



General Assembly

Distr.  
GENERAL

A/36/582  
23 October 1981  
ENGLISH

ORIGINAL: ARABIC/CHINESE/  
ENGLISH/FRENCH/  
SPANISH

Thirty-sixth session  
Agenda item 66

INTERNATIONAL CO-OPERATION TO AVERT NEW FLOWS OF REFUGEES

Report of the Secretary-General

CONTENTS

	<u>Page</u>
I. INTRODUCTION.....	3
II. OBSERVATIONS RECEIVED FROM GOVERNMENTS	
Australia .....	4
Austria .....	7
Belgium .....	8
Brazil .....	10
China .....	11
Costa Rica.....	12
Denmark .....	13
Egypt .....	14
Finland .....	16
France .....	16
Germany, Federal Republic of .....	18
Greece .....	27
India .....	28

CONTENTS (continued)

	<u>Page</u>
Ireland .....	29
Italy .....	30
Japan .....	31
Netherlands .....	32
New Zealand .....	33
Norway .....	34
Oman .....	35
Qatar .....	35
Syrian Arab Republic .....	36
United Kingdom of Great Britain and Northern Ireland .....	37
United States of America .....	38
 III. OBSERVATIONS RECEIVED FROM UNITED NATIONS ORGANS AND SPECIALIZED AGENCIES	
Office of the United Nations Disaster Relief Co-ordinator .....	42
Office of the United Nations High Commissioner for Refugees .....	43
United Nations Relief and Works Agency for Palestine Refugees in the Near East .....	43
International Labour Organisation .....	44
Food and Agriculture Organization of the United Nations .....	45
World Bank .....	49

## I. INTRODUCTION

1. The item entitled "International co-operation to avert new flows of refugees" was included in the agenda of the thirty-fifth session of the General Assembly at the request of the Federal Republic of Germany. See (A/35/242).

2. The Special Political Committee examined the item at its 43rd to 49th meetings, between 26 November and 5 December 1980. At the 43rd meeting, on 26 November, statements were made by the representatives of the Federal Republic of Germany and Portugal (A/SPC/33/SR.43); at the 44th meeting, on 28 November, by the representatives of the Philippines, Japan, the United States of America, the United Kingdom of Great Britain and Northern Ireland, Egypt, Canada, New Zealand, Zaire, Singapore, Pakistan and the Union of Soviet Socialist Republic (A/SPC/35/SR.44); and at the 45th meeting, on 1 December, by the representatives of Austria, the German Democratic Republic, Viet Nam, Hungary, France, China, Mongolia, Indonesia and Italy (A/SPC/35/SR.45). At the 46th meeting, the same day, after introduction of a draft resolution by the Federal Republic of Germany, statements were made by the representatives of Malaysia, Somalia, Finland, the Lao People's Democratic Republic, Czechoslovakia, Jordan, Democratic Yemen, Cuba, Greece, Democratic Kampuchea and India (A/SPC/35/SR.46), and at the 47th meeting, on 2 December, by the representatives of Tunisia, Uganda, Morocco, Bulgaria, Sweden, Norway, Australia, Sierra Leone and Ethiopia (A/SPC/35/SR.47).

3. At its 92nd plenary meeting, on 11 December 1980, the General Assembly, on the recommendation of the Special Political Committee (A/35/582) adopted resolution 35/124, the operative part of which read as follows:

"The General Assembly,

"...

"1. Strongly condemns all policies and practices of oppressive and racist régimes as well as aggression, alien domination and foreign occupation, which are primarily responsible for the massive flows of refugees throughout the world and which result in inhuman suffering;

"2. Invites all Member States to convey to the Secretary-General their comments and suggestions on international co-operation to avert new flows of refugees and to facilitate the return of those refugees who wish to return;

"3. Requests the Secretary-General to report to the General Assembly at its thirty-sixth session, for its further examination and thorough study, the views, comments and suggestions expressed by Member States, together with those expressed on the item at its thirty-fifth session, including all additional contributions pertaining to the matter which he may receive from other United Nations organs;

"4. Decides to include in the provisional agenda of its thirty-sixth session the item entitled 'International co-operation to avert new flows of refugees'".

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4. In response to the request contained in paragraph 3 of resolution 35/124, the Secretary-General, by a note dated 12 February 1981, transmitted the resolution to the permanent representatives of Member States of the United Nations, as well as to United Nations organs and specialized agencies, inviting them to send him their views, comments and suggestions on international co-operation to avert new flows of refugees and to facilitate the return of those refugees who wished to return.
5. As at 22 September 1981, 30 replies had been received from Member States and from United Nations organs and specialized agencies, the substantive parts of which are reproduced in sections II and III below.

## II. OBSERVATIONS RECEIVED FROM GOVERNMENTS

### AUSTRALIA

[Original: English]

[14 September 1981]

1. Australia is grateful to the Federal Republic of Germany for having taken the initiative in drawing the attention of the Member States to the serious problems which can and have been caused by the mass flows of refugees and to the need for effective preventive action by the international community.
2. Measures for the relief of refugees - whether through material assistance or resettlement - can never be an adequate answer to the problems of mass flows. Apart from the fact that such measures can only partially alleviate the human misery involved, the concentration on remedial aspects at the expense of the need for preventive measures will create inevitably a serious imbalance. There is a danger that a level of disorder could be reached in the world, producing mass flows on such a scale that the existing international protection system will be unable to cope with even minimum effectiveness with the resulting situation.
3. As resolution 35/124 points out in its preamble, the massive flows of refugees may affect the domestic order and stability of receiving States and jeopardize the stability of entire regions and endanger international peace and security.
4. It is axiomatic that, as a general solution, resettlement abroad can never be a viable or desirable alternative to the stabilization of existing populations in a peaceful and just order. Indeed, in certain cases of mass flows, especially exceptionally large ones, experience has shown that the only possible or satisfactory humanitarian and political solution may be voluntary repatriation. Essentially, the protection system is a disaster response system. More important than remedies for disasters must be their prevention.
5. It was partly to give due recognition to the importance of voluntary repatriation in certain mass flow situations that Australia proposed last year in the Executive Committee of the UNHCR programme that the concept and practice of temporary refuge should be studied by the international community. As the

mechanism linking admission and the provision of durable solutions, temporary refuge is an essential element in the international protection system which requires examination in relation to status, the provision of durable solutions and international solidarity and co-operation in obtaining such solutions. Australia considers that in mass flow situations admission into the country of refuge cannot be construed automatically as the provision by the admitting State of a durable solution. There is no justification for such a view in the practice of States. Furthermore, such a general or invariable rule of construction could not be justified on either humanitarian or political grounds. It would effectively relieve the country of origin of its serious responsibility to take whatever measures are possible and necessary to enable people who have fled its territory to return. It would also undermine the right of people who have had to flee their homeland to seek the support of the international community in obtaining the conditions which will make possible their voluntary return, and it would institutionalize exile at the expense of the fundamental right of the individual to return to his country and enjoy his basic human rights. In some cases it would place an unrealistic burden on the country of refuge and result in "solutions" which were seriously unsatisfactory.

6. Without an explicitly recognized right of the admitting State to categorize admission in certain cases of mass flows as providing only a temporary solution and to call upon the assistance of the entire international community to effect satisfactory solutions, Australia believes that the international protection régime would be gravely distorted and would inevitably be the cause of much human misery and suffering as well as international tension. For humanitarian and political reasons, such a régime would be unacceptable to Australia, as indeed, it has been unacceptable to many other countries.

7. Australia firmly believes that an international protection régime of global application constructed on the basis that voluntary repatriation is an ideal but an impractical solution which can be largely discounted in practice and which does not even warrant a mention in that régime - as is the case with the 1951 Convention relating to the Status of Refugees <sup>1/</sup> - is no longer acceptable as an adequate or complete model of universal application, particularly in a time of mass flows of growing number and size. Experience has shown that its cost in humanitarian and political terms is too high.

8. Australia believes that a useful and essential first step in determining what further international measures are required to respond adequately to the present situation is to ascertain what are the causes of the mass flows. For this reason, Australia has supported the decision of the United Nations Commission on Human Rights on the initiative of Canada to obtain a report on the question of human rights and mass exoduses. It is our hope that the Special Rapporteur's mandate will be broadly interpreted. It is apparent, for instance, that significant new factors have emerged in the movements of peoples related directly to the present circumstances of the world, including ideological and cultural conflict, problems in national development, economic disparities engendering difficult and disturbed

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<sup>1/</sup> United Nations, Treaty Series, vol. 189, No. 2545, p. 137.

conditions of life and expectations concerning more relaxed treatment of asylum-seekers. The significance of these new factors must be carefully assessed. On the basis of a comprehensive report of the causes of the mass flows, the international community will be better placed to determine what specific measures of a preventive and remedial kind are required.

9. It is important that an examination of the causes of mass flows and the deliberations concerning their prevention and solution should be seen as interrelated and complementary exercises. Likewise, the preventive and remedial aspects should be seen as interrelated, particularly in situations where the conditions in the country of origin causing the outflow are capable of amelioration through international co-operation and assistance, thus stopping or diminishing the outflow and allowing voluntary return.

10. A thorough and objective examination of the causes of mass flows of people may indicate what kind of measures are required to stabilize populations. For the long term these measures may have to relate to the whole basis of the international order and to extend widely to its political, social and economic aspects. The modern phenomenon of the mass flow may be just one dramatic aspect of the reality of the interdependence of nations and may indicate how difficult it is becoming in the conditions of the modern world to confine the consequences of major social disasters to the immediate surrounding areas.

11. The number and volume of mass flows in recent years have been such that the need for effective and satisfactory preventive measures by the international community is now more widely accepted.

12. For the moment, however, international mechanisms which could be used for averting flows or for intervening to diminish or end them are seriously inadequate for these purposes. Existing international political bodies are ill-suited to deal with the continuous and sometimes rapid evolution of potential or actual mass flow situations. As a consequence, the international response to such situations, particularly at the political level, has generally been a matter of too little too late. No adequate early warning mechanism has been established to avert or prevent mass flows by securing helpful and timely anticipatory action. International organizations for dealing with refugee situations have been developed mainly to deal with such flows once they have occurred.

13. Solutions, however, need not necessarily be restricted to action after a mass exodus. Representations, for example, can be made at the outset of an exodus, and a variety of other initiatives can be taken at an earlier stage to avert or stem a mass flow or at a subsequent stage to ameliorate a situation, so as to facilitate voluntary return.

14. It is in the area of preventive and ameliorating action that the limitations of the present intergovernmental machinery are most apparent. In dealing with the causes of refugee situations the limitations placed on international bodies such as the Office of the United Nations High Commissioner for Refugees by reason of the essentially humanitarian and non-political nature of their responsibilities have inevitably restricted significantly their capability to deal adequately with potential or actual refugee situations.

15. While in no sense seeking to anticipate the outcome of an inquiry into the adequacy of existing machinery it may be helpful to identify those measures which the international community could take to improve the international response to mass flow situations. Such measures could include the establishment of early warning mechanisms and entrusting certain functions to international bodies, including inquiry into the facts of situations, mediation or good offices and making recommendations for the solution or amelioration of such situations. The global and regional implications of mass flows would be highlighted through the establishment of such processes.

16. For the reasons set out above, Australia favours the suggestion that an ad hoc committee should be created to make a comprehensive review of all relevant aspects of the refugee problem. Australia's preference, however, is for such an ad hoc committee to concentrate its activities on an examination of the present intergovernmental machinery for dealing with international refugee situations and the ways in which they may be improved. Australia would not in this connexion exclude the possibility of a special body of the General Assembly to deal with practical preventive or ameliorative measures. The need for this, however, has yet to be conclusively demonstrated.

