Protective Strategies in the 1990s: A Review of the Policy Discourses in UNHCR and the Executive Committee

Report prepared under a grant from the Research Programme on Forced Migration, the Research Council of Norway

Gro Tjore

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Summary

The study examines changing policy doctrines for protecting refugees, as reflected in the official documents of UNHCR and its Executive Committee (ExCom) composed of nation states. Collectively, the two bodies determine what is legitimate international practice for protecting refugees within the framework of international law and which should constitute the point of departure for national asylum policies. To contextualize the changing doctrines, the structure and working procedures of UNHCR are examined (section 1), as well as major trends in international refugee movements (section 2). The major part of the study examines the discourse on protection strategies in the 1990s. While the specific issues varied, the study found that the overarching theme was the need to safeguard the institution of asylum which was increasingly in danger.

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Contents

1. Introduction

This study is a review of the international community's debate on strategies to provide international protection for refugees. The debate will be traced as it appears in official documents of the United Nations High Commissioner for Refugees (UNHCR) and its Executive Committee (ExCom), the equivalent of a board. The material is supplemented with unofficial reports from the national delegation of Norway to the Executive Committee. The study aims to identify and analyze the development of the policy discourse on protective strategies within UNHCR. While there have been numerous studies of protection from a legal point of view, no systematic study of the policy discussion has been undertaken.

The changing discourse will be placed in a historical and political context so as to clarify both new problems and strategies of response. There have been definite changes in the perception of which populations UNHCR should assist and protect, and also in the practices of UNHCR in delivering assistance and protection. To understand this, and appreciate the nature of the developing discussion, it is necessary to briefly examine the changing nature and magnitude of the international refugee problem.

The study will also examine the procedures and working methods of the Executive Committee, and its institutional structure as it has developed over time.

An analysis of the evolving policy debate is important for several reasons. UNHCR is the only intergovernmental organization that has an exclusive mandate to protect and assist refugees. As such, the organization is the foundation of the international refugee regime. Its Executive Committee is composed of states which have a professed interest in refugees, and includes important asylum countries as well as major donors of UNHCR. Within the framework of international refugee law, UNHCR and ExCom collectively determine what is legitimate international practice in dealing with refugees. Analyzing the discourse in UNHCR/ExCom yields systematic insight into international concepts and strategies in this area. International norms and practice consitute relevant points of departure for national policies. But national policies also affect the discourse and choice of strategies in UNHCR/ ExCom, as well as UNHCR's ability to fulfil its mandatory tasks. The process is thus one of mutual influence and multiple feedback.

The present study focuses on the policy debate from the late 1980s onwards. The main question to be answered is: What were the views within ExCom concerning developments in the global refugee situation and appropriate strategies of response? What assessments were made within UNHCR regarding the organization's mandate and strategies to assist contemporary mass flows? Of particular interests in this connection is the issue of how conflicts between individual rights, as stated in international legal instruments, and collective needs, as demonstrated in conflict situations and refugee emergencies. How are these conflicts perceived and dealt with? A related question concerns the relationship between UNHCR and its board. To what extent do the views expressed in ExCom correspond to the High Commissioner's assessment of needs and preferred strategies?

Most analysts agree that UNHCR's approach to protection issues changed fundamentally in the early 1990s. Attempted prevention became a main element of protection. The so-called country-of-origin approach, the emphasis on repatriation, and the call for a more efficient emergency response were all elements of this trend. This study "maps" this change as it appears in the official debate and the "Conclusions" of UNHCR and its Executive Committee, thus documenting the doctrinal background to current protection strategies.

Sources

This is not a case study that compares debates on solutions in particular refugee situations; rather, the aim is to identify and analyze trends in organizational doctrine. The material for the analysis has been gathered from various sources. The documents and reports can be divided into two major categories, most are available from *RefWorld*, a UNHCR internet database that contains official documents of the High Commissioner. Since the aim of this reports is to analyze a set of primary documentation, the voluminous secondary literature on refugees in law and the social sciences is generally not referenced.

Table 1.1: A categorization of sources

Documents presenting UNHCR's preferences and assessments	Documents presenting ExCom's views and recommendations
Notes on International Protection	ExCom General Conclusions on International Protection and thematic Conclusions on protection
The High Commissioner's Opening Statements at Annual ExCom Sessions	ExCom Reports from the plenary sessions to ECOSOC, General Assembly Documents, series A/AC.96
	Reports from the Sub-Committee of the Whole on International Protection, 1977-1995
	Standing Committee reports 1996-1997

Notes on International Protection: The Notes on International Protection are to be seen as background papers for the ExCom meetings leading up to a General Conclusion on International protection. These documents are produced for ExCom by UNHCR, General Legal Advice section of the Division of International Protection (DIP). UNHCR meets with national delegations or regional groups

prior to writing the Notes so as to be certain to cover areas of interest for ExCom members as well as UNHCR priorities.

The High Commissioner's Opening Statements at Annual ExCom Sessions: These speeches present the High Commissioner's priorities - her or his views on UNHCR's mandate and cooperation with states, other UN agencies and NGOs. They also provide an overview and assessment of regional developments and of the overall refugee situation, and international (and national) efforts to provide protection and assistance.

ExCom General Conclusions on International Protection (GCIP) and other Conclusions: During the first years of its existence, the Executive Committee did not have international protection per se on its agenda. The topic was later recognized as important by the Committee, which since 1963 has adopted Conclusions on refugee protection (Johnsson 1990:7). In 1975, a Sub-Committee was established to study in more detail the "technical aspects" of refugee protection. This Sub-Committee of the Whole on International Protection submits Conclusions on various protection issues. In the following, all Conclusions will be referred to as ExCom Conclusions, as the Sub-Committee emanates from ExCom The same delegations, usually also the same persons, sit together as the Sub-Committee of the Whole and as the ExCom.

ExCom Reports from the plenary sessions to ECOSOC: Discussions in ExCom are not fully recorded. A summary report is prepared from the plenary session in October, in which the various statements are registered, albeit in general terms.

The present study has also used documents and reports from one national delegation. For practical reasons the Norwegian delegation was chosen, and data material for the period 1985 to 1996 was kindly made accessible for the purpose of the study. The material includes unofficial reports and summaries from the general debates at the plenary session in October, reports from informal meetings and sub-committee and standing committee meetings, notes, letters and commentaries. The material has been extremely helpful to supplement, interpret or contextualize the information in official UN documents. Open-ended interviews with Norwegian delegates to ExCom and with UNHCR officials were also undertaken to supplement information from official and unofficial documents.

Analytical framework and structure

Numerous theories have been developed in the field of political science to explain protective strategies, e.g. theories on alliances, on game theory, and on foreign policy generally. However, these theories are not relevant for this study. They primarily address relations among states, or, alternatively, relations between a state and its subject. They do not bear directly on issues of international legal protection as it is undertaken by an international organization to benefit individual persons that cannot avail themselves of the protection of their state of origin. Moreover, the material for this study is drawn from sources that do not reveal the motives and bargaining potential of individual actors that constitute the focus of some of these theories.

A historical and textual approach seemed more appropriate to the task at hand. Although the time period is limited to recent years - official documents from 1990 onwards will be studied in depth - earlier material was examined in order to

establish points of departure for significant trends and changes. When, for instance, did temporary protection become an issue? Was international "burden-sharing" always an important concept?

The study does not focus on institutional change per se, but institutional developments within ExCom was examined as one possible cause of policy change. Other factors to be taken into account are the global refugee situation, the global political order (particularly Cold War and post-Cold War), and refugee-relevant issues on the agenda of the international community (especially human rights and gender). Policy development in Europe and European responses was given special attention.

The study is organized as follows: The first part gives the background to the study, the analytical framework and a clarification of the methodological approach. In the second part, the mandate and organizational structure of UNHCR are outlined, and the origins and structural developments in the Executive Committee are discussed. Part three explores the concept of international protection and provides a historical introduction and legal interpretation to the basic principles involved. A brief overview of protection issues in ExCom is given by way of examining Conclusions up to the mid-1980s. The next section briefly reviews main trends in the global refugee situation in the 1990s. UNHCR's policy preferences are presented as they appear in critical protection issues discussed in the Notes from 1990 to 1996. The last section reviews ExComs debates on international protection issues in more recent years, as illustrated by the outcomes of the debates found in the Conclusions. New concepts and strategies expressed in ExCom documents are examined.

2. The office of the United Nations High Commissioner for Refugees

UNHCR is the principal international mechanism for protecting and assisting refugees. Established in 1951, UNHCR has a mandate assigned to it under international law. Its founding statutes make clear that the work of the organization is humanitarian and non-political.[1] The mandate, defined in the 1951 Convention Relating to the Status of Refugees and revised in the Additional Protocol of 1967, is to protect refugees (as defined in the 1951 Convention) and furthermore, to seek permanent solutions to refugee situations.[2] While the mandate describes the task as humanitarian, it clearly has political implications in that it relates to the exercise of power by states. The granting of asylum is a sovereign matter for governments; still, the "non-refoulement" principle, as stated in Article 33 of the 1951 Convention, indicates a duty for states to protect individuals, as persons seeking refuge can not be returned to countries where they fear persecution or where their lives may be in danger. Since UNHCR does not control any territory, it must rely on states, and consequently on national policies, to provide the physical protection needed. Its mandate is to work with governments to see that this is done.

UNHCR was originally meant to be a short term agency, set up for a term of only three years. The option for extension laid down in the statutes has, however, been used to keep UNHCR in operation for the past 46 years. When UNHCR was established, there was an existing framework of international protection mechanism to build on. After World War I, Fridtjof Nansen had been appointed "League of Nations High Commissioner for Refugees". The activities and responsibilities of the High Commissioner ranged from legal protection to humanitarian relief and constituted a major step towards international cooperation in refugee matters. In 1930, after Nansen's death, these activities were taken over by the "Nansen Office", and later by the office of the "High Commissioner for Refugees coming from Germany". In 1939, both were replaced by a new "League of Nations High Commissioner for Refugees".

By the end of World War II, Europe had an estimated 15 million refugees or displaced persons. The experience from the war led not only to the creation of the United Nations; there was general agreement that several problems needed to be handled at an international level and managed cooperatively within the framework of an international regime. Recognition of the refugee problem as an international question was an important step forward to meet the needs of refugees. The first agency to be concerned primarily with refugees and displaced persons from World War II was the International Refugee Organization (IRO). Created in 1946, IRO administered camps in Europe, helped repatriate or resettle displaced persons, and provided legal protection for refugees. In some ways,

[1] Article 2, GA res. 428: "The work of the High Commissioner shall be of entirely non-political character; it shall be humanitarian and social and shall relate, as a rule, to groups and categories of refugees<[>...]"

[2] Article 1, GA res. 428: "The United Nations High Commissioner for Refugees, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and of seeking permanent solutions for the problem of refugees <[>...]".

UNHCR was to continue the work of IRO, but its mandate differed in important respects by being linked to the 1951 Convention on the Status of Refugees. As later supplemented by the 1967 Protocol, the 1951 Convention is the main international instrument for the regulation of refugee policy and constitutes the legal basis of what may be called the international refugee regime.

Institutional organization

The structure of UNHCR and ExCom are of interest in that institutional arrangements may affect decision-making outcomes. Structures constitute the framework within which choices are made and to some degree regulate and limit the choices available.

The High Commissioner is chosen by the UN General Assembly and is responsible to the General Assembly and its Economic and Social Council (ECOSOC) which sets the general policy directives. Over the years, there have been numerous directives. Their common feature has been to request and authorize the High Commissioner to protect a wider category of persons than those covered by the 1951 Convention. [3]

Box 2.1: High Commissioners since 1951

Mr Gerrit J. van Heuven Goedhart (Netherlands) Dec 1950 - July 1956
Mr Auguste R. Lindt (Switzerland) Dec 1956 - Dec 1960
Mr Felix Schnyder (Switzerland) Dec 1960 - Dec 1965
Sadruddin Aga Khan (Iran) Dec 1965 - Dec 1977
Mr Poul Hartling (Denmark) Jan 1978 - Dec 1985
Mr Jean Pierre Hocke (Switzerland) Jan 1986 - Nov 1989
Mr Thorvald Stoltenberg (Norway) Jan 1990 - Nov 1990
Mrs Sadako Ogata (Japan) Jan 1991 - present

When drafting the UNHCR statutes, the UN General Assembly envisaged the establishment of a committee to advise the High Commissioner (cf. para. 4 of the Statute), and such a committee was established by ECOSOC on 10 September 1951. The General Assembly described its function as "giving directives to the High Commissioner in carrying out his programme" and to "control the use of funds". In 1955, ECOSOC established UNREF (United Nations Refugee Emergency Fund) which took over the advisory function. The fund also received broad executive functions to oversee programmes and funds. In 1958, the General Assembly decided to create a new body, and called upon ECOSOC to establish a

[3] *Refugees*, no. 92, 1993: 15.

new committee: The Executive Committee of the High Commissioner's Program (ExCom), hereafter the board of UNHCR (Johnsson 1990).[4] The committee was given two main tasks. The first was to review the programmes of UNHCR - in this respect it was given an executive function by approving or disapproving administrative and financial matters. The second task was to advice UNHCR upon request in matters concerning mandate and functions. These remain the two principal functions of ExCom.

