

THE REFUGEE IN INTERNATIONAL LAW

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ONLINE RESOURCE CENTRE

Annexe 6

Historical Documents

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1. International Conference on Indo-Chinese Refugees, Geneva, 13-14
June 1989: Declaration and Comprehensive Plan of Action

Adopted without amendment and by consensus at the International Conference,
Geneva, 13-14 June 1989

Text: Note by the Secretary-General, UN doc. A/CONF.148/2, 26 April 1989¹

I. DECLARATION

The *Governments of the States* represented in the International Conference on Indo-Chinese Refugees, held at Geneva from 13 to 14 June 1989,

Having reviewed the problems of Indo-Chinese asylum seekers in the South-East Asian region,

Noting that, since 1975, over 2 million persons have left their countries of origin in Indo-China and that the flow of asylum seekers still continues,

Aware that the movement of asylum seekers across frontiers in the South-East Asian region remains a subject of intense humanitarian concern to the international community,

Recalling United Nations General Assembly resolution 3455 (XXX) and the first Meeting on Refugees and Displaced Persons in South-East Asia convened at Geneva in July 1979 under the auspices of the United Nations to address the problem,

Recalling further the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and related instruments,

Noting with satisfaction that, as a result of combined efforts on the part of Governments and international organizations concerned, a durable solution has been found for over 1.6 million Indo-Chinese,

Preoccupied however by the burden imposed, particularly on the neighbouring countries and territories, as a result of the continuation of the outflow and the presence of large numbers of asylum seekers still in camps,

Alarmed by indications that the current arrangements designed to find solutions for asylum seekers and resolve problems stemming from the outflow may no longer be responsive to the size, tenacity and complexity of the problems in the region,

Recognizing that the resolution of the problem of asylum seekers in the region could contribute positively to a climate of peace, harmony and good neighbourliness,

Satisfied that the international community, and in particular the countries directly involved, have responded positively to the call for a new international conference made by the States members of the Association of South-East Asian Nations and endorsed by the Executive Committee of the Programme of the United Nations High Commissioner for Refugees at its thirty-ninth session and by the General Assembly of the United Nations at its forty-third session,

Noting the progress achieved towards a solution of this issue by the various bilateral and multilateral meetings held between the parties concerned prior to the International Conference on Indo-Chinese Refugees,

¹ The following text is reproduced, with minor deletions, from the Draft Declaration and Comprehensive Plan of Action, approved by the Preparatory Meeting for the International Conference on Indo-Chinese Refugees on 8 March 1989 and duly endorsed at the June Conference.

Noting that the issues arising from the presence of Khmer refugees and displaced persons are being discussed, among the parties directly involved, within a different framework and as such have not been included in the deliberations of the Conference,

Noting with satisfaction the positive results of the Preparatory Meeting for the Conference, held in Kuala Lumpur from 7 to 9 March 1989,

Realizing that the complex problem at hand necessitates the co-operation and understanding of all concerned and that a comprehensive set of mutually re-enforcing humanitarian undertakings, which must be carried out in its totality rather than selectively, is the only realistic approach towards achieving a durable solution to the problem,

Acknowledging that such a solution must be developed in the context of national laws and regulations as well as of international standards,

Have solemnly resolved to adopt the attached Comprehensive Plan of Action.

II. COMPREHENSIVE PLAN OF ACTION

A. *Clandestine departures*

1. Extreme human suffering and hardship, often resulting in loss of lives, have accompanied organized clandestine departures. It is therefore imperative that humane measures be implemented to deter such departures, which should include the following:

(a) Continuation of official measures directed against those organizing clandestine departures, including clear guidelines on these measures from the central government to the provincial and local authorities.

(b) Mass media activities at both local and international level, focussing on:

(i) The dangers and hardship involved in clandestine departures;

(ii) The institution of a status-determination mechanism under which those determined not to be refugees shall have no opportunity for resettlement;

(iii) Absence of any advantage, real or perceived, particularly in relation to third-country resettlement, of clandestine and unsafe departures;

(iv) Encouragement of the use of the regular departure and other migration programmes;

(v) Discouragement of activities leading to clandestine departures.

(c) In the spirit of mutual co-operation, the countries concerned shall consult regularly to ensure effective implementation and co-ordination of the above measures.

B. *Regular departure programmes*

2. In order to offer a preferable alternative to clandestine departures, emigration from Viet-Nam through regular departure procedures and migration programmes, such as the current Orderly Departure Programme, should be fully encouraged and promoted.

3. Emigration through regular departure procedures and migration programmes should be accelerated and expanded with a view to making such programmes the primary and eventually the sole modes of departure.

4. In order to achieve this goal, the following measures will be undertaken:

(a) There will be a continuous and widely publicized media campaign to increase awareness of regular departure procedures and migration programmes for departure from Viet-Nam.

(b) All persons eligible under regular third-country migration programmes, Amerasians and former re-education centre detainees will have full access to regular departure procedures and migration programmes. The problem of former re-education centre detainees will be further discussed separately by the parties concerned.

(c) Exit permits and other resettlement requirements will be facilitated for all persons eligible under regular departure procedures and migration programmes.

(d) Viet-Nam will fully co-operate with the United Nations High Commissioner for Refugees (UNHCR) and the Intergovernmental Committee for Migration (ICM) in expediting and improving processing, including medical processing, for departures under regular departure procedures and migration programmes and will ensure that medical records of those departing comply with standards acceptable to receiving countries.

(e) Viet-Nam, UNHCR, ICM and resettlement countries will co-operate to ensure that air transportation and logistics are sufficient to move expeditiously all those accepted under regular departure procedures and migration programmes.

(f) If necessary, countries in South-East Asia through which people emigrating under regular departure procedures and migration programmes must transit will, with external financial support as appropriate, expand transit facilities and expedite exit and entry procedures in order to help facilitate increased departures under such programmes.

C. Reception of new arrivals

5. All those seeking asylum will be given the opportunity to do so through the implementation of the following measures:

(a) Temporary refuge will be given to all asylum seekers, who will be treated identically regardless of their mode of arrival until the status-determination process is completed.

(b) UNHCR will be given full and early access to new arrivals and will retain access, following the determination of their status.

(c) New arrivals will be transferred, as soon as possible, to a temporary asylum centre where they would be provided assistance and full access to the refugee status-determination process.

D. Refugee status

6. The early establishment of a consistent region-wide refugee status-determination process is required and will take place in accordance with national legislation and internationally accepted practice. It will make specific provision, *inter alia*, for the following:

(a) Within a prescribed period, the status of the asylum seeker will be determined by a qualified and competent national authority or body, in accordance with established refugee criteria and procedures. UNHCR will participate in the process in an observer and advisory capacity. In the course of that period, UNHCR shall advise in

writing each individual of the nature of the procedure, of the implications for rejected cases and of the right to appeal the first-level determination.

(b) The criteria will be those recognized in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, bearing in mind, to the extent appropriate, the 1948 Universal Declaration of Human Rights and other relevant international instruments concerning refugees, and will be applied in a humanitarian spirit taking into account the special situation of the asylum seekers concerned and the need to respect the family unit. A uniform questionnaire developed in consultation with UNHCR will be the basis for interviews and shall reflect the elements of such criteria.

(c) The *Handbook on Procedures and Criteria for Determining Refugee Status* issued by UNHCR will serve as an authoritative and interpretative guide in developing and applying the criteria.

