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EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME

Thirty-sixth session

SUMMARY RECORD OF THE 391st MEETING

Held at the Palais des Nations, Geneva,  
on Thursday, 10 October 1985, at 3 p.m.

Chairman

Mr. CHARRY-SAMPER

(Colombia)

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The meeting was called to order at 3.10 p.m.

ACTION TAKEN ON DECISIONS BY THE EXECUTIVE COMMITTEE (agenda item 5) (continued)  
(A/AC.96/665)

1. Miss PEARCE (Australia) drew attention to the interesting and useful information contained in document A/AC.96/665 relating to action taken on decisions and conclusions which had been adopted by the Executive Committee at previous sessions and had not yet been fully implemented. Her delegation had been particularly interested by the information concerning the training programmes and workshops held with various agencies on the administration of UNHCR projects (para. 22), the efforts made to increase the number of women serving in the professional category (para. 34) and the issue of the delegation of authority (para. 38).

2. Mr. BENHIMA (Morocco) said that he was also grateful for document A/AC.96/665, which made it possible closely to follow the implementation of decisions taken by the Executive Committee, and he urged the High Commissioner to continue to submit such a report at future sessions of the Executive Committee.

3. In the chapter on assistance, his delegation had noted that, at its twenty-seventh session, the Executive Committee had decided to request the High Commissioner to continue his programme of humanitarian assistance in the Tindouf region of Algeria and at the same time to undertake discussions with the Governments with a view to the speedy implementation of permanent solutions, including voluntary repatriation and durable settlement. Only the first part of that project concerning assistance had, however, been implemented by UNHCR and the Executive Committee had received no information on the achievement of durable solutions. That chapter also stated that a detailed report on durable solutions to refugee problems, particularly in the Tindouf region, would be submitted to the Executive Committee under the agenda item on UNHCR's role in promoting durable solutions. His delegation therefore reserved the right to refer to that issue during the discussion of that item.

4. Mrs. KSENTINI (Algeria) also congratulated the High Commissioner on the preparation of document A/AC.96/665 and pointed out that a detailed report on the follow-up to the Executive Committee's resolution on refugees in the Tindouf region was contained in document A/AC.96/663. She commended the secretariat on the clarity of that report and also reserved the right to speak at greater length on that issue during the consideration of the agenda item on the promotion of durable solutions.

INTERNATIONAL PROTECTION (agenda item 6) (A/AC.96/660, A/AC.96/671)

5. Mr. MEBAZAA (Tunisia), speaking as Chairman of the Sub-Committee on International Protection and introducing the Sub-Committee's report (A/AC.96/671), said that the Sub-Committee had had a very heavy agenda to deal with both in terms of the number of issues and their complexity.

6. With regard to irregular movements of asylum-seekers and refugees, the Working Group and the Sub-Committee had been greatly assisted by the study on that very complex issue prepared by Mr. Jaeger, the consultant appointed by the High Commissioner. The draft conclusions submitted to the Executive Committee for approval were balanced in that they took account of the interests of refugees and asylum-seekers and of the concerns of States. As indicated in paragraph 65 of the report, one delegation nevertheless continued to object to the wording

of paragraph (f) of the draft conclusions as it now stood, but consultations were being held and it was hoped that an agreement could be reached before the end of the session; otherwise, the discussion of the entire issue would have to be resumed at the next session.

7. The debate on voluntary repatriation had proved very fruitful and the draft conclusions submitted reaffirmed the importance of that solution and stressed the need to adopt a more active approach, with particular emphasis on the causes of refugee problems, and to create a political climate conducive to that solution. The Sub-Committee had expressed appreciation for the preparatory work done at the round table held at San Remo in September 1985 on the initiative of the High Commissioner and with the co-operation of the International Institute of Humanitarian Law.

8. As to the rescue of asylum-seekers in distress at sea, the Sub-Committee had taken note with satisfaction of the increase in the percentage of rescues at sea in 1985, as well as of the launching of the RASRO Scheme and of several interesting initiatives by UNHCR. The conclusions submitted for approval contained a request for continued support for all those initiatives and reaffirmed the fundamental obligation under international law to rescue all persons, including asylum-seekers, in distress at sea.

9. The Working Group chaired by Mr. Hegner had considered the question of military attacks on refugee camps and settlements in southern Africa and elsewhere and had prepared draft conclusions which should serve as a basis for a consensus. Since diverging views had been expressed, Mr. Hegner had agreed to continue his consultations in the hope that a consensus could be reached before the end of the session. Mr. Hegner himself would sum up the situation for the Executive Committee.

10. In the conclusions which the Sub-Committee was recommending for adoption on the issue of refugee women, attention had been drawn to the special problems refugee women faced in the international protection field. The Sub-Committee believed that those conclusions would meet a humanitarian need and that the solutions proposed would be a sign of substantial progress in an area that had not always received all the attention it deserved.

11. The work of the Sub-Committee reflected a genuine desire on the part of Governments to find solutions to the complex problems that arose in the international protection field and a sincere willingness to achieve compromises in a genuinely humanitarian spirit.

12. Mr. MOUSSALI (Director of International Protection) said that he would try to give the Executive Committee an overall picture of the main problems encountered by UNHCR in the field of international protection and to describe some of the basic trends and new refugee situations which had given rise to the greatest problems. UNHCR now had to deal with one of the most serious challenges which it had faced since it had been established and which had to be better understood so that concerted overall action could be taken with the support of the members of the Executive Committee in order to overcome current difficulties.

