, without the prior consent of the national authorities or without an entry visa, or with no or insufficient documentation normally required for travel purposes, or with false or fraudulent documentation. Of similar concern is the growing phenomenon of refugees and asylum-seekers who willfully destroy or dispose of their documentation in order to mislead the authorities of the country of arrival;

b) Irregular movements of refugees and asylum-seekers who have already found protection in a country are, to a large extent, composed of persons who feel impelled to leave, due to the absence of educational and employment possibilities and the non-availability of long-term durable solutions by way of voluntary repatriation, local integration and resettlement;

c) The phenomenon of such irregular movements can only be effectively met through concerted action by governments, in consultation with UNHCR, aimed at:

- i) identifying the causes and scope of irregular movements in any given refugee situation,
- ii) removing or mitigating the causes of such irregular movements through the granting and maintenance of asylum and the provision of necessary durable solutions or other appropriate assistance measures,
- iii) encouraging the establishment of appropriate arrangements for the identification of refugees in the countries concerned and,

* For interpretative declarations or reservations to this Conclusion, see Doc A/AC.96/737 part N page 23.

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- iv) ensuring humane treatment for refugees and asylum-seekers who, because of the uncertain situation in which they find themselves, feel impelled to move from one country to another in an irregular manner;
- d) Within this framework, governments, in close co-operation with UNHCR, should
- i) seek to promote the establishment of appropriate measures for the care and support of refugees and asylum-seekers in countries where they have found protection pending the identification of a durable solution and
 - ii) promote appropriate durable solutions with particular emphasis firstly on voluntary repatriation and, when this is not possible, local integration and the provision of adequate resettlement opportunities;
- e) Refugees and asylum-seekers, who have found protection in a particular country, should normally not move from that country in an irregular manner in order to find durable solutions elsewhere but should take advantage of durable solutions available in that country through action taken by governments and UNHCR as recommended in paragraphs (c) and (d) above;
- f) Where refugees and asylum-seekers nevertheless move in an irregular manner from a country where they have already found protection, they may be returned to that country if
- i) they are protected there against **refoulement** and
 - ii) they are permitted to remain there and to be treated in accordance with recognized basic human standards until a durable solution is found for them. Where such return is envisaged, UNHCR may be requested to assist in arrangements for the re-admission and reception of the persons concerned;
- g) It is recognized that there may be exceptional cases in which a refugee or asylum seeker may justifiably claim that he has reason to fear persecution or that his physical safety or freedom are endangered in a country where he previously found protection. Such cases should be given favourable consideration by the authorities of the State where he requests asylum;

h) The problem of irregular movements is compounded by the use, by a growing number of refugees and asylum-seekers, of fraudulent documentation and their practice of willfully destroying or disposing of travel and/or other documents in order to mislead the authorities of their country of arrival. These practices complicate the personal identification of the person concerned and the determination of the country where he stayed prior to arrival, and the nature and duration of his stay in such a country. Practices of this kind are fraudulent and may weaken the case of the person concerned;

i) It is recognized that circumstances may compel a refugee or asylum-seeker to have recourse to fraudulent documentation when leaving a country in which his physical safety or freedom are endangered. Where no such compelling circumstances exist, the use of fraudulent documentation is unjustified;

j) The willful destruction or disposal of travel or other documents by refugees and asylum-seekers upon arrival in their country of destination, in order to mislead the national authorities as to their previous stay in another country where they have protection, is unacceptable. Appropriate arrangements should be made by States, either individually or in co-operation with other States, to deal with this growing phenomenon.

No. 59 (XL) REFUGEE CHILDREN

The Executive Committee,

a) *Expressed* appreciation for the Report on Refugee Children (A/AC.96/731), noted with concern the serious risks to their safety, immediate welfare and future development faced by many refugee children and recognized the efforts made by the Office of the High Commissioner to improve its effectiveness in responding to their special needs;

b) *Reaffirmed* its Conclusion concerning refugee children [No. 47 (XXXVIII)] and stressed the continuing nature of the guidance provided;

c) *Commended* the High Commissioner and his Working Group on Refugee Children for the development and dissemination of the **Guidelines on Refugee Children** and for the implementation of a work plan concerning refugee children and called upon UNHCR to seek the active co-operation and collaboration of governments, other United Nations bodies; among them UNICEF, non-governmental organizations and refugees themselves, in the implementation of the guideline;

d) *Requested* the High Commissioner to ensure that the needs of refugee children are given particular attention through regularly assessing resources and requirements in each refugee situation; collecting and using in programme planning relevant demographic, socioeconomic and cultural information; and monitoring and evaluating the impact of his programmes on refugee children;

e) *Noted* with serious concern the increasing incidence of nutritional deficiency diseases and malnutrition amongst refugee children dependent upon food aid and called upon UNHCR to initiate as a matter of urgency formal discussions with relevant United Nations bodies, donors and other humanitarian organizations to develop collaborative strategies for alleviating the nutritional problems of refugee children and to seek the incorporation into their programmes of appropriate provisions for such needs;

f) *Recognized* the link between education and durable solutions and encouraged UNHCR to strengthen its efforts in assisting host country governments to ensure the access of refugee children to education, **inter alia** through the involvement of new organizations and governmental and non-

governmental donors, and where necessary through the incorporation of appropriate arrangements in its programmes of assistance;

g) *Requested* the High Commissioner to continue to give special attention to the needs of unaccompanied minors and inform the Executive Committee at its next session of the details of existing programmes and any difficulties encountered in their implementation;

h) *Called* upon UNHCR to promote the best possible legal protection of unaccompanied minors, particularly with regard to forced recruitment into armed forces and to the risks associated with irregular adoption;

i) *Urged* UNHCR to intensify efforts to increase public awareness of the situation and needs of refugee children and of the impact of armed conflict and persecution on them;

j) *Encouraged* UNHCR to develop training materials to improve the capacity and effectiveness of field personnel in identifying and addressing the protection and assistance needs of refugee children;

k) *Recalled* its request in its Thirty-seventh Session in 1986 [No. 41 (XXXVII)] for the High Commissioner to report regularly to the Executive Committee on the needs of refugee children, and on existing and proposed programmes for their benefit.

No. 60 (XL) REFUGEE WOMEN

The Executive Committee,

a) *Expressed* appreciation for the Report on Refugee Women (A/AC.96/727) and commended the Office of the High Commissioner on progress towards promoting the participation of refugee women as agents as well as beneficiaries in the planning and implementation of protection and assistance programmes;

b) *Noted* with serious concern that the basic rights of refugee women continue to be violated in a number of situations, including through threats to their physical safety and sexual exploitation;

c) *Called* for the reinforcement of preventive measures and for States and concerned agencies to strengthen their support of UNHCR's protection activities relating to refugee women, **inter alia**, by providing resettlement places for women at risk;

d) *Noted* UNHCR's intention to include the subject of refugee women on the agenda of the Sub-Committee of the Whole on International Protection of the Forty-first Session of the Executive Committee, and on the Sub-Committee on Administrative and Financial matters under the item "Major Trends";

e) *Requested* the High Commissioner to provide at the Forty First Session of the Executive Committee, a policy framework and organizational work plan for the next stages in mainstreaming of refugee women's issues within the organization with particular attention to the need for female field workers to facilitate participation of refugee women. In addition, requested the High Commissioner to provide a detailed progress report on the implementation of his Office's policies and programmes for refugee women, on both protection and assistance activities. Requested particularly that the High Commissioner prepare a revised and expanded version of the internal guidelines relating to the international protection of refugee women;

f) *Reaffirmed* the conclusions regarding refugee women of the Thirty-ninth Session of the Executive Committee, and stressed the ongoing need for active senior management support to co-ordinate, integrate and oversee the implementation of those conclusions. In this regard, fully encouraged the

participation of senior managers in the forthcoming gender impact and analysis orientation seminar;

g) *Noted* with satisfaction the recruitment of a Senior Coordinator for Refugee Women, the production of guidelines to field offices to identify the special needs and encourage participation of refugee women, and the publication of the revised bibliography on refugee women;

h) *Urged* the High Commissioner to develop a methodology for systematically addressing gender issues in refugee programmes and, as a basis for this, requested the High Commissioner to collect and analyze demographic, anthropological and socioeconomic information on refugee populations, in particular, data on gender roles and responsibilities and to ensure that such information is used in planning UNHCR programmes;

i) *Encouraged* the High Commissioner in his development of training materials and courses to increase awareness of the specific needs and potential of refugee women and his initiative to involve nongovernmental organizations in this training; called upon him to expand this area in the future with a view to improved programme and project planning and in particular to further develop components to address the special protection concerns of refugee women;

j) *Encouraged* the High Commissioner to make additional efforts to raise public awareness of the specific situation of refugee women and recommended the fortieth anniversary as an opportunity to emphasize refugee women as active participants of UNHCR's programmes.

k) *Encouraged* the High Commissioner to share his experience in this sector with other United Nations agencies and strongly supported him in taking a lead role in presenting the situation of refugee women at the Thirty-fourth Session of the Commission on the Status of Women in 1990;

l) *Stressed* the need for ongoing attention to the systematic collection and dissemination of documentation with regard to refugee women, both within UNHCR and in co-operation with other organizations;

m) *Called* on operational partners to support the High Commissioner by: expanding their own activities in gender impact training, including provision for an assessment of impact on refugee women in their project agreements and self-evaluation reports, and exchanging information with other organizations having experience in women's issues.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 61 (XLI) GENERAL

The Executive Committee,

a) *Reaffirms* the central and basic character of the High Commissioner's international protection function;

b) *Calls* upon States, UNHCR and other concerned parties to take all necessary measures to ensure that refugees are effectively protected and recalls in this regard the fundamental importance of the Convention relating to the Status of Refugees of 28 July 1951 and the Protocol relating to the Status of Refugees of 31 January 1967;

c) *Expresses* strong concern that refugee protection continues to be seriously jeopardized in many States, including through expulsion, refoulement and other threats to the physical security, dignity and well-being of refugees;

d) *Notes* with concern that, in certain instances, specific activities by some refugees have been incompatible with national security interests and, in this context, reconfirmed its Conclusion No. 48 (XXXVIII) on Military and Armed Attacks on Refugee Camps and Settlements and, in particular, its paragraph 4 (a);

e) *Emphasizes* the close nexus between international protection, international solidarity, material assistance and the provision of solutions through voluntary repatriation, integration in countries of asylum, or resettlement, and calls upon the High Commissioner to continue his efforts to ensure that protection measures are fully integrated into assistance and durable solutions programmes;

¹ Contained in United Nations General Assembly Document No. 12A (A/45/12/Add.1)

f) *Noting* the link between protection and resettlement, underlines the need for states to provide adequate places for refugees in need of resettlement;

g) *Notes* that countries of first asylum carry the major burden of refugees, displaced persons and asylum-seekers, and calls on the international community and the High Commissioner to continue efforts to share the task of providing assistance and solutions and to pursue the search for mechanisms that provide solutions appropriate for the groups involved;

h) *Expresses* concern about the lack of adequate international protection for various groups of refugees in different parts of the world, including a large number of Palestinians, and hopes that efforts would continue within the United Nations system to address their protection needs;

i) *Encourages* all States parties to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol to respond as soon as possible to the questionnaire on implementation of these instruments circulated by the High Commissioner, so that he can submit a detailed report on their implementation to the forty-second session of the Executive Committee;

j) *Notes* with appreciation the accomplishments of the Office in promoting and disseminating refugee law, particularly through the organization of protection training courses, and in maintaining a research capacity, and calls upon the High Commissioner to consider how to pursue these activities within existing resources.

No. 62 (XLI) NOTE ON INTERNATIONAL PROTECTION*

The Executive Committee,

Welcoming the significant progress made over the past forty years in resolving refugee situations in a number of regions and in guaranteeing protection and assistance to millions of refugees on the basis of accepted legal principles and a spirit of international solidarity and burden-sharing;

Taking into account, however, that despite these positive developments and international cooperation to resolve situations, the refugee and asylum problem in its entirety is bigger, more complex and as persistent as ever;

Convinced that those humanitarian and human rights principles at the base of international concern for, and protection of, refugees are as relevant today as they were in 1951;

Believing though, that the current size and characteristics of the refugee and asylum problem necessitate appropriate reassessment of international responses to the problem to date, with a view to developing comprehensive approaches to meet present realities;

Stressing that, to succeed, comprehensive approaches must in addition endeavour to respond to the concerns of all affected States including first asylum and receiving States;

Appreciating the comprehensive approach taken in the High Commissioner's Note on International Protection in presenting some considerations for developing refugee strategies;

a) *Takes* note of the High Commissioner's emphasis in the Note on International Protection on the following:

- i) prevention and early warning of developing situations, and mediation as an effective method to contain problems;
- ii) the possible human rights dimensions of refugee flows, which

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

can also be a source of national and international instability;

- iii) the difference between refugees and persons seeking to migrate for economic and related reasons, and the need for any refugee policy to respect fundamental distinctions between the two categories of people, and be fully consonant with the principles particular to, and essential for, the protection of refugees, including first asylum and **non-refoulement**;
- iv) the fact that voluntary repatriation, local settlement or resettlement, that is, the traditional solutions for refugees, all remain viable and important responses to refugee situations, even while voluntary repatriation is the preeminent solution;
- v) development of measures which would underpin and broaden the acceptance of the three traditional durable solutions;
- vi) the need for countries of origin to assume a significant responsibility in the search for appropriate solutions, including through addressing root causes and facilitating voluntary repatriation and the return of their nationals who are not refugees;
- vii) more detailed articulation of the concept of State responsibility, particularly as it relates to the responsibilities of the countries of origin;
- viii) more active and effective utilization by States and UNHCR of United Nations and other qualified expert bodies as appropriate, including human rights bodies, in their relevant areas of competence;
- ix) consideration of development aid as a complementary measure to address causes of, prevention of, and solutions to, refugee and refugee-like situations;
- x) encouragement to regional bodies or groupings more actively to contribute to positive resolution of problems in their respective regions;
- xi) development of measures by States to deal responsibly and effectively with rejected asylum-seekers;
- xii) full integration of public information activities into strategies;
- xiii) encouragement of full and open debate on new approaches;
- xiv) consideration of the relationship between asylum problems and

international migration.

b) *Decided* to refer these matters for reflection to the Executive Committee Working Group on Solutions and Protection.

No. 63 (XLI) SOLUTIONS AND PROTECTION*

The Executive Committee decides to:

- a) *Take* note of the establishment of the Working Group on Solutions and Protection;
- b) *Request* that a further meeting of the Working Group be convened as soon as possible after the forty-first session of the Executive Committee;
- c) *Note* that, in principle, the participation in Working Group discussions should not be limited only to Executive Committee Member countries and that this would be decided upon by the Working Group in the light of the demands of its work;
- d) *Note* also that the work of the Working Group was urgent and that results were required, so that a tight work schedule would be desirable, although any decision on more precise scheduling of meetings should be left to the Group itself;
- e) *Request* that a report on the work of the Working Group be made to the forty-second session of the Executive Committee in 1991.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

**No. 64 (XLI) REFUGEE WOMEN AND
INTERNATIONAL PROTECTION***

The Executive Committee,

Noting with serious concern the widespread violations of the rights of refugee women and their specific needs;

Underlining the potential of refugee women and the need to ensure their full participation in analyzing their needs and in designing and implementing programmes which make appropriate use of their resources;

Reaffirming its Conclusions No. 39 (XXXVI) on Refugee Women and International Protection;

Stressing that all action taken on behalf of women who are refugees must be guided by the relevant international instruments relating to the status of refugees as well as other applicable human rights instruments, in particular, for States parties thereto, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women;

Recognizing that ensuring equal treatment of refugee women and men may require specific action in favour of the former;

Recalling the special relevance of the Nairobi Forward-Looking Strategies on the Advancement of Women and the obligation of the United Nations Systems as a whole to give effect to its provisions;

Reiterating the importance of collecting data which allows for the monitoring of progress achieved in meeting the needs of refugee women,

a) *Urges* States, relevant United Nations organizations, as well as non-governmental organizations, as appropriate, to ensure that the needs and resources of refugee women are fully understood and integrated, to the extent possible, into their activities and programmes and, to this end, to pursue,

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

among others, the following aims in promoting measures for improving the international protection of refugee women:

- i) Promote energetically the full and active participation of refugee women in the planning, implementation and evaluation/monitoring of all sectors of refugee programmes;
- ii) Increase the representation of appropriately trained female staff across all levels of all organizations and entities which work in refugee programmes and ensure direct access of refugee women to such staff;
- iii) Provide, wherever necessary, skilled female interviewers in procedures for the determination of refugee status and ensure appropriate access by women asylum-seekers to such procedures, even when accompanied by male family members;
- iv) Ensure that all refugees and the staff of relevant organizations and authorities are fully aware of, and support, the rights, needs and resources of refugee women and take appropriate specific actions;
- v) Integrate considerations specific to the protection of refugee women into assistance activities from their inception, including when planning refugee camps and settlements, in order to be able to deter, detect and redress instances of physical and sexual abuse as well as other protection concerns at the earliest possible moment;
- vi) Extend professional and culturally appropriate gender-based counselling as well as other related services to refugee women who are victims of abuse;
- vii) Identify and prosecute persons who have committed crimes against refugee women and protect the victims of such crimes from reprisals;
- viii) Issue individual identification and/or registration documents to all refugee women;
- ix) Provide all refugee women and girls with effective and equitable access to basic services, including food, water and relief supplies, health and sanitation, education and skills training, and make wage-earning opportunities available to them;
- x) Provide for informed and active consent and participation of

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refugee women in individual decisions about durable solutions for them;

- xi) Ensure that resettlement programmes make special provisions for refugee women at risk.

b) *Invites* UNHCR to develop comprehensive guidelines on the protection of refugee women as a matter of urgency in order to give effect to its policy on refugee women as contained in document A/AC.96/754.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 65 (XLII) GENERAL

The Executive Committee,

(a) *Notes*, with concern, the persistent and complex dimension of today's refugee problems and observed that, although significant progress has been made over the past forty years in resolving these problems, the protection of refugees remains an ongoing, difficult challenge in need of solution-oriented approaches;

(b) *Welcomes* the continuing readiness of States to receive refugees and offer them protection, as well as to make available considerable resources to meet the needs of refugees, thus demonstrating their strong and continuing humanitarian commitment at the national and international levels;

(c) *Emphasizes* the primary importance of *non-refoulement* and asylum as cardinal principles of refugee protection and encourages States to intensify their efforts to protect the rights of refugees, to prevent them from becoming the object of armed attacks in camps or settlements, to avoid unnecessary and severe curtailment of their freedom of movement, to ensure conditions of asylum compatible with recognized international standards, and to facilitate their stay in countries of asylum, including through the issue of necessary personal documentation and permission to return after travel abroad;

(d) *Expresses* concern about the lack of adequate international protection for various groups of refugees in different parts of the world, including a large number of Palestinians, and hoped that efforts would continue within the United Nations system to address their protection needs;

(e) *Encourages* UNHCR, both at Headquarters and in the field, actively to promote greater support and understanding of UNHCR's policy and

¹ Contained in United Nations General Assembly Document No. 12A (A/46/12/Add.1)

activities on behalf of refugee women, including with UNHCR's implementing partners and all appropriate national or international fora where protection problems of refugee women or girls are at issue;

(f) *Commends* the High Commissioner for the Guidelines on the Protection of Refugee Women (document (EC/SCP/67), requests that these guidelines be made an integral part of all UNHCR protection and assistance activities and calls for a progress report on implementation of the guidelines at the forty-third session of the Executive Committee and urges the High Commissioner to maintain the position of Senior Coordinator for Refugee Women;

(g) *Reaffirms* Conclusion No. 59 (XL) on refugee children adopted at the fortieth session of the Executive Committee and reiterates the importance of providing adequate protection and assistance to ensure the safety and development of refugee children and, in this connection, welcomes the High Commissioner's decision to establish a new post of Coordinator on Refugee Children;

(h) *Reiterates* that the current size and complexity of the world refugee situation require vigorous promotion of existing protection principles, as well as full and open debate on new directions for protection and on further development of the law, paying particular attention to the responsibilities of States to resolve refugee situations and, especially with respect to countries of origin, to eliminate causes of refugee flows;

(i) *Calls* upon the High Commissioner in this regard actively to explore new options for preventive strategies which are consistent with protection principles, the ways in which State responsibility and burden-sharing mechanisms might be strengthened and public information strategies could be used to complement protection activities;

(j) *Requests* the High Commissioner to reinforce efforts to encourage or promote voluntary repatriation of refugees and their safe reintegration in the countries of origin, and urges States to facilitate these efforts, including by ensuring respect for the voluntary nature of any repatriation movement and by allowing their citizens to return in safety and dignity to their homes without harassment, arbitrary detention or physical threats during or after return,

(k) *Welcomes* the recent accessions by Romania and Poland to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, appeals to States which have not yet acceded to these instruments to do so, thereby promoting international burden-sharing and facilitating the handling and resolution of refugee situations, and encourages all States actively to support the efforts of the High Commissioner to promote universal accession;

(l) *Expresses* appreciation to the High Commissioner for the interim report on implementation of the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and calls on all States which have not yet done so to respond to the questionnaire on implementation circulated by the High Commissioner;

(m) *Acknowledges* the value of reporting by States Parties on implementation of their responsibilities under the 1951 Convention and 1967 Protocol and requests UNHCR to accord public access to States' replies to the afore-mentioned questionnaire with the agreement of the States concerned;

(n) *Notes* that growing misuse of asylum procedures could compromise the institution of asylum and the maintenance of fair and efficient refugee status determination procedures, and recalled Conclusion No. 46 (j) (XXXVIII) which called upon States to ensure that measures to discourage abusive use of asylum procedures have no detrimental effect on the fundamental principles of international protection, including on the institution of asylum;

(o) *Recognizes* that the establishment of and access of all asylum-seekers to fair and efficient procedures are important elements in a coherent international strategy for the management and resolution of refugee situations and recalls in this connection Conclusion No. 8 (XXVIII) on Determination of Refugee Status, Conclusion No. 15 (XXX) on Refugees without an Asylum Country, Conclusion No. 30 (XXXIV) on the Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum and Conclusion No. 58 (XL) concerning the Problem of Refugees and Asylum-Seekers who Move in an Irregular Manner from a Country in which They Had Already Found Protection;

(p) *Agrees*, in view of the importance of the notion of safe country and the fact of ongoing consideration on it in other fora, that the Sub-Committee of the Whole on International Protection should continue discussion of the notion, with a view to reaching conclusions on the matter;

(q) *Underlines* the possibility of use of the cessation clauses of the 1951 Convention in situations where a change of circumstances in a country is of such a profound and enduring nature that refugees from that country no longer require international protection, and can no longer continue to refuse to avail themselves of the protection of their country, provided that it is recognized that compelling reasons may, for certain individuals, support the continuation of refugee status, and calls upon UNHCR to explore in the Sub-Committee of the Whole on International Protection the application of the cessation clauses;

(r) *Reaffirms* Conclusion No. 50 (1) (XXXIX), reiterates its call to States actively to explore and promote measures favourable to stateless persons, including accession to the international instruments pertaining to stateless persons, and in this connection believes it would be useful for United Nations human rights bodies to address statelessness issues, including the problem of arbitrary deprivation of nationality and the content of the right to a nationality;

(s) *Notes* with appreciation the efforts of the High Commissioner to promote refugee law through existing resources, drawing on external private funding, and calls upon the High Commissioner to strengthen the Office's training activities, in particular through training courses directed to Government officials and others working directly with refugees and asylum-seekers;

(t) *Notes* with concern the precarious security situation prevailing in some areas where refugees are located which has also put the staff of UNHCR at considerable risk and calls upon States to protect the security of international and local staff working in their countries on behalf of refugees;

(u) *Welcomes* the convening of the World Conference on Human Rights and calls upon the High Commissioner to participate actively in the preparations for and the proceedings of the Conference, bearing in mind particularly that the matter of human rights and mass exoduses merits further serious consideration;

(v) *Calls* upon the High Commissioner to continue to contribute, as appropriate, to the deliberations of international human rights bodies.

**No. 66 (XLII) REPORT OF THE WORKING GROUP
ON SOLUTIONS AND PROTECTION***

The Executive Committee,

Accepting with appreciation the Report of the Working Group on Solutions and Protection to the forty-second session of the Executive Committee of the High Commissioner's Programme (Document (EC/SCP/64);

(a) *Decides* to request the High Commissioner to convene such inter-sessional meetings of the Sub-Committee of the Whole on International Protection as may be necessary to continue the constructive discussions on pending issues of the Report of the Working Group, as well as on other relevant protection matters, and to seek consensus on action-oriented follow-up, as appropriate, of the Report, its recommendations, and the other relevant matters;

(b) *Recognizes* the possibility, in this connection, for the Sub-Committee to utilize outside expertise as appropriate;

(c) *Decides* further to request the High Commissioner to report to the Executive Committee at its forty-third session on progress in the deliberations of the Sub-Committee.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

**No. 67 (XLII) RESETTLEMENT AS AN
INSTRUMENT OF PROTECTION***

The Executive Committee,

Reaffirming the link between international protection and resettlement as an instrument of protection and its important role as a durable solution in specific circumstances,

(a) *Calls* on governments in a position to assist, to establish refugee admission ceilings, in the context of international burden-sharing;

(b) *Requests* States when setting refugee admission ceilings to include an adequate contingency provision which could be available depending on need to address rapidly evolving situations;

(c) *Recognizes* that rapidly evolving situations can result in fluctuating resettlement requirements from one year to another and that admission ceilings should be adaptable to such developments;

(d) *Recognizes* the need for rapid and flexible response to UNHCR resettlement requirements in particular for vulnerable groups and emergency protection cases subject to refugee admission requirements of receiving States;

(e) *Acknowledges* the utility of close consultation with UNHCR in the resettlement activities of the Office;

(f) *Recognizes* that in reviewing UNHCR resettlement requests the protection element inherent in such requests should be taken into account;

(g) *Emphasizes* that UNHCR pursues resettlement only as a last resort, when neither voluntary repatriation nor local integration is possible, when it is in the best interests of the refugees and where appropriate.

