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EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME

Thirty-first session

SUMMARY RECORD OF THE 322nd MEETING

Held at the Palais des Nations, Geneva  
on Thursday, 9 October 1980, at 3 p.m.

Chairman:

Mr. BIRIDO

(Sudan)

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The meeting was called to order at 3.20 p.m.

INTERNATIONAL PROTECTION (agenda item 4) (A/AC.96/579, A/AC.96/581, A/AC.96/586; A/AC.96/INF.152/Rev.2, A/AC.96/INF.161 and INF.162)

1. The CHAIRMAN noted that the Committee had before it the report of the Sub-Committee of the Whole on International Protection on its fifth meeting (A/AC.96/586). On behalf of the Committee, he thanked the Sub-Committee and its Chairman for their work.

2. Mr. MOUSSALLI (Director, Protection Division), introducing the agenda item on international protection, said that the subject represented a unique function entrusted to UNHCR by the international community - a function which depended on the support of governments, particularly in maintaining its purely humanitarian character. In document A/AC.96/579 an attempt had been made to identify matters of importance to governments and the international community. At its previous session, the Committee had been faced with a number of particularly critical situations, such as the large-scale forcible return of refugees, including the return of asylum-seekers to the high seas, and the problem of piracy. As a result of the international community's response to the problems in 1979, the situation was now less dramatic. But the basic principles of international protection were still far from being strictly observed everywhere. During the past year, UNHCR's attention had often been drawn to cases in different parts of the world which required swift and strenuous efforts to help individuals or groups that were often in great danger. Moreover, some governments were still prepared to admit refugees only on a temporary basis, and in many cases such refugees were treated as illegal immigrants and suffered penalties in addition to facing an uncertain future. The burden borne by States confronted with large-scale refugee problems, and the resettlement or financial offers made by other countries to ease the burden on countries of first asylum, were greatly appreciated by UNHCR. Nevertheless, refugees continued to suffer unduly long periods of uncertainty, often in degrading conditions. What was more, the problem of piracy still gave cause for very grave concern. UNHCR hoped that the Committee would endorse the Sub-Committee's important conclusions on that matter.

3. On the other hand, understanding of the plight of refugees seemed to be improving. Since the Committee's thirtieth session, the number of States Parties to the 1951 Convention and the 1967 Protocol had risen from 76 to 83. In addition, accession had just been announced by Angola and was under active consideration by Zimbabwe. In UNHCR's experience, technical clarification to governments often helped to remove the misunderstandings which frequently underlay the reluctance of States to accede to those instruments. It was hoped that efforts to promote further accessions would be successful, since there were still States faced with serious refugee problems but not yet parties to the basic international instruments - although a number of governments were considering doing so or were adopting measures with a view to implementing those instruments' provisions. The Committee had before it a note on relevant procedures (A/AC.96/INF.152/Rev.2).

4. Fruitful discussions on international protection problems had been held at the regional level. Documents A/AC.96/579 and A/AC.96/INF.162 gave details of important recommendations on the subject adopted at the recent Round Table of Asian Experts at

Manila. In addition to the Refugee Convention adopted by the Organization of African Unity, recommendations had been adopted by the Conference on the Situation of Refugees in Africa, held in May 1979. There had been contacts with the secretariats of the Organization of African Unity, the Organization of American States, the Arab League and the Islamic Conference with a view to establishing working relationships which should lead to significant developments in refugee protection. There was also the European Agreement on the transfer of responsibility for refugees, which was to be opened for signature in the next few days. In addition, the sixty-seventh Conference of the Inter-Parliamentary Union had adopted, on 24 September 1980, a resolution on the problem of refugees, containing a number of recommendations of special importance for international protection.

5. The dissemination of refugee law, referred to in document A/AC.96/INF.161, was a significant part of UNHCR's efforts in the field of international protection. The General Conference of UNESCO, currently in session, was about to adopt a plan of action recommending the teaching of refugee law in higher-education establishments.