13. Initially, UNHCR had had to deal only with a single category of refugees, those from eastern Europe, who had been easily resettled in western countries without any real protection problems, since the task at hand had been simply to ensure that they had the legal protection provided for in the instruments in force at that time. As from the 1960s, however, emphasis on refugee movements had shifted to third world countries fighting wars of independence against colonial régimes; hundreds of thousands of refugees had sought refuge in neighbouring countries, which had generously opened their doors to them. The High Commissioner and the international community had provided those refugees with the material assistance they had needed until they had been able to return to their newly independent countries. There again, there had been no particular protection problems for UNHCR to solve.

14. Subsequently, in countries which had recently gained independence, conflicts had created refugee problems that had been much more difficult to solve, but, on the whole, the situation had been manageable, since the refugees had either been able to return to their own countries or had been accepted by countries in the same region. Even refugee flows which had taken place in some parts of Asia and Africa following tragedies that had led to enormous losses of human life had been caused more by disasters of various kinds than by violations of the rights of refugees.

15. The crisis in Indochina which had led to the exodus of over 1 million refugees - an outflow which was still continuing, but had reached its peak in the late 1970s - had marked a turning point in the recent history of refugee situations. Since those refugees had been unable to find durable asylum in neighbouring countries, the international community, for the first time in modern history, had to organize their massive transplantation to other continents. Unfortunately, countries which had generously welcomed those massive arrivals immediately after the war now faced problems of their own, as well as the hostility of public opinion, and could no longer take in such large numbers of persons from so far away. Humanitarian values were gradually giving way to harder and more cynical attitudes which had grave consequences for the treatment of refugees. Since resettlement in their territories was impossible, those countries had resorted to stricter criteria and to deterrent measures which caused great human suffering for many refugees, who remained in crowded camps for many years without any hope for the future, were returned forthwith to their countries of origin or were denied entry by countries whose perception was that sizeable alien populations might severely endanger their vital national interests.

16. The international community therefore had to find more fundamental solutions by adopting a more global approach, but such solutions required the political will of States and the readiness of humanitarian organizations to co-operate in their achievement.

17. Such unprecedented crises had been accompanied by new forms of physical assaults, torture, abductions, rapes and brutal killings committed either by individuals or by armed groups from across the borders or from within the refugees' country of asylum. Refugee settlements had been bombarded and refugees in crowded and frail boats at sea had been robbed and killed by pirates and had seen passing vessels ignore their distress signals. All the principles and all the instruments assembled over the years were of little practical use against such forms of brutality. The authorities of some countries denied the facts and sometimes went so far as to accuse UNHCR staff and to indicate that their presence was no longer welcome, while attackers crossed borders and nothing was done to

punish them. When such attacks were carried out in retaliation, the relatives of refugees were killed or thrown into jail under false pretenses. In such situations, the best protection UNHCR could give those refugees was to be present as a humanitarian witness, in the hope that its presence would deter officials from committing atrocities and that countries would not wish to tarnish their image before world public opinion. An international presence had thus become essential in all refugee camps and UNHCR had created a new type of roving protection officer who journeyed along borders where asylum-seekers arrived.

18. UNHCR again expressed its appreciation to the 12 donor countries and the Royal Thai Government for their contributions and their action to combat piracy and promote rescues at sea. Those efforts must continue, if possible on a wider scale, and closer working relationships must be established with the shipping community so that its obligations and UNHCR's efforts would be properly understood.

19. The new phenomenon of refugees in developing countries who were trying by various means to reach, and settle in, countries of the industrialized world was threatening to undermine the whole edifice of international protection. Faced with floods of applications for asylum, the authorities of some countries, while accepting their obligations under the 1951 Convention, were not prepared to receive the victims of any civil war or man-made disaster occurring sometimes thousands of kilometres away and had started to erect barriers around their countries in order to discourage arrivals of asylum-seekers. Countries which had themselves taken in hundreds of thousands of refugees reacted badly to the expulsion of a few dozen asylum-seekers and were advising UNHCR to pay more attention to what was happening in the rich countries and to stop invoking its protection principles, when they were harbouring thousands of refugees at the risk of destabilizing their societies.

20. Despite all the doubts and questions that might be raised with regard to the very principles of international protection, it was undeniably in the global interest of States to promote humanitarian considerations, for there was no other option for mankind. It was necessary to believe in the possibility of overcoming present difficulties and to recognize the need for the strengthening of standards of protection. Special efforts must, however, be made to understand new situations, to anticipate problems and to propose the necessary remedies. It must be possible to find the right balance between humanitarian considerations and the legitimate concerns of States, but only if all the parties concerned assumed their own responsibilities.

21. UNHCR had a mandate which it could try to use with as much flexibility and imagination as possible, but which it could not exceed. It was, of course, a great temptation for the parties involved in a difficult refugee situation to put all the blame on UNHCR's shoulders. Under its mandate, UNHCR must actively seek permanent solutions, the emphasis on which had now shifted from assimilation in new national communities to voluntary repatriation. It thus had to be alert so that, when all the signs were promising, it could launch a repatriation operation. The principles of such an operation must be clearly accepted internationally so that the legitimate interests of the parties concerned would not be questioned when the crucial time came. Those were the principles embodied in the OAU Refugee Convention of 1969, in the 1980 conclusions adopted by the Executive Committee, in the Contadora Act and in the Cartagena Declaration, for UNHCR had always used its influence to promote constructive ideas and enable action to be taken in that sphere.

22. In July 1985, UNHCR had co-operated with the International Institute of Humanitarian Law at San Remo to organize a working group on voluntary repatriation in which Government representatives who came from all regions of the world and were acting in their personal capacity took part. Their report and conclusions, which had been submitted to the Executive Committee, considered the kind of situations and problems encountered in that regard in recent years and recommended a global approach involving the prevention and resorption of refugee flows. During the discussions of those conclusions in the Sub-Committee on International Protection, however, some States had expressed reservations with regard to some of the imaginative ideas suggested therein.