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 68 (XLIII) GENERAL

The Executive Committee,

(a) *Reaffirms* the primary nature of the High Commissioner's protection responsibilities which are performed as a non-political, humanitarian and social function within the framework of international refugee law and applicable regional instruments, with due regard for human rights and humanitarian law, and which necessitate cooperation with UNHCR, as well as among and between States in accordance with the United Nations Charter, on a basis of international responsibilities, solidarity and burden-sharing;

(b) *Notes* the recent accessions by Albania, the Czech and Slovak Federal Republic and Honduras, and the notification of succession by Slovenia to the 1951 Convention and the 1967 Protocol without geographic limitation, and encourages other States to accede to these instruments in order to promote further international cooperation in responding to and resolving refugee problems;

(c) *Notes* the value of reporting by States parties on implementation of their responsibilities under the 1951 Convention and 1967 Protocol, again urges States which have not yet done so to respond to the questionnaire on implementation circulated by the High Commissioner, and calls upon the High Commissioner and all States to work together to strengthen implementation, including through heightened promotional efforts, better monitoring arrangements and more harmonized application of the refugee definition criteria;

(d) *Welcomes* the strong commitment of States to continue receiving refugees and extending to them protection and assistance;

¹ Contained in United Nations General Assembly Document No. 12A (A/47/12/Add.1)

(e) *Renews* its expressions of deep concern regarding persistent problems in some countries or regions seriously jeopardizing the security or well-being of refugees, including numerous incidents of refoulement, expulsion, physical attacks on refugees and detention under unacceptable conditions, and calls upon States to take all measures necessary to ensure respect for the fundamental principles of refugee protection;

(f) *Reaffirms* the primary importance of the principles of *non-refoulement* and asylum as basic to refugee protection;

(g) *Notes* that effective and expeditious status determination procedures and access to them should be maintained by States with the advice and assistance of UNHCR, just as clear and intentional misuse of these procedures should be actively discouraged and recalls in this regard its Conclusion No. 65 (XLII), in particular paragraphs (n) and (o);

(h) *Expressed* concern about the lack of adequate international protection for various groups of refugees in different parts of the world, including a large number of Palestinians, and hoped that efforts would continue within the United Nations systems to address their protection needs;

(i) *Expresses* appreciation for the progress report on the implementation of the Guidelines on the Protection of Refugee Women (EC/SCP/74), notes with great concern the precarious situation of many refugee women, whose physical safety is often endangered and who often do not have equal access to basic necessities including adequate health and educational facilities, and calls upon all States, UNHCR and other concerned parties to ensure implementation of the Guidelines, particularly through measures aimed at eliminating all forms of sexual exploitation of and violence against refugee women, protecting women heads of household, and promoting their active participation and involvement in decisions affecting their lives and communities;

(j) *Reaffirms* its Conclusion No. 64 (XLI) on Refugee Women and International Protection, and calls upon the High Commissioner to pursue her efforts to increase public awareness of the rights and protection needs of refugee women and girls, inter alia, through further sensitization of bodies concerned with the status of women, and by promoting and supporting the inclusion of the issue of the rights of refugee women on the international human rights agenda;

(k) *Encourages* the High Commissioner to ensure that specific attention to refugee women's issues becomes an integral part of refugee protection and requests her also to ensure that the protection situation of both refugee women and of refugee children is included in the plan of work for forthcoming meetings of the Sub-Committee of the Whole on International Protection;

(l) *Reiterates* the importance accorded by the Committee to the protection and well-being of refugee children, in particular unaccompanied minors, and welcomes the appointment of a Senior Coordinator for Refugee Children as an important element in strengthening the implementation of the Guidelines on Refugee Children and in coordinating efforts on behalf of refugee children by States and other international and non-governmental organizations;

(m) *Notes*, however, with concern, the dimension and complexity of the present refugee problem, the potential risk of new refugee situations developing in some countries or regions and the challenges confronting refugee protection due to the constantly changing global political, social and economic climate;

(n) *Commends*, therefore, the initiative of the High Commissioner in convening the internal Working Group on International Protection, whose recommendations were reflected in the Note on International Protection which provides a useful basis for practical approaches to meet new and multifaceted protection challenges, so that persons of concern to the High Commissioner receive the protection required by their situation;

(o) *Takes note* of the fact that UNHCR's broad humanitarian expertise and experience have proved to be an appropriate basis for the Office to explore new options or undertake new protection activities, in specific situations, in the areas of asylum, prevention and solutions, consistent with requests to it, where required, with the fundamental protection principles, and with its mandate, and in coordination with other United Nations organs;

(p) *Supports*, in this connection, strengthened efforts by the High Commissioner to explore further approaches encompassing early warning, training, advisory services and promotion of human rights and of development, in conformity with her mandate and responsibilities, within an inter-agency, intergovernmental and non-governmental framework as appropriate, to prevent conditions giving rise to refugee exoduses;

(q) *Supports* also efforts of the High Commissioner, on the basis of specific requests from the Secretary-General or the competent principal organs of the United Nations and with the consent of the concerned State, to undertake activities in favour of internally displaced persons, taking into account the complementarities of mandates and expertise of other relevant organizations;

(r) *Recognizes*, in this regard, that new approaches should not undermine the institution of asylum, as well as other basic protection principles, notably the principle of *non-refoulement*;

(s) *Reaffirms* that voluntary repatriation of refugees is the preferred solution, where feasible, and endorses UNHCR's efforts to work actively to create, from the outset of a refugee problem, conditions conducive to voluntary return in safety and dignity. The success of this solution will depend on a number of factors, including assurances of safety on return, access arrangements and monitoring possibilities for UNHCR, the adequacy of reception arrangements and reintegration possibilities;

(t) *Reaffirms* the important role of resettlement as an instrument of protection and as a durable solution in specific circumstances and, in this connection, calls on Governments for special flexibility and accelerated departures for compelling protection cases and vulnerable groups identified by the Office;

(u) *Acknowledges* that the realization of solutions in a growing number of mass outflow situations is much facilitated where these are made an integral part of a comprehensive plan of action, which balances the interests of affected States and the rights and needs of individuals and, accordingly, encourages UNHCR to work together with States and other interested organizations to explore new solutions-oriented approaches, which might include temporary protection and necessary arrangements for burden-sharing, when a situation so requires;

(v) *Notes* the importance of promotion of refugee law as an element of emergency preparedness, as well as to facilitate prevention of and solutions to refugee problems, and calls upon the High Commissioner to continue to strengthen the Office's promotion and training activities;

(w) *Deplores* ethnic and other forms of intolerance as one of the major causes of forced migratory movements, at the same time expresses its concern regarding xenophobia in segments of the population in a number of

countries receiving refugees and asylum-seekers which has exposed them to considerable danger and, therefore, calls upon States and UNHCR to continue to work actively to promote broader understanding throughout national communities of the plight of refugees and asylum-seekers;

(x) *Takes note* of the important contribution being made by the High Commissioner to concerned international bodies and requests her to continue to seek expanded cooperation with these bodies, such as UNDP, UNICEF, WFP, FAO, UNEP, the Centre for Human Rights, the Commission on Human Rights, IOM and ICRC, and thereby, inter alia, to promote broadened awareness of the link between refugees and human rights, as well as development and environmental issues;

(y) *Reiterates* its call to States and relevant international agencies actively to explore and promote measures favourable to stateless persons and, recognizing the absence of an international body with a general mandate for these persons, calls upon the High Commissioner to continue her efforts generally on behalf of stateless individuals and to work actively to promote adherence to and implementation of the international instruments relating to statelessness.

No. 69 (XLIII) CESSATION OF STATUS*

The Executive Committee,

Recalling Conclusion No. 65 (XLII) which, inter alia, underlined the possibility of use of the cessation clauses in Article IC (5) and (6) of the 1951 Convention in situations where a change of circumstances in a country is of such a profound and enduring nature that refugees from that country no longer require international protection, and can no longer continue to refuse to avail themselves of the protection of their country, provided that it is recognized that compelling reasons may, for certain individuals, support the continuation of refugee status.

Taking into account that the application of the cessation clause(s) in the 1951 Convention rests exclusively with the Contracting States, but that the High Commissioner should be appropriately involved, in keeping with the role of the High Commissioner in supervising the application of the provisions of the 1951 Convention as provided for in Article 35 of that Convention.

Noting that any declaration by the High Commissioner that the competence accorded to her by the Statute of her Office with regard to certain refugees shall cease to apply, may be useful to States in connection with the application of the cessation clauses as well as the 1951 Convention.

Believing that a careful approach to the application of the cessation clauses using clearly established procedures is necessary so as to provide refugees with the assurance that their status will not be subject to unnecessary review in the light of temporary changes, not of a fundamental character, in the situation prevailing in the country of origin,

(a) *Stresses* that, in taking any decision on application of the cessation clauses based on "ceased circumstances", States must carefully assess the fundamental character of the changes in the country of nationality or origin, including the general human rights situation, as well as the particular cause of fear of persecution, in order to make sure in an objective and verifiable

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

way that the situation which justified the granting of refugee status has ceased to exist;

(b) *Underlines* that an essential element in such assessment by States is the fundamental, stable and durable character of the changes, making use of appropriate information available in this respect, inter alia, from relevant specialized bodies, including particularly UNHCR;

(c) *Emphasizes* that the "ceased circumstances" cessation clauses shall not apply to refugees who continue to have a well-founded fear of persecution;

(d) *Recognizes* therefore that all refugees affected by a group or class decision to apply these cessation clauses must have the possibility, upon request, to have such application in their cases reconsidered on grounds relevant to their individual case;

(e) *Recommends*, so as to avoid hardship cases, that States seriously consider an appropriate status, preserving previously acquired rights, for persons who have compelling reasons arising out of previous persecution for refusing to re-avail themselves of the protection of their country and recommends also that appropriate arrangements, which would not put into jeopardy their established situation, be similarly considered by relevant authorities for those persons who cannot be expected to leave the country of asylum, due to a long stay in that country resulting in strong family, social and economic links there;

(f) *Recommends* that States, in giving effect to a decision to invoke the cessation clauses, should in all situations deal humanely with the consequences for the affected individuals or groups, and that countries of asylum and countries of origin should together facilitate the return, to assure that it takes place in a fair and dignified manner. Where appropriate, return and reintegration assistance should be made available to the returnees by the international community, including through relevant international agencies.

**No. 70 (XLIII) DECISION ON
INTER-SESSIONAL MEETINGS**

The Executive Committee,

Noting with appreciation the Background Note on Inter-sessional Meetings of the Sub-Committee of the Whole on International Protection (document EC/SCP/72),

(a) *Decides* to request the High Commissioner to convene at least one inter-sessional meeting of the Sub-Committee of the Whole on International Protection to continue constructive discussions on relevant protection issues;

(b) *Decides* further to request the High Commissioner to report to the Executive Committee at its forty-fourth session on progress in the deliberations of the Sub-Committee.

**CONCLUSIONS ADOPTED BY THE EXECUTIVE
COMMITTEE ON INTERNATIONAL
PROTECTION OF REFUGEES¹**

No. 71 (XLIV) GENERAL

The Executive Committee,

(a) *Notes* with concern the dimension and complexity of the present refugee problem, the potential risk of new refugee situations and the challenges confronting refugee protection;

(b) *Reaffirms* the importance of the 1951 Convention and 1967 Protocol relating to the Status of Refugees at the centre of the international legal framework for the protection of refugees;

(c) *Welcomes*, in this connection, the recent accession or succession of Armenia, Azerbaijan, the Bahamas, Bosnia and Herzegovina, Bulgaria, Cambodia, the Czech Republic, the Republic of Korea, the Russian Federation and the Slovak Republic to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, bringing the number of States parties to one or both instruments to 123, and encourages other States to accede to these instruments and to implement their provisions and thus to promote further international cooperation in responding to and resolving refugee problems;

(d) *Recognizes* the crucial importance of the High Commissioner's functions of providing international protection to refugees and seeking solutions to refugee problems, the exercise of which has become increasingly difficult owing to the increasing numbers of persons in need of protection and the growing complexity of the problems of coerced displacement;

(e) *Notes* with appreciation that States confronted with refugee situations, including in particular developing countries with limited resources, continue to observe the fundamental principles of international

¹ Contained in United Nations General Assembly Document No. 12A (A/48/12/Add.1)

protection, admitting and providing asylum to more than eighteen million refugees, and welcomes the continuing strong commitment of States to provide protection and assistance to refugees and to cooperate with the High Commissioner in the discharge of her international protection responsibilities;

(f) *Notes* however with concern that the protection of refugees continues to be seriously jeopardized in certain situations as a result of denial of access, expulsion, refoulement and unjustified detention, as well as other threats to their physical security, dignity and well-being;

(g) *Calls* upon States to uphold asylum as an indispensable instrument for the international protection of refugees and to respect scrupulously the fundamental principle of *non-refoulement*;

(h) *Stresses* the importance of international solidarity and burden-sharing in reinforcing the international protection of refugees, and calls upon all States in conjunction with UNHCR to cooperate in efforts to lighten the burden borne by States that have received large numbers of refugees and asylum-seekers;

(i) *Reiterates* the importance of establishing and ensuring access consistent with the 1951 Convention and the 1967 Protocol for all asylum-seekers to fair and efficient procedures for the determination of refugee status in order to ensure that refugees and other persons eligible for protection under international or national law are identified and granted protection;

(j) *Recognizes* that in certain regions the arrival and presence of large numbers of applicants for asylum and refugee status who have no valid claim to international protection creates serious problems both for refugees and for the States concerned by adversely affecting the institution of asylum, jeopardizing the effectiveness of national procedures for the determination of refugee status, and preventing the prompt and effective protection of refugees;

(k) *Stresses* the usefulness of measures to promote the prompt determination of refugee status in fair procedures, and recognizes the advisability of concluding agreements among States directly concerned, in consultation with UNHCR, to provide for the protection of refugees through the adoption of common criteria and related arrangements to determine which State shall be responsible for considering an application for asylum and

refugee status and for granting the protection required, and thus avoiding orbit situations;

(l) *Emphasizes* that such procedures, measures and agreements must include safeguards adequate to ensure in practice that persons in need of international protection are identified and that refugees are not subject to refoulement;

(m) *Supports* the further exploration by the High Commissioner and States of various asylum strategies, such as temporary protection, in relation to persons compelled to flee their countries in large numbers and who are in need of international protection, pending the identification of an appropriate solution, and reaffirms the importance of Executive Committee Conclusion No. 22 (XXXII) on Protection of Asylum-Seekers in Situations of Large-Scale Influx;

(n) *Recognizes* the importance of addressing prevention, protection and solutions on a comprehensive regional basis, and encourages the High Commissioner to consult with States, the United Nations Department of Humanitarian Affairs (DHA), the United Nations Development Programme (UNDP), the International Organization for Migration (IOM) and other relevant international organizations and regional bodies on possibilities for additional measures and initiatives in specific areas with complex problems of coerced population movements, and to keep the Sub-Committee of the Whole on International Protection and, where appropriate, the Sub-Committee on Administrative and Financial Matters informed;

(o) *Looks* forward to events commemorating the twenty-fifth anniversary of the adoption by the Organization of African Unity of the OAU Convention governing the specific aspects of refugee problems in Africa as well as the tenth anniversary of the Cartagena Declaration on Refugees and encourages UNHCR to participate actively in their commemoration;

(p) *Recognizes* the close link between protection, assistance and solutions and supports the High Commissioner's efforts to pursue wherever possible opportunities to promote conditions conducive to the preferred solution of voluntary repatriation, noting with appreciation the Office's development of operational guidelines to further these efforts;

(q) *Reaffirms* the role of resettlement as an instrument of protection as well as its continuing value as a durable solution in specific circumstances, and suggests that States together with the High Commissioner explore

possibilities for the more effective and flexible use of this measure, particularly to meet refugee protection needs;

(r) *Encourages* the High Commissioner, on the basis of her broad humanitarian experience and expertise, and the particular competence of UNHCR staff in the field, to continue to explore and to undertake protection and assistance activities aimed at preventing conditions that give rise to refugee outflows, bearing in mind fundamental protection principles, in close coordination with the Governments concerned and within an inter-agency, intergovernmental and non-governmental framework, as appropriate, and requests the High Commissioner to keep the Sub-Committee of the Whole on International Protection and the Sub-Committee on Administrative and Financial Matters informed of developments;

(s) *Recalls* paragraph 14 of General Assembly resolution 47/105 and, in this connection, reaffirms its support for the High Commissioner's activities, on the basis of requests from the Secretary-General or the competent principal organs of the United Nations and with the consent of the concerned State, in providing humanitarian assistance and protection to internally displaced persons in specific situations which call for the Office's particular expertise, and notes the establishment by the High Commissioner of criteria for responding to requests to her Office for involvement in such activities, with due regard to the complementary mandates and specific expertise of other relevant organizations as well as the availability of sufficient resources;

(t) *Requests* the High Commissioner, in pursuance of the need for the international community to explore methods and means to address better within the United Nations system the protection and assistance needs of internally displaced persons, to promote further consultations on this priority issue with the Department of Humanitarian Affairs (DHA) and the Special Representative of the Secretary-General on Internally Displaced Persons, and with other appropriate international organizations and bodies including the, International Committee of the Red Cross, and to report on the results of these discussions to the Sub-Committee of the Whole on International Protection and, as appropriate, the Sub-Committee on Administrative and Financial Matters;

(u) *Reiterates* that UNHCR's activities in the field of prevention must be complementary to its international protection responsibilities and consistent with the principles of international human rights and humanitarian law and that the institution of asylum must not in any way be undermined;

(v) *Calls* upon the High Commissioner to pursue her efforts to ensure the protection of refugee women and girls and reaffirms in this regard its Conclusion No. 64 (XLII) on Refugee Women and International Protection and paragraphs (i) to (k) of Conclusion No. 68 (XLIII);

(w) *Notes* with concern the especially vulnerable situation of refugee children and therefore welcomes the High Commissioner's Policy on Refugee Children (EC/SCP/82) and stresses the importance of the Convention on the Rights of the Child as a normative framework for action to protect and care for children of her concern;

(x) *Calls* upon the High Commissioner to make every effort to ensure that the needs of refugee children, particularly unaccompanied minors, are fully met in UNHCR's overall protection and assistance activities, through inter alia appropriate management support, training and monitoring, and encourages UNHCR to continue its cooperation with Governments, non-governmental organizations and intergovernmental organizations, including in particular the United Nations Children's Fund (UNICEF) and the Committee on the Rights of the Child, in the implementation of the Policy on Refugee Children and the UNHCR Guidelines on Refugee Children;

(y) *Requests* the High Commissioner, given the diversity and persistent character of certain obstacles hampering the protection of refugee women and refugee children, in consultation with the Chairman of the Executive Committee, to convene an informal working group of the Committee to examine these obstacles, as well as review options and propose concrete measures to overcome them;

(z) *Expresses* concern about the lack of adequate international protection for various groups of refugees in different parts of the world, including a large number of Palestinians, and, while noting recent positive developments, calls upon the international community to continue its endeavours to address satisfactorily their protection needs;

(aa) *Notes* with satisfaction UNHCR's activities with regard to the promotion and dissemination of refugee law and protection principles and calls upon the High Commissioner to continue to expand and strengthen the Office's promotion and training activities with the active support of States and through increased cooperation with bodies and organizations concerned with human rights and international humanitarian law, including the International Institute of Humanitarian Law (San Remo), academic

institutions and others involved in the programmes of the Decade of International Law;

(bb) *Calls* upon States in cooperation with UNHCR and non-governmental organizations to pursue their efforts to foster greater public understanding and acceptance of people of different backgrounds and cultures with a view to dispelling hostile attitudes and other forms of intolerance towards foreigners;

(cc) *Reaffirms* its support for the High Commissioner's contributions to concerned international bodies promoting a broader awareness of the close link between safeguarding human rights and preventing refugee problems, and calls upon the High Commissioner to continue her active participation in and cooperation with the Commission on Human Rights, the Centre for Human Rights and relevant bodies and organizations;

(dd) *Recognizes* that the underlying causes of population displacements are complex and interrelated and include poverty and economic disruption, political conflicts, ethnic and intercommunal tensions and environmental degradation, and that there is a need for the international community to address these causes in a concerted and comprehensive manner;

(ee) *Welcomes* the Vienna Declaration and Programme of Action of the World Conference on Human Rights, particularly as it reaffirms the right to seek and enjoy asylum, and the right to return to one's country; stresses the importance of the 1951 Convention and 1967 Protocol; expresses appreciation to UNHCR; recognizes the link between gross violations of human rights and displacement, as well as the need for a comprehensive approach by the international community for refugees and displaced persons including addressing root causes, strengthening emergency preparedness and response, providing effective protection, and achieving durable solutions; and notes also its recognition of the special needs of women and children in terms of protection and assistance, and its emphasis on the importance of solutions for internally displaced persons;

(ff) *Notes* the importance of availability of and access to objective and accurate information concerning the various causes of coerced displacement in order to facilitate informed decision-making at all stages of refugee situations and supports in this regard the High Commissioner's efforts to develop an appropriate information strategy and to maintain relevant information databases;

(gg) *Recognizes* the value in recent years of inter-sessional meetings of the Sub-Committee of the Whole on International Protection, and requests the High Commissioner to convene at least one inter-sessional meeting to pursue in-depth consideration of relevant protection issues and to report on progress in the deliberations of the Sub-Committee at its forty-fifth session.

No. 72 (XLIV) PERSONAL SECURITY OF REFUGEES*

The Executive Committee,

Expressing its deep concern over reports on the alarming frequency of incidents in which refugees and asylum-seekers, including women and children, are subjected to violence and mistreatment including killing, torture, military or armed attacks, rape, beatings, intimidation, forced recruitment and arbitrary or inhumane conditions of detention.

Reaffirming the responsibility of States to respect and ensure the fundamental human rights of refugees and asylum-seekers to life, liberty and security of person as well as to freedom from torture or other cruel, inhumane or degrading treatment or punishment.

Recalling previous conclusions dealing with the personal security of refugees, in particular, Conclusions No. 22 (XXXII) on the Protection of Asylum-Seekers in Situations of Large-Scale Influx and No. 48 (XXXVIII) on Military or Armed Attacks on Refugee Camps and Settlements.

Stressing the duty of refugees and asylum-seekers to conform to the laws and regulations of the country of asylum and abstain from any activity likely to detract from the exclusively civilian and humanitarian character of refugee camps and settlements.

Reaffirming the fundamental importance of the scrupulous observance of the principle of *non-refoulement* for the personal security of refugees,

(a) *Deplores* all violations of the right to personal security of refugees and asylum-seekers, in particular organized attacks or the incitement to violence directed against them;

(b) *Urges* States to take all measures necessary to prevent or remove threats to the personal security of refugees and asylum-seekers in border areas and elsewhere, including by affording UNHCR and, as appropriate, other organizations approved by the Governments concerned prompt and

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

unhindered access to them, by situating refugee camps and settlements in secure locations, by ensuring the safety of vulnerable groups, by facilitating the issuance of personal documentation, and by involving the refugee community, both women and men, in the organization and administration of their camps and settlements;

(c) *Calls* upon States vigorously to investigate violations of the personal security of refugees and asylum-seekers, and where possible to institute criminal prosecution, and where applicable strict disciplinary measures, against all perpetrators of such violations;

(d) *Calls* upon States, in collaboration with UNHCR and, as appropriate, other organizations approved by the Governments concerned, to provide effective physical protection to asylum-seekers and refugees and to ensure safe access for humanitarian assistance and relief workers, where necessary through the recruitment and training of personnel specifically assigned the task of protecting refugees and securing supply routes for humanitarian assistance;

(e) *Supports* the High Commissioner's activities to monitor the personal security of refugees and asylum-seekers and to take appropriate action to prevent or redress violations thereof, including the expansion of training programmes aimed at enhancing the understanding of refugee protection among law enforcement officials, other concerned Government personnel, and non-governmental organizations;

(f) *Encourages* the High Commissioner to develop, share with the Executive Committee and disseminate widely guidelines containing practical measures that States, UNHCR as well as other international and non-governmental organizations can take to further strengthen the physical protection of refugees and asylum-seekers.

