

Ministerial Meeting of States Parties
to the 1951 Convention
and/or its 1967 Protocol
relating to the Status of Refugees

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REPORT OF THE
MINISTERIAL MEETING OF STATES PARTIES
TO THE 1951 CONVENTION AND/OR ITS 1967 PROTOCOL
RELATING TO THE STATUS OF REFUGEES
(Geneva, 12 - 13 December 2001)

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I. INTRODUCTION

A. Opening of the Ministerial Meeting

1. The Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees was held in Geneva on 12 and 13 December 2001. The Ministerial Meeting was co-convened by the United Nations High Commissioner for Refugees (UNHCR) and Switzerland on the occasion of the 50th anniversary year of the 1951 Convention relating to the Status of Refugees, which is the founding instrument of the international regime for the protection of refugees. Conceived as an integral part of the Global Consultations on International Protection, launched by UNHCR's Department of International Protection in December 2000, the Ministerial Meeting was preceded by a Preparatory Session held in Geneva on 20 and 21 September 2001 (see HCR/MMSP/2001/03 and Corr.1). To inform participants on elements which might comprise a joint Agenda for Protection activities for States, UNHCR and other protection partners deriving from the Global Consultations process, the Secretariat made available two documents: *Information Note on Elements of an Agenda for Protection Activities* (HCR/MMSP/2001/06) and *Information Note - Agenda for Protection: An Overview of Likely Elements* (HCR/MMSP/2001/07).

2. Pursuant to Article 5 of the Rules of Procedure of the Ministerial Meeting (HCR/MMSP/2002/02), Federal Councillor Ruth Metzler-Arnold (Switzerland) opened the conference and served as Chairperson. In her opening remarks, the Chairperson recalled the historic character of the meeting, which had gathered States Parties for the first time in five decades and would adopt a declaration giving new impulse to the 1951 Convention. She pointed out that application of the 1951 Convention calls for global solutions to cope with the world's growing refugee problem. The Ministerial Meeting would therefore focus on how to strengthen implementation of the Convention by promoting universal accession to the Convention and its 1967 Protocol, strengthening the institutional framework for dialogue on implementation and encouraging adequate funding of UNHCR. At the same time, a joint Agenda for Protection activities, deriving from the Global Consultations on International Protection, would assist UNHCR and States Parties to revitalize the 1951 Convention framework.

B. Adoption of the provisional agenda and other organizational matters

3. The Ministerial Meeting adopted by consensus the following agenda (HCR/MMSP/2001/01)

1. Opening of the Ministerial Meeting
2. Adoption of the provisional agenda and other organizational matters
3. Introductory statements by the Co-Convenors of the Ministerial Meeting
4. General Debate
5. Adoption of the Draft Declaration
6. Reports of the Roundtables by the Vice-Chairpersons
7. Closure of the Ministerial Meeting

4. The Ministerial Meeting adopted by consensus for its work the Rules of Procedure contained in document HCR/MMSP/2001/02.

5. Under Rule 6 of its Rules of Procedure, the Ministerial Meeting elected the following officers by acclamation:

Vice-Chairperson: H.E. Mr. Abdelaziz Djerad (Algeria)

Vice-Chairperson: H.E. Mr. Antoine Duquesne (Belgium)

Vice-Chairperson: The Hon. Mrs. Elinor Caplan (Canada)

Vice-Chairperson: H.E. Ambassador Rosalinda Valenton Tirona
(Philippines)

Vice-Chairperson: H.E. Ambassador Victor Rodríguez Cedeño (Venezuela)

C. Representation at the Ministerial Meeting

6. The following States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees were represented at the Ministerial Meeting:

Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guinea Bissau, Haiti, Holy See, Honduras, Hungary, Iceland, Ireland, Islamic Republic of Iran, Israel, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Mali, Malta, Mauritania, Mexico, Monaco, Morocco, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Samoa, Sierra Leone, Slovakia, Slovenia, Somalia, South Africa, Spain, Sudan, Swaziland, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Tuvalu, Uganda, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia, Zimbabwe.

7. The following States which are not yet Parties to the 1951 Convention and/or its 1967 Protocol, were present as observers:

Bahrain, Bangladesh, Bhutan, Brunei Darussalam, Cook Islands, Cuba, Eritrea, India, Indonesia, Iraq, Jordan, Kuwait, Lao People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mongolia, Myanmar, Nepal, Oman, Pakistan, Qatar, Republic of Moldova, St. Kitts and Nevis, San Marino, Saudi Arabia, Singapore, Sri Lanka, Syrian Arab Republic, Thailand, Ukraine, United Arab Emirates, Uzbekistan, Viet Nam.

8. Palestine was represented as an observer.

9. Also present as observers were:

Council of Europe, Council of the European Union, European Commission, Inter-Governmental Consultations (IGC), International Committee of the Red Cross (ICRC), International Organization of the French-Speaking World, International Organization for Migration (IOM), Inter-Parliamentary Union (IPU), Islamic Development Bank (IDB), Islamic Educational, Scientific and Cultural Organization, League of Arab States, Organization of African Unity (OAU), Organization of the Islamic Conference (OIC), Sovereign Military Order of Malta, World Bank.

10. The United Nations system was represented as follows:

United Nations, United Nations Office at Geneva, Food and Agriculture Organization of the United Nations (FAO), International Labour Office (ILO), Joint United Nations Programme on HIV/AIDS (UNAIDS), Office for the Coordination of Humanitarian Affairs (OCHA), Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Centre for Human Settlements (HABITAT), United Nations Children's Fund (UNICEF), United Nations Development Programme (UNDP), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Environmental Programme, United Nations Institute for Training and Research (UNITAR), United Nations Population Fund, United Nations Relief and Works Agency for Palestine Refugees in the Near-East (UNRWA), United Nations Volunteers Programme (UNV), World Intellectual Property Organization (WIPO).

11. A total of 63 non-governmental organizations were represented by observers.

12. The full list of participants is contained in document HCR/MMSP/2001/08.

D. Introductory statements

13. In his opening remarks, H.E. Dr. Han Seung-Soo, President of the General Assembly of the United Nations, emphasized that, over the past five decades, the world's refugee problem has become a tragedy of global scope, leaving no region unaffected. It has also become more complex and multidimensional. Refugees are victims of violations of the principles underpinning the United Nations Charter and are a constant reminder that concerted efforts are still needed to ensure the realization of the ideals on which it is based.

14. The President commended the United Nations High Commissioner for Refugees for drawing the attention of the international community to protracted or often forgotten refugee situations and to the need for burden sharing to achieve durable solutions. He appealed to United Nations Member States to extend their full support and cooperation to

UNHCR. The President also recalled that the General Assembly had recently adopted a resolution on the Office of the United Nations High Commissioner for Refugees, which welcomed the process of the Global Consultations on International Protection, of which the Ministerial Meeting is a part, and acknowledged their importance as a forum for open discussion on complex legal and operational protection issues. In closing, he hoped that the Ministerial

Meeting would provide an opportunity for States to discuss and explore ways to further strengthen the current international regime for the protection of refugees, based on the 1951 Convention relating to the Status of Refugees, which is often described as the "Magna Carta" of international refugee law. The full text of the President's statement is contained in Annex II.

15. In a videotaped message the Secretary-General of the United Nations, Mr. Kofi Annan, stressed the importance of the Ministerial Meeting in giving States a much-needed opportunity to reflect on how they can continue to protect refugees in the new international environment and how they can face new challenges - such as mass influxes of refugees, migration and terrorism - that have arisen since the Convention was drafted. To create a truly universal framework for refugee protection, he recalled his encouragement to States to ratify the 1951 Convention as one of a core group of 25 treaties that represent the objectives of the United Nations Charter and the Organization's values.