17. Guidelines for the conduct of States in preventing or averting mass flows may be useful, provided that they take adequate account of the complexity and variety of the causes of mass flows and that their formulation received the general endorsement of the international community as representing an acceptable and balanced exposition of all the relevant principles. Australia considers, however, that they should be developed elsewhere, perhaps in the Sixth Committee of the General Assembly, and that the report of the ad hoc committee need not await their conclusion.

#### AUSTRIA

[Original: English]

[3 June 1981]

1. In the recent past, mass migration and mass exodus have reached a dimension previously unknown. There are at present over 12 million refugees in the world, more than in any other time in modern history, in search of sanctuary. The international community so far has undertaken efforts to alleviate the tragic sort of refugees as much as possible and provide humanitarian assistance. Above all the Office of the United Nations High Commissioner for Refugees, but also other international governmental and non-governmental organizations have done a remarkable job with limited resources and under often very adverse conditions.

2. The Convention relating to the Status of Refugees, however, dates from 1951, and in the same year the Office of the United Nations High Commissioner for Refugees was created, with its double mandate of protecting the rights of refugees and co-ordinating relief efforts and material assistance programmes. Both measures were in response to the migrations of refugees of the Second World War and the post-war period and were thus necessarily based on the perceptions and experience of that period.

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3. But by now the situation itself and the dimensions of the problem have changed. There is growing awareness that immigration and refugee issues may prove to be among the most important and troubling world problems of the next decades, as there is increasing evidence of an international migration of large magnitude. This is an international phenomenon and the international community will have to formulate an adequate response to it. Meaningful and effective solutions will call for intense international co-operation, and the United Nations, where all the necessary information to handle this problem flows together, will have to assume a leadership role.
4. On this premise, the Austrian Federal Government supports the initiative undertaken by the Federal Republic of Germany, as was clearly expressed in the address of the Austrian Minister for Foreign Affairs, Mr. Willibald Pahr, at the thirty-fifth session of the General Assembly. This support is based furthermore on Austria's traditional role of accepting refugees and acting as a country of first asylum, as well as on the deep and unconditional commitment of Austria to the promotion and protection of human rights as an indispensable prerequisite for peace, development, security and the reduction of tensions.
5. Austria believes that full respect for human rights can contribute largely towards the elimination of the main causes for any exodus. Recent history shows that racial discrimination, religious intolerance and the denial of basic political, civil, social, economic and cultural rights have often compelled a large number of people to leave their countries of origin. Therefore, efforts shall also be directed towards the full implementation of human rights as laid down in the Charter of the United Nations and the relevant international instruments on human rights.
6. In order to keep the important momentum created by the initiative of the Federal Republic of Germany, appropriate institutional arrangements will have to be made. The Austrian Government could, in this respect, envisage the creation of an expert committee to analyse and study the views and suggestions of Member States and to present in a comprehensive manner the relevant and accepted principles of international law and international relations. Such an expert committee could furthermore engage in elaborating guidelines of a preventive nature, as well as for the handling and the conduct of massive flows of refugees, with the view to avoiding economic disruption and internal destabilization of the recipient country.
7. It is Austria's firm position, however, that all consideration of this wide range of problems will have to be based on the irrevocable respect for the dignity of man and his human rights.

BELGIUM

[Original: French]

[27 July 1981]

1. Mass exoduses, whether they involve refugees in the strict sense or persons fleeing conditions of life that have become impossible for whatever reason, cause tremendous suffering and may also affect the stability of receiving countries and

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of the regions concerned, and even international peace and security. They impose great obligations and financial burdens upon the international community.

2. It is therefore right and proper that international efforts should be intensified not only to assist those who leave their countries en masse for whatever reason but also to avert such exoduses to the extent possible, or at least to channel and limit them.

3. Belgium, therefore, hopes that the international community will continue in some appropriate forum the discussion it began under item 122 of the agenda of the thirty-fifth session of the General Assembly and that the discussion will encompass all aspects of the complex problem of mass exoduses. It hopes that the discussion will lead to a search for concrete solutions to the various problems that may be identified, bearing in mind the humanitarian objectives which are being pursued.

4. As regards mass exoduses of refugees in the strict sense, an initial step that would have a practical impact could be the drafting of a "code of conduct", which might include, inter alia, the following elements.

5. As regards prevention, the code, while fully respecting the principle of the freedom of everyone to leave and return to his own country, might recall the principles, many of which are already laid down in the United Nations Charter, whose violation by States is in many cases the root cause of exoduses.

6. Special attention would be given to respect for human rights. In that connexion, Belgium looks forward with interest to the report to be prepared under resolution 29 (XXXVII) of the Commission on Human Rights by the Special Rapporteur, Prince Sadruddin Aga Khan, on the subject of human rights and massive exoduses.

7. The code would also lay down principles concerning the limitation and channelling of flows of refugees which had proved impossible to avert. These principles would go beyond the strictly humanitarian action already undertaken, primarily by the Office of the United Nations High Commissioner for Refugees, and might cover, inter alia, the following points:

(a) The notion of burden-sharing with regard to the financial and other implications of exoduses. Application of this principle should also make States of origin more responsive to the need to limit and even avert flows of refugees;

(b) Direct contacts by the Secretary-General with the Governments concerned in cases where a mass exodus of refugees becomes a matter of international concern, in order to assess the possible link between the situation and the full enjoyment of human rights and to make concrete recommendations for ameliorating such situations (cf. resolution 30 (XXXVI) of the Commission on Human Rights);

(c) Active encouragement of the voluntary repatriation of refugees by promoting guarantees of the safety and rights of repatriated persons, as advocated by the Executive Committee of the Programme of the High Commissioner for Refugees in October last;

(d) Improvement of the situation with regard to the acceptance by the international community of refugees considered less "desirable" (such as disabled refugees), for example, by eliminating the present practice of selective resettlement;

(e) Resettlement of refugees in the continent or region of origin.

8. As for mass exoduses resulting from other factors (natural or economic), Belgium wonders whether these should not be studied from the general standpoint of migrations of population under the auspices of the United Nations bodies dealing with population questions, with the assistance of the international organizations concerned (e.g., UNDRP, UNDP, FAO, WHO, UNICEF and ICEM). Such a study would make it possible to identify the most appropriate preventive measures for averting or channelling exoduses of that kind.

9. This dual approach would also help to demarcate more clearly the division of responsibility within the United Nations system for dealing with the problem of mass exoduses. It would make it possible, for example, for the Office of the High Commissioner for Refugees to concentrate on persons within its original mandate and to act in accordance with the purpose for which it was established, namely, the protection of refugees in the strict sense of the term, the definition of which has become so attenuated as to jeopardize the unique character and value of the Office of the High Commissioner.

#### BRAZIL

[Original: English]

[20 April 1981]

1. As a member of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, Brazil has closely followed the situation of refugees in the world, and shares the concerns that led to the elaboration of General Assembly resolution 35/124.

2. In the opinion of the Brazilian Government two main points have to be taken into account in any effort aimed at finding solutions for the situation of refugees: first, that the proliferation of new organs and entities should be avoided. Moreover, the work of the existing organs must continue to be devoted to social and humanitarian fields.

3. Brazil does not encourage debates on the political causes of the flow of refugees. These debates might lead to the consideration of matters that pertain exclusively to questions of competence, without attaining their real aim of alleviating the sufferings of refugees.

4. As expressed in the Special Political Committee at the thirty-fifth session of the General Assembly, Brazil voted in favour of resolution 35/124, taking into account the fact that its provisions were of a procedural nature. The Brazilian

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Government, however, reserves its final position on the matter dealt with by that resolution until the General Assembly has had a substantive and comprehensive debate on it.

## CHINA

[Original: Chinese]

[14 July 1981]

1. The refugee problem has become very serious in the world today. Especially in the past few years refugee flows have occurred in various parts of the world. They have become human tragedies attracting world-wide attention and should not be tolerated by the civilized world. The massive flows of refugees have not only constituted a grave threat to peace and tranquility in the regions concerned and the world as a whole, but have also imposed heavy economic burdens and social instability on the receiving States. Therefore, the United Nations must make every effort to put an end to such human tragedies and avert the recurrence of such incidents.

2. Facts have proved eloquently that among the many causes leading to refugee flows the basic one is the criminal policies of imperialism, racism and hegemonism. Cases in point are the problems of refugees from Afghanistan, Indochina and southern Africa as well as the Palestinian refugee problem. In South Asia, the direct Soviet armed occupation of Afghanistan has caused an exodus of nearly two million Afghan refugees to the neighbouring countries, and this exodus is still continuing. In South-East Asia, the Vietnamese authorities, backed by the Soviet hegemonists, invaded Kampuchea by armed force and turned more than a million Kampuchean people into refugees. At home, they are pursuing a policy of oppressing and exploiting the people and repressing other ethnic groups; they have driven large numbers of people out of their homeland. They have gone so far as to export refugees in a ruthless way and get profits from it. In southern Africa, the policy of apartheid carried out by the racist régime of South Africa has forced numerous local Africans to flee to the neighbouring countries as refugees. In the Middle East, the Israeli authorities' persistent policy of aggression and expansion has made 1.8 million Palestinian refugees homeless for many years.

3. The refugee problem must be tackled in two ways: provision of material relief and elimination of its root cause. Facts have shown that material assistance can only provide temporary relief and that the problem can be solved once and for all when the root cause is eliminated.

4. In order to solve the world-wide refugee problem thoroughly and avert new flows of refugees, it is imperative to do the following:

(a) The international community should take effective measures to force the countries which have invaded and enslaved others to implement strictly the relevant United Nations resolutions, stop their acts of aggression and withdraw all their aggressor troops so as to eliminate the major root cause of the refugee problem in the regions concerned.

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(b) Action is needed to mobilize world opinion to condemn the authorities concerned for their pursuance of the policies of creating and exporting refugees, their cruel persecution of the people and racial discrimination and their inhuman acts of profiteering from the export of refugees; to call on all the justice-upholding countries to refrain from rendering economic assistance to the countries which have created the refugee problem; and to adopt all necessary measures, including the dispatch of a United Nations fact-finding team and supervision team, to force the countries concerned to undertake the obligation to stop expelling refugees and to ensure the safety of life and property of those who are willing to return home.

(c) In view of the fact that the creation of numerous refugees is also an act of serious violation of human rights on a large scale, the United Nations Commission on Human Rights should regard the consideration of this issue as an important task and take necessary actions.

(d) The United Nations Member States should take corresponding measures to avert the flows of refugees and strengthen international co-operation on this matter.

(e) The United Nations and the United Nations related agencies and organizations should continue to increase their economic assistance to the asylum countries and first asylum countries which are weak economically.

COSTA RICA

[Original: Spanish]

[3 August 1981]

1. By co-sponsoring the resolution in question, Costa Rica sought to demonstrate its concern for a situation which is increasing in intensity and complexity every day. The Government of Costa Rica considers that any initiative in pursuit of these ends deserves a favourable reception, and it therefore welcomed the initiative taken by the Federal Republic of Germany at the thirty-fifth session of the General Assembly as an effort to find some viable solution to an urgent and agonizing problem which has assumed world-wide dimensions.
2. We deem it necessary to reaffirm the point emphasized in one of the preambular paragraphs of the resolution concerning the duty of the international community to examine in depth all aspects of the matter and to study the means and resources provided by the Charter of the United Nations.
3. Costa Rica also considers it important to formulate guidelines or standards of conduct for States, taking into account the principles laid down in declarations and legal instruments already drawn up by the United Nations, such as the Universal Declaration of Human Rights, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenants on Human Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial

Discrimination, and such relevant General Assembly resolutions as resolution 3314 (XXIX), containing the Definition of Aggression, resolution 2131 (XX), containing the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, and resolution 34/99 on the development and strengthening of good-neighbourliness between States - all this is quite apart from the legal instruments adopted in the context of the international assistance provided with such dedication by the United Nations High Commissioner for Refugees, within the limits of his mandate, to countless victims of situations which compel them to seek that assistance.

