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EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME

Thirty-second session

SUMMARY RECORD OF THE 335th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 15 October 1981, at 3 p.m.

Chairman: Mr. MARSHALL (United Kingdom)

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

GENERAL DEBATE (agenda item 3) (continued)

1. Mr. NGWEBA (Observer for the Pan Africanist Congress of Azania) said that the refugee problem in southern Africa was only beginning and would endure for some years. In third world countries, it was aggravated by economic underdevelopment and the burden on the receiving countries was enormous. Indeed, the liberation movements initially bore the brunt of the problem, for when refugees crossed borders into the receiving countries they first met with the liberation movements, which dug deeply into their meagre budgets in sorting out which refugees belonged to political organizations. Some kind of co-ordination between UNHCR and the liberation movements was therefore essential.
2. Another problem concerned fellowships. The United Nations Educational and Training Programme for Southern Africa had ceased to offer scholarships to refugees for lack of funds and had said that no assistance would be available for the period 1981/82. There was no alternative but to make an urgent appeal to UNHCR to assist refugee students. At the very least, those who were in the middle of their studies should be given an opportunity to complete them.
3. As for the attacks by the South African régime on refugee camps in the receiving countries, UNHCR should use its good offices to provide legal protection to the Azanian refugees, so that they would no longer be bombed and murdered in cold blood. It was not sufficient for UNHCR to provide refugees with food, medicine, shelter, clothing and so forth: their lives should be protected by international law.
4. Lastly, he drew attention to the internal refugees in Azania, people who were victims of the apartheid laws and those who fled the so-called homelands to take up residence in the cities, where they were regarded as foreigners from another country. The question arose whether such internal refugees could be assisted in the same way as refugees who sought asylum in other countries.
5. Mr. MONSAMY (Observer for the African National Congress of South Africa) thanked UNHCR for its generous assistance to his liberation movement and, through it, to the oppressed and struggling people of South Africa. South Africa's latest invasion of Angola and illegal occupation of Angolan territory was the most serious development in a long line of unprovoked assaults against neighbouring States. The immediate causes were the advances made by his liberation movement in South Africa itself and the struggle by SWAPO against South Africa's illegal occupation of Namibia. The open support of the United States Government for the racists of Pretoria was a major contributory factor, as it enabled the racists to feel confident enough to ignore the censure of the rest of the world. South Africa's criminal attack on Angola and its monstrous extension of apartheid to neighbouring States by acts of armed aggression were intolerable. South African militarism was a direct threat to peace and stability not only in southern Africa but also in the world. Consequently, the most important contribution his liberation movement could make to the cause of peace was to intensify the struggle for the total destruction of apartheid and the overthrow of the racist State.
6. The racist régime's increasing aggression was rapidly swelling the already large numbers of refugees. The need for assistance from UNHCR and the international community therefore continued to grow. His movement intended to submit proposals to UNHCR for its agricultural projects in Angola, Mozambique and Tanzania and request

funds for further expansion and development of its Lusaka project. It also appealed for material and financial assistance for Solomon Mhlangu Freedom College, which was being established at Mazimbu as a result of a generous allocation of land by the Government of the United Republic of Tanzania and was designed to cater for the needs of young people who had fled South Africa as a result of harassment and violence following the Soweto protest.

7. During the past year, the internal struggle for emancipation had considerably intensified and the racists had replied with greater brutality; the reign of terror had swelled the ranks of refugees seeking to escape torment and torture, and the burden both for his movement and for UNHCR was growing heavier. Furthermore, there were other refugees who sometimes escaped attention, namely the tens of thousands of people within South Africa who were forcibly removed from their homes and land to remote and barren parts of the country. Thousands of people were dumped in remote areas without shelter, sanitation, schools, clinics or any means of livelihood. Their plight was, if anything, worse than that of refugees who had fled their homeland. They too were the victims of the barbaric colonial régime of apartheid and their welfare must be the concern of all. A Government which created refugees by law had no place in civilized society and must be eradicated; that was the arduous and protracted task which his movement had undertaken, and he wished to thank all those who had lent moral and material support.

8. Ms. MOSER (Observer for the International Council of Voluntary Agencies) said that the Council's voluntary agencies noted with increasing concern a deteriorating trend in protection of the physical safety of refugees and the apparent inability, even of Governments, to control such things as criminal and military attacks on asylum seekers and refugees. There was particular concern regarding the situation of women, who formed one of the most vulnerable groups among refugees and were subjected to sexual and other exploitation. Incidents of forcible return of refugees and asylum seekers were on the increase and efforts to prevent further violations of accepted international principles, along with immediate and practical measures for the protection and safety of refugees, must be deployed by individual Governments and by UNHCR.

9. Member agencies were also expressing concern about the situation of individual asylum seekers in Europe. In contrast to the generous reception of quota refugees from Indochina, the percentage of asylum seekers obtaining refugee status had been declining since the beginning of the 1970s and it was felt that the attitude of some authorities was incompatible with the letter and the spirit of the Convention. The Governments concerned should speed up asylum procedures and also enable asylum seekers to spend the waiting period constructively.

