

## ASYLUM-SEEKERS AT SEA / RESCUE AT SEA

*The Executive Committee,*

### **No. 2 (XXVII) – 1976**

(f) *Was deeply concerned* at the fate of asylum-seekers who had left their country in small boats and were in need of rescue or admission to a country of first asylum and eventually of final settlement;

(g) *Appealed* to States scrupulously to observe the legal provisions relating to the rescue of persons at sea, as contained in the Brussels Convention of 1910 and the United Nations Convention on the High Seas of 1958, and urged States to make every possible effort to ensure that the provisions of these legal instruments be respected by ship masters under all circumstances;

(h) *Further appealed* to States:

(i) To grant first asylum to refugees and displaced persons rescued at sea or who had come directly by sea; and

(ii) To offer resettlement opportunities to those who had been unable to obtain permanent residence in the State of first asylum;

### **No. 14 (XXX) – 1979**

(c) *Noted with concern* that refugees had been rejected at the frontier or had been returned to territories where they had reasons to fear persecution in disregard of the principle of *non-refoulement* and that refugees arriving by sea had been refused even temporary asylum with resulting danger to their lives and had in many cases perished on the high seas;

(d) *Called upon* all States to ensure that masters of vessels sailing under their flag scrupulously observed established rules regarding rescue at sea, and to take all necessary action to rescue refugees and displaced persons leaving their country of origin on boats in order to seek asylum and who are in distress;

### **No. 15 (XXX) – 1979**

*Considered* that States should be guided by the following considerations:

(c) It is the humanitarian obligation of all coastal States to allow vessels in distress to seek haven in their waters and to grant asylum, or at least temporary refuge, to persons on board wishing to seek asylum;

### **No. 20 (XXXI) – 1980 – Protection of Asylum-Seekers at Sea**

(a) *Noted* with grave concern the continuing incidence of criminal attacks on refugees and asylum-seekers in different areas of the world, including military attacks on refugee camps and on asylum-seekers at sea;

(b) *Expressed* particular concern regarding criminal attacks on asylum-seekers at sea in the South China Sea involving extreme violence and indescribable acts of physical and moral degradation, including rape, abduction and murder;

(c) *Addressed* an urgent call to all interested Governments to take appropriate action to prevent such criminal attacks whether occurring on the high seas or in their territorial waters;

(d) *Stressed* the desirability for the following measures to be taken by Governments with a view to preventing the recurrence of such criminal attacks:

(i) increased governmental action in the region to prevent attacks on boats carrying asylum-seekers, including increased sea and air patrols over areas where such attacks occur;

(ii) adoption of all necessary measures to ensure that those responsible for such criminal attacks are severely punished;

(iii) increased efforts to detect land bases from which such attacks on asylum-seekers originate and to identify persons known to have taken part in such attacks and to ensure that they are prosecuted;

(iv) establishment of procedures for the routine exchange of information concerning attacks on asylum-seekers at sea and for the apprehension of those responsible, and cooperation between Governments for the regular exchange of general information on the matter;

(e) *Called upon* Governments to give full effect to the rules of general international law – as expressed in the Geneva Convention on the High Seas of 1958 – relating to the suppression of piracy;

(f) *Urged* Governments to co-operate with each other and with UNHCR to ensure that all necessary assistance is provided to the victims of such criminal attacks;

(g) *Called upon* the United Nations High Commissioner for Refugees in co-operation with the International Committee of the Red Cross and other interested organizations actively to seek the co-operation of the international community to intensify efforts aimed at protecting refugees who are victims of acts of violence, particularly those at sea.

#### **No. 21 (XXXII) – 1981**

(g) *Expressed* its serious preoccupation that while a certain measure of progress had been achieved in this matter, asylum seekers at sea continued to be the victims of piracy attacks and called upon the High Commissioner, in co-operation with the International Committee of the Red Cross and other interested organizations and Governments to seek the support of the international community for the continuation and intensification of efforts to protect refugees from acts of violence at sea and to assist the victims;

#### **No. 23 (XXXII) – 1981 – Problems Related to the Rescue of Asylum-Seekers in Distress at Sea**

1. It is recalled that there is a fundamental obligation under international law for ships' masters to rescue any persons in distress at sea, including asylum seekers, and to render them all necessary assistance. Seafaring States should take all appropriate measures to ensure that masters of vessels observe this obligation strictly.