The Executive Committee

Originally the committee had 24 member states, in 1958 the number was increased to 25, in 1963 to 30, and in 1967 to 31. This trend has continued over the years, and as of 1997 ExCom was composed of 53 governments.[5]

Box 2.2: States members to UNHCR Executive Committee as of January 1997

("N" indicates states non-signatories to the 1951 Convention or the 1967 Protocol)

Algeria	Hungary	Poland
Argentina	India (N)	Russian Federation
Australia	Iran (Islamic republic of)	Somalia
Austria	Ireland	South Africa (N?)
Bangladesh (N)	Israel	Spain
Belgium	Italy	Sudan
Brazil	Japan	Sweden
Canada	Lebanon (N)	Switzerland
China	Lesotho	Tanzania (N)
Colombia	Madagascar	Thailand (N)
Denmark	Morocco	Tunisia
Ethiopia	Namibia (N)	Turkey
Finland	Netherlands	Uganda

[4] GA 1166 (XII) of 26 November 1957 requested ECOSOC to establish the ExCom, and defined its Terms of Reference.

[5] In addition, approximately 80 states attend the Executive Committee plenary session as observers, along with other UN agencies and more than 100 NGOs (Wichert 1996).

France	Nicaragua	United Kingdom
Germany	Nigeria	USA
Greece	Norway	Venezuela
Holy See	Pakistan (N)	(Yugoslavia?)
	Philippines	Zaire

The criteria for membership in ExCom are imprecise. Members should have "a demonstrated interest in refugee problems", and overall membership should reflect "as wide as possible geographical representation". Some states claim that additional criteria should be introduced, including the minimum criterion of being a signatory to the 1951 Convention or its 1967 Protocol (several members of ExCom are not, including India, Thailand, Pakistan and Bangladesh).[6] Some UNHCR officials do not agree on a minimum criteria of this kind: "ExCom should not be a 'good boys club'", as one UNHCR official put it. In this perspective, it is useful to bring in countries that are not a party to the Convention, particularly since many large asylum countries are not signatories. The inclusive function of ExCom is considered critically important in building an international consensus in matters of international protection. However, there are evidently different views on the matter within UNHCR. Other UNHCR officials found that the entry of non-signatory states obstructed the work of ExCom, and feared that the overall result was to place the protective function of UNHCR in dispute.[7]

From the start ExCom has played a standard-setting, normative and consensus-creating role. Its Conclusions are used by UNHCR as "soft law"; they are not legally binding but represent a legitimate, normative consensus. As such, they are often referred to in individual cases concerning the granting or denial of asylum. In its advisory capacity, ExCom plays an important international consensus-building role. The formalized outcome of Committee discussion - i.e. the Conclusions - constitute important international norms whose power derive from the long-standing consensus tradition of ExCom. For this reasons, the Conclusions were selected as central to this study of policy doctrines on protection.

ECOSOC, which regulates ExCom rules, permits attendance by NGOs to which it has granted consultative status, as well as members of the Commission on Refugees of the International Council of Voluntary Agencies (ICVA). These organizations can also submit statements to the Committee. (Refugees, 97, 1994: 8). The observers include states that are not ExCom members. The observers have no right to vote and hence no direct influence on the work of the Committee or its Conclusions and decisions. Conclusions of ExCom have always been adopted by

[6] When the ECOSOC meeting in 1994 dealt with the question of enlargement of the ExCom, the EU Member States and some other countries (Norway) stated that " [...]States elected by ECOSOC [...] to sit in the Executive Committee[...] take firm steps to acceed to the 1951 Convention and 1967 Protocol [...]." (Information from the Norwegian Ministry of Foreign Affairs, (hereafter NMFA), 1994).

[7] Interview, Geneva, 1997. The traditional consensus can also be threatened by the entry of new member states. Members of the Norwegian delegation claimed the efficiency of the Committee decreased as more members were admitted.

consensus. In theory the Committee can vote when there is disagreement, but so far this option has not been used. As noted above, decision-making by consensus is a long-standing tradition that is viewed as one of the most valuable aspects of the Committee's work

Every year, ExCom has one formal plenary session in Geneva (October). This session is often spoken of as ExCom, which thus refers to the event rather than the institution. ExCom is seen as an "important event for discussing an updating international refugee policy" (Wichert 1996: 220). Much of the work of the Executive Committee takes place before the main sessions in October, and is done in the various sub-committees and working groups mentioned above.

The Executive Committee had until 1996 two Sub-Committees: Sub-Committee of the Whole on International Protection (SCIP) and Sub-Committee on Administrative and Financial Matters (SCAF). The former was established in 1977 as a forum for examining problems and recommending solutions concerning international protection. The Sub-Committees were merged into one Standing Committee in 1996. This reform resulted from concern ove the inefficient working methods of ExCom. Over the years, larger political issues were increasingly discussed in the Sub-Committees. Their work was no longer restricted to technical issues, as intended, and they became fora for policy issues as well. It was, however, difficult to make a clear-cut distinction as to which committee should be responsible for which issues. By contrast, the Standing Committee (which comprises all ExCom members, as was the case also with the Sub-Committees) can consider all items, including cross-cutting issues.

There are several informal ExCom meetings throughout the year. The Standing Committee meets four times a year, in January, April, June and September. Protection issues are discussed in June, and the meeting in September prepares draft conclusions and decisions for the October plenary session. The Standing Committee is authorized by the plenary to adopt decisions in its field of work - which is already defined by the plenary. The General Conclusions on International Protection are discussed in the Standing Committee but adopted with consensus in the plenary. The principle of building consensus can help as well as hinder the work of ExCom. The consensus may be blocked - if so, this may lead to general formulations or the abolition of politically sensitive paragraphs. The debates on particular issues often assume the character of negotiations where the actors give and take in order to reach agreements. However, once agreement is reached, the consensus procedure adds to its significance.

The working groups of ExCom, which include all members, can be set up as informal consultations of ExCom. Observers are not allowed in the working groups. The forum "Friends of the Rapporteur" is also a sort of a working group. During the week of the plenary ExCom sessions, this group meets to draft Conclusions for the final report. This working group consists of Executive Committee members and is chaired by the rapporteur of the Executive Committee. Observers cannot participate in these meetings. UNHCR's Division on International Protection has recently established another working group: "Consultations on the Provision of International Protection to All who Need It.[8]

[8] The work of this group started in May 1996 and follow-up meetings were held in December 1996 and May 1997.

UNHCR reports to ECOSOC, which in turn reports to the General Assembly. ECOSOC has its seat in New York and is composed of four committees. The Office of UNHCR is discussed in ECOSOC's 3rd committee which deals with humanitarian issues and human rights. This discussion leads to a report which in turn is presented to the General Assembly at the end of the plenary session. The report and the subsequent General Assembly resolution form the main links between UNHCR and the wider UN body. The resolution provides general authorization for UNHCR to operate and can be seen as specifying its mandate. ExCom Conclusions are noted by the General Assembly as "statements of interests".

3. International Protection

The main elements of protection are admission to safety - traditionally understood as requiring crossing of an international border - the principle of non-refoulement, and non-discriminatory treatment.

Instruments

The 1951 Convention and UNHCR's mandate for international protection are rooted in the International Declaration of Human Rights (1948). Article 14 (1) states that "Everyone has a right to seek and enjoy in other countries asylum from persecution". This right is the point of departure for refugee protection as it developed in the years following World War II. The 1951 Convention Relating to the Status of Refugees is the main international legal instrument concerning international protection of refugees. However, other international instruments can also provide protection for individuals that do not qualify for asylum (e.g. the 1984 Convention against torture).

The Statute of the Office of UNHCR introduces the protection function of the Office of UNHCR in its first paragraph: "The United Nations High Commissioner for Refugees [...] shall assume the function of providing international protection [...]". The protection function is further defined in paragraph 8 of the Statute which addresses the admission aspect (asylum, non-refoulement) and the rights for refugees in their countries of residence. The mandate entrusts the organization with responsibility for providing international protection for "refugees", who are defined in the 1951 Convention as follows : "Any person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable to or, owing to such fear, unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence[...], is unable to or, owing to such fear, unwilling to return to it (Art. 1).

The Convention definition originally contained a geographical and a time limitation in that it applied to persons who had become refugees "due to events in Europe... prior to 1951". The restrictions were introduced by states that wanted to limit their duties and responsibilities, but were removed by the 1967 Protocol. However, the mandate of the High Commissioner, as defined in the Statute, does not include the original limitations in the Convention definition, thereby giving the High Commissioner a broader basis than states for aiding persons needing protection.

Art.1 forms the core of the 1951 Convention, but equally if not even more important for the protection of individual refugees is article 33 on "non-refoulement": "No contracting state shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." The article is particularly important because the Convention does not establish a duty for states to provide asylum.

To interpret the refugee definition and decide whether or not a person is a refugee is a state responsibility, but UNHCR has developed guidelines to promote coherent procedures that are in conformity with international refugee law (*UNHCR Handbook on Procedures and Criteria for Status Determination*).

As of March 31, 1997, 131 states were signatories to the 1951 Convention and/or the 1967 Protocol. Of these, four were signatories to the 1951 Convention only, and four to the 1967 Protocol only. (See appendix 1.)

The 1951 Convention and its 1967 Protocol are still the main international legal instruments specifying the rights of refugees. Yet, a common criticism is that the Convention and its definition are Eurocentric in that the Convention was developed for a particular situation relevant to post-World War II Europe. Later, additional regional instruments were developed to reflect the refugee situations in the respective regions. The first of these was the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa. The Convention adopts a broader definition of the term "refugee" than the 1951 Convention and allows for group-based status determination. In 1984, Latin American countries adopted the Cartagena Declaration on Refugees. The Declaration is a non-binding instrument but has been applied by Latin American states and is considered an important part of international legal norms in refugee matters (*The State of the World's Refugees* 1993: 166). Like the OAU Convention, the Cartagena Declaration broadens the definition of the term "refugee" relative to the 1951 Convention. With the existence of regional instruments applicable to refugee movements in Africa and Latin America, and given that most Asian countries are not signatories to the 1951 Convention or its Protocol, that left the European and the other Western countries as the states most directly concerned with the legal aspects of interpreting the 1951 Convention.

Changing approaches

When UNHCR was established, the High Commissioner was almost exclusively preoccupied with European refugees in Europe. During the following decades the situation changed as large refugee movements developed - and were recognized - outside Europe. Moreover, from the early 1980s onward there was a significant increase in the number of individual or spontaneous asylum-seekers arriving in Western European countries, prompting former High Commissioner Jean-Pierre Hocke to introduce the term "jet-people" as opposed to the "boat-people" of the late 1970s. In the 1990s, large numbers of Europeans were again forced to leave their homes to seek protection in other states, primarly within Europe.

Over the decades there have also been changes in the approaches of UNHCR. Most noticeable has been the increasing willingness of the High Commissioner to assume responsibility for groups which fall outside its original mandate. A parallel change has occurred with respect to thinking about the *causes* of refugee flows, in contrast to the traditional concern to deal with the *symptoms* of conflict by helping the victims. According to an article by Daniel Warner (1990), a change in UNHCR's conception of its own role in international protection was apparent by the mid-1970s. UNHCR increasingly focused on the changing nature of refugee situations, not only on the growing number of refugees.

As the post-World War II problems of European refugeed were solved and new refugee- producing situations emerged - initially from the wars of decolonialization in the 1960s and 1970s - the task of providing international protection seemed to become more complex. One response, which was first evident in the early 1980s, was to focus on prevention. There were growing efforts to "avert " refugee flows by addressing the "root causes". The term "root causes" was widely used to denominate the underlying social, economic, and political forces that generated refugee movements. Two major UN reports were presented in the early 1980s, both identifying economic underdevelopment as a main cause of refugee flows.[9] Other important factors noted were political instability stemming from economic underdevelopment, war, and the improvement in communication and transport. The main recommendations of the reports related to the need for greater international economic equity and removal of systemic political injustice (zionism, apartheid and neo-colonialism). In response, some critics questioned the emphasis on underdevelopment as a cause of refugee flows, arguing that economic factors must be seen in relation to violent conflict which constitutes the proximate cause of refugee flows (Zolberg, Suhrke, Aguayo, 1989).

From the perspective of the 1990s, it is remarkable that the debate on root causes hardly mentioned human rights. Clearly, the debate reflected the global political climate at the time. With the sudden end of the Cold War, the West as well as the the South reoriented their position with regard to refugee problems. A growing number of refugees appeared in regions relatively close to or within the European region. Long distance movements had been facilitated by the development in communications, growing social networks, and immigrant communities. The number of asylum seekers in Europe and USA increased from 214 800 in 1987 to 808 900 in 1992. (*World Refugee Survey* 1997). War in the Balkans had immediate and massive refugee consequences: from 1991 to 1996 around 600 000 de facto refugees from former Yugoslavia were given various kinds of legal protection in Europe. (Suhrke 1996: 6).

During the first decades of UNHCR's existence, there was a clear distinction between assistance and protection. As late as in 1989, Jerzy Sztucki maintained that "the distinction between protection and assistance "[...] is probably still valid" (Sztucki 1989: 291). In the "complex emergencies" of the contemporary world it has become more difficult to maintain a clear-cut distinction between these two functions of UNHCR. Yet it is clear that the assistance function has increased very considerably and constitutes at present a major part of the High Commissioner's work. This has generated criticism along three lines. First, critics argue, UNHCR has become too preoccupied with assistance at the expense of its mandatory duties to protect refugees as defined by its Statute. A second criticism concerns the actual problems of offering protection within the conflict area itself, and that the result - as in Bosnia - is offering "assistance without protection" (Frelick 1997). Thirdly, a related concern is how UNHCR should respond to the objective need for protection among persons that are not formally included in its mandate, such as internally displaced persons, environmental "refugees", and returnees.