10. Voluntary agencies had followed with interest the application of the broader definition of the term "refugee" to include categories of persons who might not be able to invoke a well-founded fear of persecution in accordance with traditional criteria. They had also followed the discussions concerning the humanitarian needs of groups of people other than refugees who suffered as a result of man-made disasters, such as people displaced within their own countries as a result of war-like situations. It was to be hoped that the discussions would result in a clarification of mandates and areas of competence within the United Nations family, so that no group in need remained beyond the reach of effective assistance.

11. The International Conference on Assistance to Refugees in Africa (ICARA) had focused world attention not only on the plight of refugees but also on their impact

on the economies of host countries, many of which were among the economically least developed. It would be unfortunate if ICARA were viewed simply as a fund-raising exercise, for it had unmistakably demonstrated how the refugee problem affected the development process, an interaction of which development-oriented voluntary agencies with refugee-related programmes in Africa were well aware. Much more practical research was needed to understand the effects of refugee influxes on the development process. Voluntary agencies were convinced that no assistance could be effective without the active participation of the beneficiary groups, particularly women, who, as the majority of the refugee population, should be involved in the planning and decision-making process and in the implementation of the programmes which would affect their future. The agencies would like to be associated more closely in the follow-up to ICARA and UNHCR might consider establishing a commission of experts on the topic of refugees and development, perhaps in the African context, that would bring together specialists from intergovernmental organizations, voluntary agencies, bilateral aid agencies and host Governments.

12. It was an integral part of UNHCR's function to serve as the focal point for intergovernmental assistance in meeting emergency needs and in finding durable solutions for refugees. In the case of refugees in developing countries, projects might include development components in order to bring the refugees to the point of self-sufficiency, in which case it would be necessary later to ensure an orderly transfer to other competent United Nations agencies for subsequent development needs.

13. The voluntary agencies still played a vital role in the resettlement and integration of refugees. The international exchange of information and experience was highly important and, in that connection, she welcomed the fact that the International Refugee Integration Resource Centre, whose establishment had been strongly recommended at the UNHCR Workshop in the previous year, was now becoming operational.

14. Continuing and extended measures were necessary to facilitate the reuniting of refugee families. Member agencies had continued to follow closely the situation of unaccompanied refugee children from Indochina, with emphasis being placed on tracing family members. The question of unaccompanied refugee children was one that required careful study and the development of international guidelines. The agencies also noted with appreciation the High Commissioner's initiatives on behalf of disabled refugees and fully endorsed his appeal to Governments to accept additional numbers of such refugees. Apart from their programmes of aid to refugees, the voluntary agencies were turning their attention more and more to the complex question of the root causes of refugee situations. They had also noted with satisfaction the study on mass exodus currently being made by Prince Sadruddin Aga Khan as Special Rapporteur to the Commission on Human Rights, which should lead to more effective preventive action within the United Nations system.

15. Lastly, she stressed that the consultation between UNHCR and non-governmental organizations in May 1981, which had been arranged in conjunction with a steering group of member agencies of the International Council, had been an event of special significance in the long-standing co-operation between UNHCR and the voluntary agencies. It was a very welcome initiative on the part of UNHCR, and one which should be followed up.

16. Mrs. BEGUIN (International Labour Office) said that the very considerable achievements of UNHCR during 1980-1981 should be viewed in the context of the worsening refugee situation, a formidable challenge that could be met only through greater national action and still greater international co-operation. The ILO was greatly concerned about the human and socio-economic aspects of the refugee problem and about the need to find durable solutions. It could assist Member States and UNHCR in several critical areas, including comprehensive planning of settlements, with special attention to the creation of employment opportunities, assessment of manpower and training needs, vocational training and skill development programmes, special programmes for women refugees and disabled refugees, and construction of infrastructure through labour-intensive self-help programmes.

17. Co-operation between the ILO and UNHCR in some of those fields was already on the increase and she cited examples of such co-operation in Thailand, Djibouti, Tanzania, Sudan and Somalia. With regard to the special problem of women refugees, the ILO had just completed a pilot project on self-employment and income-generating opportunities for women refugees in Somalia, funded by the Government of the Netherlands, and it was hoped that the experience gained would enable the ILO to expand such co-operation with UNHCR in other countries in Africa. The ILO had also been engaged in developing programmes for the training and rehabilitation of disabled persons for many years and would be able to provide specialized assistance to UNHCR in the case of disabled refugees. Technical co-operation and advisory services were already being supplied by the ILO in various countries, especially in southern Africa. Several delegates had referred to the need for co-ordination within the United Nations system of action relating to refugees and it should be stressed that co-operation between the ILO and UNHCR was growing steadily, mainly because of the identity of their concerns, similarity of approaches and complementarity of means.