6. Members of the international community must constantly reaffirm the basic principles and standards of international protection, not only by declaring observance of them but by specific government action. That was why UNHCR emphasized accession to the basic international instruments and appropriate measures to implement them; such measures not only benefited refugees tangibly but served to strengthen the legal framework of international protection and prompted other governments to follow suit.

7. The valuable work done by the Sub-Committee of the Whole on International Protection would help to improve the legal situation and protection of refugees. UNHCR hoped that the proposed meeting of an expert group on the question of temporary refuge in situations of large-scale influx would lead to tangible results.

8. Mr. WIKREN (Sweden) said that protection of refugees was UNHCR's most important task, and it was a pity that UNHCR was so often distracted from it in order to ensure practical observance of the principles of asylum and non-refoulement. The devoted work carried out by the High Commissioner's staff, often in emergency conditions, deserved the highest praise.

9. The humanitarian principles of refugee protection greatly influenced the conduct of States, even those which were not parties to the relevant international instruments, although the accession of many more States was needed if efficient protection was to be ensured. The new accessions since the Executive Committee's previous session were therefore welcome. Since roughly half the world's nations were not parties to those instruments, however, refugees in many regions continued to lack the minimum protection. Sweden therefore supported the High Commissioner's efforts to gain wider adherence to the 1951 Convention and the 1967 Protocol.

10. The Sub-Committee of the Whole on International Protection had been a great help both for the High Commissioner in pursuing his tasks and for States in formulating their legislation. For example, the conclusions adopted in 1977 had been useful in the drafting of Sweden's new Aliens Law. Sweden's legislation, and the bilateral

extradition treaties to which it was a party, contained provisions to exclude extraditions which might result in persecution, since Sweden firmly believed that the principle of non-refoulement should always govern extradition matters, although extradition was not explicitly mentioned in article 33 of the Convention. Moreover, extraditions which might result in violations of basic human rights could conflict with the provisions of other binding international instruments such as the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms. It was important that States should try to eliminate conflicts between extradition treaties and the Convention; the work of the Sub-Committee should further such a development.

11. The conclusions adopted in recent years by the Executive Committee formed a valuable part of international refugee law, and the High Commissioner's decision to publish them as guidelines was welcome. In addition, the Sub-Committee's conclusions on voluntary repatriation would serve as a useful aid to UNHCR and States when dealing with that aspect.

12. The paper on temporary refuge in situations of large-scale influx introduced in the Sub-Committee by the Australian delegation was addressed to grave problems which made international solidarity and burden-sharing more necessary than ever. However, the questions raised in the paper were complex, and should perhaps be studied further by a suitable body.

13. Mr. McKINNON (Canada) said that refugee protection was one function which UNHCR alone could carry out. In order to face new situations and consequent changing requirements in protection it was necessary not only to apply the traditional instruments but to seek ways and means to adopt new principles and procedures applicable to the new situations. The role of the Sub-Committee of the Whole was therefore highly important, since it was there that views of governments could be exchanged and acceptable measures proposed. The members of the Sub-Committee were gratified to note that its findings were put to practical use by UNHCR; for example, the study on the concept of temporary refuge reflected the type of response now being made to new situations. It was to be hoped that the Director of Protection would follow up the report, so that next year the Sub-Committee would be in a position to develop the requisite concepts.

14. Each year more countries acceded to the international instruments; but of more immediate concern was to help governments that wished to legislate for the application of those instruments' provisions. It was important for UNHCR to realize the value of the practical advice it could give in that connection. The practice in Europe, where States had long been co-operating closely with the High Commissioner, could perhaps be expanded to other regions through UNHCR, making allowances for regional diversities. It was essential, of course, for UNHCR to have sufficient means to administer such tasks, including personnel qualified to appreciate the characteristics of the regions involved.

15. Mr. van EMDE BOAS (Netherlands) expressed the view that the objectives of the Sub-Committee of the Whole on International Protection continued to be: to stress the fundamental character of the protection function in UNHCR's work, to give full support to the High Commissioner in the exercise of that function, and to contribute to the effective application of the principles contained in the Geneva Convention and the New York Protocol and to the progressive development of refugee law.