23. Although voluntary repatriation was the only available means of enabling refugees to return to their homes and UNHCR should not hesitate to take initiatives for that purpose, it must also be cautious and aware of all possible dangers. It might be in the political interests of one party to demonstrate that voluntary return was not possible, while the other party might wish to demonstrate the contrary; UNHCR and, indeed, the refugees themselves might become pawns in a political game. UNHCR had to have the capacity to resist such pressures in order fully to protect refugees and ensure that countries of origin and countries of asylum were politically prepared to accept the solution of voluntary repatriation. That solution was particularly difficult to apply in South-East Asia, although the positive attitude of Thailand and Laos had allowed the voluntary repatriation of a number of Lao from Thailand. Recent consultations with the representatives of the three Indochinese countries with which UNHCR had discussed the situation of Indochinese refugees in South-East Asia had also shown that those countries were willing to bring about a humanitarian solution to the refugee situation. Some of the Kampuchean refugees in Thailand might wish to return to their villages, but further talks would have to be held with the parties concerned in order to bring about a movement of return. Caution was essential in order to ensure the goodwill of all concerned, since the Kampuchean refugees had no other solution and their plight was becoming increasingly pitiful.

24. As far as Vietnamese refugees were concerned, it was very difficult, with some exceptions, to determine whether they wished to return to their country and it was to be hoped that the creation of the necessary conditions and the required legislation would facilitate the voluntary repatriation of those persons who had been determined to have left for purely economic reasons.

25. UNHCR had welcomed the recent initiatives taken by Ethiopia and the Sudan to discuss the question of voluntary repatriation for those refugees wishing to return to either country and it stood ready to facilitate their return to their homes. It was to be hoped that that example could serve as a useful model. In Central America, voluntary repatriation was well underway for a large number of Salvadorian and Nicaraguan refugees in Honduras and UNHCR was ready to participate in the establishment of a tripartite commission with Honduras and El Salvador, in the hope that the same procedure could be followed for Honduras and Nicaragua.

26. When voluntary repatriation was not possible, other solutions must be considered globally in a true spirit of international solidarity. Since problems could no longer be met as and where they arose, it was necessary to address such matters as the causes of refugee movements and establish a constructive dialogue with all States concerned.

27. The convening by the High Commissioner of the European consultations to discuss the problems created by the arrival in Europe of asylum-seekers who came primarily from developing countries illustrated the role which UNHCR could play in promoting a dialogue between the parties concerned. During the consultations, emphasis had been placed on the protection to be given to persons who did not meet the definitions of the 1951 Convention and the 1967 Protocol, but who had left their countries of origin to escape from severe internal upheavals or armed conflict and who should therefore not be subjected to refoulement. The need for international solidarity and burden-sharing had also been recognized, as had the importance of addressing the root causes of refugee problems in the appropriate forums of the United Nations or by States acting individually or on a bilateral or multilateral basis. One other idea had been to resort to concertation at a high political level, possibly within the framework of the European institutions. Since then, the Council of Europe had recommended the establishment of machinery for intergovernmental consultations in co-operation with UNHCR.

28. It was obvious that solutions could be found with the political will of all the parties concerned, namely, the States concerned, the countries which were in the area the refugees came from and which might have more knowledge of the problem and, of course, the humanitarian organizations concerned, whether UNHCR or non-governmental organizations. The latter deserved a special tribute, since, without them, UNHCR would not be able to assume its own responsibilities. It was surprising that some authorities were unwilling to have non-governmental organizations associated in discussions involving either the welfare of refugees or the elaboration of legal norms, but they should not be barred from deliberations where the fate of the refugees with whom they were so closely associated was being discussed; in fact, it was often thanks to those organizations that some of the misconceptions which sometimes prevailed in the opinion of the public were corrected. There were still considerable efforts to be made as far as public information was concerned and UNHCR had an important role to play in that regard.

29. The proliferation of refugee situations was ample evidence of the grave deterioration in relations among States and in their ideological, economic, cultural and even ethnic rivalries. A few humanitarian organizations could, of course, not be expected to solve those problems, but they could be expected to do their utmost to create a favourable climate which might reduce tensions. UNHCR had the formidable duty of providing for the international protection of refugees; it was proud to have such responsibility and would give the best of itself to carry it out and to deserve the confidence of the international community.

30. Mr. HEGNER (Switzerland) said that positions on the controversial parts of the text relating to armed attacks on refugee camps and settlements had, if anything, hardened, not softened. Now that it had once again reviewed all the texts proposed, drafted and amended, the open-ended working group which had endeavoured to draw up a generally acceptable text was forced to report that it had failed. He himself could see no way out. As things stood, the Executive Committee should therefore limit itself to endorsing the condemnation expressed by the General Assembly in its resolution 39/140.

31. Mr. YAVUZALP (Turkey) welcomed the efforts made by UNHCR with regard to the international protection of refugees, which, according to its Statute, was one of its most important functions. If refugee problems were to be settled in a global

context, all parties had to take part equitably in the efforts and sacrifices that were required. While countries of transit and countries of first asylum should strictly abide by the principle of non-refoulement, the others, especially those which had the means to contribute to the task, should see to it that the heaviest burden did not fall to the former, which were generally developing countries. Obviously, the burden was not only a material one, but also had social and political effects: financial assistance was therefore not enough. The principle of non-refoulement required countries to put humanitarian concerns before their own material and political interests and, in order to be able to continue, they must be convinced that they were not alone in making sacrifices. The resettlement of refugees was becoming more and more difficult owing to the restrictive practices of many countries which were refusing asylum, requiring lengthy selection procedures, turning back refugees at borders and attempting to send them back to the country through which they had simply transited - and that was hardly encouraging for countries of transit or of first asylum.