18. Durable solutions to the refugee problem would be difficult to find in isolation. They must be linked to the socio-political and economic realities of the countries of asylum and co-ordinated with on-going national development efforts. Indeed, the search for such solutions must often start while relief activities were being undertaken - more especially through self-employment programmes that involved refugees in the management and operation of settlement activities. The ILO was ready to participate in that common endeavour.

19. Mr. HARTLING (United Nations High Commissioner for Refugees) said that the general debate had reflected a keen sense of responsibility and dedication to refugees, something which was a source of encouragement for the Office, since the constructive approach of the international community was indispensable for its work. He was particularly grateful to those Governments that had increased their contributions or had made new pledges for UNHCR programmes.

20. The protection programme had aroused special interest and emphasis had been laid on the need to secure new accessions to international instruments and on the improving internal legislation and domestic practice. UNHCR would continue to do all in its power to promote progress in that field. Several speakers had referred to UNHCR's mandate, which had a bearing on UNHCR involvement in material assistance. In that respect, the situation was constantly evolving and the views of the Executive Committee were an important factor in UNHCR's on-going appraisal of the matter. There had been general agreement that, despite the obstacles, refugees should achieve self-sufficiency as promptly as possible. In carrying out its assistance programmes, UNHCR bore in mind the need for close co-ordination with other

United Nations organizations and also with non-governmental organizations, which played a crucial role. The non-political, humanitarian nature of UNHCR's work could never be over-emphasized. In that connection, the Office was sensitive to the root causes of refugee problems that they must inevitably be dealt with in other forums.

21. Lastly, it was clear that relief assistance must be given whenever necessary, but the ultimate aim should be a permanent solution and he urged all those dealing with refugee problems not to lose hope.

INTERNATIONAL PROTECTION (INCLUDING CONSIDERATION OF THE REPORT OF THE SUB-COMMITTEE OF THE WHOLE ON INTERNATIONAL PROTECTION, A/AC.96/599) (agenda item 4) (A/AC.96/593; INF.152/Rev.3)

22. Mr. BIRIDO (Sudan), introducing the report on international protection (A/AC.96/599), said that the major part of the Sub-Committee's discussions had centred on the report of the Expert Group on Temporary Refuge in Situations of Large-scale Influx (EC/SCP/16 and Add.1), with particular attention to the Group's conclusions, which the Sub-Committee had adopted with certain modifications. In considering the problem of the rescue of asylum seekers in distress at sea (EC/SCP/18), the Sub-Committee had recommended that the High Commissioner should convene a working group to study the various problems arising from the rescue, disembarkation and resettlement of asylum seekers rescued at sea. The working group would submit a report to the Executive Committee at its thirty-third session, although any of its recommendations could be implemented during the intervening period if necessary.

23. The Sub-Committee had studied matters pertaining to family reunification (EC/SCP/17), with special emphasis on the situation of unaccompanied minors in countries of first asylum, and had adopted a number of conclusions which, if endorsed by the Executive Committee, would help to solve the particularly acute humanitarian problems in that connection.

24. Finally, paragraph 37 of the Sub-Committee's report reflected the discussion on the serious problem of repeated military attacks on refugee camps in southern Africa, a matter that would doubtless be considered further by the Executive Committee.

25. Mr. MOUSSALLI (Director, Protection Division) emphasized that the establishment of UNHCR, which had been bound up with the concept of international protection of refugees on behalf of the international community, had undoubtedly been one of the most remarkable humanitarian achievements of the past 30 years. However, the Office's task was not an easy one. Most countries proclaimed their support for fundamental humanitarian principles, but those principles were still openly violated in numerous parts of the world. The note on international protection (A/AC.96/593) outlined trends in the field of protection, some of which showed increased respect for humanitarian principles, whereas others represented a regression even in regions previously renowned for their observance of the principles of asylum.

26. As to the positive aspects of the situation, it was gratifying that the principles of asylum had been respected in general, particularly in most of the countries receiving large numbers of refugees and that the non-refoulement principle was widely adhered to. In the main, the mechanisms of international solidarity and burden-sharing had functioned well, not only at the financial level but also in terms of resettlement in third countries. In 1981, Angola, Chad, Egypt, Japan, Lesotho, the Philippines, Sierra Leone and Zimbabwe had become parties to the 1951 Convention and the 1967 Protocol and there were good grounds for hoping that other States would

accede to the two instruments in 1982. In theory, some States parties only extended the scope of the Convention to European refugees, but in practice they often granted the same treatment to non-European refugees; therefore, he hoped that they would soon formally withdraw their geographical reservations. An increasing number of parties had adopted legislation and procedures for effective implementation of the Convention and the Protocol. Spain and Portugal, for example, had recently adopted generous laws in that respect, and the Philippines and Zimbabwe were in the process of studying with UNHCR plans to incorporate provisions of the Convention in their internal law. Furthermore, some countries, such as Tanzania, Zambia, Costa Rica and Peru, wished to improve on their existing legislation and had asked UNHCR to make proposals in that regard. Several countries had also asked UNHCR to participate in training programmes for their own officials and it was hoped that further seminars would be held in Africa, Europe and North America in 1982. A number of government officials from interested countries had also participated in short-term training programmes at the Office in Geneva.