16. At the regional level, protection issues had also been taken up by the OAU/UNHCR Arusha Conference, and his delegation welcomed the report on the follow-up of the recommendations of that Conference in document A/AC.96/581. The Manila Declaration on the International Protection of Refugees and Displaced Persons in Asia and the Manila Declaration on Pirate Attacks on Refugees and Displaced Persons were further important regional contributions which deserved the Committee's full support.

17. In the framework of the Council of Europe, 21 European States were collaborating on new international instruments designed to harmonize the regional implementation of the universal instruments relating to refugees. A European convention on the transfer of responsibility for refugees would be opened for signature the following week and should facilitate the free movement of refugees from one member State of the Council of Europe to another. Work was continuing on the harmonization of procedures and the application of criteria for the determination of refugee status as well as on the question of country of first asylum.

18. In view of such activities, there should be a clear division of labour between regional activities and those of the Sub-Committee. The Sub-Committee should concentrate on fundamental and topical issues of interest to the world community as a whole. He therefore welcomed the United States proposal that the Sub-Committee should consider questions of protection in connection with mass influx situations and the Australian proposal for the study of the nature, functions and implications of granting temporary refuge. The representative of Canada had also made interesting suggestions on the future work of the Sub-Committee. On the other hand, questions of regional concern and the establishment of more technical rules to improve the legal status of asylum-seekers and refugees could be dealt with at the regional level and, where appropriate, the new regional rules could contribute to the formulation of world-wide regulations.

19. His delegation attached great importance to the guarantees which should be given to asylum-seekers to speed up determination procedures and decisions on residence entitlement and legal status. Document A/AC.96/INF.152/Rev.2 was encouraging in that it showed how many States Parties to the Convention and/or the Protocol abided by the standards set by the Committee. However, still more States should introduce satisfactory new procedures.

20. Apart from the work on the harmonization of European procedures, the Netherlands was taking steps at the national level to cope with the increasing demands of individual asylum-seekers while fully respecting the necessary legal and material safeguards. Like others, his country was faced with an increasing number of persons who used asylum procedures mainly for immigration purposes. That phenomenon deserved serious consideration in order to avoid any negative effects on genuine refugees. Determination of refugee status was often not easy and the application of the criteria in the Convention could require careful interpretation. The Netherlands had, jointly with its Benelux partners, already informed the High Commissioner of its considered opinion on the Handbook prepared by UNHCR for the use of governments and was prepared to discuss the matter further. He shared the views expressed on that subject in the general debate by the Belgian delegation.

21. The two most important issues considered by the Sub-Committee were the fundamental character of the non-refoulement principle and its development into a peremptory principle of international law, and the need to ensure basic standards of

humanitarian treatment for refugees and asylum-seekers through concerted international action to that end. His delegation fully endorsed the conclusions in the report of the Sub-Committee (A/AC.96/586) and commended them for unanimous adoption by the Executive Committee.

22. Mr. KARLSRUD (Norway) said that his delegation welcomed the principles on voluntary repatriation proposed by the Sub-Committee in the light of experience during the 1970s and found them fully acceptable.

23. On the question of pirate attacks against refugees, which clearly concerned UNHCR, he said that since UNHCR had neither the competence nor the mandate to combat piracy, its main task must be - as proposed by the Sub-Committee - to urge the States involved and relevant international bodies to engage effectively in preventing such activities by policing, investigation and prosecution and by police and military deterrence.

24. Norway's legislation protected refugees and political offenders against extradition, and his delegation believed that the peremptory principle of non-refoulement was applicable to the question. However, some States feared that such an approach might hamper effective action against terrorism, hi-jacking and other concerted acts of violence. In his delegation's view, articles 1, F(b) and 33, paragraph 2, of the 1951 Convention and the limitations of the concept of political crimes in the European Convention on the Suppression of Terrorism would have permitted broader conclusions by the Sub-Committee on the subject. It accepted, however, that the present conclusions were the best compromise solution possible for the time being.