16. The Secretary-General also emphasized that protecting and helping refugees is a collective responsibility of the community of nations. He regretted a tendency to suggest that the Convention is somehow out of date or no longer valid and to equate refugees with economic migrants, at best, and with cheats, criminals or even terrorists, at worst. He encouraged States to refute this gross calumny and to remember that refugees are men, women and children with the same human rights, hopes and desires of all human beings. He qualified refugees as victims of autocratic or abusive regimes, of conflict and of criminal smuggling rings. The Secretary-General underscored that the 1951 Convention continues to provide a perfectly good basis for separating those who genuinely need international protection from those who do not. He congratulated the United Nations High Commissioner for Refugees on launching the Global Consultations on International Protection, which he described as a "unique consultative process". These Consultations, of which the Ministerial Meeting is a part, are helping to show how strong and relevant the 1951 Convention still is and should help all those concerned with refugee protection to find ways to tackle both new and old challenges and to strengthen respect for the Convention throughout the world. The full text of the Secretary-General's statement can be found in Annex III.

17. The President of Latvia, Mrs. Vaira Vike-Freiberga, described her experiences as a refugee. She emphasized that no one leaves their home willingly or gladly. When she was a child, her own family was obliged to take the road to exile. The President's small sister passed away by the roadside only three weeks after fleeing home. She described herself as a survivor, speaking on behalf of all those who died by the roadside and for the millions of refugees across the world whose voices cannot be heard, but who have hopes and aspirations, and dream of a normal life. She recalled that the fate of these refugee lies with those gathered at the Ministerial Meeting. She encouraged officials not to think of refugees in abstract terms or in the bureaucratic language of "decisions" and "declarations" and "priorities", but instead as human beings who are waiting for help. She thanked all of those who had extended a helpful hand throughout her life. In closing, the President stressed that the international community has no choice but to act, to do something on behalf of the world's refugees and to start today. The full text of President Vike-Freiberga's statement is contained in Annex IV.

18. In his opening remarks, the United Nations High Commissioner for Refugees, Mr. Ruud Lubbers, thanked the Swiss Government for the invaluable role it had played in co-hosting and helping to organize the Ministerial Meeting. He recalled that the 1951 Convention had laid the foundation of the international system for the protection of refugees and helped States to have

a more predictable and coordinated approach to a growing international problem. The past five decades has seen the globalization of refugee protection, as well as the advent of new problems. Governments are refusing to accept refugees because they are mixed with economic migrants, as well as owing to their high numbers or a lack of burden sharing. UNHCR has a vital role to play to achieve a "productive symbiosis" between host countries and cash-donor countries and facilitate burden-sharing arrangements. Burden sharing has been a cross-cutting theme of the Global Consultations on International Protection.

19. Mr. Lubbers urged States not to view refugees solely as a burden. The challenge is to find ways of empowering them, so that they can contribute to our societies. The High Commissioner also pointed out that refugees need both protection and solutions to their plight. More must therefore be done to prevent protracted refugee situations. The 50th anniversary of the 1951 Convention provides an opportunity not only to reaffirm commitment to the principles of refugee protection, but also to reflect on today's challenges. He encouraged the international community to think creatively to address both old and new problems that are not adequately covered by the Convention. "No problem is intractable when States are willing to come together to resolve it." Mr. Lubbers urged States to show the same courage as the framers of the Convention. He also exhorted States to create a culture of respect towards refugees.

20. The Convention is no less important today than it was 50 years ago. The values on which the Convention is based are timeless and the Convention should be seen as the hallmark of the civilized world. The High Commissioner encouraged wider accession, as well as full and effective implementation through appropriate national legal frameworks and protection structures. At the same time, a globalizing world needs a global governance structure for refugees. To be effective, UNHCR needs the full support of governments, including adequate funding and recognition as an essential partner in the global governance of the refugee phenomenon. The High Commissioner pointed out that more must also be done to address the links between migration and asylum. The international community must develop new approaches, tools and standards to strengthen the legal and physical protection of refugees, while separating out the undeserving. He also pointed to the blurring of the distinction between refugees and other migrants, and the stigmatization of refugees as people trying to break the law. Mr. Lubbers recalled that, with regular arrival routes closed, many refugees turn to smugglers to reach safety, leading to a rise in human smuggling and trafficking. Unless governments do more to find lasting solutions for refugees, more refugees will fall into the hands of smugglers, traffickers and criminal networks. Finally more must be done to address the root causes of forced displacement. While it is better to bring safety to people, not people to safety, we must at the same time uphold the right to seek and enjoy asylum. The full text of the High Commissioner's opening statement is attached as Annex V.

II. WORK OF THE MINISTERIAL MEETING

21. The Ministerial Meeting States Parties heard statements from 94 States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, ten States that are not yet parties to one or either

instruments, as well as from five intergovernmental organizations and one non-governmental organization (speaking on behalf of those attending the Ministerial Meeting). In a short ceremony, Belarus, the Republic of Moldova and St. Kitts and Nevis took the floor as States having recently ratified the 1951 Convention and its 1967 Protocol or in the process of formalizing their accession. Malta also took the opportunity to announce the withdrawal of the

geographical limitation under Article 1B (1) of the 1951 Convention, as well as its reservations to Articles 7 (2), 7 (3), 7 (4), 7(5), 8, 9, 14, 17, 18, 27, 28, 31 and 32.

22. In three interactive roundtable sessions, the Ministerial Meeting also gave participants an opportunity to share their views on key issues examined in other tracks of the Global Consultations on International Protection. The roundtables focused on the following themes:

- Roundtable one: "The 1951 Convention and 1967 Protocol Framework: Strengthening Implementation"
- Roundtable two: "International Cooperation to Protect Masses in Flight" (*inter alia* mass influx, burden and responsibility sharing, security, additional instruments)
- Roundtable three: "Upholding Refugee Protection in the Face of Contemporary Challenges involving Mixed Flows" (*inter alia* asylum systems)

At the conclusion of the Ministerial Meeting of States Parties, the Chairs of the roundtables delivered oral reports on their deliberations. The Chairs' reports of the roundtables are attached as Annexes VI to VIII.

23. At the end of the Ministerial Meeting, the High Commissioner made a number of closing remarks. The full text is attached as Annex IX.

III. DECLARATION OF STATES PARTIES

24. The Ministerial Meeting adopted by consensus a Declaration of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees which is reproduced in full in Annex I. (The Declaration has also been issued as a separate document, with symbol HCR/MMSP/2001/09.)

25. Following the adoption of the Declaration, the Republic of Azerbaijan adopted the position set out below, requesting that the delegation's views be included in the formal record of the meeting:

With regard to the reference in paragraph three of the Preamble of the Declaration of States Parties to the Programme of Action adopted at the 1996 Regional Conference to Address the Problems of

Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Countries of the Commonwealth of Independent States and Relevant Neighbouring States, the Republic of Azerbaijan declares that the Programme of Action does not take into account the reasons which led to the emergence of refugees and internally displaced persons (IDPs) on the territory of the Republic of Azerbaijan; namely aggression, occupation and ethnic cleansing. The Programme of Action also fails to envisage adequate measures to be taken in these cases and relieves the States which have committed aggression of any responsibility for the resolution of the problems of refugees and IDPs. Underlining that regional and sub-regional mechanisms that do not take account of the reasons for flight and the scale of the problem of refugees and IDPs could be less effective, the Republic of Azerbaijan gives preference to the development of bilateral relations with UNHCR, other international organizations and donor countries.