2. Rescue of asylum seekers in distress at sea has been facilitated by the willingness of the flag States of rescuing ships to provide guarantees of resettlement required by certain coastal States as a condition for disembarkation. It has also been facilitated by the agreement of these and other States to contribute to a pool of resettlement guarantees under the DISERO scheme which should be further encouraged. All countries should continue to provide durable solutions for asylum seekers rescued at sea.

3. In accordance with established international practice, supported by the relevant international instruments, persons rescued at sea should normally be disembarked at the next port of call. This practice should also be applied in the case of asylum seekers rescued at sea. In cases of large-scale influx, asylum seekers rescued at sea should always be admitted, at least on a temporary basis. States should assist in facilitating their disembarkation by acting in accordance with the principles of international solidarity and burden-sharing in granting resettlement opportunities.

4. As a result of concerted efforts by many countries, large numbers of resettlement opportunities have been, and continue to be, provided for boat people. In view of this development, the question arises as to whether the first port of call countries might wish to examine their present policy of requiring resettlement guarantees as a precondition for disembarkation. Pending a review of practice by coastal States, it is of course desirable that present arrangements for facilitating disembarkation be continued.

5. In view of the complexity of the problems arising from the rescue, disembarkation and resettlement of asylum seekers at sea, the High Commissioner is requested to convene at an early opportunity a working group comprising representatives of the maritime States and the coastal States most concerned, potential countries of resettlement, and representatives of international bodies competent in this field. The working group should study the various problems mentioned and elaborate principles and measures which would provide a solution and should submit a report on the matter to the Executive Committee at its thirty-third session.

#### **No. 25 (XXXIII) – 1982**

(c) *Expressed* concern that the problems arising in the field of international protection had increased in seriousness since the Committee's thirty-second session and that the basic rights of refugees and asylum seekers had been violated in different areas of the world, *inter alia*, through military attacks on refugee camps and settlements, acts of piracy and forcible return of refugees and asylum-seekers to their countries of origin;

#### **No. 26 (XXXIII) – 1982 – Report of the Working Group on Problems related to the Rescue of Asylum-Seekers in Distress at Sea**

(a) *Noted* the report of the Working Group of Experts on the Rescue of Asylum-Seekers at Sea (EC/SCP/21);

(b) *Reiterated* the fundamental character of the obligation to rescue asylum-seekers in distress at sea;

(c) *Stressed* the importance for coastal States, flag States, countries of resettlement and the international community as a whole to take appropriate steps to facilitate the fulfilment of this obligation in its various aspects;

(d) *Considered* that solution of the problems connected with the rescue of asylum-seekers at sea should not only be sought in the context of legal norms but also through practical arrangements aimed at removing as far as possible the difficulties which have been encountered;

(e) *Noted* that the report of the Working Group of Experts contained a number of suggestions aimed at achieving such arrangements and called upon UNHCR to examine the feasibility of these suggestions;

(f) *Noted* the preliminary report submitted by the High Commissioner (EC/SCP/24) and requested UNHCR to continue its study of the matter and to submit a report to the Executive Committee at its thirty-fourth session, through its Sub-Committee on International Protection.

**No. 29 (XXXIV) – 1983**

(d) *Noted*, however, with particular concern that in various regions the physical safety of refugees and asylum-seekers has been seriously violated through military or armed attacks, acts of piracy and other forms of brutality and the failure to rescue asylum-seekers in distress at sea;

**No. 31 (XXXIV) – 1983 – Rescue of Asylum-Seekers in Distress at Sea**

(a) *Noted* with concern that, according to available statistics as contained in document (EC/SCP/30), significantly fewer numbers of asylum-seekers in distress at sea are being rescued;

(b) *Welcomed* the initiatives undertaken by UNHCR to meet this grave problem by promoting measures to facilitate the rescue of asylum seekers in distress at sea and expressed the hope that those initiatives would receive the widest possible support of governments;

(c) *Recommended* that States seriously consider supporting the efforts of UNHCR to promote the Rescue at Sea Resettlement Offers (RASRO) scheme, as described in document (EC/SCP/30), and providing the necessary quotas and other undertakings to enable UNHCR to initiate the scheme on a trial basis;

(d) *Welcomed* the support given by States to the DISERO scheme;

(e) *Commended* the initiatives undertaken by UNHCR in co-operation with the International Maritime Organization aimed at identifying joint action for facilitating the rescue of asylum-seekers in distress at sea.

