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INTERNATIONAL CO-OPERATION TO AVERT NEW FLOWS OF REFUGEES

Note by the Secretary-General

1. The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees, prepared in accordance with paragraph 5 of Assembly resolution 40/166 of 16 December 1985.
2. The Secretary-General wishes to express to the Group of Experts his appreciation for their report.

\* A/41/50/Rev.1.

ANNEX

Report of the Group of Governmental Experts on International  
Co-operation to Avert New Flows of Refugees

CONTENTS

<u>Chapter</u>	<u>Paragraphs</u>	<u>Page</u>
LETTER OF TRANSMITTAL .....		3
I. INTRODUCTION .....	1 - 16	5
II. ANALYSIS OF MANDATE, INCLUDING QUESTIONS RELATED TO TERMS .	17 - 29	7
III. CIRCUMSTANCES CAUSING NEW MASSIVE FLOWS OF REFUGEES .....	30 - 44	10
A. Man-made causes and factors .....	30 - 40	10
1. Political causes .....	30 - 36	10
2. Socio-economic factors .....	37 - 40	11
B. Natural causes .....	41 - 44	12
IV. APPROPRIATE MEANS TO IMPROVE INTERNATIONAL CO-OPERATION TO AVERT NEW MASSIVE FLOWS OF REFUGEES .....	45 - 61	13
A. Analysis of existing relevant international instruments, norms and principles .....	47 - 53	13
B. Analysis of international machinery and practices .....	54 - 61	14
V. CONCLUSIONS AND RECOMMENDATIONS .....	62 - 72	15
A. Conclusions .....	63 - 65	16
B. Recommendations .....	66 - 72	16

Annexes

I. Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees: Membership and attendance .....	20
II. Definitions of the term "refugee" considered by the Group in the course of its deliberations .....	23
III. International legal instruments mentioned during the discussion of paragraph 48 of the present report .....	25

LETTER OF TRANSMITTAL

2 May 1986

Sir,

In my capacity as Chairman/Rapporteur, I have the honour to submit to you herewith for transmittal to the members of the General Assembly the report of the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees. The report was prepared in accordance with paragraph 5 of Assembly resolution 40/166 dated 16 December 1985, which requested "the Group of Governmental Experts to submit its report in time for consideration by the General Assembly at its forty-first session".

The list of experts appointed in accordance with paragraph 4 of General Assembly resolution 36/148, with the change made in resolution 37/121, is contained in annex I of the report.

This report is the final document of the Group of Experts, in the light of the provisions of resolution 40/166, which stipulates that the Group should submit its report, not a report.

Taking into account paragraph 4 of resolution 40/166, which, inter alia, "calls upon the Group of Governmental Experts to work expeditiously on the fulfilment of its mandate ... during 1986", the members of the Group have continued to demonstrate a great degree of receptiveness and seriousness, as well as a deep sense of their responsibility to conclude all aspects of the study requested of them.

They hope that the recommendations made will be effectively implemented very soon.

The Group conducted its study between April 1983 and May 1986. During that period, it held eight (8) two-week sessions in New York, on the dates given in paragraph 12 of the report.

I should like to take this opportunity to reiterate my very sincere gratitude to all the members of the Group and to congratulate them on their spirit of co-operation, which enabled the Group to fulfil its mandate.

His Excellency  
Mr. Javier Pérez de Cuéllar  
Secretary-General of the  
United Nations  
New York

/...

The Group would have been unable to achieve that result had it not been for the valuable and effective assistance of the Secretariat, which offered the experts appropriate working conditions at all levels, specifically with regard to the finalization of the Group's documents. The experts would therefore like to express their full gratitude to the Secretariat, particularly to Mr. Gustav Ortner, the representative of the Secretary-General, to Mrs. Neylan Bali, who served as Secretary of the Group, and to her colleagues.

(Signed) Koffi ADJOYI  
Chairman/Rapporteur of the  
Group of Governmental Experts  
on International Co-operation  
to Avert New Flows of Refugees

## I. INTRODUCTION

1. In deciding to establish the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees, the General Assembly, by its resolution 36/148 of 16 December 1981, expressed its grave concern over the "continuing massive flows of refugees in many parts of the world and the human suffering affecting millions of men, women and children who flee or are forcibly expelled from their homelands".

2. Although the phenomenon of massive flows of refugees is not new, its scale today is large and causes serious concern. The number of refugees throughout the world is reported to be approximately 10 million <sup>1/</sup> and the phenomenon of mass movements of refugees is so wide in dimension that no continent or region has remained unaffected by it.

3. Some of the root causes of new and massive flows of refugees throughout the world resulting in great human suffering, including policies and practices of oppressive and racist régimes, as well as aggression, colonialism, apartheid, alien domination, foreign intervention and occupation, were noted by the General Assembly in its resolution 36/148, which also took into account the importance of socio-economic factors and furthermore reaffirmed the inviolability of the provisions of the Charter of the United Nations and the Universal Declaration of Human Rights and of other existing international instruments, norms and principles relevant to responsibilities of States with regard to refugee flows.

4. The General Assembly, in its resolution 36/148, noted that in addition to creating individual human misery, massive flows of refugees could impose great political, economic and social burdens upon the international community as a whole, with dire effects on developing countries, particularly those with limited resources of their own. It stressed that massive flows of refugees might not only affect the domestic order and stability of receiving States but also jeopardize the political and social stability and the economic development of entire regions and thus endanger international peace and security.