4. In view of these and many other valuable instruments drawn up by the United Nations in various forums, Costa Rica considers that the international community is duty-bound to make a serious effort, in addition to the efforts already being made on the humanitarian level, to generate the political will to seek appropriate solutions to this difficult and complex problem, since resolving or overcoming the situations which give rise to such exoduses will, of course, promote respect for human rights and contribute to the strengthening of international peace and security, both of which are basic goals of the United Nations.

DENMARK

[Original: English]

[17 July 1981]

1. In view of the dramatic increase of refugees, Denmark welcomed the initiative of the Government of the Federal Republic of Germany to place the item on international co-operation to avert new flows of refugees on the agenda of the thirty-fifth session of the General Assembly. The international community cannot confine its activities to humanitarian assistance to refugees but must analyse the cause and means of solving the problem. Accordingly Denmark co-sponsored General Assembly resolution 35/124.

2. It is important to bear in mind that the reasons for the flows of refugees are not unambiguous but of a complex nature, be it discrimination on grounds of race, religion, ethnic origin or political opinion, armed conflicts, natural disasters, or situations where motivations are of a more economic nature. The approaches to elimination of the roots of the refugee flows must accordingly be flexible and broad.

3. There exists already a set of international instruments containing elements that would lend themselves to the solution of refugee problems. These instruments include the Universal Declaration of Human Rights, the Statute of the Office of the United Nations High Commissioner for Refugees, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, in accordance with the Charter of the United Nations, and the Good Offices of the Secretary-General of the United Nations.

4. Denmark believes that it would be most valuable to examine whether the existing machinery is adequate and whether it could be streamlined and adopted to meet the present situation.

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5. Denmark also believes that a declaration of guidelines for the conduct of States to avert new flows of refugees would be conducive to the prevention of refugee problems, provided the wording of the declaration is made sufficiently flexible.
6. Attention should finally be given to the analyses of the special rapporteur appointed by the Human Rights Commission to consider the question of mass exoduses of populations.

EGYPT

[Original: Arabic]

[22 September 1981]

1. The position of the Arab Republic of Egypt on the item entitled "International co-operation to avert new flows of refugees" is one of welcome and readiness to co-operate within its framework. This position emanates from Egypt's belief that this problem constitutes an undeniable danger, a danger that transcends the borders of countries and continents and may possibly affect good-neighbourly relations among countries to the extent of endangering international peace and security.
2. Proceeding from its belief in the seriousness of the problem, numerous aspects of which are being discussed under the item relating to the United Nations High Commissioner for Refugees and the item concerning the Palestine refugees, the Government of the Arab Republic of Egypt agrees with the initiative of the Federal Republic of Germany underlining the importance of considering the issue from another angle, as demonstrated at the thirty-fifth session of the United Nations General Assembly last year, which led to the adoption of resolution 35/124.
3. Hence the Government of the Arab Republic of Egypt wishes, in accordance with the second paragraph of resolution 35/124 and in reply to the Secretary-General's note No. 112 (10) of 12 February 1981, to make the following comments.
4. It is imperative to find drastic solutions to the refugee problem, which primarily requires a political solution. Attention to the human aspect of the problem, which has been hitherto the focus of international efforts, can in no way solve or eliminate the problem. It is merely a palliative that promotes the survival of the refugees without solving their basic problem. It is therefore necessary, when discussing the item "International co-operation to avert new flows of refugees" in the General Assembly or in the proposed ad hoc committee, to delve into the underlying causes behind the flow of refugees. In our opinion, these causes are political, economic and social.
5. In this respect, the Government of the Arab Republic of Egypt wishes to pinpoint the right to self-determination as one of the main principles and main pillars of international life; its denial and denunciation have led to a continuous flow of refugees, associated with terrorism, despotism and obstruction of the secure process of life and the natural development of peoples.

6. To deprive the people of their economic and social rights provided for in major international instruments, and stipulated in detail in the International Covenant on Economic, Social and Cultural Rights, further intensifies the flow of refugees; the remedy lies above all in respect for all these rights.
7. The subject under discussion cannot be dealt with or remedied without emphasizing all the rights provided for in the Universal Declaration of Human Rights and all international documents and instruments based on or related to the Declaration. Of equal importance to the refugees are the right to return and the right to compensation, since the right of every person to live in peace and security in his country and within his land is a human right that can neither be denied nor ignored. We, States Members of the United Nations, have pledged, when adopting the Universal Declaration of Human Rights, to respect the right of return by embodying it in article 13, paragraph 2 of the Declaration. However, without due respect for the right of return and without insistence on that right, the status of refugee persists and is ever renewable. Hence the third preambular paragraph of resolution 35/124, on facilitating the return of refugees, is indeed fully adequate.
8. The efforts of UNHCR, for which Egypt expresses every respect and appreciation in view of the humanitarian help which that Office provides to remedy the refugee problem, should not be mixed with the task of the proposed ad hoc committee. The function of the latter is to crystallize a number of guidelines, governing the behaviour and practices of States, so as to avert new flows of refugees and facilitate the return of those wishing to do so, in keeping with the spirit and letter of resolution 35/124.
9. The ad hoc committee should benefit from the experience and the experiments of the United Nations refugee programme and of UNRWA.
10. The Government of the Arab Republic of Egypt considers that foremost among the guidelines that should be crystallized by the proposed ad hoc committee are the following:
- (a) States should undertake to respect the principles of the United Nations Charter, the humanitarian laws and the resolutions adopted by international organizations concerning refugees;
  - (b) States should refrain from enacting any legislation or adopting any administrative or other measures that may result in new flows of refugees;
  - (c) States whose policies have led to flows of refugees or created refugee problems are duty-bound to adopt the necessary measures for their return, or to co-operate at both international and regional levels to solve their problems, and compensate those who do not wish to return;
  - (d) States should co-operate in all possible ways among themselves and with the competent international organizations to prevent any new flows of refugees.
11. The Government of the Arab Republic of Egypt views these huge flows of refugees, particularly if they occur in a certain region or within a specific

country or nation, as reflecting serious social and political instability in the region or country concerned. Moreover, these huge flows carry such social and political instability to other regions and countries. This situation therefore renders it imperative for the proposed committee to examine the idea of keeping the Security Council well informed of developments relating to huge flows of refugees.

#### FINLAND

[Original: English]

[23 June 1981]

1. The Government of Finland expressed its views on the question of international co-operation to avert new flows of refugees during the consideration of the item in the Special Political Committee during the thirty-fifth session of the General Assembly. At present, the Government of Finland has no new comments or suggestions on the item. However, it will closely follow the continuation of the consideration of the question and will in due course take part in the discussions.

#### FRANCE

[Original: French]

[23 June 1981]

1. The French Government, like the great majority of the Governments of Member States, shares the concerns expressed in General Assembly resolution 35/124 and the conviction that the refugee problem can no longer remain a matter for purely humanitarian action.

2. The idea of preventive action seems to it to be worthy of study, if necessary by an ad hoc committee of the General Assembly with instructions to report to the Assembly at the following session.

3. Purely preventive action, undertaken before the appearance of any sign of the phenomenon, would seem difficult to carry out. Because mass exoduses are, at least when not the result of natural disasters, a human phenomenon, they cannot be predicted and it is therefore difficult to envisage the possibility of action by a specific organ or machinery, except in the case of a limited population movement that has begun and seems likely to increase in scale.

4. This does not mean that a study of the causes of mass exoduses is not necessary. It is the identified causes that will enable one to say that a given limited population movement - even one which looks like a traditional migratory movement - is in fact the beginning of a mass exodus. In brief, the point is to identify the symptoms of the disease so as to combat it from the earliest signs of its onset.



5. The symptoms are easy to recognize when the authorities have taken measures the express purpose of which is to bring about the forced migration of part of the population. The same is true when the measures taken, although not aimed at the expulsion of part of the population, are discriminatory in nature and may accordingly set in motion an indirect forced migration.
6. The symptoms are also easy to recognize when the authorities have not taken any measures but are carrying on a campaign aimed at bringing discredit on a specific category of persons.
7. While the symptoms are more difficult to recognize when there is no deliberate action by the authorities, it is doubtless possible to identify certain situations of tension in which limited population movements can be regarded as incipient mass exoduses, such as tension between a religious or ethnic minority and majority.
8. The first task of the group which at the next session of the General Assembly will consider the question of averting flows of refugees would seem to be to identify such causes and present them in a set of principles embodying all the principles of international human rights law and humanitarian law (or the international law of armed conflicts) which are aimed at prohibiting policies, practices or acts that might give rise to forced migrations. This body of principles would be the first form of international action to avert mass exoduses. It should not constitute a new international instrument, since care must be taken not to call in question the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, to which many Members of the United Nations are not yet parties.
9. The group will subsequently have to consider whether a specific organ or specific machinery should be established.
10. A review should therefore be made of the existing organs and machinery under the Charter in order to ascertain whether or not they are adequate to the task of averting mass exoduses as defined above. If they are clearly inadequate, consideration can be given to the establishment of a specific organ or machinery, it being understood that the competence of any such organ could extend only to areas that are not already covered; in other words, it cannot be allowed to detract even partially from the competence of existing organs.
11. The foremost such organ is UNHCR, whose non-political character - a prerequisite for the effectiveness of its humanitarian activities - must be preserved.
12. The French Government holds that, in considering whether the existing organs and machinery are adequate, it should be borne in mind that political forums, including the Security Council, can deal with the "human rights" aspects of situations within their sphere of competence; in such situations (where political factors are essential), it is better to deal with those aspects in the competent political forums than artificially to amputate them for consideration by "human rights" bodies. It would also be well to bear in mind the lessons to be learnt from the Geneva conferences on refugees in South-East Asia, held in July 1979 and May 1980. In the view of the French Government, those recent experiences show that

the mechanism for action by the international community with respect to mass exoduses is primarily the responsibility of the Secretary-General of the United Nations and UNHCR.

13. Before proceeding to this second task, namely consideration of the need for the establishment of a specific organ or machinery, it will be necessary to have available the study prepared by the Special Rapporteur on massive exoduses appointed under resolution 29 (XXXVII) of the Commission on Human Rights, which is to be submitted to the Commission in 1982.

#### GERMANY, FEDERAL REPUBLIC OF

[Original: English]

[20 May 1981]

#### I. INTRODUCTION

1. At its thirty-fifth session, in the autumn of 1980, the United Nations General Assembly dealt for the first time with the problem of measures to avert new flows of refugees and adopted resolution 35/124 on item 122 entitled "International co-operation to avert new flows of refugees". The Government of the Federal Republic of Germany attaches great importance to this resolution of the General Assembly. It represents an important initial step towards a solution of this problem within the framework of the United Nations.

2. The Government of the Federal Republic of Germany presented its basic views on this subject during the thirty-fifth session of the General Assembly (A/35/PV.8 of 24 September 1980; document A/35/242 of 25 September 1980; A/SPC/35/SR.43 of 10 December 1980). As expected, the debate on item 122 showed that the establishment of a system of preventive measures for the protection of refugees within the framework of the United Nations requires a detailed examination of all relevant aspects.