Protection is closely tied to solutions, and the search for durable solutions to refugee situations is an essential part of UNHCR's work. The three standard "durable solutions" to refugee problems are voluntary repatriation, integration in

[9] Sadruddin Aga Khan Study on Human Rights and Massive Exoduse, E/CN.4/1503, 1981, and UN.A/41/324, International Co-operation to Avert New Flows of Refugees, 1985

the country of first asylum, and resettlement in a third country. These solutions appeared in different forms in the policy debate in UNHCR and ExCom as the nature of many refugee problems changed from the 1980s to the 1990s. In particular, resettlement became a less relevant option, while repatriation became increasingly stressed over time.

In the 1990s, a stronger emphasis on the relationship between human rights violations and the creation of refugee flows developed. However self-evident this connection may appear, it represents a rather recent focus in the discourse on causes, strategies and solutions.

The Executive Committee and International Protection: An Overview of Conclusions 1975 - 1989

Since 1963, ExCom has presented the results of its deliberations on protection as formal texts termed "Conclusions".[10] The "General Conclusions on International Protection "(GCIP) are formulated by the Executive Committee on the basis of the UNHCR "Notes on International Protection", and summarize ExCom views on current questions related to protection. In addition to the annual General Conclusions on International Protection, there are Conclusions on various thematic issues related to refugee protection; until 1996 these were submitted by the Sub-Committee of the Whole on International Protection.[11]

ExCom Conclusions have the character of legal formulations in that minor changes in formulations may be significant. The Conclusions are adopted by consensus in the ExCom as well as in the Sub-Committee, and no Conclusions are formulated if consensus cannot be reached. The final Conclusions are largely the product of closed meetings between UNHCR and Member States (Wichert 1996).

In the following, a brief presentation of the Conclusions on protection from 1977 to 1989 is offered.[12] The section deals mainly with the annual "General Conclusions on International Protection" (totalling 13), but some thematic Conclusions relevant to the main elements of the international protection regime are also included. The review describes trends inl protective strategies before the Cold War ended, thus providing a background for the main analysis which concentrates on the 1990s.

The *General Conclusion on International Protection no.3 (1977)* concerned the disrespect for human rights of refugees, and expressed satisfaction that a Sub-Committee of the Whole on International Protection had been established as "a

[10] With the exception of some years when they were termed "Decisions". There has been some discussion concerning the nature of the outcome of the ExCom debates, as well as the terms "Conclusion" vs. "Decision". For further information on this debate, see Sztuc ki 1989. pp. 295.

[11] The Sub-Committe was replaced by a Standing Committee in 1996. See section 2.

[12] The Conclusions from 1963 to 1975 are for some reason not easily accessible. Conclusion no. 1 and 2 deal with the establishment of the Sub-Committee of the Whole on International Protection and are therefore omitted, as are all Conclusions on administrative matters, on standards and rights of refugees in receiving countries, and some other.

forum for examining current problems and recommending appropriate solutions in this field."[13] In 1977, additional Conclusions concerning some essential aspects of protection were also submitted; the question of asylum (no. 5), the question of non-refoulement (no. 6), expulsion (no. 7), determination of refugee status (no. 8) and family reunion (no. 9). In the Conclusion on asylum, the Executive Committee expressed satisfaction that states "have generally continued to follow liberal asylum policies" and urged that this be upheld.

General Conclusion on International Protection no. 11 (1978) emphasized in particular the importance of the observing the principle of non-refoulement. In Conclusion no. 6 from the previous year dealing specifically with this issue, a concern had been expressed that the principle in certain cases had not been respected. This concern was repeated in the 1978 General Conclusion. The principle of international solidarity in refugee matters was held out as "a primary condition for the practices of liberal asylum policies."

General Conclusion on International Protection no. 14 (1979) again expressed concern that the principle of non-refoulement was not fully observed. With clear reference to the Indochinese situation, it also called upon states to take responsibility for refugees at sea ("boat people"). Another specific concern was the security situation in refugee camps in Southern Africa.

General Conclusion on International Protection no. 16 (1980) repeated many of the concerns from previous years and underlined that, while the creation of regional instruments concerning refugee protection was necessary, the fundamental character of the 1951 Convention should not be questioned. Some thematic Conclusions regarding solutions were also submitted in 1980. Traditionally, voluntary repatriation is held out by UNHCR as the preferable durable solution to refugee situations. Conclusion no. 18 on voluntary repatriation underlined this point, mentioning in particular situations "when a country accedes to independence". The voluntary character of repatriation should however always be respected, and arrangements should be made to ensure this. Conclusion no. 19 (1980) on temporary refuge emphasized the essential nature of the principle of non-refoulement. It was also stated that in the case of mass influx, persons seeking asylum should be given at least temporary refuge. Foreshadowing a future debate, ExCom maintained that states which received large numbers of asylum seekers should receive assistance from other states in accordance with the principle of burden-sharing. The need to define the "nature, function and implications of the grant of temporary refuge" was recognized, and it was recommended that the topic was further studied.

General Conclusion on International Protection no. 21 (1981) repeated the appeal from the previous year that states should take responsibility for refugees and asylum seekers at sea. The 1981 Conclusion also expressed satisfaction with the work of SCIP, saying that this "has greatly facilitated the High Commissioner's efforts to extend international protection to refugees." ExCom further reiterated its fear that the principle of non-refoulement was being violated.

A separate Conclusion concerning protection of asylum-seekers in situations of large-scale influx was submitted (no. 22), based on the report of a Group of Experts established in April 19981 to study temporary refuge in situations of

[13] On the establishment of the Sub-Committee, see<+"> General Conclusions on International Protection
1 and 2

large-scale influx, as recommended by the previous plenary session. With regard to protection, the main Conclusions were that asylum-seekers in situations of large-scale influx should be admitted to the country where they first sought asylum. If states were unable to provide permanent protection, they should at least offer temporary refuge. In all cases the principle of non-refoulement must be observed and respected. Minimum standards for treatment of asylum seekers with temporary refuge were established.

The question of international burden-sharing was also addressed in Conclusion no.22. International co-operation was regarded as a sine qua non for solutions, and states should therefore assist those most affected by a mass influx. Burden-sharing arrangements should be adapted to each particular situation. Burden-sharing could involve emergency, technical and financial assistance. In addition, when voluntary repatriation or local settlement was impossible, states shared a responsibility to offer resettlement possibilities. The question of causes was addressed by affirming that "government should also seek to ensure that the causes leading to large-scale influxes of asylum seekers are as far as possible removed."

General Conclusion on International Protection no. 25 (1982) expressed satisfaction with efforts undertaken in various fora to examine the causes of large scale refugee movements. It was emphasized, however, that this work must not weaken the basic principles of international protection.

General Conclusion on International Protection no. 29 (1983) expressed concern that the protection function of UNHCR had become more difficult due to "restrictive trends relating to the granting of asylum and the determination of refugee status". The importance of deciding which country is responsible for examining an asylum request was also underlined. This was the first time the question of "burden-shifting" was explicitly mentioned in a General Conclusion (as distinct from separate Conclusions).The need for governments to co-operate with UNHCR in the granting of asylum was reiterated; simultaneously, asylum countries were encouraged to "create conditions favourable to voluntary repatriation".

General Conclusion on International Protection no. 33 (1984) spoke of the changing character of refugee movements and associated problems. It expressed grave concern that the principle of non-refoulement was not respected, and that a restrictive trend had developed in the granting of asylum.

General Conclusion on International Protection no. 36 (1985) repeated the concern expressed the previous year that the international refugee situation had become more complex and difficult to deal with. A separate Conclusion on refugee women and their needs was presented (no. 39). This was the first time the Executive Committee formally recognized the particular needs of female refugees. Not surprisingly, this coincided with greater attention within the UN system to gender specific problems, following the UN Decade for Women (1976-85) that culminated in the Third World Conference on Women in Nairobi in 1985.[14] The Conclusion stressed the need for UNHCR and host countries to give special

14 1975 World Conference of the International Women's Year (Mexico City), 1979 Convention on Elimination of All Forms of Discrimination against Women, 1980 Second World Conference on Women (Copenhagen), 1985 Third World Conference on Women (Nairobi), 1987: new mandate for the Commission on the Status of Women (UN General Assembly, 1995 Fourth World Conference on Women (Bejing).

attention to the international protection of refugee women, as this group constituted the majority of the world's refugee population.

General Conclusion on International Protection no. 41 (1986) again stressed the importance of solutions as a main aspect of UNHCR's protection function, particularly in view of the complex nature of the present refugee situations. As the preferred solution, voluntary repatriation should be promoted. Durable solutions to refugee problems were also said to include "the need to address the causes of movements of refugees and asylum seekers". This Conclusion also mentioned the specific needs of refugee women.

General Conclusion on International Protection no. 46 (1987), like several previous Conclusions, underlined the particularities of the contemporary refugee problem. The special protection and assistance needs of women were noted, and the need to collect reliable information and increase awareness about their situation was emphasized. The Conclusion called upon states to make sure that measures to deter arrival of asylum seekers did not conflict with the fundamental principles of international protection. The close link between causes and solutions was again stressed, and voluntary repatriation was held out as the most desirable solution. The global nature of the refugee problem was underlined, as ExCom "recognized that international protection is best achieved through an integrated and global approach to protection, assistance and durable solutions."

General Conclusion on International Protection (no. 50) 1988 emphasized "the cardinal importance of dealing with the underlying causes of refugee movements." This was seen as essential not only to prevent new flows, but also to solve existing problems and thereby encourage repatriation. The Conclusion expressed concern that the fundamental principles of non-refoulement and the prohibitions against expulsion were violated by several states, and earlier Conclusions dealing with these issues were recalled (Conclusion no. 6 on non-refoulement and no.7 on expulsion, 1977). The similarity between the problems of refugees and stateless persons was noted, and states were invited to work actively to improve the conditions of the stateless. This was the first time the problem of statelessness was linked to refugee problems and dealt with in an ExCom Conclusion.

A separate *Conclusion on International Solidarity and Refugee Protection no. 52 (1988)* was the first Conclusion to deal specifically with burden-sharing. Starting from the premise that the global character of the refugee problem made these problems "the concern of the international community", the Conclusion invoked the principle of international solidarity to encourage states to share the responsibility of providing asylum. Burden-sharing was also a topic in its own right at the ExCom plenary session in 1988. Several factors explain why burden-sharing figured so prominently on the agenda: the financial crisis of UNHCR; the growing number of asylum seekers in the West, and the restrictive policies this generated.

General Conclusion on International Protection no. 55 (1989) expressed for the first time a concern that the institution of asylum might be jeopardized by application for refugee status by persons who "clearly have no valid claim to be considered as refugees under the relevant criteria." In response, the need for quick and effective procedures to determine the status of applicants was noted. However, detention of asylum seekers and other restrictive measures were cited with concern, and the recommendations from Conclusion no. 44 from 1986 on Detention of Refugees and Asylum seekers were reiterated.

A separate Conclusion on durable solutions and refugee protection (no. 56, 1989) referred to an expert meeting on "Solutions to the Problems of Refugees and the Protection of Refugees" (San Remo, 12 - 14 July 1989).[15] The report from this meeting had stressed that prevention was the best solution, and pointed to the inter-relationship between protection and solutions in general. Several other measures aimed at dealing with the causes of refugee flows were outlined in the report. All of these were welcomed by the Executive Committee, which concluded by calling on the High Commissioner to convene an open-ended working group to examine protection and solutions. The working group should consist of ExCom members, and should report to ExCom at its forty-first session (in 1990).

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In sum, it is evident that fundamental principles in international refuge law such as international solidarity and burden-sharing were reiterated throughout the period examined. Root causes became a matter of concern in the mid- and late 1980s, and repatriation was increasingly stressed as a preferred solution. Both were in response to "the changing character of refugee movements", which in the Executive Committee's careful consensus language was a euphemism for the growing burden on first asylum countries caused by mass outflows of refugees and prolongued periods of exile. The industrialized states, as noted, also found themselves reluctant hosts to large numbers of asylum seekers, mostly of non-European origin. This "changing character" of the interntional refugee situation was noted by ExCom every year from 1984 and onwards. In 1989, a report on solutions to refugee problems appears as a point of departure for a new emphasis in the debate on protective strategies. The report held out prevention as the best solution, a perspective that was to be adopted and elaborated by UNHCR and ExCom in the early 1990s. There was also increasing recognition of the particular needs of women refugees, and consequent adoption of guidelines and strategies to assist this group.

Many issues are repeated throughout the period covered by the Conclusions examined above. These are mainly issues pertaining to a traditional understanding of international protection, such as the importance of the institution of asylum and the non-refoulement principle. The institution of asylum has always been held out as the protection principle par excellence. From the early 1980s, the question of "genuine" versus "false" asylum-seekers came into focus, accentuating the debate on how to protect and preserve the institution of asylum. As we shall see in the next chapter, this issue was to become even more prominent in the 1990s. Another issue to dominate in the 1990s - temporary protection - appeared on the ExCom agenda as early as 1980, although it was then seen as a strategy for developing countries, not for the Western world as it was later to become.