**No. 73 (XLIV) REFUGEE PROTECTION
AND SEXUAL VIOLENCE***

The Executive Committee,

Noting with grave concern the widespread occurrence of sexual violence in violation of the fundamental right to personal security as recognized in international human rights and humanitarian law, which inflicts serious harm and injury to the victims, their families and communities, and which has been a cause of coerced displacement including refugee movements in some areas of the world,

Noting also distressing reports that refugees and asylum-seekers, including children, in many instances have been subjected to rape or other forms of sexual violence during their flight or following their arrival in countries where they sought asylum, including sexual extortion in connection with the granting of basic necessities, personal documentation or refugee status,

Recognizing the need for concrete action to detect, deter and redress instances of sexual violence to effectively protect asylum-seekers and refugees,

Recognizing further that the prevention of sexual violence can contribute to averting coerced displacement including refugee situations and to facilitating solutions,

Stressing the importance of international instruments relating to refugees, human rights and humanitarian law for the protection of asylum-seekers, refugees and returnees against sexual violence,

Bearing in mind the draft Declaration on the Elimination of Violence against Women adopted by the Commission on the Status of Women as well as other measures being taken by the Commission on the Status of Women, the Committee on the Elimination of Discrimination against Women, the Commission on Human Rights, the Security Council and other bodies of the

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

United Nations to prevent, investigate and, as appropriate, according to their mandates, punish sexual violence,

Reaffirming its Conclusions No. 39 (XXXVI), No. 54 (XXXIX), No. 60 (XL) and No. 64 (XLI) concerning refugee women,

(a) *Strongly* condemns persecution through sexual violence, which not only constitutes a gross violation of human rights, as well as, when committed in the context of armed conflict, a grave breach of humanitarian law, but is also a particularly serious offense to human dignity;

(b) *Urges* States to respect and ensure the fundamental right of all individuals within their territory to personal security, inter alia by enforcing relevant national laws in compliance with international legal standards and by adopting concrete measures to prevent and combat sexual violence, including:

- (i) the development and implementation of training programmes aimed at promoting respect by law enforcement officers and members of military forces of the right of every individual, at all times and under all circumstances, to security of person, including protection from sexual violence,
- (ii) implementation of effective, non-discriminatory legal remedies including the facilitation of the filing and investigation of complaints against sexual abuse, the prosecution of offenders, and timely and proportional disciplinary action in cases of abuse of power resulting in sexual violence,
- (iii) arrangements facilitating prompt and unhindered access to all asylum-seekers, refugees and returnees for UNHCR and, as appropriate, other organizations approved by the Governments concerned, and
- (iv) activities aimed at promoting the rights of refugee women, including through the dissemination of the Guidelines on the Protection of Refugee Women and their implementation, in close cooperation with refugee women, in all sectors of refugee programmes;

(c) *Calls* upon States and UNHCR to ensure the equal access of women and men to refugee status determination procedures and to all forms of personal documentation relevant to refugees' freedom of movement, welfare

and civil status, and to encourage the participation of refugee women as well as men in decisions relating to their voluntary repatriation or other durable solutions;

(d) *Supports* the recognition as refugees of persons whose claim to refugee status is based upon a well-founded fear of persecution, through sexual violence, for reasons of race, religion, nationality, membership of a particular social group or political opinion;

(e) *Recommends* the development by States of appropriate guidelines on women asylum-seekers, in recognition of the fact that women refugees often experience persecution differently from refugee men;

(f) *Recommends* that refugee victims of sexual violence and their families be provided with adequate medical and psycho-social care, including culturally appropriate counseling facilities, and generally be considered as persons of special concern to States and to UNHCR with respect to assistance and the search for durable solutions;

(g) *Recommends* that in procedures for the determination of refugee status, asylum-seekers who may have suffered sexual violence be treated with particular sensitivity;

(h) *Reiterates* the importance of ensuring the presence of female field staff in refugee programmes, including emergency operations, and the direct access of refugee women to them;

(i) *Supports* the High Commissioner's efforts, in coordination with other intergovernmental and non-governmental organizations competent in this area, to develop and organize training courses for authorities, including camp officials, eligibility officers, and others dealing with refugees on practical protection measures for preventing and responding to sexual violence;

(j) *Recommends* the establishment by States of training programmes designed to ensure that those involved in the refugee status determination process are adequately sensitized to issues of gender and culture;

(k) *Encourages* the High Commissioner to pursue actively her efforts, in cooperation with bodies and organizations dealing with human rights, to increase awareness of the rights of refugees and the specific needs and

abilities of refugee women and girls and to promote the full and effective implementation of the Guidelines on the Protection of Refugee Women;

(l) *Calls* upon the High Commissioner to include the issue of sexual violence in future progress reports on the implementation of the Guidelines on the Protection of Refugee Women;

(m) *Requests* the High Commissioner to issue as an Executive Committee document and disseminate widely the Note on Certain Aspects of Sexual Violence against Refugee Women.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 74 (XLV) GENERAL

The Executive Committee,

(a) *Expresses* its deep concern over the immense human suffering and loss of life which have accompanied recent crises involving refugee flows and other forced displacement;

(b) *Remains* gravely preoccupied by the scale and complexity of current refugee problems, which have made more difficult the accomplishment of the High Commissioner's crucial functions of ensuring international protection for refugees and achieving timely and durable solutions to their plight;

(c) *Reaffirms* the importance of the 1951 Convention and 1967 Protocol relating to the Status of Refugees as the cornerstone of the international system for the protection of refugees, and underlines the role of the High Commissioner, pursuant to Articles 35 and II of these instruments, respectively, and to the Statute of her Office, in supervising their application;

(d) *Welcomes* the accession or succession to these instruments in the past year of Dominica, The Former Yugoslav Republic of Macedonia, and Tajikistan, bringing to 127 the number of States parties to one or both instruments, and, noting that the Member States of the United Nations now number 189, and in view of the global character of the refugee problem, urges States which are not yet parties to accede to these instruments, and all States to implement them fully;

(e) *Warmly welcomes* the demonstrated commitment of States to continue to receive and host refugees in cooperation with UNHCR, to provide them international protection;

¹ Contained in United Nations General Assembly Document No. 12A (A/49/12/Add.1)

(f) *Deplores* the fact that in certain situations refugees, as well as returnees and other persons of concern to UNHCR, have been subjected to armed attack, murder, rape and other violations of or threats to their personal security and other fundamental rights and that incidents of *refoulement* and denial of access to safety have occurred;

(g) *Calls* again upon States to uphold and strengthen asylum as an indispensable instrument for the international protection of refugees, to respect scrupulously the fundamental principle of *non-refoulement*, and to make every effort to ensure the safety and well-being of refugees within their jurisdiction;

(h) *Stresses* the importance of international solidarity and burden-sharing in reinforcing the protection of refugees, and calls upon all States to take an active part, in collaboration with UNHCR, in efforts to assist countries, in particular those with limited resources, that receive and care for large numbers of refugees and asylum-seekers;

(i) *Reiterates* the importance of ensuring access for all persons seeking international protection to fair and efficient procedures for the determination of refugee status or other mechanisms, as appropriate, to ensure that persons in need of international protection are identified and granted such protection;

(j) *Recognizes* that applications for asylum by large numbers of irregular migrants who are not in need of international protection continue to pose serious problems in certain regions, and reiterates in this connection its Conclusion No. 71 (XLIV) (1993), paragraphs j, k and l;

(k) *Notes* that a large number of those persons in need of international protection have been forced to flee or to remain outside their countries of origin as a result of danger to their life or freedom owing to situations of conflict;

(l) *Recognizes* that, while persons who are unable to return in safety to their countries of origin as a result of situations of conflict may or may not be considered refugees within the terms of the 1951 Convention and 1967 Protocol, depending on the particular circumstances, they nonetheless are often in need of international protection, humanitarian assistance and a solution to their plight;

(m) *Recalls* that UNHCR has often been requested by the United Nations General Assembly to extend protection and assistance to persons

who have been forced to seek refuge outside their countries of origin as a result of situations of conflict, and encourages the High Commissioner to continue to provide international protection to such persons, and to seek solutions to the problems arising from their forced displacement, in accordance with relevant General Assembly resolutions, and calls upon all States to assist and support the High Commissioner's efforts in this regard;

(n) *Recognizes* that in Africa and Latin America, regional instruments provide for the protection of refugees fleeing armed conflict and civil strife, as well as those fearing persecution, and that in other regions, persons who require international protection, but who either are not considered refugees within the scope of the 1951 Convention and 1967 Protocol or are in countries that have not acceded to these instruments, have generally been provided protection and humanitarian assistance through specific measures adopted by States and in full cooperation with UNHCR;

(o) *Recognizes* the desirability of exploring further measures to ensure international protection to all who need it;

(p) *Acknowledges* the value of regional harmonization of national policies to ensure that persons who are in need of international protection actually receive it, and calls upon States to consult UNHCR at the regional level in achieving this objective;

(q) *Encourages* the High Commissioner to continue to promote international cooperation in providing international protection to all who require it, and to engage in further consultations and discussions concerning measures to achieve this objective, which might involve the elaboration of guiding principles, including for concerted action;

(r) *Considers* that temporary protection, which has been described by the High Commissioner in the context of the Comprehensive Response to the Humanitarian Crisis in the former Yugoslavia as including admission to safety, respect for basic human rights, protection against *refoulement*, and safe return when conditions permit to the country of origin, can be of value as a pragmatic and flexible method of affording international protection of a temporary nature in situations of conflict or persecution involving large-scale outflows;

(s) *Welcomes* the further exploration by the High Commissioner, pursuant to Protection Conclusion (m) (1993), of temporary protection as an asylum strategy, in the context of addressing prevention, protection and

solutions on a comprehensive regional basis, and looks forward to further discussions among interested Governments on this subject, including the duration of temporary protection;

(t) *Notes* that the beneficiaries of temporary protection may include both persons who qualify as refugees under the terms of the 1951 Convention and the 1967 Protocol and others who may not so qualify, and that in providing temporary protection States and UNHCR should not diminish the protection afforded to refugees under those instruments;

(u) *Calls* upon UNHCR, in close cooperation with the Governments concerned, to continue to coordinate and to provide guidance concerning the implementation of temporary protection and other forms of asylum oriented towards repatriation, in situations where return home is considered the most appropriate durable solution, including advice on voluntary repatriation and on safe return once the need for international protection has ceased;

(v) *Reiterates* that voluntary repatriation, when it is feasible, is the ideal solution to refugee problems, and calls upon countries of origin, countries of asylum, UNHCR and the international community as a whole to do everything possible to enable refugees to exercise freely their right to return home in safety and dignity;

(w) *Notes* that numerous obstacles to voluntary repatriation have been encountered, including threats to the safety of repatriating refugees both in countries of asylum and countries of origin and the persistence or recrudescence of conditions causing refugee flight;

(x) *Stresses* in this connection the responsibilities of States of origin to readmit their nationals and to ensure their safety and welfare, and of countries of asylum to provide for the security and safeguard the fundamental rights of refugees, and calls upon the international community to assist States to discharge these responsibilities with respect to refugees and returnees;

(y) *Reaffirms* its Conclusions Nos. 18(XXXI) (1980) and 40(XXXVI) of 1985 on voluntary repatriation, and underscores the leading role of UNHCR in promoting, facilitating, and coordinating voluntary repatriation of refugees, in cooperation with States concerned, including ensuring that international protection continues to be extended to those in need until such time as they can return in safety and dignity to their country of origin, assisting, where needed, the return and reintegration of repatriating refugees and monitoring their safety and well-being upon return;

(z) *Acknowledges* the usefulness, in appropriate circumstances, of visits by representatives of the countries of origin to refugee camps in countries of asylum within the framework of information campaigns to promote voluntary repatriation, and requests UNHCR, in cooperation with the countries of asylum concerned, to facilitate such visits;

(aa) *Recognizes* that for repatriation to be a sustainable and thus truly durable solution to refugee problems it is essential that the need for rehabilitation, reconstruction, and national reconciliation be addressed in a comprehensive and effective manner, and calls upon the international community to continue to support the High Commissioner's efforts to promote comprehensive and regional approaches to prevention, protection and solutions in consultation with States and the relevant international, regional and national governmental and non-governmental bodies, as appropriate;

(bb) *Reaffirms* the continued importance of resettlement as an instrument of protection and its use as a durable solution in specific circumstances;

(cc) *Emphasizes* the need, particularly in complex emergencies that include humanitarian and peace-keeping operations, to ensure respect for the High Commissioner's protection mandate and to preserve the impartial and purely humanitarian nature of UNHCR activities;

(dd) *Reiterates* its support for the High Commissioner's activities for internally displaced persons in accordance with General Assembly resolution 48/116 (1993) and expresses its appreciation for the detailed and productive discussions that have been held within the Sub-Committee of the Whole on International Protection and in other fora concerning ways in which the international community can better address the protection and assistance needs of the displaced;

(ee) *Notes* with concern the persistent problems of stateless persons in various regions and the emergence of new situations of statelessness, and, acknowledging the responsibilities already entrusted to the High Commissioner by the United Nations General Assembly with respect to the prevention of statelessness (General Assembly resolution 3274 (XXIX)), calls upon UNHCR to strengthen its efforts in this domain, including promoting accessions to the Convention relating to the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons, training for UNHCR staff and government officials, and a systematic

gathering of information on the dimension of the problem, and to keep the Executive Committee informed of these activities;

(ff) *Calls* on the High Commissioner to ensure UNHCR's active participation in the 1995 World Conference on Women and its Regional Preparatory Conferences in order that the situation of refugee women remain high on the international agenda of women's issues;

(gg) *Urges* UNHCR, in cooperation with Governments, other United Nations and international and non-governmental organizations, especially UNICEF and ICRC, to continue its efforts to give special attention to the needs of refugee children, ensuring, in particular, that arrangements are made for their immediate and long-term care, including health, nutrition and education, and, in the case of children who are separated from their families, for prompt registration, tracing and family reunion;

(hh) *Calls* upon States hosting refugees, in close collaboration with UNHCR and other relevant organizations, and consistent with the UNHCR Guidelines on Refugee Children, to safeguard the security of refugee children and to ensure that they are not recruited into the military or other armed groups;

(ii) *Notes* with distress the injury and loss of life caused to refugees and returnees, including women and children who are maimed and incapacitated in large numbers, by the indiscriminate use of land-mines, as well as the harmful and long-term impact of these weapons on the voluntary repatriation, rehabilitation, and resumption of normal lives of millions of refugees and displaced persons, and endorses the High Commissioner's efforts to further international efforts to reduce or eliminate the threat that land-mines pose to them;

(jj) *Recognizes* the importance of ensuring access to current and reliable information on involuntary displacements in the interests of promoting solutions at all levels of the refugee situation and reaffirms support for the High Commissioner's continuing effort in this regard to develop an information policy and databases capable of addressing new challenges with relevant information sources;

(kk) *Notes* with satisfaction UNHCR's activities with regard to the promotion and dissemination of refugee law and protection principles and calls upon the High Commissioner to continue to expand and strengthen the Office's promotion and training activities, with the active support of States

and through increased cooperation with human rights organizations, academic institutions, including the International Institute of Humanitarian Law (San Remo), and other relevant organizations within and outside the United Nations system;

(ll) *Welcomes* the High Commissioner's growing cooperation with the High Commissioner for Human Rights and her continued cooperation with the Centre for Human Rights and calls on UNHCR to continue its active involvement and cooperation with the Commission on Human Rights;

(mm) *Recognizes* the continuing usefulness of inter-sessional meetings of the Sub-Committee of the Whole on International Protection and requests the High Commissioner to convene at least one such meeting to consider current protection issues and to report on progress in the deliberations of the Committee at its forty-sixth session.

No. 75 (XLV) INTERNALLY DISPLACED PERSONS*

The Executive Committee,

(a) *Recognizes* that the involuntary displacement of persons within their own countries is a problem of global dimensions, and that the plight of such-internally displaced persons, whose numbers may exceed those of refugees, is a matter of grave humanitarian concern;

(b) *Notes* that the many and varied underlying causes of involuntary internal displacement and of refugee movements are often similar, and that the problems of both refugees and the internally displaced often call for similar measures with respect to prevention, protection, humanitarian assistance, and solutions;

(c) *Reiterates* the need for the international community to seek ways and means to avert involuntary displacements;

(d) *Emphasizes* that since internally displaced persons remain within the territorial jurisdiction of their own countries, the primary responsibility for their welfare and protection lies with the State concerned;

(e) *Urges* the Governments of States where there are internally displaced persons to fulfil their responsibility for their welfare and protection;

(f) *Calls* upon the international community, in appropriate circumstances, to provide timely and speedy humanitarian assistance and support to countries affected by internal displacement to help them fulfil their responsibility towards the displaced;

(g) *Notes* that, in many instances, the internally displaced are present alongside refugees, returnees, or a vulnerable local population, in situations where it is neither reasonable nor feasible to treat the categories differently in responding to their needs for assistance and protection;

* CONCLUSION ENDORSED BY THE EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME UPON THE RECOMMENDATION OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION OF REFUGEES

(h) *Recognizes* that actions by the international community, in consultation and coordination with the concerned State, on behalf of the internally displaced may contribute to the easing of tensions and the resolution of problems resulting in displacement, and constitute important components of a comprehensive approach to the prevention and solution of refugee problems;

(i) *Calls* on the Governments concerned to ensure safe and timely humanitarian access to persons in need of protection and assistance, including the internally displaced and victims of armed conflict, as well as refugees within their territories;

(j) *Recognizes* that resolution 48/116, adopted by the United Nations General Assembly on 20 December 1993, which reaffirmed support for the High Commissioner's efforts, "on the basis of specific requests from the Secretary-General or the competent principal organs of the United Nations and with the consent of the concerned State, and taking into account the complementarities of mandates and expertise of other relevant organizations, in providing humanitarian assistance and protection to persons displaced within their own country in situations calling for the Office's particular expertise, especially where such efforts could contribute to the prevention or solution of refugee problems", continues to provide an appropriate framework for the involvement of the High Commissioner in situations of internal displacement;

(k) *Encourages* the High Commissioner to continue the efforts of her Office to put into action its internal criteria and guidelines for UNHCR involvement in situations of internal displacement, as an important contribution towards a more concerted response by the international community to the needs of the internally displaced;

(l) *Emphasizes* that activities on behalf of internally displaced persons must not undermine the institution of asylum, including the right to seek and enjoy in other countries asylum from persecution;

(m) *Recognizes* that international human rights law, international humanitarian law, and, in many cases, national laws include norms providing for the security and protection of the internally displaced as well as those at risk of displacement, and expressed serious concern at the failure of parties involved to respect these norms;

(n) *Acknowledges* the importance of the work of the Representative of the Secretary-General for Internally Displaced Persons and, in particular, his efforts to compile existing international standards in respect of the treatment of the internally displaced, and to develop a code of conduct comprising guiding principles in this regard;

(o) *Calls* on UNHCR to continue its close cooperation with the Representative of the Secretary-General in the fulfilment of his mandate;

(p) *Further acknowledges* the essential role of the International Committee of the Red Cross in disseminating international humanitarian law and in providing protection and humanitarian assistance to those displaced by armed conflict;

(q) *Calls* for the strengthening of efforts in the training and dissemination of international human rights law and international humanitarian law and for the joint promotion, by organizations and agencies concerned, of the implementation of these international standards;

(r) *Considers that*, in addressing the problem of internal displacement, the international community should seek to collaborate to the maximum possible extent with existing humanitarian organizations, including non-governmental organizations, with relevant expertise;

(s) *Encourages* UNHCR to continue its efforts, under the leadership of the Emergency Relief Coordinator, and in cooperation with other agencies concerned, to reinforce and structure coordination through existing interagency mechanisms, notably the Interagency Standing Committee, in order to improve the response by the international community to the plight of the internally displaced, and stresses the importance in this connection of strengthening mechanisms for the sharing of information;

(t) *Urges* that discussions on interagency aspects of internal displacement be pursued actively in other appropriate fora so as to ensure a comprehensive and coherent approach by the international community to the problem of internally displaced persons.

**No. 76 (XLV) RECOMMENDATIONS OF THE OAU/UNHCR
COMMEMORATIVE SYMPOSIUM ON REFUGEES AND
FORCED POPULATION DISPLACEMENTS IN AFRICA**

The Executive Committee,

Recalling its Conclusion on International Protection of 1993, in which it, *inter alia*, looked forward to events commemorating the twenty-fifth anniversary of the adoption by the Organization of African Unity of the OAU Convention governing the specific aspects of refugee problems in Africa and encouraged UNHCR to participate actively in its commemoration (A/AC.96/821, para. 19 (o)),

(a) *Takes* note with satisfaction of the activities which have been carried out in commemoration of the twenty-fifth anniversary of the adoption, and the twentieth year of the entry into force, of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa;

(b) *Congratulates* the High Commissioner and the Organization of African Unity upon having successfully organized jointly the OAU/UNHCR Symposium on Refugees and Forced Population Displacements in Africa, which was held in Addis Ababa, Ethiopia, from 8 to 10 September 1994, as one of the commemorative activities;

(c) *Welcomes* the recommendations adopted by the above-mentioned Symposium as an important contribution to the framework for tackling the problems and challenges of forced population displacements in Africa in general; providing asylum, protection and assistance to refugees and other victims of forced displacements; as well as for finding the necessary solutions for these problems;

(d) *Commends* the recommendations to the relevant States, and intergovernmental and non-governmental organizations for consideration and implementation as necessary;

(e) *Requests* the High Commissioner, in close collaboration with the relevant States and intergovernmental and non-governmental organizations, most particularly the Organization of African Unity, to disseminate the recommendations widely, promote as necessary their implementation, and keep the Executive Committee informed of progress in this regard.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 77 (XLVI) GENERAL

The Executive Committee,

(a) *Distressed* at the continued suffering of refugees for whom a solution has yet to be found; reaffirms that respect for fundamental humanitarian principles, including safeguarding the right to seek and enjoy in other countries asylum from persecution, and full regard for the principle of non refoulement, is incumbent on all members of the international community; and urges the continued commitment of States to receive and host refugees and ensure their protection in accordance with accepted legal principles;

(b) *Notes* that the search for solutions to refugee problems is an integral part of the High Commissioner's mandate for international protection, and that identifying and implementing solutions to the problems of refugees requires the constant support of the international community in order that the will and capacity of individual States are reinforced in this common pursuit;

(c) *Emphasizes* the primacy of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol as forming the international legal basis for the protection of refugees; and underlines the value of regional instruments, as applicable, notably the OAU Convention, as well as the Cartagena and San José Declarations;

(d) *Welcomes* the accession of Namibia, the Solomon Islands, Samoa, and Antigua and Barbuda to the 1951 Convention and/or the 1967 Protocol, bringing to 130 the number of States parties to one or both instruments, and

¹ Contained in United Nations General Assembly Document No. 12A (A/50/12/Add.1)

urges States which are not yet party to accede to these instruments, and all States to implement them fully;

(e) *Reaffirms* the competence of the High Commissioner in supervising the application of international instruments for the protection of refugees. Stresses the importance of their interpretation and application by States in a manner consistent with their spirit and purpose. Reminds States party to the 1951 Convention and/or the 1967 Protocol of the undertaking in Article 35 of the Convention, reiterated in Conclusion 57 of the fortieth session of the Executive Committee in 1989, to provide the High Commissioner with detailed information on the implementation of the Convention and urges those state parties who have not yet complied with this undertaking to do so;

(f) *Recalls* its conclusion 74 (XLV), which encouraged the High Commissioner to engage in consultations and discussions concerning measures to ensure international protection to all who need it; and reiterates its support for UNHCR's role in exploring the development of guiding principles to this end, consistent with fundamental protection principles reflected in international instruments, and calls on UNHCR to organize informal consultations on this subject;

(g) *Calls upon* the High Commissioner to support and promote efforts by States towards the development and implementation of criteria and guidelines on responses to persecution specifically aimed at women, by sharing information on States' initiatives to develop such criteria and guidelines, and by monitoring to ensure their fair and consistent application. In accordance with the principle that women's rights are human rights, these guidelines should recognize as refugees women whose claim to refugee status is based upon well-founded fear of persecution for reasons enumerated in the 1951 Convention and 1967 Protocol, including persecution through sexual violence or other gender-related persecution;

(h) *Condemns* all forms of ethnic violence and intolerance, which are among the major causes of forced displacements as well as an impediment to durable solutions to refugee problems; and appeals to States to combat intolerance, racism and xenophobia and to foster empathy and understanding through public statements, appropriate legislation and social policies, especially with regard to the special situation of refugees and asylum-seekers;

(i) *Recognizes* that for States to fulfil their humanitarian responsibilities in receiving refugees and in reintegrating returning refugees, and in

addressing some of the causes of refugee movements, an effective human rights regime is essential, including institutions which sustain the rule of law, justice and accountability; and in this connection calls on UNHCR to strengthen its activities in support of national legal and judicial capacity-building, where necessary, in cooperation with the United Nations High Commissioner for Human Rights;

(j) *Calls on* all States to promote conditions conducive to the return of refugees and to support their sustainable reintegration by providing countries of origin with necessary rehabilitation and development assistance in conjunction, as appropriate, with UNHCR and relevant development agencies;

(k) *Reiterates* the right of all persons to return to their country, and emphasizes in this regard the prime responsibility of countries of origin for establishing conditions which allow voluntary repatriation of refugees in safety and with dignity and, in recognition of the obligation of all States to accept the return of their nationals, calls on all States to facilitate the return of their nationals who are not refugees;

(l) *Emphasizes* in this context the need to address problems pertaining to the return of persons not in need of international protection, and encourages UNHCR to cooperate with other international organizations in looking into ways in which the return process can be facilitated, and to inform the Standing Committee;

(m) *Calls upon* the High Commissioner to continue to expand and strengthen the Office's activities with regard to the promotion and dissemination of refugee law and protection principles with the active support of States and through increased cooperation with nongovernmental organizations, academic institutions and other relevant organizations; further calls upon the High Commissioner to explore ways to integrate its activities in the areas of documentation, research, publications and electronic dissemination;

(n) *Recognizes* the role refugee community education can play in national reconciliation and encourages UNHCR, in cooperation with other organizations, to strengthen its efforts in assisting host country Governments to ensure the access of refugees to education, including the introduction into such programmes of elements of education for peace and human rights;

(o) *Calls on* all States to manifest their international solidarity and burden-sharing with countries of asylum, in particular those with limited resources, both politically and in other tangible ways which reinforce their capacity to maintain generous asylum policies, through cooperation in conjunction with UNHCR to support the maintenance of agreed standards in respect of the rights of refugees; reiterates the critical importance of development and rehabilitation assistance in addressing some of the causes of refugee situations, as well as their solutions, including voluntary repatriation when deemed appropriate; and also in the context of development of prevention strategies;

(p) *Reiterates* the continued importance of resettlement as an instrument of protection and its use as a durable solution to refugee problems in specific circumstances; welcomes the initiative in commissioning an evaluation study and the UNHCR-sponsored consultation on resettlement; and encourages UNHCR to continue the process of dialogue with interested Governments and non-governmental organizations to strengthen its activities in this connection, and to provide regular reports to the Executive Committee;

(q) *Reaffirms* its Conclusion 48 (XXXVIII) on Military or Armed Attacks on Refugee Camps and Settlements and reiterates that, the grant of asylum or refuge being a peaceful and humanitarian act, refugee camps and settlements must maintain their exclusively civilian and humanitarian character, and all parties are obliged to abstain from any activity likely to undermine this; condemns all acts which pose a threat to the personal security of refugees and asylum-seekers, and also those which may endanger the safety and stability of States; calls on States of refuge to take all necessary measures to ensure that the civilian and humanitarian character of refugee camps and settlements is maintained and, in this regard, calls on all other States to assist them; and further calls on States of refuge to take effective measures to prevent the infiltration of armed elements, to provide effective physical protection to refugees and asylum-seekers, and to afford UNHCR and other appropriate organizations prompt and unhindered access to them.

