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SUMMARY RECORD OF THE 44th MEETING

Chairman: Mr. KABORE (Burkina Faso)

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The meeting was called to order at 3.15 p.m.

AGENDA ITEM 110: OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (A/44/12 and Add.1, A/44/93-S/20420, A/44/415-S/20749, A/44/520, 523, 527 and Corr.1 and 2, 551, 688, 689, 710)

1. Mr. HINTEREGGER (Officer-in-Charge of the Office of the United Nations High Commissioner for Refugees (UNHCR)), recalling that the international community had repeatedly stressed the importance of voluntary repatriation as the most desirable and satisfactory solution to refugee problems, said he wished to give a regional overview in that regard. In Africa, foremost mention must be made of the repatriation of Namibians. By early November 1989, more than 42,000 Namibians had voluntarily returned to their country. As in other situations, UNHCR faced a financial shortfall for completion of the operation; in the above-mentioned case an additional \$5.6 million were required. Approximately 320,000 Ugandans had returned to their country from the Sudan and Zaire, and almost all the Burundi refugees had returned from Rwanda. Angolan and Zairian refugees were currently returning to their countries of origin, and the prospects for the return of Angolan and of some Ethiopian refugees had improved. Another major preoccupation in Africa was the plight of Somali refugees in eastern Ethiopia, particularly after the influx in mid-1988 of 300,000 refugees. The problem would only be brought under control through the creation of conditions in the refugees' region of origin that would allow them to return home voluntarily. The same applied to the 350,000 Sudanese refugees in western Ethiopia and to the 750,000 Mozambican refugees in Malawi.

2. In Asia, 1989 seemed to have witnessed a certain paradox in respect of the 5 million Afghan refugees in Pakistan and the Islamic Republic of Iran, who constituted the largest single refugee group in the world. On the one hand, the Office had remained prepared for a large-scale voluntary return home, while, on the other, it had been confronted with a new influx of refugees into Pakistan. The International Conference on Indo-Chinese Refugees (ICIR) had adopted a Comprehensive Plan of Action, a key element of which, as far as UNHCR was concerned, was full respect of the principle and practice of first asylum. The Conference had created a steering committee which had met on three occasions and had acknowledged progress in connection with the orderly departure from Viet Nam, status determination of new arrivals, and resettlement. With regard to the question of return, encouraging progress had been achieved in the case of repatriation of Laotian refugees. Several months previously, the prospects of achieving a comprehensive peace settlement in Kampuchea had given hope for a solution to the problem of refugees and displaced persons from that country. Regrettably, such a settlement had eluded the recent Paris Conference.

3. The plight of Central American refugees, which continued to be the main concern of the Office in Latin America, had also been the subject of the International Conference on Central American Refugees in May 1989. The Conference had approved a resolution and a Concerted Plan of Action, which constituted a significant step forward in resolving the problems affecting the uprooted populations. The Plan of Action gave maximum importance to promoting voluntary

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(Mr. Hinteregger)

repatriation. As recently as three weeks previously, some 1,200 Salvadorian refugees had voluntarily returned from Mesa Grande (Honduras). However, recent events were likely to delay their returns.

4. In Europe, the number of asylum applications continued to rise, reaching the highest level since the aftermath of the Second World War. There was a growing realization by Governments of the region that the problems caused by the influx of asylum-seekers and refugees could only be resolved through a concerted approach by Governments, intergovernmental agencies and voluntary organizations. The Office appreciated the dialogue that had developed since 1985 with 14 Governments through the so-called informal consultation process. Among the important developments in Europe, it was worth mentioning in particular those in Turkey, which was facing the influx of several different groups of asylum-seekers, and in the Eastern European States, which had intensified their co-operation with UNHCR over the next year. It was important to refer to the accession by Hungary, in March 1989, to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the opening in October 1989 of a UNHCR Office in Budapest and the setting up of a UNHCR assistance programme in Hungary.

5. Co-operation with development agencies, notably the United Nations Development Programme (UNDP), the International Fund for Agricultural Development (IFAD) and the World Bank, could be intensified and broadened. Tribute must be paid to the important function of non-governmental organizations and to their dedication to the refugee cause.

6. Financial constraints must not impair UNHCR assistance activities, which were fundamental for providing international protection to refugees and represented the Office's *raison d'être*. The financial situation of the United Nations had been one of the key issues discussed the past month at the meeting of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees. UNHCR had been forced to cut its general programme budget for 1989 from \$US 429 million to \$US 389 million. Despite additional pledges of more than \$US 16 million, the Office continued to face a projected deficit of approximately \$US 40 million for its core assistance programmes in 1989 and also required at least \$US 20 million for special operations. When the Executive Committee had approved a reduction of the 1989 general programme budget, it had expressed concern that the current level of income was likely to lead to a severe shortfall in funding in the 1989 programme and had therefore authorized the High Commissioner, on an exceptional basis, to carry over a deficit of up to \$US 40 million into 1990 on the understanding that it would be fully absorbed in the course of that year. The Executive Committee had asked the High Commissioner to ensure that obligations entered into by UNHCR during the first six months of 1990 would not exceed a total of \$US 190 million, including 50 per cent of any shortfall carried over from 1989. That arrangement would put severe constraints on the financing of the activities of the Office, particularly during the first half of 1990.