[15] See document EC/SCP/55

4. Protection through the 1990s

This section starts by reviewing major events and trends in the global refugee situation in the 1990s. However brief, it may still provide a framework for understanding the relationship between the policy developments in UNHCR/ExCom and changes in the global refugee situation. The second part examines the strategies identified by UNHCR to deal with the changing protecting challenges. For this purpose, UNHCR Notes on International Protection and speeches and statements of the High Commissioners are used.

The global refugee situation in the 1990s

The fact that refugee movements exist and continue to appear is neither new nor sensational. However, certain new features characterize the contemporary refugee crisis, making it possible to identify certain types of changes. The 1990s have seen the end of political regimes and political systems associated with the Soviet Union, as well as significant transformations in international relations resulting from the end of the Cold War. The conflict pattern of the 1990s differed from that of previous decades. The end of the Cold War revealed, and possibly fuelled, local tensions and conflicts around the world. Most of the ongoing wars are civil or internal wars.

Most of the refugee movements of the 1990s resulted from these internal wars or other armed conflicts. A characteristic feature of these conflicts was the use of civilians for military or political purposes, in many cases making the civilian population a prime target for violence. This led to large numbers of internally displaced persons in addition to the traditional category of cross-border refugees. The nature of these refugee movements is complex, with causes and consequences strongly interrelated. Refugee flows are a direct result of conflicts, and solutions to refugee problems depend largely upon conflicts being solved.

The number of people seeking asylum around the world also increased in the 1990s, and the majority of those who sought asylum left their homes as part of a large scale outflow. Most found refuge in a neighboring country, but some went to more distant countries in the industrialized world. Advances in transport and communication technologies facilitated interregional and even transcontinental movements of people, enabling large numbers of asylum seekers from the developing world to arrive at the doorsteps of the industrialized countries. The number of asylum seekers in Western Europe increased from 90 000 in 1983 to 825 000 in 1992, most of them originated from outside Europe (Loescher 1994). In the 1990s, also Western European countries experienced situations of "mass influx" and adopted new restrictions in response, including more emphasis on repatriation (sometimes called "imposed return" or return in the context of a "comprehensive plan of action") as well as various forms of temporary protection.

The total caseload of UNHCR grew steadily throughout the 1980s and 1990s and reached 27.4 million persons in 1995 (UNHCR 1995). This did not reflect an increase of refugees as traditionally defined - that trend had levelled in the early 1990s - but the addition of a large number of "persons of concern to UNHCR",

including repatriated persons and internally besieged and displaced persons (IDPs). The change in the caseload of UNHCR, both in terms of its size and its character, led to changes in UNHCR's approach and made it into one of the major de facto operational agencies in the UN system.With a staff of 5315 members and a budget of $ 1,3 billion (1995) - up from 0.5 million 1990 - UNHCR had become the largest humanitarian agency in the UN system. [16]

Major refugee flows in the 1990s - facts and factors

The monumental changes in the world situation in the 1990s had great consequences for the international refugee situation and the international community's capacity to deal with the new humanitarian crises. With the dissolution of the Soviet Union, a number of new sovereign states emerged. In addition to the 15 states rising from the ashes of USSR, there were several other new states: Slovenia, Croatia, Eritrea, Yemen, and last but not least a reunited Germany. The war in Yugoslavia that started in 1991 and produced a massive refugee problem was linked to the ending of the Cold War and the end of communist hegemony in Eastern Europe.

The Iraqi invasion of Kuwait in 1990 and the subsequent Gulf War generated large numbers of refugees: approximately 4 million persons were displaced in the 12 months following the Iraqi invasion (Loescher 1994: 37). Not only did people flee during the actual Gulf War, another refugee flow started after the Iraqi defeat, when hundreds of thousands of Kurds fled their villages to become trapped in the mountainous border region between Turkey and Iraq. This in turn led the UN to undertake a "humanitarian intervention" (Operation Provide Comfort), an intervention that fuelled the debate on the limits of national sovereignty and the role of human rights considerations in the international community's right and responsibility to intervene. In June the following year (1992) UN Secretary-General Boutros Boutros-Ghali released *An Agenda for Peace*, outlining a more activist role for the UN in peace-keeping and peace-building. Just as refugee movements in the wake of the Gulf War had precipitated external intervention in Iraqi affairs, so the crisis at the Horn of Africa led to intervention in Somalia, where US troops launched Operation Restore Hope in December 1992. The Somali intervention came to be viewed as a failure, and there is broad agreement among analysts that this experience made the international community more reluctant to take on the Rwandan crisis that unfolded shortly thereafter.

In 1992, the conflict in the former Yugoslavia spread to Bosnia Herzegovina, forcibly uprooting large numbers of people. Starting with food distribution, UNHCR soon became the lead UN humanitarian agency in the former Yugoslavia. By 1994 some 4 million people displaced by the conflict in former Yugoslavia received some kind of assistance from UNHCR. In December 1995, the Dayton peace agreement was signed by all parties to the conflict. This brought hope that hundreds of thousands of Bosnians could be repatriated, although it soon became evident that there were many obstacles in the way.

[16] About half of UNHCR's field activity is done by/via NGOs cooperating with UNHCR. *State of the World's Refugees* 1995, Nordby 1995).

In 1993, a positive development in the world's refugee situation could be noticed as the largest repatriation programme ever was launched in Africa, involving the return of 1.5 million Mozambican refugees. Further, the political changes in South Africa made repatriation possible in that country itself, and to neighbouring country Namibia. On the other hand, 1993 also saw massive human displacements within Central Africa. Further afield, there were also new refugee movements. The conflict in Nagorno Karabakh caused the largest refugee movements in the former USSR, with some 800 000 uprooted, either as refugees outside their country of origin or as internally displaced. Another post-Cold War conflict which led to large movements of people, internally as well as cross-border, was the war in the former Soviet Republic of Chechnya. More that 500 000 persons were forced to flee as a result.

A massive refugee crisis erupted in the Rwanda in July 1994 when over 1 million Rwandese fled to Zaire in the course of a few days and caused a major humanitarian emergency. Huge refugee camps were established in Zaire as well as neighboring Tanzania. It was soon realized that the camps were insecure, housing not only civilians fleeing bloodshed but also probable perpetrators of the genocide and the militias and the military who used the refugee population as a shield. Although the Zairian authorities at one stage wanted the refugee camps broken up and the refugees returned, the new Rwandan government did not want a general return given that there were there presumed genocidaires among the refugees.

The traditionally generous African states started closing their borders to refugees. The signs were ominous. In May 1996, for instance, a ship filled with over 2000 refugees fleeing Liberia was denied entry in several countries in the region. The same year, Tanzania expelled large numbers of Rwandan and Burundian refugees and denied access to new refugees seeking to enter from Burundi. The African scene started to echo Europe, where borders were increasingly closed to refugees as well, although by indirect means such as visa requirements. By the late 1990s UNHCR was facing growing unwillingness on the part of governments in many regions to fulfil their obligations to refugees under international law.

Some aspects of national, regional and international policy trends

The Department of Humanitarian Affairs (DHA) established in 1991 was designed to strengthen coordination of humanitarian emergency assistance in the UN system. While the Department was subsequently criticized - often by rival UN agencies - its establishment reflected a more comprehensive approach towards humanitrian crises.[17] Along the same lines, the *Agenda for Peace* (1992) underlined the importance of preventive diplomacy as well as the limits of national sovereignty. The intervention in Northern Iraq to protect and assist the Kurds was groundbreaking in this respect. For the first time, the UN Security Council declared that a refugee movement constituted "a threat to international peace and security in the region", enabling the UN to take enforcement action under chapter VII of the UN Charter (Res. 688). In a further demonstration of the broadening

[17] In UNHCR, for instance, there were complaints at the highest levels that DHA created extra work for the High Commissioner, and that the Department had difficulties defining its own role in relation to that of the other organizations in the UN system during emergencies. (Report from the Norwegian Geneva delegation, NMFA archives, series 334.310, 9. February 1995).

domain of international protection, the Secretary-General established in 1993 a Special Representative to examine international protection for internally displaced persons (IDPs). The mandate was to assess human rights issues related to IDPs and assess the adequacy of the existing legal and humanitarian framework for assisting them. In 1995, the mandate was renewed for another two years.

In Europe, the growing harmonization in various policy areas also affected responses to refugees. Initiated in the 1980s, the Dublin Convention of 1990 was a legal instrument that developed as European governments saw the need for common rules to regulate the admission of asylum seekers. The Dublin Convention established guiding principles for national admission policies. Most important, asylum applications should be examined by one state only, and the question of responsibility for asylum claims should be settled according to criteria laid down by the Convention. The harmonization of border control and hence immigration measures continued with the Schengen Agreement. Made effective from January 1994 the agreement contained provisions for harmonizing border control of states. However, EU member states did not intend to launch a regional refugee regime with comprehensive harmonization measures beyond those stipulated in the Dublin and Schengen agreements.

The European harmonization of asylum has been described as encouraging burden-*shifting* rather than burden-*sharing*. The prevailing procedures, moreover, were designed mainly for dealing with individual arrivals. The mass influx of persons from ex-Yugoslavia from 1992 and onwards triggered a new discussion within Europe on the question of burden-sharing in the context of temporary protection for mass movements.

Refugee statistics

There are a number of problems related to refugee statistics, and figures may vary considerably as between different sources (UNHCR, NGOs, governments, journalists). States may deflate the official number of refugees so as not to disturb relations with neighboring and refugee-producing countries; they they may also exaggerate the number so as to get more international aid. Some problems relate to the definitional criteria or to the problems of registering refugees in the context of mass exodus. The statistics provided may therefore at best be approximate figures.

Neither UNHCR or the US Committee for Refugees (which provides independent, thorough counts of the global refugee population) register total or regional numbers of internally displaced. USCR lists "selected significant populations of internally displaced persons". However, the total estimate of IDPs clearly outnumbers the traditional category of refugees by far.

UNHCR - Notes on International Protection 1990-96

The *Notes on International Protection* analyze the state of international refugee protection in a given year and present UNHCR's suggestions for policies. By examining The Notes, we can identify changing concepts of which populations the High Commissioner should protect and assist, as well as the policies and practices adopted by UNHCR in discharcing its functions. Moreover, the Notes and the High Commissioner's *Opening Statements* constitute UNHCR's principal, formal ways of influencing the Executive Committee. The Conclusions of ExCom draw on the Notes - the final sections of the Notes usually form the draft Conclusions - and are to a certain extent statements of support to UNHCR. The Executive Committee may also exclude issues from its statements. (The Conclusions and overall work of the ExCom in the 1990s will be examined in the next section).

Table 4.1 : Refugees and asylum seekers world-wide and per region 1987 - 1996 (IDPs not included)

	Africa	Asia	Europe	Middle East	The Americas and the Caribbean	Total
1987						12 400 000*
1988						13 300 000*
1989						14 800 000*
1990						14 900 000*
1991	5 340 800	4 739 250	677 700	5 770 200	119 600	16 647 550
1992	5 698 000	2 740 300	3 423 600	5 586 850	107 700	17 556 900
1993	5 825 000	2 619 000	2 785 000	4 924 000	102 000	16 255 000
1994	5 880 000	2 220 000	2 625 000	5 448 000	94 000	16 267 000
1995	5 222 000	1 839 000	2 521 000	5 499 000	256 000	15 337 000
1996	3 684 000	2 245 000	2 479 000	5 841 000	233 000	14 482 000

From 1990 onwards, the changing character of contemporary refugee situations was constantly emphasized in the Notes, and the existing framework for solutions was judged inadequate.But the Notes also expressed a belief in the possibilities for change. As the 1991 Note hopefully claimed: "a new multilateral order for

cooperation on refugee, migration and humanitarian affairs is emerging....The time has perhaps arrived for careful re-evaluation by the international community, in concert with UNHCR, of the mandate and role of the Office in this new, multilateral order." In the following, some main issues will be excamined as they are represented and interpreted in the Notes during the 1990-96 period.

Refugees?

The 1990 Note stated that the 1951 Convention and its Protocol did not fully cover the contemporary refugee situation because "it conceptualizes a refugee as an individual victim of persecution and implicit in it is the assumption that the main obligations to refugees are those of asylum states." It was further stated that refugees and asylum-seekers were increasingly treated by national governments as immigrants. UNHCR saw the "immigration approach" as a problem because it weakened the human rights focus. UNHCR affirmed that "the refugee situation has fundamentally altered in character and that this necessitates changes in the asylum policies of states." The High Commissioner expressed concern that many states seemed to develop more restrictive interpretations of the refugee definition, pointing to "the often automatic denial of refugee status to persons who happen to come from a civil-war situation." UNHCR unequivocally stated a broader position: "In reality, of course, persons become refugees when they flee or remain outside a country for reasons pertinent to refugee status, whether these reasons arise in a civil war situation, in an international conflict or in peace time."

The 1991 Note reiterated the problem that the refugee definition from 1951 only covered one part of the ongoing movements of persons in search of asylum. "UNHCR's responsibilities are to those individuals who fall within its mandate, either under the definitional provisions of the Statute of the Office, or pursuant to international or regional refugee conventions, or by reason of the authority conferred upon the Office by subsequent General Assembly resolutions". In 1991, the question of internal displacement was also addressed: "[A]dequate protection of internally displaced persons in particular is a key factor in the prevention of refugee flows." UNHCR's assistance to repatriates was in part linked to its work for IDPs.