32. Public opinion was, moreover, highly sensitive to the question of political asylum, which was a very admirable tradition, and, in order to preserve it, it was important to see that it was not exploited by abusive claims. In recent years, however, there had been many examples of persons who had managed to pass for victims of persecution in their countries because of membership in a religious or ethnic group or because of their political convictions, whereas they were actually seeking to evade immigration quota systems or to avoid prosecution for ordinary offences. Once they had been granted asylum, such persons engaged in political activities, often contrary to the law of the country of asylum, in order to dispel any remaining doubts as to the authenticity of their claims.

33. His delegation was extremely concerned about the violations of the physical safety of refugees that continued to be committed in several parts of the world. One of the most recent examples was the attack on Tunisia, which had been contrary to the principles of international law and an affront to the international community's sensitivity to the refugee cause.

34. In its resolution 39/140, the United Nations General Assembly had condemned military attacks on refugee camps and settlements, which were causing the loss of many human lives. It was regrettable that the efforts made by the Executive Committee to define the conditions to be met and the measures to be taken to prevent such deplorable acts had not been successful.

35. The number of boats attacked by pirates in the South China Sea had, however, decreased in 1984 and it was encouraging that the Anti-Piracy Arrangement was still in operation and that the Thai Government was taking part in it. Although asylum-seekers in distress at sea continued to be in danger, the number of rescues at sea had increased in 1985 and the DISERO and RASRO Schemes would certainly be extremely helpful in that regard.

36. His delegation welcomed the High Commissioner's initiative of making the question of women refugees a special topic of discussion, thereby drawing attention to the serious dangers to which women were exposed simply because they were women. The secretariat document on the question showed that urgent measures should be taken to protect the integrity and physical safety of women refugees and to guarantee their right to equal treatment.



37. Mr. MEBAZAA (Tunisia) thanked the representative of Switzerland for his untiring efforts to arrive at conclusions which would be acceptable to all and said he regretted the fact that no agreement had been reached. He himself also believed that it would be a waste of time to try to draw up a draft text on armed attacks against refugee camps and that, for the time being, the Executive Committee should simply endorse General Assembly resolution 39/140.

38. Mr. LUU (Australia) stressed the importance of the international protection of refugees and all the other protection issues before the Committee at the current session. The note on international protection submitted by the High Commissioner (A/AC.96/660) gave an account of new, encouraging developments, especially in the promotion of refugee law, and, in that connection, referred to the Cartagena Declaration on Refugees in Central America, which reflected the concern of the States of the region to protect refugees and seek humane lasting solutions.

39. The High Commissioner should also be commended for having organized, jointly with the International Institute of Humanitarian Law, a round table on voluntary repatriation the conclusions of which were now before the Executive Committee, which, it was hoped, would not fail to endorse them.

40. The note nevertheless gives rise to concern, for violations of the rights of refugees, who were the victims of refoulement and attacks on their physical safety, remained all too common. Special mention should be made of women refugees, who were particularly vulnerable and needed specific programmes to ensure their safety, as clearly requested by the Sub-Committee on International Protection in its report (A/AC.96/671). His delegation endorsed UNHCR's conclusions, which stressed the need for further specific and practical measures to protect women refugees. Conclusions (d) and (e) (para. 19 of the report) were particularly important in that regard. As to conclusion (f), his delegation welcomed the increasingly effective contribution of the Anti-Piracy Arrangement in ensuring the protection of women refugees.

41. It was regrettable that the efforts made to draft an acceptable text on such an urgent problem as that of military attacks on refugee camps had failed, especially as the General Assembly had, at its thirty-ninth session, adopted by consensus a resolution condemning "all violations of the rights and safety of refugees and asylum-seekers, in particular those perpetrated through military or armed attacks against refugee camps and settlements". His delegation would have been able to join a consensus on a text which reflected a balance between the responsibilities of all parties: the attacking party, the State of refuge, refugees and UNHCR, representing the international community. The Executive Committee's failure was a tragedy for refugees, but it was to be hoped that the Committee could at the very least endorse the General Assembly's condemnation.

42. Although the conclusions submitted to the Committee on the question of irregular movements appeared to be balanced and reasonable and deserved support, his delegation had reservations concerning paragraph 6 of the note (A/AC.96/660), which stated that refugees included "persons who have fled their home country due to armed conflicts, internal turmoil and situations involving gross and systematic violations of human rights". UNHCR did, of course, have a role to play in assisting and protecting persons who had been displaced for the reasons listed in that paragraph and the international community should provide them with protection, but it was not desirable to define those groups of persons as "refugees" and to grant them the full range of protection available to victims of

individual persecution. There was a great risk that the international community might be faced with unrealistic demands, which would cause a weakening in the structure of international refugee protection and assistance and would not be favourable either to displaced persons or to refugees.

43. Mr. VARGAS (Nicaragua) thanked the Director of International Protection, Mr. Moussali, for the information he had provided and said it was a matter of great concern that some Governments were not giving effect to the principles embodied in the 1951 Convention and the Protocol thereto. The Central American countries and Mexico had, under UNHCR's sponsorship, participated in a colloquium on the international protection of refugees in their region, which had led to the adoption of the "Cartagena Declaration on Refugees" of 22 November 1984. That Declaration stressed that the concept of a "refugee" should be widened, taking account of the characteristics of the situation in the region, the OAU Convention (article 1, paragraph 2) and the doctrine employed in the reports of the Inter-American Commission on Human Rights. In addition to the elements embodied in the 1951 Convention and the 1967 Protocol, the concept thus also included persons who had had to flee their country because their lives, safety or freedom had been threatened by widespread violence, foreign aggression, internal conflicts, gross violations of human rights, etc. His Government was applying that wider concept in allowing refugees to enter its territory.