Annex I

DECLARATION OF STATES PARTIES TO THE
1951 CONVENTION AND/OR ITS 1967 PROTOCOL
RELATING TO THE STATUS OF REFUGEES
(Geneva, 13 December 2001)

Preamble

We, representatives of States Parties to the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol, assembled in the first meeting of States Parties in Geneva on 12 and 13 December 2001 at the invitation of the Government of Switzerland and the United Nations High Commissioner for Refugees (UNHCR),

1. Cognizant of the fact that the year 2001 marks the 50th anniversary of the 1951 Geneva Convention relating to the Status of Refugees,
2. Recognizing the enduring importance of the 1951 Convention, as the primary refugee protection instrument which, as amended by its 1967 Protocol, sets out rights, including human rights, and minimum standards of treatment that apply to persons falling within its scope,
3. Recognizing the importance of other human rights and regional refugee protection instruments, including the 1969 Organisation of African Unity (OAU) Convention governing the Specific Aspects of the Refugee Problem in Africa and the 1984 Cartagena Declaration, and recognizing also the importance of the common European asylum system developed since the 1999 Tampere European Council Conclusions, as well as the Programme of Action of the 1996 Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Countries of the Commonwealth of Independent States and Relevant Neighbouring States,
4. Acknowledging the continuing relevance and resilience of this international regime of rights and principles, including at its core the principle of *non-refoulement*, whose applicability is embedded in customary international law,
5. Commending the positive and constructive role played by refugee-hosting countries and recognizing at the same time the heavy burden borne by some, particularly developing countries and countries with economies in transition, as well as the protracted nature of many refugee situations and the absence of timely and safe solutions,
6. Taking note of complex features of the evolving environment in which refugee protection has to be provided, including the nature of armed conflict, ongoing violations of human rights and international humanitarian law, current patterns of displacement, mixed population flows, the high costs of hosting large numbers of refugees and asylum-seekers and of maintaining asylum systems, the growth of associated trafficking and smuggling of persons, the problems of safeguarding asylum systems against abuse and of excluding and returning those not entitled to or in need of international protection, as well as the lack of resolution of long-standing refugee situations,

7. Reaffirming that the 1951 Convention, as amended by the 1967 Protocol, has a central place in the international refugee protection regime, and believing also that this regime should be developed further, as appropriate, in a way that complements and strengthens the 1951 Convention and its Protocol,

8. Stressing that respect by States for their protection responsibilities towards refugees is strengthened by international solidarity involving all members of the international community and that the refugee protection regime is enhanced through committed international cooperation in a spirit of solidarity and effective responsibility and burden-sharing among all States,

Operative Paragraphs

1. Solemnly reaffirm our commitment to implement our obligations under the 1951 Convention and/or its 1967 Protocol fully and effectively in accordance with the object and purpose of these instruments;

2. Reaffirm our continued commitment, in recognition of the social and humanitarian nature of the problem of refugees, to upholding the values and principles embodied in these instruments, which are consistent with Article 14 of the Universal Declaration of Human Rights, and which require respect for the rights and freedoms of refugees, international cooperation to resolve their plight, and action to address the causes of refugee movements, as well as to prevent them, *inter alia*, through the promotion of peace, stability and dialogue, from becoming a source of tension between States;

3. Recognize the importance of promoting universal adherence to the 1951 Convention and/or its 1967 Protocol, while acknowledging that there are countries of asylum which have not yet acceded to these instruments and which do continue generously to host large numbers of refugees;

4. Encourage all States that have not yet done so to accede to the 1951 Convention and/or its 1967 Protocol, as far as possible without reservation;

5. Also encourage States Parties maintaining the geographical limitation or other reservations to consider withdrawing them;

6. Call upon all States, consistent with applicable international standards, to take or continue to take measures to strengthen asylum and render protection more effective including through the adoption and implementation of national refugee legislation and procedures for the determination of refugee status and for the treatment of asylum-seekers and refugees, giving special attention to vulnerable groups and individuals with special needs, including women, children and the elderly;

7. Call upon States to continue their efforts aimed at ensuring the integrity of the asylum institution, *inter alia*, by means of carefully applying Articles 1F and 33 (2) of the 1951 Convention, in particular in light of new threats and challenges;

8. Reaffirm the fundamental importance of UNHCR as the multilateral institution with the mandate to provide international protection to refugees and to promote durable solutions, and recall our obligations as State Parties to cooperate with UNHCR in the exercise of its functions;

9. Urge all States to consider ways that may be required to strengthen the implementation of the 1951 Convention and/or its 1967 Protocol and to ensure closer cooperation between States parties and UNHCR to facilitate UNHCR's duty of supervising the application of the provisions of these instruments;

10. Urge all States to respond promptly, predictably and adequately to funding appeals issued by UNHCR so as to ensure that the needs of persons under the mandate of the Office of the High Commissioner are fully met;

11. Recognize the valuable contributions made by many non-governmental organizations to the well-being of asylum-seekers and refugees in their reception, counselling and care, in finding durable solutions based on full respect of refugees, and in assisting States and UNHCR to maintain the integrity of the international refugee protection regime, notably through advocacy, as well as public awareness and information activities aimed at combating racism, racial discrimination, xenophobia and related intolerance, and gaining public support for refugees;

12. Commit ourselves to providing, within the framework of international solidarity and burden-sharing, better refugee protection through comprehensive strategies, notably regionally and internationally, in order to build capacity, in particular in developing countries and countries with economies in transition, especially those which are hosting large-scale influxes or protracted refugee situations, and to strengthening response mechanisms, so as to ensure that refugees have access to safer and better conditions of stay and timely solutions to their problems;

13. Recognize that prevention is the best way to avoid refugee situations and emphasize that the ultimate goal of international protection is to achieve a durable solution for refugees, consistent with the principle of *non-refoulement*, and commend States that continue to facilitate these solutions, notably voluntary repatriation and, where appropriate and feasible, local integration and resettlement, while recognizing that voluntary repatriation in conditions of safety and dignity remains the preferred solution for refugees;

14. Extend our gratitude to the Government and people of Switzerland for generously hosting the Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees.

Annex II

Statement by H.E. Dr. Han Seung-Soo
President of the General Assembly of the United Nations
on the occasion of the first formal meeting of
States Parties to the 1951 Convention relating to the Status of Refugees
and/or to its 1967 Protocol
(Geneva, 12 December 2001)

Madam Chairperson, High Commissioner, Madame President, Excellencies,
Distinguished Delegates, Ladies and Gentlemen,

I am very pleased to join the Ministers and Distinguished Delegates of States Parties to the 1951 Convention Relating to the Status of Refugees on the occasion of the fiftieth anniversary of the Convention. First of all I would like to extend my appreciation to the Swiss Federal Council and the United Nations High Commissioner for Refugees for inviting me to address this historic meeting in my capacity of President of the General Assembly, representing the 189 Member States of the United Nations.

Let me begin by recalling the images of refugees over fifty years ago. Through black and white photographs or through the living memories of those who witnessed first-hand, the stark and bleak images of refugees remain vivid: tens of thousands of people wandering aimlessly, mainly in Europe, in the aftermath of the Second World War. Though this refugee crisis was mostly confined to Europe, the international community could not turn a blind eye when the tragedy unfolded.

It was against this backdrop that the United Nations General Assembly established the Office of the High Commissioner for Refugees and organized a conference in July 1951 to tackle the refugee issue. At the UN Conference held here in Geneva, the Convention Relating to the Status of Refugees was adopted by representatives of 26 States to provide shelter to those who were left without protection amidst the ruins of war.

Often dubbed the "Magna Carta" of international refugee law, the Convention has, for the past 50 years, remained the cornerstone of the international community's efforts to provide protection and assistance to refugees around the world. Today, some 142 States have acceded to either the Convention or its Protocol of 1967, or both of them.

The refugee issue, as we have recently witnessed in Afghanistan, West Africa, East Timor, Kosovo and the Great Lakes Region of Africa, which once was deemed to be resolvable within a short period of time, has become long and protracted. The number of refugees, together with others of concern to UNHCR in refugee-like situations, has increased more than tenfold since 1951, from 2 million to 22 million and has proliferated throughout the world. This problem has become a widespread global tragedy, leaving no region unaffected.

The issue has also become more complex and multi-dimensional, ranging from individual applications for asylum to the mass influx of refugees and other persons with economic or other motivations.

Madam Chairperson,

The United Nations was founded on universal, humanistic values, with a solemn determination to save succeeding generations from the scourge of war and to reaffirm faith in fundamental human rights and the dignity and worth of the human being, as the Preamble of the United Nations Charter clearly states.