25. His delegation had some hesitation with regard to the Sub-Committee's proposal, sponsored by the Australian delegation, for the convening of a group of experts to examine temporary refuge in all its aspects in the context of large-scale influx. While the question needed closer study, a codification of the practice of temporary refuge might tend to endanger basic principles of protection and put refugees in a still more precarious situation. He hoped those risks would be taken into account in future work.

26. Although the Handbook would be very helpful to officials in interpreting the Convention, it was often very difficult, and might even be pointless, to distinguish between genuine refugees and persons seeking a better and safer future outside their country of origin. For the time being, it would be best to concentrate on refugees in need of protection.

27. The work of UNHCR in developing both regional and national procedures deserved full support. The Norwegian authorities had already benefited from UNHCR advice in their review of existing law and would welcome any further assistance in the future.

28. Mr. EKBLÖM (Finland) wished to supplement the information given in document A/AC.96/INF.152/Rev.2 by describing the procedures for the determination of refugee status in Finland, which was a party to both the 1951 Convention and the 1967 Protocol. The legal basis for the determination of refugee status was: Decree No. 77, of 5 December 1968, approving the International Convention Relating to the Status of Refugees; Degree No. 78, of December 1968, approving the Protocol Relating to the Status of Refugees, done at New York, 31 January 1967; and the Aliens Decree of 25 April 1958.

29. The competent authority for determining refugee status was the Ministry of the Interior. In each case the Ministry of Foreign Affairs was consulted. No provision currently existed for an appeal in the case of a negative decision, but the case might be reconsidered if new information was provided. There was no provision for UNHCR participation in the procedure. An alien's passport and a residence permit were issued to a recognized refugee. A draft bill modifying some of the provisions he had mentioned would shortly be submitted to the Finnish Parliament. Of particular relevance in that context would be the replacement of the alien's passport by conventional travel documents, by which his Government would be withdrawing a reservation made when ratifying the 1951 Convention. Another significant change would be the introduction of the right of appeal in negative cases.

30. His delegation supported the conclusions recommended by the Sub-Committee in paragraphs 16, 29, 36 and 45 of its report (A/AC.96/586).

31. Mr. BENBOUCHTA (Morocco) said that, the work of the Protection Division and of the Sub-Committee of the Whole had contributed to the remarkable progress that had been made in the development of international law in the field of protection of refugees in recent years. The need for such protection was now universally accepted and the principles of non-refoulement and the granting of asylum had been reaffirmed. He added that the positive example of the Arusha Conference could be followed with advantage in other continents.

32. His delegation supported all the conclusions of the Sub-Committee but felt that the delicate questions of extradition and temporary refuge deserved more thorough study. Voluntary repatriation should be encouraged through, for example, guarantees from governments to returning refugees. His country had taken measures which enabled UNHCR to ensure that returning refugees enjoyed all the rights and freedoms guaranteed under the Moroccan Constitution, and he hoped that other countries would do likewise.

33. His delegation endorsed the view of the representative of Canada that the Protection Division should be adequately staffed with qualified personnel and be given greater moral support by member States.

34. Mr. CORDERO DI MONTEZEMOLO (Italy) reviewed the conclusions of the Sub-Committee regarding the problem of piracy directed against refugees, voluntary repatriation, and the question of extradition in the context of non-refoulement, which was a basic principle in the European Convention on Human Rights and the European Convention on Extradition. The problem of temporary refuge raised certain legal difficulties, because established principles in refugee law must not be upset by the creation of new legal concepts addressed to problems which, it was to be hoped, were due to special circumstances. Nevertheless, reality could not be ignored and it had therefore been proposed that a group of experts should be convened by the High Commissioner to examine the problem of temporary refuge in the context of large-scale influx.

35. The principle of non-refoulement was fundamental to the international legal system concerning refugees, and the special rules to be developed must be in conformity with such basic principles. The basic aim in the field of protection must be to harmonize the attitudes, policies, legislation and administrative

practices of States with a view to strengthening respect for the human rights of refugees. The States members of the Council of Europe were currently engaged in such activities. It was regrettable that only 83 States had so far acceded to the 1951 Convention. Many more accessions were needed, for the establishment of principles and rules governing the protection of refugees would provide UNHCR, and particularly the Protection Division, with a more secure legal basis for its activities.

