

Towards humane and durable solutions to the Indochinese refugee problem

Indochina Refugee Action Center Geneva: June 13-14, 1989

To hundreds of thousands of Indochinese who lost their lives during their perilous escape — on land or at sea — yearning to breathe free. p.

This document was submitted to UNHCR and the twelve member countries of the Coordinating Committee for the International Conference on Indochinese Refugees at their final preparatory meeting in Geneva on May 25-26, 1989.

Indochina Resource Action Center

p.

1628 16th, St., N.W. 3rd Floor, Washington D.C. 20009 Tel: (202) 667-4690 Fax: (202) 667-6449
May 17, 1989

Mr. Jean Pierre Hocke High Commissioner Office of the UNHCR Case postale 2500 CH-1211
Geneva 2 Depot, Switzerland

Dear Mr. Hocke:

On behalf of 145 Indochinese organizations in North America and Europe, we have the pleasure to convey to you the enclosed Statement prepared for the International Conference on Indochinese Refugees by the Advocacy Planning Task Force, an *ad hoc* group of Indochinese-American community leaders in the Washington, D.C. metropolitan area. This Statement has been endorsed by 145 Indochinese organizations in the U.S., Canada and Europe, whose names are attached to the Statement.

You will note that this Statement expresses serious concern from the overseas Indochinese on the present treatment of asylum-seekers and regarding measures currently being proposed to the upcoming International Conference. Of special note are the recommendations that any international arrangements and practices being worked out for Vietnamese apply equally to asylum-seekers from Laos and Cambodia and that Cambodians be given the status of refugees rather than “displaced persons” as in the past. Section II is comprised of a “Call to Action” to ensure safe refuge, genuine protection, and timely resettlement for *all* Indochinese asylum-seekers. The third, and final, section offers specific recommendations regarding the implementation of elements contained in the draft Comprehensive Plan of Action. These elements consist of Screening, Orderly Departure Programmes, Repatriation, Resettlement, and Oversight and Enforcement Mechanisms.

In order to ensure joint international consideration by all responsible countries that are in a position to help, we would appreciate your attention to the voice of the overseas Indochinese

by giving serious consideration to these recommendations at the International Conference on Indochinese Refugees in Geneva this coming June.

Most sincerely,

Nguyen Ngoc Bich Task Force Coordinator

cc: Mr. Sergio Vieira de Mello Enclosure

Le Xuan Khoa IRAC President

p. **TABLE OF CONTENTS**

p. **STATEMENT OF 160 INDOCHINESE ORGANIZATIONS IN NORTH AMERICA AND EUROPE TO THE INTERNATIONAL CONFERENCE ON INDOCHINESE REFUGEES**

Geneva, June 13-14, 1989

We, the 160 undersigned Indochinese organizations in North America and Europe, urge the countries and organizations participating in the International Conference on Indochinese Refugees to continue to address the Indochinese refugee crisis as a humanitarian issue. We acknowledge the great assistance and patience of the first and final asylum countries in generously receiving and resettling nearly two million Indochinese asylum-seekers in the past 14 years, and in dealing with the continuing outflow of Indochinese refugees. We are also thankful to the United Nations and other non-governmental organizations, national and international, for facilitating refugee transition into a new life of human dignity and freedom.

Never before in the long history of Indochina have the Indochinese chosen to leave their homelands in such large numbers until the takeover of the Communists. We, therefore, appeal to the international community and all nations to make every effort to help resolve the root cause of the Indochinese refugee exodus, which will not end until much better political, economic, and social conditions are obtained in Indochina. In the interim, we urge all participants to confirm and demonstrate their commitment to provide safe refuge, genuine protection, and quick resettlement for asylum-seekers from Vietnam, Cambodia, and Laos. To these ends, we declare the following concerns and call the participants at this Conference to adopt and implement the following recommendations.

I. DECLARATION OF CONCERNS

We are deeply concerned with the present treatment and policies of the first and final asylum governments for the Indochinese asylum-seekers, especially in the areas of repatriation, refugee screening, human rights protection at sea, in first asylum camps, and in departure from

their countries. While fully aware of the burden represented by Indochinese boat and land asylum-seekers, we believe that all asylum-seekers are entitled to certain basic human rights recognized by the 1948 Universal Declaration of Human Rights ("Universal Declaration") and in the 1951 U.N. Convention and 1967 Protocol relating to the Status of Refugees ("Refugee Convention and Protocol"). We further suggest that the agreement of this Conference include a clause which explicitly states that any international arrangements and practices, ranging from screening to repatriation, being worked out for Vietnamese asylum-seekers, also apply to Laotian and Cambodian asylum-seekers, whose fate should not rest solely in the hands of the governments of Cambodia, Laos, Thailand, and the United Nations High Commissioner for Refugees ("UNHCR")

We believe Cambodian refugee issues should be dealt with at this Conference. Nevertheless, we call for an early conference on Cambodia which would address the same issues and arrive at the same or similar solutions for the Khmer, many of whom

have been in Thai border camps for 10 years. These persons should be given the status of refugees, not displaced persons, and should be provided full UNHCR assistance. The Cambodian persons in the Thai border camps with relatives in the United States or other countries of resettlement should be given safe haven so their cases can be processed. Those others in the border camps without relative ties to resettlement countries must not be involuntarily repatriated to Cambodia. In addition, an Orderly Departure Programme should be established inside Cambodia for legal departure of Cambodians on the basis of refugee or immigrant status. Such a program must operate with the same safeguards as the sister program in the Socialist Republic of Vietnam ("SRV") and that proposed for Laos.ⁱ

p. 2

A. Repatriation

We oppose all forms of involuntary and the so-called "voluntary" repatriation of Indochinese asylum-seekers as currently being implemented. The so-called "voluntary" nature of recent Vietnamese asylum-seekers' choice of repatriation was most likely induced by the harsh living conditions in the camps and the threats of indefinite detention by the host government. Moreover, the repatriation arrangement currently instituted by the government of Hong Kong, and agreed upon by the UNHCR through its signature on the Memorandum of Understanding ("MOU") with the SRV, provides no clear means of implementing the commitment agreed upon to ensure the safety and dignity of those returned. The Vietnamese who "voluntarily" return, in the long run, will likely face retribution and discrimination by the authorities. In 1975, 1,500 Vietnamese exiles who volunteered to return to Vietnam from the island of Guam on the ship "Vietnam Thuong Tin" were all subjected to interrogation and imprisoned in reeducation camps upon their return. Presently, the SRV continues to consider those escaping Vietnam to be traitors and criminals and punishes them harshly as stated under its National Security Articles 85, 88, and 89. Similarly, the repatriation of Hmong asylum-seekers has resulted in punishment, jailing, and deaths of the returnees.

The policy of forcible repatriation, or *refoulement*, of Indochinese asylum-seekers is unacceptable under the provisions of the Universal Declaration, specifically Articles 13 and 14,ⁱⁱ

, and is widely condemned by the international community. Unaccompanied minors are especially vulnerable under such a policy as their parents in Vietnam may be forced to agree to their children's return.

B. Refugee Status Determinations (“Screening”)

We strongly oppose the current screening of asylum-seekers by the first asylum countries because the screening conducted by the first asylum governments does not aim to find those with a genuine fear of persecution, but to merely deter those seeking asylum from leaving Vietnam and to justify the repatriation policy. Statistical evidence indicates that a disproportionate number of asylum-seekers have been “screened out” and refused refugee status by first asylum governments. The first asylum governments have not accepted the fact of political and social oppression in Indochina by arguing that the asylum-seekers are “economic migrants” rather than political refugees. In Hong Kong, screening of Vietnamese asylum-seekers is critically flawed because the process

p. 3 itself is inadequate, arbitrary, subjective, and unfair. In the first 6 months that Hong Kong has imposed the screening policy, only 3 out of 537 cases screened have been identified as political refugees. The UNHCR and other non-governmental organizations (“NGOs”) have had little or no influence over Hong Kong to ensure a fair and equitable screening program.

C. Human Rights Protection

1. Clandestine Departures

Asylum-seekers are entitled to universally applicable fundamental rights and freedoms, including those stated in Articles 2, 5, 9, 13, 14, 25, and 26 of the Universal Declaration.ⁱⁱⁱ In contradiction to Article 13, the ASEAN countries along with the UNHCR, and some other participants to this Conference have encouraged the SRV to enforce its criminal codes against clandestine departures. Such codes are in violation of the universal human right to leave and return to one's country, and encouraging their enforcement will likely lead to greater restrictions on individual liberties, including abuses on freedom of movement and right to privacy within the home. These restrictions will compel people to flee.

2. Piracy, Push-backs, and Detention

The continuing lack of protection at sea and in the first asylum camps violates the spirit of the Universal Declaration in particular Articles 5, 9, 14, and 26,^{iv} and the mandate of *non-refoulement* recognized in Article 33^v of the 1951 Refugee Convention. Thousands of Vietnamese boat and land people have been attacked by pirates who rape, pillage and kill their victims. We vehemently denounce these continuing attacks and murders of Vietnamese boat people by sea pirates. Moreover, Thailand, in January 1988, implemented a “push-back” policy that resulted in the death and drowning of hundreds of Vietnamese boat people, and began a policy of denying asylum to all boat people in direct violation of Article 14. In addition, first asylum countries have failed to adequately provide Indochinese asylum-seekers safe refuge

and genuine legal protection during detention. Furthermore, the indefinite detention of the Vietnamese 'long-stayers' in the camps by first asylum governments is a violation of Articles 5 and 25 of the Universal Declaration.