The principles enshrined in the United Nations Charter are the common legacy of humankind and form the basis of the modern international community. When those principles are violated, all human beings suffer, but none more so than refugees. Refugees are the victims of violation of the United Nations principles and their growing numbers is a constant and painful reminder that concerted efforts are still needed to ensure the realization of the ideals of the United Nations. We should have the courage and political will to join together to resolve the refugee issue. In this great effort, the UN and UNHCR are the leading players, but need to walk hand in hand with States.

At last year's Millennium Summit, the resulting declaration included the key goal of "protecting the vulnerable." I would like to take this opportunity to remind Member States and United Nations agencies that the fostering of a culture of protection through the use of international humanitarian law is the next essential step to protect refugees and internally displaced persons. The protection of refugees can also be ensured by strengthening the rule of law and taking action against transnational crime. To this end, States are encouraged to ratify treaties and harmonize their domestic laws with international obligations.

In addition, improvement of the protection of refugees and reduction of the refugee phenomenon can also be achieved through measures to be collectively adopted in the context of the development of "Human Rights, Democracy and Good Governance" as contained in the Millennium Declaration.

At this juncture, I would like to commend High Commissioner Lubbers and his staff for their continued efforts to enhance the efficiency and capability of their Office. UNHCR has reminded the international community of the protracted or often forgotten refugee situations in different parts of the world, drawing its attention to the need of burden sharing towards durable solutions for all refugees and the displaced. UNHCR deserves praise for its efforts to strengthen emergency preparedness in the face of newly arising emergencies, as we have witnessed in East Timor and, more recently, in Afghanistan and its neighboring countries.

In this regard, I would like to appeal to the UN member countries to extend their full support and cooperation to the UNHCR in all of its activities. Mr. Lubbers' first address to the General Assembly preceded a unanimous adoption, on 28 November, in the Third Committee, of the resolution entitled "Office of the United Nations High Commissioner for Refugees" with 112 co-sponsors, expected to be adopted in the General Assembly this month. The Resolution "welcomes the process of the Global Consultations and acknowledges their importance as a forum for open discussion on complex legal and operational protection issues," and requests the High Commissioner to include the results of the Consultations in the report on his activities to the General Assembly at its next session. I am pleased to report that the General Assembly, under my presidency, will give close consideration to the findings and recommendations of the process, of which this meeting is an integral part, and will continue to follow up on the results.

Ladies and Gentlemen,

Two days ago, the United Nations and its Secretary-General were jointly awarded the Nobel Peace Prize. I believe that the Nobel Peace Prize Committee acted on behalf of the entire international community in recognizing the United Nation's achievements. UNHCR, as an agency of the United Nations, can rightly take a share of the credit for this award. But UNHCR can take even greater pride in the fact that on two previous occasions it received the Nobel Peace Prize in its own right.

The UNHCR has proven itself to be one of the most efficient of UN agencies, and I am confident that it will continue to go from strength to strength under the leadership of High Commissioner Lubbers. I know we all look forward to hearing Mr. Lubbers present his own vision of how to develop a stronger global governance of the refugee phenomenon. Moreover, I sincerely hope that this meeting will be an opportunity for States to discuss and explore ways to further strengthen the current international regime for the protection of refugees, based on the 1951 UN Convention relating to the Status of Refugees.

Let me thank the Swiss Government and people for their support of this conference and also for their generosity, over the years, in assisting the UN's work for refugees. In closing, I would like to wish you all a very successful conference, which, I am sure, will constitute a milestone in the history of international refugee protection.

Thank you.

Annex III

Message of Mr. Kofi Annan
Secretary-General of the United Nations

My dear friends,

I am so sorry that I cannot be with you in person today.

Your meeting is of great importance. It marks the 50th anniversary of the 1951 Convention on which all our work to protect refugees is founded. Even more important, it gives us a much-needed chance to think how we can continue to protect refugees in the new international environment, and how we can face new challenges - such as migration, terrorism, and mass influxes of refugees - that have arisen since the Convention was drafted.

If only the Charter of the United Nations and the Universal Declaration of Human Rights were fully respected, there would be no refugee problem.

Refugees move out of compulsion, not by choice. They need the protection of the international community because their own countries fail to protect them.

Last year, in my report to the Millennium Assembly, I called on all States to ratify a core group of 25 treaties "that represent the objectives of the Charter and reflect the Organization's values."

The 1951 Convention is one of those treaties. A total of 142 States are now parties, either to the Convention itself and/or to its 1967 Protocol. I hope all other States will soon become parties, so that we have a truly universal framework for refugee protection.

Responsibility for protecting and helping refugees does not only lie with the States hosting them. It is also a collective responsibility of the whole world. States on the "front line" need the full support of the community of nations to help them fulfil their obligations, especially the obligation of *non-refoulement*, which protects refugees from being driven back into the arms of their persecutors.

Let us never forget that refugees are men, women and children like ourselves, with the same human rights, hopes and desires as the rest of us. Unlike us, they cannot go home.

They depend on the protection and solidarity of the communities hosting them. But they also have skills and potential which contribute to the societies hosting them, and which should be recognized.

I regret to say that today there is a tendency, in some quarters, to suggest that the Convention is somehow out of date or no longer valid.

In the minds of many, refugees are equated at best with economic migrants, and at worst with cheats, criminals or even terrorists.

We must refute this gross calumny. Refugees are not criminals. They are victims of autocratic or abusive regimes, of conflict, and of criminal smuggling rings. The Convention provides a perfectly good basis for separating those who genuinely need international protection from those who do not.

That is why the process of Global Consultations on International Protection is so important. These Consultations, of which this ministerial meeting is part, are helping to show how strong and relevant the Convention still is. They have begun to map out a clear agenda for refugee protection in the new century. I congratulate Ruud Lubbers on carrying through this unique consultative process. I am sure it will help us find new ways to tackle both new and old challenges, and to strengthen respect for the Convention throughout the world.

Thank you very much.

Annex IV

Opening Statement by Mr. Ruud Lubbers
United Nations High Commissioner for Refugees

Madam Chairperson,
Mr. President of the General Assembly,
Madam President,
Mr. Director-General,
Excellencies,
Ladies and Gentlemen,

I would like to begin by thanking the Swiss government for the invaluable role that it has played in co-hosting and helping to organize this meeting. It is fitting that this meeting should be taking place in Geneva, where the Refugee Convention was negotiated, drafted and agreed upon fifty years ago.

For the last fifty years, the 1951 Refugee Convention has been the foundation of the international system of refugee protection. UNHCR's work has been built on it. Millions of people throughout the world have been able to find safety and new lives because of it. It has also helped States to have a more predictable and co-ordinated approach to a growing international problem.

As you know, the Global Consultations on International Protection were launched last year. This process is running on three tracks. The first reaffirms the continuing validity and centrality of the Convention and focuses on how to strengthen its implementation. The second considers mainly legal but also some practical dilemmas relating to implementation. The third explores the challenges of modernity and issues related to refugee protection which are not adequately covered by the Convention.

The Ministerial Declaration, to be adopted at this meeting, reflects the challenges that lie ahead. Indeed, it will provide a solid base for an Agenda for Protection for the 21st century.

Today there are more than 22 million people of concern to my Office. These include, amongst others, refugees, asylum seekers, returnees, internally displaced people and stateless people. All of these are people who are not able to benefit from the protection of their own governments. All of them are products of political failure.

The United Nations, which is based on the principle of State sovereignty, understood early on that nations must be responsible for those who are the victims of violence, persecution and fear. For politics can bring people together; but it can also divide people. Those who are not protected by their own governments must have international protection.

Over the course of the last fifty years, refugee protection has - for the first time ever - been truly globalized. A network of institutions, norms and laws have been developed to deal with refugee problems wherever they manifest themselves. UNHCR now works in countries throughout the world, and the 1951 Convention, together with its 1967 Protocol, is now in effect a universal charter of refugee law.