5. Massive flows of refugees crossing international borders can seriously affect countries of first refuge in particular. Depending mainly on the magnitude of the refugee movements and on the economic and social state of the receiving countries, those movements can exact a heavy toll on the latter's economic resources, especially whenever they become countries of permanent refuge.

6. Given the multiple effects on receiving countries, massive flows of refugees are likely to have adverse consequences for the relations between receiving States and countries of origin.

7. In resolution 36/148, the General Assembly expressed its conviction that averting new massive flows of refugees was a matter of urgent concern for the international community as a whole. Furthermore, as the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV) of 24 October 1970) points out:

"States have the duty to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international co-operation free from discrimination based on such differences."

In co-operating to avert new massive flows of refugees at the international, regional or subregional levels, all States would also take into account the wish expressed in the preamble of the Convention relating to the Status of Refugees of 28 July 1951 which appeals to States to "do everything within their power to prevent this problem from becoming a cause of tension between States".

8. Hitherto, international efforts to solve the world refugee problem have concentrated on remedying refugee situations after they came into existence. They dealt with effects, not causes. Their purpose was the twofold one of granting humanitarian protection and assistance and of finding durable solutions, mainly the solutions of voluntary repatriation to the country of origin and, where repatriation was impossible, of resettlement and integration in the country of first refuge or in a third country.

9. Yet, the persistence or the recurrence of large-scale refugee movements in recent decades, as well as the apparent difficulties of finding long-term solutions for millions and millions of refugees, demonstrate that caring for refugees is important but not sufficient. In addition to the humanitarian actions undertaken in response to massive flows of refugees, the international community is called upon to co-operate at the international level to find just political solutions to the resultant problems and to prevent such flows from happening, taking into account likewise the possibilities of international co-operation that might exist at the regional and subregional levels. Hence, curative humanitarian efforts ought to be complemented by the development of appropriate means of international co-operation aimed at averting new massive flows of refugees.

10. Against this background, the General Assembly, in its resolution 36/148 decided to establish a group of governmental experts of 17 members to undertake as soon as possible and in the light of the existing relevant international instruments, norms and principles, in order to improve international co-operation to avert new massive flows of refugees, a comprehensive review of the problem in all its aspects, with a view to developing recommendations on appropriate means of international co-operation in this field, having due regard to the principle of non-intervention in the internal affairs of sovereign States. By resolution 37/121 of 16 December 1982, the Assembly decided, furthermore, to enlarge the group of governmental experts from 17 to 24 members, with one additional seat to be rotated between the Latin American, African and Asian regions, in that order. In the same resolution, the Assembly reaffirmed the mandate of the Group of Governmental Experts as defined in resolution 36/148 by stressing the need for members of the Group to embark upon the study in the framework of a constructive, future-oriented approach and in conformity with a spirit which must form the basis of friendly relations and close co-operation among Member States.

11. In conformity with paragraph 4 of General Assembly resolution 36/148, as modified by paragraph 4 of Assembly resolution 37/121, the Secretary-General, after consultation with the regional groups and with due regard to equitable geographical distribution and upon nomination by the Governments concerned, appointed the members of the Group whose names appear in annex I.

12. The Group of Governmental Experts held eight sessions as follows:

First session:	12-15 April 1983
Second session:	6-10 June 1983
Third session:	26 March-6 April 1984
Fourth session:	11-22 June 1984
Fifth session:	25 March-4 April 1985
Sixth session:	3-14 June 1985
Seventh session:	3-14 March 1986
Eighth session:	21 April-2 May 1986

13. The Group held five organizational meetings at its first session and 123 substantive meetings during its second to eighth sessions inclusive.

14. At its first session, the Group unanimously elected Mr. Ibra Dèguène Ka (Senegal) its chairman in absentia.

15. Mr. Alois Jelonek (Federal Republic of Germany), was appointed Chairman ad interim.

16. Having been informed that Mr. Ka would be unable to participate in its work, the Group, at its second session, unanimously elected Mr. Koffi Adjoyi (Togo) Chairman and agreed that the Chairman would carry out the functions of Rapporteur.

## II. ANALYSIS OF MANDATE, INCLUDING QUESTIONS RELATED TO TERMS

17. In analysing the requirements of its mandate as laid down in General Assembly resolutions 36/148 and 37/121 with a view to determining the exact scope, nature and purpose of its task, the Group agreed on the need for a principled and future-oriented approach leading to recommendations on appropriate means of international co-operation in order to avert new massive flows of refugees. It held that general agreement was of significance for the outcome of its work and that in defining the scope and direction of its comprehensive review all the relevant elements contained in the above-mentioned resolutions should be given due consideration.

18. In the Group's view, the most important element relating to the direction of its review is contained in the formulation "with a view to developing recommendations on appropriate means of international co-operation in accordance with the principles of the Charter of the United Nations". This definition of purpose clearly establishes the general perspective from which the General Assembly wishes the various aspects of the comprehensive review of the refugee problem to be assessed. It expresses the Assembly's expectation that the final result of

the Group's work should be recommendations on appropriate means of international co-operation in order to avert new massive flows of refugees to be submitted in its final report for consideration by the Assembly in accordance with its relevant resolutions.