44. Noting that the principle of non-refoulement was the cornerstone of international protection, he drew attention to the importance of the draft conclusions on military or armed attacks on refugee camps and settlements, on which the Sub-Committee had already been working for several years and on which it should come to a decision. An attack of that kind had occurred quite recently on 27 August 1985, in a refugee camp in Honduras. It had cost the lives of one man and a two-month old baby; there had been 28 wounded and 11 refugees had been arrested.

45. Nicaragua, which was participating in the peace negotiations of the Contadora Group, attached great importance to the causes of refugee movements in the region. In that connection, it should be stressed that the Contadora Group's efforts were being hampered primarily by the attitude of the United States of America, which refused to accept the self-determination of the Latin American peoples and, especially, the Sandinist popular revolution in Nicaragua. His Government requested that the objectives set by the Contadora Group on behalf of Central American refugees should be strictly respected.

46. In the context of durable solutions, he referred to the initiative taken by his Government in authorizing the return of the Miskitos and the Sumos. To that end, his Government had held negotiations with representatives of the Miskitos which had led to a ceasefire. A large number of Miskitos and Sumos who had taken refuge in Honduras had expressed the desire to return to their communities of origin. It was to be hoped that the tripartite commission composed of Nicaragua, Honduras and UNHCR, as well as the non-governmental organizations concerned, would ensure their return under orderly conditions. In that connection, the report contained in document A/AC.96/657 stated that the number of Nicaraguan refugees of Indian origin receiving assistance from UNHCR had decreased as a result of spontaneous movements towards the border area.

47. Mr. GROTH (Sweden) welcomed the fact that there was now a more favourable climate for voluntary repatriation, which had long been regarded as the most desirable solution. The Round Table held on that question at San Remo in July 1985 had led to extremely constructive conclusions. In his delegation's opinion, the most important elements of the repatriation process, as reflected in the San Remo conclusions, were the following: an individual should have an undisputed right to return in safety and dignity to his country of origin; the voluntary character of repatriation must be ensured and the cause for the flight should normally have been removed; both spontaneous and organized return should be encouraged to the extent possible and assistance should be provided in the country of origin. Modalities would by necessity vary from one case to another and the High Commissioner would always be in the best position to find the most appropriate formula. Tripartite commissions between parties concerned had proved useful in some cases; ad hoc consultative groups would be appropriate in others. Noting that UNHCR's existing mandate was deemed sufficient in that regard, he supported the idea that UNHCR or some other United Nations or independent body should monitor returns, thereby guaranteeing the safety of those returning.

48. With regard to irregular movements, the study by Mr. Jaeger and the discussions in the Sub-Committee had added much to knowledge and understanding of that phenomenon, which was a growing one. In 1984, some 12,000 persons had requested asylum in his country, the highest number in any one year during the post-war period. For 1985, the figure would be as high or higher. Unfortunately, many asylum-seekers gave false reasons for seeking asylum or destroyed their travel documents. As a result, his country's processing and reception systems were becoming overburdened and expenditures were rising sharply. Bona fide refugees were the first to suffer from such practices and the sympathy of the general public was weakening. In that connection, the conclusions of the Sub-Committee on International Protection were realistic. His country would, in particular, like a first screening of asylum-seekers to be carried out by UNHCR either in the country of first asylum or as near the country of origin as possible.

49. It would then be possible to consider all the available solutions, namely, voluntary repatriation, local settlement or resettlement in a third country. The existence of resettlement machinery might also lessen the inclination of asylum-seekers to travel onward to a country of their own choice. There thus had to be a stronger UNHCR presence in countries of first asylum, as well as more generous and firm commitments by resettlement countries. Greater involvement by UNHCR in countries of first asylum could free considerable resources in resettlement countries.

50. Mr. HEGNER (Switzerland) said that the 1951 Convention and the 1967 Protocol formed the basis for recognition of refugee status and international protection. Under current circumstances, UNHCR's will to strengthen international protection was commendable, for there could be no real solution to refugee problems if States adopted restrictive practices and limited the granting of refugee status. International protection could, however, obviously not be extended to all persons seeking asylum and, in that connection, there were some fraudulent practices, as stated in the report of the Sub-Committee on International Protection. The increase in abusive claims was jeopardizing the protective measures which States and public opinion in those States were prepared to apply to genuine refugees.

51. On the other hand, UNHCR and the international community should go beyond the traditional concept of refugee. His country, for one, believed that persons fleeing their country because of armed conflict or internal disturbances were also deserving of protection. Moreover, the protection of genuine refugees required all countries to take measures to limit irregular movements and commit themselves to seeking durable solutions, especially voluntary repatriation. His delegation endorsed the conclusions concerning irregular movements contained in document A/AC.96/671. The conclusions were not perfect, but they were the result of a compromise and it was to be hoped that they would be adopted by consensus.

52. Mrs. KSENTINI (Algeria) said that, since UNHCR had been established, its objective had been to find solutions to refugee problems and to provide refugees with international protection. In that connection, the International Institute of Humanitarian Law at San Remo, which organized courses and seminars, in some cases, in co-operation with UNHCR, was also to be commended for its useful work.