**No. 78 (XLVI) PREVENTION AND REDUCTION OF
STATELESSNESS AND THE PROTECTION OF
STATELESS PERSONS**

The Executive Committee,

Recognizing the right of everyone to a nationality and the right not to be arbitrarily deprived of one's nationality,

Concerned that statelessness, including the inability to establish one's nationality, may result in displacement,

Stressing that the prevention and reduction of statelessness and the protection of stateless persons are important in the prevention of potential refugee situations,

(a) *Acknowledges* the responsibilities already entrusted to the High Commissioner for stateless refugees and with respect to the reduction of statelessness, and encourages UNHCR to continue its activities on behalf of stateless persons, as part of its statutory function of providing international protection and of seeking preventive action, as well as its responsibility entrusted by the General Assembly to undertake the functions foreseen under Article 11 of the 1961 Convention on the Reduction of Statelessness;

(b) *Calls upon* States to adopt nationality legislation with a view to reducing statelessness, consistent with fundamental principles of international law, in particular by preventing arbitrary deprivation of nationality, and by eliminating provisions which permit the renunciation of a nationality without the prior possession or acquisition of another nationality;

(c) *Requests* UNHCR actively to promote accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, in view of the limited number of States parties to these instruments, as well as to provide relevant technical and advisory services pertaining to the preparation and implementation of nationality legislation to interested States;

(d) *Further* requests UNHCR actively to promote the prevention and reduction of statelessness through the dissemination of information, and the training of staff and government officials; and to enhance cooperation with other interested organizations;

(e) *Invites* UNHCR to provide it biennially, beginning at the forty-seventh session of the Executive Committee, with information on activities undertaken on behalf of stateless persons, particularly with regard to the implementation of international instruments and international principles relating to statelessness, and including the magnitude of the problem of statelessness.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 79 (XLVII) GENERAL

The Executive Committee

(a) *Recognizes* that the complexity of current refugee problems underlines both the fundamental importance of the High Commissioner's primary function of international protection and the difficulties inherent in the exercise of this function;

(b) *Reiterates* that the High Commissioner's international protection function can only be carried out effectively with the full support of Governments, in particular through the provision of durable solutions; and welcomes the continued readiness of States to receive and protect refugees as well as to make available resources to meet refugee needs;

(c) *Recalls* in this regard the fundamental importance of the 1951 Convention and 1967 Protocol, in particular their implementation in a manner fully compatible with the object and purpose of these instruments; and welcomes the accession of South Africa and Kyrgyzstan to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, bringing to 132 the number of States parties to one or both instruments;

(d) *Urges* all States that have not yet done so to accede to and implement fully the 1951 Convention and its 1967 Protocol and relevant regional instruments for the protection of refugees, as applicable, thereby strengthening the framework of international protection;

(e) *Invites* States parties to the 1951 Convention and/or the 1967 Protocol which, at the time of accession, made reservations with respect to any provisions of these instruments to review such reservations with a view to their withdrawal;

¹ Contained in United Nations General Assembly Document No. 12A (A/51/12/Add.1)

(f) *Recalls* its reaffirmation of the competence of the High Commissioner in supervising the application of international instruments for the protection of refugees, and reminds States parties to the 1951 Convention and/or the 1967 Protocol of their undertaking to provide the High Commissioner with detailed information on the implementation of those instruments;

(g) *Recalls* also the importance of addressing the problem of statelessness, including through accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, welcomes the accession of Brazil and Guatemala to the 1954 Convention and of Azerbaijan to both statelessness conventions, and calls upon other States to consider accession to these instruments;

(h) *Recognizes* that countries of asylum carry a heavy burden, including in particular developing countries with limited resources and those which, due to their location, host large numbers of refugees and asylum-seekers; reiterates in this regard its commitment to uphold the principles of international solidarity and burden-sharing and calls on Governments and UNHCR to continue to respond to the assistance needs of refugees until durable solutions are found;

(i) *Distressed* at the widespread violations of the principle of *non-refoulement* and of the rights of refugees, in some cases resulting in loss of refugee lives, and seriously disturbed at reports indicating that large numbers of refugees and asylum-seekers have been refouled and expelled in highly dangerous situations; recalls that the principle of *non-refoulement* is not subject to derogation;

(j) *Reaffirms* the fundamental importance of the principle of *non-refoulement*, which prohibits expulsion and return of refugees, in any manner whatsoever, to the frontiers of territories where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion, whether or not they have formally been granted refugee status, or of persons in respect of whom there are grounds for believing that they would be in danger of being subjected to torture, as set forth in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(k) *Deplores* violations of the right to personal security of refugees and asylum-seekers, including sexual and other attacks, especially on women and children, and appeals to all States to abide by their international obligations

to protect the physical security of refugees and asylum-seekers and to take measures to ensure that such practices cease immediately;

(l) *Expressing* concern at the misuse of asylum procedures, calls upon States that have adopted measures aimed at discouraging abusive use of asylum procedures to ensure that these measures have no detrimental effect on the fundamental principles of international protection, including on the institution of asylum;

(m) *Recalls* its conclusion 77 (XLVI), which encouraged the High Commissioner to engage in consultations and discussions concerning measures to ensure international protection to all who need it and called on UNHCR to organize informal consultations on this subject; supports UNHCR's activities to date in respect of such consultations and discussions; and encourages UNHCR to continue this process, keeping the Executive Committee informed;

(n) *Notes* with satisfaction UNHCR's activities with regard to the promotion and dissemination of refugee law and protection principles and calls upon the High Commissioner to continue to expand and strengthen the promotion and training activities of the Office, including in the area of prevention and reduction of statelessness and related nationality issues, with the active support of States and through increased cooperation with other international organizations, non-governmental organizations, academic institutions and other relevant organizations;

(o) *Recalls* its request that UNHCR support and promote efforts by States towards the development and implementation of criteria and guidelines on responses to persecution specifically aimed at women, welcomes in this context the convening by UNHCR in February 1996 of the *Symposium on Gender-Based Persecution*, the purpose of which was to share information on States' initiatives in this respect, and encourages UNHCR to continue and strengthen its efforts for the protection of women having a well-founded fear of persecution; and calls on States to adopt an approach that is sensitive to gender-related concerns and which ensures that women whose claims to refugee status are based upon a well-founded fear of persecution for reasons enumerated in the 1951 Convention and its 1967 Protocol, including persecution through sexual violence or other gender-related persecution, are recognized as refugees;

(p) *Stresses* the importance of UNHCR's being granted access to asylum applicants and refugees in order to enable the Office to carry out its protection functions in an effective manner;

(q) *Notes* that voluntary repatriation, local integration and resettlement are the traditional durable solutions for refugees, while reaffirming that voluntary repatriation of refugees is the most preferred solution, where feasible;

(r) *Reaffirms* its conclusion 67 (XLII) on resettlement as an instrument of protection and as a durable solution, and welcomes the action taken recently by UNHCR, including the issuance of the Resettlement Handbook on criteria and procedures, and encourages training activities to support resettlement operations in the field;

(s) *Acknowledges* the resettlement efforts undertaken by Governments and the efforts being made by UNHCR to take full advantage of resettlement opportunities and to find solutions for individual refugees considered in need of resettlement, and in this connection urges Governments to respond actively to the resettlement needs of refugees in a spirit of burden-sharing;

(t) *Encourages* the regular exchange of information as part of the ongoing consultations of UNHCR with Governments and NGOs on resettlement;

(u) *Reiterates* the right of all persons to return to their countries and the responsibility of all States to accept and facilitate the return and reintegration of their nationals, and recommends to States that strategies for facilitating the return, in safety and with dignity, of persons not in need of international protection be examined within a framework of international cooperation;

(v) *Encourages* UNHCR in this context, in cooperation with other appropriate international organizations, to continue the consultative process initiated in 1995 on the question of how the return process can be facilitated;

(w) *Recalling* the interrelationship between protection and solutions, as well as the desirability of prevention, including through the respect for human rights and the implementation of relevant instruments and standards, with particular attention to the responsibilities of States to resolve refugee situations and, especially with respect to countries of origin, to eliminate causes of refugee flows, calls on UNHCR to continue its activities in support of national legal and judicial capacity-building where appropriate, and to

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cooperate with the United Nations High Commissioner for Human Rights and other relevant organizations in this regard.

**No. 80 (XLVII) COMPREHENSIVE AND REGIONAL
APPROACHES WITHIN A PROTECTION FRAMEWORK**

The Executive Committee,

Recognizing that the underlying causes of large-scale involuntary population displacements are complex and interrelated and encompass gross violations of human rights, including in armed conflict, poverty and economic disruption, political conflicts, ethnic and inter-communal tensions and environmental degradation, and that there is a need for the international community to address these causes in a concerted and holistic manner,

Reaffirming in this regard conclusion No. 40 (XXXVI) on Voluntary Repatriation, which states that the aspect of causes is critical to the issue of solutions and that international efforts should also be directed to the removal of the causes of refugee movements; stressing further that the essential condition for the prevention of refugee flows is sufficient political will by the States directly concerned to address causes which are at the origin of refugee movements,

Recalling its encouragement to the High Commissioner to engage in consultations on possibilities and initiatives in specific areas with complex problems of coerced population movements as well as on achieving the objective of providing international protection to all who need it,

Noting that the prevention of and response to such situations may be beyond UNHCR's mandate and capacity,

Further noting that internally displaced persons remain within the territorial jurisdiction of their own countries and that the primary responsibility for their welfare and protection lies with the State concerned,

Aware that involuntary displacement, in addition to the human suffering involved, can impose significant intra-regional burdens, and may also affect security and stability at the regional level,

Acknowledging the desirability of comprehensive approaches by the international community to the problems of refugees and displaced persons, including addressing root causes, strengthening emergency preparedness and response, providing effective protection, and achieving durable solutions,

(a) *Emphasizes* the responsibility of States to ensure conditions which do not compel people to flee in fear, to uphold the institution of asylum, to create conditions conducive to voluntary repatriation, to take steps to meet essential humanitarian needs and to cooperate with countries on whom the large-scale presence of refugees weighs most heavily;

(b) *Reaffirms* the value of comprehensive approaches in which UNHCR has played a significant part, through its presence and activities in countries of origin as well as countries of asylum; notably the CIREFCA process, the Comprehensive Plan of Action and the repatriation to Mozambique; and recalls that the High Commissioner is mandated to promote voluntary repatriation by taking initiatives including promoting dialogue between all the main parties, facilitating communication between them, and by acting as an intermediary or channel of communication;

(c) *Underlines* the value of regional cooperation, as illustrated by these approaches, in addressing involuntary displacement in a manner which encompasses the political dimension of causes;

(d) *Recalls* that, while there is no blueprint for such approaches, protection considerations should govern the entire process towards solutions, and standards should be applied consistently;

(e) *Encourages* States, in coordination and cooperation with each other, and with international organizations, if applicable, to consider the adoption of protection-based comprehensive approaches to particular problems of displacement, and identifies, as the principal elements of such approaches:

- (i) the protection of all human rights, including the right to life, liberty and the security of person, as well as to freedom from torture or other cruel, inhuman or degrading treatment or punishment; the right to leave one's own country and to return; the principle of nondiscrimination, including the protection of minorities; and the right to a nationality
- (ii) promotion of the rule of law through national legal and judicial capacity-building
- (iii) respect for the institution of asylum, including the fundamental principle of *non-refoulement*, and ensuring international protection to all those who need it
- (iv) measures to reinforce international solidarity and burden-

sharing

- (v) support for long-term sustainable development
- (vi) integration of developmental approaches into the relief stage by strengthening national capacities
- (vii) support for rehabilitation, reintegration and reconstruction measures which will underpin the sustainability of repatriation
- (viii) public information to raise awareness about refugee and migration issues in both host countries and countries of origin, particularly with a view to countering xenophobia and racism
- (ix) the establishment and fostering of mechanisms designed to avoid or reduce the incidence of conflict, as conflict may result in population displacement
- (x) reconciliation measures where necessary and possible, notably in post-conflict situations, to ensure the durability of solutions
- (xi) education for peace and human rights, including at the community level, in both countries of origin and countries of asylum

(f) *Invites* UNHCR to provide its support and expertise in formulating comprehensive approaches and assisting States in exploring more systematically where and how such approaches might be appropriate and feasible.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 81 (XLVII) GENERAL

The Executive Committee,

(a) *Welcomes* the fact that despite the increasing complexity of refugee crises, States in many parts of the world continue to grant asylum to refugees, both on an individual basis and in situations of mass influx;

(b) *Strongly deplors* the serious and often brutal violations of the human rights of refugees, returnees and displaced persons during the past year, and remains particularly preoccupied with the situation of refugees, asylum-seekers, and displaced persons in central Africa;

(c) *Reiterates* the fundamental importance of the international protection of refugees, as well as the mandated role of UNHCR in this regard, and acknowledges with appreciation the contribution made by the High Commissioner, in cooperation with States and concerned agencies, to promote the protection of refugees and to facilitate lasting solutions; acknowledges also the efforts of the High Commissioner, working together with other humanitarian and development organizations, as well as with States, to contribute to the resolution of refugee crises and to address their root causes;

(d) *Emphasizes* that refugee protection is primarily the responsibility of States, and that UNHCR's mandated role in this regard cannot substitute for effective action, political will, and full cooperation on the part of States, including host States and countries of origin, as well as other international organizations, and the international community as a whole;

(e) *Calls on* States to take all necessary measures to ensure that refugees are effectively protected, including through national legislation, and

¹ Contained in United Nations General Assembly Document No. 12A (A/52/12/Add.1)

in compliance with their obligations under international human rights and humanitarian law instruments bearing directly on refugee protection, as well as through full cooperation with UNHCR in the exercise of its international protection function and its role in supervising the application of international conventions for the protection of refugees;

(f) *Calls upon* States to consider, including through competent organs of the United Nations and other relevant international organizations, steps that could be taken to assist the High Commissioner in strengthening implementation of the principles of international protection in situations, including, in particular, in complex emergencies, where refugee protection is threatened;

(g) *Stresses* the importance of the role played by this Committee in providing guidance and forging consensus on vital protection policies and practices, and, in this connection, emphasizes the need for due regard to be paid to the Conclusions of the Executive Committee;

(h) *Reaffirms* Conclusion No. 80 (XLVIII), and notes that a comprehensive approach to refugee protection comprises, *inter alia*, respect for all human rights; the principle of *non-refoulement*; access, consistent with the 1951 Convention and the 1967 Protocol, of all asylum-seekers to fair and effective procedures for determining status and protection needs; no rejection at frontiers without the application of these procedures; asylum; the provision of any necessary material assistance; and the identification of durable solutions which recognize human dignity and worth;

(i) *Recognizes* the fundamental importance of the principle of *non-refoulement*, which prohibits expulsion and return of refugees in any manner whatsoever to the frontiers of territories where their lives or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion, whether or not they have formally been granted refugee status, or of persons in respect of whom there are substantial grounds for believing that they would be in danger of being subjected to torture, as set forth in the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(j) *Recognizes* that countries of asylum carry a heavy burden, including, in particular, developing countries, countries in transition, and countries with limited resources, which, due to their location, host large numbers of refugees and asylum-seekers; reiterates in this regard its commitment to uphold the principles of international solidarity and burden-

sharing, and calls on Governments, UNHCR and the international community to continue to respond to the assistance needs of refugees until durable solutions are found;

(k) *Encourages* States and UNHCR to continue to promote, where relevant, regional initiatives for refugee protection and durable solutions, and to ensure that regional standards which are developed conform fully with universally recognized standards and respond to particular regional circumstances and protection needs;

(l) *Welcomes* the accession of Estonia, Latvia, and Lithuania to the 1951 Convention and the 1967 Protocol, bringing to 135 the number of States parties to one or both of these instruments;

(m) *Notes* with appreciation that a number of States not party to the 1951 Convention and its 1967 Protocol continue to maintain a generous approach to asylum; nevertheless, considering that over fifty States have yet to accede to these instruments, encourages the High Commissioner to continue to promote further accessions; and urges all States that have not yet done so to accede to and implement fully these instruments, as well as relevant regional instruments for the protection of refugees, where applicable, thereby strengthening the framework of international protection;

(n) *Calls upon* States parties to the 1951 Convention and/or the 1967 Protocol which, at the time of accession, made reservations with respect to any provisions of these instruments to review such reservations with a view to their withdrawal;

(o) *Welcomes* the growing number of accessions to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, and encourages UNHCR to continue its efforts, in cooperation with interested organizations, to promote further accessions to both instruments, as well as to provide technical and advisory services and training globally, to disseminate information on statelessness and nationality issues, and to further its cooperation with States and other organizations interested in this area;

(p) *Takes note* of the discussions which have taken place on measures to ensure international protection to all who need it, and encourages UNHCR to continue to organize informal consultations, with a view to making further progress in this area, including through exploring the development of guiding principles;

(q) *Notes* that voluntary repatriation, local integration and resettlement are the traditional durable solutions for refugees; affirms that voluntary repatriation of refugees is the most preferred solution, when feasible; and calls upon countries of origin, countries of asylum, UNHCR, and the international community to take all necessary measures to enable refugees to exercise freely their right to return to their homes in safety and dignity;

(r) *Reaffirms* the continuing importance of resettlement as an instrument of protection and burden-sharing and as a durable solution in specific circumstances; encourages all Governments capable of doing so to make efforts to resettle refugees; encourages Governments who have not already done so to join in offering resettlement opportunities to refugees, and requests UNHCR to report on resettlement activities to the forty-ninth session of the Executive Committee;

(s) *Reaffirms* the right of all persons to return to their countries, and the responsibility of States to facilitate the return and reintegration of their nationals; recommends to States that strategies for facilitating the return, in safety and dignity, of persons not in need of international protection be examined within a framework of international cooperation; and encourages UNHCR to continue, in cooperation with other appropriate international organizations, to look into ways in which the return process of individuals, determined through fair and effective procedures not to be in need of international protection, can be facilitated, and to inform the Standing Committee;

(t) *Reaffirms* its Conclusions Nos. 39 (XXXVI), 54 (XXXIX), 60 (XL), 64 (XLI) and 73 (XLIV), and urges States, UNHCR, and other humanitarian organizations, as appropriate, to take all necessary steps to implement these Conclusions, including through recognizing as refugees women whose claims to refugee status are based upon a well-founded fear of persecution for reasons enumerated in the 1951 Convention and the 1967 Protocol, including persecution through sexual violence or other gender-related persecution; by the integration of activities on behalf of refugee women in every aspect of programme planning and implementation; and by taking action to eliminate incidents of violence against women and girls;

(u) *Notes* with satisfaction UNHCR's dissemination and training activities with regard to promoting refugee law and protection principles, and calls upon the High Commissioner to continue to strengthen the Office's refugee law promotion work, with the active support of States and through

increased cooperation with non-governmental organizations, academic institutions and other relevant organizations.

**No. 82 (XLVIII) – CONCLUSION ON
SAFEGUARDING ASYLUM**

The Executive Committee,

(a) *Recalls* the fundamental importance of the High Commissioner's international protection function;

(b) *Reaffirms* that the institution of asylum, which derives directly from the right to seek and enjoy asylum set out in Article 14 (1) of the 1948 Universal Declaration of Human Rights, is among the most basic mechanisms for the international protection of refugees;

(c) *Notes* with concern that the growing complexity of refugee crises poses serious and novel challenges to the institution of asylum;

(d) *Reiterates*, in light of these challenges, the need for full respect to be accorded to the institution of asylum in general, and considers it timely to draw attention to the following particular aspects:

- (i) the principle of *non-refoulement*, which prohibits expulsion and return of refugees in any manner whatsoever to the frontiers of territories where their lives or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion, whether or not they have been formally granted refugee status, or of persons in respect of whom there are substantial grounds for believing that they would be in danger of being subjected to torture, as set forth in the 1984 Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment;
- (ii) access, consistent with the 1951 Convention and the 1967 Protocol, of asylum-seekers to fair and effective procedures for determining status and protection needs;
- (iii) the need to admit refugees into the territories of States, which includes no rejection at frontiers without fair and effective procedures for determining status and protection needs;
- (iv) the need for rapid, unimpeded and safe UNHCR access to persons of concern to the High Commissioner;

- (v) the need to apply scrupulously the exclusion clauses stipulated in Article 1 F of the 1951 Convention and in other relevant international instruments, to ensure that the integrity of the asylum institution is not abused by the extension of protection to those who are not entitled to it;
 - (vi) the obligation to treat asylum-seekers and refugees in accordance with applicable human rights and refugee law standards as set out in relevant international instruments;
 - (vii) the responsibility of host States, working, where appropriate, with international organizations, to identify and separate any armed or military elements from refugee populations, and to settle refugees in secure locations at a reasonable distance, to the extent possible, from the frontier of the country of origin, with a view to safeguarding the peaceful nature of asylum;
 - (viii) the duty of refugees, and of asylum-seekers, to respect and abide by the laws of host States;
- (e) *Calls upon* all concerned parties to respect and comply with the precepts on which the institution of asylum is based, and to implement their obligations in a spirit of true humanitarianism, international solidarity and burden-sharing.

**No. 83 (XLVIII) - CONCLUSION ON SAFETY
SAFETY OF UNHCR STAFF AND OTHER
HUMANITARIAN PERSONNEL**

The Executive Committee,

Stressing the humanitarian, non-political nature of UNHCR's mandate,

Emphasizing that all States must respect and promote the principles and norms of international humanitarian law, including those relating to the safety and security of humanitarian personnel, and taking note of the 1994 Convention on the Safety of United Nations and Associated Personnel, as well as Security Council Presidential Statement S/PRST/1997/34,

Noting that the local and international staff of UNHCR and its implementing partners, as well as other humanitarian personnel, are increasingly required to operate in conflict areas and under hazardous conditions entailing physical risk and mental stress,

Commending the High Commissioner's staff for the courageous and dedicated manner in which they discharge their responsibilities in conflict areas and under hazardous conditions, and paying tribute to those staff members and their families who have suffered serious mental stress or physical injury, or whose lives have been endangered or lost in the course of their duties,

(a) *Strongly condemns* any acts which obstruct or prevent the staff of UNHCR and its implementing partners, as well as other humanitarian personnel, from discharging their humanitarian functions, or which entail their being subjected to threats, use of force, and physical attack frequently resulting in injury or death;

(b) *Calls upon* States and all concerned parties:

- (i) to refrain from any actions which prevent or obstruct the staff of UNHCR and its implementing partners, as well as other humanitarian personnel, from performing the functions required under their mandates;
- (ii) to take all possible measures to safeguard the physical security and property of the staff of UNHCR and its implementing partners, as well as of other humanitarian personnel;

- (iii) to facilitate the discharge of the mandated functions of UNHCR and its implementing partners, as well as of other humanitarian organizations;

(c) *Requests* States to take all necessary steps to investigate fully any crime committed against the staff of UNHCR and its implementing partners, as well as of other humanitarian personnel, and to bring to justice persons responsible for such crimes;

(d) *Reaffirms* that it continues to be seriously concerned about the stress and safety situation of the staff of UNHCR and its implementing partners, as well as of other humanitarian personnel, and:

- (i) encourages UNHCR to give its fullest attention to the examination and adoption of measures to improve staff safety and security, in cooperation, as necessary, with other relevant international organizations and bodies;
- (ii) calls upon the High Commissioner to continue to bring this issue to the attention of the Advisory Committee on Coordination, with a view to drawing up, in consultation with the Office of the United Nations Security Coordinator, recommendations on measures to be taken to improve security for the staff of UNHCR and its implementing partners, as well as other of humanitarian personnel.

**No. 84 (XLVIII) CONCLUSION ON REFUGEE
CHILDREN AND ADOLESCENTS**

The Executive Committee,

Recognizing that children and adolescents constitute the majority of refugees and other persons of concern to UNHCR,

Conscious of the human rights and dignity of all refugee children and adolescents, and that, due to their specific needs and vulnerability within the broader refugee population, they need to be among the first to receive protection and assistance in any refugee situation,

Gravely concerned that refugee children and adolescents continue to be exposed to family separation, physical violence and other violations of their human rights, including through sexual abuse and exploitation, and military or armed attacks,

Recalling the fundamental importance of the Convention on the Rights of the Child (CRC) to the legal framework for the protection of child and adolescent refugees and for promoting their best interests,

Recalling that the Convention on the Rights of the Child, in its preamble, states that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Welcoming the United Nations Study on the Impact of Armed Conflict on Children (“the Machel Study”), and the appointment of a Special Representative of the Secretary-General on the Impact of Armed Conflict on Children,

Taking note, with interest, of UNHCR’s strategy for follow-up to the Machel Study, and commending the establishment of operational performance objectives in respect of refugee children and adolescents,

Reaffirming its Conclusions No. 47 (XXXVIII) and No. 59 (XL) concerning refugee children and adolescents, and, stressing their continued validity,

(a) *Calls upon* States and relevant parties to respect and observe rights and principles that are in accordance with international human rights and humanitarian law and that are of particular relevance to international refugee protection, especially to safeguarding child and adolescent refugees, including:

- (i) the principle of the best interests of the child and the role of the family as the fundamental group of society concerned with the protection and well-being of children and adolescents;
- (ii) the fundamental right of children and adolescents to life, liberty, security of person, and freedom from torture and cruel, inhuman or degrading treatment or punishment;
- (iii) the right of children and adolescents to education, adequate food, and the highest attainable standard of health;
- (iv) the right of children affected by armed conflict to special protection and treatment, taking into account the particular vulnerability of refugee children to being forcibly exposed to the risks of injury, exploitation, and death in connection with armed conflict;
- (v) the right of children to protection from harmful traditional practices and from all other forms of exploitation;

(b) *Urges* States and concerned parties to take all possible measures to protect child and adolescent refugees, *inter alia*, by:

- (i) preventing separation of children and adolescent refugees from their families and promoting care, protection, tracing and family reunification for unaccompanied minors;
- (ii) safeguarding the physical security of refugee children and adolescents, securing the location of camps and settlements at a reasonable distance from the frontiers of countries of origin, and taking steps to preserve the civilian character and humanitarian nature of refugee camps and settlements;
- (iii) preventing sexual violence, exploitation, trafficking and abuse; addressing the needs and rights of child and adolescent victims through provision of appropriate legal and rehabilitative remedies; and by following up on the Plan of Action of the 1996 Stockholm World Congress on the Sexual Exploitation of Children;

- (iv) providing appropriate training to military personnel and peacekeepers on human rights and humanitarian protections to which children and adolescents are entitled, and holding all parties accountable for violations of such rights and protections in refugee situations;
- (v) ensuring access to education, and the right of the child to freedom of thought, conscience and religion;
- (vi) providing medical or other special care, including rehabilitation assistance, to assist the social reintegration of refugee children and adolescents, especially those who are unaccompanied or orphaned;

(c) *Calls upon* UNHCR to continue to integrate fully the rights of the child into its policies and programmes; improve its operational methods for assessing the needs of child and adolescent refugees; train its staff and implementing partners accordingly; formulate preventive strategies; and strengthen collaboration with States, UNICEF, WFP, the Office of the High Commissioner for Human Rights, ICRC, non-governmental organizations, and other concerned actors;

(d) *Calls upon* UNHCR to include on the work programme of the Standing Committee in 1998 a report on the implementation of its strategy for follow-up to the Machel Study, with special reference to the establishment of operational performance objectives in respect of refugee children and adolescents and the identification of improvements in staffing, training and budgeting to meet these objectives; and also to report on follow-up of its evaluation of UNHCR programming and protection efforts on behalf of refugee children and adolescents.