19. A further guideline determining both the direction and spirit of the Group's examination is laid down in the words "in order to improve international co-operation". This formulation puts the comprehensive review to be undertaken in the context of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, approved by the General Assembly in its resolution 2625 (XXV). Accordingly, Assembly resolution 36/148 reaffirmed that Declaration whereas Assembly resolution 37/121 stressed "the need for members of the Group to embark upon the study in question in the framework of a constructive, future-oriented approach and in conformity with the spirit which must form the basis of friendly relations and close co-operation among Member States". Assembly resolution 36/148 underlined the principles concerning friendly relations and co-operation among States in accordance with the Charter, including the importance of having due regard for the principle of non-intervention in the internal affairs of sovereign States, and also of the principle that nothing in the Charter shall authorize the United Nations to intervene in matters that are essentially within the domestic jurisdiction of any State.

20. A further important aspect for the delineation of the Group's task was seen in the emphasis on averting new, that is to say future, massive flows of refugees rather than in the specific consideration of past and present refugee situations. Needless to say, the Group did not believe that solutions for the future could be found without profiting from the lessons of the past. It felt, however, that instead of passing - unavoidably contentious - political judgements, its task of reaching generally agreed recommendations on appropriate means to avert new massive flows of refugees called for a principled approach abstracting and generalizing from past experiences, taking into account all the relevant factors. The Group thought it necessary to proceed in as objective a manner as possible.

21. The Group considered the definitions of the term "refugee" which are contained in a number of international instruments and documents. 2/ One of the questions to be answered by the Group in determining the scope of its comprehensive review was as to whether the refugee definitions contained in those humanitarian instruments focusing on the protection of refugees were also applicable in the preventive approach outlined by General Assembly resolutions 36/148 and 37/121.

22. In dealing with that question, the Group was aware of the complementarity of its task in relation to curative efforts dealing with existing refugee movements. It underlined the need not to detract from the achievements of international humanitarian law and practice, but, on the contrary, to reaffirm and strengthen them. In view of that objective, the Group felt that it would not only be inappropriate, but also precarious to develop a refugee definition of its own which - by adding to or subtracting from existing legal definitions - might affect their protective value to the detriment of refugees. That interpretation was



specifically called for by the seventh preambular paragraph of General Assembly resolution 36/148 which reaffirmed, inter alia, the inviolability of "existing international instruments, norms and principles relevant ... to the status and the protection of refugees".

23. Undoubtedly, the direction and purpose of the preventive task given to the Group differ from those of the curative instruments. Unlike existing situations, where the objective and subjective elements defined in these documents can be factually assessed, it is difficult in a pre-flow situation to forecast which types of movements will be created by causes which generally result in massive flows of refugees.

24. Accordingly, the scope of the phenomena addressed by the Group, taking into account the preventive character of its task, is wider than the one prescribed in the existing legal refugee definitions. Since the preventive approach is not dealing with effects but causes, it is also the latter ones which were taken into account in delineating the phenomena dealt with.

25. In accordance with the fourth preambular paragraph of General Assembly resolution 36/148, which specified the categories of persons meant by the words "who flee or are forcibly expelled from their homelands", the Group concluded that traditional migrations and other voluntary movements of people, such as all kinds of migrant workers and their families, nomads, etc., did not fall within its mandate.

26. Consequently, the Group was convinced that its mandate related to coerced movements. The element of "coercion" or compulsion was a decisive factor in differentiating the movements to be addressed by a preventive approach from other mass movements outside the scope of the Group's mandate. The Group further held that the term "coercion" or the element of compulsion in this particular case was to be understood in a wide sense covering a variety of natural, political and socio-economic causes or factors which directly or indirectly force people to flee from their homelands in fear for life, liberty and security.

27. A further important criterion for the understanding of the phenomenon taken into consideration is contained in the qualification "massive" flows of refugees. While the expression "massive flows" implies a certain numerical importance of the flows of refugees and excludes individual cases, the Group was of the opinion that it was not possible to quantify in a generally applicable manner the number which would constitute a "massive" flow. In General Assembly resolution 36/148, there were, however, some qualitative criteria providing guidance for the understanding of the meaning of "massive". These criteria were seen in particular in the following description of the effects concerned, namely:

"... that massive flows of refugees may not only affect the domestic order and stability of receiving States but also jeopardize the political and social stability and the economic development of entire regions and thus endanger international peace and security,

"... that in addition to creating individual human misery, massive flows of refugees can impose great political, economic and social burdens upon the international community as a whole, with dire effects on developing countries, particularly those with limited resources of their own".

28. Given the fact that these destabilizing political and social effects do not solely depend on the size of the respective refugee movement, but also on the political, social and economic environment in which they take place, the Group concluded that the concept of "massive flows of refugees" was not an absolute, but a relative one.

29. The Group was mindful of the General Assembly's call to take into account the comments and suggestions submitted to the Secretary-General in response to Assembly resolution 35/124 of 11 December 1980 and any further comments and suggestions from Member States, organs and organizations of the United Nations and specialized agencies, as well as the views expressed during the debate on this item at the thirty-sixth session of the Assembly and also the study submitted to the Commission on Human Rights at its thirty-eighth session by the special rapporteur, 3/ pursuant to its resolution 29 (XXXVII) of 11 March 1981, and furthermore the deliberations on the study by the Commission.