But new problems have arisen. In the new international political environment, we see governments refusing to accept refugees because they are so many; refusing to accept them because they are mixed up with economic migrants; refusing to accept them because of a lack of burden sharing amongst States.

Increasingly, burden sharing has become the key to finding solutions for refugees. It is about achieving a productive symbiosis between host countries and cash-donor countries. UNHCR has to play a vital role in this regard, facilitating burden sharing arrangements among States that have a common interest in finding solutions for refugees. This has been a key cross-cutting concern in the Global Consultations process.

Voluntary return, local integration and resettlement: these are, as you know, the three durable solutions for refugees. In many cases, governments will only agree to assist in achieving these solutions when a fair system of burden sharing is in place.

At the same time, refugees should not be seen solely as a burden. Without underestimating the humanitarian and security issues related to the presence of large refugee populations, it must be recognized that refugees are not merely the beneficiaries of humanitarian aid. They can make positive contributions. They can enrich our societies, as many - including President Vike-Freiberga here on the podium today - have done in the past. Rather than marginalizing refugees, our challenge is to find ways of empowering them, so that they can contribute to our societies.

We must ensure respect for the individual dignity and worth of each and every refugee. Perhaps this is the most important point: to understand that refugees have an enormous capacity to become valuable citizens. Not a burden; not a risk; but valuable citizens. Recognition of this is where durable solutions and good governance for refugees begins.

When I assumed office as High Commissioner less than a year ago, I found it interesting to hear Ministers like Jack Straw and Phillip Ruddock strongly urging more solutions to be found for refugees within their regions of origin. This was also the leitmotif of the High Level Working Group of the European Union. At the same time, I was having discussions with the governments of Pakistan and Iran, who were together hosting the world's largest refugee population, and who were telling me about their extreme disillusionment with the fact that burden sharing was not taking place.

This is the paradox: If all countries lived up to their obligations with respect to refugees, there would be no problem of burden sharing; but countries are not prepared to live up to their obligations unless there is burden sharing.

Globalization has not brought an end to violence, persecution and failing states. This is illustrated by the fact that today there are over 22 million people of concern to UNHCR. In responding to the needs of these people, we have to ensure effective partnerships between political actors, humanitarian organizations, development agencies, human rights groups and many others. Indeed, one of the biggest challenges today is to ensure adequate coordination of this multiplicity of actors.

The 50th anniversary of the Convention provides us with an important opportunity to reflect on the structures currently in place to protect refugees and to find solutions to their plight. Obviously protection alone, narrowly defined, is not adequate: refugees need both protection and solutions.

We must do more to prevent protracted refugee situations, where refugees languish for decades in refugee camps. Afghanistan is a case in point. The international community must seize the opportunity now to assist the Afghan people and their government to build sustainable peace, democracy and respect for human rights in the country. This will enable millions of Afghan refugees to return safely to their homes and to participate in the new Afghanistan.

Ladies and gentlemen,

The 50th anniversary of the Convention is an opportunity. It allows us not only to reaffirm our commitment to the principles of refugee protection, but to reflect on where we stand today. We need to think creatively to address both old and new problems that are not adequately addressed by the Convention.

We must work together to create a positive climate for refugees and asylum-seekers. Indeed, we must create a culture of respect. Unfortunately, governments' policies towards refugees and asylum seekers are often based on fear and mistrust. We must overcome this fear. Political leaders are no leaders when they fuel anti-foreigner and anti-refugee sentiments, contributing to this cycle of fear and mistrust. We have nothing to fear. No problem is intractable when States are willing to come together to resolve it. Let us therefore show the same courage as the framers of the Convention.

The Convention is fundamentally about freedom from fear. This is no less important today than it was fifty years ago. Indeed, throughout history people have had to abandon their homes and seek safety elsewhere to escape persecution, war and violence.

All the world's main religions incorporate concepts such as asylum, refuge, sanctuary and hospitality for people who are in distress. The values on which the Convention is based are timeless. The Convention should be seen as a hallmark of the civilized world and an integral part of nations that are united. It is about respect and responsibility towards our fellow human beings. It recognizes that this responsibility cannot be limited by borders. It spells out the obligations and rights of refugees, and the obligations of States towards refugees.

Universal recognition of the Convention and its Protocol is the cornerstone of the international refugee protection regime. A total of 142 States are now parties to one or both of these instruments, and I hope that others will soon accede. But accession is only a first step. Governments must ensure its full and effective implementation through appropriate national legal frameworks and protection structures.

At the same time, we need more than a legal framework in order to protect refugees and find durable solutions. A globalizing world needs a global governance structure for refugees, to provide new opportunities.

UNHCR is at the service of governments. But to be effective, it needs the full support of governments. More must be done to ensure that UNHCR is adequately funded and positioned to act as an essential partner for governments in the global governance of the refugee phenomenon.

We must do more to address the links between migration and asylum. The Convention is not a migration control instrument, and it must not be blamed for States' inability to successfully manage illegal migration. But the difficulties of managing mixed flows of refugees and other migrants must not be underestimated. We must develop new approaches, tools and standards to strengthen the legal and physical protection of refugees, while separating out the undeserving. Indeed, this has been the subject of considerable reflection during the Global Consultations process.

A particularly worrying development is the rise in human smuggling and trafficking. With regular arrival routes closed, many refugees turn to smugglers to reach safety, in spite of the dangers and the financial costs involved. Other migrants portray themselves as refugees to overcome immigration barriers. The result is a blurring of the distinction between refugees and other migrants, and a stigmatization of refugees as people trying to break the law. Here there is another dilemma. Unless governments do more to find lasting solutions for refugees, more of them will fall into the hands of human smugglers, traffickers and criminal networks. Who is then fuelling crime? Fleeing refugees or failing governments?

Finally, we must do more to address the root causes of forced displacement. The real challenge is to create an environment in which people are not forced to flee their homes in the first place. Of course, it is better to bring safety to people, not people to safety. But when the international community fails to do this, as it frequently does, we must uphold the right of people to seek and enjoy asylum. We must also ensure that States cooperate, in a true spirit of burden sharing, to provide protection and assist refugees and to find lasting solutions to their plight. Above all, we must ensure that refugees are not forcibly returned to places where their lives may be at risk. These are minimum standards of humanity, and they are the basis of the 1951 Refugee Convention.

Thank you.

Annex V

Statement by the President of Latvia,
Ms. Vaira Vike-Freiberga,
at the Ministerial Meeting of States Parties to the 1951 Convention
and/or its 1967 Protocol Relating to the Status of Refugees

Madam Chairperson of the Ministerial Meeting,
Distinguished ministers,
Mr. President of the General Assembly,
Mr. Petrovsky, Director-General of the United Nations,
Mr. Lubbers, United Nations High Commissioner for Refugees,
Ladies and Gentlemen,

I would like to begin, at this distinguished venue, by paying tribute to a man from Geneva who was perhaps the first to address the problem of the human suffering caused by conflicts between nations. I am speaking, of course, of Henri Dunant, the founder of the Red Cross, who a century ago received the Nobel Peace Prize and who, prior to the creation of the United Nations, sent a message of humanism throughout the world from his city of Geneva, from this republic of Geneva. He wanted quite simply to convey to the world a message of compassion and assistance, but it is perhaps one of the instruments that later contributed to an understanding of an institution such as the United Nations, an institution which, also most appropriately, has just been awarded the Nobel Peace Prize. We hope that peace will be possible, we hope that peace will be lasting in the parts of the world which continue to be torn by suffering and military conflicts.

Ladies and Gentlemen, I stand here in front of you on this high podium not so much as president of a small country which only for ten years has recovered its independence after half a century of repression but I like to think of myself here as a voice of all those who have been displaced from their homeland for a variety of reasons. No one leaves their home willingly or gladly. When people leave en masse the place of their birth, the place where they live, it means there is something very deeply wrong with the circumstances in that country and we should never take lightly these flights of refugees fleeing across borders. They are a sign, they are a symptom, they are proof that something is very wrong somewhere on the international scene. When the moment comes to leave your home, it is a painful moment.