36. In his delegation's view, the conclusions of the Sub-Committee were constructive and he hoped that the Sub-Committee would continue its work to safeguard humanitarian values and promote co-operation among States.

37. Mr. SAHN (Federal Republic of Germany) said that, despite the difficulties involved in observing the principle of non-refoulement, it must remain an inviolable principle. People who had a well-founded fear of political persecution were entitled to asylum in his country, and under article 16 of the Federal Constitution any alien could ask for administrative or, if necessary, judicial proceedings to establish whether there was a case of political persecution. From 1953 until quite recently, over 230,000 applications for asylum had been considered. In recent years, the number of applicants seeking asylum had increased and 150 to 200 thousand aliens were expected to apply for asylum in his country, a considerable burden for the authorities and for the country which would have to integrate at least some of them.

38. His Government, which had ratified the Convention and acceded to the Protocol on the Status of Refugees and had ratified the Convention on the Reduction of Statelessness, regretted that only 83 States had so far acceded to the Convention and Protocol. He pointed out that there was one region of the world in which only one country had heeded the previous year's appeal to accede to those instruments.

39. His Government was particularly concerned by the continuing pirate raids and crimes committed against refugees, particularly in South East Asia. The efforts of the Thai National Security Council with UNHCR co-operation had brought improvement and should be acknowledged and given every support.

40. The work done by the Sub-Committee of the Whole was encouraging and his delegation endorsed its conclusions. His Government would like to participate in the group of experts on temporary refuge proposed on the initiative of the Australian delegation, and would do its utmost in the future to help to ensure the protection of refugees' rights.

41. Mr. CHARRY-SAMPER (Colombia) said that the Sub-Committee's recommendation regarding the Australian proposal for the creation of a group of experts on temporary refuge had given rise to problems since some delegations had felt that the mandate of the group might be wider than that of UNHCR. Despite those problems and the fact that durable refuge was obviously a better solution than temporary refuge, he supported the proposal since, in the present circumstances, it was more practical to strengthen the principles governing temporary refuge while not undermining possibilities for durable solutions; it would also strengthen the principle of non-refoulement. The proposed group of experts must, however, avoid



confusing mass migration and mass influx of refugees for specifically ideological, i.e. political or religious, reasons. The terms of reference of the group should be limited exclusively to refugees, since migrants were dealt with in other bodies. In accepting the conclusions contained in document A/AC.96/586, he expressed his Government's concern regarding the problem of reuniting families, which was a key aspect of the humanitarian principles which the Committee was endeavouring to defend.

42. Mr. WEIS (United Kingdom) welcomed the new accessions to the 1951 Convention and the 1967 Protocol. He hoped that further States, particularly those in which large numbers of refugees were residing, would accede to those instruments. He was particularly concerned to note that, despite improvements in one area, cases of refoulement continued to occur in others. The principle of non-refoulement was extremely important in the field of international protection and a corner-stone of UMHCR. His delegation welcomed the efforts of UNHCR to prevent pirate attacks against refugees as well as the recommendations of the Manila Conference and it supported the important recommendations and conclusions of the Sub-Committee on those and other questions.

43. The United Kingdom was a country of resettlement and asylum. In the first half of 1980, more requests for asylum had been received than during the whole of 1979. Of the cases upon which a decision had been taken during the first six months of the year, 76.5 % had been granted asylum and 65.4 % had been granted asylum with refugee status. He noted that the United Kingdom's procedures were not mentioned in the High Commissioner's note (A/AC.96/Inf.152/Rev.2), and wished to draw attention to them. In his country all applications for asylum were submitted to the Home Office for approval. The Home Office decision could be appealed through the courts, and the High Commissioner enjoyed the status of a party in such proceedings.