### III. CIRCUMSTANCES CAUSING NEW MASSIVE FLOWS OF REFUGEES

#### A. Man-made causes and factors

##### 1. Political causes

30. When it took up this chapter the Group took into consideration that the General Assembly, in the fifth preambular paragraph of resolution 36/148, had expressed its strong condemnation of "policies and practices of oppressive and racist régimes, as well as aggression, colonialism, apartheid, alien domination, foreign intervention and occupation, which are among the root causes of new massive flow of refugees". The Group also took into consideration the seventh preambular paragraph of the same resolution, which reaffirmed "the inviolability of the provisions of the Charter of the United Nations and the Universal Declaration of Human Rights and of other existing international instruments, norms and principles relevant, inter alia, to responsibilities of States with regard to averting new massive flows of refugees, as well as to the status and the protection of refugees".

31. In examining the circumstances that have led directly to massive flows of refugees, the Group noted that wars and armed conflicts have been and continue to be a major cause of such flows. The Group also noted that, in many cases, such movements of refugees had taken place as a result of acts of aggression, alien domination, foreign armed intervention and occupation. In such cases, flight frequently has been the only way for the peoples of the victimized countries to escape the danger to life or extensive restrictions of their human rights, often compounded by the fear of losing their national, cultural and religious identity.

32. In considering colonialism as a major cause of massive flows of refugees, the Group concluded that when a people are unable to exercise their right to self-determination and independence and are struggling against colonial rule and for freedom and liberty, a large number of persons flee in fear of their lives or security. Thus, where structures of colonial domination and exploitation persist, the danger of massive flows of refugees will remain.

33. Oppressive, segregationist and racially supremacist régimes practising policies of discrimination or persecution which deprive the indigenous majority or minority or any group within the population of basic human rights and fundamental freedoms, especially the right of citizenship, on account of racial, ethnic, cultural, religious or national characteristics, are one of the major root causes for massive flows of refugees. Apartheid, which has been condemned by the United Nations as a crime against humanity and is based on obnoxious institutionalized discrimination and inexorable suppression, is a particularly outrageous example in this regard.

34. The Group noted that instances of unequal treatment under oppressive régimes among a group or groups within a population leading to internal conflict gave rise to massive flows of refugees.

35. The Group was of the view that violations of human rights and fundamental freedoms, as defined in the Universal Declaration of Human Rights and other relevant international instruments, had been and continued to be among the principal causes of massive flows of refugees. As long as denials of civil, political, economic, social and cultural rights took the form of a consistent pattern of gross violations, the danger of massive flows of refugees would persist.

36. The Group took note that in resolution 36/148, the General Assembly expressed grave concern at the suffering of millions of men, women and children who flee or "are forcibly expelled from their homelands". It was of the view that mass forcible expulsions of large groups within a population of a country across international frontiers lead to massive flows of refugees.

## 2. Socio-economic factors

37. The sixth preambular paragraph of General Assembly resolution 36/148 points out the importance of socio-economic factors in the creation of refugee situations.

38. Since the Group's mandate relates only to coerced movements and therefore does not extend to voluntary, often traditional movements, its consideration focuses on the importance of economic and social factors that threaten the physical integrity and survival of thousands of men, women and children and compel them to flee their countries. These countries, for the most part, have structural problems of development.

39. Those economic and social factors are many and varied. In a number of developing countries, they are generally the result of the prolongation of the state of underdevelopment inherited from colonialism and aggravated by a difficult

economic environment. Those countries generally do not have the appropriate or sufficiently developed economic structures to enable them to offer their entire populations essential living conditions.

40. The world economic situation and its effects on the critical economic situation of most of the developing countries, as reflected particularly in economic recession, balance-of-payments problems, deterioration of the terms of trade, indebtedness, inflation etc. seriously affect the population of those countries. The detrimental effects of these factors are, in some cases, further compounded by such factors as insecure food supply, in particular in overpopulated areas, drought, desertification, deforestation and other forms of natural and man-made ecological disturbances and severe environmental damages such as those caused by wars.

#### B. Natural causes

41. History has shown that not only man-made circumstances but also some emergency situations provoked by severe natural disasters cause flows of refugees. Many of the countries concerned with refugee problems as well as a number of international organizations dealing with them have recognized the significance of force majeure as a cause of refugee flows. For instance, an agreement exists between the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Office of the United Nations Disaster Relief Co-ordinator (UNDRO) making the latter responsible for relief measures for persons displaced by natural disasters. UNDRO also helps to avert such flows of refugees with its disaster-preparedness and disaster-prevention programmes. The Food and Agriculture Organization of the United Nations (FAO) and the World Food Programme (WFP) build-up of food reserves for the victims of drought must also be seen in this context.

42. Among the natural disasters which may be a cause for massive flows of refugees, there are heavy floods, prolonged drought, soil erosion and desertification, which can either threaten directly the life and security of a people or can pose such a threat indirectly by causing a severe deterioration in the economic situation, particularly the food and health situation. In this context, the situation in the Sahel zone was particularly taken into account by the Group.

43. Natural disasters occurring in developing countries are more likely to result in massive flows of refugees than are natural disasters which occur in developed countries. This is because the developing countries often lack the economic resources, infrastructure and service base (health, sanitary service, water supply, medical service, etc.) needed in order to deal fully with the crisis caused by the natural disasters. Some of the causes of these deficiencies and weaknesses are mentioned in this chapter in the subsection on socio-economic factors.

44. As the Group discussed causes and factors that may lead to massive flows of refugees, the Group noted that this phenomenon could be attributed to one or several causes and factors, political, socio-economic or natural, or a combination of these.

#### IV. APPROPRIATE MEANS TO IMPROVE INTERNATIONAL CO-OPERATION TO AVERT NEW MASSIVE FLOWS OF REFUGEES

45. Having analysed the political and natural causes and socio-economic factors, the Group proceeded with the examination of existing relevant international instruments, norms and principles of international co-operation to avert new massive flows of refugees and of appropriate means in order to improve this co-operation.