3. In the course of history there have been numerous instances of individual States providing refugees from other countries with a new basis of existence. The international community, however, did not deal with worldwide refugee problems until after the disastrous effects of the First and particularly the Second World War. The first steps to set up an international system for the protection of refugees were geared exclusively to the solution of refugee problems that were already in existence. The League of Nations was successful in helping many refugees and deported persons. The "Nansen passport" and the refugee relief organization of the League of Nations set up by Nansen played an outstanding role in this connexion. After the Second World War, the international community countered the challenge posed by mass refugee movements and expulsion by founding the International Refugee Organization, which was succeeded by UNHCR in 1951. The integration or reintegration of the flows of refugees created by the Second World War has now been largely completed.

4. The 1951 Convention relating to the Status of Refugees and the associated Protocol of 1967, which sets aside the Convention's limitations in terms of expiration and territorial applicability, provided the basis for an effective international system of curative measures for the protection of refugees. The 1951 Convention, which has been ratified by 76 States also contained the basic idea of an international system of preventive measures for the protection of refugees. In the preamble to the Convention the States expressed the wish

"that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States."

5. Today, more than 35 years after the Second World War, the international community is again confronted with an enormous worldwide refugee problem, by which African and Asian States are affected particularly seriously. Despite the outstanding efforts of UNHCR and other organizations, the hopes for a gradual mitigation of refugee flows have not been fulfilled yet. Precise data on the scope of the present refugee problem are not available for various reasons. However, according to cautious estimates, one must assume that there are now 10 to 12 million refugees in the world (for the scope of the refugee problem in individual geographical regions, see the UNHCR report for 1980 2/).

6. The consequences of the worldwide refugee problem go far beyond the untold human suffering of millions of individual refugees. In the preamble to resolution 35/124 it is stated

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

The affirmative vote of 105 States on General Assembly resolution 35/124 reflects the realization of the vast majority of States that the United Nations is called upon to go beyond the humanitarian aspects of new flows of refugees and consider the possibility of measures to avert such flows.

## II. INTEGRATION OF PREVENTIVE MEASURES FOR THE PROTECTION OF REFUGEES INTO THE UNITED NATIONS SYSTEM

7. The initiative on refugees taken by the Government of the Federal Republic of Germany at the thirty-fifth session of the General Assembly is an integral part of a comprehensive concept. It transcends the humanitarian action and the integration or reintegration of refugees which have been effected hitherto and embraces the establishment of a system of preventive measures for the protection of refugees

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2/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 12 (A/35/12 and Add.1).

within the framework of the United Nations. The refugee problem is a growing threat to good-neighbourly relations between States and has thus become a problem of international order. Particularly in the Third World, unresolved refugee problems endanger the political and social stability and the economic development of the States and regions affected. The prevention of flows of refugees across national frontiers is, therefore, not the concern of individual States alone but of the international community as a whole. From the conceptual point of view, the efforts of the international community have until now centred on the humanitarian task of mitigating the consequences of flight and expulsion for the people affected. Measures to eliminate the causes of flows of refugees were not seriously considered. From the institutional point of view, especially the experience of the two Geneva conferences on refugees in July 1979 and May 1980 showed that the United Nations does not possess de facto an institutional basis for a system of preventive measures for the protection of refugees, although the fundamental elements for it are contained particularly in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV) of 24 October 1970).

8. According to Article 1 of the Charter of the United Nations, the purposes of the United Nations are, inter alia:

"1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

"2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

"3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion".

Accordingly, the Charter of the United Nations (Articles 10, 11, 13, 14, 35) states that one of the tasks of the General Assembly is, for the purpose of promoting co-operation in the maintenance of international peace and security as well as international political co-operation and the development of friendly relations between States, to elaborate general principles and - except as provided in Article 12 - make recommendations. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States represents a landmark in the efforts of the General Assembly to give concrete expression, in accordance with the Charter, to the principles of friendly relations and co-operation among States.

9. Flows of refugees across national frontiers are a special problem in the sphere of international relations. Their causes and effects belong in part to the province of maintaining international peace and security as well as friendly relations and co-operation among States, and in part to the province of promoting and encouraging respect for human rights and fundamental freedoms. The debate at the thirty-fifth session of the General Assembly on item 122 showed that the vast majority of States see the main causes of flows of refugees as being, on the one hand, certain forms of conduct by States and, on the other, natural disasters and similar unforeseeable emergency situations beyond the control of States.

10. From the conceptual and the institutional point of view it is important that ways and means be found, in conformity with the Charter of the United Nations, of coping with refugee problems even before they begin to occur. The ever-increasing number of refugees, particularly in Third World countries, demonstrates quite clearly that steps to avert flows of refugees must in future be directed at their root causes. This requirement was stressed during the debate on item 122 especially by those Third World countries which are particularly seriously affected by mass refugee movements. For instance, on 28 November 1980 the representative of Pakistan stated (A/SPC/35/SR.44, para.33) that

"relief assistance was no solution to the problem which had its roots in the conduct of States and which had repercussions in other nations and continents. An increasing number of countries, especially developing countries, were affected by large-scale refugee movements. They had to bear social, economic and political burdens which they were scarcely able to cope with. The resultant difficulties could also endanger the domestic order of those nations and the stability of entire regions as well as world peace and security. The international community thus had to go beyond the humanitarian aspects of the refugee problem and address itself, on a priority basis, to the need for finding a solution to the root causes of that problem".

11. During the thirty-fifth session of the General Assembly, the Government of the Federal Republic of Germany proposed that the gap existing de facto in the United Nations system as regards preventive measures for the protection of refugees should be filled by drawing up "Guidelines for the conduct of States" as well as "Practical preventive measures", including the establishment of a special body. The Government of the Federal Republic of Germany assumes that a suitable legal and political framework is provided for this especially by the Charter of the United Nations, the friendly relations Declaration of 24 October 1970 and other relevant international instruments.

### III. GUIDELINES FOR THE CONDUCT OF STATES

12. General guidelines for the conduct of States to avert new flows of refugees cannot and should not of course refer to specific individual cases, but should instead aim at general prevention. They are therefore based on abstract conditions which are known from experience to be a potential cause of refugee movements. In carefully examining such guidelines, the following 10 principles might be developed and expanded:

A. Guideline 1

The principle that the prevention of cross-frontier flows of refugees is, because of their potentially destabilizing political, economic and social effects on countries and regions of the Third World in particular, a matter concerning the international community as a whole and that all States will do everything within their power to prevent the emergence of refugee problems engendering international tension.

13. This principle reaffirms the conviction of the majority of States, as reflected in the debate on item 122 at the thirty-fifth session of the General Assembly and in resolution 35/124, that the United Nations is called upon to take action to counter the occurrence of refugee movements across frontiers. This principle states clearly that these destabilizing flows of refugees have not only a humanitarian but also a political dimension. It gives concrete expression to, and develops further, the basic idea contained in the preamble to the 1951 Convention relating to the Status of Refugees that the international community should strive to do everything within its power to prevent the occurrence of tension between States as a result of incipient refugee movements across frontiers.

B. Guideline 2

The principle that States are obliged to co-operate with one another and with international governmental and non-governmental organizations in accordance with the Charter of the United Nations and the Declaration concerning Friendly Relations and Co-operation among States for the purpose of preventing cross-frontier flows of refugees.

14. This principle of co-operation among States and with international governmental and non-governmental organizations in the field of preventive measures for the protection of refugees is a synthesis and concretization of the co-operation provisions contained in Article 2, paragraph 5, of the Charter of the United Nations and in the Declaration concerning Friendly Relations and Co-operation among States.

C. Guideline 3

The principle that none of the present principles prejudices the internationally recognized right of each individual to leave any country, including his own, and to return to his country.

15. This reaffirmation of the principle contained in Article 13, paragraph 2, of the Universal Declaration of Human Rights (General Assembly resolution 217 (A) III of 10 December 1948) is intended to make it clear that the objectives of the guidelines for the conduct of States to avert new flows of refugees do not justify any action by any State preventing its citizens or other persons from leaving its territory or returning to it against their declared will.

D. Guideline 4

The principle that States shall, in conformity with the Charter of the United Nations and the Declaration concerning Friendly Relations and Co-operation among States, settle international disputes and situations which are a potential cause of new cross-frontier flows of refugees by peaceful means in such a manner that international peace and security and justice are not endangered.

16. With a view to future cross-frontier flows of refugees, this guideline provides a specific instance of the universally recognized obligation of States under existing international law to settle disputes by peaceful means. The inclusion of this principle in the guidelines for the conduct of States to avert new flows of refugees is intended to re-affirm the principle of peaceful settlement of disputes in this sector of international relations.

E. Guideline 5

The principle concerning the duty of States, in accordance with the Charter of the United Nations and the Declaration concerning Friendly Relations and Co-operation among States of 24 October 1970, not to interfere in matters within the domestic jurisdiction of a State, especially not in such a manner that is likely to produce new flows of refugees.

17. Like guideline 4, this principle also gives concrete expression to a universally recognized principle of international relations in connexion with the prevention of new flows of refugees: It derives from direct application of the principle of non-interference in the internal affairs of another State, as contained in the Declaration concerning Friendly Relations and Co-operation among States.

F. Guideline 6

The principle that no State shall compel by the threat or use of force elements of its population to leave its territory, thereby imposing burdens on other States.

18. The debate on item 122 at the thirty-fifth session of the General Assembly and the adoption of resolution 35/124 expressed quite clearly the conviction of the vast majority of States that the forcible expulsion of entire elements of a population imposing burdens on other States is incompatible with the principle of friendly relations and co-operation among States. This conviction is based on the perception that States are entitled to protection against the destabilizing political, economic and social effects which cross-frontier refugee movements have on their domestic order and that, furthermore, all States are free to decide whether to provide asylum for refugees. The proscription of expulsion is designed, in the present case, to protect States of first and final asylum alike as well as the entire international community. The basic idea underlying this proscription of expulsion is already contained in essence in various international treaties

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(cf. article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide, article 3 of the Convention relating to the Status of Refugees, and article 27 of the International Covenant on Civil and Political Rights).

G. Guideline 7

The principle that no State shall through administrative measures deprive elements of its population of the minimum political, economic, social and cultural requirements for their existence, thereby compelling them to leave the State and imposing burdens on other States.

19. Past experience has shown that administrative measures taken with the intention of compelling particular elements of a population to leave a State may have the same impact on neighbouring States in particular as forcible expulsion. Obvious cases of expulsion by administrative measures must therefore be regarded as tantamount to forcible expulsion, provided that the intention of expulsion is clearly identifiable. This idea was expressed in the debate on item 122 and by the adoption of General Assembly resolution 35/124.

H. Guideline 8

The principle that no State shall take administrative measures discriminating against elements of its population on account of nationality, ethnic origin, race, religion or language, thereby compelling them to leave the State and imposing burdens on other States.

20. This principle is needed to supplement guideline 7 because it is known from experience that not only the elimination of the minimum requirements for existence by administrative measures but also deliberate systematic discrimination against elements of a society may result in flows of refugees.

I. Guideline 9

The principle that all States seek to achieve a domestic political, economic and social order which does not compel any elements of the population to leave the State.

21. With a view to averting new flows of refugees, this guideline gives concrete expression to principles contained especially in the Charter of the United Nations, the Universal Declaration of Human Rights, and the International Covenants on Civil and Political Rights as well as Economic, Social and Cultural Rights. Accordingly, all States should seek a domestic order in which the rights and freedoms set forth in those instruments can be fully realized (e.g. article 28 of the Universal Declaration of Human Rights).