(d) The procedures to be followed will be in accordance with those endorsed by the Executive Committee of the Programme of the United Nations High Commissioner for Refugees in this area. Such procedures will include, *inter alia*:

- (i) The provision of information to the asylum seekers about the procedures, the criteria and the presentation of their cases;
- (ii) Prompt advice of the decision in writing within a prescribed period;
- (iii) A right of appeal against negative decisions and proper appeals procedures for this purpose, based upon the existing laws and procedures of the individual place of asylum, with the asylum seeker entitled to advice, if required, to be provided under UNHCR auspices.

7. UNHCR will institute, in co-operation with the Governments concerned, a comprehensive regional training programme for officials involved in the determination process with a view to ensuring the proper and consistent functioning of the procedures and application of the criteria, taking full advantage of the experience gained in Hong Kong.

E. Resettlement

8. Continued resettlement of Vietnamese refugees benefiting from temporary refuge in South-East Asia is a vital component of the Comprehensive Plan of Action.

1. Long-Stayers Resettlement Programme

9. The Long-Stayers Resettlement Programme includes all individuals who arrived in temporary asylum camps prior to the appropriate cut-off date and would contain the following elements:

(a) A call to the international community to respond to the need for resettlement, in particular through the participation by an expanded number of countries, beyond those few currently active in refugee resettlement. The expanded number of countries could include, among others, the following: Australia, Austria, Belgium, Canada, Denmark, Germany, Federal Republic of, Finland, France, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, United Kingdom and United States of America.

(b) A multi-year commitment to resettle all the Vietnamese who have arrived in temporary asylum camps prior to an agreed date, except those persons already found not

to be refugees under established status-determination procedure and those who express the wish to return to Viet-Nam. Refugees will be advised that they do not have the option of refusing offers of resettlement, as this would exclude them from further resettlement consideration.

2. Resettlement Programme for Newly-Determined Refugees

10. The Resettlement Programme for Newly-Determined Refugees will accommodate all those who arrive after the introduction of status determination procedures and are determined to be refugees. Within a designated period after their transfer to the resettlement area, those determined to be refugees shall receive an orientation briefing from a UNHCR representative that explains the third-country resettlement programme, the length of time current arrivals may be expected to spend in camp awaiting resettlement, and the necessity of adhering to the rules and regulations of the camp.

11. Wherever possible, a pledge shall be sought from the resettlement countries to place all those determined to be refugees, except those expressing the wish to return to Viet-Nam, within a prescribed period. It shall be the responsibility of UNHCR, with the full support of all the resettlement countries and countries of asylum, to co-ordinate efforts to ensure that departures are effected within that time.

F. Repatriation/Plan of Repatriation

12. Persons determined not to be refugees should return to their country of origin in accordance with international practices reflecting the responsibilities of States towards their own citizens. In the first instance, every effort will be made to encourage the voluntary return of such persons.

13. In order to allow this process to develop momentum, the following measures will be implemented:

(a) Widely publicized assurances by the country of origin that returnees will be allowed to return in conditions of safety and dignity and will not be subject to persecution.

(b) The procedure for readmission will be such that the applicants would be readmitted within the shortest possible time.

(c) Returns will be administered in accordance with the above principles by UNHCR and ICM, and internationally funded reintegration assistance will be channelled through UNHCR, according to the terms of the Memorandum of Understanding signed with Viet-Nam on 13 December 1988.

14. If, after the passage of reasonable time, it becomes clear that voluntary repatriation is not making sufficient progress towards the desired objective, alternatives recognized as being acceptable under international practices would be examined. A regional holding centre under the auspices of UNHCR may be considered as an interim measure for housing persons determined not to be refugees pending their eventual return to the country of origin.

15. Persons determined not to be refugees shall be provided humane care and assistance by UNHCR and international agencies pending their return to the country of origin. Such assistance would include educational and orientation programmes designed to encourage return and reduce re-integration problems.

G. Laotian asylum seekers

16. In dealing with Laotian asylum seekers, future measures are to be worked out through intensified trilateral negotiation between UNHCR, the Lao People's Democratic Republic and Thailand, with the active support and co-operation of all parties concerned. These measures should be aimed at:

- (a) Maintaining safe arrival and access to the Lao screening process;
- (b) Accelerating and simplifying the process for both the return of the screened out and voluntary repatriation to the Lao People's Democratic Republic under safe, humane and UNHCR-monitored conditions.

17. Together with other durable solutions, third-country resettlement continues to play an important role with regard to the present camp populations of the Laotians.

H. Implementation and review procedures

18. Implementation of the Comprehensive Plan of Action is a dynamic process that will require continued co-ordination and possible adaptation to respond to changing situations. In order to ensure effective implementation of the Plan, the following mechanisms shall be established:

(a) UNHCR, with the financial support of the donor community, will be in charge of continuing liaison and co-ordination with concerned Governments and intergovernmental as well as non-governmental organizations to implement the Comprehensive Plan of Action.

(b) A Steering Committee based in South-East Asia will be established. It will consist of representatives of all Governments making specific commitments under the Comprehensive Plan of Action. The Steering Committee will meet periodically under the chairmanship of UNHCR to discuss implementation of the Comprehensive Plan of Action. The Steering Committee may establish sub-committees as necessary to deal with specific aspects of the implementation of the Plan, particularly with regard to status determination, return and resettlement.

(c) A regular review arrangement will be devised by UNHCR, preferably in conjunction with the annual Executive Committee session, to assess progress in implementation of the Comprehensive Plan of Action and consider additional measures to improve the Plan's effectiveness in meeting its objectives.

2. International Conference on Central American Refugees (CIREFCA),
Guatemala City, 29-31 May 1989: Declaration and Concerted Plan of
Action in Favour of Central American Refugees, Returnees and Displaced
Persons – Extracts

Adopted by the International Conference on Central American Refugees (CIREFCA),
Guatemala City, 29-31 May 1989

Text: UN doc. CIREFCA/89/14, 31 May 1989 (originally published in Spanish;
footnotes omitted)

I
DECLARATION

The Governments of the States represented in the International Conference on Central American Refugees, held at Guatemala City from 29 to 31 May 1989,

Bearing in mind the significance of the Procedure for the Establishment of a Firm and Lasting Peace in Central America, signed by the Presidents of the five countries of Central America at Guatemala City on 7 August 1987, and especially the contents of its point 8,

Recalling the San Salvador Communiqué on Central American Refugees of 9 September 1988, resolution 43/118 of the General Assembly of the United Nations of 8 December 1988, entitled 'International Conference on Central American Refugees', and the resolution of the General Assembly of the Organization of American States of 19 November 1988 entitled 'Central American Refugees and Regional Efforts to solve their Problems',

Taking fully into account the Joint Declaration of the Central American Presidents signed in the Department of La Paz, El Salvador, on 14 February 1989, in which they offer their full support for the Conference,

Noting other expressions of support received, in particular from the Ministers for Foreign Affairs of the Central American States, the Contadora Group and the European Economic Community in the Political Declaration and the Joint Economic Communiqué of the San José Meeting, held at San Pedro Sula, Honduras, on 27 and 28 February 1989,

Recognizing the importance, within the overall United Nations effort for the region, of the Special Plan of Economic Co-operation for Central America, approved by the General Assembly of the United Nations in its resolution 42/231 of 12 May 1988, whose chapter on refugees and displaced persons will have to be complementary to the implementation of the Plan of Action of the Conference,

Bearing in mind that the common effort in favour of refugees, returnees and displaced persons requires the support, co-operation and co-ordination of the various affected and interested Governments, and of the various international organizations involved, particularly the Office of the United Nations High Commissioner for Refugees and the United Nations Development Programme,

Noting that, since the beginning of the conflicts in the region, more than a quarter of a million Central Americans have fled their countries of origin and have received protection and assistance as refugees in neighbouring countries, especially through the meritorious work of the United Nations High Commissioner for Refugees,

Noting furthermore that the crisis in Central America not only has brought about the exodus of refugees which have been identified, recognized and assisted as such, but also has resulted in both internal and external displacements of a considerably higher number of persons than that of refugees and which equally need attention,

Concerned by the intense human suffering caused by this massive uprooting of population groups, which in addition has had a negative impact on the populations that receive them and on the public services and natural resources, among others, available in the countries where they transit,

...