7. The Executive Committee had established a temporary working group to review UNHCR's programmes, including the issues relevant to the effective use of funds and the administration of programmes and projects. The working group would report to

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(Mr. Hinteregger)

the Executive Committee at an extraordinary session, to be held in late May and early June 1990, in order to authorize the level of UNHCR obligations for the second half of 1990. No effort would be spared by the UNHCR services to provide all necessary support for the exercise which was of crucial importance for the future of the Office.

8. The Executive Committee had also noted the concerns expressed by the least developed countries of asylum about the adverse effects that the envisaged budget reductions could have on refugees. In that regard, the Executive Committee had requested Member States to assist UNHCR in securing additional resources both from traditional governmental sources and from Governments which had not previously contributed to UNHCR and from such non-traditional sources of funding as the private sector. The UNHCR pledging conference would take place in the following week. In view of the seriousness of the financial problems referred to, it would be one of the most important UNHCR pledging conferences ever held. He urged Governments to spare no effort to announce significant contributions to UNHCR programmes in 1990 and to make further contributions to the 1989 programmes in order to keep the negative carry-over within manageable limits. He also urged those States which had yet to make their payments to do so as soon as possible.

9. Mr. FARAH (Under-Secretary-General for Special Political Questions, Regional Co-operation, Decolonization and Trusteeship) introduced document A/44/520 on the implementation of the Oslo Plan of Action on the Plight of Refugees, Returnees and Displaced Persons in Southern Africa. Chapter III of the report pointed to United Nations concern about the growing number of internally displaced persons, whose situation was quite different from that of refugees, as there was no focal point within the international community for co-ordinating assistance to Governments, which made it more difficult to realize the magnitude of the problem.

10. Since the Oslo conference, the plight of refugees and internally displaced persons in Africa had changed little with the exception of Namibian refugees, the majority of whom had returned to their country. That problem had become continental and, indeed, global in scope, which had guided the Secretary-General to hold consultations with a view to establishing, within the United Nations system, a mechanism to ensure the implementation and co-ordination of relief programmes to internally displaced persons, using the structures and facilities existing at Headquarters and in the field to the extent possible.

11. Many of the situations giving rise to refugee outflows required political solutions which would address the problem at its root. While those solutions were primarily the responsibility of Governments, the latter were often not in a position to protect such persons. Moreover, in view of the political sensitivities involved and the need for effective leadership in co-ordinating the assistance of the United Nations system, the Secretary-General would designate one of his senior colleagues to co-ordinate the efforts in a given country or group of countries. For example, an Inter-Agency African Emergency Task Force had been established and, usually, the resident co-ordinator was responsible for mobilizing available resources so that internally displaced persons would also benefit to the extent possible from existing relief and rehabilitation programmes.

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12. Mr. BOLOT (France), speaking on behalf of the 12 member countries of the European Community, said that the Twelve reaffirmed their commitment to collaborate with UNHCR in protecting and assisting refugees and in seeking durable solutions to their problems. International co-operation was vital to that end, and he urged all States which had not acceded to the 1951 Convention and the 1967 Protocol thereto to do so. He also noted that the Twelve abided by the Statute of the Office of the United Nations High Commissioner for Refugees, whose role was essential, and by the moral obligation to share the world refugee burden.

13. However, the Twelve noted with concern that in recent years a large number of requests for asylum had been filed by economic migrants, who tried to receive refugee benefits. The Twelve intended to halt such abuse in order not to affect the interests of those requesting asylum in good faith. The Twelve strongly condemned the serious violations of the rights of refugees, which continued to occur frequently. They endorsed the conclusions of the Executive Committee of UNHCR on the promotion and implementation of basic principles of protection for refugees, particularly women and children.

14. The Twelve also attached importance to the decision on "irregular movements" of asylum-seekers who already enjoyed the protection of a country and the decision that a working group should examine the link between protection and durable solutions from a global point of view.

15. The Twelve paid tribute to the developing countries, which hosted 80 per cent of the refugees in spite of their own problems, which were worsened by that flow, and reaffirmed their commitment to maintaining their level of contributions to the UNHCR budget. In that regard, the Twelve were seriously concerned about the Office's financial situation, which jeopardized efforts to meet the protection and assistance needs of refugees. That crisis, which was due to numerous reasons, threatened to persist. Essential programmes would be able to continue in the short term, owing to measures that UNHCR had adopted. The Office should also streamline its management as much as possible and endeavour to realize savings without jeopardizing the achievement of its fundamental objectives, which should be the focus of its attention. Moreover, it should obtain contributions from countries which had not participated fully in efforts to show solidarity with the refugees, to which end it would be assisted by the European Community and should implement the plan to raise funds in the private sector. In the medium and long term, the study entrusted to an open-ended working group of members and observers of the Executive Committee should make it possible to define the conceptual, budgetary and administrative means for maintaining the coherence of UNHCR's mission.