3. The Danger of Generalization in Screening and Repatriation

The current policies of screening and repatriation carried out by first asylum governments violate the spirit of the Universal Declaration, most seriously, Articles 13 and 14.^{vi} Hong Kong's "model" in this regard must not be invoked to curtail refugee and asylum rights elsewhere in the region. The peculiar circumstances which pressure Hong Kong toward screening and repatriation are not present in the rest of Southeast Asia. Hong Kong, for instance, has a deadline of 1997 to revert to China, at which date China has stated that there cannot be a refugee problem remaining. Hong Kong also has a longstanding policy of mandatory return to the mainland of people crossing into Hong Kong and is therefore under great pressure not to treat Vietnamese "boat people"

differently. The resulting actions taken by Hong Kong are deplorable even under these peculiar circumstances, and such drastic measures are even more indefensible when assumed by the first asylum countries of Southeast Asia. p. 4

II. CALL TO ACTION

Recognizing our deep concerns expressed above, we call on the countries of first and final asylum to truly ensure safe refuge, give genuine protection, and provide quick resettlement for Indochinese asylum-seekers. To these ends, we strongly urge the participants at this Conference to adopt and implement the following recommendations:

A. Repatriation

The first asylum governments should categorically reject, on moral and practical grounds, involuntary repatriation and the currently instituted policy of so-called "voluntary" repatriation of Indochinese refugees as harmful and detrimental to the safety and livelihood of the returnees.

The UNHCR should make sure the MOU signed with the SRV is supplemented by additional necessary and sanctionable guarantees to remove as much as possible the possibility of later persecution of returnees.

The first and final asylum governments should reconfirm the right of all asylum-seekers to receive safe refuge and genuine protection from *non-refoulement*, or *forcible repatriation*, under the 1951 Refugee Convention, Article 33.

B. Screening

The first and final asylum governments should abolish officially on principle and procedural grounds, the policy of screening as presently implemented. All those previously screened out should be granted full amnesty.

The first and final asylum governments should reconfirm the principles of first asylum by giving "presumptive refugee status" to Indochinese asylum-seekers.

C. Human Rights Protection

The first and final asylum governments should reconfirm their commitments to safeguarding the fundamental rights and freedoms of all asylum-seekers, as stated in Articles 2, 5, 9, 13, 14, and 25^{vii} of the Universal Declaration. These commitments should be demonstrated in particular with regard to clandestine departure policy, safe passage at sea, reception, and first asylum camp conditions.

p. 5

1. *Clandestine Departures*

The first and final asylum countries, and the UNHCR, should obtain a guarantee from Vietnam to honor the rights of the Vietnamese to leave and return to their own country by (a) expanding and improving the Orderly Departure Programme ("ODP"), and (b) repealing all laws making illegal any actions relating to leaving the country and granting a general amnesty to those imprisoned or charged under the criminal codes relating to illegal departures. These countries should insist upon the relaxation of restrictive or discriminatory measures, including restrictions on education, jobs and housing, and on the dismantling of reeducation camps in the SRV and Seminar camps in Laos, and on the release of all prisoners of conscience in Indochina.

2. *Safe Passage and Reception*

The first and final asylum governments, particularly Thailand, Malaysia, Indonesia, the Philippines and the United States, should reassert their commitment to the anti-piracy program and provide protection to fleeing Vietnamese against pirates on the high seas. The first asylum countries should codify in their own national laws and regulations the right to *non-refoulement* of all arriving asylum-seekers and should ensure that these laws are administered scrupulously in practice to prevent push-backs of any kind.^{viii}

3. *First Asylum Camps*

The first asylum countries should give Vietnamese asylum-seekers safe refuge, genuine legal protection, and easy access to judicial recourse during detention.

The first asylum governments should give unrestricted access to all asylum-seekers to the UNHCR, resettlement country personnel and the NGOs.

Camps and detention centers such as Ban Thad in Thailand should be moved out of the range of hostile artillery fire.

The first asylum governments should heed the letter and spirit of Articles 5 and 25^{ix} in the Universal Declaration as they relate to the indefinite detention of the Vietnamese “long-stayers” in the camps.

D. Resettlement

The final asylum countries should reaffirm their commitment to the Indochinese asylum-seekers by increasing their admission levels in response to the current crisis.

The final asylum countries and the government of Laos should establish an Orderly Departure Programme in Laos. The final asylum countries and the SRV should extend and expedite the Orderly Departure Programme in Vietnam to resolve the nearly 700,000 case-backlog. The first and final asylum governments should pressure the SRV to release all remaining political prisoners from re-education camps and allow them to leave the country through ODP.

Long stayers-asylum-seekers who have been detained in first asylum camps for three years or more-should be considered for immediate resettlement by final asylum countries to relieve the stress and frustrations felt by both refugees and first asylum governments. p. 6

All final asylum countries should facilitate the establishment of private sponsorship programs with fuller participation of Indochinese communities abroad to resettle refugees similar to the Canadian model.

III. IMPLEMENTATION OF THE CALL TO ACTION

The following technical recommendations, which were originally submitted by the Indochina Resource Action Center (Washington, D.C.) to the Preparatory Working Groups for this Conference, have been endorsed with modifications by us, the undersigned organizations. The recommendations deal with Screening Criteria and Procedures (Part A), Orderly Departure Programmes (Part B), Repatriation Guidelines and Implementation (Part C), Resettlement (Part D), and Oversight and Enforcement Mechanisms (Part E).

A. “Screening”

The present procedures for screening should be abolished, and presumptive refugee status instituted. In cases where an individual screening must take place because the presumption is overcome, or in the event presumptive refugee status is not reinstituted, a procedure consistent with the following recommendations should be created to adequately safeguard asylum-seekers' rights. The following recommendations are not exclusive of other recommendations which may be required to further safeguard asylum-seekers' rights. The screening procedures must be administered with a humanitarian spirit and in a consistent manner in all cases.

1. Screening Criteria

Screening evaluations should be made in good faith based upon criteria recognized in (1) the Refugee Convention and Protocol, as interpreted authoritatively in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status (“Handbook”) and (2) the Universal Declaration and other relevant international instruments concerning refugees.^x The criteria for screening of Vietnamese asylum-seekers should take into account the factual background of life, including the circumstances of oppression, in the post-1975 Indochinese countries.

Screening criteria should focus on whether the asylum-seeker has a well-founded fear of persecution as defined in the Handbook or, alternatively, a well-founded fear of being subjected to human rights violations if forced to return to the home country. This involves examining the applicant's past experiences and background as well as prospects for the applicant's future if returned to the home country. Future prospects can be

p. 7 determined by examining the applicant's reasons for leaving and reasons for unwillingness or inability to return in the future.

To accurately evaluate each case based upon all the facts, the interviewers must be trained to explore thoroughly with proper questioning. An adequate, well-administered questionnaire should be used to help fulfill the examiner's duties required under governing international standards, including (1) the duty to ascertain all the relevant facts and reasons for the persecution feared; (2) the duty to give the applicant the benefit of the doubt despite absence of evidence; and (3) the duty not to discriminate among applicants by place of origin.^{xi} Without excluding other needed modifications, the following recommended revisions should be incorporated into the current Hong Kong questionnaire—which should be abolished in its present form—and a new, proper questionnaire should be created for regional use.

a. Past Persecution and Human Rights Violations

In general, the questions in the current Hong Kong questionnaire (“HKQ”) should be divided and rephrased to eliminate their compound nature. As one example, Question C(2)(iv) regarding political activity^{xii} should be divided into two questions: one about the activities of the organization, and a second about the role played in the organization. Points regarding particular questions follow.

- 1 General Background [HKQ, § C(1)]
- 2 This section should include new questions pertinent to applicants from northern Vietnam.^{xiii} Members of the Indochinese community overseas who previously lived in North Vietnam are equipped to provide information on such persecution.
- 3 Questions in this section should be rephrased to provide more specific answers.^{xiv}
- 4 Where accounts of persecution or other incidents with authorities are requested, a list of follow-up questions should be included to ensure the record covers all pertinent details. This list should request the applicant's account of what happened, the circumstances, date, location, the name and position, if known, of the official who took such action, the

reason why the incident occurred, and the names and addresses of people who witnessed or knew of the incident and could verify the account. If such persons are in Vietnam, an additional question requesting the applicant to indicate whether verifying the account and details of any mistreatment would jeopardize the witness' safety would be appropriate. (This list of follow-up questions is hereinafter referred to as "Follow-up List.")

- 5 An additional question regarding mistreatment of the applicant or applicant's family by the authorities should be asked, and the Follow-up List in the immediately preceding paragraph should be included.
- 6 Involvement in Political Parties [HKQ, § C(2)]
- 7 A new question should be added at the start of the section on political involvement to establish whether the applicant engaged in any political or resistance activity. For example: "Have you ever been, or are you now, involved in any political party or resistance organization, either before or after institution of the Communist government in northern or southern Vietnam?" A follow-up set of questions should be included, for example: "if so, include dates of membership or contact, name of the organization, its location and purpose, your reasons for
- 8 membership or contact, your duties, responsibilities, and/or activities, and whether members have been or are being persecuted with examples of such persecution, if known."
- 9 The questions in this section should be flexible enough to allow for informal or covertly-run groups, and to recognize the lack of documentation inherent in refugee situations.^{xv} (Handbook, para. 197.)
- 10 This section must take into consideration the applicant's desire to protect the identity of those still in Vietnam who may be participants in political or resistance groups.^{xvi}
- 11 Add a question to this section regarding the purpose of the political party or resistance organization.
- 12 Compound questions should be divided and rephrased to ensure that all relevant details regarding incidents of mistreatment are covered. See Follow-up List, page 7, above.)
- 13 Religious Activities and Economic and Social Rights [HKQ, § C(3) and C(4)]
- 14 All questions in § C(3) and § C(4) dealing with incidences of religious discrimination or persecution, or deprivation of economic and social rights should apply the Follow-up List at page 7, above.
- 15 Economic and social deprivation experienced by the applicant or close family members is relevant to a well-founded fear of such persecution recurring personally. Thus, each question in this section should include both the applicant personally and close members of the family.^{xvii}
- 16 Family Movements and Prosecution [HKQ, § C(5) and § C(6)]
- 17 Section C(5) and C(6) dealing with family movements and prosecution should include the Follow-up List at page 7 above as pertinent.
- 18 Section C(5) on family movements contains questions which overlap in subject matter and thus are confusing. For example, Question C(5)(ii)^{xviii} should address whether any *legal* journeys outside Vietnam have ever been made, including pre-Communist trips and post-Communist emigration under the Orderly Departure Programme. Question C(5)(iii)^{xix} should request additional details, including which article of the SRV Criminal Code^{xx} was

p. 8

the basis for prosecution, if known, and the reasons given, if any, for the type of punishment received.