The 1992 Note expressed a concern that the changing character of the refugee situation had not been effectively addressed. "There now exists an urgent need to explore new, complementary protection strategies in order to ensure that persons of concern and in need of protection receive it." The UNHCR protection mandate was understood to extend to "persons forced to leave their countries due to armed conflict, or serious or generalized disorder or violence.... Displacement, coupled with the need for protection, is the basis of UNHCR's competence for these groups."

In 1993, one section of the Note was devoted to the question of protecting the internally displaced. Some basic criteria for UNHCR involvement in situations of internal displacement were laid down, based on the findings of the Working Group on International Protection which had been convened by the High Commissioner in 1992 to analyze challenges to protection and recommend strategies of response. The Note also pointed out in that in some situations, UNHCR's work might include displaced persons, local residents and returnees as

well as refugees. In these cases, prevention of further flight was an especially important aspect of protection.

The fact that UNHCR increasingly was called upon to assist in situations that fell outside its original mandate gave rise to a call in the Note in 1994 "to adopt new approaches and strategies and to adapt the tools of the past to the needs of the present." The Note further discussed the adequacy of existing legal instruments to meet the need for international protection and concluded that "the tasks of international protection that the international community has conferred upon the High Commissioner have to a certain extent outgrown the tools, particularly the legal tools, that are available to accomplish them." The difficulties stemming from varying national interpretations of the term "persecution" were noted, and the applicability of the 1951 Convention in situations of mass influx was discussed. The Note also examined the terminology used for those not falling within the 1951 definition and found considerable diversity. "The term 'displaced person' has been used ambiguously for persons displaced within and outside their country of origin; 'persons of concern' connotes nothing of the plight of refugees and could refer to non-refugees of concern to the Office, such as returnees, asylum-seekers generally, and persons within their own country to whom the Office is requested to extend protection and assistance." Concerning the protection of persons who remain within their national boundaries, the High Commissioner acknowledged that "considerations of national sovereignty may take precedence over humanitarian concerns."

In 1995, the Note again discussed the issue of the applicability of the 1951 Convention - and hence traditional asylum - in situations of mass outflows, this time ending on a cautiously affirmative tone. One condition did not exclude the other: "[P]eople fleeing conflict may also be fleeing a well-founded fear of persecution for Convention reasons." The High Commissoner also advanced a liberal interpretation of another controversial dimension of the 1951 Convention by including non-governmental actors as possible agents of persecution, in addition to the traditional and more restrictive concept which only admitted governments as agents.

The question of internally displaced persons continued to be a major issue for UNHCR, not only in terms of their need for protection, but equally as an aspect of prevention. The 1996 Note reaffirmed that UNHCR's agenda was dominated by situations of mass flows and that many of those "of concern" to the High Commissioner were internally displaced. The Note expressed satisfaction that States had been willing to support the broader concept of "persons of concern" by "try[ing] to address the needs of all persons who require international protection..... [T]hey include persons fleeing persecutory wars or collapsing States, internally displaced persons, and persons fleeing persecution due to their gender." It should be noted that this was the first time gender was explicitly mentioned as a qualifying criteria for protection in relation to persecution.

Temporary Protection

The importance of the institution of asylum is underlined in all UNHCR documents, but he particular type of protection offered is inextricably linked to the nature of the contemporary refugee crisis and the understanding of who qualifies

as beneficiary. So-called "new" strategies such as temporary refuge had been used for years in regions other than Europe, but were adopted and institutionalized in Europe in the 1990s.[18]

Largely in deference to the European situation, the Notes of the 1990s explicitly recognize that asylum often means protection for a only temporary period. The Note from 1992 approached the question of temporary protection as a minimalist solution, stating that "UNHCR must continue to promote the right of all refugees to seek and enjoy asylum, at least on a temporary basis." In that year, UNHCR advocated temporary protection as a solution for the mass outflow of refugees from ex-Yugoslavia, acknowledging that European states would not grant full asylum in the Convention sense on a scale sufficient to meet the need. Temporary protection was seen as a pragmatic compromise that was further justified with reference to "the concerted international efforts being taken to reach a political resolution" that could end the war.

The 1993 Note developed this line of thinking further. Examining changing approaches to asylum, the High Commissioner stated that "although the granting of asylum has often been understood to imply the permanent settlement of refugees ... asylum ... need not be linked to immigration and assimilation." Asylum could be, and had previously been, granted on a temporary basis in industrialized states, for instance as "temporary leave to remain" for persons fleeing conditions expected to be of short duration. However, the Note also stated that a number of questions had arisen with regard to the use of temporary refuge, such as the duration and content of the notion of temporary protection, the relationship to the 1951 Convention and the 1967 Protocol, anf differences in procedures and practices as between Europe and other regions.

The next year the Note examined in some detail the concept of international protection "to all who need it" and various regional interpretations and instruments. The High Commissioner noted that several provisional arrangements for protection had been developed in European and other Western countries that lacked regional legal instruments to protect refugees not covered by the 1951 definition. These include "extended voluntary departure", "temporary protected status", "B-status", "temporary leave to remain", residence permits granted on compassionate grounds, "tolerance" or temporary suspension of deportation. The High Commissioner affirmed that temporary protection was a pragmatic tool in situations of mass outflows, and pointed out that refugees from the former Yugoslavia who benefited from temporary protection were in effect identical with those covered in other regions by the OAU Refugee Convention or the Cartagena Declaration. Temporary protection was also closely linked to the preferred durable solution in principle, that is, repatriation. "[A]sylum is provided as a measure of protection rather than as a durable solution." However, this statement was tempered by an indirect definition of "temporary" that was related to need: "temporary protection, like refugee status, should last as long as there remains a need for international protection."

[18] *Comprehensive and Regional Approaches to Refugee Problems.* (EC/1994/SCP/CRP.3

Prevention as an alternative to flight

After 1994, the notion of temporary protection was no longer held out as a major alternative. The focus had shifted to solutions rather than temporary protection measures, and prevention emerged as a main element of protection. It will be recalled that this was not an altogether new focus. The 1990 Note, for instance, had stated that "prevention is preferable to cure". But the focus on prevention was now linked to a broader view of responsibilities in which countries of origin were prominently included: "[N]ew thinking on solutions should seek to develop the concept of State responsibility under international law, particularly as it relates to the responsibilities of countries of origin." The 1991 Note defined prevention as "elimination of causes for departure," but also the modification of promixate causes of fligth by "the early containment of a situation of exodus so that threats to the security and well-being of the persons concerned are not aggravated and the situation remains manageable from both the humanitarian and political standpoint."

The notion of prevention was closely linked to the role and work of UNHCR in countries of origin. Prevention could be attempted through indirect measures such as early warning, preventive diplomacy, and the promotion of human rights. It could also involve more direct measures such as effective protection of internally displaced populations, which would obviate their need to flee abroad. In the previous year the Note had claimed that "the ideal policy and the most effective form of protection is prevention." Criticis had seen in this a legitimization of restrictive asylum policies, and this year the High Commissioner felt it necessary to emphasize that prevention did not mean obstructing escape and limiting the possibiliy of seeking asylum in other countries: "[D]efending the right to remain [in ones' own country] does not in any way negate the right to seek and enjoy asylum [abroad]." The emphasis on prevention - and in this context also the responsibility of countries of origin to protect its own citizens - was part of a new "comprehensive approach" in refugee policy. It also related to the search for regional solutions.

Regional solutions

From 1990 and onwards the Notes emphasize the necessity of developing regional solutions to refugee crises. Regional approaches included developing regional instruments for protection, harmonizing national asylum procedures and criteria, and elaborating new strategies for solutions.

Several initiatives were held out as examples of a successful regional approach to refugee problems. The 1995 CIS Conference Programme of Action was a regional conference designed to address current and potential refugee problems and related population movements in the Commonwealth of Independent States (CIS) and neighboring countries. The conference was prepared by UNHCR in cooperation with IOM (International Organization of Migration) and OSCE (Organization for Security and Cooperation in Europe). Another regional approach was the

Comprehensive Plan of Action for Indochinese refugees (CPA) which included screening of all asylum seekers, return of non-refugees, and resettlement of those found to be refugees. The plan came to a formal conclusion on 30 June 1996. In Latin America, the International Conference on Central American Refugees (CIREFCA) was initiated in 1989 to facilitate the return and reintegration of refugees in that region. By 1995, the formal refugee camps in the regions were closed down.

While regionally focused, these plans and programmes received major international financial support. UNHCR underlined that this was necessary for regional responses to succeed.

Burden-sharing or burden-shifting?

Regional solutions require burden-sharing among states. In UNHCR's perspective, the notion of international solidarity or burden-sharing is a corollary of the concept of international protection. In practice, this has not always been the case. Some concepts and practices that were introduced in national asylum procedures in the early 1990s such as "safe third country", "safe host country" and "harmonization " served to shift the burden rather than share it. UNHCR has recognized some of the innovations of the 1990s, such as the need to decide which country is to be responsible for handling an asylum application. Similarly, harmonized and efficient procedures of asylum applications could - and from the perspective of refugee rights should - benefit the asylum seeker. However, asylum procedures and mechanisms will only work in this way if they allow for fair treatment according to internationally recognized guidelines.

In 1990, UNHCR expressed concern for the fact that asylum was becoming less accessible in many parts of the world. This would "inevitably have the effect of shifting the burden to other States." The 1991 Note affirmed that "state responsibility is closely linked to burden-sharing." The Executive Committee had in 1988 submitted a Conclusion on the question of international solidarity and refugee protection; UNHCR now called for further improvement in the field of international co-operation. "[T]here is a need to go beyond positive affirmations in this regard and develop mechanisms or arrangements that will allow for fair and effective sharing of responsibilities." In 1993, it was recognized that although UNHCR assistance programmes constituted a form for burden-sharing, this was far from enough. The need for further assistance to host countries, e.g. concerning infrastructure and ecology, was underlined. Policies of open borders, resettlement and temporary protection programmes, and liberal reception policies generally would also reduce the burden on countries of first asylum. In 1995, the High Commissioner further recognized the problems and costs which first asylum states claimed were caused by large-scale inflows of refugees. "Issues of national security are also increasingly relevant in this respect, particularly in regard to the political and related consequences of a prolonged stay of large groups of refugees".

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In sum, it it clear that the discourse shifted in the early 1990s from "root causes" to "a comprehensive approach". Within UNHCR there was a new focus on "country of origin" which reflected the growing activity of the High Commissioner within areas of conflict - above all the role of UNHCR as the UN lead agency in the formerYugoslavia. The importance of prevention as well as solutions in refugee policy was gaining recognition, most explicitly with the 1993 General Conclusion on International Protection (no. 71) which underlined "the importance of addressing prevention, protection and solutions on a comprehensive regional basis." This reorientation was not limited to the office of UNHCR only, but, as noted above, was paralleled by developments and changes in other parts of the UN system

The High Commissioner's mandate expanded in the 1990s from the traditional concentration on refugees as defined by the 1951 Convention to "people of concern to UNHCR". This included returnees, internally displaced and people living in war-afflicted communities who might become refugees or IDPs. The broadening of the original mandate was authorized in various General Assembly resolutions which called upon the High Commissioner to provide protection and assistance to all persons who had been forced to seek refuge outside their country of origin because of armed conflict or other political or social upheaval. The most sweeping authorization was embodied in General Assembly resolution of 1997 (Res.51/75/1997), which called on UNHCR to "ensure international protection to all who need it."

5. The Executive Committee: Issues, Debates and Conclusions 1990-96

This section examines the ExCom debates and Conclusions of the 1990s in relation to global and regional refugee developments and the work and policy preferences of UNHCR. Since the debates are not recorded verbatim, a full review is not possible. Special attention is given to the outcome of the deliberations as represented in the annual Conclusions.[19]

The Conclusions from 1990 onwards are written in present tense: "reaffirms that" etc., as opposed to those written prior to 1990. The use of past tense in earlier Conclusions can be interpreted as intent to express their character as records of past discussions, rather than an ongoing discourse which attempts to influence the future conduct of governments (Sztucki 1989: 299).

The plenary sessions of ExCom are introduced by the outgoing Chairman's statement, most often being a review of policy developments during the past year. The agenda of the meeting further includes a statement from the incoming Chairman, followed by the statement of the High Commissioner that initiates the general debate. The Notes on International Protection submitted earlier by UNHCR, usually in June every year, form the point of departure for the ExCom debates. In the general debate, member states, government observers and NGOs may come forward and present their views and opinions, but only members can vote.

Although the main and concluding session of ExCom is held every October, there is considerable activity prior to the plenary session such as informal meetings, sub-committee meetings, various working groups etc. Since this report focuses on policy issues related to protection, discussions of administrative and financial matters will be omitted. Informal meetings on issues of protection, and meetings in the Sub-Committee of the Whole on International Protection, is examined to some extent, but the emphasis is on the plenary debates. The analysis draws on the Norwegian delegation's summary reports from the annual ExCom sessions, on the High Commissioner's opening statements, on ExCom Conclusions and other UN documents. The sessions are presented in chronological order rather than thematically so as to provide an overall sense of the development in the ExCom discourse over time.