53. UNHCR's efforts to strengthen the protection of refugee women should be supported, for refugee women played an essential role in the family unit and needed special protection. They should have an appropriate assistance programme, particularly in the area of employment, health and education. To that end, Algeria was setting up integrated projects aimed at improving the health, social and educational infrastructure.

54. Irregular movements of refugees usually had deep-seated causes. In that connection, the study by Mr. Jaeger on irregular movements of refugees was a solid reference work. Satisfactory solutions to that problem which would safeguard the rights of refugees and the basic principle of asylum should be sought in a spirit of international solidarity and burden-sharing.

55. The international community was becoming increasingly interested in voluntary repatriation. Conclusion No. 18 adopted by the Sub-Committee on International Protection in 1980 had been an important step in the process of determining the right approach to the smooth implementation of that solution. Voluntary repatriation obviously depended on the political will of the countries of origin, which had an obligation to remove the deep-seated causes leading to the refugees' departure. The implementation of that solution thus had a political and diplomatic dimension, to which attention had rightfully been drawn in the San Remo conclusions.

56. Attacks on refugee camps and settlements were serious violations of international law and humanitarian law. Such attacks had become increasingly common in Africa, the Middle East and elsewhere; there had recently been attacks against the Tunisian and Palestinian peoples. The General Assembly, in its resolution 39/140, and, recently, the Security Council had strongly condemned those attacks. At present, it was regrettable that a consensus had still not been reached on the draft conclusions concerning the prohibition of attacks on refugee camps and settlements, despite the efforts of the Chairman of the working group which was dealing with that draft. The Executive Committee should arrive at such a consensus and express a firm and unambiguous condemnation.

57. Mr. CARMEN (United States of America), referring to the report on international protection (A/AC.96/660), said that the conclusions on voluntary repatriation provided a framework of general principles; the context of each situation must, however, be taken into account when arrangements for voluntary repatriation were being negotiated. His delegation endorsed those conclusions and hoped that they would be reflected in concrete and co-operative action by the affected States and by UNHCR, which, because of its mandate, was often well placed to facilitate negotiations. In that connection, he said that his Government supported the recommendation by the Joint Inspection Unit calling for a co-ordinator in South-East Asia.

58. Commendable efforts had been made by UNHCR, the Thai Government and other Governments to take measures under the DISERO and RASRO schemes on behalf of persons in distress at sea. His Government supported the report of the Sub-Committee on that matter and encouraged its adoption by the Executive Committee.

59. His delegation, like many others, condemned attacks on refugee camps and settlements. The protected status of those camps and settlements must not be abused or jeopardized by activities or elements inconsistent with their civil and humanitarian nature - so that no one should be able to attack a camp on the grounds that it was a military target. The representative of Switzerland had chaired a working group which had tried to draft a text on the subject that would be acceptable to all and had submitted to the Sub-Committee on International Protection the set of draft conclusions contained in document EC/SCP/1985/CRP.1. At the request of some delegations, changes had been made in the text; his own delegation believed that the text, as amended, was worthy of consensus adoption by the Executive Committee. It also hoped that the Executive Committee would continue to consider the question of armed attacks at future sessions.

60. His delegation was in favour of the agenda item on refugee women, who were particularly vulnerable from the legal and physical point of view. In assistance programmes, women refugees should not simply be classified on the same basis as the handicapped and children as yet another vulnerable group. The UNHCR programme co-ordinator and project management system should also be revised to ensure that women took part in the design and implementation of programmes and projects. Programmes of self-sufficiency leading to integration into the economic life of the host country should, for example, fully take account of the needs, talents and concerns of refugee women.

61. Mr. HORIMURA (Japan) said that the draft conclusions on irregular movements prepared by the Sub-Committee on International Protection were well-balanced and had the support of his delegation, which would, however, like an opportunity for further study of the practical application of the proposed rules in Japan. Efforts should be pursued to determine the real causes of irregular movements in the light of local conditions and to take effective measures to prevent any increase in such movements.

62. It was also important to adopt draft conclusions on military attacks. The situation in many refugee camps had become very tense and steps should be taken to prevent the recurrence of such attacks. His delegation commended the representative of Switzerland on his efforts to prepare draft conclusions on the subject.

63. His delegation supported the draft conclusions on voluntary repatriation drawn up by the Sub-Committee. There were at present 160,000 refugees in South-East Asia and many of them had no chance of resettlement in third countries. The voluntary repatriation of Lao refugees should be given particular attention and his country would continue to support the current UNHCR programme for those returnees.

64. Japan had granted first asylum to large numbers of Indochinese refugees who had been rescued at sea. UNHCR instructions concerning assistance to boats in distress had been passed on to the competent authorities in Japan for transmission to Japanese ships sailing in the South China Sea. His delegation welcomed the start of the RASRO Scheme and hoped that improvements would be made during the trial period so as to ensure more effective implementation. As a financial contributor to the Anti-piracy Arrangement, Japan attached great importance to co-ordination between the Thai authorities and UNHCR to ensure the success of the Arrangement. His delegation fully supported the draft conclusions on refugees and asylum-seekers in distress at sea which had been formulated by the Sub-Committee.

65. Refugee women, whose situation had been discussed for the first time in the Sub-Committee, were often exposed to threats to their physical safety and integrity. It was to be hoped that UNHCR and all member countries of the Executive Committee would redefine existing programmes and, where necessary, establish new programmes in order to solve the specific problems of refugee women. His delegation supported the draft conclusions on refugee women which had been drawn up by the Sub-Committee.