22. *Recognize* that solutions to the problems of refugees, returnees and displaced persons form an integral part of the efforts for peace, democracy and development taking place in the region;

And, therefore:

23. *Approve*, in accordance with the principle of international solidarity, the guidelines of the Concerted Plan of Action in Favour of Central American Refugees, Returnees and Displaced Persons, set forth below, support its principles and objectives, and consider it a promising initial framework for future activities and thus re-affirm their commitment to contribute to the establishment of a firm and lasting peace in Central America;

...

II

CONCERTED PLAN OF ACTION IN FAVOUR OF CENTRAL AMERICAN REFUGEES, RETURNEES AND DISPLACED PERSONS

Introduction

1. The San Salvador Communiqué of 9 September 1988, which called for the International Conference on Central American Refugees, established the need for national plans and programmes of action in favour of Central American refugees, returnees and displaced persons, identifying concrete solutions to their serious problems to be formulated on a purely humanitarian and non-political basis.

2. In this context, the Governments of the affected countries have formulated, at the national level, detailed diagnostic studies of the massive population movements that have taken place in the region, on the basis of which the present Plan of Action has been prepared. In Part One, which contains the strategy, the basic objectives, fundamentals and project proposals to identify solutions to the problems of Central American refugees, returnees and displaced persons are described. In Part Two, the mechanisms for follow-up and promotion of the Plan of Action are outlined.

PART ONE
STRATEGY

A. The present situation

3. In the course of the last ten years, almost two million Central Americans have been displaced in the region as a result of the current crisis. During the same time, numerous assistance programmes have been implemented which have considerably improved the situation of the affected people. In several cases, durable solutions have been found; nevertheless, for the majority of the uprooted population groups, viable and definitive alternatives remain to be identified.

4. In the first instance, a particularly vulnerable group of almost 150,000 persons, recognized and assisted as refugees form part of the uprooted population groups. The great majority have found asylum in Costa Rica (41,000), Honduras (37,000) and Mexico (43,000), with smaller but nevertheless significant numbers in Belize, El Salvador, Guatemala and Nicaragua. In any event, these numbers do not include those persons who fall within the established criteria but have not requested recognition and assistance as refugees and are dispersed throughout almost all the countries of the region.

5. In the second instance, there is another group of persons, returnees, who equally need assistance in order to achieve durable solutions. This involves persons who, at one time, had been refugees and decided to return to their countries of origin. According to figures provided by the respective Governments, there are in the region of 13,500 Guatemalans, 35,000 Nicaraguans and 13,000 Salvadorians.

6. The conflict and crisis have at the same time resulted in the displacement of an important third group of persons who remain homeless within the boundaries of their own countries and without means of subsistence. They are called internally displaced persons and need special assistance, even though they remain subject to the jurisdiction and protection of their authorities of their own countries.

7. In addition, among those affected by the crisis, another group is located outside of their own countries and needs attention owing to their uprooted situation and the additional burden which they may signify to the communities where they live. This group is made up of people who, as a result of the crisis, have been unable to provide for their subsistence or lead a normal life, whether or not their lives, security or liberty have been threatened by the conflict. When, as a result, these persons have been obliged to leave their homes and move to a neighbouring country, they are called, for the purpose of this Plan of Action, externally displaced persons and their situation undoubtedly deserves a more detailed legal and social analysis.

8. Although the magnitude of this problem is difficult to measure, it is thought that, in addition to the number of assisted refugees, some 1.8 million persons are affected in all countries of the region, whether they are obliged to cross an international frontier—among whom there are refugees who have not been recognized as such—or to leave their homes while remaining in their own countries.

B. Basic objectives

9. Since the beginning of the refugee exodus in Central America, the affected countries have responded with emergency and other forms of basic assistance with a view to meeting immediate needs and, in some cases facilitating durable solutions. Even if the magnitude of human suffering has been lightened and emergency situations have been overcome, many refugees still live in precarious conditions. One of the objectives of the present Plan of Action is to identify durable solutions to overcome this problem within the possibilities of the affected countries.

10. From this fundamental objective follows the obligation to respect, in the first place, the right of refugees to return voluntarily to their countries of origin in order to resume a normal life. Consequently, voluntary repatriation, which is the best solution, will be facilitated above all. In those instances where conditions do not yet exist to make this possible, the Plan of Action proposes measures to help refugees play a larger and more positive role in the countries of asylum while awaiting voluntary repatriation, by opening camps—when conditions so permit—and promoting interaction with the local community. It also proposes that alternative solutions be identified for those refugees who are dispersed outside the camps. In exceptional cases, when some refugees cannot remain in the country of asylum, for protection reasons, the possibility of third country resettlement is considered.

11. Even though refugees can make a positive contribution to local communities during their stay—and this has in some instances been the case—it is clear that their presence in massive numbers has produced, or can produce, negative effects in the employment, social services, economic and ecological sectors in the country of asylum which must be given special consideration. It is therefore necessary to assure that programmes are appropriate to the characteristics of the area and are formulated while taking into consideration the standard of living in the asylum country. In view of the possible negative effects mentioned, the Plan of Action has been formulated as well to remedy this situation and, if possible, to contribute to improving conditions in the affected communities. Recent experience has shown that international programmes of co-operation in favour of refugees in rural areas should, for reasons of equality, also benefit the surrounding local population.

12. Concerning the group of displaced persons, the Plan of Action attempts to improve their situation so that they may return and have a normal productive life in their communities of origin whenever possible.

C. Fundamentals of the Plan of Action

13. The Plan of Action is based on the following fundamental principles:

(a) The affected countries consider that both the commitment to re-establish peace in the region and the formulation of proposals for solutions in favour of the affected population groups form an integral part of the efforts towards regional peace and development.

(b) The steps taken towards peace constitute the basis of proposals for solutions in favour of refugees, returnees and displaced persons made in the framework of the Procedure for the Establishment of a Firm and Lasting Peace in Central America (Esquipulas II), signed by the Presidents of the countries of Central America on 7

August 1987 and reaffirmed in the Joint Declaration of the Central American Presidents, signed in the Department of La Paz, El Salvador, on 14 February 1989.

(c) The problems of refugees, returnees and displaced persons and the proposals for solutions should continue to be treated on a strictly humanitarian and non-political basis; in this context, States are guided above all by considerations of solidarity with the individuals in need and the imperative of identifying humane solutions to their problems, giving priority to the preservation of life and personal safety above any other consideration.

14. The affected States reiterate their commitment to the fundamental principle of human rights and protection of refugees, especially those of *non-refoulement* and abstention from discrimination, expulsion or detention of refugees for having entered illegally the territory of the country. In addition, they reaffirm the continued upholding of the institution of asylum in the region.

15. In the same manner, the affected countries reiterate the importance of the principle according to which refugees are obliged, as any other person, to respect and observe the laws and regulations of the country of asylum, including lawful measures taken for the maintenance of public order. Refugees, for their part, are also under the obligation to avoid any activity which might affect the strictly civilian and humanitarian nature of camps and settlements, and to abstain from any activity incompatible with the regional peace process.