**No. 33 (XXXV) – 1984**

(e) *Noted* with particularly grave concern the continuing serious violations or disregard of the physical safety of refugees and asylum seekers in various regions of the world, including military or armed attacks, acts of piracy and the failure to rescue asylum-seekers in distress at sea;

**No. 34 (XXXV) – 1984**

(a) *Noted* with concern that rescue of asylum-seekers in distress at sea has decreased significantly in 1983 and again in 1984;

(b) *Recalled* the Conclusion on the Rescue of Asylum-Seekers at Sea adopted by the Executive Committee at its thirty-fourth session recognizing the need for promoting measures for facilitating the rescue of asylum-seekers in distress at sea;

(c) *Welcomed* the actions taken by UNHCR to draw attention to the continued need to rescue asylum-seekers in distress at sea and expressed the hope that these actions would receive the widest possible support of Governments;

(d) *Strongly recommended* that the Rescue at Sea Resettlement Offers (RASRO) Scheme be implemented on a trial basis as soon as possible and that additional resettlement places be provided as a matter of urgency;

(e) *Recognized* the need for continued support for the DISERO (Disembarkation Resettlement Offers) Scheme and recommended that States renew their contributions to this scheme.

**No. 36 (XXXVI) – 1985**

(f) *Noted* with serious concern that despite the development and further strengthening of established standards for the treatment of refugees, the basic rights of refugees in different areas of the world had continued to be disregarded and that in particular refugees are being exposed to pirate attacks, other acts of violence, military and armed attacks, arbitrary detention and *refoulement*;

**No. 38 (XXXVI) – 1985 – Rescue of Asylum-Seekers in Distress at Sea**

(a) *Reaffirmed* the fundamental obligation under international law for shipmasters to rescue all persons, including asylum-seekers, in distress at sea;

(b) *Recalled* the conclusions adopted by the Executive Committee at previous sessions recognizing the need to promote measures to facilitate the rescue of asylum-seekers in distress at sea [No. 20, No. 23, No. 26, No. 31, No. 34];

(c) *Expressed* satisfaction that the rescue of asylum-seekers in distress at sea has increased significantly in 1985 but at the same time expressed concern that many ships continued to ignore asylum-seekers in distress at sea;

(d) *Welcomed* the fact that the provision of an appropriate number of resettlement places had made it possible for the Rescue at Sea Resettlement Offers (RASRO) scheme to commence on a trial basis as from May 1985;

(e) *Welcomed* the wide-ranging initiatives undertaken by UNHCR to promote the rescue of asylum-seekers in distress at sea and the support given to these initiatives by States;

(f) *Strongly recommended* that States maintain their support of UNHCR action in this area and, in particular, that they:

(i) join or renew contributions to the DISERO (Disembarkation Resettlement Offers) and to the RASRO (Rescue at Sea Resettlement Offers) schemes, or to either of them, as soon as possible;

(ii) request shipowners to inform all shipmasters in the South China Sea of their responsibility to rescue all asylum-seekers in distress at sea.

**No. 41 (XXXVII) – 1986**

(j) *Noted* with concern that in different areas of the world, the basic rights of refugees and asylum-seekers have been seriously violated and that refugees and asylum-seekers have been exposed to physical violence, acts of piracy and forcible return to their country of origin in disregard of the principle of *non-refoulement*;

**No. 46 (XXXVIII) – 1987**

(f) *Reiterated* the High Commissioner's leading role in respect of the protection of refugees and called on him in particular to continue to take, alone or in co-operation with concerned States and agencies, all possible measures to ensure their physical security, *inter alia*, with respect to physical violence, piracy, military and armed attacks, and arbitrary detention;

**No. 47 (XXXVIII) – 1987**

(e) *Condemned* the exposure of refugee children to physical violence and other violations of their basic rights, including through sexual abuse, trade in children, acts of piracy, military or armed attacks, forced recruitment, political exploitation or arbitrary detention, and called for national and international action to prevent such violations and assist the victims;

**No. 97 (LIV) – 2003**

*Recalling* also the duty of States and shipmasters to ensure the safety of life at sea and to come to the aid of those in distress or in danger of being lost at sea, as contained in numerous instruments of the codified system of international maritime law<sup>[5]</sup>; *recalling also* Conclusions of the Executive Committee of relevance to the particular needs of asylum-seekers and refugees in distress at sea<sup>[6]</sup> and *affirming* that when vessels respond to persons in distress at sea, they are not engaged in interception;

<sup>[5]</sup> Including *inter alia* the United Nations Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, 1974, as amended and the International Convention on Maritime Search and Rescue, 1979, as amended.

<sup>[6]</sup> In particular No. 15(XXX), No. 20(XXXI), No. 23(XXXII), No. 26 (XXXIII), No. 31 (XXXIV), No. 34 (XXXV) and No. 38 (XXXVI).