66. Mr. BENHIMA (Morocco) said that, during the general debate, his delegation had drawn attention to the great importance it attached to the protection of refugees and the work of the Sub-Committee on International Protection. Although the High Commissioner's note on international protection (A/AC.96/660) referred to a number of positive elements, such as the strengthening of the legal basis for action on behalf of refugees and the fact that many countries, especially some of the least developed, were continuing to grant asylum to refugees, it also described some disturbing developments with regard to the admission of refugees and the treatment they received. Measures restricting the granting of asylum were being taken in some countries and there was a tendency towards refoulement. Refugees and displaced persons had been held in camps for years without any prospect of a durable solution; that was certainly no guarantee of their well-being and safety.

67. His delegation, which had closely followed the work of the Sub-Committee on International Protection, paid a tribute to its Chairman, Mr. Mebazaa, and reaffirmed its solidarity with Tunisia following the act of aggression committed against the territory of that country. Morocco had always unequivocally condemned military or armed attacks against innocent persons. It thus hoped that the proposals by the representative of Switzerland concerning military attacks on refugee camps and settlements would serve as a basis for a text to be adopted by consensus. It was nevertheless the responsibility of host countries to prevent refugees and displaced persons from taking part in actions which might lead to reprisals. Countries of asylum also had to ensure that refugee camps and settlements were used exclusively for civilian and humanitarian purposes. It was, moreover, essential that refugees and displaced persons

should be settled far from the borders of their countries of origin or of countries from which such attacks might be launched. All those principles were in keeping with the legal instruments to which Morocco had acceded. UNHCR officials should be given full access to camps and settlements at all times in order to ensure the refugees' safety. If the responsibilities of countries of asylum, countries of origin, the international community and refugees themselves, which had been clearly set out in the report by Mr. Schnyder, were provided for in a compromise text adopted by the Executive Committee, any military attacks on refugee camps and settlements would, in his delegation's view, constitute a serious violation of existing legal instruments and of international humanitarian law.

68. The organization by UNHCR in April 1985 of a round table on refugee women had made an important contribution to the United Nations Decade for Women. The majority of refugees were in fact women and they were on occasion exposed to discrimination, physical violence and sexual assault. UNHCR should therefore make a more detailed study of that problem and submit proposals on the subject to the Executive Committee.

69. The international community had been paying very close attention to the question of voluntary repatriation for several years and the Executive Committee had consistently urged the High Commissioner to continue his efforts to implement that durable solution. The Round Table on Voluntary Repatriation, which had been organized in July 1985 in co-operation with the International Institute of Humanitarian Law at San Remo, had made a further contribution to those efforts and its conclusions added further weight to those already adopted by the Executive Committee. UNHCR could play an even more active role in that field by facilitating communication between the Governments concerned and promoting dialogue when a particular situation had become deadlocked. Countries of asylum should enable UNHCR to notify refugees of appeals for voluntary repatriation by their countries of origin and of the guarantees offered to those who decided to return home. A generous humanitarian spirit should prevail, the only criteria being the freely and individually expressed views of the refugees and displaced persons concerned and the willingness of their countries of origin to allow them to return.

70. His country fully shared UNHCR's concerns with regard to voluntary repatriation and it asked no more than the full implementation of UNHCR procedures so that the persons in the camps in the Tindouf region might freely express their wishes. By making two appeals for voluntary repatriation and providing the necessary guarantees, Morocco had met all the requirements for the promotion of that solution. It was thus prepared to welcome any person from the former Spanish Sahara who opted to return home.

71. Mr. van SCHAIK (Netherlands) said that progress had been made on the issue of irregular movements of refugees and asylum-seekers. The draft conclusions submitted to the Sub-Committee on International Protection safeguarded the humanitarian interests of refugees, but clearly indicated that those movements were not in principle desirable. They also provided for the return of such persons to the country where they had already found protection and indicated that the intentions of refugees and asylum-seekers as to the country in which they wished to request permanent resettlement were not decisive. The draft conclusions struck a balance between the personal preferences of such refugees and the need for the international community to maintain its capacity to assist

all refugees. They also made it clear that irregular movements, especially where they were commercially organized and involved the use of fraudulent documents, tended to have a destabilizing effect on international efforts on behalf of refugees. It was therefore necessary to remove the incentives for such movements by providing durable solutions and discouraging States from granting asylum on a temporary basis only. The necessary groundwork had been done and now the problem had to be solved once and for all.

72. In his note on international protection (A/AC.96/660), the High Commissioner had emphasized that the principle of non-refoulement, which had become a peremptory norm of international law, continued to be violated. Governments which had pressing reasons for taking such action and removing certain refugees or asylum-seekers from their territory should allow UNHCR sufficient time to find a country where they could be resettled in an orderly manner. With regard to paragraph 19 of the note on international protection, he pointed out that, during the consultations on the arrivals of asylum-seekers and refugees in Europe, which had been held in May 1985, Governments had expressed the view that their policies of not returning such persons were based not so much on the principle of non-refoulement as on existing legal structures in the countries concerned; in other words, what was involved was the implementation of national asylum policies. It was unfortunate that no reference had been made to that point of view in the High Commissioner's note. Persons who had been displaced by severe internal upheavals or armed conflict (paragraph 37), but were not regarded as refugees under the 1951 Convention, had their cases diligently dealt with in the Netherlands and in many other countries and were given a legal status which ensured their protection under national asylum procedures. His country saw no need to apply the universally accepted definition of a refugee to such cases, since that might lessen the readiness of Governments to grant asylum.

73. For almost four years, the Executive Committee had been discussing the problem of military attacks on refugee camps and settlements with the aim of reaching a consensus on a set of principles clearly outlining the responsibilities of the parties concerned. His delegation believed that any such action should be consistent with existing international law, bearing in mind the principle that refugee camps should not be used to shelter guerrillas who were carrying on military operations against their country of origin. He hoped that the Executive Committee would be able to reach a consensus at the current session on a text which would reflect that fundamental principle; otherwise, it would serve no purpose for a humanitarian body like UNHCR to continue along those lines.