46. The Group emphasized that some of the massive refugee flows being a consequence of complex causes and factors, the effectiveness of the appropriate means in large part depended upon their contribution to the solution of the problem which brought about such flows.

##### A. Analysis of existing relevant international instruments, norms and principles

47. Taking up this analysis, the Group considered the question whether these principles, instruments and norms of international co-operation were adequate to avert new flows of refugees.

48. In the light of the causes and factors elucidated in chapter III, the Group analysed the existing international legal instruments and norms which appeared in General Assembly resolution 36/148, namely, the Charter of the United Nations, the Universal Declaration of Human Rights, adopted on 10 December 1948, and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted on 24 October 1970. The Group also analysed norms of international custom, as well as other relevant international instruments. A list of these instruments appears in annex III to the present report.

49. The Group found that the obligation of States to co-operate among themselves and with the United Nations as established in Articles 1, paragraph 3, 2, paragraph 5, 55 and 56 of the Charter of the United Nations, and in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, extended to all areas of international relations and especially to political, economic, social and humanitarian co-operation and hence also to the prevention of new massive flows of refugees.

50. Similarly, the principle of the peaceful settlement of disputes, enshrined in Article 2, paragraph 3, and Article 33 of the Charter and in the Declaration on Friendly Relations, pertains to situations where the maintenance of international peace and security is endangered and which thereby are likely to cause new flows of refugees.

51. Furthermore, the principle that States should refrain in their international relations from using the threat or use of force, enshrined in Article 2, paragraph 4, of the Charter, and in the Declaration on Friendly Relations, applies to the prevention of new massive flows of refugees.

52. The principle of non-intervention in all its forms and manifestations, including non-interference, in the internal affairs of States is also a fundamental and generally recognized principle of international law which is applicable to the prevention of new massive flows of refugees.

53. In addition to those principles which have their origin in the norms governing international relations, there are a number of international instruments pertaining specifically to the field of human rights, in particular, the Universal Declaration of Human Rights and the two international covenants on civil and political rights and on economic, social and cultural rights, the effective implementation of whose provisions could contribute to averting new massive flows of refugees.

#### B. Analysis of international machinery and practices

54. The Group studied the existing machinery and practices for dealing with refugee questions and noted that at the current time in the United Nations system there was a broad range of organs dealing with the political and economic problems linked with the emergence of flows of refugees. There exist also appropriate organs for dealing with refugee problems after they have occurred with a view to alleviating the sufferings of refugees. The Group examined whether existing international machinery and practices provided appropriate means of international co-operation for the prevention of such situations.

55. In its analysis, the Group, taking into account the causes and factors referred to in chapter III, considered the powers and functions of the General Assembly, of the Security Council, of the Economic and Social Council, of the Secretariat and other organs and agencies of the United Nations system in the light of the capabilities required for averting new massive flows of refugees, and considered that those organs had the necessary competence to deal with problems giving rise to such flows.

56. In the opinion of the Group, however, the effectiveness of the efforts of the United Nations system in questions concerned with averting new flows of refugees is seriously diminished by the fact that the principles of international law, in particular those contained in the Charter of the United Nations, are not fully observed, that many decisions taken by the Security Council are not being accepted and carried out and by the lack of respect for the resolutions of the General Assembly, the Economic and Social Council and other organs and agencies of the United Nations system. Nevertheless, it is important that the attention of these United Nations bodies is drawn to situations which are likely to produce new flows of refugees before the problem has arisen.

57. The Group considered that the effectiveness of the United Nations system in averting new flows of refugees would be substantially improved if States were more active in taking advantage of the competence of the aforementioned organs and agencies and, in accordance with the provisions of the Charter, accepted and carried out the decisions of the Security Council and respected the resolutions and decisions of the General Assembly, the Economic and Social Council and other United Nations organs and agencies. Moreover, the conduct of States should more fully reflect the opinion of the international community.

58. In the Group's opinion, there should be greater co-operation, not only between the States concerned but also between all States Members of the United Nations and the United Nations organs and agencies, as well as more timely and better co-ordinated action on the part of those organs in averting new flows of refugees and in solving problems which give rise to such flows. It would be important to ensure that the United Nations organs and agencies have timely and fuller information when situations develop which might give rise to new flows of refugees. In this connection, a positive step would be that States Members of the United Nations should turn to those organs and agencies at the earliest possible stage of development of such situations. Also, the Secretary-General in accordance with the relevant provisions of the Charter, should take appropriate steps with a view to improving international co-operation for the prevention of new flows of refugees, such as by offering his good offices and by bringing the problem to the attention of the relevant United Nations organs and agencies.

59. The Group expressed the view that it would be useful for the General Assembly to request the organs of the United Nations, in their examination of the question before them, to consider the possibility that new flows of refugees might arise and, if necessary, to take steps, within the limits of their powers and functions as defined by the Charter of the United Nations, with a view to averting such flows. In that connection, the Group emphasized the desirability of considering at the earliest possible stage situations and problems which could give rise to massive flows of refugees.

60. Taking into account the causes and factors referred to in chapter III, the Group furthermore considered that international co-operation to avert new flows of refugees could be enhanced by promoting greater respect for the existing relevant international instruments, norms and principles. The Group noted that there was no lack of such instruments, norms and principles and that it seemed appropriate to reaffirm them and to call upon the Member States to respect them more fully.