27. There had also been very positive developments in promoting refugee law and two particular aspects should be underlined. First, it was essential for the High Commissioner to develop to the full relations with regional organizations and to benefit from their support and their awareness of the specific problems of their regions; second, UNHCR should closely follow developments in refugee law so that, if necessary, it could encourage the formulation of new concepts. In addition to the on-going dialogue with humanitarian law institutes and non-governmental organizations, UNHCR now wished to encourage universities to include refugee law in their programmes.

28. UNHCR's valuable and long-standing collaboration with the Council of Europe and the Organization of African Unity had helped to strengthen the legal framework of protection in Africa and Europe by elaborating principles that were later adopted in other regions and thus became universal in scope. One of the most remarkable examples in that respect was the broader definition of refugees contained in the OAU Convention governing the Specific Aspects of the Refugee Problem in Africa and applied by the High Commissioner in Africa. The concept had also been discussed by meetings of legal experts in Asia and Latin America and quite recently by the Expert Group on Temporary Refuge in Situations of Large-scale Influx. The Colloquium on Asylum and International Protection of Refugees held in Mexico City in May 1981 had adopted a work programme for studies and research to be undertaken by the Organization of American States so as to harmonize the asylum procedures in various Latin American countries with the provisions of the 1951 Convention and to ascertain to what extent it was possible to link up the status of an asylee with that of a refugee under the 1951 Convention. It would be a long-term undertaking which, it was hoped, would strengthen the legal aspect of international protection in Latin America. Discussions were also continuing with a view to greater co-operation with the League of Arab States.

29. Guidelines for teaching refugee law and models for courses to be used in general education on human rights would be discussed at the Symposium on the Protection, Dissemination and Teaching of the Fundamental Human Rights of Refugees to be held in Tokyo in December 1981 under the auspices of UNESCO, UNHCR and the United Nations University. Efforts were also being made to establish a UNHCR documentation centre on refugee law and to increase the number of publications on protection so as to promote and disseminate information on refugee law and all matters concerning international protection.

30. As to the negative aspects of the situation, 1981 had unfortunately witnessed many cases of failure to respect certain basic principles of protection of refugees and their physical safety. Because of their geographical situation and other reasons, some countries could not offer permanent asylum, but such legitimate considerations should not encourage other States to take in refugees only on a temporary basis until a durable solution was found in yet other countries. UNHCR also noted with concern the tendency to declare that certain persons seeking asylum were not necessarily refugees, something which could well deprive genuine refugees of the benefit of international standards of protection. Again, in some countries parties to the Convention or Protocol, the granting of refugee status seemed to encounter serious difficulties. Asylum was granted on grounds to which the provisions of the Convention did not normally apply. Admittedly, the definition of refugee status in the Convention had been formulated in a specific historical context, but it had been interpreted in a liberal fashion and it was important to ensure that persons seeking refugee status could enjoy the full protection of the Convention.

31. Unfortunately, the principle of non-refoulement was not always respected. Refugees seeking to join their compatriots frequently died while trying to enter the camps, and refugee camps were attacked and bombed. He paid tribute to those countries in southern Africa that continued to assist the victims, despite the suffering inflicted on their own populations through such attacks. The High Commissioner had publicly expressed his reprobation and hoped that the international community would make every effort to help the countries involved. Again, in some instances refugees and even whole families simply disappeared without trace.

32. The problem of asylum seekers in distress at sea was one of the most complex faced by UNHCR, which had been guided by a number of principles. First, it was the responsibility of States to take measures against the international crime of piracy; second, piracy affected not only refugees but also fishermen and maritime traffic, and the action to be taken should take account of matters that thus went beyond the scope of the activities of UNHCR; third, humanitarian organizations could not be associated with activities of a military nature and the High Commissioner had therefore urged regional and international bodies concerned to take emergency measures. A fast unarmed patrol boat had been placed at the disposal of the Thai authorities to rescue the victims of piracy. Measures had been taken to help and advise the victims and to pursue those presumed guilty of such acts. The High Commissioner had also urged support for the action undertaken by Thailand and Malaysia and it was to be hoped that international interest in the serious problem of piracy would enable more concrete results to be achieved in the near future.

33. Lastly, it should be emphasized that, while legal instruments and public understanding were important, it was even more urgent to ensure that immediate action by UNHCR and Governments would be followed up by special steps to save refugees.

34. Mr. STEHOUWER (Netherlands) said that legal protection of refugees was UNHCR's primary task and was in fact the core of its mandate. In adopting the conclusions reached by the Sub-Committee of the Whole on International Protection, the Executive Committee would give appropriate support to UNHCR's work in that field, but steps should be taken to ensure that the conclusions were effectively acted on by the international community. At a future session, the Executive Committee should therefore be informed of the follow-up and engage in an exchange of views on the matter. In that connection, he welcomed the increased public awareness of the implementation of the 1951 Convention, something which was stimulated in his country by regular exchanges of views between the authorities, academic institutions and voluntary agencies and by university courses on refugee law.