16. Moreover, in order to ensure continuation of its programmes, the Executive Committee had called on the General Assembly, the Secretary-General and the international and regional organizations to share the responsibility for rehabilitation and development projects for refugees. The Twelve fully supported the establishment of links between agencies, provided that the function of UNHCR was maintained through its participation in all the essential phases of the projects.

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17. Mr. TELLMANN (Norway) said that his government continued strongly to support the office's important humanitarian work. As the number of refugees continued to increase world-wide, there was an increasing need for the support of the international community in providing refugee protection and assistance. As the report of the High Commissioner (A/44/12 and Add.1) showed, there had been positive and negative developments in the refugee question during the past year. The repatriation of around 42,000 Namibian refugees had been a welcome development. Similarly, elsewhere in Africa and in the world, thousands of refugees had been able to return to their country of origin. Those facts were particularly encouraging, as voluntary repatriation was the preferable durable solution to the refugee problem. The progress achieved in family reunification had also been encouraging.

18. His delegation expressed its support for activities to implement the Oslo Plan of Action on the Plight of Refugees, Returnees and Displaced Persons in Southern Africa. It also welcomed the holding of the International Conference on Central American Refugees and the International Conference on Indo-Chinese Refugees. The first conference would not only serve to help refugees and displaced persons in Central America, but would also further the peace process in that region. The International Conference on Indo-Chinese Refugees had adopted a Comprehensive Plan of Action which Norway strongly supported, as it was a sound basis for achieving a balanced and lasting solution to the problems relating to Indo-Chinese refugees. His Government had begun to contribute to the implementation of that Plan through the accelerated resettlement of refugees who had arrived at provisional asylum camps prior to the cut-off date for admissions. Norway was also contributing human and financial resources for screening and status determination.

19. In that context, his delegation wished to emphasize that the successful implementation of the Comprehensive Plan of Action was fundamentally dependent on all asylum-seekers being given temporary refuge and having their legal status determined in the region, regardless of their mode of arrival, in conformity with the Plan. His Government was deeply concerned that that principle was not yet being applied in practice to all who were rescued at sea. It therefore urged all States concerned to come to an arrangement enabling the Comprehensive Plan of Action to be implemented fully and in a balanced manner without further delay.

20. The protection function of the High Commissioner was of fundamental importance. The international community had an obligation to support him in providing protection to refugees. Continual reports of refoulement and unjustified detention of refugees were cause for grave concern. His delegation wished to stress the particular needs of refugee women and children. His Government believed that more attention should be paid, in the search for lasting solutions, to the causes of refugee flows, and more emphasis should be put on preventive measures. Beyond armed conflicts, acts of aggression and foreign intervention and occupation, his country believed that the violation of human rights and fundamental freedoms had been and continued to be the chief cause of massive flows of refugees. States should therefore be urged to fulfil their obligations under the Charter of the United Nations and other international human rights instruments. Fulfilment of those obligations would not only result in reduced flows of refugees, but would help to create conditions in which refugees could return home.

(Mr. Tellmann, Norway)

21. His delegation supported the request made at the fortieth session of the Executive Committee of the High Commissioner's Programme that the High Commissioner should continue to act as a catalyst in the area of refugee aid and development. Wherever appropriate, development co-operation projects should make allowance for the needs of refugees and returnees. There was a need for close co-operation between UNHCR, the relevant United Nations agencies and other international organizations.

22. The resources available to UNHCR in the current year fell short of budget requirements. His country realized that appeals for contributions for UNHCR had to compete with appeals for other humanitarian activities. However, the international community should ensure that at least the minimum resources needed to carry out the most realistic programmes were provided. More resources should be sought from traditional donors, but they must also be got from new sources, both public and private. His country was confident that the Working Group established by the Executive Committee would manage to secure greater financial resources and enhance the operational capacity of UNHCR.

23. Ms. LIEN (Viet Nam) said that, as the report of the United Nations High Commissioner for Refugees (A/44/12 and Add.1) showed, a number of recent developments offered hope that the plight of many refugees around the world could be resolved. Two international conferences had been held, one on refugees in Central America and the other on refugees in Indo-China. Her country hoped that those positive developments would facilitate greater international co-operation on that humanitarian question. UNHCR had played a very important role in all those initiatives.

24. Overall, however, the current status of refugees, was more urgent and serious than ever. New refugee flows had begun, while existing problems had not been dealt with. There were currently millions of refugees around the world, most of them in Africa. They continued to face a life of poverty and insecurity, and their status required durable and comprehensive solutions.

25. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol had provided the basis for durable solutions to the refugee question. The events of recent decades, however, made it necessary to amplify the definition of a refugee set forth in the 1951 Convention. The Convention stipulated that fear of persecution was the sole reason for the existence of refugees. Nowadays the problem had more complicated and numerous causes, ranging from wars and changes in social and political régimes to economic hardship and natural disasters.

26. In the case of refugees from Indo-China, the underlying cause of the problem was that for 40 years Indo-China had suffered various wars of aggression with unprecedented physical destruction and loss of human life. In her country, those wars had produced heavy and far-reaching effects which had not yet been overcome. Despite the serious problems it faced and the withdrawal of all the troops it had been keeping in Cambodia; despite also the launching of an economic reform programme to improve living conditions for the population, various forms of

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(Ms. Lien, Viet Nam)

economic blockade and political pressure, including the organization of illegal out-flows of Vietnamese citizens, continued to be applied against her country. On the other hand, it must be borne in mind that some Vietnamese wished to be reunited with their families living abroad, while others might wish to seek better material conditions in other countries, given the economic hardships which her country was facing. Against that background, her Government had co-operated actively with UNHCR and the parties concerned in seeking satisfactory solutions to the problems. As a result, Viet Nam and other countries had agreed on the Orderly Departure Programme. Thanks to that Programme, which continued to produce positive results, 166,000 Vietnamese had been able to resettle in foreign countries.

27. The second International Conference on Indo-chinese Refugees had been held in Geneva in June 1989, attended by 75 countries and many organizations. It had adopted a Comprehensive Plan of Action with a view to an early solution to the problem of Indo-Chinese refugees. Her own country had conducted negotiations with Malaysia, Thailand, other countries concerned and with the Hong Kong authorities, on the voluntary repatriation of Vietnamese refugees. So far, five groups of refugees had returned to Viet Nam under that voluntary repatriation programme. Organized, legal departures should continue to be encouraged in the interests of all parties and of the refugees themselves. That would help reduce illegal flows of refugees. Her country continued to believe that resettlement was the chief durable and feasible solution to the problem of refugees from Indo-China and Viet Nam.

28. Mr. SIR ELKHATIM (Sudan) said that his country had been taking in refugees for almost 25 years. The number of refugees in the Sudan currently stood at over 1 million. Some 70 per cent of them were spontaneous refugees, who had settled in the country without the intervention of any international programme. The very number made plain the pressure which refugees put on the scarce resources of his country. His delegation was aware that permanent solutions to the refugee problem could not be found unless the countries of origin did away with the factors which caused their citizens to leave. In that connection, he noted with satisfaction the positive steps taken by the countries of origin to introduce voluntary repatriation programmes.

29. His country was expecting new flows of refugees in view of the drought in neighbouring countries. It was proposing relief activities for the affected areas so that refugees could be given assistance before crossing their national boundaries. Operation Lifeline Sudan was a good example of what could be done.

30. His country was accepting refugees pursuant to its commitment to abide by the international and regional conventions on the status of refugees to which it was a party, and had passed a law embodying the principles set forth in those conventions so as to ensure refugee protection and promote their well-being. Nevertheless, it believed that the refugee problem was the responsibility of the international community, which should, accordingly, be resolved jointly by the countries of origin, the countries of asylum and the donor community.

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(Mr. Sir Elkhatim, Sudan)

31. Although generous, international assistance was not enough to meet the needs of refugees in his country, inasmuch as 70 per cent of them had settled spontaneously and received no support from UNHCR. The country had also suffered a series of natural disasters which had displaced 3 million of its own citizens; that, added to social and economic difficulties, had reduced its capacity to receive further flows of refugees. Even so, the Government was prepared to continue to offer refugees humanitarian assistance, but urged the international community to bear an equitable share of the resultant burden.

32. As a major donor, the Sudan supported the call for a broadening of the donor base in order to overcome UNHCR's critical financial situation as well as the initiative taken by the Executive Committee on the adoption of measures to rationalize available resources.

33. There were two types of requirements where refugees in the Sudan were concerned. Firstly, more regular settlements must be established in order to accommodate approximately 100,000 refugees who had been living in reception centres for a long time, in order to avoid encouraging the development of spontaneous settlements, which had a negative impact on local communities. Secondly, development aid must be provided to the areas that hosted most of the refugees, who, in addition to placing a heavy burden on infrastructure, retarded planning and development programmes. The Sudan hoped that its efforts on behalf of refugees would be evaluated positively by the Working Group of the Executive Committee. It was regrettable that some components of the refugee programme for the current year had been either cancelled or eliminated. In that regard, the Sudan wished to reiterate that refugee aid should be combined with development plans, an area in which the United Nations Development Programme could play a crucial role, in collaboration with UNHCR.