61. The Group noted that the development efforts of many countries and relevant international organizations had already helped to prevent further flows of refugees in countries likely to be affected. But the Group found that international development policies had not always given due consideration to that question. The Group felt that the development assistance agencies of the United Nations should therefore be asked, in the selection of projects, to give greater support to those that directly or indirectly averted new flows of refugees. In that process, the appropriate measure of development giving more attention to the basic needs had to be taken in the region where flows of refugees threatened to be formed.

## V. CONCLUSIONS AND RECOMMENDATIONS

62. After reviewing political, socio-economic and natural causes and factors likely to lead to new massive flows of refugees and appropriate means to improve international co-operation to avert new massive flows of refugees, the Group reached the following conclusions and recommendations.

#### A. Conclusions

63. The analysis of causes and factors showed that the emergence of massive flows of refugees is a result of a number of complex and often interrelated political, economic and social problems related to, and influenced by, the overall international situation. It may affect the political and social stability, as well as the economic development, of the receiving States, and also carry adverse consequences for the economies of the countries of origin and entire regions, thus endangering international peace and security. Moreover, in view of its complex nature and magnitude, as well as its potentially destabilizing effects, averting massive flows of refugees is a matter of serious concern to the international community as a whole. In the first instance, dealing with this problem is the responsibility of the States directly concerned. Given the character of the problem, the task of averting massive flows of refugees requires improved international co-operation at all levels, in particular in the framework of the United Nations, in full observance of the principle of non-intervention in the internal affairs of sovereign States.

64. The Group felt that measures aimed at the strengthening of international security, the development of good-neighbourly relations and the creation of an atmosphere of confidence would contribute to improving international co-operation to avert massive flows of refugees. In order to be appropriate and effective, this co-operation must address all the complex political, economic and social causes and factors of massive flows of refugees with a view to eliminating them, and it must, while this is being undertaken, contribute to the solution of those problems which are the direct cause of such flows. This co-operation should also address natural causes with a view to contributing to reducing and, where possible, even to preventing the consequences of natural disasters. In addition, measures of improving international co-operation must be taken in order to be prepared for the requirements of each specific situation.

65. For these purposes, the Group presents the following recommendations.

#### B. Recommendations

66. The General Assembly should call upon Member States, for the purpose of averting new massive flows of refugees, to respect in particular the following obligations:

(a) States should respect the principles contained in the Charter of the United Nations and, in particular, refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations, and from intervention in matters within the domestic jurisdiction of any State, in accordance with the Charter, since the violation of the aforementioned principles is particularly prone to cause new massive flows of refugees;

(b) States should use peaceful means to resolve international disputes in such a manner that international peace and security as well as justice are not



jeopardized and thus improve situations that suggest a danger of future flows of refugees, in accordance with the provisions of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations;

(c) In view of their responsibilities under the Charter of the United Nations and consistent with their obligations under the existing international instruments in the field of human rights, States, in the exercise of their sovereignty, should do all within their means to prevent new massive flows of refugees. Accordingly, States should refrain from creating or contributing by their policies to causes and factors which generally lead to massive flows of refugees;

(d) States should promote civil, political, economic, social and cultural rights and accordingly refrain from denying them to, and from discriminating against, groups of their population because of their nationality, ethnicity, race, religion or language, thus directly or indirectly forcing them to leave their country;

(e) States should co-operate with one another in order to prevent future massive flows of refugees. They should promote international co-operation in all its aspects, in particular at the regional and subregional levels, as an appropriate and important means to avert such flows;

(f) States should, wherever new massive flows of refugees occur, respect the existing generally recognized norms and principles of international law governing the rights and obligations of States and refugees directly concerned, including those pertaining to the rights of refugees to be facilitated in returning voluntarily and safely to their homes in their homelands and to receive adequate compensation therefrom, where so established, in cases of those who do not wish to return;

(g) States, individually and collectively, should make provisions and take appropriate measures to avert new flows of refugees which may be caused by natural disasters, as appropriate with the support of the relevant international organizations. In the event these natural disasters or other similar situations occur, States should assist the States concerned to the best of their abilities in order to alleviate the situation, as well as to avert new massive flows of refugees.

67. Taking into account the foregoing, the General Assembly should call upon Member States to co-operate with one another and with the Security Council, the General Assembly, the Economic and Social Council, the Secretariat and other relevant organs of the United Nations in a fuller and more timely manner for the prevention of new massive flows of refugees and to turn to these organs at the earliest possible stage of the development of such situations.

68. The main organs of the United Nations are urged to make fuller use of their respective competences under the Charter for the prevention of new massive flows of refugees, with a view to considering at the earliest possible stage situations and problems which could give rise to massive flows of refugees.

69. Furthermore, the General Assembly should consider calling upon Member States to comply vigorously with the decisions of the Security Council and to respect the decisions and recommendations of the General Assembly, the Economic and Social Council and other organs pertaining to the prevention of massive flows of refugees.

70. With a view to improving international co-operation for the prevention of new massive flows of refugees, the General Assembly should encourage the Secretary-General to make full use of his competences. To this effect, he should, in particular, in accordance with the Charter of the United Nations, as well as the relevant mandates of the competent United Nations organs:

(a) Give continuing attention to the question of averting new massive flows of refugees;

(b) Ensure that timely and fuller information relevant to the matter is available within the Secretariat;

(c) Improve co-ordination within the Secretariat for analysing the information, so as to obtain an early assessment on the situations which might give rise to new massive flows of refugees, and to make the necessary information available to the competent United Nations organs in consultation with the States directly concerned;

(d) Help improve the co-ordination, within the Secretariat, of the efforts of United Nations organs and specialized agencies and of Member States concerned for timely and more effective action;

(e) Consider taking such measures as are necessary for the purposes enumerated in this paragraph.