- 19 Section C(6) duplicates § C(5) in relation to prosecution for illegal departure activities and thus may be confusing. There should be a preface at the beginning of C(6), such as: “You may omit any criminal prosecution or conviction for illegal departure activities if we have already discussed it.”

b. Reasons for Leaving and Unwillingness or Inability to Return

Section D of the current HKQ (“Motives”) does not accurately reflect the screening criteria and improperly demands narrative answers in violation of the burden borne by the examiner to ascertain the reasons for the persecution feared.^{xxi} This section should be replaced as follows.

1. *Reasons for Leaving.* Question C(i)^{xxii} focuses heavily on subjective intent rather than ascertainment of reasons for leaving related to objective incidences of past persecution or future expectations. Proper questions would elicit objective indicia of intent.^{xxiii}
2. *Unwillingness or inability to return.* Question D(ii)^{xxiv} ignores the prosecutorial, punitive, and/or discriminatory measures which in reality face many persons repatriated to Vietnam. These governmental measures are directly relevant to the screening criteria. Where there is reason to believe that a person, due to illegal departure or unauthorized stay abroad, is liable to severe measures, the person is recognized as a refugee if his or her reasons for leaving are related to persecution as defined in the 1951 Refugee Convention and its 1967 Protocol.^{xxv}

Questions should be included on the subject of prosecution under all Criminal Code provisions dealing with illegal departure activities.^{xxvi} Although the SRV has agreed to a limited waiver of prosecution relating to illegal departures in the 13 December 1989 MOU, the waiver does not cover prosecution under related but more serious criminal provisions. The MOU waiver is explicitly limited to “the provision of the law” (in the singular) against “persons who leave the country illegally”, a reference to Article 89 of the SRV Criminal Code dealing with “illegal exit”. Article 89 is the least severe of the legislative measures against illegal departure.

In contrast, prosecution and severe punishment remain in effect for those who are considered by the government to have fled “with the intention of opposing the People's Government”, or to have illegally organized or forced others to flee.^{xxvii} This limited reading was confirmed by a statement of Mr. Vu Khoan, SRV Assistant Minister of Foreign Affairs, who, at the time of voluntary repatriation of 75 Vietnamese in early March 1989, reportedly announced that “the law was severe for those who encouraged or organized departures. But those who have simply left the country would not suffer [he said].”^{xxviii}

Questions should be added to this section to determine refugee status under the second inquiry addressing whether the applicant has a well-founded fear of being subjected to human rights violations if returned to his or her own country. This determination provides an alternative basis for refugee status, or at least provisional asylum, for those who do not meet the narrow definition of refugee established in the Refugee Convention and Protocol especially the

requirement that persecution occur on account of race, religion, nationality, membership in a particular social group, or political opinion.^{xxxix} In preparation for this Conference, state participants have agreed that screening criteria be informed by the 1948 Universal Declaration and other relevant international instruments,^{xxx} as well as traditional refugee instruments. Such other instruments include, among others, the 1966 International Covenant on Civil and Political Rights (“Civil & Political Rights Covenant”) and the 1966 International Covenant on Economic, Social and Cultural Rights.^{xxxi}

Questioning should explore the possible factual situations constituting violations of the Universal Declaration, and/or those documents noted above.^{xxxii} The Vietnamese resettled abroad after 1975, who have living experience with Communism, are particularly equipped to help provide factual background in the human rights area to enable accurate questioning and evaluation.

2. Screening Procedures

p. 10

Along with proper criteria, appropriate procedures for determination of refugee status are critical to fair and equitable decision-making.^{xxxiii} As agreed by participants in the preparatory phases of this Conference, screening procedures must be in accordance with endorsements of UNHCR's Executive Committee, national legislation, and internationally accepted practice. Many of the following procedures are subsumed under UNHCR Executive Committee Conclusion No. 8, also found in the Handbook, paragraph 192.

1. *a. Access to determination process.* Full and fair access to the determination process, without exception, is essential. Such access particularly needs to be enforced in the Lao screening process in Thailand.
2. *b. Pre-screening advice and assistance to asylum-seekers.* Asylum-seekers should be provided written materials in a language which they can understand informing them of the procedures and criteria and advising them of general ways to prepare and present their cases, and the opportunity for assistance in presentation. Legal or other skilled assistance should be made available *at the outset* by non-governmental organizations working under UNHCR auspices, as well as by the UNHCR directly. To provide legal assistance only on appeal is merely fighting rather than preventing fires. The overseas Indochinese community present a ready resource for developing these materials and providing legal and other assistance.
3. *c. Regional training of government personnel in refugee and human rights law, interviewing methods, and the historical and cultural situation of the asylum-seekers.* Along with the expert UNHCR resources, Indochinese abroad can provide much assistance by way of background facts regarding persecution and discrimination in Vietnam as well as much-needed orientation toward cultural inhibitions which may hinder the interviewing process.
4. *d. Satisfactory and complete questionnaire implemented with consistency and governmental oversight.* The elements of a satisfactory questionnaire are discussed in Part I above.

- p. 11
5. *e. Trained and certified interpreters in initial interview and on appeal.* A training and certification program for government and UNHCR interpreters should be developed and implemented by the UNHCR with the help of Indochinese abroad.
 6. *f. Interview on the record.* The international human right to a full and fair hearing to determine one's rights, e.g., Civil & Political Rights Covenant, Art. 14(1), should include the minimum due process safeguard of an objective record. At least until a certification program has been developed and proven effective, the only feasible guarantee to an asylum-seeker of the opportunity to be heard at the first level and on appeal is a taped record. The UNHCR, with the help of the international and nongovernmental community, can help provide the physical materials and cataloguing required to maintain a taped record system at the outset.
 7. *g. Decision in writing with reasons based on the facts of the particular case, and notice of appeal right and procedures.* Requiring a written decision is effective only if reasons are likewise required; without written reasons, no meaningful appeal is possible and the potential for arbitrary decisions is not eliminated. The requirement to supply reasons also helps ensure that determinations are being made in good faith.^{xxxiv} As agreed by participants in the preparatory phases of this Conference, a period for decision should be prescribed; 30 days is fair in light of the detention which most likely will be imposed on asylum-seekers.
 8. *h. Right of appeal to administrative board and judicial review for abuse of power or bad faith challenge, with legal advice.* If at all possible, national appeal boards should consist of non-immigration enforcement officers to avoid a bias toward one side of the case. A right to court review should be allowed to challenge official action as abusive, unauthorized, or in bad faith. Legal advice should be provided by nongovernmental organizations working under UNHCR auspices as well as by UNHCR lawyers directly. Indochinese lawyers licensed abroad may be of assistance in this regard.
 9. *i. Special situations and factors.* Procedures in the interviewers' manual should provide guidelines for dealing with mentally disturbed and unaccompanied minors, including the use of a team of child psychologists and psychiatric experts. In addition, guidelines regarding cultural norms relating to communication across sexual lines or with authority figures should be implemented with the input of Indochinese abroad.^{xxxv}

B. Orderly Departure Programmes

In keeping with the agreed-upon expansion of the current Orderly Departure Programme, implementation measures for ODP should include the following:

1. *1. Establish Orderly Departure Programmes in Laos for residents there, including the Hmong and other Highlanders, as well as the Lowland Lao.*
2. *2. Establish ODP processing centers across Vietnam in locations containing a number of potential applicants.*
3. *3. Increase the number of ODP admissions granted by participating countries.*
4. *4. Obtain a formal guarantee from the SRV and the Lao People's Democratic Republic that no reprisals of any kind will result to ODP applicants in relation to requests for exit visas.*^{xxxvi}

In addition, establish an international monitoring procedure to verify compliance with the guarantee.

