Annex II

Tables listing countries and territories according to their situation with regard to conscription and alternative service

General observations

1. In this annex, countries and territories about which relevant information (as reflected in annex I above) was available, have been listed according to their situation with regard to conscription and alternative service.

2. Table I contains a list of countries and territories in which there is no conscription. It should be noted that, according to the information collected, in some of the countries listed here it is possible for conscientious objectors to perform alternative labour in place of military service (Zambia), or it would be possible, if compulsory military service was introduced or re-introduced (Australia, Malta, Papua New Guinea, United States of America).

3. Table II contains a list of countries in which compulsory military service exists in law but is not enforced in practice.

4. Table III provides a list of the countries in which conscription is enforced and conscientious objection legally recognized, and in which objectors may perform a civilian and/or unarmed military service.

5. Table IV indicates those countries where conscientious objectors may perform an unarmed (non-combatant) service within the military forces. This table is divided into two categories: (a) the countries where the ability to perform such unarmed service is legally and officially recognized; (b) those where such a possibility exists only on an ad hoc or unofficial basis.

6. Finally, table V provides a list of those countries in which conscription exists and no alternative service is available to conscientious objectors.

Table I

No conscription

Australia (in peacetime)

Bahamas

Bahrain

Bangladesh

Barbados

Bhutan

Botswana

Brunei

Burundi

Cameroon

Canada

Central African Republic (except for civil servants)

Congo

Costa Rica

Dominican Republic

Gambia

Ghana

Grenada

Holy See

Hong Kong

Iceland (can be introduced in case of national danger)

India (may be introduced during times of national danger)

Indonesia

Ireland (can be introduced in case of national emergency)

Jamaica

Japan

Kenya

Lebanon

Lesotho

Liberia

Liechtenstein

Luxembourg

Malawi (compulsory call-up in case of public emergency)

Malaysia

Maldives

Malta

Table I (continued)

Mauritania
Mauritius
Monaco
Nauru
Nepal
New Zealand
Nigeria
Oman
Pakistan
Panama (in peacetime)
Papua New Guinea
Qatar
Rwanda
Samoa
Senegal
Sierra Leone
Sikkim
Somalia
Sri Lanka
Sudan
Swaziland
Tanzania
Togo
Tonga (in peacetime)
Trinidad and Tobago
Uganda
United Arab Emirates
United Kingdom
United States
Zambia
Zimbabwe

Table II

Conscription existing but not enforced

Burma

Haiti

Honduras

Ivory Coast (only imposed selectively)

Upper Volta

Zaire

Table III

Civilian and/or unarmed military service

Austria

Belgium

Denmark

Finland

France

Germany, Federal Republic of

Guyana

Israel (women)

Lebanon

Netherlands

Norway

Poland

Spain

Sri Lanka

Sweden

Table IV

Unarmed service in the military forces

(a) On a legal basis

German Democratic Republic

Greece

Portugal

South Africa

Uruguay

(b) On an ad hoc basis

Argentina

Bulgaria

Czechoslovakia

Hungary

Republic of Korea

Switzerland

USSR

Table V

Conscription without alternative service

Afghanistan
Albania
Algeria
Benin
Brazil
Cape Verde
Chile
China
Colombia
Cuba
Cyprus
Democratic People's Republic of Korea
Ecuador
Egypt
El Salvador
Equatorial Guinea
Gabon
Guatemala
Guinea
Honduras
Iran
Iraq
Israel (for men)
Ivory Coast
Mali
Mongolia
Morocco
Niger
Paraguay
Peru
Philippines
Romania
San Marino

Table V (continued)

Saudi Arabia

Singapore

Thailand

Tunisia

Turkey

Venezuela

Zambia

Annex III

Summary of available information on the question of asylum

1. As stated in the introduction to the present report, on 4 December 1981 the Secretary-General addressed a request for observations and comments on the subject of conscientious objection to military service to Governments, concerned specialized agencies, regional intergovernmental organizations and non-governmental organizations. A reminder was sent on 1 December 1982 to all those which had not yet complied with the previous request.

2. Among the replies received as of 20 June 1983, some refer to the question of asylum for persons who leave their country because of their objection to military service. A summary of replies received on this matter from Governments, concerned specialized agencies and regional intergovernmental organizations is reproduced below.

Comments from Governments

AUSTRALIA

[2 June 1982]

The question of asylum for persons who have fled their country because of their objection to military service has not been recognized.