35. On the subject of family reunification, his delegation wished to draw the attention of the Committee to the possibility that existed in the Netherlands of exchanging refugees who had been admitted to another country of asylum but, as it turned out later, had one or more family members in the Netherlands. His Government hoped that in the future exchanges to bring about family reunification could be practised more often. Again, his delegation had submitted some specific proposals in the Sub-Committee to deal with procedures for providing guarantees of asylum to asylum-seekers rescued at sea, for, the way in which those guarantees were insisted upon by some coastal States had led to some unfairness towards refugees awaiting their turn in the camps. The aim of his Government was to achieve a more orderly arrival programme for refugees in the maritime countries concerned and not to affect the over-all number of resettlement guarantees given by the Netherlands. It had been agreed in the Sub-Committee to convene a working group on those problems; the group would consist of representatives of the maritime States, the coastal States most concerned and potential countries of resettlement. The matter was of some urgency for his country and he hoped that UNHCR would proceed with consultations with the States concerned as quickly as possible, in order to convene the working group soon after the completion of the current Executive Committee session.

36. Lastly, he drew attention to his Government's White Paper, issued in 1981, indicating a series of measures which were to be taken in favour of cultural or ethnic minorities, including refugees, in the Netherlands. The primary goal of those measures was to improve the socio-economic situation of such minorities. Furthermore, a programme was being set up to prevent and, if necessary, to combat racial discrimination in the Netherlands and to reinforce the legal position of non-citizen minorities. Procedures had been set in motion to change constitutional law in order to grant voting rights to non-citizens at a local level.

37. Mr. WIKREN (Sweden) said that, while assistance and protection were both necessary in order to alleviate the plight of refugees, it should be remembered that UNHCR was the only international organization entrusted with the important humanitarian task of protecting refugees from persecution and that that function was therefore UNHCR's main task. Protection implied vigilant and continuous efforts to save individuals from refoulement, ill-treatment or other kinds of persecution. It also meant tireless efforts to uphold the rule of law in terms of the basic principles for the protection of refugees laid down in the 1951 Convention and the 1967 Protocol. The constant reaffirmation in the Executive Committee of the principle of non-refoulement had contributed to an increasing acceptance of the principle in State practice. The conclusions reached by the Sub-Committee of the Whole on International Protection reaffirmed the absolute nature of the principle of non-refoulement, stressed the obligation of the international community and States to share the burden of the receiving countries and laid down minimum standards for the treatment of asylum seekers who had been temporarily admitted to a country pending arrangements for a durable solution. The conclusions therefore covered what had so far been a regrettable lacuna in refugee law, only partly dealt with in article 31 of the 1951 Convention. The rules should apply not only to refugees in the strict sense of the Convention but also to other asylum seekers who fell within the extended mandate of UNHCR.

38. UNHCR's initiative in putting family reunification on the agenda was entirely welcome. His own country applied more liberal criteria to family reunification of refugees than was the case with normal immigrants. The arrangements must, however, be flexible enough to permit States to develop their own practice. It was gratifying that the conclusions (A/AC.96/599, para. 36) reaffirmed the recognized right of everyone to leave his country and stressed that countries of origin should facilitate family reunification.

39. With regard to the Federal Republic of Germany's initiative in the General Assembly concerning measures aimed at averting mass influxes of refugees, his delegation, while recognizing the appropriateness and even necessity of using every effort to come to grips with such phenomena, stressed the unacceptability of any measures that infringed upon the recognized right of everyone to leave any country, including his own.

40. Mr. WEIS (United Kingdom) said that, although the number of States Parties to the 1951 Convention and/or the 1967 Protocol now stood at 90, some countries with large numbers of refugees still were not parties to those instruments. It was regrettable that there had been no increase to the number of parties to the 1961 Convention on the Reduction of Statelessness and he hoped that greater efforts would be made to obtain further accessions.

41. His Government welcomed and supported all UNHCR efforts to prevent refoulement. A considerable increase had occurred in the number of asylum seekers in the United Kingdom - almost twice as many in 1980 as in 1979. The note on international protection indicated that UNHCR now applied in Africa the broader definition of refugee contained in the OAU Convention, something which could nonetheless create a dichotomy, since the traditional definition presumably still applied to the High Commissioner's work in other continents. His delegation fully supported the conclusions reached by the Sub-Committee on International Protection, which consolidated the original ideas of the Expert Group working on the problem of temporary refuge, and also the recommendations concerning asylum seekers rescued at sea. The Netherlands' proposals in connection with the resettlement of asylum seekers rescued at sea deserved close study by the working group to be set up, particularly by countries which, like his own, did not participate in the DISERO scheme. Lastly, he endorsed UNHCR's note on family reunification (EC/SCP/12) and the final version of the Sub-Committee's recommendations on the subject.