5. *5. Reorganize ODP as necessary to create separate tracks for immigrants and refugees and to expedite processing of applications of close family members.*
6. *6. Expedite a commitment between the U.S. and the SRV to bring out re-education camp detainees.*
7. *7. Ensure that participating ODP countries use fair and generous procedures in their determinations of refugee status.* Such procedures will encourage the use of ODP as an alternative to clandestine departures. High rates of rejection under ODP refugee determinations, however, will jeopardize the expansion of ODP, suppress the use of ODP by applicants who would qualify as refugees, and discourage first asylum nations from performing their own refugee status determinations with the fair and generous spirit mandated by international standards.^{xxxvii}
8. *8. Expedite transportation of those accepted under ODP.* Action should include advancement of contractual relations with airlines capable of providing the needed services.

p. 12

C. Repatriation

We earnestly call for the resettlement of all asylum-seekers as outlined in this Statement. We oppose all forced or involuntary repatriation. Southeast Asian countries and the UNHCR should implement Articles 13 and 14 of the Universal Declaration,^{xxxviii} as well as Article 12 of the Civil & Political Rights Covenant,^{xxxix} by stopping immediately the repatriation of those in all first asylum and Thai border camps as currently instituted, whether this repatriation is called “voluntary” or not. In the uncertain case of truly voluntary repatriation under a system not yet devised for Indochinese asylum-seekers, the following guidelines should be adopted:

1.Guidelines for a System of Truly Voluntary Repatriation

1. *a. Every effort should be made to ensure voluntary return.*^{xl} To successfully implement voluntary repatriation, all state parties to this Conference's agreement, the countries of origin, and the UNHCR should participate. Internationally-sponsored repatriation measures, which are detailed below, include agreements for safe return, monitoring mechanisms, reintegration programs, and information dissemination by credible sources among potential returnees. In addition, the voluntary nature of the repatriation choice must be safeguarded by providing humane living conditions in the first asylum camps
2. *b. The countries of origin must comply with international practices reflecting the responsibilities of states to their own citizens.*^{xli} This compliance involves a twofold effort by the country of origin to clearly demonstrate an invitation to its citizens to return. The country of origin must (a) address the continuing existence of conditions which are causing the exodus,^{xlii} and (b) receive back returning citizens with guarantees of safety, dignity, and waiver of prosecution,^{xliii} as detailed below.
3. *c. The mandate of protection and assistance of the UNHCR applies to those persons determined not to be refugees.* The UNHCR should be given the task of administering

returns in accordance with provisions for safe, dignified return with freedom from persecution. This task falls within the scope of the UNHCR's extended mandate.^{xliv}

p. 13

2. Implementation of a System of Truly Voluntary Repatriation

A system of truly voluntary repatriation of Indochinese asylum-seekers must (1) ensure the safety and dignity of all returnees, (2) establish a successful reintegration program, and (3) promote voluntary repatriation among residents of first asylum camps while preserving the voluntariness of their choice to return. The principles in the following discussion are equally applicable to asylum-seekers from Vietnam, Laos, and Cambodia.

a. Guarantees of Safety, Dignity, and No Persecution

Measures guaranteeing the safety, dignity, and lack of persecution of returnees should include (a) adequate international agreements, (b) effective international mechanisms to monitor compliance with the agreements, and (c) national implementation of the agreements by the country of origin. Historically, without such measures at the foundation of voluntary repatriation efforts, tragic consequences and even loss of life have resulted.^{xlv}

i. International repatriation agreements

Critical to successful voluntary repatriation is an international agreement providing for full waiver of all prosecution and discriminating treatment in all forms by the SRV against anyone relating to illegal departure, including organizers and those perceived to have opposed the government. The current bilateral understandings between the SRV and Britain, the SRV and Malaysia, and the SRV and the UNHCR fail to provide adequate protection from prosecution and discriminating treatment and should be renounced by Britain, Malaysia, and the UNHCR, respectively.

The SRV has made clear its plan to continue to prosecute and severely punish returnees who are considered to have fled “with the intention of opposing the People's Government” or to have illegally organized or forced others to flee.^{xlvi} Although the SRV agreed to waive certain prosecution relating to illegal departures in a Memorandum of Understanding between the UNHCR and Vietnam, dated 13 December 1988, the waiver does not include prosecution under the above-mentioned provisions. It is explicitly limited to “the provision of the law” (in the singular) against “persons who leave the country illegally”, a reference to the least severe of three SRV criminal measures relating to illegal departure.^{xlvii} In various statements reported by the press, SRV officials have announced their intent to apply the law to organizers, those who are perceived as opposing the government, and those who do not return voluntarily.^{xlviii}

An international agreement waiving prosecution should also contain a waiver of persecution and discrimination, and include the following specific guarantees: restoration of civil rights and treatment equal to any other national, recovery of property confiscated upon escape, return to former job (or freedom to seek new employment of choice), and full access to educational

opportunities by all members of the returning families in the manner available to the general society.

ii. International monitoring mechanism

An effective international mechanism to monitor the conditions of returnees during reintegration will assure potential returnees of safety and ensure compliance with the terms of international repatriation agreements.^{xlix} The monitors, established through the UNHCR, must be given full, regular, and unhindered access to returnees, including unaccompanied minors and their families.^l Nongovernmental organizations, and in particular, monitors composed of Indochinese from

overseas, and such organizations as Amnesty International, are well-equipped to perform this task on behalf of the UNHCR. p. 14

iii. National implementation by country of origin

National legislative or regulatory implementation by the SRV of the guarantees provided by an international repatriation agreement would increase greatly the credibility of guarantees and thus encourage voluntary repatriation. A dramatic example of the success of good-faith efforts by a country of origin to unite its citizens to return is illustrated in Burundi's response to the flight of thousands of Hutus in August 1988 as a result of massacres by uncontrolled military units. The Burundi government secured the property of persons who had fled in order to safeguard it, established governmental representation for the tribes that fled, and set up an amnesty program for returnees based upon a quadripartite commission made of the UNHCR, neighboring states and the country of origin. Within six months, the refugees voluntarily returned. Such objective indicators of good faith were emphasized by the Inter-American Commission of Human Rights when it criticized Haiti for not enacting legislation guaranteeing the right of Haitian exiles to return, even though then Haitian President Duvalier had publicly invited exiles to return.^{li}

Similar measures by the SRV would greatly enhance the chances of success of a voluntary repatriation effort. Minimum measures could include the repeal of all SRV Criminal Code provisions relating to both the organization of, and participation in, illegal departures,^{lii} establishment of a general amnesty relating to illegal departures, including release of those convicted for attempting the same, and enactment and enforcement of laws requiring equal access to education and employment and restoration of confiscated property to returnees.

b. Reintegration

Along with the already-discussed restoration of civil rights, equal treatment, property, job and education, reintegration measures must include return to place of origin. If return to place of origin is not feasible, agreement on an alternative destination must be reached prior to the returnee's departure to Vietnam in order to avoid undue pressure to the returnee upon return.^{liii} In addition, reintegration measures should include vocational training, as provided in the

current MOU, and non-interest-bearing, long-term loans to encourage self-initiative and counteract the passive inclinations which result from relief assistance in first asylum camps. Such methods of cash or assistance packages in exchange for return payment or work performance were used effectively in Bangladesh in 1971 by U.N. and private agencies to combat a relief-style mentality and reintegrate nearly 10 million people who voluntarily repatriated over a six-week period.

Non-governmental organizations are extremely well-suited to administer job training, loan, and other assistance programs on behalf of the UNHCR during reintegration. Other specialized UN agencies involved in development assistance should also participate. All such assistance must benefit individual returnees directly since offering the government money to accept repatriated citizens is not only immoral but can lead to grave abuses.

c. Promotion of Voluntary Repatriation among Potential Returnees

To facilitate voluntary repatriation, measures should be implemented to allow informed communication regarding the situation of returnees and conditions in Vietnam

p. 15 to be gathered and conveyed by trustworthy sources to those in first asylum camps. This dissemination could be done by arranging for visits by individual refugees or refugee representatives to the country of origin to inform themselves of the situation there and return with a report to those in the camps.^{liv} These visitors must be given full, private, and unhindered access to returnees, including unaccompanied minors and their families. Indochinese leaders abroad provide a resource for such communication efforts and do not face the personal danger which a resident of the camps might face in being viewed as a collaborator with the SRV. A similar method was used to promote voluntary repatriation of the Ogaden refugees from Djibouti to Ethiopia in 1983, when religious leaders of the Ogaden refugees visited their places of origin and returned to Djibouti to report a lessening of civil strife sufficient to return.

To safeguard the true voluntariness of this decision, it is critical to maintain UNHCR procedures for interviewing applicants for voluntary repatriation and allowing withdrawals until the last minute. Of like importance are measures requiring countries of asylum to provide humane living conditions and to avoid a resort to harassment, thus avoiding duress in any form.^{lv} We applaud the commitment to provide educational and orientation programs to those within these camps. In addition, opportunity for wage-compensated employment will help reduce a passive “relief mentality” detrimental to eventual reintegration.

D. Resettlement

Third country resettlement of Indochinese refugees is a vital component of this Conference's agreement. Viewed originally as the only available durable solution to the exodus of “boat people”,^{lvi} resettlement “still represents the most feasible durable solution for the Indochinese refugees,” according to a 1988 UNHCR Report.^{lvii} We recommend that this Conference adopt resettlement commitments which will reduce the current number of refugees in first asylum camps and discourage the flow of illegal departures.

1. Resettlement of Long-Stayers

The term “long-stayers” in these recommendations refers to all refugees who arrived prior to the institution of status determination procedures, in contrast to what may be termed “newly-determined refugees.” These “long-stayer” refugees fall into two groups: (1) those refugees who are eligible under the criteria of a resettlement country program, and (2) those who are ineligible under the criteria of any third-country resettlement program. In the case of Laotians, the term “long-stayers” refers to those who arrived prior to institution of the screening procedure in Thailand in 1985. Resettlement of the first group should proceed in accordance with resettlement priorities of the nations concerned. Resettlement of the second group, which numbers approximately 25,000,^{lviii} requires special planning and firm commitments by all nations concerned.