Executive Committee, 41st session (1990)

The general debate of 1990 was opened by the statement of the High Commissioner, Thorvald Stoltenberg, who gave an overview of the current global

[19] As elsewhere in this study, all Conclusions are referred to as ExCom Conclusions even though the thematic Conclusions on protection issues are submitted by the Sub-Comittee of the Whole on International Protection. This sub-committee consists of all ExCom members and was established especially to deal with protection issues (see section 2). ExCom Conclusions prior to 1990 are reviewed in section 3 above.Appendix 1 provides a list of all ExCom Conclusions.

refugee situation. He expressed the need for UNHCR to anticipate emerging refugee problems and emphasized the importance of an early warning system. Such a system implied a link between protection and human rights. Stoltenberg further identified three main policy objectives for the immediate future: (i) promote voluntary repatriation, (ii) secure asylum for refugees, which meant distinguishing between persons in search of protection and migratory flows, yet to recognize the links between the two types of flows, and (iii) have refugee issues placed on the international political agenda: "It is, in my view, increasingly evident that the issue of refugees and migration at large is bound to be one of the threats to the broad concept of international, regional and national security in the decade ahead of us."

General Conclusion on International Protection no. 61 (1990) noted in particular the link between protection and resettlement. The global dimension of refugee problems was reaffirmed, and the international community was called upon to "continue efforts to share the task of providing assistance and solutions." In the general debate, several delegates spoke of the importance of the institution of asylum. There was general agreement that a broadening of the refugee definition would not be helpful to solve contemporary refuge problems. Representatives from receiving countries emphasized that large influxes placed severe strain on their resources and underlined the need for burden-sharing. Most speakers mentioned addressing the "root causes" as an important approach to deal with refugee problems. In this connection, several donor countries brought up the question of political conditionality and the use of aid as a tool for promoting human rights and democracy. The responsibility of countries of origin was also underlined, and it was pointed out that international burden-sharing should involve a certain obligation on the part of countries of origin to utilize aid money so as to promote development, including measures to reduce outmigration.

Conclusion no. 62 on the Note on International Protection reviewed the recommendations from the High Commissioner's Note on International Protection. This was the only Conclusion dealing with a particular Note on international protection. Normally, ExCom draws on the Notes to elaborate its views and presents them in the General Conclusions on International Protection. *Conclusion no. 63* concerning solutions and protection was merely a decision to request the Working Group on Solutions and Protection to continue its work and report to the 42nd session of ExCom in 1991. This Working Group had been established by the High Commissioner at the request of ExCom the previous year, and consisted of ExCom members.

In the general debate, the question of the particular needs of refugee women was also raised. The issue had been examined in a working group on protection of women, where a strong support for UNHCR's policy positions on refugee women had been expressed.[20]

During the week of the 41st session, informal meetings of the Working Group on international protection and durable solutions, and the Working Group on questions concerning the protection of refugee women were held and led to the adoption of *Conclusion no. 64*: Refugee Women and International Protection, which invited UNHCR to develop guidelines for the protection of refugee women.

At the closing of the 41st plenary session, the report of the Sub-Committee of the Whole on International Protection (A/AC.96/758) was presented by the Director

[20] EC/SCP/53.

of UNHCR's Division of International Protection (M. Moussalli), and was adopted by consensus. The report of the session as a whole (A/AC.96/XLI/CRP.7) was adopted with reservations (Israel), and with some amendments and additions after requests from national delegations.[21]

Executive Committee, 42nd session (1991)

This year's ExCom session was the first since Sadako Ogata became High Commissioner. She presented her proposed strategies in the opening statement: strengthen the emergency part of UNHCR's work, give priority to preventive measures, and focus on repatriation. The objectives received strong support from the meeting. How to improve the emergency response was one of the main items discussed in the subsequent debates, and recommendations were adopted for states to assist in improving UNHCR's emergency responses. The 42nd session also underlined that a more emphasis should be given to repatriation.

More directly linked to the problems of protection was the decision to hold regular SCIP meetings throughout the year. This was generally interpreted as a positive development in support of the principles of protection, and as a reversal of earlier sentiments. Only a few months earlier, the same proposal would likely have been rejected. [22]

General Conclusion on International Protection no. 65 (1991) underlined the need for solution-oriented approaches to refugee problems. Refugee women were again mentioned as a group in need of special assistance, and it was recommended that the Guidelines on the Protection of Refugee Women (EC/SCP/67) should be made an integral part of all UNHCR protection and assistance activities. During the general debate, the Executive Committee encouraged UNHCR to continue its work to improve the safety of refugee women and to incorporate their special needs and rights in the overall assistance programmes. In the Conclusion, the importance of providing appropriate protection and assistance to refugee children was also noted.

The situation for many countries of first asylum was described as difficult due to large scale inflows of refugees. In response, the Executive Committee confirmed the necessity to "explore new options for preventive strategies which are consistent with protection principles", and requested the High Commissioner to "reinforce efforts to encourage or promote voluntary repatriation." As in 1989, it was noted that "the growing misuse of asylum procedures could compromise the institution of asylum." The importance of a coherent international strategy for management and resolution of refugee situations was noted, and the establishment of fair and efficient asylum procedures to which all asylum-seekers could have access was seen as crucial in this respect.

In the debate, various concepts relating to international protection measures was discussed, such as resettlement (to relieve countries of first asylum) and "safe country" (to permit return of asylum seekers without status determination).

[21] See A/AC.96/SR.460

[22] See report from the Norwegian delegation to Geneva, 15 October 1991, UD-arkiv, serie 26.8/23 bind 94.

Several Western countries underlined that they found the concept of "safe country" important and useful, and - in a controversial position - the Canadian delegation even claimed that it was a corollary of the institution of asylum. UNHCR admitted that the concept was needed, but warned that it could conflict with important guarantees for individual rights if applied automatically. For the first time, the notion of "safe country" was introduced in a general Conclusion, and the possibility of invoking the cessation clauses of the 1951 Convention was underlined.

Resettlement was (and is) an option recommended by UNHCR only as a "last resort", and only a few countries offer regular quotas for resettlement (10 in 1991). Only these countries participated in the debate on resettlement, where traditional views and arguments prevailed. The meeting adopted a special *Conclusion on Resettlement as an Instrument of Protection* (no. 67).

The meeting in SCIP during the week of the plenary session was to a large extent dominated by the report of the Working Group on Solutions and Protection (EC/SCP/64). The report was not automatically accepted, but after some discussion, SCIP members agreed on a formulation in its recommendation, stating that SCIP was "accepting with appreciation" the report of the Working Group. ExCom *Conclusion no. 66* concerned the report of the Working Group, requesting *inter alia* that SCIP follow up the work and report to ExCom's 43rd session.

Executive Committee, 43 session (1992)

The High Commissioner opened the 43rd session by examining regional refugee situations, pointing in particular to the increased refugee flows in Africa. She also stressed that the crisis in ex-Yugoslavia had given rise to a renewed debate on alternative approaches to international protection. She further examined the experiences drawn from the strategies her office had launched the previous year. As for strengthening UNHCR's emergency response, a number of measures had been undertaken and the result was deemed to be an increased effectiveness in responding to emergencies. However, Mrs. Ogata pointed out that providing protection and assistance in humanitarian emergencies was increasingly undertaken in the midst of armed conflict. Recognizing this, UNHCR was cooperating more closely with UN peacekeeping forces and associated military contingents, in particular when it came to logistical support.

As for solutions, the High Commissioner pointed to several cases of successful repatriation. She also underlined the importance of prevention, and illustrated with reference to an inter-agency project that had been launched in south-eastern Ethiopia to promote stabilisation. This, she claimed, was "prevention and solution at the same time." Mrs. Ogata also underlined the importance of including returnees in reconstruction and reconciliation work in a post-war situation. The need for resettlement for particularly vulnerable groups was discussed, particularly with reference to released detainees from the former Yugoslavia. With respect to prevention, the High Commissioner underlined the link between human rights violations and refugee flows, and the consequent need to improve human rights.

On the issue of protection, Mrs. Ogata pointed to the Note on International Protection produced by her office. She strongly underlined, however, that UNHCR's recent concern with improving conditions in a country of origin was not meant as a substitute for the obligation to provide asylum and meeting humanitarian commitments. Regional approaches were held out as important to fullfil protection obligations, and the importance of creating a comprehensive regional approach in Europe was stressed.

The general debate followed the path indicated by the High Commissioner's speech, but stressed even more that protection and assistance measures must be undertaken to avert refugee flows. Despite the restrictive implications in this orientation, it was felt that the meeting generally supported the High Commissioner and her choice of policies, as did the Conclusions.[23]

General Conclusion on International Protection no. 68 (1992) called upon the High Commissioner to co-operate with all states so as to "strengthen implementation, including through heightened promotional efforts, better monitoring arrangements, and more harmonized application of the refugee definition criteria." The status of refugee women with regard to international protection was repeated as an important task for UNHCR. The Conclusion expressed support for the High Commissioner's work for the internally displaced, this was the first time such activities were mentioned in a GCIP. Support for regional and comprehensive approaches was also expressed, and solutions in mass outflow situations were seen as largely attributable to "a comprehensive plan of action, which balances the interests of affected states and the rights and needs of individuals."

The refugee crisis stemming from the conflict in ex-Yugoslavia was much discussed during the plenary session, partly because UNHCR had been appointed as the UN lead humanitarian agency in the crisis. It was also noted that in former Yugoslavia, as in several other situations, UNHCR had moved away from its traditional task of protecting refugees pursuant to its Statute and the 1951 Convention. The meeting expressed support for the High Commissioner's efforts to explore new approaches of prevention. The problems of internally displaced persons were discussed, with the meeting supporting UNHCR efforts on behalf of this group, as the General Conclusion also noted. However, in deference to the basic principles of international refugee law it was underlined that the new approaches should not undermine the institution of asylum and the principle of non-refoulement.

During the debate, the apparent revival of racism and discrimination in Europe was mentioned by Western delegations as well as African governments, the latter fearing that this development "made Africa's plight even more difficult" (the delegate from Tanzania). The concern was not only with problems of refugees due to growing xenophobia in many receiving countries; ethnic and other forms of intolerance was seen as a major cause of forced migration.

The question of prevention dominated the debate. In a radical reinterpretation of the High Commissioner's mandate, the Finnish delegation went so far as to argue that "preventive action should clearly form an integral part of UNHCR's mandate." Also other important topics were directly or indirectly linked to the prevention issue. Several delegations from countries in the South pointed to the

[23] According to a report from the Norwegian delegation, UD archives, series 26.8/23, 19 October 1992.

importance of improving socio-economic conditions in countries of origin and addressing root causes to avoid refugee outflows.In another traditional position, delegations from the South pointed out that preventive measures could conflict with state sovereignty and territorial integrity The meeting further recognized that human rights violations was a major cause of refugee outflows.

Several speakers referred to the SCIP meetings. This was the first year in which SCIP had held regular meetings.The SCIP meetings during the plenary ExCom session dealt with new approaches to solve refugee problems, in particular the concepts of prevention and of temporary protection. SCIP submitted a Conclusion on the cessation of status (no. 69) that presented guidelines for interpretating the cessation clause in the 1951 Convention.

Executive Committee, 44 session (1993)

In 1993, the number of ExCom members had reached 43 and numerous observers were also present at the plenary session. The meeting expressed support for the High Commissioner and her renomination.

In *General Conclusion on International Protection* no. 71 (1993) the term "coerced displacement" was used for the first time in a GCIP to describe the refugee problem. Asylum was still emphasized as the main element in international refugee protection, and its global dimensions were recognized by references to "international solidarity and burden sharing." The Conclusion reaffirmed that in many states, the arrival of large numbers of asylum seekers caused problems for the state as well as the individuals, and that effective measures to ensure prompt status determination with fair procedures were important. In these respects the Conclusion reflected the general debate, where the principle of non-refoulement and admission to consistent asylum procedures were taken up. Several European countries as well as USA, Canada and Australia maintained that irregular population movements consituted a genuine problem that could undermine the institution of asylum. Protection specifically in situations of mass outflows was also discussed. The general Conclusion encouraged "the further exploration by the High Commissioner and states of various asylum strategies, such as temporary protection, in relation to persons compelled to flee their countries in large numbers."[24] Resettlement was also held out as a means that could be used more effectively to strengthen the institution of asylum by relieving countries on the "front line".

The 1993 session emphasized the close link between the diverse tasks and duties of UNHCR: preventing refugee movements, providing protection and promoting durable solutions. This diversity was seen as paralleled by the efforts within the UN system to try to cope with a changing global political and humanitarian agenda. Among individual conflicts discussed, the Yugoslav crisis remained prominent, partly because the number of refugees from the former Yugoslavia continued to grow.

In the debate, the importance of regional approaches to solve refugee situations was recognized, and UNHCR was encouraged to co-operate with regional bodies

[24] See Conclusion no. 22 on Protection of Asylum-Seekers in Situations of Large Scale Influx.

and other international organizations. ExCom expressed support for the High Commissioner's efforts to undertake protection and assistance activities aimed at preventing refugee outflows. It was nevertheless recognized that these activities must not undermine the institution of asylum. The African countries criticized the exclusionary European approaches to refugees, pointing to the fact that the majority of refugees were still located outside Europe. They appealed to the major donor countries not to neglect the continuing needs of refugees, displaced persons and returnees in Africa.

The session agreed on a clearly formulated statement on the close connection between human rights violations and refugee movements. The question of internally displaced persons was again discussed at some length. Noting that UNHCR's mandate does not cover IDPs, some African countries proposed broadening the mandate, and the Netherlands suggested that UNHCR should have a "standing invitation" from UN General Assembly to act in situations involving large numbers of IDPs. Both proposals were turned down. Instead, the meeting adopted UNHCR's own proposal, as formulated in its Note on International Protection.