J. Guideline 10

The principle that all States are called upon, in the event of natural disasters and similar unforeseeable emergency situations, to provide assistance to the best of their ability so as to prevent the occurrence of refugee movements.

22. Past experience especially in certain regions of Africa, Asia and Latin America has shown that not only international conflicts, the threat or use of force within States, and administrative coercive measures, but also natural disasters and similar unforeseeable emergencies may result in an exodus of refugees. It is a moral requirement for the international community to provide immediate assistance to the best of its ability for the State or region affected by such events due to force majeure and also to promote the rendering of assistance by others so as to prevent cross-frontier refugee movements.

IV. PRACTICAL PREVENTIVE MEASURES

23. The Government of the Federal Republic of Germany is convinced that practical preventive measures, including the associated institutional aspects, are a necessary and appropriate pragmatic means of averting new flows of refugees and that they must be developed alongside the above general guidelines for the conduct of States. General guidelines on their own can only be of very limited effectiveness. Definite concepts must therefore be developed with regard to the fields in which States, regional organizations, the United Nations and its individual organs and specialized agencies, as well as non-governmental organizations, can take action.

24. The Government of the Federal Republic of Germany feels that functions should be assigned to institutions already in existence, provided that they have the structural capacity to perform them. Practical preventive measures cannot, however, in the Federal Government's view, be implemented solely by the Security Council or the General Assembly or by any other United Nations institutions such as UNHCR or UNDRO. UNHCR is empowered to deal exclusively with the humanitarian aspects of refugee movements that have already occurred. This task would be rendered excessively difficult, if not impossible, if UNHCR had to implement practical preventive measures as well. Like other institutions, UNDRO would only have the structural capacity for very limited action.

25. The Federal Government therefore considers it expedient to set up a special body of the General Assembly to deal with practical preventive measures. During the debate on item 122 at the thirty-fifth session of the General Assembly, those States which had particularly strong reservations about establishing a system of preventive measures for the protection of refugees within the framework of the United Nations, especially the establishment of a special body, acknowledged in principle that it is incumbent upon the General Assembly to take action in this sphere (e.g. A/SPC/35/SR.44, para. 36; A/SPC/35/SR.45, paras. 9, 11, 19; A/SPC/35/SR.46, para. 30; A/SPC/35/SR.47, para. 22). Pursuant to Article 22 of the United Nations Charter and the general practice of the General Assembly, the latter

is indisputably authorized to transfer to a subsidiary organ functions which it is itself entitled to perform.

26. The functions and field of action of such an organ would have to be clearly defined so as to avoid duplication of work and take account, in conformity with the Charter, of the exclusive powers of other United Nations organs, especially the Security Council, and the principle of non-interference in matters within the domestic jurisdiction of a State. Pursuant to Article 22 of the Charter, the General Assembly may assign to such a special organ for international co-operation to avert new flows of refugees the task of carrying out fact-finding at the request of one or more affected States and making recommendations.

27. A basic requirement for the proper functioning of such an organ is the availability of reliable data. The General Assembly has on several occasions stressed the importance of effective impartial fact-finding for the prevention of international disputes or situations likely to impair friendly relations between States (e.g. Assembly resolution 1967 (XVIII) of 16 December 1963; Assembly resolution 2329 (XXII) of 18 December 1967). In the Federal Government's view, the organ could, at the request of one or more affected States, monitor and analyse on a continuous basis situations relating to refugees. In so doing, it would be dependent upon information from, and co-operation with, States, regional organizations, other United Nations organs and specialized agencies, and non-governmental organizations. Faced with situations relating to refugees, it might also consider the following practical measures:

- (a) Recommend States to consult with one another;
- (b) Recommend States, regional organizations, United Nations organs and specialized agencies, and non-governmental organizations to provide the organ with information on situations relating to refugees;
- (c) Recommend the States concerned to take certain aspects into account so as to avert new flows of refugees;
- (d) Draw the attention of States and competent international governmental or non-governmental organizations to the relief measures needed in the event of natural disasters and similar unforeseeable emergency situations;
- (e) Draw the attention of the Security Council to situations relating to refugees which might endanger international peace and security.

28. Pursuant to Article 22 of the United Nations Charter and the general practice of the main organs of the United Nations, it is incumbent upon subsidiary organs, such as the special organ, to submit regular reports on the performance of their assigned functions to the organ to which they are accountable.

## V. FUTURE PROCEDURE

29. In its resolution 35/124, the General Assembly invited all Member States to convey to the Secretary-General their comments and suggestions on international co-operation to avert new flows of refugees and to facilitate the return of those refugees who wish to return. It also decided to include in the provisional agenda of its thirty-sixth session the item entitled "International co-operation to avert new flows of refugees".

30. The fact that 105 States voted in favour of resolution 35/124 clearly expresses the concern of the vast majority of States at the ever-growing number of refugees in many parts of the world. It also gives expression to the conviction that the United Nations is called upon to go in future beyond the purely humanitarian aspects of refugee movements and consider possible measures for preventing such movements. In the light of the debate on item 122 at the thirty-fifth session and resolution 35/124 and in view of the comments and suggestions which all Member States are invited to submit, it continues to be the view of the Government of the Federal Republic of Germany that a comprehensive and objective review is required with regard to the problem of measures to avert new flows of refugees. In the Federal Government's opinion, such a review could best be accomplished by the establishment of an "ad hoc committee on the improvement of international co-operation to avert new flows of refugees" at the thirty-sixth session of the General Assembly of the United Nations.

31. The mandate of this ad hoc committee might read as follows:

"To carry out, with a view to improving international co-operation to avert new flows of refugees, a comprehensive review of all relevant aspects of the refugee problem, especially with regard to the development of general guidelines for the conduct of States and practical preventive measures".

GREECE

[Original: English]

[11 September 1981]

1 The recurrent flows of refugees are a matter of great concern to the Greek Government for not only are they a very serious problem in themselves, but more often than not they also create problems among neighbouring countries, thereby adding new threats to the international peace and security.

2. Prompted by this concern, the Government of Greece did not hesitate to give its full support to the inclusion of the item entitled "International co-operation to avert new flows of refugees" to the agenda of the thirty-fifth session of the General Assembly and to co-sponsor resolution 35/124.

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3. This resolution, however, should only be considered as a first step. Others must follow in order to achieve a full and comprehensive study of the whole problem, and in particular of the causes that lead to the massive exodus of populations which plague today's world, with a view to establishing an effective system for the prevention of this phenomenon. This is all the more necessary in view of the new floods of refugees which have occurred since the adoption of the resolution.

4. The Greek Government is, accordingly, of the opinion that the whole question should be taken up once more by the General Assembly at its forthcoming thirty-sixth session and that a thorough study should be carried out, as far as possible, by existing United Nations bodies. However, if the need should arise, Greece would have no objection to the establishment of an ad hoc committee, whose specific mandate would be to undertake a full and detailed study of the flows of refugees and of their causes.

INDIA

[Original: English]

[11 September 1981]

1. The problem of refugees has assumed grave proportions during the past two decades and has placed an increasing burden on the international community. The exodus of peoples seeking refuge in foreign lands, however, is a symptom of a far deeper malaise afflicting the international system. To prevent new flows of refugees, a new system of international relations based on respect for independence, equal rights and co-operation and for equal security, prosperity and development of all peoples needs to be established.

2. Judging from the debate on this item which took place in the Special Political Committee in 1980, the fundamental causes for the exodus of refugees have been identified as:

- (a) Violation of human rights;
- (b) Economic disparities between nations and regions;
- (c) Internal or regional instability and foreign aggression.

It is to be noted that the international community already has adequate machinery for dealing with these fundamental causes. The promotion of human rights is covered by several subsidiary organs of the General Assembly and the Economic and Social Council such as the Human Rights Committee, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The question of restructuring the current inequitable state of international economic relations and the establishment of the new international economic order has been taken up in the General Assembly and various other specialized forums, such as UNCTAD.

3. The Security Council and the General Assembly are the principal organs for the maintenance of international peace and security, of the non-use or threat of use of force against the territorial integrity or political independence of any State and for the peaceful settlement of disputes.

4. The international community also has more than adequate sets of guidelines for the prevention of situations which lead to flows of refugees. Such guidelines and provisions, for example, are contained in the Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations; the Universal Declaration on Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of all Forms of Racial Discrimination; the Declaration and the Programme of Action for the Establishment of the New International Economic Order; and above all, the Charter itself of the United Nations.

5. It will thus be seen that the international community has at its disposal a surfeit of machinery and guidelines to prevent new flows of refugees and to facilitate the return of existing refugees to their homelands.

6. During deliberation on this item in the Special Political Committee in 1980, suggestions were made with regret to the establishment of new machinery for the promotion of international co-operation to avert new flow of refugees. In this context, it is worth considering the fact that if the Security Council, with all the authority vested in it by the Charter, cannot achieve the vacation of foreign aggression in certain parts of the world and cannot restore the inalienable rights of peoples and nations under foreign occupation and domination, such as the Palestinian and Namibian peoples, a subsidiary organ of the General Assembly is hardly likely to achieve these desired results.

7. A proposal has been made for the establishment of an ad hoc committee to study further the question of international co-operation to avert new flows of refugees. In view of the magnitude and topicality of the problem, this proposal merits serious consideration. Any such consideration should scrupulously abide by the relevant provisions of the Charter concerning the inadmissibility of interference in the internal affairs of States.

#### IRELAND

[Original: English]

[17 August 1981]

1. Ireland welcomed the decision of the General Assembly at its thirty-fifth session to begin the examination of ways in which the international community could co-operate to avert new flows of refugees. Given the present scale of refugee problems, the suffering and dangers which refugees have to endure, and the burden placed on the resources of receiving States, Ireland considers that an examination of the causes of refugee flows is timely and urgent.

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2. Such a new approach to the refugee problem should, of course, complement and not replace existing efforts to resolve current refugee problems and to alleviate suffering. - This approach should take account of principles which have already been agreed by the international community, principles contained in the Charter of the United Nations, the Convention relating to the Status of Refugees, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States and other relevant United Nations instruments. Ireland would hope that, drawing on and developing these principles and taking due account of the varied causes of specific refugee flows, a series of principles could be elaborated in the form of a declaration which would make clear and explicit the duty of States to act to avert new flows of refugees and to establish that obligation in international law.

3. In the examination of this problem, it will also be appropriate to consider how the United Nations and its agencies can best contribute in a practical way to averting flows of refugees.

4. Ireland looks forward to further discussion of these issues at the forthcoming session of the General Assembly and trusts that the Assembly will also consider how it can most expeditiously reach concrete conclusions on this item.

ITALY

[Original: English]

[3 July 1981]

1. During the thirty-fifth session of the General Assembly, Italy welcomed the initiative taken by the delegation of the Federal Republic of Germany concerning international co-operation to avert new flows of refugees, and co-sponsored the relevant resolution 35/124.

2. Italy is well aware of the seriousness of the phenomenon, which has recently assumed dramatic proportions, endangering both relations between neighbouring States and the internal order of affected countries.

3. Italy expresses the hope that the international community will take suitable initiatives to establish an effective system of prevention of massive flows of refugees without restricting the free movement of individuals or imposing limits upon the principle of asylum.

4. A first step might be achieved through the definition of guidelines based on the need for universal respect of human rights and fundamental freedoms, of the principle of peaceful settlement of disputes, and of the Declaration of Friendly Relations between States.