The resettlement of ineligible long-stayers requires the participation of an expanded number of countries beyond the few currently active in resettlement. Between 15 and 20 countries should commit themselves to receiving long-stayers for resettlement at a rate

proportionate to each country's population. A total of at least 5,000 should be resettled each year, thus resettling the entire 25,000 after five years.^{lix} Country assignments would be made in order of arrival date; those who arrived first should be resettled first. No trading of resettlement positions should be allowed. Refusals of resettlement should exclude the long-stayer from further resettlement consideration.^{lx} However, those offered resettlement should be clearly notified that any refusal of resettlement offers would result in dismissal from the resettlement program and transfer to alternative programs including repatriation. p. 16

As part of the commitment to resettle long-stayers, countries should be encouraged to allow their private citizens and residents, including the Indochinese community abroad, to privately sponsor long-stayers. Private sponsorship programs save public financial resources, thus allowing greater numbers to be resettled more promptly. One of these programs has been successfully implemented since 1978 in Canada. During the “boat people” crisis of 1979 and 1980, 60,000 refugees were brought to Canada. Private groups and organizations sponsored 34,000, while the federal government sponsored 26,000.^{lxi} Canadian private sponsorship intake for this year is projected to bring at least 2,000 to 3,000 and perhaps as many as 10,000 and 20,000.^{lxii} Under such a program, relatives or concerned individuals or organizations sponsor refugees directly with private funds, subject to governmental approval and regulations. Sponsors are responsible for the resettlement of sponsored refugees for one year after the refugees' arrival in Canada. There is no limit on the number of refugees brought into Canada under this program.

Under this proposed long-stayer resettlement program, each refugee should immediately enter a language and cultural orientation program geared for resettlement in the country in which he or she will be resettled. The cost of such programs should be borne by concerned nations that do not participate directly in resettlement (e.g., Japan, U.S.S.R.).

In addition, local settlement in Thailand should be considered as an option for some groups of long-staying refugees from Laos. Such an option appears politically and culturally feasible, provided Thailand receives the integration aid necessary to assist the refugees to self-sufficiency.

2. Resettlement of Newly-Arriving Indochinese

In order to proceed fairly with the resettlement of all Indochinese determined to be refugees, the International Conference should establish measures guaranteeing full access to status determination procedures for all Laotian asylum-seekers and ensuring that status determination focus on the criteria established to determine refugee status rather than resettlement qualifications. Like the long-stayer population discussed above, those determined to be refugees under recently-instituted screening procedures are divisible into two groups: (1) immigrants, or those of special humanitarian concern to a particular resettlement country,^{lxiii} and (2) refugees with no special connection to any resettlement country. The latter group should be assigned in a proportionate manner to resettlement countries similar to the system for long-stayers described above. Once a

p. 17 country of resettlement has been assigned to an individual determined to be a refugee, such person should be placed in the existing language and cultural orientation programs.

For those who are determined under the screening process not to be refugees and remain in first asylum camps despite the voluntary repatriation program, the alternative of resettlement under strict conditions may be appropriate where such persons qualify as immigrants, i.e. of special humanitarian concern to a particular resettlement country. No “pull factor” would result from such an immigration channel so long as the waiting period for immigration from the first asylum camp is longer than the waiting period for such immigration from Vietnam under the current ODP.^{lxiv} Such persons should be kept in special immigration holding centers in first asylum countries rather than being repatriated to Vietnam to await their immigration visas. Repatriation would likely be more costly due to the high costs incurred in transportation, reintegration assistance, and post-return monitoring. Special immigration holding centers could be funded by those concerned nations not participating in resettlement (e.g. Japan). In addition, transportation and resettlement costs in the receiving countries under this channel would be borne either by the immigrants' sponsors or by a loan provided by the government.

As for the remnant of those determined not to be refugees who remain despite the voluntary repatriation program and yet have no immigration ties, resettlement would be appropriate provided that illegal departures have slowed to virtually none, and the ODP has proven to be a successful, preferred alternative to flight by small boat. Private sponsorship for these people, or resettlement nations' reservations of the right to make their own refugee status determinations of individuals in this group, would be options to be examined in future talks which should be proposed pursuant to this Conference's agreement.

E. Oversight and Enforcement Mechanisms

Oversight and enforcement mechanisms should be implemented to ensure that the agreement entered into at this conference is administered consistently and in good faith region-wide.

1.Role of UNHCR

The UNHCR must participate in the process in an observer and advisory capacity. This participation must include full and early assistance to applicants in the prescreening period, observation in most initial interviews, and provision on appeal of either direct legal representation or delegated duty to private lawyers through either local or international legal and/or nongovernmental organizations. The right of UNHCR to question an applicant in the initial interview is highly advisable. A procedure should be agreed upon between all screening nations and the UNHCR whereby UNHCR may express its concern regarding any matter in the implementation of the screening process, first to the nation concerned and then to the Coordinating Committee as explained below.

2.Role of State Parties to this Conference's Agreement

p. 18

The state parties to this Conference's agreement should accept the responsibility to protect the integrity of the contract, as done in Article 38 of the 1951 Refugee Convention and Article IV of the 1967 Protocol. A Coordinating Committee composed of representatives of state parties should be formed, and each state party should have authority to bring before the committee any matter of concern involving implementation of the provisions, including those on screening and reception. The system should include procedures for the Committee to discuss the issue with the government implicated and receive reports from that government and other interested organizations. Ultimately, in the event political negotiation fails, the system should include procedures to impose economic sanctions or to resolve the issue before a tribunal of accepted jurisdiction such as the U.N. Human Rights Committee, or other body.

3. Role of Nongovernmental Organizations

The Coordinating Committee procedure for receipt of complaints also should allow interested nongovernmental or intergovernmental organizations to submit matters of concern involving implementation of the Conference's agreement. In addition, reports by such organizations during the Committee's investigation of a complaint submitted by a state party should be filed, either upon the request of the Committee or at the initiative of the interested organization. In particular, Indochinese organizations abroad who become involved in the screening process and/or monitoring of returnees will be especially equipped to provide accurate information for complaints or reports.

ENDORSING ORGANIZATIONS

p.

From the United States

- 20 Action for Southeast Asians, Inc. Falls Church, VA
- 21 Aid to Refugee Children Without Parents, Inc. San Jose, CA
- 22 An Viet Foundation Garden Grove, CA
- 23 An Viet Foundation in Louisiana New Orleans, LA
- 24 Angkor Wat Friendship, Inc. Des Moines, IA
- 25 Asian American Law Student Association New York, NY
- 26 Asian Business & Community News St. Paul, MN
- 27 Asian Community Services, Inc. Decatur, GA
- 28 Association of Cambodian Survivors Falls Church, VA
- 29 Association of Former Political Prisoners of Communist Vietnam Garden Grove, CA
- 30 Association of Free Vietnamese of New Jersey Tinton Falls, NJ
- 31 Buddhist Association of Connecticut Bloomfield, CT
- 32 Bureau of Refugee Assistance Seattle, WA
- 33 California Vietnamese Lawyers Association San Jose
- 34 Cambodian Association of Houston Houston, TX
- 35 Cambodian Association of Memphis Memphis, TN
- 36 Cambodian Association of Mobile Mobile, AL
- 37 Cambodian Association of Oregon Portland, OR
- 38 Cambodian Buddhist & Christian Society of Colorado Denver, CO
- 39 Cambodian Community of Stockton Stockton, CA
- 40 Cambodian Survivors Association McLean, VA
- 41 Cao Dai Temple of New Orleans Harvey, LA
- 42 Catholic Charities/Migration & Refugee Services Tulsa, OK
- 43 Center for Southeast Asian Refugee Resettlement San Francisco, CA
- 44 Cleveland Kampuchean Community Association, Inc. Cleveland, OH
- 45 Coalition of Lao Associations Eagan, MN
- 46 Committee for Support of Boat People Rescue New Orleans, LA
- 47 Committee for the Relief of Vietnamese Refugees Washington, DC
- 48 Council of Vietnamese Veterans Association in Louisiana New Orleans, LA
- 49 Cultural Exchange Center New Orleans, LA
- 50 Dan Viet Magazine Houston, TX
- 51 East Central Illinois Refugee Mutual Assistance Center Urbana, IL
- 52 Economic & Employment Development Center Los Angeles, CA
- 53 Elderly Vietnamese Association Corporation Winter Park, FL
- 54 Family & Children's Services Chattanooga, TN
- 55 Federation of Lao Associations of the Americas Washington, DC
- 56 Federation of Vietnamese and Allied Veterans Hayward, CA
- 57 Fellowship of the Republic of Vietnam Armed Forces Servicemen in MN St. Paul, MN
- 58 Georgia Mutual Assistance Associations Consortium Atlanta, GA
- 59 Hmong American Committee for Human Rights Fresno, CA
- 60 Hmong Association Long Beach, CA
- 61 Hmong Council Education Committee Denver, CO
- 62 Indochinese Community Center Washington, DC
- 63 Indochinese Mutual Assistance Association San Diego, CA
- 64 Indochinese Refugee Association of Kitsap County Bremerton, WA