(e) *Calls upon* all States to participate constructively in the negotiations on an optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts with the aim of an early agreement on the text.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE
ON INTERNATIONAL PROTECTION OF REFUGEES¹**

**No. 85 (XLIX) - CONCLUSION ON
INTERNATIONAL PROTECTION**

The Executive Committee,

The protection situation

(a) *Welcomes* that many States continue to grant asylum to refugees, both on an individual basis and in situations of mass influx, in accordance with international law and with internationally established principles and standards, but deplores the numerous and serious breaches of such law, principles and standards by some States;

(b) *Deplores*, in particular, that in certain situations, refugees, as well as returnees and other persons of concern to UNHCR, have been subjected to armed attacks, murder, rape and other serious violations of or threats to their personal security, including through denial of access to safety, *refoulement* or expulsion to highly dangerous situations;

(c) *Expresses* deep concern about the increasing use of war and violence as a means to carry out persecutory policies against groups targeted on account of their race, religion, nationality, membership of a particular social group, or political opinion;

(d) *Reiterates* that refugee protection is primarily the responsibility of States and that it is best achieved through effective cooperation between all States and UNHCR, as well as other international organizations and pertinent actors, in a spirit of international solidarity and burden-sharing;

(e) *Encourages* UNHCR and States to strengthen their efforts to promote broader accession to the 1951 Convention relating to the Status of

¹ Contained in United Nations General Assembly Document No. 12A (A/53/12/Add.1)

Refugees and its 1967 Protocol and to cooperate to promote a universal and full implementation of these instruments;

Human rights and refugee protection

(f) *Notes* that the 50th anniversary of the Universal Declaration of Human Rights is being commemorated this year and reaffirms that the institution of asylum, which derives directly from the right to seek and enjoy asylum from persecution set out in Article 14 of the Declaration, is among the most basic mechanisms for the protection of refugees;

(g) *Recognizes* that the refugee experience, in all its stages, is closely linked to the degree of respect by States for human rights and fundamental freedoms and the related refugee protection principles, and reaffirms the importance in this regard of educational and other programmes to combat racism, discrimination and xenophobia, to promote tolerance and respect for all persons and their human rights, to advance the rule of law and legal and judicial capacity-building, and to strengthen civil society and sustainable development;

(h) *Deplores* that serious and repeated violations of human rights and fundamental freedoms, which are one of the principal reasons for refugee flows, continue both in peace and in times of armed conflict;

(i) *Encourages* UNHCR to strengthen further its collaboration with the Office of the High Commissioner for Human Rights and with relevant human rights bodies and mechanisms, as well as with non-governmental organizations, with a view to strengthening refugee protection, keeping in mind the need to improve coordination, promote complementarity, avoid duplication of efforts and to preserve the distinct character of the respective mandates;

(j) *Deplores* gender-related violence and all forms of discrimination on grounds of sex directed against refugee and displaced women and girls, and calls on States to ensure that their human rights and physical and psychological integrity are protected, and that they are made aware of these rights;

(k) *Remains* deeply concerned also about continuing violations of the rights of refugee children, including through abduction with a view to forcing participation in military activities, as well as through acts of violence, threats to their dignity, forced family separation, and sexual abuse and exploitation,

and calls on States and relevant parties to take all necessary measures to end these violations, in compliance with principles and standards of refugee law, human rights law and humanitarian law;

(l) *Notes* that 1999 has been declared the International Year of Older Persons, and calls upon UNHCR to make renewed efforts to ensure that the rights, needs and dignity of elderly refugees are fully respected and addressed through appropriate programme activities;

(m) *Reaffirms* the importance of the right to a nationality and calls on States to adopt all necessary measures to prevent or reduce the incidence of statelessness, including through national legislation and, as appropriate, accession to and implementation of the Statelessness Conventions; draws particular and urgent attention in this regard to the situation of children of refugees and asylum-seekers born in asylum countries who could be stateless unless appropriate legislation and registration procedures are in place and are followed;

The right to seek and enjoy asylum

(n) *Underlines* the utmost significance to refugee protection of the institution of asylum, which serves the purpose of providing a structured framework for protection and assistance to persons in need of international protection, while ensuring that appropriate durable solutions can be achieved;

(o) *Reiterates* its commitment to uphold the principles of international solidarity and burden-sharing, reaffirms the need for resources to be mobilized to assist countries receiving refugees, particularly developing countries who host the large majority of the world's refugees and bear a heavy burden in this regard, and calls upon Governments, UNHCR and the international community to continue to respond to the asylum and assistance needs of refugees until durable solutions are found;

(p) *Recognizes* that international solidarity and burden-sharing are of direct importance to the satisfactory implementation of refugee protection principles; stresses, however, in this regard, that access to asylum and the meeting by States of their protection obligations should not be dependent on burden-sharing arrangements first being in place, particularly because respect for fundamental human rights and humanitarian principles is an obligation for all members of the international community;

(q) *Strongly deplores* the continuing incidence and often tragic humanitarian consequences of *refoulement* in all its forms, including through summary removals, occasionally *en masse*, and reiterates in this regard the need to admit refugees to the territory of States, which includes no rejection at frontiers without access to fair and effective procedures for determining their status and protection needs;

(r) *Strongly urges* States to devise and implement procedures for handling refugee claims which are consistent with protection principles provided for in applicable universal refugee instruments and in regional refugee instruments, consistent with international standards, as well as with the standards recommended by the Executive Committee;

(s) *Notes* with concern reports from countries that there is an increasing trend towards the misuse or abuse of national refugee status determination procedures; acknowledges the need for States to address this problem both at the national level and through international cooperation; urges, however, States to ensure that national law and administrative practices, including migration control measures, are compatible with the principles and standards of applicable refugee and human rights law, as set out in relevant international instruments;

(t) *Emphasizes* the duty of asylum-seekers and refugees to comply with the laws and regulations of the country in which they find themselves;

Family unity

(u) *Recalls* that Articles 16(3) of the Universal Declaration of Human Rights and 23(1) of the International Covenant on Civil and Political Rights proclaim that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State;

(v) *Recommends* that Governments take appropriate measures to ensure that the unity of the family is maintained, particularly in cases where the head of the family has been admitted as a refugee to a particular country;

(w) *Exhorts* States, in accordance with the relevant principles and standards, to implement measures to facilitate family reunification of refugees on their territory, especially through the consideration of all related requests in a positive and humanitarian spirit, and without undue delay;

(x) *Encourages* States, which have not already done so, to consider developing the legal framework to give effect at the national level to a right to family unity for all refugees, taking into account the human rights of the refugees and their families;

Composite flows and facilitation of return

(y) *Emphasizes* that outflows of people may include refugees and persons not in need of or not entitled to international protection and, therefore, notes that making a proper and careful differentiation between the two groups is of paramount importance for the identification of any protection needs which would make return inappropriate;

(z) *Reaffirms* the fundamental right of all people to leave and to return to their own countries, as well as the obligation of States to receive back their own nationals, and remains seriously concerned, as regards the return of persons not in need of international protection, that some countries continue to restrict the return of their nationals, either outright or through laws and practices which effectively block expeditious return;

(aa) *Stresses* that, as regards the return to a third country of an asylum-seeker whose claim has yet to be determined from the territory of the country where the claim has been submitted, including pursuant to bilateral or multilateral readmission agreements, it should be established that the third country will treat the asylum-seeker (asylum-seekers) in accordance with accepted international standards, will ensure effective protection against *refoulement*, and will provide the asylum-seeker (asylum-seekers) with the possibility to seek and enjoy asylum;

(bb) *Deeply deplores* the use of those practices for the return of asylum-seekers and persons not in need of international protection which seriously endanger their physical safety and reiterates in this regard that, irrespective of the status of the persons concerned, returns should be undertaken in a humane manner and in full respect for their human rights and dignity and without resort to excessive force;

Detention of asylum-seekers

(cc) *Recalls* Article 31 of the 1951 Convention relating to the Status of Refugees and reaffirms Conclusion No. 44. (XXXVII) on the detention of refugees and asylum-seekers;

(dd) *Deplores* that many countries continue routinely to detain asylum-seekers (including minors) on an arbitrary basis, for unduly prolonged periods, and without giving them adequate access to UNHCR and to fair procedures for timely review of their detention status; notes that such detention practices are inconsistent with established human rights standards and urges States to explore more actively all feasible alternatives to detention;

(ee) *Notes* with concern that asylum-seekers detained only because of their illegal entry or presence are often held together with persons detained as common criminals, and reiterates that this is undesirable and must be avoided whenever possible, and that asylum-seekers shall not be located in areas where their physical safety is in danger;

Durable solutions

(ff) *Urges* States, particularly countries of origin of refugees, resolutely to cooperate at the bilateral, regional and universal levels to address the underlying causes of refugee flows, both in a preventive and curative manner, and to facilitate just and lasting solutions;

(gg) *Recalls* Conclusion No.62 (XLI) which states that voluntary repatriation, local integration and resettlement, that is, the traditional solutions for refugees, all remain viable and important responses to refugee situations, even while voluntary repatriation is the preeminent solution;

(hh) *Calls* upon countries of origin, countries of asylum, UNHCR, and the international community to take all necessary measures to enable refugees to exercise freely their right to return to their homes in safety and dignity;

(ii) *Emphasizes* the importance of reconciliation for facilitating and ensuring the durability of return, and calls upon States and all other actors, including the refugees themselves, to cooperate willingly and generously in all initiatives undertaken to bring lasting peace and justice to reintegrating communities;

(jj) *Reaffirms* the continuing importance of resettlement as an instrument of protection and an element of burden-sharing; calls on UNHCR to continue to work with resettlement countries to improve the efficiency and timely provision of resettlement opportunities for those where resettlement is the appropriate solution; encourages States which have not already offered resettlement opportunities to refugees, and which are capable of doing so, to

join in offering such opportunities, and calls on States and UNHCR to pay particular attention to the resettlement of individual refugees with special protection needs, including women-at risk, minors, adolescents, elderly refugees, and survivors of torture.

**No. 86 (XLIX) DECISION ON INFORMAL
CONSULTATIONS ON PROTECTION ISSUES**

The Executive Committee,

Affirms that the informal consultations on measures to ensure international protection for all who need it have proved to be a valuable forum for constructive discussion of complex protection issues in an open manner; and requests UNHCR, in consultation with States, to continue to organize from time to time, within the limits of available resources, and with broadly based participation, informal expert consultations on protection issues of current concern.

**DECISIONS AND CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE ON THE
INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 87 (L) - GENERAL

The Executive Committee,

The protection situation

(a) *Strongly deplores* the serious breaches of internationally recognized rights of refugees, asylum-seekers and other persons of concern over the past year, and remains particularly preoccupied that systematic violations of human rights, blatant disregard of international humanitarian law, and policies of wholesale expulsions of populations and "ethnic cleansing" have caused significant displacement both internally and across borders in many regions of the world;

(b) *Reaffirms* relevant Conclusions, notably Conclusion No. 81 (XLVIII), paragraph (j), in which the heavy burden carried in particular by developing countries is recognized; and *notes* with appreciation that a large number of developing countries, countries in transition and other countries with limited resources, which, due to their location, host large numbers of refugees and asylum-seekers, continue to grant asylum and protection to refugees in accordance with international law and established principles and standards;

(c) *Reaffirms* its Conclusion No. 85 (XLIX), para (o), committing itself to uphold the principle of international solidarity and burden-sharing; *expresses* strong appreciation for instances where those principles were put into concrete action during the past year; and further *encourages* States and UNHCR to continue their efforts to give wider effect to these important principles;

¹ Contained in United Nations General Assembly Document No. 12A (A/54/12/Add.1)

(d) *Recognizes* that the presence of massive refugee populations in urban and rural areas in developing countries puts considerable strain on the economy and environment of these countries, and that increased attention should be paid to alleviate this negative impact; and *calls* on UNHCR to play its catalytic role to mobilize assistance from the international community to address environmental degradation in refugee-hosting areas as well as the economic and social impact of large-scale refugee populations;

(e) *Welcomes* the accession of Georgia and Kazakhstan to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, bringing to 138 the number of States parties to one or both of these instruments; and *encourages* UNHCR and States to strengthen their efforts to promote broader accession to these instruments and full implementation of them;

The refugee protection framework

(f) *Reaffirms* that the 1951 Convention relating to the Status of Refugees and the 1967 Protocol remain the foundation of the international refugee regime; *recognizes*, however, that there may be a need to develop complementary forms of protection, and in this context, *encourages* UNHCR to engage in consultations with States and relevant actors to examine all aspects of this issue;

(g) *Reaffirms* Conclusion No. 85 (XLIX) para. (d), and *calls on* all interested parties to turn concentrated attention towards revitalizing old partnerships and building new ones in support of the international refugee protection system, in a spirit of international solidarity and burden-sharing;

(h) *Notes* that the 50th anniversary of the Geneva Conventions on the law of armed conflict is being commemorated this year; *calls on* States and other parties to armed conflicts scrupulously to observe international humanitarian law; and also *calls on* UNHCR to strengthen further its collaboration with the International Committee of the Red Cross, the International Federation of the Red Cross and Red Crescent Societies, and national Red Cross and Red Crescent societies;

(i) *Notes* that the 30th anniversary of the OAU Convention governing the specific aspects of refugee problems in Africa is also being commemorated this year; *acknowledges* the contribution made by this Convention to the development of regional standards for the protection of refugees; and *encourages* UNHCR to continue its close collaboration with

the Organization of African Unity with a view to enhancing the protection of refugees in Africa;

Access to protection

(j) *Reiterates* that the institution of asylum is of crucial importance to the international protection of refugees; *re-emphasizes* the importance of ensuring access to asylum procedures; *recalls* Conclusions No. 15 (XXX) of 1979 and No. 58 (XL) of 1989 on refugees without an asylum country and irregular movement of asylum-seekers; and *affirms*, in this regard, that notions such as "safe country of origin", "internal flight alternative" and "safe third country", should be appropriately applied so as not to result in improper denial of access to asylum procedures, or to violations of the principle of *non-refoulement* ;

(k) *Acknowledges* the need for States to address the problem of misuse or abuse of refugee status determination procedures, both at the national level and through international cooperation, and *urges* States to ensure that national law and administrative practices, including migration control measures, are compatible with the principles and standards of applicable refugee and human rights law, as set out in relevant international instruments;

(l) *Reaffirms* Conclusion No. 58 (XL) on irregular movements; *notes* with concern that refugees who have already found and continue to enjoy protection in a first country of asylum continue to move in an irregular manner to other countries on a significant scale; and *encourages* UNHCR, States and other relevant actors to enhance cooperation to address the causes of such movements, in particular with a view to ensuring treatment of asylum-seekers and refugees in accordance with the highest possible standards of protection in first countries of asylum, and to creating awareness as to the risks and dangers linked to irregular movements, notably exploitation by traffickers; and further *encourages* UNHCR to work with transit and destination countries to ensure that the protection and assistance needs of such asylum-seekers and refugees are met;

(m) *Recalls* Conclusion No. 15 (XXX) relating to refugees without an asylum country, Conclusion No. 30 (XXXIV) on the problem of manifestly unfounded or abusive applications for refugee status or asylum, and Conclusion No. 58 (XL) on the problem of refugees and asylum-seekers who move in an irregular manner from a country in which they had already found protection; and *invites* UNHCR to continue to study the issues arising from

the concept of manifestly unfounded claims and to report to this Committee in due course;

Special protection needs

(n) *Notes* with appreciation special efforts by States to incorporate gender perspectives into asylum policies, regulations and practices; *encourages* States, UNHCR and other concerned actors to promote wider acceptance, and inclusion in their protection criteria of the notion that persecution may be gender-related or effected through sexual violence; further *encourages* UNHCR and other concerned actors to develop, promote and implement guidelines, codes of conduct and training programmes on gender-related refugee issues, in order to support the mainstreaming of a gender perspective and enhance accountability for the implementation of gender policies;

(o) *Calls on* States to promote and protect the human rights of all refugees; *expresses* its particular and deep concern that refugees with special protection needs, including refugee women and children, are increasingly targets of exploitation, forced military service and various forms of violence; and *calls on* States to tailor their protection responses accordingly;

(p) Taking into account that elderly refugees are particularly affected by social disintegration, chronic dependency and other adverse aspects of the refugee condition, *calls on* States, UNHCR and other concerned actors to make renewed efforts to ensure that the rights, needs and dignity of elderly refugees are fully respected and addressed through appropriate programme activities;

Security of refugees

(q) *Recalls* United Nations Security Council resolution S/RES/1208 (1998); *remains* gravely preoccupied with the continuing occurrence of military or armed attacks and other threats to the security of refugees, including the infiltration of armed elements in refugee camps and settlements; *re-emphasizes* the responsibility of States, working, where appropriate, with UNHCR in collaboration with each other and with other parts of the UN system, to uphold the civilian and humanitarian character and to ensure the security of refugee camps and settlements, *inter-alia*, by identifying and separating armed elements from refugee populations and settling refugees in secure locations; and *encourages* States and UNHCR, in collaboration with each other and with other parts of the UN system, to

continue their efforts to enhance the security and civilian nature of refugee camps and settlements;

Durable solutions

(r) *Reaffirms* that voluntary repatriation, local integration and resettlement are the traditional solutions for refugees, and that all remain viable and important responses to refugee situations; *reiterates* that voluntary repatriation, where and when feasible, remains the preferred solution in the majority of refugee situations; and *notes* that a combination of solutions, taking into account the specific circumstances of each refugee situation, can help achieve lasting solutions;

Stateless persons and internally displaced persons

(s) *Notes* with concern the persistence of statelessness problems; *welcomes* the accession of Chad to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, as well as the accession of St Vincent and the Grenadines and Zimbabwe to the 1954 Convention relating to the Status of Stateless Persons; and *encourages* UNHCR to continue to promote further accessions to and full implementation of both instruments by the States concerned;

(t) *Recalls* Conclusion No. 75 (XLV) on internally displaced persons; *takes note* of resolution 53/125 adopted by the United Nations General Assembly in December 1998; *reiterates* the relevance of the *Guiding Principles on Internal Displacement*,¹ and *reaffirms* its support for UNHCR's role with internally displaced persons on the basis of criteria specified by the General Assembly.

¹ E/CN.4/1998/53/Add.2, annex. This document was prepared at the request of the Commission on Human Rights and was submitted by the Representative of the Secretary-General for Internally Displaced Persons in April 1998.

**No. 88 (L) – CONCLUSION ON THE
PROTECTION OF THE REFUGEE'S
FAMILY**

The Executive Committee,

(a) *Reaffirms* Conclusion No. 9 (XXVIII), Conclusion No. 24 (XXXII), Conclusion No. 84 (XLVIII), and Conclusion No. 85 (XLIX) paragraphs (u) to (x) on family reunion and family unity and on refugee children and adolescents; and *re-emphasizes* that the family is the natural and fundamental group unit of society and is entitled to protection by the society and the State;

(b) *Underlines* the need for the unity of the refugee's family to be protected, *inter alia* by:

- (i) measures which ensure respect for the principle of family unity, including, those to reunify family members separated as a result of refugee flight;
- (ii) the consideration of liberal criteria in identifying those family members who can be admitted, with a view to promoting a comprehensive reunification of the family;
- (iii) provisions and/or practice allowing that when the principal applicant is recognized as a refugee, other members of the family unit should normally also be recognized as refugees, and by providing each family member with the possibility of separately submitting any refugee claims that he or she may have;
- (iv) the prioritization of family unity issues at an early stage in all refugee operations; and
- (v) programmes to promote the self-sufficiency of adult family members so as to enhance their capacity to support dependent family members;

(c) *Calls upon* States, UNHCR and other relevant actors to give particular attention to the needs of unaccompanied refugee children pending their reunification with their families; and *affirms*, in this regard, that adoption of refugee children should only be considered when all feasible steps for family tracing and reunification have been exhausted, and then only

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in the best interests of the child and in conformity with international standards.

CONCLUSION ON INTERNATIONAL PROTECTION¹

No. 89 (LI) - GENERAL

The Executive Committee,

Warmly commending UNHCR on the fiftieth anniversary of the establishment of the Office; and *welcoming* the emphasis of this year's Note on International Protection on measures taken by the Office to make protection effective;

Recognizing that international protection is a dynamic and action-oriented function, carried out, in co-operation with States and other partners, to promote and facilitate admission, reception, treatment of refugees and to ensure protection-oriented solutions, towards the overall goal of enhancing respect for the rights of refugees and resolving their problems;

Welcoming the continued grant of asylum to large numbers of refugees by many States but *deeply disturbed* by violations of internationally recognized rights of refugees which include *refoulement* of refugees, militarization of refugee camps, participation of refugee children in military activities, gender-related violence and discrimination directed against refugees, particularly female refugees, and arbitrary detention of asylum-seekers and refugees; also *concerned* about the less than full application of international refugee instruments by some States Parties;

Affirming the importance of according priority attention to the protection needs of women, children, adolescents, and the elderly in the planning and implementation of UNHCR programmes and State policies;

Taking note of complex features of the evolving environment in which refugee protection has to be provided, including the nature of armed conflict and current patterns of displacement, mixed population flows, the high costs of hosting large numbers of refugees and asylum-seekers and of maintaining

¹ Contained in United Nations General Assembly Document No. 12A (A/55/12/Add.1)

asylum systems, the growth in trafficking and smuggling of persons, the problems of safeguarding asylum systems against abuse and of excluding those not entitled to refugee protection, as well as the lack of resolution of long-standing refugee situations;

Recognizing that countries of asylum carry a heavy burden, in particular, developing countries, countries in transition and countries with limited resources which host large numbers of refugees and asylum-seekers; *reiterating* in this regard its strong commitment to international solidarity, burden-sharing and international cooperation to share responsibilities; and *reaffirming* UNHCR's catalytic role in assisting and supporting countries receiving refugees, particularly developing countries, and in mobilizing assistance from the international community to address the impact of large-scale refugee populations;

Recognizing the positive contributions that refugees make to host countries;

Recognizing the need for Governments, UNHCR and the international community to continue to respond to the asylum and assistance needs of refugees until durable solutions are found; and while *noting* that voluntary repatriation, local integration and resettlement are the traditional durable solutions for refugees, *affirming* that voluntary repatriation is the preferred solution, when feasible;

Noting the discussions in the Standing Committee on the interception of asylum-seekers and refugees, and *recognizing* the importance of adopting comprehensive measures, between all relevant States and in cooperation with UNHCR, international organizations and other appropriate organizations, to deal effectively with irregular migration, trafficking and smuggling of persons, potentially including refugees and asylum-seekers, and ensure in this context that international protection and assistance needs of asylum-seekers and refugees are identified and fully met, consistent with international protection responsibilities, in particular the principle of *non-refoulement*;

Reaffirming that the 1951 Convention relating to the Status of Refugees and the 1967 Protocol remain the foundation of the international refugee regime; *noting* that complementary forms of protection adopted by some States are a pragmatic response to ensure that persons in need of such protection receive it; and *recognizing* in this context the importance of full application of the 1951 Convention and the 1967 Protocol by States Parties;

Noting UNHCR's initiative to launch Global Consultations on International Protection and *encouraging* UNHCR, in parallel with these Consultations, to continue to seek practical responses, in cooperation with States and other relevant actors, to address current and future protection challenges;

(a) *Welcomes* the proposal of UNHCR to commence a process of Global Consultations with States, with the close involvement, inter alia, of refugee protection experts, nongovernmental organizations (NGOs) and refugees, to revitalize the international protection regime and to discuss measures to ensure international protection for all who need it, while taking into account the legitimate concerns of States, host communities and the international community generally;

(b) *Affirms* in this context that such a process, on the eve of the 50th Anniversary of the 1951 Convention relating to the Status of Refugees, offers important prospects for revitalizing refugee protection and promoting the effective implementation of the Convention and the Protocol, while at the same time identifying approaches to meet new situations not covered by these instruments;

(c) *Calls upon* UNHCR to report to the Executive Committee at its fifty-second session on progress made on this process.

CONCLUSION ON INTERNATIONAL PROTECTION¹

No. 90 (LII) - GENERAL

The Executive Committee,

(a) *Notes* that the year 2001 marks the 50th anniversary of the 1951 Convention relating to the Status of Refugees, which together with its 1967 Protocol, has continuously served as the cornerstone of the international refugee protection regime;

(b) *Notes* with satisfaction that one hundred and forty-one States are now party to one instrument or both, *encourages* States and UNHCR to strengthen their efforts to promote broader accession to these instruments and *stresses* the importance of their full application by States parties, consistent with their commitments and obligations;

(c) *Re-emphasizes* that the protection of refugees is primarily the responsibility of States, whose full and effective cooperation, action and political resolve are required to enable the Office of the High Commissioner to fulfil its mandated functions, *inter alia*, to promote and facilitate the admission, reception and humane treatment of refugees and to ensure protection-oriented solutions, in accordance with international law and international standards;

(d) *Recognizes* that some countries of asylum, in particular developing countries and countries in transition which host large numbers of refugees and asylum-seekers carry a heavy burden;

(e) *Recognizes* the positive contributions that refugees make to host countries;

(f) *Reiterates* its strong commitment to international solidarity, burden-sharing and international cooperation to share responsibilities; *stresses* also the national and international responsibilities of countries of origin; and *reaffirms* UNHCR's catalytic role in assisting and supporting countries

¹ Contained in United Nations General Assembly Document No. 12A (A/56/12/Add.1)

receiving refugees, particularly developing countries, and in mobilizing assistance from the international community to address the impact of large-scale refugee populations;

(g) *Welcomes* the initiative of UNHCR to launch the Global Consultations on International Protection which provide an important forum for open discussion on complex legal and operational protection issues;

(h) *Affirms* the intention to pursue, with broadly based participation, follow-up activities stemming from the Global Consultations, which would be set out in a joint Executive Committee and UNHCR Agenda for Protection and could include, as appropriate, the development of Executive Committee conclusions, the holding of further expert consultations, or other processes;

(i) *Stresses* the importance of according special attention to the protection needs of vulnerable refugees, including women, children and the elderly, in the application of the international refugee instruments and related protection standards;

Resettlement

(j) *Emphasizes* that the ultimate goal of international protection is to achieve a durable solution for refugees and *commends* States that continue to facilitate these solutions, notably voluntary repatriation and, where appropriate and feasible, local integration and resettlement, while recognizing that voluntary repatriation in conditions of safety and dignity remains the preferred solution for refugees;

(k) *Commends* in particular efforts made by States and by UNHCR to ensure the diverse uses of resettlement as an important tool of international protection, as a durable solution to be used strategically along with the other two durable solutions, as appropriate, as part of a comprehensive approach to enhance protection, and as an expression of international solidarity and a means of burden or responsibility sharing, particularly in countries of asylum coping with large numbers of refugees or protracted refugee situations;

(l) *Acknowledges* that resettlement is a process beginning with the identification and assessment of refugees requiring protection and ultimately resulting in a durable solution leading to their successful reception and integration; and in this context takes note of the principles on the development and implementation of reception and integration practices

developed by the *International Conference on the Reception and Integration of Resettled Refugees* convened in Norrköping, Sweden, from 25 to 27 April 2001;¹

(m) *Encourages* initiatives directed at diversifying resettlement opportunities by further increasing the number of resettlement countries, thereby sharing resettlement needs more widely, and meeting increased resettlement needs; acknowledges that capacity-building is essential to develop and sustain the necessary conditions for successful integration of resettled refugees in emerging resettlement countries, and underlines the important catalytic role which UNHCR should play in this regard; acknowledges the important role that regional arrangements have played in certain regions in supporting diversified resettlement opportunities;

(n) *Recognizes* the importance of further strengthening tripartite partnerships, and of strategically enhancing a consultative and collaborative approach to resettlement and *notes* that further efforts are needed to ensure more responsive and speedy processing, better identification of urgent needs, and coordination; and urges further UNHCR efforts to ensure the integrity of the processing of the resettlement caseload and *encourages* States and UNHCR to continue to pursue a strategic and systematic approach to the problem of attempted fraud or other abuse;

Statelessness

(o) *Notes* the global dimension of statelessness, *welcomes* UNHCR's efforts within its mandate to broaden its activities both geographically and substantively, and *encourages* States to cooperate with UNHCR in identifying measures to reduce statelessness and in devising appropriate solutions for stateless persons who are refugees, as well as for stateless persons who are not;

(p) *Reiterates* its call for States to consider accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and *encourages* UNHCR to continue to promote further accessions to and full implementation of both instruments by the States concerned;

(q) *Encourages* UNHCR to continue to make available its technical and advisory services to avoid and reduce cases of statelessness and, in this

¹ See EC/51/SC/INF.4., Annex

regard, to strengthen partnerships with regional and other international organizations working in this area;

(r) *Takes note* with particular concern that problems of statelessness can impact disproportionately on women and children, due to the particular operation of nationality and birth registration laws; *underlines* the importance, notably for women, of identity documentation and proper registration of births and marriages; and *calls upon* States to adopt all necessary measures in this regard;

(s) *Strongly* condemning the trafficking of persons, especially women and children, which represents a grave violation of their human rights; expressing concern that many victims of trafficking are rendered effectively stateless due to an inability to establish their identity and nationality status; *calls upon* States to cooperate in the establishment of identity and nationality status of victims of trafficking so as to facilitate appropriate resolutions of their situations, respecting the internationally recognized human rights of the victims.