34. In the first half of 1989 an inter-agency mission had visited the Sudan in order to identify the needs of refugees and the affected areas and to draw up plans to address those needs. With the participation of a high-level team of experts appointed by the Government of the Sudan, development projects in refugee-affected areas had been jointly investigated and drafted. The projects had subsequently been discussed at meetings with donor representatives with a view to ensuring donor involvement in their preparation. As a result of those meetings there was now a set of 33 development projects, in a total value of approximately \$164 million; however, that estimated cost would rise once the recommended feasibility studies had been conducted. It was to be hoped that, the projects would meet with a favourable response when they were presented to the donor countries, specialized agencies and non-governmental organizations, so that the Sudan could finance and implement them for the benefit of the refugees.

35. Mrs. LAFONTANT (United States of America) said that delegations were preoccupied by the budgetary crisis facing UNHCR; no matter how desirable programmes might be, if no funding existed for them they could not be implemented. The High Commissioner must take the lead in finding new sources of funds, and special efforts should be made to approach Governments that had not done their share. In addition, a campaign to encourage private donations must be instituted.

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(Mrs. Lafontant, United States)

36. In the mean time, the United States was participating fully in the Working Group of the UNHCR Executive Committee. It was to be hoped that recommendations would be developed that would cause the High Commissioner to balance the budget by the end of 1990, without reducing the measures on which refugees in many parts of the world depended.

37. While the budgetary crisis was a matter of great concern, delegations must not overlook UNHCR's important achievements over the past year. For example, UNHCR intervention had resulted in the repatriation of thousands of refugees to Namibia and in Central America, in the protection of refugees throughout the world, and in planning for the repatriation of millions of Afghans in Pakistan and Iran. However, UNHCR was facing new demands owing to the increase in the number of refugees in the world, which over the past decade had risen from an estimated 7.3 million to almost twice that number. As her Government had already stated in the Executive Committee, those numbers threatened the principle of first asylum and made the quest for refugee solutions even more urgent.

38. The United States particularly applauded the work of the International Conference on Indo-Chinese Refugees, held in Geneva in June 1989, as well as the Comprehensive Plan of Action that had resulted from the Conference. The voluntary repatriation programme for Vietnamese asylum-seekers, established by the Plan, had had an encouraging start and should be given a reasonable amount of time to work because the alternatives were so grim.

39. Meanwhile, the quest for refugee solutions elsewhere in the world must be continued. Voluntary repatriation, as everyone knew, was the obvious solution of first preference. UNHCR had completed a large, rapid airlift of Namibians, a critical part of the Secretary-General's peace plan. In both Ethiopia and Central America and elsewhere in the world voluntary repatriation was working. It was to be hoped that opportunities would soon occur for refugees and displaced persons from other countries to return to their homes.

40. Resettlement remained a desirable option when neither voluntary repatriation nor local settlement had proved possible. The United States anticipated admitting 125,000 refugees for resettlement in 1990, 8,500 more than in the previous year.

41. UNHCR, by the very nature of its mandate, was repeatedly confronted with unforeseen emergencies, for which it needed to develop an emergency response capability. The United States strongly encouraged UNHCR to co-ordinate its efforts with other humanitarian agencies. The international community must renew its commitment to refugees and provide UNHCR with the financial and moral support it needed in order to fulfil its responsibilities.

42. Mrs. GONZALEZ (Mexico) said the UNHCR presence on the scene of various conflicts over the past decade had contributed to the provision of relief to thousands of people in danger and to assistance to the Governments of countries of asylum. Although the countries of asylum were endeavouring to safeguard the fundamental rights of displaced persons and their families, hosting refugees resulted in an economic burden that each State had to face with the means at its

(Mrs. Gonzalez, Mexico)

disposal. Some provided the irreplaceable component of protection, whereas others provided financial and material resources.

43. It was not the sole responsibility of either an international agency or the host countries to find an immediate solution to the refugee problem. It had therefore been extremely gratifying that the initiatives taken in a show of international solidarity in the area in question had resulted in a number of international conferences, including the International Conference on Central American Refugees, which had taken place in Guatemala in May 1989. The international community had consistently reaffirmed its determination to deal with the complex phenomenon in question, which involved a profound human drama.

44. In the specific case of Central America, the large scale population movements that had taken place in the 1980s, involving almost 2 million people, had required on the part of the host countries of the region a major effort in terms of protection and assistance that would not have been possible without UNHCR assistance. Mexico welcomed the willingness to co-operate and to engage in concerted efforts shown at the International Conference on Central American Refugees, in which UNHCR and UNDP had participated. It wished to reaffirm its support for the Guatemala Declaration and the Plan of Action as a means of providing a lasting solution to refugee problems in the region.

45. At the Conference, Mexico had reaffirmed its intention to take a humanitarian, apolitical approach to matters relating to refugees and to observe human rights and principles relating to the protection of refugees. The determination on the part of the Governments of the region to implement the Guatemala Declaration had taken the specific form of the continuation of voluntary repatriation and progress in the preparation of priority projects to strengthen the integration of refugees in the countries of asylum and refugee self-sufficiency. Reducing ongoing activities at the current stage - owing to financial difficulties - would merely result in false economies and betray the hopes of thousands of refugees.