16. In order to ensure the success of the Plan of Action, the affected countries propose to link solution programmes for refugees, returnees and displaced persons with economic and social development in the region.

D. Three-year regional programme

17. In order to reach the stated objectives, the affected countries have reoriented or consolidated their policies with regard to refugees, returnees and displaced persons with a view to proposing programmes and projects for the next three years. Taken together, the policies on which the proposals are based constitute the global strategy adopted by the States described below.

18. This strategy has a dynamic character in so far as the proposals presented by the affected countries are based on an analysis of the current regional situation. The implementation of the Plan of Action will be evaluated in the light of the actual situation in the region through the mechanisms outlined in Part Two of the Plan of Action.

1. Programmes in favour of returnees

19. The voluntary repatriation programmes contain multisectoral projects aimed at facilitating the reintegration of returnees in their communities. These programmes address:

(a) The needs of returnees who receive basic assistance and, in some cases, rehabilitation assistance. The Plan of Action attempts to achieve their economic and social integration, benefiting the community where they return as well;

(b) The needs of future returnees and the receiving communities, in an integrated approach, which begins with the process of return and ends with re-

integration. The Plan of Action foresees support to communities in the country of origin in order to create minimum conditions for return, even before such movement starts. The rate of implementation of these programmes will depend on the actual return of returnees.

...

21. These programmes reflect the commitment to continue respect for:

(a) The right of refugees to return to their countries of origin as well as to receive information on the prevailing situation to allow them to reach a free decision concerning their return;

(b) The voluntary and individually-manifested character of repatriation;

(c) The necessity that repatriation take place in conditions of security and dignity;

(d) The ability of the refugees to choose their destination in their countries, as well as freedom of movement and free choice of place of residence under the same conditions as other nationals of their countries;

(e) Non-discrimination for having sought asylum;

(f) Access to means of subsistence and to land under the same conditions as other nationals of their countries;

(g) The respective cultural and ethnic values;

(h) The work of the United Nations High Commissioner for Refugees in favour of returnees and his access to them.

The rights referred to in this paragraph are to be implemented in the context of the prevailing legislation in each country.

22. The programmes also aim at regularizing the situation of returnees with regard to the delivery of identify documents and the registry of births, marriages and deaths, and other events occurring in the country of asylum and relating to the civil status of the individual. They also provide for access to citizenship for children of returnees born abroad as well as for foreign spouses, when they so desire, and facilitate the recognition of studies undertaken in the country of asylum.

23. The humanitarian and non-political character of international assistance in favour of voluntary repatriation must be respected by all parties involved throughout the repatriation process.

2. Programmes in favour of refugees

24. The Plan of Action will in course allow refugees to play a larger and more positive role in the countries of asylum and—in those situations where the authorities so decide—to begin an integration process. This will mutually benefit refugees and the receiving communities. The Plan of Action includes integrated projects, often on a community-wide basis, with a view to overcoming the isolation of refugee and assistance projects.

...

26. These projects are based on the desire expressed by the Governments to undertake activities in favour of refugees which, in so far as possible, will be adapted to the standard of living of the relevant local communities and will benefit the local population. Among other activities should be noted the development of employment opportunities, the strengthening of public services, the conservation of natural resources

and the enrichment of national cultural heritage, with full respect for the ethnic values of the relevant population groups. Bearing in mind the option of voluntary repatriation, possibilities to contribute to an interchange with the refugees' communities of origin will be considered in the context of the tripartite activities which have been established for such purposes.

27. In accordance with existing laws, the Governments of asylum countries propose to regularize the migratory situation of refugees. To this effect, funds have been foreseen under several projects to reinforce government institutions responsible for supervising the co-ordination and implementation of governmental policies concerning refugees...

3. Projects in favour of internally and externally displaced persons

28. The number of internally displaced Central Americans is much greater than that of refugees and their needs can be as important. In the context of seeking solutions to problems caused by the massive displacement of population groups in the region, the affected countries have also included these persons as beneficiaries of multisectoral development projects. Once again, as in the case of other groups of beneficiaries, the programme aiming at facilitating the integration of displaced persons uses an integrated approach in order to achieve its goals and also to benefit the communities where the internally displaced persons are living.

...

30. These projects reflect the necessity to provide a humanitarian treatment to internally displaced persons, which presumes, in principle, facilitating the return to their homes and the reconstruction of their communities, or their location in other areas of the national territory or in places where they are actually living. In any of these possibilities, the common objective is the integration of internally displaced persons and their participation in the development process in the same conditions as other nationals of the country.

31. The Plan of Action also foresees assistance to externally displaced persons. The relevant projects include improving infrastructure and providing support to the sectors most affected by the massive presence of externally displaced persons...

...

32. These projects in favour of externally displaced persons reflect the necessity to provide them with a humanitarian treatment and with integral and multisectoral assistance, taking into consideration as well fostering conditions so that the individuals concerned can lead a normal life. In so far as externally displaced persons voluntarily return to their country, the Plan of Action proposes to facilitate their access to programmes in favour of returnees.

PART TWO

FOLLOW-UP AND PROMOTION MECHANISMS

A. The Conference and the Special Programme of Economic Co-operation for Central America

33. Bearing in mind that the preparation of the Plan of Action has made it possible to up-date and complement the chapter on refugees and displaced persons contained in the

Special Programme of Economic Co-operation for Central America, it is considered that the combination of humanitarian and development objectives requires a follow-up mechanism able to focus duly on the needs of the beneficiary groups and solve them in an expeditious and flexible manner.

34. The aforementioned requires a flexible mechanism for follow-up and promotion, capable of reaching decisions at the national level while promoting international support, and using instruments already defined in the Special Programme of Economic Co-operation for Central America for sectoral programmes and specific projects. As a result, the affected countries adopt the follow-up and promotion mechanisms described below, in order to enable the specific objectives and proposals contained in the Plan of Action and the mobilization of international co-operation to be implemented, with the collaboration of the Office of the Secretary-General of the United Nations, the United Nations High Commissioner for Refugees and the United Nations Development Programme.

[Paragraphs 35-43 are omitted; they provide details of the follow-up mechanisms, including national co-ordinating committees, support for tripartite bodies, and international reporting structures.]

3. 1990 Dublin Convention Determining the State Responsible for Examining Applications for Asylum lodged in one of the Member States of the European Communities

[See now 2003 European Union Council Regulation on the Criteria and Mechanisms for Determining the Member State responsible for Examining an Asylum Application: Text in Annexe 2, No. 17]

[The EC Member States]

Having regard to the objective, fixed at the European Council meeting in Strasbourg on 8 and 9 December 1989, of the harmonization of their asylum policies;

Determined, in keeping with their common humanitarian tradition, to guarantee adequate protection to refugees in accordance with the terms of the Geneva Convention of 28 July 1951 and the New York Protocol of 31 January 1967 relating to the Status of Refugees, hereinafter referred to as the ‘Geneva Convention’ and the ‘New York Protocol’ respectively;

Considering the joint objective of an area without internal frontiers in which the free movement of persons shall, in particular, be ensured, in accordance with the provisions of the Treaty establishing the European Economic Community, as amended by the Single European Act;

Aware of the need, in pursuit of this objective, to take measures to avoid any situations arising, with the result that applicants for asylum are left in doubt for too long as regards the likely outcome of their applications and concerned to provide all applicants for asylum with a guarantee that their applications will be examined by one of the Member States and to ensure that applicants for asylum are not referred

successively from one Member State to another without any of these States acknowledging itself to be competent to examine the application for asylum;

Desiring to continue the dialogue with the United Nations High Commissioner for Refugees in order to achieve the above objectives;