44. Mr. MITIC (Yugoslavia) said that he wholeheartedly endorsed the report on the meeting of the Sub-Committee of the Whole on International Protection (A/AC.96/586) and its conclusions, especially with regard to fundamental matters, such as non-refoulement and voluntary repatriation. He also favoured consideration at the next session of the serious problem of temporary refuge in situations of large-scale influx.

45. He stressed the importance of implementing the 1951 Convention, and particularly its provisions for the social protection of refugees in respect of housing, jobs, education, and so forth. While emphasizing the need for implementing existing international instruments for the protection of refugees and urging all States which had not done so to accede to them, he saw no objection to adding new ones if necessary. He also had no objection to convening a conference on territorial asylum and thought that a convention on the subject could be useful. As to the work of the Sub-Committee, he thought that it should in the future give more careful consideration to the legal practices of States in dealing with refugee problems.

46. Mr. SIEVERTS (United States) said that his country, as a nation of immigrants and refugees, had a long tradition of granting asylum and had recently enacted legislation, reflecting invaluable aid from UNHCR, which provided a framework for the consideration of applications for asylum and improved procedures. Referring to the matter of temporary refuge, he noted that large-scale influx had challenged the traditional concepts of asylum and non-refoulement, but it must not be allowed to undermine the 1951 Convention and the 1967 Protocol. It did, however, create a serious problem which required special attention and thorough discussion.

47. He endorsed the conclusions in the Sub-Committee's report and expressed particular concern over the attacks by pirates on refugees at sea - a problem UNHCR could alleviate only with the help of the Governments concerned. As to the question of extradition, he said that it was extremely important to strike a balance between demands for extradition and the legitimate claims of refugees. He endorsed the Sub-Committee's conclusions on that subject and on the notion that non-refoulement should be considered as a peremptory principle of international law. Lastly, his delegation welcomed the idea of establishing a group of experts to consider the problem of temporary refuge.

48. Mr. PICTET (Switzerland) said that emergency assistance to persons fleeing from persecution was an essential aspect of the work of UNHCR. He therefore hoped that the Sub-Committee would pursue its commendable work on such matters as extradition, voluntary repatriation and hijacking, and welcomed its conclusions. In the specific matter of temporary refuge under conditions of large-scale influx, he stressed that it was already clear, even without the findings of a group of experts that tried and tested international principles should not be undermined by using the concept of temporary refuge as a pretext for the neglect or ill-treatment of refugees.

49. Mr. OWOAJE (Nigeria) said that he wholeheartedly endorsed the conclusions in the report of the Sub-Committee and hoped that they would be adopted. He urged the Sub-Committee to give serious attention to the grave problem of brutal military attacks on refugee camps in southern Africa and drew attention to the need for the effective protection of refugees against such attacks instead of mere condemnation.

50. Mr. SIMINGTON (Australia) welcomed the Sub-Committee's conclusions and urged the Executive Committee to adopt them. He particularly supported its views regarding piracy, attacks at sea, extradition and non-refoulement, as well as its concern to provide better safeguards for voluntary repatriates. In the specific matter of temporary refuge, he hoped that a report on the subject would be available by the next session, and expressed great interest in the United States proposal for discussion next year of the problem of protection in a situation of large-scale influx.

51. Mr. SALAH-BEY (Algeria) said that the recent phenomenon of large-scale influx of refugees had become an extremely urgent matter and made it especially important to ensure the granting of refugee status and the protection of refugees against physical attacks. In the matter of extradition claims versus the principle of non-refoulement, his country strongly supported the principle of non-refoulement, which should be duly reflected in bilateral and multilateral instruments and applied in cases of temporary refuge. His country favoured all measures designed to protect persons granted temporary refuge.

52. As to voluntary repatriation, it was a fundamental law that every person should be allowed to live freely in his own country, but voluntary repatriation was possible only when the reasons for flight were no longer present. In the African countries, for example, voluntary repatriation presented no problem once those countries became independent, and the same would hold true elsewhere.

