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OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

INTERNATIONAL CO-OPERATION TO AVERT NEW FLOWS OF REFUGEES

Letter dated 5 November 1980 from the Permanent Representative of
Viet Nam to the United Nations addressed to the Secretary General

I have the honour to forward herewith a document on the latest reports about the question of Indochinese refugees and kindly request your Excellency to have this note and its enclosure circulated as an official document of the General Assembly under agenda items 78 and 122.

(Signed) HA VAN LAU
Permanent Representative
of the Socialist Republic of Viet Nam
to the United Nations

ANNEX

LATEST REPORTS ABOUT
INDOCHINESE "REFUGEES" (1)

A year ago the world was moved at the sight of the exodus of boat people to Southeast Asian countries.

In one of our publications we recounted in detail the reasons why tens of thousands of persons chose to leave Vietnam (Those Who Leave, published by Viet Nam Courier, Hanoi 1979). In a nutshell, this is one of the most serious consequences of the immeasurably destructive US war in Viet Nam which was followed by explosion of new wars a series of natural disasters for several years running and the cutting of foreign aid - American aid in the South and Chinese aid in the North. Material conditions became so difficult that they seemed unbearable to some people, whom the American manner had conditioned to a relatively easy life. Other departures - those of the Hoa (people of Chinese origin) - resulted from the propaganda campaign initiated by Beijing, and the people who fell victim were caught in the crossfire : loyalty to their country of origin - China - or to their country of adoption - Viet Nam ? They finally chose to go and live in third countries.

The Vietnamese Government recognised that there were highly humanitarian reasons not only to allow, but also to organize, the legal departure of those compatriots in order and safety. In this spirit, discussions were conducted with the UNHCR, leading to the adoption of a seven-point programme on the subject (see Appendix of Those Who Leave). Bilateral talks took place between the Socialist Republic of Viet Nam and some Southeast Asian countries about the boat people whose numbers were becoming a burden on them. Greater mutual understanding resulted from those talks, and measures were taken to reduce common difficulties.

Then, in an undeniable show of goodwill, the Vietnamese Government accepted to attend the 20 - 21 July, 1979 Geneva Conference on Indochinese refugees organized by the United Nations.

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At this conference, the SRV reaffirmed its determination to "actively cooperate with the UNHCR to impulse the implementation of the seven-point programme with a view to guiding and regulating the legal organized and orderly departures", which should persuade those considering on leaving Viet Nam illegally to renounce their plans. Vietnamese laws, moreover, punish illegal departures.

As far as the 64 countries participating in the Geneva Conference are concerned, as Mr Kurt Waldheim, UN Secretary-General, noticed in his closing speech, they all expressed support for the agreement between the Vietnamese Government and the UNHCR. An appeal was launched for offers of contributions in money, materials, food and more particularly in the acceptance of a greater number of Vietnamese expatriates - especially by those countries that have the means, like the United States and other developed nations.

Everybody was gratified at the success of the 1979 Geneva Conference.

A tangible result of the Geneva discussions was the relatively quick easing of the logjam on Southeast Asian islands, first refuges of the boat people. According to Washington Post of 11 March 1980, statistics given by the US Refugee Program show that nearly half the refugees on those islands had been transferred to countries of final settlement. The famous Poulo Bidong Island has seen its refugee population decrease from 45.000 to 15.000. We Vietnamese can only be too happy with this state of things, as the burden weighing on our Southeast Asian neighbours was alleviated.

On the other hand, observers of all political tendencies have admitted that the Government of the Socialist Republic of Viet Nam had exerted great efforts to reduce illegal departures. "The flow of boat people has ebbed since last summer", wrote the same issue of Washington Post.

Drastic measures had indeed been taken against illegal departures, and especially against those who organized them. The Vietnamese press has reported many sentences passed by tribunals.

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However, in recent days Western news agencies have reported a slight increase of the number of boat people from Vietnam towards Southeast Asian countries.