71. In the fulfilment of his mandate in the area of international co-operation to avert new massive flows of refugees, the Secretary-General should act within the limits of financial and personnel resources available to the Secretariat. In doing so, he should bear in mind the ongoing efforts to improve the efficiency of the administrative and financial functioning of the United Nations and, without prejudice to his administration competences and functions, should refrain from creating new divisions or posts for this purpose.

72. In the selection of projects, the relevant economic assistance agencies and other bodies of the United Nations should consider, in consultation with the States directly concerned, giving greater support to those projects that directly or indirectly could help avert new massive refugee flows resulting from the impact of social and economic factors or natural causes in a given region.

Notes

1/ Based on figures submitted to the Office of the United Nations High Commissioner for Refugees by Governments concerned (Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 12 A (A/38/12/Add.1), annex II). This figure does not include Palestinian refugees.

2/ See annex II to the present report, which contains those definitions considered by the Group and which is not intended to be exhaustive.

3/ Official Records of the Economic and Social Council, 1981, Supplement No. 5 (E/1981/25 and Corr.1), chap XXVIII, sect. A.

ANNEX I

Group of Governmental Experts on International Co-operation  
to Avert New Flows of Refugees

Membership and attendance

<u>Country</u>	<u>Governmental experts</u>	<u>Sessions</u>
Afghanistan	Mr. M. Farid Zarif	2nd, 3rd, 4th, 5th, 6th, 7th, 8th
Australia	Mr. Guy Cotsell Mr. N. Ross Smith	1st, 2nd 3rd, 4th, 5th, 6th, 7th, 8th
Austria	Mr. Walter Magrutsch Mrs. Eva Nowotny	1st, 3rd, 4th, 5th, 6th, 7th, 8th 2nd
Bulgaria	Mrs. Irina Kolarova Mr. Kalin Mitrev Mr. Emil Golemanov	1st, 2nd 3rd, 4th, 5th, 6th 7th, 8th
Cuba	Mrs. María de los Angeles Florez Prida	1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th
Czechoslovakia	Mr. Bronislav Kulawiec	1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th
Djibouti	Mr. Ali Malow	3rd, 4th, 5th, 6th, 7th, 8th
Ethiopia	Mr. Daniel Kinde Mr. Berhane Deressa	1st, 2nd, 3rd, 4th 5th, 6th, 7th, 8th
France	Mr. Alain Brugère Mr. Jean-Marc Rochereau de la Sablière Mrs. Sylvie Alvarez	1st, 2nd 3rd, 4th 5th, 6th, 7th, 8th
Germany, Federal Republic of	Mr. Alois Jelonek Alexander Count York von Wartenburg	1st, 2nd, 3rd, 4th 5th, 6th, 7th, 8th
Haiti a/	Mr. Jean Phito Georges	1st, 2nd
Honduras	Mr. Francisco Daíro Lobo Mr. Roberto Flores Bermudez Mr. Roberto Herrera Cáceres	1st, 2nd 3rd 4th, 5th, 6th, 7th, 8th

<u>Country</u>	<u>Governmental experts</u>	<u>Sessions</u>
Japan	Mr. Motohiko Nishimura Mr. Azusa Hayashi Mr. Morihisa Aoki	1st, 2nd 3rd 4th, 5th, 6th, 7th, 8th
Lebanon	Mr. Sélim Tadmoury Mr. Ibrahim Kharma Mr. Naji Abouassi	1st 2nd 3rd, 4th, 5th, 6th, 7th, 8th
Lesotho <u>b/</u>	Mr. Bolokoe C. Mokhele	4th
Mexico	Mr. Luis Ortíz Monasterio Mr. Mario Vallejo Hinojosa Mr. Oscar González César	1st 2nd 3rd, 4th, 5th, 6th, 7th, 8th
Nicaragua	Mr. Leonte Herdocia Ortega Mrs. María Eugenia Rubiales Mr. Oscar R. Téllez Arguello Mr. Denis Torres	1st, 2nd 3rd, 4th 5th, 6th 7th, 8th
Pakistan	Mr. Javid Husain Mr. Riaz Mohammad Khan	1st, 2nd, 3rd, 4th 5th, 6th, 7th, 8th
Philippines <u>c/</u>	Mr. Reynaldo O. Arcilla	6th
Senegal	Mr. Ibra Dèquène Ka Mr. Sidaty Aidara Mr. Moussa Bocar Ly	1st, 2nd 3rd, 4th, 5th, 6th 7th, 8th
Somalia	Mr. Ahmed Mohamed Adan Mr. Omar Mohamed Addou	1st, 2nd 3rd, 4th, 5th, 6th, 7th, 8th
Sudan	Mr. Babiker Ali Khalifa Mr. Abdelmagid Beshir Elahmadi Mr. Osman M. O. Dirar	1st, 2nd 3rd, 4th, 5th, 6th 7th, 8th
Thailand	Mr. Birabhongse Kasemsri Mr. Asiphol Chabchitrchaidol	1st, 2nd, 3rd, 4th, 7th, 8th 5th, 6th
Togo	Mr. Koffi Adjayi	1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th
Union of Soviet Socialist Republics	Mr. Alexander Ivanovich Zinchuk Mr. Isaak Borisovich Teplinsky	1st, 2nd, 3rd, 4th 5th, 6th, 7th, 8th