- 65 Intercollegiate Vietnamese Student Association of Massachusetts Boston, MA
- 66 International Committee for a Free Vietnam/Central Florida Chapter Orlando, FL p.
- 67 International Refugee Center of Oregon Portland, OR
- 68 Kampuchean Association of Olympia Olympia, WA
- 69 Khmer Funcinpec of Tacoma Tacoma, WA
- 70 Khmer Health Advocates, Inc. Hartford, CT
- 71 Khmer Society of San Antonio San Antonio, TX
- 72 Lao Brotherhood Association of Oregon Portland, OR
- 73 Lao Family Community, Inc. Richmond, CA
- 74 Lao Family Community, Inc. Modesto, CA
- 75 Lao Family Community, Inc. Santa Ana, CA
- 76 Lao-Hmong Association of Nebraska Omaha, NE
- 77 Lao Lane-Xang Association of Stockton Stockton, CA
- 78 Lao Samphanh Newspaper Santa Ana, CA
- 79 Lao Seri Association San Francisco, CA
- 80 Lao Unity Organization Honolulu, HI
- 81 Lao Veteran Club Bolling Brook, SC
- 82 Lutheran Social Services Seattle, WA
- 83 M.A.A. Biloxi, MS
- 84 Maryland Vietnamese Mutual Association, Inc. Rockville, MD
- 85 Montana Association for Refugee Services Billings, MT
- 86 Moob Federation of America Winfield, IL
- 87 National Vietnamese-American Voters' League Harrisburg, PA
- 88 New Lao Friendship Club Oklahoma City, OK
- 89 New National Hmong-Lao Foundation Leominster, MA
- 90 Ngay Nay Newspaper Houston, TX
- 91 Nhan Van Newspaper Austin, TX
- 92 Orlando Vietnamese Seventh Day Adventist Church Orlando, FL
- 93 Pastoral Care of Migrants & Refugees Washington, DC
- 94 Refugee-American Association Lawton, OK
- 95 Rockford Area Indochinese Service Center Rockford, IL
- 96 San Joaquin Indochinese Association, Inc. Stockton, CA
- 97 Save the Children Atlanta, GA
- 98 Southeast Asian Community Center Van Nuys, CA
- 99 Southeast Asian Cultural Society Amherst, MA
- 100 Southeast Asian Mutual Assistance Associations Coalition, Inc. Philadelphia, PA
- 101 Southeast Asian Refugee Association Camden, NJ
- 102 Southeast Texas Vietnamese Community Organization Port Neches, TX
- 103 Spectrum, Inc. Burlington, VT
- 104 Texan Training & Employment Center/M.O.R.E Project Dallas, TX
- 105 Trung Tam Hung Vuong, Inc. Tampa, FL
- 106 Union of Pan Asian Communities Counseling and Treatment Center San Diego, CA
- 107 Union of Vietnamese Associations of Southern California Costa Mesa, CA
- 108 United Cambodian Community Long Beach, CA
- 109 United Xeng-Hmong, Inc. Westminster, CO

p.

- 110 Vietnam Committee on Human Rights Brooklyn, NY
- 111 Vietnam Generation's Survivors Denver, CO
- 112 Vietnam National Association of New Orleans New Orleans, LA
- 113 Vietnam Television in Austin Austin, TX
- 114 Vietnamese American Alliance Association San Antonio, TX
- 115 Vietnamese American Association of Ft. Myers Ft. Myers, FL
- 116 Vietnamese American Association Refugee Center Oklahoma City, OK
- 117 Vietnamese American Association of St. Petersburg St. Petersburg, FL
- 118 Vietnamese American Civic Association Boston, MA
- 119 Vietnamese and Friends Association of Knoxville and East Tennessee Knoxville, TN
- 120 Vietnamese Association at Sun Micro Systems Mountain View, CA
- 121 Vietnamese Association in Houston Houston, TX
- 122 Vietnamese Association of Greater Dayton Dayton, OH
- 123 Vietnamese Association of Pittsburgh Natrona Heights, PA
- 124 Vietnamese Association of Snohomish County Everett, WA
- 125 Vietnamese Baptist Mission Cupertino, CA
- 126 Vietnamese Buddhist Association for Social Service Jersey City, NJ
- 127 Vietnamese Buddhist Congregation of Colorado Denver, CO
- 128 Vietnamese Buddhist Fellowship of Louisiana New Orleans, LA
- 129 Vietnamese Catholic Association of the Quad Cities Rock Island, IL
- 130 Vietnamese Catholic Community, Inc. San Jose, CA
- 131 Vietnamese Catholic Community in Connecticut, Inc. Hartford, CT
- 132 Vietnamese Community in Baton Rouge and Vicinity Baton Rouge, LA
- 133 Vietnamese Community in Greater Cleveland Cleveland, OH
- 134 Vietnamese Community in Virginia Richmond, VA
- 135 Vietnamese Cultural Association of Minnesota St. Paul, MN
- 136 Vietnamese Evangelical Church Plymouth, MN
- 137 Vietnamese Fishermen Association Oakland, CA
- 138 Vietnamese Friendship Association Austin, TX
- 139 Vietnamese Friendship Association of Cowlitz County Longview, WA
- 140 Vietnamese Language Association Corporation Orlando, FL
- 141 Vietnamese Lawyers' Association Fairfax, VA
- 142 Vietnamese Mental Health (Indochinese Psychiatry Clinic) Boston, MA
- 143 Vietnamese Mutual Assistance Association Falls Church, VA
- 144 Vietnamese Mutual Assistance Association of Central Pennsylvania, Inc. Mechanicsburg,
PA
- 145 Vietnamese Nationalists of Savannah Savannah, GA
- 146 Vietnamese Parents Association Arlington, VA
- 147 Vietnamese Quan Cong Association Beaumont, TX
- 148 Vietnamese Senior Citizens Association, Inc. Annandale, VA
- 149 Vietnamese Senior Citizens Association Austin, TX
- 150 Vietnamese Society of Rhode Island Woonsocket, RI
- 151 Vietnamese Student Association Austin, TX
- 152 Vietnamese Veterans Association/Pensacola Pensacola, FL
- 153 Vietnamese Veterans Association of Spokane Spokane, WA

- 154 Vietnamese Women Association of Northern California San Jose, CA
- 155 Vietnamese Women's Association Phoenix, AZ
- 156 Volamdao Vietnam Kungfu World Federation, Inc. Rosemead, CA
- 157 Wichita Indochinese Center Wichita, Kansas

From Canada

p.

- 158 Greater Toronto Vietnamese Refugee Assistance Committee Toronto, Canada
- 159 Vietnamese Refugee Sponsoring Committee Quebec, Canada
- 160 Vietnamese Women's Association Montreal, Canada

From the Federal Republic of Germany

- 161 Doc Lap Center Stuttgart, FRG

From Switzerland

- 162 Association Generale des Vietnamiens Geneva, Switzerland

From the United Kingdom

- 163 Vietnam Refugee National Council in the U.K. London, U.K.

Fifteen additional endorsements received after May 16, 1989 (total: 160)

From France

- 164 Association d'Entraide des Refugies du Vietnam, Cambodge et Laos Boulogne s/Seine, France

From the United States

- 165 Cambodian Association of Illinois Chicago, IL
- 166 Cambodian Community Action Center Houston, TX
- 167 Federation of Lao Associations of America Eagan, MN
- 168 International Rescue Committee San Jose, CA
- 169 Lao Refugee Resettlement Association Murfreesboro, TN
- 170 Linh Son Buddhist Association of Austin Leander, TX
- 171 Southeast Asian Mental Health Program San Jose, CA
- 172 Spartanburg County Indochinese Refugee Council Spartanburg, SC
- 173 Unaccompanied Minor Program/Lutheran Social Services Seattle, WA
- 174 Vietnam Television Austin, TX
- 175 Vietnamese and Friends Association of Knoxville and East Tennessee Knoxville, TN
- 176 Vietnamese Catholic Community of Minnesota Minneapolis, MN
- 177 Vietnamese Mutual Assistance Association Boise, ID
- 178 World Federation of Vietnamese Women's Association Ellicott City, MD

p.

“A great deal of study and reflexion have obviously gone into the preparation of this most constructive and helpful paper which focuses on many of the key areas of particular concern to UNHCR in our efforts to ensure that adoption and implementation of the Comprehensive Plan of Action take full account of the rights of asylum-seekers and refugees.”

Sergio Vieira de Mello UNHCR Head, Regional Bureau for Asia and Oceania

“As you know, the Indochina Resource Action Center (IRAC) is an organization concerned with improving human rights in Vietnam, particularly with respect to abuses of the individual's right to free passage to and from his country....I agree with IRAC in that the United States needs to take a more aggressive position with respect to the situation in Vietnam. I appreciate the attention which you are giving to this, and hope that you will give IRAC's views all due consideration.”

Congresswoman Constance A. Morella Letter addressed to Secretary of State, James A. Baker, III

“The document, prepared by the Indochina Resource Action Center (IRAC), contains detailed recommendations for implementation of the Comprehensive Plan of Action. Given that screening and repatriation of refugees are now realities in Southeast Asia, it is imperative that all refugees be accorded the strongest protection that international law provides. I commend [this document] to you and strongly urge you to incorporate these suggestions and recommendations into the position advocated by the United States in Geneva.”

Senator Mark O. Hatfield Letter addressed to Secretary of State, James A. Baker, III

“I am forwarding to your attention the enclosed recommendations by the Indochina Resource Action Center regarding refugee issues to be discussed at the International Conference on Indochinese Refugees....American negotiators who attend the conference should find the enclosed recommendations useful and creative.

Congressman Robert K. Dornan Letter addressed to Secretary of State, James A. Baker, III

“Thank you for your letter supporting the views of the Indochina Resource Action Center (IRAC) concerning the human rights situation in Vietnam and its relation to the continuing desires of many Vietnamese to resettle abroad....We are well aware of and support, many elements of IRAC's position. IRAC's recommendations parallel many of the objectives the U.S. government has pursued during the course of Conference preparation....We look forward to working with IRAC, and other concerned parties, over the coming months to ensure that this result is achieved.”

Janet G. Mullins, Assistant Secretary, Legislative Affairs U.S. Department of State Letter addressed to Congresswoman Constance A. Morella

ⁱ See note 36 *infra* and accompanying text.

ⁱⁱ Article 13(2) of the Universal Declaration of Human Rights provides: “Everyone has the right to leave any country, including his own, and to return to his country.” Article 14(1) of the Universal Declaration states: “Everyone has the right to seek and to enjoy in other countries asylum from persecution.”