5. Special attention should be given to the determination of appropriate means to permit the voluntary repatriation of refugees in the countries of origin and to establish an equitable burden-sharing between all interested States.

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6. Italy is confident that the debate during the next session of the General Assembly will allow a better perception of the roots of the phenomenon and a thorough examination of the most convenient practical measures to reduce its impact. Discussion might continue, if needed, in an intersessional working group.

#### JAPAN

[Original: English]

[20 July 1981]

1. Refugee problems the world over are becoming more serious every year. In particular, massive flows of refugees have not only become great economic and social burdens on the countries that receive them but are also factors threatening international peace and stability.
2. The international community - principally the United Nations thus far - has provided humanitarian assistance to these refugees and has had great success in relieving their plight. Japan, for its part, has made substantial contributions to these international efforts.
3. However, since the flows of refugees have not ceased, the present situation, in which the total number of refugees is said to have risen to ten million worldwide, shows that we can no longer respond to this problem only by treating symptoms, dealing with a flow of refugees after it has already commenced. The Government of Japan, recognizing that the problem of refugees is basically political in nature and that there can be no fundamental solution of this problem unless efforts are made to eliminate causes of refugee flows such as conflict, oppression, and racial discrimination, has appealed to international opinion, at the Meeting on Refugees and Displaced Persons in South-East Asia in 1979, at the Meeting on Humanitarian Assistance and Relief to the Kampuchean people in 1980 and at other meetings, to recognize the importance of stopping at their sources flows of refugees. Because it held such view, Japan strongly supported General Assembly resolution 35/124, in which the Assembly proposed that the United Nations examine and study how international co-operation might avert flows of refugees.
4. Japan believes that to achieve such international co-operation, specific measures should be developed and studied, with proper respect being observed for both the principle of non-interference in internal affairs established under international law and the right of everyone to leave any country, including his own, set forth in Article 13 of the Universal Declaration of Human Rights and provided for in article 12, paragraph 2 of the International Covenant on Civil and Political Rights.
5. As for specific measures, Japan is of the view that the proposal by the Federal Republic of Germany during the thirty-fifth session of the General Assembly, in 1980, that the United Nations formulate an international code of conduct as a set of guidelines that would discourage countries from pursuing policies which may create massive flows of refugees, will serve the purpose of

encouraging those countries from which refugees are at present flowing or may in the future flow to create conditions such that events would not occur. The proposal therefore, in the opinion of the Government of Japan, deserves serious consideration.

6. Although various difficulties can be expected in the course of attempting to find a solution to the problem of averting refugee flows, the Government of Japan hopes that the United Nations will play a positive role in this field.

#### NETHERLANDS

[Original: English]

[3 September 1981]

1. In the light of the grave international concern over both the significant increase of the number of refugees in the world and the serious situation in which many refugees find themselves, the Netherlands Government appreciates the efforts undertaken during the thirty-fifth session of the General Assembly to discuss measures aimed at eliminating or reducing the root causes of international flows of refugees. Such a discussion could be a valuable contribution to the continuous efforts to analyse and come to grips with the refugee problems in the world today and might also lead to more effective measures aimed at preventing refugee flows.
2. When talking about root causes, it first of all has to be kept in mind that these causes are many and varied. They are not only political in nature but may also have an economic or ecological background. Secondly, the political causes are by no means homogeneous. They can differ substantially as is illustrated by, e.g., on the one hand the causes of the refugee flows in South-East Asia and on the other hand the causes of several refugee flows in Africa. It is clear that the many different causes of refugee flows require different approaches when attempts are made to eliminate them.
3. Although no efforts have been made to compile the different approaches so far, it would appear that many find their basis in international instruments or have been the subject of discussion in international fora. The Universal Declaration of Human Rights, the Declaration of International Law concerning Friendly Relations and Co-operation among States, the Good Offices of the Secretary-General of the United Nations, etc. all contain elements of or are conducive to the solution or prevention of refugee problems.
4. For the purposes of ongoing discussions and as a basis for improved and more effective efforts to avert new flows of refugees, it is of great value to gain a better insight into the wide range of existing principles and approaches. However, the question may be asked whether an effective and flexible application of these principles and approaches might not be hampered if they would be transformed into a limited and integrated instrument. Possibly, the highest degree of effectiveness and flexibility in their application would be best maintained if they are looked upon as a collection from which in a given situation the most suitable selection can be made.



5. The Netherlands Government, although in favour of an ongoing discussion on the problems relating to refugee flows, has certain hesitations concerning the setting up of special organs within the United Nations for the conduct of these discussions. The setting up of new organs should not adversely affect the desired flexibility in approach. Moreover, in the conduct of the discussions care has to be taken to prevent the now existing system of international humanitarian assistance to refugees from being hampered in any way by the search for solutions to the (sometimes political) root causes of flows of refugees.

#### NEW ZEALAND

[Original: English]

[26 August 1981]

1. The New Zealand Government has actively participated in refugee relief and allocated a part of its aid resources to easing refugee situations, particularly those affecting our South-East Asian neighbours. Along with other countries New Zealand is conscious that the international community has a limited capacity to find lasting solutions to the burgeoning refugee flows and that ways of solving refugee problems at their source are now required. Accordingly, it is New Zealand's firm view that, in respect of the magnitude of existing refugee situations, their destabilizing effects on host countries and regions, their toll in human misery and their heavy cost to the international community, there is a compelling case for Member States to make a concerted effort to reach agreement on measures to avert refugee flows at their inception.
2. Recognising that refugee flows have their origin in complex sets of circumstances, New Zealand favours a comprehensive and objective study that would identify such measures and open the way for Member States to reach an agreement on them. A study of this kind should pay regard to the comments and suggestions of Member States, take full account of the views and work of international agencies having special expertise in the field of refugee flows, notably the Office of the United Nations High Commissioner for Refugees, and take into consideration parallel studies such as that on human rights and massive exoduses commissioned by the Commission on Human Rights.
3. It is considered that a leading requirement of a review would be an examination of the present body of international law with regard to those provisions which are relevant to precluding refugee situations. The identification of these measures and the responsibilities they carry would be a principal objective. The review might also assess the possibility of further developing international law bearing on the question of refugee flows.
4. In this connexion, consideration might be given by the General Assembly to the formation of a working group to undertake a study of the kind mentioned and to formulate recommendations on measures to avert new flows of refugees and the means of facilitating the return of those refugees who wish to do so.

NORWAY

[Original: English]

[28 August 1981]

1. The Norwegian Government shares the deep concern that has been expressed regarding the increasing flow of refugees in many parts of the world. The serious situation that now exists must be dealt with by the international community in an effective way. Norway was therefore pleased to co-sponsor resolution 35/124 adopted at the last session of the General Assembly and which may serve as a starting point for our efforts.
2. The effects of the flows of refugees are multiple. First of all, millions of refugees suffer individual hardship and are forced to live under sub-human conditions. The influx of large number of refugees might also destabilize whole regions, and the receiving countries are often faced with insurmountable problems. Developing countries are particularly affected as the stream of refugees often add strain on their already scarce resources.
3. Norway is convinced of the need to improve the ability of the international community to anticipate conflicts that have a high potential for generating refugees and thereby be better prepared to meet needs emanating from such conflicts. This can effectively only be done through international co-operation. A task of such a magnitude should find its place within the framework of the United Nations, and the Organization must be prepared to provide the necessary institutional capacity.
4. When considering what can be done in order to remove - or minimize - the root causes of many massive flows of refugees, it should be borne in mind that there already are in existence several important international instruments which prohibit acts of aggression and violations of basic human rights.
5. The Charter of the United Nations, the Universal Declaration of Human Rights, the international covenants of human rights contain provisions and obligations which are relevant to the questions of what causes the flow of refugees. The implementation of these and other international obligations should both be studied and encouraged.
6. The viewpoints expressed by the States Members of the United Nations in accordance with General Assembly resolution 35/124 need to be carefully evaluated. Such an evolution together with a review of the relevant aspect of the refugee problem should form the basis for further action by the international community.

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OMAN

[Original: Arabic]

[15 July 1981]

1. The problem of refugees is not new to the United Nations. It is quite evident that it accords great attention and importance to this problem. The best indication of this is the establishment by the United Nations of the Office of the United Nations High Commissioner for Refugees, which plays an important humanitarian role in the provision of food, clothing and relief to the millions of human beings known to us as refugees.

2. The problem of refugees is growing and becoming more serious daily. If we look squarely at the essence of this problem, we find that one of its causes lies in international consideration of this problem from the humanitarian aspect without any serious attempt to treat its causative factors resulting from political developments, and these factors must therefore be eradicated.

3. The international community and the United Nations are called upon today to consider the issue from the fundamental aspect of this problem, namely, the political aspect. They must study the causes of this problem and endeavour to devise preventive means to prevent it from increasing. They must embark on the consolidation of the principles of co-operation among the States and organizations concerned in order to guarantee the legitimate rights of refugees to life and to return to their homes, as well as their exercise of human rights without fear or terrorization. An end must be put to the causes which lead to collective emigration in tremendous numbers, such as we see in our age on the world stage, particularly on the continents of Asia and Africa.

QATAR

[Original: Arabic]

[31 March 1981]

1. The State of Qatar shares the international community's awareness of the gravity of the refugee problem and its concern for the adoption of appropriate measures to remedy the occurrence of new outflows of refugees. These outflows increase the complexity of the problem of refugees in the world and increase the burden of this problem on the international community generally and on certain small and poor States in particular. These are the States to which the refugees repair.

2. The State of Qatar considers that, in order to guarantee the effectiveness of measures to prevent the occurrence of new outflows of refugees, it is essential to distinguish the factors which cause the phenomenon. These factors may be summarized under two basic heads, namely:

(a) The policy of aggression and expansion followed by certain States, which have led, and are still leading, to the occurrence of outflows of refugees. The flagrant example of this is the policy of aggression being followed by Israel, which has created the problem of refugees in the Middle East. Because of Israel's persistence in its policy of aggression and expansion, particularly in southern Lebanon, this region is still the scene of new outflows of refugees, which increases the burden on the neighbouring Arab States, as well as the suffering of these refugees. The international community is called upon to put a halt to the policy of aggression and expansion being followed by Israel, in order to stem the outflow of refugees in the Middle East.

(b) The economic difficulties faced by some small countries. This factor is often linked with political factors, such as political unrest and political coercion resulting from a difference in ethnic origins, political orientations or religious beliefs. The treatment of these factors, individually or collectively, requires international co-operation to assist the poor countries economically and to exert international efforts to put an end to political unrest and effect national reconciliation among opposing parties and groups in order to ensure political stability. International or regional organizations can play an important role to this end, particularly in Africa, which is the scene of many political disturbances and civil wars, making the problem of refugees an acute problem in Africa, which has more than 50 per cent of the refugees in the world. The burden of refugees is increasing for some countries, in particular, the Sudan and Somalia, which bear more than their capacity because of the exodus of refugees to them from neighbouring countries such as Uganda, Chad and Eritrea.

3. With regard to the right of voluntary return to the country of origin, the State of Qatar considers that the implementation of this right calls for two things from the international community: firstly, the furnishing of assistance to help the refugees who choose to return to their country of origin; and secondly, removal of the obstacles standing in the way of those refugees who wish to return.

#### SYRIAN ARAB REPUBLIC

[Original: English]

[7 April 1981]

1. The Government of the Syrian Arab Republic considers that the policies and practices of the racist, imperialist and oppressive régimes, such as South Africa and Israel, their aggressiveness, their occupation of other peoples territories and compelling the original inhabitants of these territories to flee their lands and homes, are the major causes of the refugee problem and flows of refugees.