<u>Country</u>	<u>Governmental experts</u>	<u>Sessions</u>
United States of America	Mr. Harvey J. Feldman	1st, 2nd, 3rd (26-30 March 1984), 4th
	Mr. Dennis C. Goodman	3rd (2-6 April 1984), 5th (1-4 April 1985), 6th (3-7 June 1985)
	Mr. Alan L. Keyes	5th (25-29 March 1985)
	Mr. Luke Lee	6th (10-14 June 1985)
	Mr. John Herzberg	7th, 8th
Viet Nam	Mr. Nguyen Luong	1st, 2nd, 3rd, 4th, 5th, 6th
	Ms. Nguyen Binh Thanh	7th, 8th

Notes

- a/ During 1983, the rotating seat was allocated to the Latin American region.
- b/ During 1984, the rotating seat was allocated to the African region.
- c/ During 1985, the rotating seat was allocated to the Asian region.

## ANNEX II

Definitions of the term "refugee" considered by the Group  
in the course of its deliberations

1. (a) The Convention relating to the Status of Refugees, a/ adopted on 25 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, signed at Geneva on 28 July 1951, determines that "for the purposes of the present Convention, the term 'refugee' shall apply to any person who:

"(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

"Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

"(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group of political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

"In the case of a person who has more than one nationality, the term 'the country of his nationality' shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national."

(b) Since the Convention of 1951 covered only persons who had become refugees as a result of events occurring before 1 January 1951 and - depending on the meaning given to it by the parties - as a result of events occurring in Europe - and thus excluded from its protection the refugees caused by new situations and in other continents, the definition was extended in time and space by the Protocol relating to the Status of Refugees of 31 January 1967. b/ The time-limit for events occurring before January 1951 was deleted. Furthermore, as a general rule the geographic limitation was omitted.

(c) In addition to this definition contained in legal instruments negotiated within the framework of the United Nations, a number of regional instruments have also defined the term "refugee". Thus, the OAU Convention Governing the Specific

Aspects of Refugee Problems in Africa, adopted in Addis Ababa on 10 September 1969, enlarged the refugee definition of the 1951 Convention and its 1967 Protocol by adding to it the following criteria:

"The term 'refugee' shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order, in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality."

2. Another attempt to adjust the refugee definition to conditions prevailing in Africa and Asia was made by the Asian-African Legal Consultative Committee. In 1966, it adopted in Bangkok (albeit with a number of reservations made by member States) the following definition which regrouped and slightly altered the elements contained in the amended 1951 Convention:

"A refugee is a person who, owing to persecution or well-founded fear of persecution for reasons of race, colour, religion, political belief or membership of a particular social group:

"(a) Leaves the State of which he is a national, or the country of his nationality, or, if he has no nationality, the State or country of which he is a habitual resident; or,

"(b) Being outside such State or country, is unable or unwilling to return to it or to avail himself of its protection."

3. An additional attempt to go beyond the restrictive definition of the 1951 Convention was made by the Council of Europe which developed the following term of "de facto" refugee":

"De facto refugees are persons not recognized as refugees within the meaning of article 1 of the Convention relating to the Status of Refugees of 28 July 1951, as amended by the Protocol of 31 January 1967 relating to the Status of Refugees, and who are unable or, for reasons recognized as valid, unwilling to return to the country of their nationality or, if they have no nationality, to the country of their habitual residence."

4. As the Convention relating to the Status of Refugees explicitly states, its definition aspired validity "for the purposes of the present Convention". The purposes of the 1951 Convention as well as of the other instruments referred to above were to provide protection to refugees, in particular to assure refugees the widest possible exercise of their fundamental human rights and freedoms.

#### Notes

a/ United Nations, Treaty Series, vol. 189, No. 2545, p. 150.

b/ Ibid., vol. 606, No. 8791, p. 267.



ANNEX III

International legal instruments mentioned during the discussion  
of paragraph 48 of the present report

Charter of Economic Rights and Duties of States (General Assembly resolution 3281 (XXIX) of 12 December 1974)

Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 A (III) of 9 December 1948)

Convention relating to the Status of Refugees (adopted on 25 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, held at Geneva from 2 to 25 July 1951, pursuant to General Assembly resolution 429 (V) of 14 December 1950)

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (General Assembly resolution 36/55 of 25 November 1981)

Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV) of 14 December 1960)

Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty (General Assembly resolution 2131 (XII) of 21 December 1965)

Declaration on the Strengthening of International Security (General Assembly resolution 2734 (XXV) of 16 December 1970)

International Convention on the Elimination of All Forms of Racial Discrimination (General Assembly resolution 2106 A (XX) of 21 December 1965)

International Convention on the Suppression and Punishment of the Crime of Apartheid (General Assembly resolution 3068 (XXVIII) of 30 November 1973)

International Covenant on Civil and Political Rights and Optional Protocol (General Assembly resolution 2200 A (XXI) of 16 December 1966)

International Covenant on Economic, Social and Cultural Rights (General Assembly resolution 2200 A (XXI) of 16 December 1966)

Manila Declaration on the Peaceful Settlement of International Disputes (General Assembly resolution 37/10 of 15 November 1982)

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