53. Mr. MATIKO (United Republic of Tanzania) noted that his country had acceded to all international conventions governing the protection of refugees and had its own Refugee Control Act, now in the process of being updated, dealing with procedures for the granting of refugee status.

54. He endorsed the conclusions of the Sub-Committee, especially those in paragraph 45 relating to protection of refugees against violent criminal and military attacks. It seemed that the terms of reference of UNHCR were not broad enough to cover specific action to ensure such protection, and he therefore supported Nigeria's suggestion that the Executive Committee should deal with that serious problem in the future. A very dangerous situation would arise if a country could violate its neighbours' borders to attack refugee camps, for under such circumstances a country's willingness to provide refuge would depend upon its military strength vis-à-vis the country from which the refugees had fled.

55. Mr. DESY (Belgium) said that he was pleased that the Sub-Committee's work had met with general approval and endorsed without reservation all of its conclusions. He particularly welcomed all UNHCR efforts to ensure implementation of the principle of non-refoulement.

56. With reference to procedures for determining the status of refugees, he noted that practices varied greatly in different States. In some, UNHCR had the right to intervene with the relevant national services, and given its expertise in public and private law, he thought that such intervention was very useful in helping national administrations to comply with their obligations to refugees under the relevant international instruments.

57. Mr. SAJDIK (Austria) said that the Sub-Committee's documentation had been excellently prepared but the time at its disposal had been too limited to allow of in-depth discussion. He suggested that in future the topics for consideration should be limited to two per session; if it proved necessary to discuss further topics an extension of the session should be scheduled.

58. In his view, the Sub-Committee's most outstanding achievement was to have established general acceptance of the principle of non-refoulement. At subsequent meetings it should continue to stress the importance of accession by an increasing number of States to the Convention and the Protocol.

59. Miss SULTAN (Lebanon) expressed her delegation's appreciation to the Director and staff of the Protection Division for the efforts they were making to strengthen the legal protection of refugees.

60. Mr. SHIMIZU (Japan), wished to make it clear that his delegation had stated at the preceding session that it would study the possibility of acceding to the basic instruments of UNHCR and that it had in fact made progress in that direction.

61. Mr. MOUSSALLI (Director, Protection Division) said that he had been impressed by the number of speakers who had expressed their support for his Division's work and the comments made would be of great value in guiding its future activities.

62. He had noted with gratification the support shown both for the work and the conclusions of the Sub-Committee of the Whole on International Protection. The suggestions made regarding future subjects and methods of work of the Sub-Committee, the limitation of the number of topics dealt with in view of the time factor, and proposals for the following year's agenda would all be given careful consideration.

63. One fundamental aspect was the perennial question of how to adjust to new developments while maintaining what had already been achieved, and the comments made by the Netherlands representative on striking a balance had been particularly noteworthy. He also agreed with the Canadian representative regarding the importance of developing new principles on a regional or wider basis. It was true that the Convention and its Protocol were now less directly relevant to certain refugee situations, but they contained basic principles which must be protected.

64. The CHAIRMAN congratulated the Director of the Protection Division and his colleagues on their work, and suggested that the following points, which had emerged from the discussion, might form the basis of the Committee's conclusions on that item:

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

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

(c) Stressed the fundamental importance of the principles established in the field of international protection and the need for those principles to be scrupulously observed in refugee situations existing in different areas of the world.

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

(e) Noted that in many areas of the world asylum-seekers had only been admitted on a temporary basis and expressed the hope that States would give favourable consideration to the granting, wherever possible, of durable asylum.

(f) Recognized the fundamental importance of international co-operation and solidarity in relieving the burdens falling on first-asylum countries.

(g) Noted that while an increasing number of States had become parties to the 1951 United Nations Refugee Convention and to the 1967 Protocol, there was an urgent need for further States to accede in order that the provisions of those instruments would, in due course, acquire universal applicability.

(h) Noted with appreciation that further States had adopted measures to implement the provisions of the Convention and the Protocol, especially with regard to procedures for determining refugee status, and expressed the hope that further progress would be made in that matter in due course.