2. The military, economic and political support which the racist and colonial régimes receive help them to tighten their oppression, intensify their aggression against the peoples of these areas, and contribute to the magnitude and aggravation of the refugee crises.

3. The Government of the Syrian Arab Republic is of the view that the racist and colonial régimes and the powers which support them bear the main responsibilities for the refugee problem. The international community, especially the major Powers, bears the political responsibility to strive for the return of refugees to their homes in their countries, as well as the economic, financial and social responsibilities in providing the humanitarian aid to those refugees.

4. The Government of the Syrian Arab Republic views that the aid to the receiving States, especially the developing countries which host refugees, victims of the racist, colonial and aggressive régimes, should be continued until the complete return of all refugees to their homelands from which they have been uprooted.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

[Original: English]

[10 July 1981]

1. The United Kingdom co-sponsored General Assembly Resolution 35/124 because it agreed that the international community should collectively acknowledge the serious situation that now exists in the world where there are 15 times as many refugees as two decades ago, and should seek to discourage States from taking action in the future which might result in further flows of refugees.

2. Many of the refugees in the world have fled from natural disasters such as drought, flood or earthquake. It is important that the international community should assist States to do what they can to prevent or mitigate the consequences of such disasters. It is also important that international efforts to relieve the victims of such disasters should be as effective and as well co-ordinated as possible. These are questions which are already being pursued in the United Nations system. Under the present item the United Kingdom assumes that the General Assembly will wish to concentrate upon the question of averting future flows of refugees arising from causes set out in paragraph 1 of resolution 35/124.

3. Such flows have their origins in civil conflict, domestic repression or external invasion. The steps which Member States, either individually or collectively, might take to discourage the creation of refugee flows are bound to differ from situation to situation and will often be subsumed in wider efforts to resolve a particular crisis or alleviate a particular situation as a whole.

4. The Charter of the United Nations, the Universal Declaration of Human Rights and many other international instruments already proscribe the acts of aggression and the violations of human rights which are the root causes of many refugee flows. The United Kingdom believes that the General Assembly should draw attention to the provisions of those instruments that are relevant to the subject of averting future flows of refugees, and should reaffirm them. The United Kingdom hopes that this will help to remind Member States of their duty to conduct both their domestic policies and their relations with each other in such a way as to avoid creating refugee flows with all the misery they involve for the refugees themselves and the burdens they impose on other states.

5. It will be desirable for the General Assembly to take into account the study of the question of human rights and mass exoduses which has been called for by the Commission on Human Rights.

#### UNITED STATES OF AMERICA

[Original: English]

[15 July 1981]

#### I. INTRODUCTION

1. The flow across international borders of refugees seeking escape from persecution and danger has increased tragically in recent years. These exoduses have caused extreme suffering and often death to the refugees, most of whom are innocent of the events which forced their flight and many of whom are children. Mass refugee flows impose serious burdens also on receiving countries. Many of the countries of asylum that have received recent refugee flows are developing countries with limited ability to absorb large numbers of destitute and ill refugees. In such countries, the influx of refugees can threaten the political and social stability of the host Government and society. In some instances, refugee flows constitute a threat to international peace and order.

2. Historically, mass exoduses of people generally have been unplanned and unintended results of wars between or among countries or of civil disturbances within a country. More recently, however, a profoundly disturbing trend has appeared. Governments have deliberately expelled large numbers of their nationals either to rid their countries of elements not ideologically or otherwise acceptable to the Governments, to inflict a burden on other countries, or for both reasons.

3. Great efforts have been made by the Governments and peoples of many countries and by international and other organizations to meet the responsibilities of the entire international community to receive, assist and protect refugees. Such efforts must continue until the plight of the millions of refugees around the world has been eased.

4. Caring for refugees is not sufficient, however, as United Nations General Assembly resolution 35/124, passed by a vote of 105 members of the United Nations, affirms. It is necessary for the international community to consider ways to avert new flows of refugees.

#### II. OBLIGATIONS OF STATES

5. Basic to the prevention of new flows of refugees is the acknowledgement by States of their obligations, under international law and based upon the need to preserve international peace and order, not to create or maintain conditions, circumstances or policies which give rise to new flows of refugees.

6. The obligations of States to receive, assist and protect bona fide refugees and not forcibly return them to their countries of origin are well established (convention and protocol relating to the status of refugees) and generally observed. These obligations must continue to be observed. No measure by a sending State, no matter how improper or illegal, can excuse a receiving State from its obligations to refugees. By the same token, the reception of refugees by another State in no way relieves the sending State of its obligation to avert new flows of refugees or to receive back its nationals.

7. The obligations of potential sending States, with regard to the movement of persons across national boundaries, are likewise established in various international instruments and customary international law. Because these latter obligations have been so flagrantly violated in recent years, the United States Government considers it important to reaffirm these obligations and to consider means to assure their observance. The United States Government considers that potential sending States have the following obligations relevant to the movement of persons across national boundaries:

- (a) To permit persons within their borders freely to leave their territory;
- (b) To permit nationals of a country to return to that country;
- (c) To avoid policies and practices that would cause significant elements of the population to flee to other countries, i.e.:
  - (i) Refraining from political, economic or social discrimination against elements of the population within a country on the basis of ethnic, religious, racial, linguistic or economic characteristics;
  - (ii) Refraining from arbitrary and forced expulsions of persons from a country;
- (d) To respect the territorial integrity of other States;
- (e) To settle disputes between and among States by peaceful means;
- (f) To respect the immigration laws, relating to entry, of other States; specifically, no State should instigate flows of refugees from its territory into that of another State against the will of the receiving State;
- (g) To refrain from use of refugee flows to cause instability or other harm to other States;
- (h) To co-operate with Governments of receiving States at their request, so that movement of persons across borders is orderly and non-disruptive.

8. It is the opinion of the United States Government that all of the above listed obligations on States are explicitly or by clear and strong implication contained in existing customary or conventional international law. Nevertheless, the practice of some Governments in recent years inescapably indicates a need for the States Members of the United Nations to review, reaffirm and, if necessary, augment the body of international law dealing with the obligations of States as they affect the creation of new flows of refugees.

### III. MEASURES TO ASSURE OBSERVANCE OF OBLIGATIONS

9. The failure of some States to honour their obligations, thereby creating huge exoduses of their nationals and residents, argues for the establishment of an institutional mechanism. Such a mechanism would identify and monitor situations that threaten to result in new flows of refugees, investigate such situations when appropriate and alert the membership of the United Nations to situations requiring action by the General Assembly, Security Council or other entities of the United Nations.

10. It has been suggested that the General Assembly establish a special body to serve the above purposes. However, there is a general consensus among Member States against the creation of new entities under the General Assembly. It would be preferable to many members if the functions desired could be performed by existing entities. Apart from the General Assembly and the Security Council, there are other United Nations bodies that could consider the seriousness of potential refugee situations. They include the Commission on Human Rights or the Executive Committee of the United Nations High Commissioner for Refugees. A Member State that perceived a situation threatening to result in new flows of refugees could notify the chairman of the designated committee and state the reasons for its apprehension. The chairman could then ask for an investigation and a report including, as appropriate, recommendations on how to deal with the situation.

11. On the basis of the report, the chairman or a member State of the commission or committee could call an emergency session of the commission or committee to:

- (a) Examine the report of the investigator;
- (b) Examine the claims of the Government or Governments that requested the meeting;
- (c) Discuss the situation on the basis of the report and testimony;
- (d) Decide on appropriate action, which might include:
  - (i) Submitting recommendations to the Government of the State in which the situation at issue exists;
  - (ii) Submitting recommendations to the Security Council to consider and act on the situation;
  - (iii) Submitting recommendations to a special or regular session of the General Assembly to consider and act on the situation;
  - (iv) Calling on the Secretary-General to take action;
  - (v) Recommending to the General Assembly that it request an advisory opinion of the International Court of Justice on legal aspects of the situation;
  - (vi) Recommending action to the Secretary-General.



12. The question remains as to who might be called upon by the chairman of the designated committee or commission to investigate and report on situations alleged to constitute a threat of creating new flows of refugees.

13. One possibility would be UNHCR with its special expertise in and general responsibility for the refugee matters. However, there might be a feeling among some members that conducting the kind of investigation envisaged above would impact unduly on the ability of the High Commissioner and his staff to fulfil their present mandate.

14. A second possibility is for the Human Rights Commission to establish a permanent special rapporteur to fulfil the desired function. This possibility, however, may be seen by some Member States as going beyond the proper role of the Human Rights Commission. The entity charged with investigation and reporting would be expected to monitor developments which might give rise to new flows of refugees so as to be in a position to respond rapidly to requests for investigation.

15. A third possibility is for the Secretary-General to be charged with investigations and reports called for by the designated committee or commission. Such activity is well within the capability of the Secretary-General and his staff.

#### IV. CONCLUSION

16. The General Assembly should set forth the duties of States with respect to averting new flows of refugees. These duties, in the view of the United States Government, should include but not necessarily be limited to the obligations enumerated above. To provide effective guidance, there must be acceptance by a large majority of the States Members of the United Nations. Such a consensus or near consensus would result in a statement of principles that would not have the force of international law but would, nevertheless, have considerable influence on the behaviour of Governments.

17. The institutional mechanism discussed above would require a mandate from the General Assembly, defining its duties, methods and procedures.

18. In the United States' view, the question of establishing a monitoring, investigating and reporting mechanism is separable from that of reaching an agreement on the obligations of States as they relate to averting new flows of refugees.

III. OBSERVATIONS RECEIVED FROM UNITED NATIONS ORGANS AND  
SPECIALIZED AGENCIES

OFFICE OF THE UNITED NATIONS DISASTER RELIEF CO-ORDINATOR

[Original: English]

[17 March 1981]

1. The Office of the United Nations Disaster Relief Co-ordinator (UNDRO) is not normally concerned with refugee problems as they are commonly understood. However, persons may become technically refugees, in the sense that they have crossed a national border, as a result of a natural disaster or other "accidental" catastrophe.
2. The Memorandum of Understanding between UNDRO and the Office of the United Nations High Commissioner for Refugees (UNHCR) contains the following paragraph:

"2. Responsibility for the co-ordination of relief assistance to persons compelled to leave their homes as a result of, or as a precautionary measure against, the effects of natural and other disasters such as earthquakes, volcanic eruptions, droughts, floods, storms, and epidemics and also aviation, maritime, industrial or nuclear radiation accidents shall rest with UNDRO".
3. UNDRO therefore shares the concern expressed by the General Assembly concerning the economic and social burdens imposed upon countries which receive refugees as well as upon those called upon to provide assistance. In UNDRO's view, it is important that, in attempting to avoid unnecessary population movements of the kind mentioned above, countries should take all necessary action to reduce and mitigate the potential effects of catastrophes. This means not only the establishment of disaster preparedness organizations, but also the careful inclusion of appropriate disaster prevention factors in development programmes.
4. Disaster preparedness is action designed to minimize loss of life and damage and to organize and facilitate timely and effective rescue, relief and rehabilitation in case of disaster. It is supported by the necessary legislation and means a readiness to cope with disaster situations or similar emergencies which cannot be avoided. It is concerned with forecasting and warning, the education and training of the population, organization for and management of disaster situations, including preparation of operational plans, training of relief groups, the stockpiling of supplies and the earmarking of the necessary funds.
5. Disaster prevention on the other hand is the term used to describe measures designed to prevent natural phenomena from causing or resulting in disaster or other related emergency situations. It concerns the formulation and implementation of long-range policies and programmes to prevent or eliminate the occurrence of disasters. On the basis of vulnerability analyses of all risks, prevention includes both legislation and regulatory measures, principally in the fields of physical and urban planning, public works and building.