Refugee women and refugee children were again mentioned as groups with particular needs. ExCom reaffirmed its support for the efforts made by the High Commissioner to promote awareness of the close link between safeguarding human rights and preventing refugee flows. The root causes of refugee problems were recognized as complex, requiring a comprehensive response.

Executive Committee, 45 session (1994)

The High Commissioner opened the 1994-general debate by noting what she saw as a positive, closer relationship between the UN's political initiatives and development activities on the one hand, and its humanitarian actions on the other. Mrs. Ogata also discussed the crisis and genocide in Rwanda, including problems of insecurity in the refugee camps, and proposed ways to deal with this. With respect to asylum, she expressed concern that so many countries seemed increasingly reluctant to accept asylum seekers. Asylum, the High Commissioner pointed out, need not be a permanent solution: "Indeed, I have sought to stress its temporary nature in an effort to broaden its availability." An example of this was the safe haven concept for Haitian asylum seekers. Temporary protection was also given to refugees from former Yugoslavia.

The link between protection and solutions was again stressed by the High Commissioner. "The availability of protection abroad is affected by the possibility of solutions back home". Repatriation was held out as a solution that not only involves humanitarian efforts, but requires a solution that depends on political initiatives insofar as the security situation in the country of origin must be stabilized before repatriation can take place. Finally, the need to link protection, solutions and prevention to create a comprehensive approach was brought up. As the humanitarian challenges were becoming even more complex, the need for a new strategy to deal with new and expanding situations became more pressing. "Complementing an Agenda for Peace and an Agenda for Development, the time may be ripe to launch an agenda for humanitarian action," the High Commissioner concluded.

General Conclusion on International Protection no. 74 (1994) stressed the importance of international solidarity and burden-sharing. While the problems of large number of irregular migrants *not* needing international protection were recognized, so were the manifest need for protection and humanitarian assistance to a number of persons not covered by the 1951 refugee definition, such as IDPs. The term "complex emergency" was employed in a General Conclusion on International Protection for the first time, and support for UNHCR's assistance to IDPs that had been expressed in previous Conclusions (1992, 1993) was reiterated. UNHCR's growing cooperation with the UN High Commissioner for Human Rights was welcomed.

In a veiled reference to restrictive asylum policies in Europe, the meeting acknowledged "the value of regional harmonization of national policies to ensure that persons who are in need of international protection actually receive it," thus agreeing that "harmonization" had potentially positive aspects As for temporary protection, the general Conclusion found it could be "of value as a pragmatic and flexible method of affording international protection of a temporary nature in situations of conflict or persecution involving large scale outflows." Temporary protection (TP) was also held out as an asylum strategy; the meeting noted that TP might be provided to persons qualifying as refugees under the 1951 definition as well as others.

Conclusion no. 75 (1994) dealt specifically with the situation of internally displaced persons. The underlying causes for internal displacement were often the same as those generating refugee flows; thus there was a need for similar measures to aid the victims. While the main responsibility for IDPs laid with the government in the country concerned, the Conclusion affirmed the right of the international community to assist and support the government to fulfill its obligations. In an indirect response to critics who maintained that "protection within" was promoted as a questionable alternative to "protection outside", the Conclusion emphasized that assistance to IDPs must not undermine the institution of asylum.

Executive Committee, 46 session (1995)

The review of the year revealed some positive developments, notably repatriation to Angola and Liberia. Still, Yugoslavia and the Great Lakes area continued to need massive and diverse assistance. The protection challenges were numerous. There were large repatriation tasks ahead: to Yugoslavia, Rwanda and Afghanistan. In all these cases, reintegration of returnees was a major challenge. Asylum remained problematic in most areas. The Chairman (from Tanzania) opened the meeting by pointing to the heavy burden carried by many first asylum countries, and the insufficient support rendered by the industrialized world. Calling for an improvement in this imbalance, the Chairman foresaw that the Executive Committee would play a more important role in the years to come given the needs of refugees and demand for reform.

In her speech, the High Commissioner pointed to the fact that the world had seen massive emergencies every year since 1991.These naturally affected the agenda of UNHCR, where focus had shifted from an "exilic" approach to the "country of origin". Approximately half of the population of concern to UNHCR was now located within their own country. International protection should be recognized as

being a much more complex task than assuring asylum. UNHCR was striving to develop a new paradigm of protection oriented towards solutions. One obvious and complicated question rising from this was how to combine the political and the humanitarian aspects. This was a problem experienced by UNHCR for instance when working closely with peace-keeping operations.

According to the High Commissioner, one of the pressing problems concerning protection in recent years was the decline of asylum, even in its temporary form. This was evident by the more restrictive asylum policies in the North, but also increasing border closings to refugees in Africa. Mrs. Ogata called on the Executive Committee members to support UNHCR to ensure respect for the institution of asylum, at least on a temporary basis. She further underlined the work of her office to safeguard human rights as one important element of creating viable solutions. Solutions to refugee problems also depended on rehabilitation of socio-economic structures in the home country. As for prevention, international presence could have a preventive impact on a latent refugee crisis. Thus, a comprehensive response had three closely linked elements: international presence, prevention and protection.

The Executive Committee welcomed UNHCR's efforts to solve the problem of statelessness and, in a pointed reference to the de facto widenening mandate of the High Commissioner, commended efforts to provide protection for "all those who needed it". For this purpose, the meeting suggested that mechanisms other that the 1951 Convention could be employed, notably temporary protection in situations of mass influx.

General Conclusion on International Protection no. 77 (1995) noted the importance of maintaining the search for solutions as an integral part of the High Commissioner's mandate. The global dimension of this work was further recognized. The Conclusion welcomed efforts by states to develop and implement guidelines on responses to persecution specifically aimed at women, and affirmed that women should be recognized as refugees according to the 1951 definition if the conditions listed there were met. In addition, gender-related persecution or sexual violence were considered as qualifying criteria. Ethnic violence and intolerance were condemned. The right to return to ones' country was underlined, and problems pertaining to the return of people not in need of international protection was noted.

Much of the general debate focused on the refugee situation in Africa, the continent with the largest number of refugees and IDPs. In the debate, the OAU speaker stated that the African refugee crisis must be understood in the context of economic and other factors causing instability and insecure environments which cause people to flee. Tensions between refugees and local populations in first asylum areas constituted an increasing problem which required greater transfers of aid. "If refugees in Africa were the most numerous, they were also often the last provided for." The OAU delegate further pointed to the "compassion fatigue" among African states, and said that "it was no longer possible to take African generosity for granted." The root causes had to be adressed if forced population movements were to be prevented. The Zaire delegation similarly drew attention to local tensions caused by the presence of refugees and inadequate aid. "[C]lashes between the local population and the refugees [occurred], particularly when the latter had better living conditions than the former as a result of assistance from the international community. Assistance to refugees had to go hand in hand with increased international support for host countries." The EU representative agreed

that there was a heavy burden on receiving countries. However, expulsion of refugees or closing of borders could not be accepted.

The crisis in the former Yugoslavia was given much attention. Many delegations expressed hope for a rapid solution, pointing out that ExCom had "long noted the need for political solutions in order to resolve humanitarian crises." Solutions for refugees from the former Yugoslavia included repatriation but also resettlement in third countries, delegates said.

Conclusion no. 78 on the Prevention and Reduction of Statelessness and the Protection of Stateless Persons[25] stressed the links between statelessness and displacement. To prevent refugee flows, it was important to prevent statelessness and protect those deprived of nationality. It was decided that every second year starting from 1996 UNHCR should provide ExCom with information on activities undertaken by UNHCR on behalf of stateless persons.

Executive Committee, 47 session (1996)

The 1966 plenary session marked the shift from the traditional "general debate" covering multiple themes to one annual theme. The theme chosen in 1996 was "The pursuit and implementation of durable solutions." UNHCR's role was a main issue. Durable solutions had always been held out as the ultimate aim of UNHCR's work for international protection (cf. the 1950 UNHCR Statute), with the three traditional outcomes being voluntary repatriation, local integration and resettlement. Of these, voluntary repatriation has in principle been strongly favoured in recent years.

ExCom's work was considered to have major political importance in that "in a number of areas... UNHCR's action requires further reflection in order to ensure that it is supported by international consensus". To pursue solutions, UNHCR needed to improve co-ordination with other humanitarian and development organizations. In particular, the links between reintegration and development needed to be recognized. The debate reflected a sentiment that solutions involving local integration was becoming more difficult as many countries had been turning away refugees or closing their borders to asylum seekers. This had been seen not only in Africa, but also in Western countries (cf. American attitudes toward Haitian "boat people and Italian responses to outflows from Albania).

General Conclusion on International Protection no. 79 (1996) pointed to the complexity of the refugee problem, which made UNHCR's work more difficult but also more necessary. The Conclusion reiterated earlier calls for burden-sharing to provide international protection and promote durable solutions. The fundamental importance of the principle of non-refoulement was again stressed, included its validity for those who had not been granted Convention refugee status. Concern was expressed at the continued misuse of asylum procedures. The gender dimension of refugee protection was reiterated as ExCom encouraged UNHCR to "continue and strengthen its efforts for the protection of women having a well

[25] There are two international conventions on statelessness: the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Relatively few states are party to these conventions, however.

founded fear of persecution." The right of all persons to return to their countries of origin was repeated, and the work of UNHCR to facilitate return was encouraged. The inter-relationship between protection, solution and prevention was recalled, as was the importance of securing respect for human rights. The situation of IDPs was not mentioned in this Conclusion.

In the preceding debate, prevention had been emphasized as the link between the resolution of existing refugee problems and the creation of new ones. While purely preventive action falls outside UNHCR's mandate, the High Commissioner contributes to preventive efforts in many situations. Work on behalf of internally displaced, as requested by the Secretary-General of the UN, fell in this category; by helping to provide effective prevention *in situ*, international refugee flows were preempted.

In 1996, a *Conclusion on Comprehensive and regional approaches within a protection framework* was also submitted (no. 80). The Conclusion pointed to the complex nature of contemporary "involuntary population displacements" and the complexity of their underlying causes. As a result, a holistic approach was necessary to deal wity the problems. Additionally, it was noted that "the prevention of and response to such situations may be beyond UNHCR's mandate and capacity." Insofar as involuntary displacements of persons within a country or region can impose burdens and affect security within a region, the importance of regional cooperation was underlined. States were encouraged to consider the adoption of "protection-based comprehensive approaches to particular problems of displacement," and a list of the principal elements in such approaches was drawn up.

Main protection issues in the 1990s- a summary of findings

This section will not present a formal content analysis. Content analysis requires registration and categorization of selected issues each time they occur, and the frequency itself is given significance. Rather, this summary uses a simplified counting system to identify trends in the debates on protective strategies. The general picture is presented in table 1, which registers issues in the years in which they play a significant role in policy, debates and Conclusions (recommendations). "Significant" here refers to a qualititative impressions and is not based on quantitative indicators. As a systematization of protection issues in ExCom during the 1990s, however, the table serves as a point of departure for an assessment and analysis of changes and trends. The issues presented range from fundamental protection principles and group concerns to solutions and causes.

Table 5.1: A comparative overview of protection issues in ExCom debates and conclusions from 1990 to 1996

Protection issues in ExCom debates and conclusions	1990	1991	1992	1993	1994	1995	1996
Refugee Women	*	*	*	*		*	*
The institution of asylum		*	*	*	*	*	
Burden-sharing	*			*	*	*	*
Non-refoulement			*	*			*
Prevention			*	*		*	*
Regional approaches			*	*	*		*
Human Rights			*	*		*	*
Internally Displaced Persons			*	*	*	*	
Root causes	*		*		*		
Resettlement		*	*	*			
Country of Origin Approach			*		*	*	
Temporary Protection				*	*	*	
Comprehensive approach				*	*		*
Voluntary Repatriation		*			*		*
Emergency Response		*	*				
Statelessness			*			*	
The Right to Return						*	*
Closed borders						*	*
Safe country concept		*					
Country of Origin Responsibility						*	
Reconciliation			*				
Racism			*				

Many of the issues are recurring - they are presented, discussed and expressed in a consensusal formulation every year. But there are also issues that never reach the

final stage of a Conclusion. Some of these were characterized as "sensitive" by UNHCR officials, meaning questions where consensus cannot easily be reached because national interests are seen to conflict with the proposed Conclusion. The result may be compromises in the form of vague formulations, or additional decisions to counterbalance the original intent. An example of an ordinary "counterbalancing" paragraph to the importance of providing asylum is the emphasis on burden-sharing, especially in relation to "the heavy burden on third world countries". As Table 1 shows, "burden-sharing" is a frequently recurring issues. Obviously, issues where agreement is not be reached will not appear in this report, which focuses on those that do reach a Conclusion.

The question of internally displaced persons is one of the most politically sensitive for ExCom to deal with as it directly concerns state sovereignty. In the assessment of the extrent of an emergency situation, for instance, a state may be reluctant to reveal the number of internally displaced within its borders and, especially if the displaced involve rebels, even more concerned that outside agencies and NGOs may enter to protect and assist them. In regular refugee situations, by contrast, states often exaggerate the numbers so as to obtain more aid. There are also differences as to who are registered as IDPs, and the information on internal displacement remains fragmented. Despite the sentitivity and uncertainties surrounding the topic, the IDP question was a frequent agenda item in the 1990s as both a topic in the debate and as part of the Conclusions, as Table 1 shows..