(i) Took note with appreciation of the work of the Round Table of Asian Experts which met in Manila from 14 to 18 April 1980 and of the Declaration on the International Protection of Refugees and Displaced Persons in Asia, and of the Declaration on Pirate Attacks on Refugees and Displaced Persons adopted by the Round Table.

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

(k) Recognized the need for the Office to be provided with adequate protection staff to meet its international protection activities in various parts of the world.

65. The problem of military attacks had been noted and a draft conclusion on it would be submitted for adoption in due course.

ESTABLISHMENT OF A UNHCR FUND FOR DURABLE SOLUTIONS (agenda item 6) (A/AC.96/582 and 583)

66. Mr. LUKE (Secretary of the Committee), introducing the agenda item, said that if the proposed Fund for Durable Solutions were successfully established, it would enable the High Commissioner to negotiate durable solutions on a long-term basis and would thus fulfil a function which could not be effectively carried out under the General Programmes because of their annual programming and budgeting. It would also fill a gap which other organizations of the United Nations system were not qualified to handle.

67. The Fund would enable UNHCR to enter into multi-year support commitments both to countries of first asylum, able and willing to integrate refugees, and to developing countries accepting refugees for resettlement from areas of temporary refuge. The intention was, within the context of the Fund, to design projects which could be dovetailed with standard economic and social activities so as to enable sizeable groups of refugees to participate, on an equal basis with the national population, in the life of the host country. UNHCR would negotiate with the host governments the financing of projects which would, as soon as possible, be integrated in the national budget and would encourage refugee enterprises to become rapidly self-sustaining.

68. After briefly recounting the history of the Fund as indicated in documents A/AC.96/569, A/AC.96/582 and A/AC.96/583, he said that, as desired by governments supporting the Fund, the High Commissioner's Office was ready to explore every possibility of co-ordinating long-term durable solutions for refugees with bilateral and international assistance schemes.

69. UNHCR was encouraging other international organizations, such as the World Food Programme, to take responsibility for those components of refugee assistance which fell within their field of competence. It had also approached the World Bank and UNDP regarding possible participation in Fund projects. While both agencies had shown interest in principle, some practical limitations would have to be overcome if they were to be involved. UNHCR also planned to contact other potential sources of assistance, such as the International Fund for Agricultural Development (IFAD), regional banks and UNICEF.

70. With a view to securing active participation rather than mere interest in principle, he suggested that the Executive Committee should empower the High Commissioner to undertake the following actions:

(1) To finance feasibility studies from the Fund for Durable Solutions and to produce plans of operation in cases where other agencies could not undertake such studies free of charge;

(2) To initiate projects which once under way would be financed from alternative sources;

(3) To commit complementary resources for project components which would facilitate refugee settlement within the context of wider schemes predominantly financed by other international sources of assistance;

(4) In the last analysis, and if no other assistance was forthcoming, to provide the total support necessary for the planning and implementation of durable solutions for refugees.

71. At its preceding session, the Executive Committee had agreed that the High Commissioner should open an account for contributions towards the Fund, and the Working Group had recommended the beginning of operations. The massive financial support expected had not, however, been forthcoming; only one country had made a modest cash contribution, while another had authorized UNHCR to switch to the Fund a contribution made previously towards the General Programmes. He emphasized that the latter was not particularly helpful since the new Fund was not intended to replace the General Programmes.

72. Because of the lack of financial support, UNHCR had not been able to appoint full-time staff for the Fund, to commission feasibility studies, or to prepare plans of operation which could be submitted to donors for earmarked financing. Implementation of actual projects had obviously been entirely out of the question.

73. A few countries had indicated that they might make unearmarked cash grants to the Fund if others led the way, and other potential donors appeared prepared to contribute to specific projects after examining the relevant plans and budgets. In the absence of sufficient resources, however, it had not been possible to commission feasibility studies on the basis of which the plans and budgets could be drawn up. He therefore pleaded with Governments to break what was a vicious circle and provide UNHCR with the support necessary to demonstrate the viability of the Fund.

The meeting rose at 6.15 p.m.