Determined to co-operate closely in the application of this Convention through various means, including exchanges of information,

Have Decided to Conclude this Convention

Article 1

1. For the purposes of this Convention:

- (a) *Alien means*: any person other than a national of a Member State;
 - (b) *Application for asylum means*: a request whereby an alien seeks from a Member State protection under the Geneva Convention by claiming refugee status within the meaning of Article 1 of the Geneva Convention, as amended by the New York Protocol;
 - (c) *Applicant for asylum means*: an alien who has made an application for asylum in respect of which a final decision has not yet been taken;
 - (d) *Examination of an application for asylum means*: all the measures for examination, decisions or rulings given by the competent authorities on an application for asylum, except for procedures to determine the State responsible for examining the application for asylum pursuant to this Convention;
 - (e) *Residence permit means*: any authorization issued by the authorities of a Member State authorizing an alien to stay in its territory, with the exception of visas and 'stay permits' issued during examination of an application for a residence permit or for asylum;
 - (f) *Entry visa means*: authorization or decision by a Member State to enable an alien to enter its territory, subject to other entry conditions being fulfilled;
 - (g) *Transit visa means*: authorization or decision by a Member State to enable an alien to transit through its territory or pass through the transit zone of a port or airport, subject to other transit conditions being fulfilled;
2. The nature of the visa shall be assessed in the light of the definitions set out in paragraph 1, points (f) and (g).

Article 2

The Member States reaffirm their obligations under the Geneva Convention, as amended by the New York Protocol, with no geographic restriction of the scope of these instruments, and their commitment to co-operating with the services of the United Nations High Commissioner for Refugees in applying these instruments.

Article 3

1. Member States undertake to examine the application of any alien who applies at the border or in their territory to any one of them for asylum.

2. That application shall be examined by a single Member State, which shall be determined in accordance with the criteria defined in this Convention. The criteria set out in Articles 4 to 8 shall apply in the order in which they appear.

3. That application shall be examined by that State in accordance with its national laws and its international obligations.

4. Each Member State shall have the right to examine an application for asylum submitted to it by an alien, even if such examination is not its responsibility under the criteria defined in this Convention, provided that the applicant for asylum agrees thereto.

The Member State responsible under the above criteria is then relieved of its obligations, which are transferred to the Member State which expressed the wish to examine the application. The latter State shall inform the Member State responsible under the said criteria if the application has been referred to it.

5. Any Member State shall retain the right, pursuant to its national laws, to send an applicant for asylum to a third State, in compliance with the provisions of the Geneva Convention, as amended by the New York Protocol.

6. The process of determining the Member State responsible for examining the application for asylum under this Convention shall start as soon as an application for asylum is first lodged with a Member State.

7. An applicant for asylum who is present in another Member State and there lodges an application for asylum after withdrawing his or her application during the process of determining the State responsible shall be taken back, under the conditions laid down in Article 13, by the Member State with which that application for asylum was lodged, with a view to completing the process of determining the State responsible for examining the application for asylum.

This obligation shall cease to apply if the applicant for asylum has since left the territory of the Member States for a period of at least three months or has obtained from a Member State a residence permit valid for more than three months.

Article 4

Where the applicant for asylum has a member of his family who has been recognized as having refugee status within the meaning of the Geneva Convention, as amended by the New York Protocol, in a Member State and is legally resident there, that State shall be responsible for examining the application, provided that the persons concerned so desire.

The family member in question may not be other than the spouse of the applicant for asylum or his or her unmarried child who is a minor of under eighteen years, or his or her father or mother where the applicant for asylum is himself or herself an unmarried child who is a minor of under eighteen years.

Article 5

1. Where the applicant for asylum is in possession of a valid residence permit, the Member State which issued the permit shall be responsible for examining the application for asylum.

2. Where the applicant for asylum is in possession of a valid visa, the Member State which issued the visa shall be responsible for examining the application for asylum, except in the following situations:

(a) if the visa was issued on the written authorization of another Member State, that State shall be responsible for examining the application for asylum. Where a Member State first consults the central authority of another Member State, *inter alia* for security reasons, the agreement of the latter shall not constitute written authorization within the meaning of this provision.

(b) where the applicant for asylum is in possession of a transit visa and lodges his application in another Member State in which he is not subject to a visa requirement, that State shall be responsible for examining the application for asylum.

(c) where the applicant for asylum is in possession of a transit visa and lodges his application in the State which issued him or her with the visa and which has received written confirmation from the diplomatic or consular authorities of the Member State of destination that the alien for whom the visa requirement was waived fulfilled the conditions for entry into that State, the latter shall be responsible for examining the application for asylum.

3. Where the applicant for asylum is in possession of more than one valid residence permit or visa issued by different Member States, the responsibility for examining the application for asylum shall be assumed by the Member States in the following order:

(a) the State which issued the residence permit conferring the right to the longest period of residency or, where the periods of validity of all the permits are identical, the State which issued the residence permit having the latest expiry date;

(b) the State which issued the visa having the latest expiry date where the various visas are of the same type;

(c) where visas are of different kinds, the State which issued the visa having the longest period of validity, or where the periods of validity are identical, the State which issued the visa having the latest expiry date. This provision shall not apply where the applicant is in possession of one or more transit visas, issued on presentation of an entry visa for another Member State. In that case, that Member State shall be responsible.

4. Where the applicant for asylum is in possession only of one or more residence permits which have expired less than two years previously or one or more visas which have expired less than six months previously and enabled him or her actually to enter the territory of a Member State, the provisions of paragraphs 1, 2 and 3 of this Article shall apply for such time as the alien has not left the territory of the Member States.

Where the applicant is in possession of one or more residence permits which have expired more than two years previously or one or more visas which have expired more than six months previously and enabled him or her to enter the territory of a Member State and where an alien has not left Community territory, the Member State in which the application is lodged shall be responsible.

Article 6

When it can be proved that an applicant for asylum has irregularly crossed the border into a Member State by land, sea or air, having come from a non-member State of the European Communities, the Member State thus entered shall be responsible for examining the application for asylum.

That State shall cease to be responsible, however, if it is proved that the applicant has been living in the Member State where the application for asylum was made at least six months before making his application for asylum. In that case it is the latter Member State which is responsible for examining the application for asylum.

Article 7

1. The responsibility for examining an application for asylum shall be incumbent upon the Member State responsible for controlling the entry of the alien into the territory of the Member States, except where, after legally entering a Member State in which the need for him or her to have a visa is waived, the alien lodges his or her application for asylum in another Member State in which the need for him or her to have a visa for entry into its territory is also waived. In this case, the latter State shall be responsible for examining the application for asylum.
2. Pending the entry into force of an agreement between Member States on arrangements for crossing external borders, the Member State which authorizes transit without a visa through the transit zone of its airports shall not be regarded as responsible for control on entry, in respect of travellers who do not leave the transit zone.
3. Where the application for asylum is made in transit in an airport of a Member State, that State shall be responsible.

Article 8

Where no Member State responsible for examining the application for asylum can be designated on the basis of the other criteria listed in this Convention, the first Member State with which the application for asylum is lodged shall be responsible for examining it.

Article 9

Any Member State, even when it is not responsible under the criteria laid out in this Convention, may, for humanitarian reasons, based in particular on family or cultural grounds, examine an application for asylum at the request of another Member State, provided that the applicant so desires.

If the Member State thus approached accedes the request, responsibility for examining the application shall be transferred to it.

Article 10

1. The Member State responsible for examining an application for asylum according to the criteria set out in this Convention shall be obliged to:
 - (a) Take charge under the conditions laid down in Article 11 of an applicant who has lodged an application for asylum in a different Member State.
 - (b) Complete the examination of the application for asylum.