What has happened ? Ill-intentioned people allege that the Vietnamese Government has made a change of policy and is driving Vietnamese to leave their homeland. This is a gross slander. Hanoi newspapers early this month, mentioned a recent conference called by the Prime Minister's Office, devoted to the problem of strengthening the defence and control of Vietnam's land and sea borders. One of the aims of the conference was to prevent illegal departures to foreign countries.

However, as the Vietnamese coastline is so long, it would not be possible to eliminate those departures completely, especially when there are more people trying to leave illegally.

Yet it is a fact that those people have grown in number, owing first and foremost to the US Government policy which leads to a practical non-implementation of the recommendations by the July 1979 Geneva Conference.

It seems that the American authorities up to now cling to an entirely artificial distinction : refugees and immigrants.

To all refugees should be applied the rules of humanitarian law as represented by international texts on refugees : the right to asylum should be granted to them, and the principle of non-refoulement should be observed in their favour.

But all those principles do not concern the case of immigrants, and according to American law as was communicated to the Vietnamese side, a lengthy and complicated procedure has to be implemented before any immigrant can be accepted on American soil. It is demanded in particular that consular agents of the American Government should make direct contact with the person concerned, examine the identity papers he presents, make medical examinations, etc.

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The sending of an American consular agent to Vietnam at a time when the US Government still refuses to normalize relations with our country would indeed be a violation of our national sovereignty. Nevertheless we have found formula flexible enough to provide a solution to this thorny problem. We have accepted that the UNHCR staff working in Vietnam may include an American who could help in preparing the departures of our compatriots who have been given permission to go and live abroad.

But here new difficulties crop up. Documents collected on the spot and sent to American departments concerned have mostly still received no response. As a result, out of a long list of 32,000 applicants authorized by the Vietnamese Government to leave for the United States, only about one thousand have been accepted by the American side.

The excuse advanced by the American authorities is that the persons on the list are would-be immigrants and have to abide by the rules of immigration, which are especially strict. They are not refugees in the technical sense of the term, like the boat people for instance.

Those Vietnamese are in a dilemma. Should they opt for a legal departure, organized in order and safety by the Vietnamese Government and the UNHCR, but have to wait indefinitely for American acceptance despite the promise given in Geneva in July 1979 by the US representative that his government would co-operate to implement the recommendations of the Conference ? Or should they opt for an illegal departure, forbidden by Vietnamese law, but-provided they survived several days of sea voyage - would be immediately accepted as refugees by the American authorities ?

Additional factors have contributed to "encouraging" illegal departures. Letter received from persons living in the United States and giving a rosy picture of the life there to their parents who remain in Viet Nam show such a similarity in their content that we may wonder whether they are part and parcel of a manoeuvre by some department specialized in operations of psychological conditioning.

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On the other hand, the Voice of America continually assures the listeners of Vietnamese language broadcasts that boat people can always rely on American so-called rescue ships cruising the high seas off the Vietnamese coasts.

Mention should finally be made of the US policy - assisted and encouraged by the Beijing authorities - to isolate Vietnam : the trade embargo continues, the slander campaign that accompanied the cutting of aid has been stepped up. As Phan Hien, the Vietnamese Government representative at the July 1979 Geneva Conference, stated : " To actively help the Vietnamese people overcome the consequences of war at an early date, restore and develop its economy, thus contributing to the stabilisation and improvement of our people's living conditions - that is the fundamental way to help resolve the refugee problem in our country".

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One may suspect the intentions of the US Government. Would they like seriously to keep their promise at Geneva, or are they trying instead to sabotage the results of that Conference - a conference described by Mr Kurt Waldheim as "an occasion without precedent in the experience of the United Nations"?

June 1980

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(1) - The term "refugee" must be understood here not by the definition given by the 1951 Convention (a refugee is every person who, owing to well-founded fear of being persecuted for reason of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality...) but by the complementary definition given by other international documents, notably by the OAU Convention of 1969 : "The term also applies 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."