ⁱⁱⁱ Articles 2, 5, 9, 13, 14, 25 and 26 of the Universal Declaration recognize the following rights respectively: right to all rights and freedoms set forth in the Universal Declaration without distinction (Article 2), right to freedom from torture and cruel, inhuman or degrading treatment or punishment (Article 5), right to freedom from arbitrary arrest, detention or exile (Article 9), right to leave any country, including one's own, and to return to one's country (Article 13), right to seek and enjoy in other countries asylum from persecution (Article 14), right to a standard of living adequate for health and well-being of oneself and one's family (Article 25), and right to education (Article 26).

^{iv} See note 3 *supra* (rights delineated).

^v Article 33(1) of the 1957 Refugee Convention provides: “No Contracting State shall expel or return (“*refouler*”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

^{vi} See note 2 *supra*.

^{vii} See note 3 *supra*.

^{viii} At the Round Table of Asian Experts on the International Protection of Refugees and Displaced Persons held in Manila in 1980, Asian states were called upon to “express their commitment to the principle of *non-refoulement* of refugees and displaced persons by legislative enactments and appropriate administrative policies and instructions”. See Manila Declaration on the International Protection of Refugees and Displaced Persons in Asia, 31 U.N. GAOR, para. 8, U.N. Doc. A/AC.96/INF.162/Add.1 (1980) (“Manila Declaration”).

^{ix} See note 3 *supra* (rights delineated).

^x This Conference recognizes the use of human rights standards as a second source of screening criteria. The use of human rights standards in determining refugee status provides a type of regional complement to the U.N. Refugee Convention and Protocol. This regional complement more effectively addresses the specific problems of refugees in Southeast Asia, as urged by the 1980 Manila Declaration, *supra* note 8, para. 13.

^{xi} See the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees (1979) (UNHCR publication) (“Handbook”), paras. 46, 66, 67 (first duty); paras 203-204 (second duty). See also 30 Conclusions on the International Protection of Refugees (No. 15), U.N. Doc. HCR/IP/2 Programme (“EXCOM Conclusions”) (third duty).

^{xii} Question C(2)(iv) presently reads: “Give details of meetings, demonstrations etc., dates and how often; the part you played.”

^{xiii} For example, Question C(1)(i) now reads: “Describe your own and your family's situation since the period immediately before 1975 until present times in general terms.” The year 1954 and other pertinent modification should be inserted, including alternative questions for use with a northern Vietnamese applicant, and *indicia* of northern-style persecution following the 1954 division of Vietnam.

^{xiv} For example, in Question C(1)(i), insert follow-up questions, or a check-off list, to ensure the interviewer covers social status, residence, education, employment, political views, religion, membership in organizations, and any other fact the applicant can remember about the family situation.

^{xv} For example, the current Question C(2)(vi) reads: “Provide any documentary evidence—membership card or letter of support from organization,” and should be rephrased to allow for informal contacts with other organizations, and names and addresses of persons to verify the applicant's account in place of documentation.

^{xvi} For example, Question C(2)(iii), which now reads: “Give names of leaders of the organization,” should either be deleted or include the opportunity for refusal to give out identities.

^{xvii} For example, Question C(4)(iv) should inquire whether the applicant or other close members of the family (as well as the applicant's children) have personally been deprived of educational access. Question C(4)(iv) currently reads: “Were the children in your family denied educational opportunities by the authorities? If yes, for what reasons?” In addition, Question C(4)(v) should include close members of the family subject to unpaid forced labor as well as applicants themselves. Question C(4)(v) now reads: “Were you ever subjected to unpaid forced labor? If yes, under what circumstances, reasons and what duration?”

^{xviii} Question C(5)(ii) currently reads: “Have you or any members of your family made journeys outside Vietnam? If so, who, when, where and for what reasons?”

^{xix} Question C(5)(iii) now reads: “Have you or your close relatives tried to leave Vietnam illegally in the past? If so, were you caught, by whom and what were the consequences of your capture? (If detained, for how long and under what circumstances?)”

^{xx} See the discussion of the SRV Criminal Code articles dealing with illegal departure below, at notes 27, 28 and accompanying text.

^{xxi} See note 11 above and accompanying text.

^{xxii} Question D(i) reads: “Why did you leave Vietnam?”

^{xxiii} Such questions might include the following: “When did you decide to leave Vietnam? Did you know the trip was fraught with danger? What circumstances or instances that we have already discussed, if any, or any other circumstances or instances, made you decide to depart by boat?” If other circumstances are given, proceed with the Follow-up List.

^{xxiv} Question D(ii) reads: “If you do not wish to return there, explain why.”

^{xxv} See Handbook, *supra* note 11, para. 61. Persecution as defined in the Convention must occur on account of race, religion, nationality, political opinion, or membership in a particular social group. See Article 1 of the 1951 United Nations Convention Relating to the Status of Refugees, amended by 1967 Protocol Relating to the Status of Refugees.

^{xxvi} This inquiry should include such questions as:

- 1 Would you return to Vietnam? If no, why not? What do you think would happen upon your return? Why do you think that might happen? Do you know others who have illegally escaped and been caught? (If so, request names and circumstances.)
- 2 What do you think will happen to you if the government prosecutes you? (jail, for how long, reeducation) Why do you think that might happen? Do you know others to whom that has happened? (If so, request names and circumstances.)
- 3 Will you be able to earn a livelihood if you return? If not, why not? Do you know others to whom that happened? (If so, request names and circumstances.)
- 4 Will you or your children have full access to education if you return? If not, why not? Do you know others to whom that happened? (If so, request names and circumstances.)

^{xxvii} SRV Criminal Code, Articles 85 and 88, respectively, as reprinted in J. Diller, *In Search of Asylum: Vietnamese Boat People in Hong Kong* (IRAC, 1988).

^{xxviii} Basler, *75 Boat People Flown Home*, The New York Times, March 3, 1989, at A3. See also Macklin, *Boat People Returned to Homeland*, South China Morning Post, March 3, 1989.

^{xxix} See note 25 above and accompanying text.

^{xxx} The CPA's more expansive provision echoes the 1980 Manila Declaration, which recommends "the consideration of a regional [Asian] instrument or a set of principles relating to the specific problems of refugees in Asia as a complement to the United Nations Refugee Convention and Protocol." See Manila Declaration, *supra* note 8, para. 13.

^{xxxi} Other international instruments are relevant to the human rights screening determination by analogy. These include, *inter alia*, the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, the 1969 American Convention on Human Rights, the 1969 Organization for African Unity Convention on Refugee Problems in Africa, and the 1984 Cartagena Declaration on Refugees. Both of the latter documents contain definitions of the term "refugee" which are more expansive than the 1951 United Nations Refugee Convention and Protocol. In addition, proclamations of growing international consensus bear upon these rights, including the Draft Declaration on Freedom and Non-discrimination in respect of the Right of Everyone to Leave Any Country, Including His Own, and to Return to His Country, U.N. Doc. E/CN.4/Sub.2/1988/35/Add.1 (1988), and the Resolution on Conscientious objection to military service found in the Draft Report of the Commission on Human Rights, U.N. Doc. E/CN.4/1989/L.11/Add.8 (1989) at 5 (Resol. 1989/59).

^{xxxii} In the Vietnamese context, these situations include the following: (1) arbitrary arrest and imprisonment without trial or fair trial; (2) torture and inhuman or degrading punishment; including death by torture and psychological control; (3) forced draft, or prosecution for evading the draft, to serve in the internationally condemned war in Kampuchea despite conscientious objection; (4) prosecution and/or punishment for leaving or returning to the country; (5) discrimination in access to education; (6) discrimination in access to work of free choice and forced work without pay; and (7) harassment and/or force used to require nonsecret voting. These factual situations of human rights infringements violate, *inter alia*, the following rights contained in the 1948 Universal Declaration of Human Rights ("UDHR"), the 1966 International Covenant on Civil and Political Rights ("ICPR"), and the 1966 International Covenant on Economic, Social and Cultural Rights ("IESCR"):

- 5 Right to leave and return freely [ICPR Art. 12, UDHR Art. 13(2)]
- 6 Right to work of free choice (UDHR Art. 23, IESCR Art. 6)
- 7 Right to education, with higher education equally accessible to all (UDHR Art. 26, IESCR Art. 13)
- 8 No arbitrary arrest or detention (UDHR Art. 9, ICPR Art. 9)

-
- 9 Right to equal protection under the law (UDHR Art. 7, ICPR Arts. 14, 26)
 - 10 No torture, cruel, inhuman or degrading punishment (UDHR Art. 5, ICPR Art. 7)
 - 11 Right to life, liberty and security (UDHR Art. 3, ICPR Arts. 6, 9)
 - 12 Right to freedom of thought, conscience and religion (UDHR Art. 18, ICPR Art. 18)
 - 13 Right to freedom of opinion and expression (UDHR Art. 19, ICPR Art. 19)
 - 14 Right to free and secret voting [ICPR Art. 25(b)]

^{xxxiii} 34 EXCOM Conclusions [No. 29(h)], *supra* note 11, p. 65 (1983).

^{xxxiv} Legal procedures administered in good faith and without abuse of official power are required in similar situations. Where an alien lawfully present in a territory can show that the legal procedures used to expel him or her were carried out in bad faith or with an abuse of discretion, expulsion or deportation is prohibited under the ICPR. See *Maroufidou v. Sweden* (R. 13/58), U.N. H.R. Comm'ee 36, 160, 36 U.N. GAOR Supp. (No. 40) (1981).

^{xxxv} See Handbook, *supra* note 11, paras. 190, 208-11, 213-17.

^{xxxvi} The prohibition against reprisals for applications to emigrate is contained, *inter alia*, in Basket III of the Final Act of the Conference on Security and Cooperation in Europe (Helsinki Final Act).