(c) Readmit or take back under the conditions laid down in Article 13 an applicant whose application is under examination and who is irregularly in another Member State.

(d) Take back, under the conditions laid down in Article 13, an applicant who has withdrawn the application under examination and lodged an application in another Member State.

(e) Take back, under the conditions laid down in Article 13, an alien whose application it has rejected and who is illegally in another Member State.

2. If a Member State issues to the applicant a residence permit valid for more than three months, the obligations specified in paragraph 1, points (a) to (e) shall be transferred to that Member State.

3. The obligations specified in paragraph 1, points (a) to (d) shall cease to apply if the alien concerned has left the territory of the Member States for a period of at least three months.

4. The obligations specified in paragraph 1, points (d) and (e) shall cease to apply if the State responsible for examining the application for asylum, following the withdrawal or rejection of the application, takes and enforces the necessary measures for the alien to return to his country of origin or to another country which he may lawfully enter.

Article 11

1. If a Member State with which an application for asylum has been lodged considers that another Member State is responsible for examining the application, it may, as quickly as possible and in any case within the six months following the date on which the application was lodged, call upon the other Member State to take charge of the applicant.

If the request that charge be taken is not made within the six-month time limit, responsibility for examining the application for asylum shall rest with the State in which the application was lodged.

2. The request that charge be taken shall contain indications enabling the authorities of that other State to ascertain whether it is responsible on the basis of the criteria laid down in this Convention.

3. The State responsible in accordance with those criteria shall be determined on the basis of the situation obtaining when the applicant for asylum first lodged his application with a Member State.

4. The Member State shall pronounce judgment on the request within three months of receipt of the claim. Failure to act within that period shall be tantamount to accepting the claim.

5. Transfer of the applicant for asylum from the Member State where the application was lodged to the Member State responsible must take place not later than one month after acceptance of the request to take charge or one month after the conclusion of any proceedings initiated by the alien challenging the transfer decision if the proceedings are suspensory.

6. Measures taken under Article 18 may subsequently determine the details of the process by which applicants shall be taken in charge.

Article 12

Where an application for asylum is lodged with the competent authorities of a Member State by an applicant who is on the territory of another Member State, the determination of the Member State responsible for examining the application for asylum shall be made by the Member State on whose territory the applicant is. The latter Member State shall be informed without delay by the Member State which received the application and shall then, for the purpose of applying this Convention, be regarded as the Member State with which the application for asylum was lodged.

Article 13

1. An applicant for asylum shall be taken back in the cases provided for in Article 3(7) and in Article 10 as follows:

(a) The claim for the applicant to be taken back must provide indications enabling the State with which the claim is lodged to ascertain that it is indeed responsible in accordance with Article 3(7) and with Article 10;

(b) the State called upon to take back the applicant shall give an answer to the request within eight days of the matter being referred to it. Should it acknowledge responsibility, it shall then take back the applicant for asylum as quickly as possible and at the latest one month after it agrees to do so.

2. Measures taken under Article 18 may at a later date set out the details of the procedure for taking the applicant back.

Article 14

1. Member States shall conduct mutual exchanges with regard to:

- national legislative or regulatory measures or practices applicable in the field of asylum:

- statistical data on monthly arrivals of applicants for asylum, and their breakdown by nationality. Such information shall be forwarded quarterly through the General Secretariat of the Council of the European Communities, which shall see that it is circulated to the Member States and the Commission of the European Communities and to the United Nations High Commissioner for Refugees.

2. The Member States may conduct mutual exchanges with regard to:

- general information on new trends in applications for asylum;
- general information on the situation in the countries of origin or of provenance of applicants for asylum.

3. If the Member State providing the information referred to in paragraph 2 wants it to be kept confidential, the other Member States shall comply with this wish.

Article 15

1. Each Member State shall communicate to any Member State that so requests such information on individual cases as is necessary for:

- determining the Member State which is responsible for examining the application for asylum;

- examining the application for asylum;
 - implementing any obligation arising under this Convention.
2. This information may only cover:
- personal details of the applicant, and, where appropriate, the members of his family (full name; where appropriate, former name; nicknames or pseudonyms; nationality, present and former; date and place of birth);
 - identity and travel papers (references, validity, date of issue, issuing authority, place of issue, etc.);
 - other information necessary for establishing the identity of the applicant;
 - places of residence and routes travelled;
 - residence permits or visas issued by a Member State;
 - the place where the application was lodged;
 - the date any previous application for asylum was lodged, the date the present application was lodged, the stage reached in the proceedings and the decision taken, if any.
3. Furthermore, one Member State may request another Member State to let it know on what grounds the applicant for asylum bases his or her application and, where applicable, the grounds for any decisions taken concerning the applicant. It is for the Member State from which the information is requested to decide whether or not to impart it. In any event, communication of the information requested shall be subject to the approval of the applicant for asylum.
4. This exchange of information shall be effected at the request of a Member State and may only take place between authorities the designation of which has been communicated to the Committee provided for under Article 18.
5. The information exchanged may only be used for the purposes set out in paragraph 1. In each Member State such information may only be communicated to the authorities and courts and tribunals entrusted with:
- determining the Member State which is responsible for examining the application for asylum;
 - examining the application for asylum;
 - implementing any obligation arising under this Convention.
6. The Member State that forwards the information shall ensure that it is accurate and up-to-date.
- If it appears that this Member State has supplied information which is inaccurate or which should not have been forwarded, the recipient Member State shall be immediately informed thereof. They shall be obliged to correct such information or to have it erased.
7. An applicant for asylum shall have the right to receive, on request, the information exchanged concerning him or her, for such time as it remains available.
- If he or she establishes that such information is inaccurate or should not have been forwarded, he or she shall have the right to have it corrected or erased. This right shall be exercised in accordance with the conditions laid down in paragraph 6.
8. In each Member State concerned, the forwarding and receipt of exchanged information shall be recorded.
9. Such information shall be kept for a period not exceeding that necessary for the ends for which it was exchanged. The need to keep it shall be examined at the appropriate moment by the Member States concerned.

10. In any event, the information thus communicated shall enjoy at least the same protection as is given to similar information in the Member State which receives it.

11. If data are not processed automatically but are handled in some other form, every Member State shall take the appropriate measures to ensure compliance with this Article by means of effective controls. If a Member State has a monitoring body of the type mentioned in paragraph 12, it may assign the control task to it.

12. If one or more Member States wish to computerize all or part of the information mentioned in paragraphs 2 and 3, such computerization is only possible if the countries concerned have adopted laws applicable to such processing which implement the principles of the Strasbourg Convention of 28 February 1981 for the Protection of Individuals, with regard to Automatic Processing of Personal Data and if they have entrusted an appropriate national body with the independent monitoring of the processing and use of data forwarded pursuant to this Convention.

Article 16

1. Any Member State may submit to the Committee referred to in Article 18 proposals for revision of this Convention in order to eliminate difficulties in the application thereof.

2. If it proves necessary to revise or amend this Convention pursuant to the achievement of the objectives set out in Article 8a of the Treaty establishing the European Economic Community, such achievement being linked in particular to the establishment of a harmonized asylum and a common visa policy, the Member State holding the Presidency of the Council of the European Communities shall organize a meeting of the Committee referred to in Article 18.

3. Any revision of this Convention or amendment hereto shall be adopted by the Committee referred to in Article 18. They shall enter into force in accordance with the provisions of Article 22.