42. Mr. ASKHEIM (Norway) said that the conclusions submitted to the Executive Committee by the Sub-Committee were very helpful and would, if adopted, provide national authorities with valuable guidelines in their daily work. The conclusions stressed the fact that the country of first asylum must observe the principle of non-refoulement. In situations involving a large-scale influx as well as those involving individual refugees, it was essential that the country to which the refugee first arrived should admit him and allow him to stay in its territory. Otherwise, no protection or relief could be offered to the refugee, as neither UNHCR nor other States would be able to extend assistance to him if he was forced to return to the country from which he had fled or to the high seas. Hence, it was of great importance that the country of first asylum should observe the minimum standards. Yet those countries could not be expected to deal with the refugee problem on their own, and other States must stand ready to

share the burden, with regard to both financial and material aid and the search for durable solutions. As for the conclusions of the Sub-Committee regarding the problem of refugees rescued at sea, certain practical questions needed further study and the proposal to convene a special group to deal with the problem was therefore most appropriate. His delegation also endorsed the Sub-Committee's recommendations with regard to the reunification of separated refugee families.

43. Mr. COLES (Australia) said it was to be hoped that the Sub-Committee's recommendations regarding the problem of temporary refuge in situations of large-scale influx would be accepted and implemented by all Governments, for they stressed the humanitarian obligations of admitting States and also reaffirmed the obligations of the rest of the international community to render assistance in such situations. The basic minimum standards to be followed by admitting States would supplement the provisions of existing international instruments.

44. Protection of refugees was organically linked with the principle of human solidarity in the wider sense. Durable solutions did not signify merely the application of international rules, in other words non-refoulement and non-penalization, but the establishment of conditions that were appropriate and necessary for satisfactory resettlement, something which required assistance from the international community, especially as the influx of refugees affected the developing countries in particular. Non-refoulement and asylum should not be viewed as separate from international burden-sharing, for the obligation to shelter fellow human beings implied the necessity to assist others who were providing such shelter. Indeed, non-refoulement and international burden-sharing, derived from the same fundamental principle of human solidarity. Non-refoulement was not conditional on burden-sharing, because refuge should be granted in the context of a system that elaborated the principle of human solidarity in all aspects of international protection and care of refugees.

45. Resettlement of refugees was perhaps the least satisfactory solution and should be applied only if voluntary repatriation was not possible in the immediate future. Resettlement could be used in dealing with large-scale influxes, but it should be remembered that resettlement was in effect exile, a bitter and painful experience at best. Voluntary repatriation, in which the exile returned to his homeland in safety and dignity, was the exception and not the rule, owing to the intractable nature of certain conflicts. Unfortunately, the international community often attached more importance to the political, rather than the humanitarian, aspects of conflicts. The victims of such an inversion of values were the refugees themselves.

46. He welcomed the initiative taken by the Federal Republic of Germany in the General Assembly with regard to measures to avert mass flows of refugees and seek ways of securing their safe return and also the Canadian initiative concerning the study of the causes of mass flows, which, if it was properly and objectively carried out could help to determine the appropriate international response. His own delegation had submitted a proposal concerning temporary refuge and appreciated the positive and imaginative action taken by the High Commissioner in convening the meeting of the Expert Group to study the problem. One question that had not yet been comprehensively studied was that of asylum seekers in mass flows.

47. The various complex and difficult problems he had mentioned had given rise to numerous developments in international law on the protection of refugees and asylum seekers. Clearly, there was a need for a universal international refugee law, since the issues were not just regional but global in scope and the response must be made accordingly. The burden was too great for one region to bear and the problems were no longer manageable under existing legal or organizational arrangements.

Particularly gratifying was UNHCR's work on family reunification, because, a real solution to the refugee problem, in other words, a return to a life in safety and dignity, required the reunification of separated families. In conclusion, he wished to express his delegation's appreciation of the valuable contributions made by the High Commissioner in promoting and teaching international law on refugees and in establishing a documentation centre on the subject.

48. Mr. CHAPATTE (Switzerland) said that protection was one of UNHCR's essential tasks and the work of the Sub-Committee contributed further to the establishment of general principles of law governing the legal protection and the status of refugees. His delegation particularly welcomed the rules on the protection of asylum seekers in large-scale influxes, rules which reaffirmed, inter alia, the primacy of the principle of non-refoulement. The Sub-Committee's conclusions also gave due attention to international solidarity and burden-sharing. With regard to rescue at sea, he wished to point out that Switzerland, in the framework of DISERO, had offered guarantees for the final settlement of 200 refugees rescued at sea.

49. The conclusions regarding the reunification of families were generally in accord with the liberal practice followed by his country. The spouse and under-age children of a refugee living in Switzerland were virtually guaranteed their right of asylum in Switzerland and other close relatives could also obtain asylum if particular circumstances so justified. Those liberal criteria, however, were not applied to the concept of the entire extended family as understood in some countries. Countries of origin should be guided only by humanitarian considerations in issuing prompt authorization for the departure of relatives seeking to join a refugee living abroad. The right to leave one's own country was recognized internationally and a person seeking such authorization should not be subjected to discrimination because of his request.