6. Consistent preparedness and prevention policies, if followed by Governments (particularly those of disaster-prone countries but also by others, for all countries may be subject to "accidental" disasters) will do much to prevent unnecessary suffering and the possible throwing of unnecessary burdens upon the economies of their own and neighbouring countries.

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

[Original: English]

[30 April 1981]

1. In so far as efforts to avert new flows of refugees are concerned, this Office is unfortunately not able to provide any relevant information. The mandate of UNHCR, as defined by its Statute, is non-political and purely humanitarian. It is on this basis that the Office assists in the solution of refugee problems and it cannot concern itself with the circumstances which have brought them into existence.

2. On the other hand, in accordance with paragraphs 1 and 8 (c) of its Statute, UNHCR is required to promote the voluntary repatriation of refugees which, if feasible, is always regarded as the most desirable solution for refugee problems. The promotion of voluntary repatriation represents one of the Office's ongoing tasks and in recent years the Office has co-operated in the implementation of a number of large-scale voluntary repatriation operations. The question of voluntary repatriation was considered in detail by the Executive Committee of the High Commissioner's Programme at its thirty-first session (see EC/SCP/13).

UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES  
IN THE NEAR EAST

[Original: English]

[9 March 1981]

1. UNRWA's mandate limits its concern to Palestine refugees and, on the basis of an annual authorization from the General Assembly, to other persons in the area who are displaced and in serious need of continued assistance as a result of the June 1967 hostilities.

2. Whether UNRWA would be required to assume additional responsibilities in the event of a new flow of refugees would be for the General Assembly to decide. However, any incident or event (e.g. renewed hostilities in the Middle East) which resulted in a spontaneous mass movement of registered Palestine refugees would immediately involve UNRWA. The international co-operation required to avert any such occurrence depends on the Governments of Egypt, Israel, Jordan, Lebanon and the Syrian Arab Republic.

3. The General Assembly has been seized with the Palestine refugee question and that of the persons displaced as a result of the Arab-Israeli hostilities in June 1967 at every session since each question arose and has made clear its views on the international co-operation required to facilitate the return of those wishing to return.

4. In paragraph 1 of its resolution 35/13 A of 3 November 1980, the General Assembly noted with deep regret that repatriation or compensation of the refugees as provided for in paragraph 11 of Assembly resolution 194 (III) had not been effected.

5. There are 1.8 million Palestine refugees registered with UNRWA to whom the opportunity to return has never been given by the Government of Israel. It is not known how many would exercise the option to return if it were given them.

6. In paragraph 4 of its resolution 35/13 E of 3 November 1980, the General Assembly called once more upon Israel to take immediate steps for the return of all the displaced inhabitants of the territories occupied by Israel since 1967; and to desist from all measures that obstruct the return of the displaced inhabitants.

7. In the case of both the Palestine refugees and the persons displaced from the territories occupied by Israel in June 1967, the co-operation of the Government of Israel is required to facilitate the return of those refugees who wish to return. That co-operation has been forthcoming only in respect of a small minority of the displaced inhabitants of the territories.

#### INTERNATIONAL LABOUR ORGANISATION

[Original: English]

[14 July 1981]

ILO activities and programmes are geared to the promotion of various aspects under the general heading of social justice, the absence of which may be one of the causes of refugee movements. Beyond this general objective ILO is not competent to engage in activities to avert flows of refugees. However, once the international lead organizations have dealt with the immediate emergency related to these flows, ILO could engage in various rehabilitation activities.

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

[Original: English]  
[8 July 1981]

A. Introduction

1. The drama of refugees is as old as the world, but today it has assumed alarming proportions. Besides the considerable human suffering involved this situation endangers the political stability of the regions concerned, drains the scarce resources of host countries, and therefore imperils, sometimes permanently, their plans for economic and social development.
2. The international community has now recognized the dimension of the refugee problem, which, for the African continent alone, has been estimated at approximately five million persons. In this context, General Assembly resolution 35/124 must be welcomed, since it draws the attention of Governments and organizations to the need for concerted effort to avert new flows of refugees.
3. The movement of refugees and displaced persons often originates in socio-political conflicts and/or food shortages caused by drought and other natural disasters. It is upon these causes, therefore, that all action designed to prevent new flows of refugees must be centred.

B. New international economic order

4. Civil and other disturbances, both internal and external, affect a large number of countries which, unfortunately, are already often among the most deprived and vulnerable. Only in a world which has reconciled its own contradictions can these evils be eliminated. Chaos cannot benefit anyone. Concrete action to establish a new international economic order, therefore, must be well advanced before such tensions can be alleviated.
5. Progress made so far in this regard in the fields of food and agriculture, as well as the obstacles encountered, were studied by the twentieth session of the FAO Conference, in November 1979. A paper summarizing its discussion of the subject was transmitted to the General Assembly at its eleventh special session in 1980. As far as the future is concerned, FAO is determined to make a major contribution to the food and agriculture objectives of the International Development Strategy for the Third United Nations Development Decade. While it would exceed the scope of this note to give details of the nature of this contribution, FAO's global aim in that regard is to assist countries to increase their food and agricultural production and to take the necessary measures to eradicate hunger and malnutrition.

C. Self-sufficiency in food

6. Food shortages resulting from natural disasters such as drought are the other main reason for massive flows of refugees. Measures to prevent, predict and control such situations are therefore of the greatest importance and should form part of the strategy to ensure food self-sufficiency.
7. To achieve the goal of self-sufficiency, food and agriculture must be the highest development priority, both as a basis for the elimination of hunger and malnutrition and for the development of agro-based industries. This priority must be reflected in national and regional economic planning, programming and budgeting; in the policies for investment of domestic savings and external aid; and in political and social organization to achieve structural change to benefit the inequitably treated rural poor.
8. Food emergencies, including famine or the threat of famine, tend to occur, almost by definition, at times when States and citizens are least able effectively to respond to them. This underlines the necessity for advance planning and action.

D. Preventive measures

9. Action must be taken on two fronts: first, to reduce annual fluctuations in production and, second, to increase countries' readiness to face food shortages through emergency distribution plans, increased reserve stocks, and improved food security.
10. While man cannot control the vagaries of the climate, there are many ways in which the appropriate choice of agricultural production patterns and technology can help to mitigate its effects on output. For instance, in Africa, three main areas merit special attention.
11. First, there is a need to apply measures to counteract the effects of drought, such as irrigation, moisture and soil conservation, and the creation of safe sources of drinking water; second, to control large-scale insect and pest attacks and plant diseases, so as to avoid heavy crop losses; third, to select appropriate cropping patterns in order to optimize production.
12. No uniform pattern of national preparedness can be valid for all countries or for all regions. However, a number of recommendations designed to assist countries at risk to prepare in advance for emergency situations have been developed by FAO, in the context of its ongoing work on world food security. These recommendations, which may be adapted to the specific conditions in each country, invite Governments to take a series of measures, including:
  - (a) Setting up of minimum reserve stocks of basic food grains and special reserves of quality seeds;
  - (b) Initiation of national monitoring and early warning systems for basic food supplies;

(c) Establishment, on a standby basis, of food disaster units responsible for planning and organizing food relief programmes;

(d) Preparation of food relief contingency plans, to be implemented in the event of acute and large-scale food shortages;

(e) Elaboration of methods for the timely assessment of the food situation and food needs of people and regions threatened by food shortages and throughout the whole country;

(f) Establishment of criteria for declaring a state of "food emergency".

13. In countries where the logistic problems of food delivery to communities at risk are particularly acute, it is further recommended that Governments consider, wherever feasible, the decentralization to provincial, district and community levels of certain parts of their emergency preparedness and response systems and facilities.

14. There is a need for action at national, sub-regional and regional levels. This was demonstrated in the feasibility study on national and regional security grain stocks in the Sahel, prepared by FAO for the CILSS (Permanent Inter-State Committee on Drought Control in the Sahel).

#### E. World food security

15. As a basis for collective action, FAO drew up in 1973 the International Undertaking on World Food Security, which has since been formally adopted by 82 countries. By subscribing to the Undertaking, these countries have pledged themselves to implement national stock policies, in order to help ensure a minimum safe level of basic food stocks for the world as a whole, for use at times of crop failures and natural disasters. The Undertaking stresses the importance of strengthening food production in developing countries. It also calls for special assistance to these countries for their stock programmes, for the establishment of an effective food information and early warning system, and for regular intergovernmental consultations to review the situation and decide on any action required.

16. It was envisaged that the main elements of the International Undertaking would be translated into a legally-binding instrument, through the conclusion of an international grains arrangement. It was also considered that the minimum food aid target of 10 million tons would be achieved through legal commitments under a new Food Aid Convention. The United Nations Conference to Negotiate an International Arrangement to Replace the International Wheat Agreement of 1971, while supporting most of the provisions of a new Food Aid Convention, was unable to reach agreement on several essential elements.

17. It was in that framework that the Director-General of FAO drew up a voluntary plan of action on world food security, incorporating the concepts and pledges of the International Undertaking on World Food Security and focussing on some of the

most urgent food security problems, especially of the low-income food deficit countries. This Plan of Action has been endorsed by the FAO Conference and should now be implemented.

#### F. Integration or rehabilitation of refugees

18. As well as tackling the main causes of the refugee problem, it is equally important to assist the refugees and their host countries in finding long-term solutions.

19. In cases where it is desirable and feasible to encourage the integration of refugees in the areas of asylum, development programmes could be envisaged, e.g. in the fields of agricultural production, water supply and/or management, land conservation and afforestation, education and training, and health and nutrition. Such activities could be designed either specifically for refugees settled in newly-reclaimed areas or for communities made up of local inhabitants and refugees.

20. Long-term assistance provided by FAO for the settlement or integration of the refugees into local communities will consist either of new projects or the extension/expansion of ongoing FAO projects in the countries concerned through increased inputs of manpower, equipment and finance. In this connexion, an FAO food security formulation mission to Somalia proposed three projects which would also benefit refugees.

21. In cases where refugees seek asylum in host countries on a temporary basis, or where their continued stay there might cause problems, efforts must be made to resettle them in their own countries or places of origin. Such efforts will only be successful, however, if economic and social conditions permit. In many cases, the programming of rehabilitation and development phases is incorporated in the Governments' development plans.

#### G. Role of FAO

22. By the nature of its basic mandate, FAO can assist Governments in all the food and agriculture aspects of the refugee problem described in this note.

23. The organization played an active part in the recent International Conference on Assistance to Refugees in Africa and submitted a document (W/P2343/E/4.81/1/600) outlining FAO and WFP assistance activities for refugees in Africa. As the Director-General of FAO indicated in this document,

"The ability of FAO and WFP to do more depends on the resources available. Certainly, the additional resources which would be attributed to them could be applied very efficiently and with the utmost speed."



WORLD BANK

[Original: English]

[27 March 1981]

1. The growing number of refugees, particularly in developing countries, is of obvious concern to the Bank. In addition to the human suffering which has affected millions of people, the economic burden of the refugee problem has seriously hampered the development effort of several developing countries.

2. The Bank is not competent to offer any substantive comments on the complex issues which underly the global refugee situation; however, to the extent that the refugee problem is aggravated by conditions of poverty, the Bank's financial and technical assistance to developing countries, in particular its assistance to programmes which improve the economic well-being of the urban and rural poor, is a positive contribution to the international effort to avert new flows of refugees.

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