My parents had a choice to stay behind and risk the deportations that they had already witnessed and that indeed were to follow in Latvia after the war, year after year until 1949. Whether to risk being put into cattle cars after having been awakened in the middle of the night and shipped off to Siberia or to just walk out of their homes with what they could carry in their two hands, walk off into the unknown, but with a hope of freedom possibly awaiting them with a hope of saving their lives and with a choice at least that was theirs to make little as it was at the time. It can be a costly choice. Three weeks and three days after my family left the shores of Latvia, my little sister died. We buried her by the roadside. We were never able to return or put a flower on her grave. And I like to think that I stand here today as a survivor who speaks for all those who died by the roadside, some buried by their families and others not and for all those millions across

the world today who do not have a voice, who cannot be heard. But they are also human beings, they also suffer, they also have their hopes, their dreams and their aspirations. Most of all they dream of a normal life.

I remember as a child - throughout the hunger, the fear, the cold, the unknown - each day wondering where we would lay our head to rest the next evening. And I had to think of that line I had heard in church about the birds having their nests and the foxes their dens and burrows, but where is a child of man to lay down his or her head? It is a painful condition not to know where you are going to lay your head, to look at the lights shining in distant windows, to think of people living their normal lives, sleeping in their own beds, eating at their own table, living under their own roofs. And later when you come to refugee camps, and some people spend decades and much of their lives in refugee camps, you are living outside of space and of time. You have no roots. You have no past. You don't know whether you have a future. You have no rights. You have no voice. You have nowhere to participate in. You are not a citizen. You have no papers. Sometimes you haven't even got your name and you have to pinch yourself to reassure yourself that, yes I am alive. I am me, I am a human being. I am a person. Do I count in this world? I don't know. I'll wait until tomorrow.

Ladies and Gentlemen, when I was a child, a refugee of the Second World War, this Convention of Geneva had not yet been signed. But there were bodies already created, the International Refugee Organization and I'd like to thank all those who participated in that effort as well and I like to think that I speak in the name of all those millions before the signing of this Geneva convention, all those who were fleeing their homes throughout the 50 years that this convention has been in effect and who today 21 million, 22 million, we have lost count, are fleeing their homes and don't know what expects them tomorrow, what their rights are, when they will have a normal life, a normal home, a normal future, what lies in store for them. Are they human beings, like you and I and everybody else who is a citizen of a country and who has rights, or do they stand outside of space and time and rights? What are they? Who are they? It is up to bodies such as this to make the decision. It is up to the governments sitting here represented by you, Ladies and Gentlemen, holding high office in your countries. Their fate lies in your hands. They are out there in the tents, by the roadsides, starving, freezing, waiting, hoping for someone to extend a helping hand. They are out there waiting on your decisions, on your actions, on your creativity, on your ability to find a way of extending that helpful hand which can make the difference between life and death, between having a future and having none.

Between being a human being with dignity or being less than the beasts of the field, trodden under into the dust of this world. I entreat you, Ladies and Gentlemen, when you think about the problems of refugees, think of them not in the abstract. Think of them not in the bureaucratic language of "decisions" and "declarations", and "priorities" in a sense that you normally think of things. I entreat you think of the human beings who are touched by your decisions, think of the lives who wait on your help. I thank here all those who throughout the decades of my life have extended a helpful hand to their fellow man, near or far, with large help or small.

Big interventions and projects, small gifts from very ordinary people, very plain people, used clothes from their homes and from their backs, thank you to all of you. I have worn those worn clothes, I have survived because somebody sent a parcel when we were starving. Thank you to all of those who have helped in the past and who are helping today and you, Ladies and Gentlemen, who hold high office, thank you too for your understanding.

I wish you well at this conference; I wish you and your countries well in your understanding of the problems facing this world. We will not have refugees when the world does follow the principles of the United Nations. Do let us work together to see that we can bring this change about. I don't know whether we can do it in the next five years or 50 or a 100, but I do know we have no choice, we must act, we must do something and we must start today.

Thank you.

Annex VI

Report of Roundtable 1
1951 Convention and 1967 Protocol Framework: Strengthening implementation
(13 December 2001)

Presented by H.E. Ambassador Victor Rodríguez Cedeño
Special Adviser for Human Rights and Humanitarian Affairs
Ministry for Foreign Affairs of Venezuela

The discussion held in the roundtable on strengthening implementation of the 1951 Convention and 1967 Protocol was valuable and productive with contributions made primarily by discussants but also by observers.

Many delegates referred to the value of the Global Consultations process over the last year and to the need to identify a forum in which such consultations can be continued. Delegates also reaffirmed that primary responsibility for ensuring full and effective implementation of the 1951 Convention and 1967 Protocol lies with States Parties and stressed the importance of cooperation with UNHCR in the exercise of its functions.

In particular, there was a general sense among the participants that it was desirable to take further the idea of reconstituting and reviving the Executive Committee's Sub-Committee on International Protection. This could represent a potentially useful forum for identifying refugee protection issues and forging solutions, thus assisting the proper implementation of the 1951 Convention. There was a general sense that it would be important for the reconstituted Sub-Committee to have broad-based participation and input, including from NGOs, expert advisers, as well as States which are not Parties. UNHCR was also encouraged to be more detailed, more specific and more dynamic in its reporting on protection issues.

Problems in the implementation of the 1951 Convention and 1967 Protocol

Delegates identified a number of problems which hamper the full implementation of the 1951 Convention. These include:

- the need for an appropriate legal and administrative framework to determine those in need of international protection and its proper application in practice;
- the need for clear and coherent interpretation of international provisions and obligations;
- abuse of the asylum system which weakens its credibility;
- practical constraints, including of a social-economic nature, in dealing with large numbers and/or protracted refugee situations;
- political factors such as the need to tackle racist and xenophobic trends.

UNHCR's supervisory responsibility

In order to address some of these problems and improve implementation, many delegates stressed that any measures taken should not undermine the role of UNHCR. Several delegates spoke of the need to strengthen the international protection role of UNHCR, including the Department of International Protection. They called upon both developing and developed States to use UNHCR more to assist, for instance, the process of introducing legislation and its fair and effective implementation.

The importance of cooperation and capacity building to improve implementation

One issue which received wide support was the need for enhanced cooperation among States, other actors and UNHCR in order to improve implementation.

At the national level, one delegate mentioned the important role played by judicial and independent national advisory institutions in ensuring the fair implementation of legislation. One issue to which many delegates referred was the need to build national capacity so as to enable States, which often had only limited resources, to ensure the proper status determination, reception and integration of asylum-seekers and refugees. In this respect, burden and responsibility sharing efforts are vital in many states.

At the regional level, one delegate referred to the valuable and positive cooperation among the MERCOSUR countries in Latin America in the drafting of national asylum legislation. Another delegate mentioned that it would be useful to enhance cooperation between national human rights bodies at the regional level. Yet another raised the possibility of establishing direct linkages between regional committees, for instance under the OAU, and the UNHCR secretariat.

At the international level, a number of delegates referred to the importance of quasi-judicial international bodies, such as the human rights treaty monitoring bodies and mechanisms, which can also be used to enhance international refugee protection.

Another issue which was mentioned was the importance of creating an environment of tolerance among host societies, if the 1951 Convention is to be fully applied.

Ways forward

Many delegates stressed that, rather than creating new mechanisms, existing ones should be enhanced. One delegate preferred a team approach to an adversarial one. Another called for the creation of an independent advisory group appointed by the High Commissioner.

Delegates favoured flexible, creative approaches to situations, rather than more rigid structures. On this basis, the clear idea which drew considerable support was, as I have already mentioned and as is suggested in the draft Agenda for Protection, to reconstitute a reformed Sub-Committee on International Protection. This would provide a forum to bring together the parties most interested in protection issues to address them in a systematic, detailed and yet dynamic way. NGOs were described as having a constructive role and input and NGO dialogue with governments was seen as able to improve the asylum situation, although the NGO delegate also said that criticism was sometimes needed.