46. It was therefore alarming to note the reduction in financial resources that UNHCR was facing. Although the financial problems being experienced by UNHCR were similar to those of other multilateral agencies, owing to the nature of UNHCR activities the drop in resources had a direct impact on groups that were already very disadvantaged. UNHCR would have to rely on the international community's generosity in order to overcome that crisis, since providing asylum called for an economic effort on the part of host countries, which, in Mexico's case, amounted to almost \$3 million each year in terms of indirect assistance to refugee programmes.

47. Mexico guaranteed the protection of refugees in its territory by means of an institutional structure that had the full support of the people and the co-operation of the United Nations. The Mexican Refugee Assistance Commission was the agency responsible for protecting and co-ordinating all assistance. Because of the financial crisis of UNHCR, her Government had decided to decentralize the Commission's functions and absorb the cost of a large part of the operational staff for the UNHCR-financed programmes, which would represent a 67-per-cent reduction of its budget.

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(Mrs. Gonzalez, Mexico)

48. With UNHCR assistance, her Government had set up programmes to safeguard the rights of refugees and their cultural identity, and it had also facilitated their voluntary return. Between 1981 and 1982, 43,000 Guatemalan refugees had entered the country and since then that group had produced 10,563 children, or 26 per cent of the total refugee community, and they were being provided with health and education services. In the states of Campeche and Quintana Roo, the refugees had begun to be self-sufficient. In the state of Chiapas, on the other hand, the refugee population was still at the subsistence stage because it was scattered; it was dependent on the World Food Programme for food and was receiving inadequate health and education services. The Mexican Refugee Assistance Commission, with advice from UNHCR and the International Fund for Agricultural Development, had drafted a programme for the Chiapas area which was being given priority. However, the budget appropriations for that programme had been reduced because of the UNCHR financial crisis, which meant that the plans to develop that region would be abandoned, unless additional funding was found.

49. Lastly, Mexico reiterated its steadfast political will to continue offering hospitality to refugees in its territory, its intention being that they should achieve self-sufficiency and obtain a minimum of well-being, without sacrificing their cultural and linguistic identity.

AGENDA ITEM 108: ADOPTION OF A CONVENTION ON THE RIGHTS OF THE CHILD (continued)
(A/44/240, 306, 393 and 616; A/C.3/44/7; A/C.3/44/L.44, L.45* and L.47)

Action on draft decision A/C.3/44/L.45* and programme budget implications in document A/C.3/44/L.47

50. The CHAIRMAN invited the Committee to resume consideration of agenda item 108 and drew its attention to draft decision A/C.3/44/L.45*, introduced by the representative of Poland at the thirty-ninth meeting, and the corresponding statement of programme budget implications (A/C.3/44/L.47).

51. Mr. BOLTON (United States of America) requested a recorded vote on the draft decision.

52. Draft decision A/C.3/44/L.45* was adopted by 137 votes to 1, with 1 abstention. a/

53. Mr. BOLTON (United States of America), speaking in explanation of vote after the vote, said that his delegation had voted against the decision to fund the Committee on the Rights of the Child from the regular budget of the United Nations. The United States had made it clear many times that it believed that only States parties to the Convention on the Rights of the Child should bear the costs of the Committee. Since the Convention would enter into force with only 20 ratifications, the decision of the Third Committee would require 139 Member

a/ See A/C.3/44/SR.45, para. 1.

(Mr. Bolton, United States)

States to share the costs of a Committee with which they had no involvement. Moreover, there was a recent precedent, that of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, where only the States parties were sharing the cost of the corresponding Committee. Although those States parties had not paid the entirety of their assessments to that Committee, that was to be explained by the budgetary priorities of certain countries and did not require the United Nations to take on the financing of future treaty bodies. Despite its position on the question of financing, his country favoured the substantive provisions of the Convention on the Rights of the Child, and hoped that the Committee and the General Assembly would adopt it without change and without a vote.

54. Mr. ITO (Japan) said that his delegation had abstained in the vote on draft decision A/C.3/44/L.45* because, as a matter of principle, an intergovernmental body to be established after the entry into force of an international agreement from which it derived should be financed by the States parties to that agreement. His delegation feared that the decision just taken would set a precedent and believed that it was not the proper means to achieve the real objectives of an international agreement. It also felt that the decision had not taken into account the current budgetary constraints of the United Nations or the efforts being made to increase the efficiency of the Organization's activities. However, Japan wished to reiterate its support for the basic objective of the Convention, which was to promote and ensure the full protection of the rights of the child.

Introduction of and action on draft resolution A/C.3/44/L.44

55. The CHAIRMAN invited the Committee to consider draft resolution A/C.3/44/L.44 on the adoption of a Convention on the Rights of Child and explained that article 43 (11) and (12) of the draft Convention in the annex to the draft resolution contained the texts that the Committee had adopted in decision A/C.3/44/L.45*. He wished, therefore, to inform the Committee that the statement of programme budget implications submitted by the Secretary-General in connection with draft decision A/C.3/44/L.45* applied also to draft resolution A/C.3/44/L.44.