50. The purpose of the Sub-Committee's conclusions was to make the international community aware of the need to promote the protection of refugees, both regionally and in terms of national legislation and practice. His country had adopted a law on asylum that had entered into force on 1 January 1981 and facilitated family reunification and improved the legal and material situation of asylum seekers. The principle of non-refoulement applied was broader than that set forth in the 1951 Convention and it strengthened the position of the refugee with regard to his right to temporary residence, settlement and gainful employment without restrictions. Switzerland also associated itself with the work of the Council of Europe aimed at developing and implementing the principles set forth by the Executive Committee with regard to the protection of refugees. It had signed and would soon be ratifying the European Agreement on Transfer of Responsibility for Refugees.

51. Mr. DESY (Belgium) expressed the hope that the statement by the Director for International Protection would be made available to members of the Executive Committee, as it would be of great interest to Governments and universities. Protection was UNHCR's primary task and the basis of any durable solution to a given refugee problem. The recommendations of the Sub-Committee constituted valuable progress in safeguarding the status and security of refugees, especially those involved in mass

exoduses. They also set forth valuable rules on temporary refuge, more general rules applicable to family reunification, and proposals regarding rescue at sea which filled some of the gaps in existing international maritime law. It was his delegation's hope that the work of the Sub-Committee would continue to lead to the formulation of international rules that would be endorsed by the Executive Committee and observed by all Governments, especially in the countries concerned.

52. It was gratifying to note the new ratifications of the 1951 Convention and the 1967 Protocol and he urged UNHCR to assist Governments in applying the Convention systematically - for instance, through the adoption of administrative and other provisions on the granting of refugee status.

53. With regard to the broadening of the concept of refugee, as now applied in Africa, and the concept of temporary refugee, his delegation shared some of the fears expressed by the United Kingdom as to the possibilities of conflict between international protection and diplomatic protection applying to one and the same individual. The problem was essentially of a practical nature and required more attention in the Sub-Committee.

54. Like the Swiss delegation, he wished to draw attention to the work of the Council of Europe on the protection of refugees. His own country would soon be ratifying the European Agreement on Transfer of Responsibility for Refugees and it welcomed the co-operation between UNHCR and the International Commission on Civil Status. The Commission had carried out numerous valuable studies aimed at improving and harmonizing the rules of family law as applied to refugees and it was to be hoped that the co-operation between UNHCR and the Commission would continue.

55. Mr. IMAGAWA (Japan) said that the work of the Sub-Committee was most useful in promoting measures for international protection of refugees. Its conclusions with regard to temporary refuge in cases of large-scale influx included basic standards for the humanitarian treatment of asylum seekers in such situations and his delegation appreciated the fact that the responsibilities of countries of first asylum were placed in the context of international solidarity and burden-sharing, a course aimed at a practical solution to the problem. The conclusions were an important step in further elaborating the admission principle and measures for protection in situations of mass influx. The problem of rescue at sea was a particularly important one for his country, which was at once a maritime nation, first asylum country and resettlement country. It had granted temporary asylum to more than 5,000 persons rescued at sea. However, it did not consider that the maritime nations were penalized in having to rescue boat people and offer them resettlement opportunities, for the present arrangement was the outcome of the burden-sharing principle. Japan imposed no conditions on admitting boat people rescued by any country's vessels when the first port of call was Japan and it permitted such persons to resettle in Japan.

56. With regard to family reunification, Japan applied very liberal criteria and granted permission to relatives as far as the sixth degree. His country's accession to the basic international instruments concerning refugees had been made possible by the efforts described in the note on international protection (A/AC.96/593) and he was appreciative of UNHCR's intention to hold a symposium in Tokyo in December on the protection, dissemination and teaching of the fundamental human rights of refugees,

for the symposium would contribute to the understanding of the Asian countries in that regard. It might be premature, however, to consider the application of the broader definition of refugees to Asian countries, which should first of all examine the application of principles of the 1951 Convention and 1967 Protocol.

57. Mr. MOLLOY (Canada) said that there was a sad contrast between progress during the past year in formal accessions to the 1951 Convention and the 1967 Protocol and the violations of the rights of refugees which had been described so graphically by the Director for International Protection. The Canadian authorities were looking forward to the seminar for immigration officials to be held in Ottawa in November, which was an example of creative ways in which the High Commissioner could promote protection and assist States in applying the Convention and Protocol more effectively. He urged the Executive Committee to adopt the recommendations of the Sub-Committee of the Whole on International Protection, which all merited support, particularly the conclusions relating to mass influxes. They were the most important recommendations yet adopted by the Sub-Committee and their implementation would lead to tangible benefits to the victims of mass influxes. He hoped that their momentum would lead to further developments in the jurisprudence relating to situations of large-scale influx and called on the High Commissioner to give the recommendations the widest possible dissemination among all members.