I am pleased that we have moved forward in this discussion and look forward to strengthening cooperation in this crucial area. In particular, the proposal to revive the Sub-Committee on International Protection should be formally incorporated into the Agenda for Protection. In the interim period, the details of the mandate for the Sub-Committee should be worked out.

Annex VII

Report of Roundtable 2
"International Cooperation to Protect Masses in Flight"
(inter alia mass influx, burden and responsibility sharing, security and
additional instruments)
(13 December 2001)

Presented by H.E. Ambassador Rosalinda V Tirona
Assistant Secretary
Department of Foreign Affairs of the Philippines

Madam Chairperson, Your Excellencies, Distinguished Delegates, Ladies and Gentlemen,

Roundtable 2 considered the topic "International Cooperation to Protect Masses in Flight" (*inter alia* mass influx, burden and responsibility sharing, security and additional instruments). As you might imagine, the issues raised by this topic generated a rich and lively debate. On behalf of the participants in Roundtable 2, I am pleased to provide the following report.

Madam Chairperson,

Large-scale displacement of populations gives rise to great challenges for the international community. As many delegations noted, most of the burden of masses in flight falls upon host nations, many of which are developing countries or countries with economies in transition. In these circumstances, faced with providing for the humanitarian and security needs of refugee populations, the provisions of the 1951 Convention can seem theoretical or impractical. Delegations were unanimous that the 1951 Convention remains (and should remain) the cornerstone of international efforts to provide protection to refugees. We took this as our starting point: that refugee protection is an international obligation under the 1951 Convention and that -- because the problem of refugees is global in character -- greater and stronger international cooperation is required to ensure refugee protection.

Of course it is not possible to reflect all of what was said during the Roundtable discussion in just ten minutes, but a number of themes did arise during our discussion. For the sake of simplicity, I have organised this summary under the following four headings.

- Asylum Procedures in Mass Influx Situations
- Demilitarisation of Refugee Camps and the Civilian Character of Asylum
- International Burden/Responsibility Sharing
- Early Warning and Prevention

Asylum Procedures in Mass Influx Situations

Although the 1951 Convention does not deal explicitly with mass influx situations, neither is it restricted to individual refugee status determination. It was recognised by all participants that the 1951 Convention applies in mass influx situations. Nevertheless, the

individual determination of refugee status in such situations is often impractical. All agreed that the *prima facie* or group determination mechanism is a useful device in these instances. Furthermore, there was a strongly held view that refugees recognised on a *prima facie* basis are entitled to the same rights as refugees recognised under an individual refugees status determination scheme. The temporary protection device was also generally approved as a practical approach to large-scale influxes. Some delegations emphasised that resort to temporary protection must be rooted in legislation with appropriate safeguards to protect against *refoulement*. Reference was made to the OAU Convention and the Cartagena Declaration as useful models, especially where temporary protection was employed. One delegation noted that modern means of transportation rendered burden-sharing easier, and several supported the humanitarian evacuation model.

Demilitarisation of Refugee Camps and the Civilian Character of Asylum

Frequently mentioned was the necessity of protecting the civilian nature of asylum. A number of speakers made reference to situations in which armed elements had used refugee camps as bases for military attacks on countries of origin or had held refugee populations hostage for the achievement of political aims. One delegation noted that the presence of refugee camps in these circumstances could give rise to accusations that host countries were harbouring subversives. This can lead to regional destabilisation. Delegations were therefore unanimous that refugee camps should be disarmed and that it was the responsibility of the host State to do so.

Some question was raised as to the status of former armed elements - whether they should benefit from international protection or whether they should remain permanently excluded.

Burden/responsibility sharing

All delegations emphasised the need for burden/responsibility sharing. Some delegations raised suggestions for the most appropriate mechanism to achieve this. While all felt that UNHCR played a central role in this regard, it was also felt that a regional approach to refugee problems was also an important tool. The Comprehensive Plan of Action for Indo-Chinese Refugees was noted as a possible model.

No delegation questioned the centrality of the principle of *non-refoulement*. Several delegations suggested that greater proactivity was needed in the search for solutions, especially in respect of voluntary repatriation, in order to avoid protracted refugee situations. Similarly, a number of delegations suggested that more resettlement opportunities for refugees would ease the pressure on countries hosting large refugee populations. Resettlement countries were encouraged to be more flexible in their selection criteria. As one delegation noted, countries of first asylum do not get to choose among asylum-seekers.

A number of references were made to the need for more systematic registration of refugees and asylum-seekers. Several speakers identified registration as a key factor in establishing priorities, allocating resources, identifying vulnerable groups and promoting solutions.

Several speakers supported the suggestion raised by one delegation that a standby World Fund be established to deal with mass influx situations. It was suggested that the World Fund could have regional allocations. A model established by the European Union was noted.

Early Warning and Prevention

Several delegations emphasised the need for a situational approach to mass refugee influxes. It was felt that a fundamental component of this approach was the development of an early warning and prevention capacity in order to address root causes of refugee flows. Several delegations noted that initiatives to protect human rights and avoid conflicts in countries of origin could prevent the development of circumstances that caused flight. Others noted that ensuring the sustainability of return would discourage the need for further flight. Sustainable return was also felt to create conditions conducive to further return.

Greater attention of the international community to the problem of internal displacement was felt to be a key factor to reducing external refugee flows. This point, of course, is inextricably linked to discussions on burden/responsibility sharing. With regard to IDPs, some delegations made reference to the possibility of establishing safety zones and humanitarian corridors in the country of origin. Several speakers pointed to the need to strengthen the application of International Humanitarian Law, which protects civilians in times of armed conflict.

In conclusion, Madam Chairperson, I would like to say that there is a bottom line. The bottom line is that international cooperation is needed to protect the lives and human rights of refugees.

And finally, on behalf of all delegations, I would like to thank UNHCR for taking the initiative of launching the Global Consultations process.

Annex VIII

**Ministerial Meeting of States Parties
to the 1951 Convention and/or its 1967 Protocol
relating to the Status of Refugees**

Report of Roundtable 3

"Upholding Refugee Protection in the face of Contemporary Challenges
involving Mixed Flows" (*inter alia* asylum systems).

(13 December 2001)

Presented by The Honourable Ms Elinor Caplan
Minister of Immigration and Citizenship of Canada

Madame Chairperson, High Commissioner, Your Excellencies, Distinguished Delegates, Ladies and Gentlemen,

The third roundtable gave rise to open discussion and full participation across a variety of issues associated with upholding refugee protection in the face of contemporary challenges involving mixed flows. There was a range of views on several specific issues. Overall, it was widely recognized that this issue is a complex one, and that there are no simple answers.

The discussion focused on seven main areas: efficient asylum procedures, the root causes of the movements of persons, interception, secondary movements from countries of first asylum, return of rejected cases, public opinion, and the need for more research and analysis on these issues.

Fair and Efficient Procedures

There was broad consensus that quality decision-making, which is efficient and fair, with enforceable results, including return of those found not to be in need of international protection, is a key aspect of creating a credible international asylum system. Many delegations stated that the Refugee Convention is the cornerstone of refugee protection, and that we should not lose sight of the individual person.

Root Causes of Movements of Persons

Many delegations agreed that States should prioritize finding solutions to the root causes of refugee movements and displacement generally, as a means of reducing the refugee problem. It was stated that the movements of persons cannot be seen in isolation of war, violence and persecution, including human rights abuses, as well as extreme poverty and inequalities, which need to be addressed in order to combat irregular movements of persons. In order to resolve these problems, crisis prevention and aid to countries of origin and first countries of asylum were specifically mentioned.