Article 17

1. If a Member State experiences major difficulties as a result of a substantial change in the circumstances obtaining on conclusion of this Convention, the State in question may bring the matter before the Committee referred to in Article 18 so that the latter may put to the Member States measures to deal with the situation or adopt such revisions or amendments to this Convention as appear necessary, which shall enter into force as provided for in Article 16(3).

2. If, after six months, the situation mentioned in paragraph 1 still obtains, the Committee, acting in accordance with Article 18(2), may authorize the Member State affected by the change to suspend temporarily the provisions of this Convention, without such suspension being allowed to impede the achievement of the objectives mentioned in Article 8a of the Treaty establishing the European Economic Community or contravene other international obligations of the Member States.

3. During the period of suspension, the Committee shall continue its discussions with a view to revising the provisions of this Convention, unless it has already reached an agreement.

Article 18

1. A Committee shall be set up comprising one representative of the Government of each Member State.

The Committee shall be chaired by the Member State holding the Presidency of the Council of the European Communities.

The Commission of the European Communities may participate in the discussions of the Committee and the working parties referred to in paragraph 4.

2. The Committee shall examine, at the request of one or more Member States, any question of a general nature concerning the application or interpretation of this Convention.

The Committee shall determine the measures referred to in Article 11(6) and Article 13(2) and shall give the authorization referred to in Article 17(2).

The Committee shall adopt decisions revising or amending the Convention pursuant to Articles 16 and 17.

3. The Committee shall take its decisions unanimously, except where it is acting pursuant to Article 17(2), in which case it shall take its decisions by a majority of two-thirds of the votes of its members.

4. The Committee shall determine its rules of procedure and may set up working parties.

The Secretariat of the Committee and of the working parties shall be provided by the General Secretariat of the Council of the European Communities.

Article 19

As regards the Kingdom of Denmark, the provisions of this Convention shall not apply to the Faroe Islands nor to Greenland unless a declaration to the contrary is made by the Kingdom of Denmark. Such a declaration may be made at any time by a communication to the Government of Ireland which shall inform the Governments of the other Member States thereof.

As regards the French Republic, the provisions of this Convention shall apply only to the European territory of the French Republic.

As regards the Kingdom of the Netherlands, the provisions of this Convention shall apply only to the territory of the Kingdom of the Netherlands in Europe.

As regards the United Kingdom, the provisions of this Convention shall apply only to the United Kingdom of Great Britain and Northern Ireland. They shall not apply to the European territories for whose external relations the United Kingdom is responsible unless a declaration to the contrary is made by the United Kingdom. Such a declaration may be made at any time by a communication to the Government of Ireland, which shall inform the Governments of the other Member States thereof.

Article 20

This Convention shall not be the subject of any reservations.

Article 21

1. This Convention shall be open for the accession of any State which becomes a member of the European Communities. The instruments of accession will be deposited with the Government of Ireland.
2. It shall enter into force in respect of any State which accedes thereto on the first day of the third month following the deposit of its instrument of accession.

Article 22

1. This Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of Ireland.
2. The Government of Ireland shall inform the Governments of the other Member States of the deposit of the instruments of ratification, acceptance or approval.
3. This Convention shall enter into force on the first day of the third month following the deposit of the instrument of ratification, acceptance or approval by the last signatory State to take this step.

The State with which the instruments of ratification, acceptance or approval are deposited shall inform the Member States of the date of entry into force of this Convention.

Dublin
15 June 1990

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4. 1990 Convention on the Application of the Schengen Agreement of 14 June 1985 relating to the Gradual Suppression of Controls at Common Frontiers, between the Governments of States Members of the Benelux Economic Union, the Federal Republic of Germany and the French Republic (Unofficial translation) – Extracts
Entry into force: 25 March 1995

TITLE I
Definitions

Article 1

For the purposes of this Convention:

Internal borders: shall mean the common land borders of the Contracting Parties, together with airports used for domestic flights and sea ports used for regular shipments exclusively arriving from or destined for other ports in the territory of the Contracting Parties, without calling at ports outside these territories;

External borders:	shall mean the land and sea borders and the airports and seaports of the Contracting Parties, provided they are not internal frontiers;
Domestic flight:	shall mean any flight exclusively from or to the territory of the Contracting Parties, without landing on the territory of a third State;
Third State:	shall mean any State other than the Contracting Parties;
Alien:	shall mean any person other than a national of a Member State of the European Communities;
Alien reported as a person not to be permitted entry:	shall mean any alien reported as a person not to be permitted entry under the Schengen Information System in accordance with article 96;
Border crossing point:	shall mean any crossing point authorised by the competent authorities for the crossing of external borders
Border control:	shall mean a check made at a border with respect to the intention to cross the border, regardless of any other reason;
Carrier:	shall mean any natural or legal person professionally engaged in the transport of passengers by air, sea or land;
Residence permit:	shall mean any form of authorization issued by a Contracting Party and conferring the right of residence on its territory. This definition does not include temporary admission to the territory of a Contracting State for the purpose of processing an application for asylum or an application for a residence permit;
Application for asylum:	shall mean any application submitted in writing, orally or otherwise by an alien at the external frontier or within the territory of a Contracting Party for the purpose of obtaining refugee status under the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967, and thereby obtaining a right of residence;

Applicant for asylum: shall mean any alien who has submitted an application for asylum within the meaning of this Convention, on which no final decision has yet been made;

Processing an asylum application: shall mean all the investigative and decision-making procedures and steps taken to implement final decisions relating to an application for asylum, except the determination of the Contracting Party responsible for processing the application for asylum according to the provisions of this Convention.

...

Chapter 7 Responsibility for processing applications for asylum

Article 28

The Contracting Parties reaffirm their obligations under the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967, with no geographic restriction of the scope of these texts, and their undertaking to co-operate with the officials of the United Nations High Commissioner for Refugees in applying these instruments.

Article 29

1. The Contracting Parties undertake to process any application for asylum lodged by an alien within the territory of one of them.
2. This obligation does not require a Contracting Party to authorize any applicant for asylum to enter or remain in its territory.

Every Contracting Party retains the right to refuse entry to an applicant for asylum or to remove him to a third State, on the basis of its own laws and in conformity with its international obligations.

3. Irrespective of the Contracting Party to which the alien addresses an application for asylum, only one Contracting Party shall be responsible for processing it. Such Contracting Party shall be determined according to the criteria defined in article 30.
4. Notwithstanding paragraph 3, every Contracting Party retains the right, in particular for reasons pert relating to domestic law, to process an application for asylum even if responsibility for doing so lies with another Contracting Party under this Convention.

Article 30

1. The Contracting Party responsible for processing an application for asylum shall be determined as follows:

(a) If a Contracting Party has issued a visa of any kind or a residence permit to the applicant for asylum, it shall be responsible for processing the application. If the visa was issued on the authority of another Contracting Party, the Contracting Party which gave the authorization shall be responsible.

(b) If two or more Contracting Parties have issued a visa of any kind or a residence permit, to the applicant for asylum, the responsible Contracting Party shall be that which issued the visa or residence permit having the latest date of expiry.

(c) As long as the applicant for asylum has not left the territory of the Contracting Parties, the responsibility defined in subparagraphs (a) and (b) shall continue even if the period of validity of the visa, whatever its nature, or of the residence permit, has expired. If the applicant for asylum has left the territory of the Contracting Parties after the issue of the visa or the residence permit, these documents shall be the basis of responsibility under subparagraphs (a) and (b) unless they have since expired according to national law.

(d) If the applicant for asylum is exempted by the Contracting Parties from the visa requirement, the Contracting Party through whose external borders the applicant for asylum entered the territory of the Contracting Parties shall be responsible.