^{xxxvii} The Handbook produced by the UNHCR requires government officials to apply refugee criteria "in a spirit of justice and understanding." See, e.g., Handbook, *supra* note 11, para. 202.

^{xxxviii} See note 2 *supra*.

^{xxxix} Article 12(2) of the ICPR recognizes the right to leave any country, including one's own.

^{xl} International precedent supports the right to a voluntary repatriation choice of persons in refugee-like situations, especially those who face severe penalties for having departed illegally or likely persecution or discrimination upon return. See discussion in J. Diller, *supra* note 27, at 71-80.

^{xli} *Relevant here is a country's responsibility to its own citizens to comply with the internationally-recognized rights to leave and return to one's own country. These rights are recognized in numerous international instruments, including the 1948 Universal Declaration of Human Rights, arts. 13, 14, and the 1966 International Covenant on Civil and Political Rights, art. 12. They are also found in regional European and African documents, and in declarations on the right to leave and return drawn up at international colloquia, such as the Uppsala Colloquium in 1972, and the Strasbourg Declaration in 1986. In 1988, the U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities received for consideration a Draft*

Declaration on the Right of Everyone to Leave Any Country, Including His Own, and to Return to His Country. U.N. Doc. E/CN.4/Sub.2/35/add.1 (1988).

^{xlii} “A prerequisite to voluntary repatriation is removal of the conditions—'persecution' or 'events seriously disturbing public order'—which caused the refugee to flee originally.” H. Hannum, *The Right to Leave and Return in International Law and Practice* (1987), at 66. Generally closely linked to human rights violations, conditions resulting in mass migrations of asylum-seekers have been strongly condemned by the international community. See A. Takkenberg, *Mass Migration of Asylum Seekers and State Responsibility*, *The Refugee Problem on Universal, Regional and National Level* (1987).

^{xliii} A country of origin has the duty to receive its citizens who choose to return and to give assurances that they may return without risk or fear of being punished. See, e.g., Principles Concerning Treatment of Refugees, adopted by the Asian-African Legal Consultative Committee in 1966, art. IV, *reprinted in UNHCR, Collection of International Instruments Concerning Refugees*, UN Doc. HCR/IP/II/Eng. (1979) at 201-203.

^{xliv} The extended UNHCR mandate includes displaced persons who are outside their own countries because of external aggression, occupation, foreign domination, or events seriously disturbing public order. See *Conclusions of a Symposium on the Promotion, Dissemination and Teaching of Fundamental Human Rights of Refugees*, UNHCR Doc. HCR/PRO/7 (1982) at 17, *quoted in* Hannum, *supra* note 42, at 50 and N. 139.

^{xlvi} In 1980, 9,000 Khmer were reportedly repatriated “voluntarily” by the UNHCR and Thai authorities to a heavily contested border region, where many fell victim to fighting between the Khmer Rouge and the Vietnamese-backed forces. That repatriation was opposed by the Vietnamese-backed Kampuchean government. A new agreement signed in January 1989 by the UNHCR and the People's Republic of Kampuchea, which provides for the voluntary repatriation of Khmer from Thailand, has not yet been tested.

^{xlvii} Prosecution for such acts are based on Articles 85 and 88 of the SRV Criminal Code, translated and *reprinted in* J. Diller, *supra* note 27, at 58.

^{xlviii} The least severe of the criminal measures relating to illegal departure is Article 89, which prohibits those who illegally exit or enter Vietnam. For translation of the same, see J. Diller, *supra* note 27, at 50, N. 137.

^{xlviii} At the time of voluntary repatriation of 75 Vietnamese on March 2, 1989, Mr. Vu Khoan, SRV Assistant Minister of Foreign Affairs, announced that “the law was severe for those who encouraged or organized departures. But those who have simply left the country would not suffer, he said.” Basler, *75 Boat People Flown Home*, *The New York Times*, March 3, 1989, at

A3. That same day, Mr. Nguyen Can, Director of Immigration of the Interior Ministry, reportedly warned the returning citizens: “All of you left Vietnam illegally, many of you coerced by others. You understand your mistakes, so the Vietnamese Government will be generous and not punish you. You are now free to return home.” Mr. Can also warned that those who helped organize illegal departures would face 30 years in jail. He indicated that Hanoi would punish those who did not opt for voluntary repatriation and remained illegally in overseas countries.” Macklin, *Boat People Return to Homeland*, South China Morning Post, March 4, 1989.

xlvi

xlvi Even prior to the limited waiver, SRV officials made clear the distinctions between the crimes. Mr. Khoan reportedly stated publicly that “[f]or those people who are not against the Government [article 85], punishment will only be symbolic.” D. Wallen, *Hanoi Vows not to Punish Boat People who Return*, South China Morning Post, October 11, 1988, at 1.

xlvi

xlvi At the very least, an international agreement must provide that the SRV give notice of its inability to waive prosecution or any other adverse action against a particular applicant under any of the more serious articles relating to organizing illegal departures or opposing the government. The current MOU contains a similar clause but it is limited to require notice of prosecution for a serious common crime only. Under the Laotian voluntary repatriation program, a similar but less formal arrangement operates where Laotian officials simply fail to accept for repatriation anyone, even a petty criminal, against whom they may take adverse action.

xlvi The UNHCR “must be regarded as entitled to insist” on attending to its legitimate concern for the consequences of voluntary return, and have “direct and unhindered access to returnees.” Conclusion No. 40 (XXXVI) para. (1) of the Executive Committee of the UNHCR Programme (1985), *reprinted in* UNHCR Doc. HCR/IP.2/Rev. 1982 (1982) at 88.

^l The current MOU between UNHCR and SRV contains no provisions guaranteeing full, regular and unhindered access to returnees.

^{li} Inter-American Commission of Human Rights, Annual Report 1981-1982, O.A.S. Doc. OEA/V/Ser.L/2.57 doc. 6 rev. 1 (1982) at 117, *cited in* Hannum, *supra* note 42, at 67 and N. 201.

^{lii} Although this Conference may call for the continuation of official measures directed against organizers of clandestine departures, the institution of humanitarian measures including those suggested here would obviate the need for such enforcement because it would rid the organizers of the demand by would-be asylum-seekers.

^{liii} The current MOU between UNHCR and SRV contains an ambiguous, potentially contrary provision, which allows that a lack of decision regarding place of return will not prevent the authorities from issuing an authorization to return. [MOU, Annex, para. 13.]

^{liv} This type of arrangement is recommended in Conclusion No. 18 (XXXI) para. (e), *supra* note 49 (1980).

^{lv} Duress in direct or indirect forms has resulted in tragic incidents of history. In 1979, Thai security forces forcibly repatriated 44,000 refugees across a mountainous precipice on the edge of Vietnamese minefields into Cambodia. Thousands died from the fall or the mines. Additionally, push-backs of Hmong refugees from Thailand to Laos reportedly resulted in shootings of the refugees by Laotian forces in 1987.

^{lvi} In 1976, the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) appealed to states “[t]o offer resettlement opportunities to those [refugees and displaced persons rescued at sea or who had come directly by sea] who had been unable to obtain permanent residence in the State of first asylum.” Conclusion No. 2 (XXVII) of the Executive Committee of the UNHCR Programme, para. (h)(ii) (1976), *reprinted in* UNHCR Doc. HCR/IP.2/Rev. 1982 (1982).

^{lvii} Report of the UN High Commissioner for Refugees to the General Assembly, 43 U.N. GAOR Supp. (No. 12, para. 118, U.N. Doc. A/43/12) (1988). Doc. HCR/IP.2/Rev. 1982 (1982).

^{lviii} M. Pack, *The Human Dimension of Longterm Encampment: Vietnamese Boat Refugees in First Asylum Camps* (1988) at 14. This report was published in Thailand with the support of the Ford Foundation (copy available at IRAC).

^{lix} This type of plan was proposed in the 1988 Pack report. See M. Pack, *supra*, note 58. The report suggests the following annual quota (p. 15):

^{lix}

^{lix} To reduce the per country figures even further, we recommend including such nations as Finland, New Zealand, Luxembourg, and the major resettlement nations—U.S., Canada, and Australia.

^{lx} One justifiable reason for refusing a resettlement offer is family reunification but, in light of the ineligibility of these long-stayers, it is likely no family connection qualifies them under traditional resettlement criteria. Even if family ties were present, such people should be able to emigrate from their country of first resettlement on family status grounds. This Conference

should provide that no bar to such emigration exists as a result of finding safe haven in the country of first resettlement.

^{lxi} Employment and Immigration Canada, Minister of Supply and Services, *Sponsoring Refugees: Facts for Canadian Groups and Organizations* (1986) at 1.

^{lxii} J. Serge, *Group Aiding Vietnamese Refugees Will Help New Wave of Boat People*, The Toronto Star, January 16, 1989, at C3. Also Charlotte Montgomery, *Groups Pleading Case of Vietnam's Refugees*, The Globe and Mail, April 26, 1989, at A9. The following discussion of private sponsorship in the text is taken in part from these articles and from IRAC's conversations with Vietnamese-Canadians involved in private sponsorship. In response to an appeal by IRAC in August 1988, the Vietnamese community in the U.S. started raising funds to support private sponsorship programs in Canada.

^{lxiii} Under the current Indochinese resettlement system of the U.S., for example, this group would include all the processing priorities reflecting connections with relatives or other associations with the U.S.

^{lxiv} For example, if a person determined not to be a refugee qualified for immigration as an unmarried sibling of a U.S. citizen, the waiting time in first asylum camp should be *at least* six years, since the current waiting time for this preference under ODP immigration is five to six years.