CONCLUSION ON REGISTRATION OF REFUGEES AND ASYLUM-SEEKERS¹

No. 91 (LII) - 2001

The Executive Committee,

Recalling its Conclusion No. 22 (XXXII) on the protection of asylum-seekers in situations of large-scale influx, Conclusion No. 35 (XXXV) on identity documents for refugees, Conclusion No. 39 (XXXVI) and Conclusion No. 64 (XLI) on refugee women and international protection, as well as Conclusion No. 73 (XLIV) on refugee protection and sexual violence;

Noting also that the 1951 Convention relating to the Status of Refugees in article 27, calls on States Parties to issue identity papers to refugees;

Mindful of the importance accorded to registration in the independent evaluation of UNHCR's emergency preparedness and response to the Kosovo crisis;

Welcoming the discussion which took place on registration in the context of the Global Consultations on International Protection;

(a) *Acknowledges* the importance of registration as a tool of protection, including protection against *refoulement*, protection against forcible recruitment, protection of access to basic rights, family reunification of refugees and identification of those in need of special assistance, and as a means to enable the quantification and assessment of needs and to implement appropriate durable solutions;

(b) *Recommends* that the registration of refugees and asylum-seekers should be guided by the following basic considerations:

(i) Registration should be a continuing process to record essential

¹ Contained in United Nations General Assembly Document No. 12A (A/56/12/Add.1)

information at the time of initial displacement, as well as any subsequent demographic and other changes in the refugee population (such as births, deaths, new arrivals, departures, cessation, naturalization, etc.);

- (ii) The registration process should abide by the fundamental principles of confidentiality;
- (iii) The registration process should to the extent possible be easily accessible, and take place in a safe and secure location;
- (iv) Registration should be conducted in a non-intimidating, non-threatening and impartial manner, with due respect for the safety and dignity of refugees;
- (v) Personnel conducting the registration, including, where necessary, refugees and asylum-seekers, should be adequately trained, should include a sufficient number of female staff and should have clear instructions on the procedures and requirements for registration, including the need for confidentiality of information collected; special measures should be taken to ensure the integrity of the registration process;
- (vi) In principle, refugees should be registered on an individual basis with the following basic information being recorded: identity document and number, photograph, name, sex, date of birth (or age), marital status, special protection and assistance needs, level of education, occupation (skills), household (family) size and composition, date of arrival, current location and place of origin;

(c) *Encourages* States and UNHCR, on the basis of existing expertise, to develop further and implement registration guidelines to ensure the quality and comparability of registered data, especially regarding special needs, occupational skills and level of education;

(d) *Also encourages* States and UNHCR to introduce new techniques and tools to enhance the identification and documentation of refugees and asylum-seekers, including biometrics features, and to share these with a view towards developing a more standardized worldwide registration system;

(e) *Acknowledges* the importance to the international community, particularly States, UNHCR and other relevant organizations, of sharing statistical data;

(f) *Recognizes* the confidential nature of personal data and the need to continue to protect confidentiality; also recognizes that the appropriate sharing of some personal data in line with data protection principles can assist States to combat fraud, to address irregular movements of refugees and asylum-seekers, and to identify those not entitled to international protection under the 1951 Convention and/or 1967 Protocol;

(g) *Requests* States, which have not yet done so, to take all necessary measures to register and document refugees and asylum-seekers on their territory as quickly as possible upon their arrival, bearing in mind the resources available, and where appropriate to seek the support and co-operation of UNHCR;

(h) *Emphasizes* the critical role of material, financial, technical and human resources in assisting host countries in registering and documenting refugees and asylum-seekers, particularly developing countries confronted with large-scale influxes and protracted refugee situations.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE ON THE
INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 92 (LIII) – GENERAL

The Executive Committee,

Welcoming the contribution of the Global Consultations on International Protection to strengthening the international framework for refugee protection and to equip States better to address the challenges in a spirit of dialogue and cooperation,

Welcoming particularly in this context the Declaration of States Parties adopted during the Ministerial Meeting of States Parties to the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, convened in Geneva on 12 and 13 December 2001, to commemorate the 50th anniversary of the Convention,

Commending UNHCR for the considerable efforts expended to make the Global Consultations process a success,

Recalling its Conclusion No. 90 (LII) on international protection, which affirmed the intention to pursue, with broadly based participation, follow-up activities stemming from the Global Consultations set out in a joint Executive Committee and UNHCR Agenda for Protection,

(a) *Endorses* the Agenda for Protection contained in document A/AC.96/965/Add.1, flowing from the Global Consultations process, pursuant to the decision of the Standing Committee at its twenty-fourth meeting;

(b) *Recognizes* that the Agenda for Protection is a statement of goals and objectives and an important inventory of recommended actions to reinforce the international protection of refugees, and is intended to guide

¹ Contained in United Nations General Assembly Document No. 12A (A/57/12/Add.1)

action by States and UNHCR, together with other United Nations organizations, and other inter-governmental as well as non-governmental organizations;

(c) *Requests* UNHCR to transmit the Agenda for Protection to the General Assembly, as an annex to the report of the fifty-third session of the Executive Committee;

(d) *Requests* UNHCR also to disseminate the Agenda for Protection widely and to engage partners actively in its follow-up, especially by undertaking further discussion with States, including in the Standing Committee framework, to establish priorities for follow-up activities;

(e) *Encourages* all concerned actors to implement those activities calling for their action, and to facilitate the work of and cooperate with UNHCR in carrying out its own follow-up activities;

(f) *Invites* UNHCR and States to seize opportunities to further develop and review elements of the Agenda for Protection, as implementation progresses;

(g) *Invites* States to cooperate with UNHCR in monitoring the progress in the implementation of the Agenda for Protection by all concerned partners;

(h) *Calls* on UNHCR, with the cooperation of States and other actors, to keep the Executive Committee informed, through its Standing Committee, of the progress achieved and initiatives taken to implement the Agenda for Protection.

**CONCLUSION ON RECEPTION OF ASYLUM-SEEKERS
IN THE CONTEXT OF INDIVIDUAL
ASYLUM SYSTEMS¹**

No. 93 (LIII) — 2002

The Executive Committee,

Recalling its Conclusion No. 22 (XXXII) on protection of asylum-seekers in situations of large-scale influx, Conclusion No. 44 (XXXVII) on detention of refugees and asylum-seekers, Conclusion No. 47 (XXXVIII) on refugee children, Conclusion No. 64 (XLI) on refugee women and international protection, Conclusion No. 73 (XLIV) on refugee protection and sexual violence, Conclusion No. 82 (XLVIII) on safeguarding asylum, Conclusion No. 84 (XLVIII) on refugee children and adolescents, as well as Conclusion No. 91 (LII) on registration of refugees and asylum-seekers,

Welcoming the discussion which took place on reception of asylum-seekers in individual asylum systems in the context of the Global Consultations on International Protection,²

Acknowledging the centrality of applicable international human rights law and standards in the development and implementation of reception policies,

Bearing in mind the need to provide a safe and dignified environment for asylum-seekers as well as discourage misuse of asylum systems,

Acknowledging that asylum systems are different, entailing assistance in kind or financial assistance, or a combination of both, as well as involving both governmental and nongovernmental actors,

¹ Contained in United Nations General Assembly Document No. 12A (A/57/12/Add.1)

² EC/GC/02/2 and EC/GC/01/17.

Recognizing that many asylum-seekers are capable of attaining a certain degree of self-reliance if provided with an opportunity to do so,

(a) *Recognizes* the need to establish and apply fair and expeditious asylum procedures, so as to identify promptly those in need of international protection and those who are not, which will avoid protracted periods of uncertainty for the asylum-seeker, discourage misuse of the asylum system and decrease the overall demands on the reception system;

(b) *Recommends* that the reception of asylum-seekers should be guided by the following general considerations:

- i. While there is scope for flexibility in the choice of reception arrangements to be put in place, it is important that the various reception measures respect human dignity and applicable international human rights law and standards;
- ii. Asylum-seekers should have access to the appropriate governmental and nongovernmental entities when they require assistance so that their basic support needs, including food, clothing, accommodation, and medical care, as well as respect for their privacy, are met;
- iii. Gender and age-sensitivity should be reflected in reception arrangements, these should address in particular the educational, psychological, recreational and other special needs of children, especially unaccompanied and separated children. They should also take into account the specific needs of victims of sexual abuse and exploitation, of trauma and torture,³ as well as of other vulnerable groups;
- iv. Reception arrangements should allow for the unity of the family as present within the territory, particularly in the context of reception centres;
- v. For the purpose, inter alia, of protection against refoulement, as well as access to reception arrangements, both male and female asylum-seekers should be registered and be issued appropriate documentation reflecting their status as asylum-seeker, which should remain valid until the final decision is taken on the asylum application;

³ For definition of “torture”, see 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- vi. The range and scope of relevant social and economic benefits may vary, depending on the nature of the asylum procedure, and the type of reception arrangements in place;
- vii. Reception arrangements can be mutually beneficial where they are premised on the understanding that many asylum-seekers can attain a certain degree of self-reliance, if provided with the requisite opportunities;
- viii. In the context of facilitating cooperation between States and UNHCR, and in accordance with data protection and confidentiality principles, UNHCR should be given access to asylum-seekers in order to exercise its function of international protection, taking into account the well-being of persons entering reception or other refugee centres; and asylum-seekers are entitled to have access to UNHCR;
- ix. Key to the effective operation of any reception arrangement are public opinion favourable to asylum-seekers and refugees and confidence and trust in the asylum system, the promotion of both is an important responsibility to be pursued in tandem with the arrangements themselves;

(c) *Stresses* that responsibility and burden-sharing and the availability of durable solutions promote and strengthen the capacity of host States with limited resources to receive asylum-seekers and to provide adequate reception arrangements, under the supervision of UNHCR;

(d) *Urges* States and UNHCR, in collaboration with other relevant actors, to combat acts of racism, racial discrimination, xenophobia, and related intolerance directed against asylum-seekers and to take appropriate measures to create or enhance harmonious relationships with the local communities, inter alia, by promoting respect for asylum-seekers and refugees, by creating awareness of their needs, as well as promoting respect for the local culture, customs and religions among asylum-seekers.

CONCLUSION ON THE CIVILIAN AND HUMANITARIAN CHARACTER OF ASYLUM¹

No. 94 (LIII) – 2002

The Executive Committee,

Remaining seriously concerned by the continuing occurrence of military or armed attacks and other threats to the security of refugees, including the infiltration and presence of armed elements in refugee camps and settlements,²

Recalling the relevant provisions of international refugee law, international human rights law and international humanitarian law, *Recalling* its Conclusion No. 27 (XXXIII) and Conclusion No. 32 (XXXIV) on military attacks on refugee camps and settlements in Southern Africa and elsewhere; Conclusion 72 (XLIV) on personal security of refugees; Conclusion No. 48 (XXXVIII) on military or armed attacks on refugee camps and settlements; Conclusion No. 47 (XXXVIII) and Conclusion No. 84 (XLVII), on refugee children and adolescents, as well as Conclusion No. 64 (XLI) on refugee women and international protection,

Recalling also United Nations Security Council resolution S/RES/1208 (1998) and S/RES/1296 (2000), and the two reports of the United Nations Secretary-General on the Protection of Civilians in Armed Conflict³, noting in particular the recommendations made therein with respect to enhancing the security of refugee camps and settlements,

¹ Contained in United Nations General Assembly Document No. 12A (A/57/12/Add.1)

² For the purpose of this Conclusion, the term "armed elements" is used as a generic term in a refugee context that refers to combatants as well as civilians carrying weapons. Similarly, for the purpose of this Conclusion, the term "combatants" covers persons taking active part in hostilities in both international and non-international armed conflict who have entered a country of asylum.

³ S/1999/957;S/2001/331.

Welcoming the discussion which took place on the civilian character of asylum in the context of the Global Consultations on International Protection,⁴

Noting that several international meetings have recently been held, aimed at identifying effective operational strategies for maintaining the civilian and humanitarian character of asylum,⁵

Reiterating that refugee camps and settlements should have an exclusively civilian and humanitarian character, that the grant of asylum is a peaceful and humanitarian act which should not be regarded as unfriendly by another State, as stated in the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and a number of Executive Committee conclusions, and that all actors, including refugees themselves, have the obligation to cooperate in ensuring the peaceful and humanitarian character of refugee camps and settlements,

Recognizing that the presence of armed elements in refugee camps or settlements; recruitment and training by government armed forces or organized armed groups; the use of such camps, intended to accommodate refugee populations on purely humanitarian grounds, for the internment of prisoners of war; as well as other forms of exploitation of refugee situations for the purpose of promoting military objectives are likely to expose refugees, particularly women and children, to serious physical danger, inhibit the realization of durable solutions, in particular voluntary repatriation, but also local integration, jeopardize the civilian and humanitarian character of asylum and may threaten the national security of States, as well as inter-State relations,

Recognizing the special protection needs of refugee children and adolescents who, especially when living in camps where refugees are mixed with armed elements, are particularly vulnerable to recruitment by government armed forces or organized armed groups,

⁴ EC/GC/01/8/Rev.1.

⁵ Workshop on the Potential of International Police in Refugee Camp Security (Ottawa, Canada, March 2001); Regional Symposium on Maintaining the Civilian and Humanitarian Character of Refugee Status, Camps and other locations (Pretoria, South Africa, February 2001); International Seminar on Exploring the Role of the Military in Refugee Camp Security (Oxford, UK, July 2001).

Reaffirming the importance of States, UNHCR and other relevant actors, integrating safety and security concerns from the outset of a refugee emergency into refugee camp management in a holistic manner,

(a) *Acknowledges* that host States have the primary responsibility to ensure the civilian and humanitarian character of asylum by, inter alia, making all efforts to locate refugee camps and settlements at a reasonable distance from the border, maintaining law and order, curtailing the flow of arms into refugee camps and settlements, preventing their use for the internment of prisoners of war, as well as through the disarmament of armed elements and the identification, separation and internment of combatants;

(b) *Urges* refugee-hosting States to respect the civilian and humanitarian character of refugee camps by preventing their use for purposes which are incompatible with their civilian character;

(c) *Recommends* that action taken by States to ensure respect for the civilian and humanitarian character of asylum be guided, inter alia, by the following principles;

- i. Respect for the right to seek asylum, and for the fundamental principle of *non-refoulement*, should be maintained at all times;
- ii. Measures for the disarmament of armed elements and the identification, separation and internment of combatants should be taken as early as possible, preferably at the point of entry or at the first reception/transit centres for new arrivals;
- iii. To facilitate early identification and separation of combatants, registration of new arrivals should be conducted by means of a careful screening process;
- iv. Refugee camps and settlements should benefit from adequate security arrangements to deter infiltration by armed elements and the strengthening of law and order;
- v. Once identified, disarmed and separated from the refugee population, combatants should be interned at a safe location from the border;
- vi. Where the granting of refugee status is based on group determination, civilian family members of combatants should be treated as refugees and should not be interned together with

them;

- vii. Combatants should not be considered as asylum-seekers until the authorities have established within a reasonable timeframe that they have genuinely and permanently renounced military activities, once this has been established, special procedures should be put in place for individual refugee status determination, to ensure that those seeking asylum fulfil the criteria for the recognition of refugee status, during the refugee status determination process, utmost attention should be paid to article 1F of the 1951 Convention, in order to avoid abuse of the asylum system by those who do not deserve international protection;
- viii. Former child soldiers should benefit from special protection and assistance measures, in particular as regards their demobilization and rehabilitation;
- ix. Where necessary, host States should develop, with assistance from UNHCR, operational guidelines in the context of group determination to exclude those individuals who are not deserving of international refugee protection;

(d) *Further* to para (c)(ii) above, *calls* upon UNHCR to convene a meeting of experts in support of the elaboration of measures for the disarmament of armed elements and the identification, separation, and internment of combatants, including the clarification of relevant procedures and standards, in consultation with States, United Nations Secretariat entities and agencies, and interested organizations, such as the ICRC, and *report* back to the Executive Committee on progress achieved;

(e) *Calls upon* States to ensure that measures are taken to prevent the recruitment of refugees by government armed forces or organized armed groups, in particular of children, taking into account also that unaccompanied and separated children are even more vulnerable to recruitment than other children;

(f) *Calls upon* the relevant United Nations organs and regional organizations, in pursuance of their respective mandates, as well as the international community at large, to mobilize adequate resources to support and assist host States in maintaining the civilian and humanitarian character of asylum, in line with the principles of international solidarity, cooperation, burden and responsibility sharing;

(g) *Calls upon* UNHCR and the Department of Peacekeeping Operations of the United Nations Secretariat to enhance collaboration on all aspects of this complex matter, and as appropriate, to deploy, with the consent of host States, multi-disciplinary assessment teams to an emerging crisis area in order to clarify the situation on the ground, evaluate security threats for refugee populations and consider appropriate practical responses;

(h) *Calls upon* UNHCR to explore how it may develop, in consultation with relevant partners, its own institutional capacity to address insecurity in refugee camps, inter alia by assisting States to ensure the physical safety and dignity of refugees, building, as appropriate, upon its protection and operational expertise.

**CONCLUSIONS ADOPTED BY THE EXECUTIVE
COMMITTEE ON THE INTERNATIONAL
PROTECTION OF REFUGEES¹**

No. 95 (LIV) – GENERAL

The Executive Committee,

(a) *Welcomes* this year's Note on International Protection² which focuses on the operational, legal and policy, as well as promotional tools of protection; *notes* with concern the manifold protection problems and challenges identified by the Note, while appreciating the range of field initiatives undertaken by UNHCR, in cooperation with States, to operationalise protection;

(b) *Recognizes* that international protection is both a legal concept and at the same time very much an action-oriented function, directly benefiting millions of refugees and others of concern to UNHCR.

(c) *Notes* in this context that the delivery of international protection is a staff-intensive service at the core of UNHCR's mandate which requires the Agency to have adequate protection staff with the appropriate expertise;

(d) *Welcomes* the accession of Ukraine and Timor-Leste to the 1951 Convention relating to the Status of Refugees, and its 1967 Protocol, bringing the number of States party to either one or both instruments to one hundred and forty-five; and in view of the global character of the refugee problem, urges States which are not yet parties to consider acceding; and *stresses* the importance of their full implementation by States;

(e) *Appreciates* that the design of realistic protection policy directions for the future rests on the indispensable base of the 1951 Convention and its 1967 Protocol as well as additional initiatives, such as the Agenda for Protection and arrangements which may develop through "Convention Plus";

¹ Contained in United Nations General Assembly Document No. 12A (A/58/12/Add.1)

² A/AC.96/975

(f) *Recognizes* the importance for States to promote an age and gender-sensitive approach in the application of international refugee instruments and for UNHCR to ensure consideration of age and gender in its policy making and operations through further mainstreaming;

(g) *Recognizes* that countries of asylum often carry a heavy burden, in particular, developing countries, countries in transition and countries with limited resources which host large numbers of refugees and asylum-seekers, especially those who have hosted refugees for a long period of time; *reiterates* in this regard its strong commitment to international solidarity, burden and responsibility sharing; and *reaffirms* UNHCR's catalytic role in assisting and supporting countries receiving refugees, particularly developing countries, and in mobilizing assistance from the international community to address the impact of large-scale refugee populations;

(h) *Stresses* the value of strengthening protection capacities in host countries as well as of initiatives enhancing the ability of refugee communities to become self-reliant, where appropriate with adequate support from the international community for the host country and the refugees living there;

(i) *Reiterates* the crucial importance of achieving durable solutions for refugees and *urges* States and UNHCR to continue their efforts in this regard to promote and facilitate, in conditions of safety and dignity, voluntary repatriation as the preferred solution, in addition to working proactively on local integration and resettlement opportunities where appropriate and feasible;

(j) *Notes* the willingness of UNHCR, with the support and assistance of the international community, to participate in regional efforts, where appropriate, to provide protection and to achieve durable solutions for refugees, by working closely with countries in the region and other partners;

(k) *Acknowledges* the multifaceted linkages between refugee issues and human rights and *recalls* that the refugee experience, in all its stages, is affected by the degree of respect by States for human rights and fundamental freedoms;

(l) *Notes* the complementary nature of international refugee and human rights law as well as the possible role of the United Nations human rights mechanisms in this area and therefore *encourages* States, as appropriate, to address the situation of the forcibly displaced in their reports to the United

Nations Treaty Monitoring Bodies, and suggests that these bodies may, in turn, wish to reflect, within their mandates, on the human rights dimensions of forced displacement;

(m) *Encourages* UNHCR and States jointly to examine how to enhance discussion on protection issues and challenges primarily within the Standing Committee framework, as well as in relevant regional fora, as appropriate;

Agenda for Protection

(n) *Recalls* its Conclusion No. 92 (LIII) endorsing the Agenda for Protection as a statement of goals and objectives as well as an important inventory of recommended actions to reinforce the international refugee protection regime, guiding action by States and UNHCR, together with other United Nations organizations, and other inter-governmental as well as non-governmental organizations; and welcomes in this context the updates³ provided by UNHCR and by some States on implementation of the Agenda for Protection and UNHCR's follow-up actions to date;

(o) *Notes* that the Agenda for Protection is a shared undertaking and in this context *encourages* States, other organizations as appropriate and NGOs to provide timely information on their own follow-up activities, to enable UNHCR to comply with the Executive Committee's request to be kept informed, through its Standing Committee, of the progress achieved and initiatives taken to implement the Agenda for Protection;

(p) *Welcomes* the High Commissioner's "Convention Plus" initiative and *encourages* the High Commissioner and those States which have offered to facilitate "Convention Plus" agreements to strengthen the international protection regime through the development of comprehensive approaches to resolving refugee situations, including improving international burden and responsibility sharing and realizing durable solutions; and *calls on* UNHCR to report regularly to the Executive Committee on "Convention Plus" developments;

(q) *Welcomes* the report of the Working Group on Resettlement³, particularly its important reflections on how this durable solution can be enhanced and used more strategically, including as part of comprehensive

³ EC/53/SC/CRP.10

³ EC/53/SC/CRP.10/Add.1

durable solutions arrangements and *reaffirms* the vital role of international resettlement in providing orderly, well targeted durable solutions;

(r) *Looks forward to* the review by UNHCR of protracted refugee situations which will enable States and UNHCR to identify and further analyze situations which might benefit from a comprehensive plan of action;⁴

(s) *Acknowledges* the importance of early and effective registration systems and censuses as a tool of protection and as a means to enable the quantification and assessment of needs for the provision and distribution of humanitarian assistance and to implement appropriate durable solutions;

Statelessness

(t) *Recalls* its Conclusion No 78 (XLVI) on the Prevention and Reduction of Statelessness and the Protection of Stateless Persons and *notes* the global dimension of the problem of statelessness;

(u) *Notes* UNHCR's work on the survey on statelessness undertaken pursuant to the Agenda for Protection and *looks forward to* reviewing the recommendations resulting from this survey which will be made available to States in the hope that follow-up measures aimed at reducing statelessness and protecting stateless persons will be taken;

(v) *Encourages* States to co-operate with UNHCR on methods to resolve cases of statelessness and to consider the possibility of providing resettlement places where a stateless person's situation cannot be resolved in the present host country or other country of former habitual residence, and remains precarious;

(w) *Encourages* UNHCR's efforts to promote all State activities that reduce or resolve statelessness and to promote further accessions to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, as effective tools for the prevention of statelessness, which may lead to the reduction of refugee flows and the implementation of durable solutions, and *reiterates* its encouragement for States to consider accession to these instruments, where appropriate;

⁴ Agenda for Protection, Goal 5, Objective 1, Action 1.

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(x) *Encourages* UNHCR to provide to the Standing Committee an outline of nationality issues impacting women and children that increase their vulnerability to statelessness, such as problems faced in the registration of births, marriages and nationality status;

(y) *Calls on* UNHCR to continue to provide technical and advisory services concerning statelessness to all interested States and partners.