74. Mr. TICHY (Austria) welcomed the fact that the Sub-Committee on International Protection had been able to adopt conclusions on refugee women, the rescue of asylum-seekers in distress at sea and voluntary repatriation. Although it was to be hoped that the obstacles in the way of a consensus on the conclusions relating to irregular movements of refugees and asylum-seekers would be overcome, it was quite clear that there was no basis for agreement on the question of military attacks on refugee camps and settlements. His delegation would, however, have been prepared to support the draft conclusions on that subject submitted by the representative of Switzerland, as well as the proposals made by other delegations with a view to defining UNHCR's role more clearly. Since there appeared to be no possibility of a solution in the near future, it



might be preferable for the Executive Committee to agree on a text which reproduced the wording of General Assembly resolution 39/140 and which would be acceptable to all, so as not to remain completely silent in the face of that serious problem.

75. Mr. von SCHUBERT (Federal Republic of Germany) thanked the Chairman of the Sub-Committee on International Protection and the Director of the Protection Division for the very complete picture they had given of the current situation with regard to the international protection of refugees. Since the difficult task of international protection was the basis for all other measures aimed at achieving durable solutions, it was a matter of concern that emphasis had increasingly shifted in recent years to fundamental issues such as the physical safety and survival of refugees. His delegation, which had closely followed the discussions on the subject of military attacks on refugee camps and settlements, believed that that subject should be pursued. It also welcomed the adoption of conclusions on the safety of women refugees.

76. Although there had been an apparent decline in the number of refugee boats attacked, anti-piracy activities in the South China Sea should be continued energetically. His Government, which was taking part in the DISERO Scheme, welcomed, without restriction, all refugees rescued by ships flying the flag of the Federal Republic of Germany and was considering the possibility of participating in the RASRO Scheme.

77. In his note on international protection (A/AC.96/660), the High Commissioner had stated that growing numbers of persons were leaving their countries of origin for reasons other than political persecution as defined in the 1951 Convention. Although some of the reasons given by such persons, including armed conflict and internal upheavals, deserved the sympathy and assistance of the international community, it was essential to avoid any dilution of the clear-cut provisions of national and international refugee law.

78. The basic law of the Federal Republic of Germany guaranteed a constitutional right of asylum to all individuals in cases of persecution on political grounds. All applications for asylum were examined individually and appeals could be taken as high as the Federal Court. Recognized refugees were entitled to all the benefits provided for by the 1951 Convention and enjoyed almost the same status as citizens of the Federal Republic of Germany. It was obvious, however, that the growing number of asylum-seekers placed a heavy burden on such procedures and endangered the very existence of the right of asylum. It should therefore be made clear that, even if UNHCR's competence was extended to persons seeking asylum for reasons other than fear of political persecution, no legal obligations on the basis of the 1951 Convention could be implied with regard to the acceptance of asylum-seekers.

79. His country had reached the limits of its absorptive capacity, having accepted more than 600,000 refugees with or without legal status, as well as a large influx of new asylum-seekers. Against that background, greater emphasis should be placed on the regionalization of the admission of refugees, a principle which had been followed for many years in the Federal Republic of Germany in respect of refugees from eastern Europe. In the long run, the regional approach would be the best way of solving refugee problems.

80. Mr. UUSITALO (Finland) said that his delegation would have been prepared to accept the proposals on military attacks on refugee camps and settlements which had been submitted to the Sub-Committee on International Protection and had struck a satisfactory balance between the rights and responsibilities of all the parties concerned. It was very regrettable that there had been no consensus on the new draft text submitted by the representative of Switzerland at the Sub-Committee's last meeting and that differences of opinion appeared to be insurmountable. His delegation shared the view expressed by a number of others that it would be wiser to wait for a more favourable time to continue dealing with that question.

81. Mr. KOJANEC (Italy) said that, in his note on international protection, the High Commissioner had referred to numerous violations of the principle of non-refoulement and to the occurrence of military attacks on refugee camps and settlements. His delegation deplored the fact that no consensus had been reached on the proposals by the representative of Switzerland, which were based on the accepted principles of international law. There was no doubt, however, that all delegations endorsed those principles and condemned such acts of aggression. With regard to piracy in the South China Sea, about which the High Commissioner had appeared rather pessimistic, his country was taking part in the Anti-Piracy Arrangement.

82. On the subject of the refugee definition, the High Commissioner had referred to the "classic" type of refugee, as opposed to other new categories of refugees (A/AC.96/660, paragraph 6). In view of that new phenomenon, which was of concern not only to UNHCR, but to the international community as a whole, the 1951 Convention should be implemented fully, while consideration might be given to the possibility of an additional type of legal status to deal with the problem. It might, for example, be necessary to make a distinction between refugees covered by the "classic" definition and migrant workers who left their countries for economic reasons. The High Commissioner had also referred to "restrictive practices" designed to limit the granting of asylum or to discourage further arrivals of asylum-seekers (paragraph 12). Although it was beyond dispute that the economic and social situation had changed and that some of the more liberal attitudes were no longer in fashion, it was none the less necessary to continue to apply the 1951 Convention.

83. His delegation endorsed the conclusions adopted by the Sub-Committee on International Protection with regard to refugee women and voluntary repatriation. It also hoped that the Sub-Committee's conclusions on irregular movements of asylum-seekers and refugees, which were well balanced and reflected a compromise, could be adopted by consensus.

The meeting rose at 6.05 p.m.