56. Mr. LOPATKA (Poland) introduced draft resolution A/C.3/44/L.44 on behalf of the sponsors listed in that document as well as Bangladesh, the Congo, Cuba, Denmark, the Dominican Republic, Iceland, the Libyan Arab Jamahiriya, Mali, Mauritania, Nigeria, Pakistan, Samoa, Sri Lanka, Sweden, Suriname and Uruguay, which were later joined by Cameroon, Chile, Guinea-Bissau and Honduras. He commended the United Nations efforts to promote the rights of children and recalled in particular the adoption of the Declaration of the Rights of the Child in 1959, the proclamation of the International Year of the Child in 1979 and the initiation in 1978 of the negotiations on a convention on the rights of the child.

57. The Convention, if adopted, would be a significant step forward in setting human rights standards for children and would constitute the most comprehensive instrument on the question, filling in many gaps in current legislation. The draft resolution called upon all Member States to consider signing and ratifying the

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(Mr. Lopatka, Poland)

Convention as a matter of priority and expressed the hope that it would come into force at an early date. It expressed appreciation to the Commission on Human Rights for having concluded the elaboration of a draft Convention on the Rights of the Child, and invited the Secretary-General, United Nations agencies and organizations, and intergovernmental and non-governmental organizations to disseminate information on the Convention and promote its understanding. He hoped that the draft resolution would be adopted by consensus.

58. Mr. ENGFELDT (Sweden) said that the importance his Government attached to the draft Convention and its conviction that the international community had to do its utmost to protect children, especially in armed conflicts, had been brought out in the statement of the Nordic countries. Furthermore, his Government intended to continue its efforts to improve current standards with regard to the protection of children in armed conflicts and to support United Nations activities in the field. He underscored the contributions that non-governmental organizations had made and reiterated his Government's support for the adoption of the draft resolution.

59. Mr. CABRAL (Guinea-Bissau) said that he wished to join the sponsors of the draft resolution.

60. Mr. COVARRUBIAS (Chile) observed that the principle enunciated in the ninth preambular paragraph of the draft convention was crucial for the preservation of life. With reference to article 1, his country believed that the child came into being at the very moment of conception and that fertilization marked the beginning of the development of the individual. His delegation would have preferred, in article 8, an explicit reference to paternity, not so much in factual terms but as a value which the international community must make every effort to realize. Furthermore, concurring with the Chilean Church authorities, his Government believed that, throughout, the draft convention did not sufficiently emphasize the family as natural mediator between the child and the State. Nevertheless, his delegation expressed its firm support for the draft Convention.

61. Mr. PALMA (Honduras) thanked the delegations which had elaborated the draft Convention and said that he was joining the sponsors.

62. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt the draft resolution without a vote.

63. It was so decided.

64. Miss FUNDAFUNDA (Zambia), speaking in explanation of position on behalf of the front-line States, stressed the importance which they attached to the plight of black children under the apartheid system, which had deteriorated since the imposition of the state of emergency in 1986. The Convention would be enriched by the inclusion of specific provisions reflecting the situation of children under the system of apartheid and would then become more relevant for a greater part of the international community.

65. Mr. van WULFFTEN PALTHE (Netherlands), said that his delegation, which was aware of the importance of the Convention on the Rights of the Child, had not wished to break the consensus in favour of its adoption. The process of elaborating the Convention had been far from easy and had required more than 10 years of work. It had been necessary to adopt many solutions based on compromise in order to make the Convention acceptable to all, and in that spirit of compromise the Netherlands had been actively involved in the work of preparing the Convention.

66. One article of the Convention established a norm which was particularly open to question. Article 38, which stipulated the rights of the child in relation to armed conflicts, should not have been worded in such a way as to permit participation by children between the ages of 15 and 17 years in hostilities. The new Convention should have protected children with regard to participation in hostilities at least up to the age of 18 years. States should not be allowed to involve children, directly or indirectly, in armed conflicts. Unfortunately, that prohibition, which was laid down in additional Protocol II to the Geneva Conventions of 1949, had not been incorporated in the new Convention. Neither had it been possible to raise the minimum age for recruiting children into the armed forces. The Netherlands, together with other countries, had made proposals to modify those two points which, unfortunately, had not been adopted.

67. Mr. WHITAKER SALLES (Brazil) said that his delegation had supported draft resolution A/C.3/44/L.44 containing the Convention on the Rights of the Child. Its adoption was the culmination of the efforts by many countries and organizations that had worked hard in order to make that possible.