**CONCLUSION ON THE RETURN OF PERSONS FOUND
NOT TO BE IN NEED OF
INTERNATIONAL PROTECTION¹**

No. 96 (LIV) – 2003

The Executive Committee,

Expressing appreciation for the timely and useful discussion which took place on the return of persons found not to be in need of international protection, in the context of the Global Consultations on International Protection², and which led to Goal 2, objective 7 of the Agenda for Protection;³

Bearing in mind that the efficient and expeditious return of persons found not to be in need of international protection is key to the international protection system as a whole, as well as to the control of irregular migration and prevention of smuggling and trafficking of such persons;

Concerned by the difficulties experienced by many countries of asylum in different parts of the world in effecting the return of persons found not to be in need of international protection, which have served to undermine the integrity of individual asylum systems;

Recalling the obligation of States to receive back their own nationals, as well as the right of States, under international law, to expel aliens while respecting obligations under international refugee and human rights law;

Recalling also that the 2000 United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air⁴ sets out the obligation of States parties to facilitate and accept, without undue or unreasonable delay,

¹ Contained in United Nations General Assembly Document No. 12A (A/58/12/Add.1)

² EC/GC/01/15/Rev.1.

³ A/AC.96/965 Add.1

⁴ Article 18(1).

the return of a person who has been smuggled and who is its national or who has the right of permanent residence in its territory at the time of return;

Observing that, for the purposes of this Conclusion, the term "persons found not to be in need of international protection" is understood to mean persons who have sought international protection and who after due consideration of their claims in fair procedures, are found neither to qualify for refugee status on the basis of criteria laid down in the 1951 Convention, nor to be in need of international protection in accordance with other international obligations or national law;

(a) *Reaffirms* the right of everyone to leave any country, including his or her own, and to return to his or her own country as well as the obligation of States to receive back their own nationals, including the facilitation thereof, and remains seriously concerned, as regards the return of persons found not to be in need of international protection, that some countries continue to restrict the return of their own nationals, either outright or through laws and practices which effectively block expeditious return;

(b) *Emphasizes* that the credibility of individual asylum systems is seriously affected by the lack of prompt return of those who are found not to be in need of international protection;

(c) *Reiterates* that return of persons found not to be in need of international protection should be undertaken in a humane manner, in full respect for human rights and dignity and, that force, should it be necessary, be proportional and undertaken in a manner consistent with human rights law; and *emphasizes* that in all actions concerning children, the best interests of the child shall be a primary consideration;

(d) *Recognizes* the importance that persons found not to be in need of international protection cooperate with return arrangements;

(e) *Calls on* States to cooperate regarding the efficient and expeditious return of persons found not to be in need of international protection, to their countries of origin, other countries of nationality or countries with an obligation to receive them back, notably by;

- i. cooperating actively, including through their diplomatic and consular offices, in establishing the identity of persons presumed to have a right to return, as well as determining their nationality , where there is no evidence of nationality in the

form of genuine travel or other relevant identity documents for the person concerned;

- ii. finding practical solutions for the issuance of appropriate documentation to persons who are not or no longer in possession of a genuine travel document;

(f) *Calls upon* States parties to the 1951 Convention and the 1967 Protocol to facilitate the return of persons found not to be in need of international protection by providing facilities for the transit of such persons taking into account, where applicable, agreements concerning the mutual recognition of asylum determination decisions;

(g) *Recalls* further that Annex 9 to the 1944 Convention on International Civil Aviation requires that States, when requested to provide travel documents to facilitate the return of one of its nationals, respond within a reasonable period of time, and not more than 30 days after such a request is made, either by issuing a travel document or by satisfying the requesting State that the person concerned is not one of its nationals;

(h) *Refers to* its Conclusion No. 78 (XLVI) on the prevention and reduction of statelessness and protection of stateless persons, and *urges* States to take steps to avoid cases of statelessness as well as to adopt measures leading to the grant of a legal status to stateless persons;

(i) *Welcomes* the expertise developed by IOM in the assisted voluntary return of persons found not to be in need of international protection and *notes* UNHCR's cooperation with IOM in this area;

(j) *Recommends*, depending on the situation, that UNHCR complement the efforts of States in the return of persons found not to be in need of international protection by:

- i. Promoting with States those principles which bear on their responsibility to accept back their nationals, as well as principles on the reduction of statelessness;
- ii. Taking clear public positions on the acceptability of return of persons found not to be in need of international protection,
- iii. Continuing its dialogue with States to review their citizenship legislation, particularly if it allows renunciation of nationality without at the same time ensuring that the person in question

has acquired another nationality and could be used to stop or delay the return of a person to a country of nationality;

(k) *Takes note of* UNHCR's readiness, on a good offices basis, to support States, upon their request, in their endeavours to return persons found not to be in need of international protection, in particular where obstacles to return are encountered and provided that the involvement of the Office is not inconsistent with its humanitarian mandate to provide international protection to refugees;

(l) *Stresses* the importance of ensuring the sustainability of returns and of avoiding further displacements in countries emerging from conflict, and *notes* that phasing returns of persons found not to be in need of international protection can contribute to this; while *also recognizing* that once a person found not to be in need of international protection has made an informed decision to return voluntarily, this should take place promptly;

(m) *Notes* the value of State data on return of persons found not to be in need of international protection to assist in analysing the rate of return and the scope of the problem of achieving returns.

CONCLUSION ON PROTECTION SAFEGUARDS IN INTERCEPTION MEASURES¹

No. 97 (LIV) – 2003

The Executive Committee,

Noting the discussions which took place on interception measures at the Standing Committee² as well as in the context of the Global Consultations on International Protection,³

Concerned about the many complex features of the evolving environment in which refugee protection has to be provided, including the persistence of armed conflict, the complexity of current forms of persecution, ongoing security challenges, mixed population flows, the high costs that may be connected with hosting asylum-seekers and refugees and of maintaining individual asylum systems, the growth in trafficking and smuggling of persons, the problems of safeguarding asylum systems against abuse and of excluding those not entitled to refugee protection, as well as the lack of resolution of long-standing refugee situations;

Recognizing that States have a legitimate interest in controlling irregular migration, as well as ensuring the safety and security of air and maritime transportation, and a right to do so through various measures;

¹ Contained in United Nations General Assembly Document No. 12A (A/58/12/Add.1)

² EC/50/SC/CRP17, 9 June 2000

³ EC/GC/OI/13, 31 May 2001, Regional Workshops in Ottawa, Canada and in Macau.

Recalling the emerging legal framework⁴ for combating criminal and organized smuggling and trafficking of persons, in particular the Protocol Against the Smuggling of Migrants by Land, Sea and Air, which, *inter alia*, contemplates the interception of vessels enjoying freedom of navigation in accordance with international law, on the basis of consultations between the flag State and the intercepting State in accordance with international maritime law, provided that there are reasonable grounds to suspect that the vessel is engaged in the smuggling of migrants by sea;

Noting the saving clauses contained in each of the Protocols⁵ and the reference to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol and the principle of *non-refoulement*;

Recalling also the duty of States and shipmasters to ensure the safety of life at sea and to come to the aid of those in distress or in danger of being lost at sea, as contained in numerous instruments of the codified system of international maritime law⁶; *recalling also* Conclusions of the Executive Committee of relevance to the particular needs of asylum-seekers and refugees in distress at sea⁷ and *affirming* that when vessels respond to persons in distress at sea, they are not engaged in interception;

Recognizing also that States have international obligations regarding the security of civilian air transportation and that persons whose identities are unknown represent a potential threat to the security of air transportation as contained in numerous instruments of the codified system on international aviation law;⁸

⁴ The United Nations Convention Against Transnational Organized Crime, 2000 and its Supplementary Protocols Against the Smuggling of Migrants by Land, Sea and Air; and to Suppress and Punish Trafficking in Persons, Especially Women and Children.

⁵ Article 19 of the Smuggling Protocol and Article 14 of the Trafficking Protocol.

⁶ Including *inter alia* the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, 1974, as amended and the International Convention on Maritime Search and Rescue, 1979, as amended.

⁷ In particular No. 15(XXX), No. 20(XXXI), No. 23(XXXII), No. 26(XXXIII), No. 31(XXXIV), No. 34(XXXV) and No. 38(XXXVI);

⁸ Including, *inter alia*, the 1963 Convention on Offenses and Certain Other Acts Committed on Board Aircraft, the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft, the 1971 Convention for the Suppression of Unlawful Acts

Understanding that for the purposes of this conclusion, and without prejudice to international law, particularly international human rights law and refugee law, with a view to providing protection safeguards to intercepted persons, interception is one of the measures employed by States to:

- i. prevent embarkation of persons on an international journey;
- ii. prevent further onward international travel by persons who have commenced their journey; or
- iii. assert control of vessels where there are reasonable grounds to believe the vessel is transporting persons contrary to international or national maritime law;

where, in relation to the above, the person or persons do not have the required documentation or valid permission to enter; and that such measures also serve to protect the lives and security of the travelling public as well as persons being smuggled or transported in an irregular manner;

(a) *Recommends* that interception measures be guided by the following considerations in order to ensure the adequate treatment of asylum-seekers and refugees amongst those intercepted;

- i. The State within whose sovereign territory, or territorial waters, interception takes place has the primary responsibility for addressing any protection needs of intercepted persons;
- ii. All intercepted persons should be treated, at all times, in a humane manner respectful of their human rights. State authorities and agents acting on behalf of the intercepting State should take, consistent with their obligations under international law, all appropriate steps in the implementation of interception measures to preserve and protect the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment of persons intercepted;
- iii. Interception measures should take into account the fundamental difference, under international law, between those who seek and are in need of international protection, and those who can resort to the protection of their country of nationality

against the Safety of Civil Aviation and the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.

- or of another country;
- iv. Interception measures should not result in asylum-seekers and refugees being denied access to international protection, or result in those in need of international protection being returned, directly or indirectly, to the frontiers of territories where their life or freedom would be threatened on account of a Convention ground, or where the person has other grounds for protection based on international law. Intercepted persons found to be in need of international protection should have access to durable solutions;
 - v. The special needs of women and children and those who are otherwise vulnerable should be considered as a matter of priority;
 - vi. Intercepted asylum-seekers and refugees should not become liable to criminal prosecution under the *Protocol Against the Smuggling of Migrants by Land, Sea or Air* for the fact of having been the object of conduct set forth in article 6 of the Protocol; nor should any intercepted person incur any penalty for illegal entry or presence in a State in cases where the terms of Article 31 of the 1951 Convention are met;
 - vii. Intercepted persons who do not seek or who are determined not to be in need of international protection should be returned swiftly to their respective countries of origin or other country of nationality or habitual residence and States are encouraged to cooperate in facilitating this process;⁸
 - viii. All persons, including officials of a State, and employees of a commercial entity, implementing interception measures should receive specialized training, including available means to direct intercepted persons expressing international protection needs to the appropriate authorities in the State where the interception has taken place, or, where appropriate, to UNHCR;

(b) *Encourages* States to generate and share more detailed information on interception, including numbers, nationalities, gender and numbers of minors intercepted, as well as information on State practice, having due

⁸ See Conclusion on the return of persons found not to be in need of international protection. (A/AC.96/987, para. 21)

consideration for security and data protection concerns subject to the domestic laws and international obligations of those States;

(c) *Encourages* States to further study interception measures, including their impact on other States, with a view to ensuring that these do not interfere with obligations under international law.

CONCLUSION ON PROTECTION FROM SEXUAL ABUSE AND EXPLOITATION¹

No. 98 (LIV) – 2003

The Executive Committee,

Reaffirming its Conclusions No. 39 (XXXVI), No. 47 (XXXVIII), No. 54 (XXXIX), No. 60 (XL), No. 64 (XLI), No. 68 (XLIII), No. 73 (XLIV), No.74 (XLVI), No.79 (XLVII), No.84 (XLVIII), No.85 (XLIX), No.87 (L), No. 91 (LII) and No.94 (LIII) and in particular the need to combat sexual and gender-based violence in refugee situations; and recalling also in this context the relevant goals and objectives of the Agenda for Protection;

Recalling the international community's efforts to strengthen the international legal framework for combating sexual abuse and exploitation;

Recalling also the report of the United Nations Office of the Internal Oversight Services on the investigation into sexual exploitation of refugees by aid workers in West Africa², and resolution A/RES/57/306;

Noting distressing reports over the last few years that refugees and asylum-seekers, in particular women and children, have been victims of sexual abuse and exploitation during flight or upon arrival in their country of asylum, and deeply concerned that this has negatively impacted their access to basic protection and assistance, including health care and education, the issuance of personal documentation or granting of refugee status;

Recognizing that sexual abuse and exploitation are a consequence of unequal power relationships; a dynamic that is often exacerbated during humanitarian crises characterized by widespread violence, mass displacement, and the breakdown in family structures, social and value systems; and noting with distress, the involvement of humanitarian workers, officials and other persons working closely with refugee populations;

¹ Contained in United Nations General Assembly Document No. 12A (A/58/12/Add.1)

² A/57/465

Acknowledging that inadequate protection or inappropriate assistance, particularly the quantity and quality of food and other material assistance, increases the vulnerability of refugees and asylum-seekers to sexual abuse and exploitation;

Recognizing the importance of effective mechanisms to prevent and respond to the occurrence of sexual abuse and exploitation in all phases of the refugee experience;

Recognizing that the best interest of the child shall be a primary consideration in the design and implementation of all prevention and response measures, to ensure the protection of children from all forms of abuse, neglect, exploitation and violence, including sexual abuse and exploitation;

Welcoming the June 2002 Report of the Inter-Agency Standing Committee Task-Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises and its plan of action to address the problem of sexual abuse and exploitation;

Recalling previous UNHCR policies and guidelines intended to address violence against refugees, including the 1989 Policy and 1991 Guidelines on the Protection of Refugee Women; the 1993 Policy on Refugee Children and 1994 Refugee Children: Guidelines on Protection and Care, the 1995 Sexual Violence against Refugees: Guidelines on Prevention and Response, as updated in 2003; and the High Commissioner's 2001 Five Commitments to Refugee Women;

Noting the issuance in May 2003 of UNHCR's revised *Guidelines on Sexual and Gender-Based Violence in Refugee, Returnee and Displaced Situations*, as well as the UNHCR *Guidelines on International Protection, Gender-Related Persecution*, of May 2002, and noting UNHCR's endeavours to address the problem of sexual and gender-based violence in the field and the various training initiatives undertaken to date to provide staff with the practical skills necessary to meet the protection needs of victims of sexual abuse and exploitation;

Welcoming UNHCR's efforts to address the problem through the promulgation and implementation of a Code of Conduct for UNHCR staff, in accordance with the plan of action of the Inter-Agency Standing Committee's Task Force on Protection >From Sexual Exploitation and Abuse in Humanitarian Crises; and the amendment of its programme implementation

sub-agreements to include a requirement for implementing partners to have similar Codes of Conduct and for these to be implemented fully;

(a) *Calls upon* States, UNHCR and its implementing and operational partners to ensure that appropriate systems to prevent and respond to sexual and gender-based violence, including sexual abuse and exploitation, are in place, ensuring the needs of women and children, as well those of vulnerable persons, are addressed at all times; and recommends that measures to combat sexual abuse and exploitation of refugees and asylum-seekers be guided by the importance of:

- i. Ensuring explicit reference in codes of conduct and other relevant policies to the responsibilities of relevant personnel to prevent and respond appropriately to sexual and gender-based violence, including sexual abuse and exploitation;
- ii. Ensuring the prompt investigation of allegations of sexual abuse and exploitation;
- iii. Ensuring that actions undertaken on behalf of refugees and asylum-seekers, including women, children and vulnerable persons, enhance their meaningful participation in decision-making processes; that they are provided with sufficient information to form their opinions, and channels for communicating their concerns to humanitarian agencies, and are provided with full information about refugee protection and available assistance;
- iv. Ensuring that needs assessments, evaluations and reports, identify vulnerabilities to sexual exploitation and abuse and provide a basis for improved programme planning that minimizes risks and opportunities for sexual abuse and exploitation, and that protection and assistance processes, taking into account the quantity and quality of assistance and distribution methods, including supervision, are designed and implemented in a manner that reduces the risk of sexual abuse and exploitation;
- v. Ensuring that camp governance is conducted in an equitable manner that empowers women, children and vulnerable groups and that the physical layout of camps is designed in such a way as to make such individuals less vulnerable to sexual abuse and exploitation;

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- vi. Ensuring that easily accessible and confidential complaint and redress mechanisms are in place for victims of sexual abuse and exploitation, and that they appropriately apply sanctions to perpetrators and ensure that such mechanisms respect due process rights of the accused, and safeguard the security and rights of the victim or witnesses;
- vii. Ensuring the existence of adequate remedial measures in order to appropriately care for victims of sexual abuse and exploitation;
- viii. Conducting training and capacity building on the prevention and response to sexual abuse and exploitation;

(b) *Calls upon* UNHCR to continue to pursue its ongoing activities taken in the area of sexual abuse and exploitation with particular attention to:

- i. Ensuring full implementation of respective policies, codes of conduct, the guidelines on sexual and gender-based violence in refugee, returnee and internally displaced situations, as well as the UNHCR guidelines on gender-related persecution;
- ii. Implementing the relevant recommendations from the evaluations of UNHCR's activities in the area of refugee women, refugee children and community services;
- iii. Ensuring adequate levels of monitoring and supervision of programmes for prevention and protection from sexual abuse and exploitation, including through physical presence, and to support staff at field level to implement concrete programmes of action;
- iv. Developing mechanisms to ensure accountability, including at senior levels, in the implementation of all protection and assistance activities to prevent sexual and gender-based violence;
- v. Promoting gender balance in staff at all levels, both at headquarters and in the field, as well as expert and specialist competence, while having regard to merit selection principles;

(c) *Urges* all States, consistent with applicable international refugee, human rights and humanitarian law:

- i. to protect refugees and asylum-seekers, especially children,

from all forms of abuse, neglect, exploitation and violence;
and

- ii. to cooperate in eliminating all forms of discrimination, sexual exploitation and violence against female refugees and asylum-seekers, and to promote their active involvement in decisions affecting their lives and communities;

(d) *Urges* States to respect and ensure the right of all individuals within their territory and subject to their jurisdiction, to security of person, *inter alia* by enforcing relevant national laws, consistent with international law, and by adopting concrete measures, where they do not exist, to prevent and combat sexual abuse and exploitation including through:

- i. The development and implementation of training programmes, guidelines and other practical measures aimed at promoting respect by all government officials, as well as persons acting on behalf of the State, who have contact with refugee populations, for the right of every individual to security of person and at promoting protection from sexual abuse and exploitation;
- ii. Appropriate follow-up action in response to allegations of sexual violence and exploitation including, where necessary, by implementation of remedies, such as facilitating the filing and investigation of complaints of sexual violence and exploitation, the prosecution of offenders, and timely and proportional disciplinary sanctions in cases of abuse of power or gross negligence resulting in sexual exploitation;
- iii. Complaint and redress mechanisms, where appropriate, which are easily accessible, do not compromise the security of the survivors or other informants, and give due regard to confidentiality. Such complaint mechanisms should, where feasible, provide victims and witnesses with referrals to support services with appropriately trained personnel, including in particular female counsellors;

(e) *Calls on* States to ensure that all humanitarian agencies funded by them and working with refugees integrate and promote policies consistent with the core principles of the plan of action of the Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises;

(f) *Calls on* UNHCR to support its internal investigation capacity within the Inspector General's Office to ensure that the Office is able to react swiftly and effectively to ascertain the veracity of any allegations of sexual abuse or exploitation by UNHCR or implementing partner staff;

(g) *Calls upon* the international community in cooperation with UNHCR and other international organisations to mobilize the resources necessary to ensure the provision of protection and material assistance in support of host countries, based on international solidarity, cooperation, burden and responsibility-sharing, since inadequate protection, or inadequate, inappropriate or poorly distributed assistance can increase the vulnerability of refugees and asylum-seekers to sexual abuse and exploitation;

(h) *Calls upon* UNHCR to continue its cooperation with other actors to ensure protection from exploitation and abuse of refugees and asylum-seekers, including through participation in the Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises, and other coordination mechanisms;

(i) *Calls upon* UNHCR to continue to report on a regular basis on progress made in the implementation of measures to combat sexual abuse and exploitation.

**CONCLUSIONS ADOPTED
BY THE EXECUTIVE COMMITTEE ON THE
INTERNATIONAL PROTECTION OF REFUGEES¹**

No. 99 (LV) – GENERAL

The Executive Committee,

(a) *Welcomes* the information on implementation of the Agenda for Protection by UNHCR, States and non-governmental organizations contained in this year's Note on International Protection²; *notes* that the Agenda for Protection was welcomed by the General Assembly of the United Nations³; *emphasizes* its continuing importance; and *encourages* all concerned actors to provide timely information on their own follow-up activities to enable UNHCR to comply with the Executive Committee's request to be kept informed, through its Standing Committee, of the progress achieved and initiatives taken to implement the Agenda for Protection;

(b) *Encourages* States, UNHCR, other inter-governmental as well as non-governmental organizations to identify opportunities particularly at the national and regional level to cooperate and to consider their respective contributions to the implementation of the Agenda's Programme of Action;

(c) *Welcomes* the accession of Saint Vincent and the Grenadines to the 1967 Protocol; *appeals* to States which have not acceded to the 1951 Convention and/or the 1967 Protocol to consider doing so and to States which have made reservations to these instruments to consider lifting them; and *reiterates* the central place of these instruments in the international refugee protection regime and the importance of their full implementation;

(d) *Notes* with appreciation the sustained efforts by UNHCR to address concerns relating to the protection needs of refugee women and children,

¹ Contained in United Nations General Assembly Document No. 12A (A/59/12/Add.1)

² A/AC.96/989

³ A/RES/57/187

including through a range of measures which aim to assure the implementation of the High Commissioner's five commitments to refugee women, as well as the translation into concrete action of the five global concerns for refugee children; and *calls* on UNHCR to report on the results of its implementation of these initiatives;

(e) *Recognizes* that some countries of asylum, in particular developing countries and countries in transition which host large numbers of refugees and asylum-seekers, carry a heavy burden; and *reiterates* in this regard its strong commitment to international solidarity and burden and responsibility sharing;

(f) *Recalls* its Conclusion No. 91 (LII) on registration of refugees and asylum-seekers; *reiterates* the fundamental importance of early registration as a key protection tool and the critical role of material, financial, technical and human resources in assisting host countries in registering and documenting refugees and asylum-seekers, particularly developing countries confronted with large-scale influxes and protracted refugee situations; *welcomes* in this context the significant progress achieved in the area of registration as evidenced by the ongoing roll-out of registration and documentation activities under the auspices of Project Profile; and *encourages* States and UNHCR to continue their work in this regard with the assistance of other relevant actors as appropriate;

(g) *Welcomes* the development of asylum legislation and the establishment of processes for status determination and admission in a number of countries, often with the help and advice of UNHCR; *encourages* the States concerned to continue to strengthen their capacity; and *welcomes* in this regard the technical and financial support of other States and UNHCR as appropriate;

(h) *Welcomes* the significant achievements in voluntary repatriation over the course of the past year⁴ and the further potential for the sustainable voluntary return of considerable numbers of refugees, as a result of peacemaking, reconciliation and reconstruction efforts which have contributed to the resolution of certain long-running conflicts; *acknowledges* the importance of ensuring the ongoing voluntary nature of refugee returns and the full and equal participation of refugee women in the pursuit of

⁴ An illustrative list of major voluntary return operations is included in Section VII of the 2004 Note on International Protection, A/AC.96/989.

voluntary repatriation and the consolidation of sustainable reintegration⁵; and *urges* States, UNHCR and other relevant actors to strengthen their efforts to provide durable solutions for refugees and other persons of concern;

(i) *Acknowledges* the increasing complexities of the environment in which international protection is provided and the many challenges faced by States and by UNHCR in ensuring and providing protection for refugees and other persons of concern;

(j) *Strongly condemns* all attacks on humanitarian personnel, including local and international staff of UNHCR and its implementing partners; *deplores* the rising toll of casualties and mortalities among such personnel; and *urges* States to fully investigate such attacks and bring the perpetrators to justice in accordance with international law and national law;

(k) *Welcomes* the accession by a number of States to the 1994 Convention on the Safety of United Nations and Associated Personnel; *encourages* those States which have not acceded to this Convention to consider doing so; and *calls* in particular on States in whose territories humanitarian operations are undertaken to safeguard the physical security of all humanitarian personnel and to provide a security environment that allows safe and unhindered access by UNHCR and other humanitarian personnel to persons in need of protection and assistance;

(l) *Expresses concern* at the persecution, generalized violence and violations of human rights which continue to cause and perpetuate displacement within and beyond national borders and which increase the challenges faced by States in effecting durable solutions; and *calls* on States to address these challenges while ensuring full respect for the fundamental principle of *non-refoulement*, including non-rejection at frontiers without access to fair and effective procedures for determining status and protection needs;

(m) *Deplores* the fact that refugees, returnees and other persons of concern to UNHCR, in particular women and children, continue to be subjected to murder, armed attack, sexual and gender-based violence, forced military recruitment, separation of families, violations of or threats to their personal security and other fundamental rights; *condemns* in particular the

⁵ In accordance with Security Council Resolution 1325 on Women, Peace and Security.

armed attacks which took place in Gatumba transit centre, Burundi, in August 2004, which led to the killing of a large number of Congolese refugees; and, in this context, *emphasizes* the importance of host States taking appropriate measures to protect refugee camps and settlements including whenever possible through ensuring, in consultation with UNHCR, their location at a reasonable distance from the border; and also *emphasizes* the importance of protecting refugees from other forms of threat and harassment from any groups or individuals;

(n) *Reiterates* that the grant of asylum to refugees is a peaceful and humanitarian act, and that all actors are obliged to abstain from any activity which serves to undermine this; *recalls* its Conclusion No. 94 (LIII) on the civilian and humanitarian character of asylum and the useful discussions which took place on this subject in the context of the Global Consultations on International Protection; *welcomes* the convening by UNHCR of an expert round table in June 2004 which explored these issues further; and *encourages* UNHCR, in consultation with States and other relevant actors, to continue this process with a view to elaborating measures for the disarmament of armed elements and the identification, separation and internment of combatants;

(o) *Reaffirms* that protection must be addressed in a holistic manner by UNHCR; *recognizes* that the delivery of international protection is a resource-intensive function; *encourages* UNHCR to strengthen its protection presence in the field through the regular review of post locations, including the reallocation of posts, whenever and wherever necessary, particularly to ensure a presence close to refugee settings, the proactive deployment of staff in between assignment, the creation of additional posts where reallocation is not possible, continued efforts to ensure the timely filling of protection posts, and the active use of various short-term deployment schemes; and *calls upon* States to extend their support in this regard through the timely and predictable provision of adequate resources;

(p) *Reiterates* the importance for UNHCR programmes of gender-sensitive planning and analysis and the value of structured dialogues with refugee women in order to better address their protection needs and safeguard their rights, and of working towards their empowerment, particularly through training and skills development; and *acknowledges* the importance of working with refugee men as well as with refugee women and other relevant actors to promote refugee women's rights;

(q) *Recalls* its Conclusion No. 84 (XLVIII) on refugee children and adolescents and other Conclusions relevant to the specific protection needs of this group; and *reiterates* the importance of full and effective implementation of standards and procedures to better address these needs and to safeguard rights, in particular to ensure adequate attention to unaccompanied and separated children and to former child soldiers in refugee settings as well as in the context of voluntary repatriation and reintegration measures;

(r) *Strongly encourages* States, UNHCR, and all relevant actors, whether alone or in partnership, to strengthen action to prevent and respond to sexual and gender-based violence, in particular through carrying out their respective responsibilities for the introduction of standard operating procedures, the rigorous implementation of relevant UNHCR Guidelines⁶ and related measures highlighted by the Executive Committee in its Conclusion No. 98 (LIV) of 2003, as well as through the active use of resettlement, when appropriate, to ensure protection and a durable solution for victims of sexual and gender-based violence;

(s) *Notes* that the year 2004 marks the 20th anniversary of the *Cartagena Declaration on Refugees*; that this pragmatic and flexible instrument continues to encourage the protection of refugees in the region; that States will be convening in Mexico City in November 2004, upon the generous invitation of the Government of Mexico, to commemorate this anniversary; and *encourages* States to cooperate in the elaboration of a regional plan of action to strengthen further international protection of refugees in the region, in conjunction with relevant international organizations as well as representatives of civil society;

(t) *Acknowledges*, consistent with UNHCR's Convention Plus initiative, *the* importance of comprehensive approaches, especially for the resolution of protracted and large-scale refugee situations, which incorporate, as appropriate and given the specifics of each refugee situation, voluntary repatriation, local integration and resettlement; *encourages* UNHCR, States and other relevant actors to pursue comprehensive arrangements for specific refugee situations that draw upon combinations of solutions; and *notes* that a community development approach, ensuring the participation of refugee men and women, and refugee children, as appropriate, contributes to the success of such solutions;

⁶ Including the May 2003 Guidelines for Prevention and Response to Sexual and Gender-based Violence against Refugees, Returnees and Internally Displaced Persons.