Until the harmonization of visa policies has been completed, and if the applicant for asylum is exempted by certain Contracting Parties only from the visa requirement the Contracting Party through whose external borders the applicant for asylum entered the territories of the Contracting Parties by virtue of a visa exemption shall be responsible, subject to the provisions of subparagraphs (a), (b) and (c).

If the application for asylum is submitted to a Contracting Party which has issued a transit visa to the applicant, whether or not the applicant has passed through passport control, and if the transit visa was issued after the country of transit had ascertained from the consular or diplomatic authorities of the Contracting Party of destination that the applicant for asylum satisfied the conditions for entry to the Contracting Party of destination, the Contracting Party of destination shall be responsible for processing the application.

(e) If the applicant for asylum entered the territory of the Contracting Parties without being in possession of one or more documents, as determined by the Executive Committee, permitting the crossing of the border, the Contracting Party through whose external border the applicant for asylum entered the territory of the Contracting Parties shall be responsible.

(f) If an alien whose application for asylum is being processed by one of the Contracting Parties submits a new application, the responsible Contracting Party shall be the one processing the first application.

(g) If an alien, having previously made an application for asylum which has been the subject of a final decision by one of the Contracting Parties, submits a further application, the responsible Contracting Party shall be the one which processed the previous application, unless the applicant has left the territory of the Contracting Parties.

2. If a Contracting Party has undertaken to process an application for asylum under article 29, paragraph 4, the Contracting Party responsible under paragraph 1 of this Article shall be relieved of its obligations.

3. If the Contracting Party responsible cannot be designated on the basis of the criteria defined in paragraphs 1 and 2, the Contracting Party to which the application for asylum has been submitted shall be responsible.

Article 31

1. The Contracting Parties shall seek to determine as quickly as possible which of them is responsible for processing an application for asylum.

2. If an application for asylum is addressed to a Contracting Party which is not responsible under article 30 by an alien within its territory, that Contracting Party may request the responsible Contracting Party to take charge of the applicant for asylum with a view to processing his application.

3. The responsible Contracting Party shall take charge of the applicant for asylum referred to in paragraph 2, if requested to do so within six months of the filing of the application for asylum. If no request is made within this time limit, the Contracting Party with which the application for asylum was lodged shall be responsible for processing it.

Article 32

The Contracting Party responsible for processing an application for asylum shall ensure that this is done in accordance with its national law.

Article 33

1. If an applicant for asylum is illegally present in the territory of another Contracting Party during the asylum procedure, the responsible Contracting Party shall be bound to take him back.

2. Paragraph 1 shall not apply where the other Contracting Party has issued the applicant for asylum a residence permit valid for one year or more. In this case, the responsibility for processing the application is transferred to the other Contracting Party.

Article 34

1. The responsible Contracting Party shall take back an alien whose application for asylum has been finally rejected and who has entered the territory of another Contracting Party without being authorized to reside there.

2. Paragraph 1 shall not apply, however, where the responsible Contracting Party has ensured the removal of the alien from the territories of the Contracting Parties.

Article 35

1. A Contracting Party which has recognized an alien as a refugee and which has granted him the right of residence shall take responsibility for processing an application for asylum from a member of his family, if the persons concerned so agree.

2. For the purposes of paragraph 1, a family member shall be the spouse or unmarried child under eighteen years of the refugee or, if the refugee is an unmarried child under eighteen years, his father or mother.

Article 36

Any Contracting Party responsible for processing an application for asylum may, for humanitarian reasons based in particular on family or cultural reasons, request another Contracting Party to assume responsibility, where the person concerned so desires. The Contracting Party to which the request is made shall decide whether it can grant it.

Article 37

1. The competent authorities of the Contracting Parties shall, as soon as possible, exchange information with respect to:
 - (a) new regulations or measures adopted in regard to the law on asylum or the processing of applicants for asylum, not later than the date of their entry into force;
 - (b) statistical data concerning monthly arrivals of applicants for asylum, indicating the principal countries of origin, and decisions on applications for asylum, to the extent that they are available;
 - (c) the emergence of or significant increases in certain groups of applicants for asylum, and any information available in this regard;
 - (d) key decisions pertaining to the law on asylum.
2. The Contracting Parties also undertake to co-operate closely in gathering information on the situation in the countries of origin of applicants for asylum, in order to reach a common assessment.
3. Any instruction given by a Contracting Party concerning the confidential treatment of the information communicated by it shall be respected by the other Contracting Parties.

Article 38

1. Each Contracting Party shall transmit to any other Contracting Party that requests it such information in its possession concerning an applicant for asylum which is necessary to:
 - determine the Contracting Party responsible for processing an application for asylum;
 - process an application for asylum;
 - implement the obligations arising under this Chapter.
2. Such information shall deal only with the following matters:
 - (a) identity (family name and first name, any previous names or pseudonyms, date and place of birth, present and previous nationality of the applicant for asylum and, where appropriate, the members of his family);
 - (b) identity and travel documents (references, validity, date of issue, issuing authority, place of issue, etc.);
 - (c) any other information necessary for establishing the identity of the applicant;
 - (d) places of residence and routes travelled;
 - (e) residence permits or visas issued by a Contracting Party;

- (f) the place where the application for asylum was lodged;
- (g) where appropriate, the date of any previous application, the date of the present application, the stage reached in the procedure, and the decision taken.
3. In addition, one Contracting Party may request another Contracting Party to notify it of the grounds invoked by an applicant for asylum in support of his application and, where applicable, the grounds for any decision taken concerning him. The Contracting Party so requested shall decide whether to accede to the request. In every case, the communication of such information shall be subject to the consent of the applicant for asylum.
4. Exchanges of information shall be effected at the request of a Contracting Party, and may only take place between authorities whose designation has been communicated to the Executive Committee by each Contracting Party.
5. The information exchanged may be used only for the purposes set out in paragraph 1. Such information may be communicated only to the authorities and courts competent to
- determine the Contracting Party responsible for processing an application for asylum;
 - process an application for asylum;
 - implement the obligations arising under this Chapter.
6. The Contracting Party that forwards the information shall ensure that it is accurate and up to date.
- If it appears that this Contracting Party has supplied information which is inaccurate or which should not have been forwarded, the recipient Contracting Parties shall be informed without delay. They shall be obliged to correct such information or to delete it.
7. An applicant for asylum has the right to receive, on request, any information exchanged concerning him, for so long as it remains available.
- If the applicant for asylum establishes that such information is inaccurate or should not have been forwarded, he has the right to require that it be corrected or deleted. Corrections shall be made in accordance with paragraph 6.
8. In each Contracting Party concerned, the transmission and receipt of information exchanged shall be recorded.
9. The information transmitted shall be kept for a period not exceeding that necessary for the purpose for which it was exchanged. The need to keep such information shall be examined at the appropriate moment by the Contracting Party concerned.
10. In every case, the information transmitted shall enjoy at least the same protection as is given to similar information under the law of the Contracting Party which receives it.
11. If data are not processed automatically but are handled in some other form, every Contracting Party shall take the appropriate measures to ensure compliance with this Article by means of effective controls. If a Contracting Party has a monitoring body of the type mentioned in paragraph 12, it may assign the control task to it.
12. If one or more Contracting Parties wish to computerize all or part of the information mentioned in paragraphs 2 and 3, such computerization is only possible if the Contracting Parties concerned have adopted laws applicable to such processing which implement the provisions of the Convention of the Council of Europe of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data and if they have entrusted an appropriate national body with the independent monitoring of the processing and use of data forwarded pursuant to this Convention.