68. The solution provided in article 43 of the Convention to the problem of financing the Committee on the Rights of the Child was very positive. The text of the Convention was not and could not be perfect since it had been necessary to find compromise solutions to a number of problems created by cultural, political and other differences between countries. It seemed that there were discrepancies between a number of articles in the Convention. For example, the definition of a child in article 1 differed from the definition that was inferred from the contents of article 38, according to which children below the age of 18 years could take part in armed conflicts. Article 13 allowed unjustified interference by the State in questions which should be solely the responsibility of the family, as was set forth in article 5. Article 37 seemed to give the impression that the torture of adults was not as condemnable as that of children. Lastly, article 30, on children belonging to minorities, could be interpreted as being incompatible with the provisions of the Constitution of Brazil. In view of those considerations, his Government reserved its position on a number of norms in the Convention, which it had to consider further before signing that instrument.

69. Ms. MIGNOTT (Jamaica) said that her delegation had joined the consensus which had led to the adoption of the important Convention on the Rights of the Child. She wished, however, to take that opportunity to comment on a particular provision of the Convention. Article 1 defined the child as a human being below the age of 18 years, although it provided for the possibility of exceptions to that general

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(Ms. Mignott, Jamaica)

rule. It appeared that an armed conflict was one such exception since article 38 provided that States parties should take all feasible measures to ensure that persons who had not attained the age of 15 years did not take a direct part in hostilities. That article implied that the obligation did not apply to persons over the age of 15 years. The article also provided that States parties should refrain from recruiting any person who had not attained the age of 15 years into their armed forces. It seemed that the general provision in article 1 did not apply there either.

70. Her delegation recognized that article 38 of the Convention reflected, broadly speaking, the provisions of article 77 (2) of the 1977 additional Protocol I to the Geneva Conventions of 1949 and that some 90 countries were parties to that Protocol. However, there were situations where one should be guided more by considerations of principle than precedent. The case in question should have been one such occasion. The age at which children could be recruited into the armed forces or sent into combat should be the age of attainment of majority, namely 18 years. The relevant provisions of additional Protocol I to the Geneva Conventions of 1949 should therefore be amended. Since the Third Committee was not competent to undertake that initiative, her delegation urged the States parties to the Protocol to amend it in that way in order to facilitate the subsequent similar amendment of the Convention.

71. Ms. ALHAMANI (Yemen) said that article 14 of the Convention, which provided, *inter alia*, that States parties should respect the right of the child to freedom of thought, conscience and religion, and under which children would have the right to change their religion, was contrary to Islamic law, which did not permit Muslims to change their religion. Under the laws of Yemen, a Muslim child must retain his or her Muslim religion. For that reason, Yemen reserved its position on the article in question.

72. Mrs. WARZAZI (Morocco) said that the adoption of the Convention on the Rights of the Child was cause for particular joy for her, as a representative of Morocco, and for the representative of Costa Rica since they had both participated in 1959 in the elaboration of the Declaration on the Rights of the Child.

73. Mr. ZIADA (Iraq) said that his delegation would have preferred the Convention on the Rights of the Child to deal with the situation of children under occupation and the resulting economic consequences. Furthermore, his delegation had reservations about article 14 (1) of the Convention, since freedom of religion was incompatible with Islamic law and Iraqi legislation.

74. Ms. TUKAN (Jordan) said that her delegation interpreted the provisions of article 14 of the Convention to mean that the child had the freedom to practice his or her religion, not to change it. Jordan interpreted articles 20 and 21 to mean that their provisions were not binding on States which, like Jordan, in accordance with Islamic law did not approve of adoption children. If the provisions of those three articles were interpreted otherwise, the delegation of Jordan expressed its reservations.

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75. Mr. ITO (Japan) expressed his delegation's views on some of the articles. Article 7 (2) did not require States to give their nationality to any persons who were born or had become stateless in their territory. With regard to articles 9 and 10, he pointed out that the right of the child to maintain personal relations and direct contact with parents on a regular basis could not always be guaranteed in cases where the child was separated from one or both parents; it was also his delegation's understanding that article 10 did not affect in any way the sovereign right of States to enact their respective immigration laws in accordance with their international agreements and that the expression "their own country" in article 10 (2) referred to the country of which the child or his or her parents were nationals. Furthermore, the provision in article 37 (c) concerning the separation from adults of every child deprived of liberty should be as flexible as possible so as to take into account the specific circumstances in different countries. Furthermore, the provision in article 37 (d) did not oblige the State to assign a defence counsel for a child who was under detention by court order. Referring to the various subparagraphs of article 40 (2), his delegation felt that subparagraph (b) referred to every child deprived of his or her liberty. Subparagraph 2 (b) (ii) referred to article 37 (d). The expression "a fair hearing" in subparagraph 2 (b) (iii) did not necessarily imply a public hearing and did not require the provision of legal assistance. The provision in subparagraph 2 (b) (iv) applied in Japan only to criminal proceedings. Lastly, subparagraph 2 (b) (vi) did not prevent the accused from having to assume the costs of the trial when found guilty.

76. Mr. BARNEA (Israel) said that, although his delegation had joined the consensus on the Convention, it would have to give in-depth consideration to all the details of the instrument before deciding whether to sign and ratify it.

The meeting rose at 6.15 p.m.