Voluntary repatriation can also be sensitive issue owing to the fact that not all countries want "their" nationals to return. The nationality of a person can also be a matter of dispute. The point is obviously closely connected to the problem of statelessness, an old problem that reappeared with force with the dissolution of the Soviet Union, and even more so after the fragmentation of Yugoslavia. The emphasis on repatriation has its roots in the Universal Declaration of Human Rights, where article 13 states that "Everyone has the right to leave any country, including his own, and to return to his country".

The basic principles of refugee protection, asylum and non-refoulement were repeatedly dealt with in ExCom debates and Conclusions. The importance of ensuring respect for the institution of asylum is perhaps most frequently repeated, thus indicating the growing threat to the institution in the 1990s. Several concerns are associated with the institution of asylum, ranging from the misuse by persons who are not entitled to refugee protection to a concern that national policies grow more restrictive when it comes to providing access to seek and enjoy asylum.

By the end of the period examined in this report, several countries had closed their borders to refugees, many citing lack of resources to sustain large inflows. This partly explains the frequent emphasis in ExCom documents on international burden-sharing and solidarity with regions that carry the heavier loads. ExCom and UNHCR also explicitly recognized temporary protection as a new dimension of asylum in the 1990s - asylum is not necessarily a permanent solution. As Table 1 shows, the issue of temporary protection figured most centrally the 1993-95 period, which coincided with the Yugoslav crisis.

In the 1990s, protection as well as solutions have come to be linked more closely with various concepts of prevention In the later Conclusions examined in this period, prevention is held out as the main and preferred solution or response to refugee situations.

6. Concluding remarks

The profound changes in the global refugee situation in recent years, particularly after the Cold War sended, have raised serious doubts as to the applicability of the concepts of protection that developed in the aftermath of World War II. The choice of strategies to deal with refugee outflows continues to be made with regard tothe 1951 Convention; however, there is a gap between the dominant, current interpretations of the 1951 Convention and the categories of people actually in need of international protection, particularly in cases of mass outflows due to war or similar conflicts. UNHCR, which originally had a somewhat broader mandate than that implied by the 1951 Convention, has adjusted to the new situtation by developing new concepts of protection and assistastance, and in this has mobilized support from the Executive Committee.The new terminology of beneficiaries - "persons or populations of concern to UNHCR" rather than the more narrow term "refugees" - is representative of a changing policy discourse. ExCom is recognizing the "protection gap" and undertaking on-going "gap consultations" in an attempt to bridge it, including legal work to examine new refugee doctrines. In some areas, UNHCR could draw on earlier experience since several issues and protective strategies discussed in the 1990s were not as new as they seemed at first glance (e.g. temporary protection). More genuinely new is the emphasis on a "comprehensive refugee policy" based on the interdependence between prevention, presence and protection.

This report has also examined the relationship between UNHCR and ExCom with respect to working procedures and outcomes. The principal formal outcomes are the Conclusions on protection formulated by the Executive Committee or by the Sub-Committee of the Whole on International Protection. These are consensual guidelines for international refugee policy, aimed at states as well as international organizations. The foundation for the Conclusions are prepared by UNHCR in the form of Notes submitted to ExCom together with the Statements of the High Commissioner. This process gives UNHCR significant powers to initiate policy guidelines vis-a-vis the member states represented by ExCom.

Do the Conclusions in the end have much impact on national policies? Some NGO critics are sceptical. A letter from the Norwegian Refugee Council to the Norwegian delegation in Geneva in 1994 claimed that " in our experience, the ExCom Conclusions are being paid only marginal attention in the field when the formulations used are of such a general character as in this case... [I]n recent years we see a tendency for the Conclusions to be presented less as guidelines for policies and practices than what they used to be in previous years."[26]

More fundamentally, and apart from the methodological question of how the impact may be measured, it is clear that any assessment of the impact of Conclusions on national policies requires comprehensive studies. This task is beyond the scope of this report. However, as a review of official material representing policy doctrines and strategies of the international community with respect to protection and assistance, the report can serve as a point of departure for impact studies.

[26] Translated from Norwegian. The Norwegian Refugee Council 8/9/94, NMFA archives, series 334.311.The specific Conclusion referred to was the *Conclusion on Internally Displaced Persons* , no. 75, 1994.

The report has focused on protection, which is a fundamental aspect of UNHCR's work. However, protection broadly understood includes aspects other than legal and physical protection, such as various forms of sheltering refugees, environmental issues, infrastructural development, rehabilitation and reconciliation work . These issues are currently gaining increased recognition in the international community, and is reflect in formal expressions of ExCom that views protection in broad terms.

The 1990s have witnessed situations and crises that differ from those of previous years. The new elements have led to numerous calls for early warning systems and lessons learned. However, it still seems that Daniel Warner's words from 1990 are still valid: "UNHCR can only struggle to try to manage these new situations. And the activities of the Executive Committee can only reflect that struggle (Warner 1990: 250).

7. Appendix 1: Signatories and Non-signatories to the UN Convention and Protocol Relating to the Status of Refugees

SIGNATORIES			NON-SIGNATORIES	
Albania	Estonia	Nigeria	Afghanistan	Maldives
Algeria	Ethiopia	Norway	Andorra	Marshall Islands
Angola	Fiji	Panama	Bahrain	Mauritius
Antigua Barbuda	Finland	Papua New Guinea	Bangladesh	Mexico
Argentina	France	Paraguay	Barbados	Micronesia
Armenia	Gabon	Peru	Belarus	Moldova
Australia	Gambia	Phillipines	Bhutan	Mongolia
Austria	Germany	Poland	Brunei	Nepal
Azerbaijan46	Ghana	Portugal	Burma (Myanmar)	Oman
Bahamas	Greece	Romania	Comoros	Pakistan
Belgium	Guatemala	Russian Federation	Cuba	Palau
Belize	Guinea	Rwanda	Eritrea	Quatar
Benin	Guinea-Bissau	St. Vincent and the Grenadines (c)	Georgia	St. Kitts & Nevis
Bolivia	Haiti	Samoa	Grenada	St. Lucia
Bosnia Herzegovina	Honduras	Sao Tome and Principe	Guyana	San Marino
Brazil	Hungary	Senegal	India	Saudi Arabia
Bulgaria	Iceland	Seychelles	Indonesia	Singapore
Burkina Faso	Iran	Sierra Leone	Iraq	Sri Lanka
Burundi	Ireland	Slovak Rep.	Jordan	Syria
Cambodia	Israel	Slovenia	Kazakhstan	Thailand
Cameroon	Italy	Solomon Islands	Korea (N)	Trinidad and Tobago
Canada	Jamaica	Somalia	Kuwait	Turkmenistan
Cape Verde (p)	Japan	South Africa	Laos	Ukraine
Central African Rep.	Kenya	Spain	Latvia	United Arab Emirates
Chad	Korea (S)	Sudan	Lebanon	Uzbekhistan
Chile	Kyrgyzstan	Surinam	Libya	Vanuatu
China	Lesotho	Swaziland (p)	Malaysia	Vietnam
Colombia	Liberia	Sweden		
Congo	Lichtenstein	Tajikistan		

SIGNATORIES			NON-SIGNATORIES	
Costa Rica	Lithuania	Tanzania		
Côte d'Ivoire	Luxembourg	Togo		
Croatia	Macedonia	Tunisia		
Cyprus	Madagascar (c)	Turkey		
Czech Rep.	Malawi	Uganda		
Denmark	Mali	United Kingdom		
Djibouti	Malta	United States (p)		
Dominica	Mauritania	Uruguay		
Dominican Rep.	Monaco (c)	Venezuela (p)		
Ecuador	Morocco	Yemen		
Egypt	Mozambique	Yugoslavia		
El Salvador	Namibia (c)	Zaire		
Equatorial Guinea	Netherlands	Zambia		
	New Zealand	Zimbabwe		
	Nicaragua			
	Niger			

8. Appendix 2: Executive Committee Conclusions 1985 - 1996

In this appendix, General Conclusions on International Protection as well as thematic conclusions submitted by the Sub-Committee of the Whole on International Protection are included. Conclusions that have been reviewed for the purpose of this report have been spaced emphasized.

1996	no. 80	Comprehensive and Regional Approaches Within a Protection Framework
1996	no. 79	**General Conclusion on International Protection**
1995	no. 78	Conclusion on the Prevention and Reduction of Statelessness and the Protection of Stateless Persons
1995	no. 77	**General Conclusion on International Protection**
1994	no. 76	Recommendations of the OAU/UNHCR Commemorative Symposium on Refugees and Forced Population Displacements in Africa
1994	no. 75	**Internally Displaced Persons**
1994	no. 74	**General Conclusion on International Protection**
1993	no. 73	Refugee Protection and Sexual Violence
1993	no. 72	Personal Security of Refugees
1993	no. 71	**General Conclusion on International Protection**
1992	no. 70	Decision on Inter-Sessional Meetings
1992	no. 69	**Cessation of Status**
1992	no. 68	**General Conclusion on International Protection**
1991	no. 67	**Resettlement as an Instrument of Protection**
1991	no. 66	**Report of the Working Group on Solutions and Protection**
1991	no. 65	**General Conclusion on International Protection**
1990	no. 64	**Refugee Women and International Protection**
1990	no. 63	**Solutions and Protection**
1990	no. 62	**Note on International Protection**
1990	no. 61	**General Conclusion on International Protection**
1989	no. 60	Refugee Women
1989	no. 59	Refugee Children
1989	no. 58	Problem of Refugees and Asylum.seekers Who Move in an Irregular Manner from a Country in Which They Had Already Found Protection
1989	no. 57	Implementation of the 1951 Convention and the 1967 Protocol relating to the Status of refugees
1989	no. 56	**Durable Solutions and Refugee Protection**
1989	no. 55	**General Conclusion on International Protection**
1988	no. 54	Refugee Women
1988	no. 53	Stowaway Asylum-Seekers
1988	no. 52	**International Solidarity and Refugee Protection**
1988	no. 51	Promotion and Dissemination of Refugee Law
1988	no. 50	**General Conclusion on International Protection**
1987	no. 49	Travel Documents for Refugees
1987	no. 48	Military or Armed Attacks on Refugee Camps and Settlements
1987	no. 47	Refugee Children
1987	no. 46	**General Conclusion on International Protection**

1986 no. 45 Military or Armed Attacks on Refugee Camps and Settlements
1986 no. 44 Detention of Refugees and Asylum Seekers
1986 no. 43 Geneva Declaration on the 1951 United Nations Convention and the 1967 Protocol Relating to the Status of Refugees
1986 no. 42 Accession to International Instruments and Their Implementation
1986 no. 41 **General Conclusion on International Protection**
1985 no. 40 **Voluntary Repatriation**
1985 no. 39 Refugee Women and International Protection
1985 no. 38 Rescue of Asylum-seekers in Distress at Sea
1985 no. 37 Central American Refugees and the Cartagena Declaration
1985 no. 36 General Conclusion on International Protection
1984 no. 35 Identity Documents for Refugees
1984 no. 34 Problems Related to the Rescue of Asylum-seekers in Distress at Sea
1984 no. 33 General Conclusion on International Protection
1983 no. 32 Military Attacks onRefugee Camps and Settlements in Southern Africa and Elsewhere
1983 no. 31 Rescue of Asylum-seekers in Distress at Sea

1983 no. 30 The Problem of Manifestedly Unfounded or Abusive Applications for Refugee Status or Asylum
1983 no. 29 General Conclusion on International Protection
1982 no. 28 Follow-up on Earlier Conclusions of the Sub-Committee of the Whole on International Protection on the Determination of RefugeeStatus, Inter Alia, with Reference to the Role of UNHCR in National Refugee Status DeterminationProcedures
1982 no. 27 Military Attacks onRefugee Camps and Settlements in Southern Africa and Elsewhere
1982 no. 26 Report of the Working Group on Problems Related to the recue of Asylum-Seekers in Distress at Sea
1982 no. 25 General Conclusion on International Protection
1981 no. 24 Family Reunification
1981 no. 23 Problems Related to the Rescue of Asylum-Seekers in Distress at Sea
1981 no. 22 Protection of Asylum-Seekers in Situations of Large Scale Influx
1981 no. 21 General Conclusion on International Protection
1980 no. 20 Protection of Asylum-Seekers at Sea
1980 no. 19 Temporary Refuge
1980 no. 18 Voluntary Repatriation
1980 no. 17 Problems of Extradition Affecting Refugees
1980 no. 16 General Conclusion on International Protection
1979 no. 15 Refugees Without an Asylum Country
1979 no. 14 General Conclusion on International Protection
1978 no. 13 Travel Documents for Refugees
1978 no. 12 Extraterritorial Effect on the Determination of Refugee Status
1978 no. 11 General Conclusion on International Protection
1977 no. 10 Protection Staff
1977 no. 9 Family Reunion
1977 no. 8 Determination of Refugee Status
1977 no. 7 Expulsion
1977 no. 6 Non-Refoulement
1977 no. 5 Asylum

1977 no. 4 International Instruments
1977 no. 3 General Conclusion on International Protection
1977 no.2 Functioning of the Sub-Committee and General
1977 no. 1 Establishment of the Sub-Committee and General

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