58. Miss ILIC (Yugoslavia) expressed the hope that the positive trend in further accessions to the 1951 Convention and the 1967 Protocol would continue, and that the award of the Nobel Peace Prize would make for better acquaintance with the humanitarian activities of UNHCR and contribute not only to wider acceptance of basic international instruments dealing with the status of refugees but also to greater burden-sharing.

59. Unfortunately, her delegation had not received the background documents for the deliberations of the Sub-Committee of the Whole on International Protection in sufficient time. In her view, mass influxes created situations that required countries of asylum to provide at least a temporary stay in their territory for all persons who might reasonably qualify as refugees under the 1951 Convention or other instruments, but it should be stressed that the eventual acceptance of new categories, such as persons in temporary refuge or asylum seekers in large-scale influxes, could only render more difficult the implementation of existing international instruments which did not recognize such categories. The principle of non-refoulement in situations of large-scale influx should not be applied to persons excluded from protection under the 1951 Convention. Again, some of the persons involved might be economic migrants, and they should not be encouraged to apply for refugee status with a view to obtaining the relevant benefits. Existing arrangements for dealing with the problems of asylum-seekers in cases of large-scale influx were sufficient and new mechanisms, as proposed in paragraph 20 (e) of the report (A/AC.96/599), were not necessary.

60. Similarly, the recommendations regarding rescue of asylum-seekers in distress at sea and family reunification reflected tendencies that went far beyond the scope of the existing international instruments. Recommendations of the Sub-Committee or of the Executive Committee that were not unanimous could not be considered binding on Governments which did not approve them. Lastly, her delegation was disappointed that the Nigerian proposal that the High Commissioner should convene a representative group of experts to examine the serious problem of repeated military attacks on refugee camps by the forces of the apartheid regime in South Africa had failed to command unanimous support in the Sub-Committee. She hoped that such would not be the case in the Executive Committee.

61. Mr. ANT (Turkey) said that UNHCR was practically the only international organization entrusted with specific and continuing international functions in respect of refugees. According to its Statute it had a particular responsibility in "promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto". It was encouraging that the number of States acceding to the Convention and Protocol was increasing from year to year. On-going work in the Council of Europe took its inspiration from the conclusions of the Sub-Committee of the Whole on International Protection, which had carried out significant work on the basic principles of asylum and non-refoulement, and those conclusions would have a considerable influence on any future codification of international law pertaining to refugees. The question of temporary refuge in cases of large-scale influx was a contemporary phenomenon and placed considerable pressure on the existing legal structures. It was possible to adopt one of two approaches - to ignore the pressure or to readjust the structures. The present structure was in fact the object of study by experts and the Sub-Committee should continue to examine the problems posed by mass influxes.

62. The attacks on refugee camps by South Africa displayed an attitude which was a negation of the principle that the granting of asylum could not be considered a hostile act. His delegation was ready to associate itself with any initiative to discourage such attacks.

63. Mr. OWOAJE (Nigeria) noted with appreciation the number of countries which had acceded to the international instruments on refugees. However, if those instruments were to be truly effective UNHCR should appeal for still more accessions. The principle of non-refoulement was essential in protection and should of course be scrupulously adhered to. At the same time, current international instruments should take account of trends in refugee situations. When the Convention and the Protocol had entered into force, it had been easy for States to grant asylum to individual refugees without straining their services, but recent mass influxes called for the elaboration of new instruments. On the other hand, his country agreed with the arrangement at the present time for determining refugee status whereby States adopted their own procedures for attempts to harmonize the arrangements would give rise to problems and conflicts with the laws of different States.

64. Nigeria had thrown its doors open to refugees fleeing from the war in Chad and had found that the most durable solution was voluntary repatriation, a solution it would continue to encourage. Some success had been achieved in the resettlement of refugees, but further efforts were still required by the international community.

65. Paragraph 37 of the report of the Sub-Committee (A/AC.96/599) referred to a proposal to examine the question of military attacks on refugee camps by the apartheid régime in South Africa and he pointed out that consultations were now in progress between interested parties. His delegation hoped to be able to submit suggestions to the Rapporteur before the end of the session of the Executive Committee. It also considered that the Sub-Committee should consider ways and means of responding to the serious problem of asylum seekers at sea in South-East Asia.

66. Mr. MOUSSALI (Director, Protection Division) said it was gratifying that the Committee had agreed to the documents and plan of work. The Sub-Committee of the Whole on International Protection had made an exceptional contribution to the adoption of a text on measures for asylum seekers in situations of large-scale influx that constituted a turning-point in the treatment of refugees.

67. Another important matter was the extent to which application of the definition of refugees in Africa might give rise to a dichotomy. In his opinion, it was a question of facing up to reality and putting a measure of order into the existing situation and into the different instructions given to the High Commissioner by the General Assembly. It was useful to have recognized international standards relating to displaced persons. The position of the Office of the High Commissioner was contained in the Guidelines for UNHCR activities (HCR/50B/10/81) and reflected a prudent approach to the inevitable evolution in the situation. The considerations of the Sub-Committee in respect of cases of large-scale influx should therefore be present in everyone's mind.

The meeting rose at 5.55 p.m.