Interception

Several delegations mentioned that interception can be a useful way to address problems of mixed flows, and highlighted that this should be done in line with refugee protection obligations and in particular, the principle of *non-refoulement*. Delegations look forward to UNHCR guidelines on this issue, which could be discussed with States.

Several other delegations stated that stricter border controls and interception measures can lead to the increase in the use of illegal channels, including smuggling, and place refugees and others using such means in personal danger. Importantly, delegations referred to the need to treat intercepted persons with dignity and humanely.

Secondary Movements from Countries of First Asylum

A number of delegations stated that secondary movements of persons from first countries of asylum was threatening public support in some countries for refugee protection principles.

It was pointed out by other delegations that the overwhelming burden rests with developing countries that host the large majority of refugees worldwide. Further, delegations supported the fundamental right to seek asylum, but noted that weak asylum systems in some countries may explain secondary movements and that the causes of illegal migration should be addressed in a comprehensive manner.

Strengthening asylum systems in countries of first asylum, and offering protection capacity building opportunities, including establishing national legal and protection frameworks, was also raised as an effort to reduce secondary movements.

One delegation cautioned against restricting the refugee definition in the Convention in order to deter mixed flows, and suggested that introducing various disincentives could be a more appropriate way to curb these flows.

The introduction and expansion of legal migration programs was raised by a number of delegations, as one means of offering opportunities for persons now forced to use asylum systems. Others were of the view that legal migration programs would not solve the problem alone.

A few delegations felt that harmonized procedures, criteria and reception standards across regions and internationally could also contribute to a reduction in the secondary movement of persons.

One country referred to their program which grants persons the opportunity to submit their claims for asylum while they are still in the country of origin. This offers an additional opportunity for people in need of protection to reach safety.

Return of Rejected Asylum-Seekers

There was broad consensus that the credibility and integrity of the asylum system would be enhanced by the quick and effective return of persons found not to be in need of international protection, in a dignified way. Some delegations raised the concern that such return should be voluntary. It was recognized that in practice it can be difficult to return rejected cases and in this regard, suggestions were made by several delegations to increase inter-State cooperation, including the negotiation of readmission agreements.

Public Opinion

It was also recognised that respect for refugees would lead to enhanced public support towards a culture of refugee protection, solidarity and tolerance.

Several delegations encouraged political leaders to show enlightened leadership and to recognise their duty to uphold basic values underpinning the Convention and Protocol.

Information campaigns in countries of origin were mentioned by a number of delegations, as an important element in a strategy to curb illegal migration, encourage orderly migration and dissuade people from resorting to traffickers and smugglers.

Need for more Research and Analysis

A number of delegations referred to the need for more information on and better understanding of the nexus between migration and asylum so that people in need of protection find it, and that people wishing to migrate have options other than through the use of the asylum channels.

UNHCR and IOM were encouraged to continue their co-operative dialogue in addressing these issues, as well as studies on more detailed and comparable statistics on the size, type and composition of migratory flows. More information and analysis was considered necessary on the causes and ramifications of international movements.

Annex IX

Closing remarks by Mr. Ruud Lubbers
United Nations High Commissioner for Refugees

I would like to begin by saying a few words about the Global Consultations on International Protection. I would also like to once again thank the Swiss Government for co-hosting the Ministerial Meeting. This meeting is part of a process which was started by Erika Feller, the Director of the UNHCR Department of International Protection. She took quite a risk embarking upon the Global Consultations. Many people were sceptical at the beginning. But I think we can say that it has turned out to be a success. It has been a valuable process and this meeting is not the end of it. It is as if we are now at the top of the mountain. Nothing can go wrong from here. I thank you, Mrs. Metzler, and all of you, for that.

This was the first-ever meeting of States Parties to the 1951 Refugee Convention and its 1967 Protocol. Over 70 Ministers and Secretaries of State have gathered here in Geneva. It is remarkable, not only in terms of the number of people, but even more because it proved to be possible to adopt a very powerful document: the Declaration of the States Parties. The key point of this declaration is that the 1951 Refugee Convention and its Protocol remain fully relevant and valid.

Some people may think that this is obvious. But I would like to recall that, when I assumed my functions, a number of politicians and other were making speeches that were understood to be an attack on the Convention. It was being said that the Convention was outdated, that it was time to change things, that we could not live with this Convention any more.

From that perspective, we have come a long way. Delegations at this Ministerial Meeting have unanimously declared that the Convention and its Protocol are key for the protection of refugees, and they have reaffirmed their desire to continue with it.

Second, you even affirmed that the Convention framework should be widened further. We welcomed new States Parties - Belarus and the Republic of Moldova - and heard announcements of the lifting of the geographical reservation by Malta and intentions to accede by St. Kitts and Nevis and other States.

You also highlighted the importance of understanding the spirit of the Convention. The efforts of some to use the Convention in a more restrictive manner are counter-balanced by others who use it in a flexible way. The example was given of gender-based persecution, which was not considered by the drafters, but which can easily be brought into the whole spirit and application of the Convention. And there is the possibility of an optional protocol for other matters. We can work on that together. For the time being I want to stress that, from listening to you, I believe there are possibilities not only to broaden the geographical scope of the Convention framework, but also its meaning and context. There are real possibilities to modernize it.

One word about the suggestion made to re-establish a Sub-Committee on International Protection within UNHCR's Executive Committee. I consider this to be an excellent idea. I understand that the Swiss Government has been lobbying for this for some time. Others suggested the possibility for me to

work from time to time with outside advice, to make it possible to exercise my mandate more effectively. When it is appropriate, I certainly will do that. I also want to stress the need you have recognized to revitalize resettlement. We will certainly do so.

I do not want to say too much now about the fact that the bulk of UNHCR's financial resources should not come from only eight main donors. This is somehow a ridiculous situation. At a time when we are speaking about the need to globalize the mission of protecting refugees, a limited number of wealthy countries in fact carry the financial burden. Broadening UNHCR's donor base is all the more necessary because the principal host countries, which in fact host 90 per cent of the refugees, are in the developing world. So the problem is not in the wealthy countries, but certainly we have to find the solutions together.

You have also spoken about mixed flows of refugees and other migrants seeking a better life. You have encouraged us to continue working with the International Organization for Migration on an initiative to find new ways and means to address these mixed flows. We will do that, while stressing the need to focus on our Convention and our work for refugees.

This brings me to the end of my remarks. Above all, I would like to thank all of you. It was indeed necessary for us to come together. I found, as I think most of us did, the most impressive moment of this Ministerial Meeting was at the very beginning, when President Vike-Freiberga of Latvia described her personal experience as a refugee. She made it clear that we should not think simply in terms of declarations, rules and systems, but should be attentive to the people involved. It is all about people. She gave her personal story. It was very moving. We have also heard testimonies from others and we need to hear them time and time and again.

Every time I hear such testimonies it becomes clear to me that the theme of UNHCR's public awareness campaign - Respect for Refugees - is not something abstract. We must respect all refugees. We have seen former refugees here on a this podium. We see them in many functions. We have seen them functioning in societies. When I think of them, I think to myself, "We have to do better." This is the key.

It is also a strange moment for me to be commemorating the 50th anniversary of the Refugee Convention. As you know, the very first High Commissioner for Refugees - Gerrit Jan van Heuven Goedhart - was Dutch. I am Dutch too. I believe I know what would happen if he could see me. He would ask me, "What about my Convention, is it still alive?" And I would have to say that it is still very much alive. It has been globalized. I would tell him about the 1967 Protocol, which was added, about the new accessions, about the fact that the Convention is understood today as being part of human rights in the whole world. So he would say to me, "So everything is going fine?" And then I would have to add, "Not at all." We have just concluded a meeting in which we agreed on the need for an "Agenda for Protection", because we have to constantly examine new ways of living up to this aspiration to protect refugees. "And in my world," I would have to say to him, "it's perhaps even more difficult than it was 50 years ago. But we will continue to do the job that you started five decades ago."

We go from here revitalized with the broad elements of an "Agenda for Protection". I count on your support to implement it. Thank you very much.