(u) *Reiterates* that voluntary repatriation, where and when feasible, remains the preferred solution in the majority of refugee situations; *requests* States, UNHCR and other appropriate United Nations entities and the international community to cooperate in the creation of conditions which would enable the promotion of voluntary repatriation; and *stresses* the need for voluntary repatriation to occur in and to conditions of safety and dignity;

(v) *Welcomes* the Multilateral Framework of Understandings on Resettlement, developed by the Core Group on the Strategic Use of Resettlement; *notes* that the Framework is part of the comprehensive approach envisaged by the Convention Plus initiative; *anticipates* that its practical application will improve access to durable solutions for a greater number of refugees and therefore *encourages* interested States, UNHCR and other relevant partners to make full use of the Framework;

(w) *Encourages* States, UNHCR and other relevant actors to continue their work in developing other strands of the Convention Plus initiative, including those relating to development assistance and to irregular secondary movements of refugees and asylum-seekers;

(x) *Encourages* States and UNHCR to put into practice the strategic use of resettlement in a spirit of international burden and responsibility sharing, in conjunction with other durable solutions, especially to resolve protracted refugee situations; and also *encourages* the further development of the group resettlement referral methodology and continuing efforts for its implementation, mindful that exploring greater flexibility in refugee resettlement could assist in expanding resettlement opportunities;

(y) *Encourages* States and UNHCR, in consultation with other relevant actors, in considering local integration, where appropriate and when feasible, to use and take into account the profiles of groups of refugees within a broader refugee population bearing in mind the differing capacities of the refugee population, or segments thereof, and the States hosting them;

(z) *Welcomes* the accession of Uruguay and the Czech Republic to the 1954 Convention relating to the Status of Stateless Persons and of Liberia and Lesotho to the 1961 Convention on the Reduction of Statelessness; and *encourages* UNHCR, on the occasion of the 50th anniversary of the 1954 Convention, to renew its efforts to promote further accession to both Conventions;

(aa) *Welcomes* the publication in March 2004 of the final report of UNHCR's global survey on statelessness as an important step towards establishing a common understanding of a problem affecting all regions of the world; and *calls on* UNHCR to continue to provide technical and operational support to States with the aim of avoiding and resolving statelessness and furthering the protection of stateless persons, in particular in view of the limited number of States Parties to the 1961 Convention on the Reduction of Statelessness;

(bb) *Notes* with concern that many situations of statelessness are of a protracted nature and *invites* UNHCR to pay particular attention to them and to explore with concerned States measures that would ameliorate those situations and bring them to an end.

**CONCLUSION ON INTERNATIONAL COOPERATION
AND BURDEN AND RESPONSIBILITY SHARING IN
MASS INFLUX SITUATIONS¹**

No. 100 (LV) – 2004

The Executive Committee,

Considering that the achievement of international cooperation in solving international problems of a humanitarian character is a purpose of the United Nations as defined in its Charter and that the 1951 Convention relating to the Status of Refugees recognizes that a satisfactory solution to refugee situations cannot be achieved without international cooperation,

Reaffirming that respect by States for their protection responsibilities towards refugees is strengthened by international solidarity involving all members of the international community and that the refugee protection regime is enhanced through committed international cooperation in a spirit of solidarity and responsibility and burden sharing among all States,

Recalling the importance of international cooperation to resolve the plight of refugees, action to address the causes of refugee movements, as well as to avert them, inter alia, through the promotion of peace, stability and dialogue, and of action to prevent refugee movements from becoming a source of tension between States,

Emphasizing States' obligations with respect to refugees as contained in the 1951 Convention and its 1967 Protocol and as reflected in international human rights law and international humanitarian law; and *highlighting* that States' continued commitment to upholding the values and principles embodied in these areas of law contributes to an effective international response to mass influx situations,

¹ Contained in United Nations General Assembly Document No. 12A (A/59/12/Add.1)

Reaffirming the importance of international burden and responsibility sharing in reducing the burdens of host countries, especially developing countries,

Noting that persons who arrive as part of a mass influx seeking international refugee protection should always receive it, at least on a temporary basis,

Reaffirming that access to asylum and the meeting by all States of their international protection obligations should not be dependent on burden and responsibility sharing arrangements first being in place, particularly because respect for human rights and humanitarian principles is a responsibility for all members of the international community,

Recalling that mass influx situations pose challenges for receiving States in particular, as well as for other States in the region and for the international community; and *reiterating* its recognition of the heavy responsibilities and burdens borne by countries receiving a mass influx, especially when the resulting presence of refugees becomes protracted, and the need for international cooperation to achieve a satisfactory durable solution to a problem which is international in scope and nature,

Reaffirming, in regard to mass influx, the guidance on reinforcing burden and responsibility sharing, including in particular that set out in Conclusion No. 22 (XXXII) of 1981 on the protection of asylum-seekers in situations of large-scale influx, Conclusions No. 15 (XXX) of 1979 on refugees without an asylum country, No. 52 (XXXIX) of 1988 on international solidarity and refugee protection, No. 80 (XLVII) of 1996 on comprehensive and regional approaches within a protection framework, No. 91 (LII) of 2001 on registration of refugees and asylum-seekers, No. 94 (LIII) of 2002 on the civilian and humanitarian character of asylum, and Conclusions No. 77 (XLVI) of 1995, No. 85 (XLIX) of 1998 and No. 89 (LI) of 2000 on international protection, as well as General Assembly Resolution 58/169 of 22 December 2003 on human rights and mass exoduses,

Expressing its appreciation for the useful discussions on mass influx situations and burden and responsibility sharing which took place in the context of the third track of the Global Consultations on International Protection,

Recalling the Agenda for Protection, endorsed by the Executive Committee, and the goals and objectives set out in its Programme of Action,

aimed at achieving, inter alia, more effective and predictable responses to mass influx situations and improving responsibility-sharing arrangements to share the burdens of first asylum countries, in responding to the needs of refugees,

(a) *Notes* that mass influx is a phenomenon that has not been defined, but that, for the purposes of this Conclusion, mass influx situations may, inter alia, have some or all of the following characteristics: (i) considerable numbers of people arriving over an international border; (ii) a rapid rate of arrival; (iii) inadequate absorption or response capacity in host States, particularly during the emergency; (iv) individual asylum procedures, where they exist, which are unable to deal with the assessment of such large numbers;

(b) *Recognizes* the differing capacities of States to contribute to resolving mass influx situations; *commends* the significant contributions made by countries of first asylum, particularly those in the developing world and those faced with protracted refugee situations; and *stresses* the value of action by States, UNHCR and other actors to share the burden and responsibility of countries of first asylum and to strengthen capacities for the protection of refugees in such host countries;

(c) *Encourages* all States to continue their efforts to tackle the root causes of, and seek durable solutions for refugees in, mass influx situations, including through heightened international efforts in the field of conflict prevention and resolution, poverty alleviation and promotion of respect for human rights and fundamental freedoms;

(d) *Emphasizes* the importance of efforts to mainstream gender and age concerns into responses to every stage of a mass influx from programme development and implementation to monitoring and evaluation, so as to ensure that the particular protection needs of refugee women, refugee children and older refugees, including those with special protection concerns, are effectively addressed, inter alia, through registration in principle on an individual basis, full and equal participation in matters affecting them, protection from sexual and gender-based violence and military recruitment, and maintaining family unity wherever possible;

(e) *Notes* the importance of the development by potential host States and UNHCR, as well as other relevant humanitarian organizations, with support by the international community, of emergency preparedness and response strategies in anticipation of situations likely to lead to a mass influx;

(f) *Acknowledges* the need for consultations on the international response to a mass influx situation with a view to developing appropriate international responses, including arrangements among States, regional and international organizations and, where applicable, financial institutions, as a clear sign of international solidarity and in the interest of protecting refugees;

(g) *Recommends* that such consultations should seek to develop, as early on in a crisis as possible, a comprehensive plan of action, including within the Convention Plus context, that includes arrangements on a bilateral or multilateral basis to apportion burdens and responsibilities in response to specific mass influx situations;

(h) *Notes* further that such consultations could be convened by the High Commissioner, consistent with the Statute of the Office, through a request by a country exposed to a mass influx or on an ex officio basis, to examine options appropriate to the particular circumstances of the situation;

(i) *Emphasizes* that such comprehensive plans of action in a mass influx situation should assist States and UNHCR and other relevant actors in dealing with the immediate humanitarian emergency in a more effective, predictable and equitable manner, in achieving standards of treatment for those in need of international protection which fully respect international refugee, humanitarian and human rights law, including in particular the fundamental principle of *non-refoulement*, and in identifying and promoting durable solutions adapted to the particular characteristics of the situation;

(j) *Recommends* that States, UNHCR and other relevant actors, in the emergency response to a mass influx situation, including when developing a comprehensive plan of action, give consideration to the following burden and responsibility-sharing arrangements where necessary and appropriate to the situation:

- i. the provision of emergency financial and technical assistance and other forms of support where necessary, including to humanitarian organizations assisting refugees;
- ii. the implementation, in countries receiving mass influxes, of coordination mechanisms involving relevant host State authorities, Inter-Agency Standing Committee country team members and other relevant actors to help ensure an effective international response to the mass influx situation;
- iii. the establishment, at the international level, of an effective

consultation mechanism involving affected States, other interested States, relevant United Nations system actors and other international and non-governmental organizations, to begin developing strategies and approaches to address the refugee crisis, including identifying possible durable solutions, bearing in mind broader political processes that may be under way to address the mass influx, including its root causes;

- iv. the strengthening of existing mechanisms to ensure that the necessary funds and other material and technical assistance are immediately made available;
- v. the provision of support to host countries, especially developing countries, to assist the early and effective registration and documentation of refugees and asylum-seekers;
- vi. the mobilization of adequate resources to support and assist host States in maintaining the civilian and humanitarian character of asylum, including in particular through disarmament of armed elements and the identification, separation and internment of combatants;
- vii. the provision of support by the international community – agencies acting within their mandates – to host States in order to follow-up on those persons identified as falling within the scope of subparagraph (vi), including, where appropriate, the establishment of adequate mechanisms and special procedures for individual refugee status determination, including, inter alia, any possible application of the exclusion clauses of the 1951 Convention, for assessing claims of those combatants who have genuinely and permanently renounced military activities and seek asylum;
- viii. the setting up of standby arrangements to allow for an immediate response to urgent security needs in countries of first asylum, including through the deployment of experts to help assure the security of refugee camps where appropriate and requested by the State concerned;
- ix. the development of criteria and modalities for humanitarian

transfer or evacuation to other countries,² fully consistent with international guidelines on the evacuation of children,³ and financial assistance and other forms of support for the countries involved;

(k) *Acknowledges* that the principles of international cooperation and solidarity in the context of mass influx situations and the approaches as set out in this Conclusion in particular in operative paragraph (g), are equally relevant to protracted refugee situations resulting from a mass influx and can contribute significantly to the sustainability of the international response; and *highlights* the importance in this respect of continued international engagement, including to resolve the causes of the mass influx in order to achieve durable solutions;

(l) *Notes* the ongoing problems faced by countries of asylum, particularly those in the developing world, in coping with the consequences of mass influx situations once they have stabilized and particularly if they become protracted; and *recommends* that the following elements could be considered as part of the international response, including any burden and responsibility sharing arrangements that have been developed:

- i. the evaluation, together with United Nations specialized agencies, non-governmental organizations and other relevant actors, of the impact of refugees on host country economies, society, environment and security, especially in protracted refugee situations;
- ii. the review and updating, on a regular basis, of any comprehensive approach that may have been developed to address the mass influx situation;
- iii. the advance pledging, where possible, of further financial or other assistance beyond the emergency phase until durable solutions are found;

² In the context of the 1999 Kosovo crisis, the former involved the transfer of refugees to other States within the region, while the latter involved their evacuation to States further a field.

³ ICRC, IRC, SCUUK, UNICEF, UNHCR, WVI, Inter-Agency Guiding Principles on Unaccompanied and Separated Children, 2004, pp. 24–26; UNHCR, Refugee Children: Guidelines on Protection and Care, 1994, pp. 88–95; Evacuation of Children from Conflict Areas, Consideration and Guidelines, Everett M. Ressler, UNHCR and UNICEF, 1992.

- iv. the provision of support for national protection capacities of host States as needed, inter alia, to strengthen registration and documentation systems, and establish national legal frameworks and other mechanisms required to enable protection and assistance to be assured over time;
- v. the provision of financial and in-kind assistance in support of refugee populations and host communities to promote refugee self-reliance, as appropriate, thus enhancing the sustainability of any future durable solution and relieving the burden on countries of first asylum;
- vi. the provision of financial and other forms of support, as appropriate, linked to broader economic developments and other concerns countries of first asylum may have in relation to providing protection to large numbers of asylum-seekers and refugees;
- vii. the encouragement of international financial institutions to consider to what extent the economic and social costs of hosting large numbers of refugees can be factored into the justification for their activities, including in the conditions of financial lending schemes and grant-based assistance;
- viii. the exploration by States, inter- and non-governmental organizations, as well as other actors of ways to improve primary education for refugees, achieve gender parity in education, and secure funding, including through the private sector, to expand secondary, vocational and tertiary education opportunities for refugees, especially adolescents;

(m) *Recommends* further that action to address and facilitate durable solutions, with a view to burden and responsibility sharing, be directed, as appropriate, in the form of voluntary repatriation, local integration or resettlement in third countries or, where applicable, in a strategic combination, and assistance to host countries, including through:

- i. the provision of financial assistance and other forms of support in situations where voluntary repatriation is foreseeable or taking place, in particular bearing in mind that voluntary repatriation is the preferred solution;
- ii. where local integration is appropriate and feasible, the provision of financial assistance and other forms of support,

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including development assistance, for the benefit of refugees and the communities hosting them so as to assist countries of asylum in integrating refugees locally;

- iii. the more effective and strategic use of resettlement as a tool of burden and responsibility sharing, including through the application of a group resettlement referral methodology;
- iv. the mobilization of support for rehabilitating refugee-impacted areas in the host country from which refugees have returned;

(n) *Recommends* that, where a plan of action or arrangement is adopted, an effective review mechanism be included whereby all actors are brought together to evaluate its implementation and the need for any amendments to it in light of developments;

(o) *Requests* UNHCR to report regularly to the Executive Committee, within existing reporting mechanisms, on developments in international burden and responsibility sharing regarding mass influx situations.

**CONCLUSION ON LEGAL SAFETY ISSUES
IN THE CONTEXT OF VOLUNTARY
REPATRIATION OF REFUGEES¹**

No. 101 (LV) – 2004

The Executive Committee,

Recalling its Conclusion No. 18 (XXXI) and Conclusion No. 40 (XXXVI) on voluntary repatriation, as well as Conclusion No. 74 (XLV) paragraphs (y), (z) and (aa),

Recalling its Conclusion No. 96 and *noting* that the present Conclusion does not apply to persons found not to be in need of international protection,

Noting the relevance for voluntary repatriation of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women,

Expressing appreciation for the useful discussions on voluntary repatriation, which took place in the context of the third track of the Global Consultations on International Protection;² and *agreeing* with the importance of working towards improved conditions for voluntary repatriation and of strengthening cooperation to make such repatriation sustainable in line with Goal 5, Objectives 2 and 3 of the Agenda for Protection which resulted from those discussions,

¹ Contained in United Nations General Assembly Document No. 12A (A/59/12/Add.1)

² EC/GC/02/5 of 25 April 2002.

Reaffirming that voluntary repatriation, local integration and resettlement are the traditional solutions for refugees, and that all remain viable and important responses to refugee situations; *reiterating* that voluntary repatriation, where and when feasible, remains the preferred solution in the majority of refugee situations; and *noting* that a combination of solutions, taking into account the specific circumstances of each refugee situation, can help achieve lasting solutions,

Reaffirming the voluntary character of refugee repatriation, which involves the individual making a free and informed choice through, inter alia, the availability of complete, accurate and objective information on the situation in the country of origin; and *stressing* the need for voluntary repatriation to occur in and to conditions of safety and dignity,

Recognizing in the context of voluntary repatriation the importance of resolute efforts in the country of origin to create conditions that foster the voluntary and safe return of refugees and to ensure the restoration of national protection,

Recognizing the complexities of large-scale voluntary repatriation and the difficulties which the country of origin may face in seeking to follow the guidance provided in this Conclusion,

Noting the value of countries of origin addressing issues which are of a legal or administrative nature as a means of building confidence, facilitating decisions to return and ensuring sustainable reintegration,

Emphasizing that some legal or administrative issues may only be addressed over time; and *recognizing* that voluntary repatriation can and does take place without all of the legal and administrative issues addressed in this Conclusion having first been resolved,

Recognizing the usefulness of States, as countries of asylum or countries of origin, and UNHCR concluding, where appropriate, tripartite agreements to facilitate voluntary repatriation efforts, thereby setting out the core elements and modalities of voluntary repatriation, the respective roles and responsibilities of the relevant actors involved, and the obligations of States with respect to returning refugees, while also noting that, under certain circumstances, voluntary repatriation may take place without such agreements,

Recognizing also the importance of spontaneous voluntary repatriation of refugees and that actions to promote organized voluntary repatriation should not create obstacles to the spontaneous return of refugees,

Noting the desirability of incorporating appropriate legal protections for returning refugees in peace agreements, whenever possible, as a measure to build confidence and in support of their promotion in practice,

Acknowledging the importance of promoting an age- and gender-sensitive approach in all aspects of refugee return processes; and, in this regard, *encouraging* UNHCR to develop appropriate standards and indicators that account for such factors in repatriation and reintegration programmes,

Underlining the need for strengthened cooperation among countries of origin, host countries, UNHCR and other international organizations and the international community, to ensure that voluntary repatriation will be sustainable,

Noting that reconciliation in post-conflict situations is a key challenge and that addressing this from the outset, where necessary through transitional justice mechanisms, and involving communities, may contribute to creating conditions conducive to voluntary repatriation and sustainable reintegration,

(a) *Invites* countries of origin, in cooperation with UNHCR, other States and other concerned actors, as necessary and appropriate, to address, at an early stage, issues of a legal and administrative nature which are likely to hinder voluntary repatriation in safety and dignity, by taking into consideration, inter alia, the guidance included in the operative paragraphs that follow;

(b) *Reaffirms* that refugees have the right to return to their own country and that States have the obligation to receive back their own nationals and should facilitate such return; *urges* States to issue necessary travel documents, if required, to facilitate such return; *calls* upon transit countries to assist in the facilitation of return; and also *notes* that refugees may be required to be subject to brief interviews at the relevant border entry point by the authorities of the country of origin for purposes of identification;

(c) *Recognizes* that refugees, in exercising their right to return to their own country, should, in principle, have the possibility to return to their place of origin, or to a place of residence of their choice, subject only to restrictions

as permitted by international human rights law;³ and, in this context, *notes* the importance of efforts that seek to mitigate the likelihood that returning refugees could become internally displaced;

(d) *Emphasizing* that in the context of voluntary repatriation countries of asylum have the responsibility to protect refugees from threats and harassment, including from any groups or individuals who may impede their access to information on the situation in the country of origin or may impede the exercise of their free will regarding the right to return;

(e) *Reaffirms* that voluntary repatriation should not necessarily be conditioned on the accomplishment of political solutions in the country of origin in order not to impede the exercise of the refugees' right to return; and *recognizes* that the voluntary repatriation and reintegration process is normally guided by the conditions in the country of origin;

(f) *Strongly* urges countries of origin to ensure that returning refugees do not face a risk of persecution, discrimination or detention due to their departure from the country or on account of their status as refugees, or their political opinion, race, ethnic origin, religious belief or membership of a particular social group;

(g) *Recognizes* the utility of amnesties in encouraging voluntary repatriation and *recommends* that countries of origin issue amnesty declarations granting returning refugees immunity from prosecution for having left or remaining outside the country of origin; and further *recognizes*, however, that amnesties should not be extended to returning refugees charged with, inter alia, a serious violation of international humanitarian law, or genocide, or a crime against humanity, or a crime constituting a serious violation of human rights, or a serious common crime involving death or serious bodily harm, committed prior to or during exile;

(h) *Recognizes* that, in principle, all returning refugees should have the right to have restored to them or be compensated for any housing, land or property of which they were deprived in an illegal, discriminatory or arbitrary manner before or during exile; *notes*, therefore, the potential need for fair and effective restitution mechanisms, which also take into account the situation of secondary occupants of refugees' property; and also *notes* that where property cannot be restored, returning refugees should be justly and adequately compensated by the country of origin;

³ See Article 12(3) of International Covenant on Civil and Political Rights.

(i) *Stresses* the desirability of ensuring that any restitution and compensation framework takes account of the situation of returning refugee women, in particular, where women, especially female heads of households, are prevented from securing property rights in accordance with inheritance laws or where inheritance procedures prevent them from recovering their property within a reasonable period of time;

(j) *Encourages* countries of origin to provide homeless returning refugees, as appropriate, with access to land and/or adequate housing, comparable to local standards;

(k) *Notes* the importance of ensuring nationality; and *urges* countries of origin to ensure that there is no exclusion of returning refugees from nationality and that statelessness is thus avoided; and *recalls* in this context Conclusion No. 78 (XLVI) on the prevention and reduction of statelessness and the protection of stateless persons;

(l) *Notes* also the importance of providing under national law for the recognition of the civil status of returning refugees and changes thereto, including as a result of births, deaths, adoptions, marriage and divorce, as well as of documentation or registration proving that status, issued by the competent bodies in the country of asylum or elsewhere, taking into account the special situation of returning refugee women who may not have documentation proving their civil status or who may face difficulties securing recognition of documentation issued by the authorities of the country of asylum;

(m) *Calls on* countries of origin and countries of habitual residence to accept back refugees who are non-nationals but have been habitually resident in that country, including those who were previously stateless there;

(n) *Stresses* the importance of family unity during and following voluntary repatriation; and *calls upon* States, where necessary, to assist spouses and family members of different nationalities to remain together as families;

(o) *Notes* the importance of skills of returning refugees for self-reliance and, in this context, *calls upon* countries of origin to ensure non-discriminatory access for returning refugees to processes, where they exist, to recognize the equivalency of academic, professional and vocational diplomas, certificates and degrees acquired by returning refugees while

abroad; and *encourages* countries of origin to recognize the equivalency of primary and secondary education received abroad by returning refugees;

(p) *Recommends* that in consultation with refugee communities consideration be given to addressing the specific needs of returning refugees – including women, children, older people and other persons with special concerns – in order to ensure that they receive adequate protection, assistance and care throughout the repatriation and initial reintegration process; and *stresses* in this context that particular attention needs to be given to ensure that unaccompanied or separated children are not returned prior to successful tracing of family members or without specific and adequate reception and care arrangements having been put in place in the country of origin;

(q) *Reiterates* that UNHCR, in line with its mandate responsibility, be given free and unhindered access to returning refugees, as needed, in particular, so as to monitor the latter's proper treatment in accordance with international standards, including as regards the fulfilment of amnesties, guarantees or assurances on the basis of which refugees have returned;

(r) *Encourages* the country of origin, host countries and UNHCR in cooperation with other relevant actors to provide refugees with complete, objective and accurate information, including on physical, material and legal safety issues, prior to their voluntary repatriation to and reintegration in the country of origin;

(s) *Encourages* UNHCR to collaborate with other United Nations entities, international and non-governmental organizations, in particular those with mandates and expertise in rule of law, development and peacekeeping as well as peace-building, with a view to removing legal, administrative and other barriers to return in countries of origin, and, in doing so, contributing more generally to promoting the rule of law and respect for human rights and fundamental freedoms;

(t) *Encourages* the international community at large to mobilize adequate and sustained support to countries of origin, particularly those emerging from conflict, to assist them to restore national protection to, including respect for the human rights of, their citizens and former habitual residents, including returning refugees.

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¹ See also Family Reunion

² See also Family Reunification

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