Various moves to have an internationally agreed convention on, and definition of, asylum have not met with success. At present, Australia's view is that the power to grant asylum is a sovereign one vested in each State, which can be interpreted by each State as it wishes. In general terms, asylum is the protection that a State grants to an alien, either by allowing him to remain in its territory (territorial asylum) or by providing protection in a limited number of places under its jurisdiction, but outside its territory (extra-territorial asylum). Political asylum (which encompasses both territorial and extra-territorial asylum) is neither codified nor structured, either domestically or internationally. In effect, political asylum can be what any country wishes it to be at any time.

In these circumstances Australia would not wish to institutionalize political asylum by laying down guidelines on granting political asylum to conscientious objectors. Each case would have to be dealt with on its merits and against the background of the political situation in the asylee's homeland at the time when the application was made.

As a party to the 1951 Convention relating to the Status of Refugees, Australia is aware of the criteria under the Convention for determining refugee status on the grounds of conscientious objection to performing military service.

ECUADOR

[11 March 1983]

The right of asylum is regulated by domestic law and the international conventions in force for Ecuador.

The determination of the offence, for the purposes of granting asylum, rests with the granting State (article IV of the Inter-American Convention on Diplomatic Asylum of 1954, tenth Inter-American Conference). Political motivations may be accepted as a valid reason for application for diplomatic asylum by deserters (article III of that Convention).

EL SALVADOR

[25 March 1983]

The question of asylum for persons who have left their country on grounds of objection to military service has not been recognized.

No provision is made in our country for cases in which persons object to performing military service on grounds of conscience; exemptions from military service have been made only for family or health reasons.

Thus, it is not appropriate for El Salvador to grant the right of asylum to persons who have objected, for whatever reason, to military service and who, after failing to gain recognition of their objection, have left their country.

This position flows from the principle that implementation of the right of asylum rests with the granting State whose power to grant asylum is based on a legal and political institution for the protection and respect of fundamental human rights, inasmuch as it protects persons persecuted on political grounds or for political offences or ordinary offences connected with political offences.

El Salvador has always followed the guidelines traditionally recognized in Latin American law and has attached the greatest importance to the right of asylum. Thus, it is a party to the Convention on Diplomatic Asylum and the Convention on Territorial Asylum adopted at the tenth Inter-American Conference, held in Caracas, Venezuela, in 1954.

Consequently, asylum is not appropriate in the case of persons who refuse to discharge their obligation to perform military service, as they have not committed a political offence but rather an ordinary offence.

GREECE

[21 July 1982]

With regard to the right of asylum of conscientious objectors, we consider that article 1A. of the Geneva Convention relating to the Status of Refugees of 28 July 1951 makes no independent provision for granting the status of "refugee" or according the right of asylum to persons refusing recruitment for military service on the grounds of their religious beliefs.

MOROCCO

[22 April 1982]

The concept of conscientious objection is incompatible with the principles upon which Morocco is founded as a nation and a State.

The Kingdom of Morocco nevertheless accepts the right of asylum for persons who have committed an offence in their country involving violation of military obligations.

NEW ZEALAND

[16 February 1982]

The New Zealand Government usually considers requests for asylum in the context of the 1951 Convention and the 1966 Protocol relating to the Status of Refugees. A note on the procedures for the determination of refugee status in New Zealand has been published by the United Nations High Commissioner for Refugees (A/AC.96/Inf.152/Rev.3, paras. 99-103).

The New Zealand Government would not usually regard draft evasion in itself as sufficient grounds for the granting of refugee status. The fact that an applicant for refugee status had evaded military service in his home country would have to be assessed together with such factors as the asylum seeker's moral, political or religious beliefs, the nature of the society enforcing military service, the penalties imposed on those refusing, the nature of the military action and the international background.

SAUDI ARABIA

[17 September 1982]

Asylum to alien minorities is dealt with under the over-all policy which Saudi Arabia deems fit and in accordance with the conventions to which Saudi Arabia is a party.

SWAZILAND

[18 April 1983]

Asylum for persons who have fled their country because of their objection to military service has not been recognized. The Government's view is that asylum or safe transit to another State may be granted, in the spirit of the Declaration on Territorial Asylum, to persons compelled to leave their country of nationality solely because of a conscientious objection to assisting in the enforcement of apartheid through service in military or police force.

SYRIAN ARAB REPUBLIC

[18 March 1983]

Persons who seek asylum in Syria after having fled from their own countries because of their objection to military service are treated in accordance with the agreements concluded between Syria and the Governments of their countries.

VENEZUELA

[23 March 1983]

With regard to friendly countries with which it has signed agreements of this kind, Venezuela has always followed the custom of respecting the sovereignty of the country granting asylum in matters pertaining to the appraisal of the events that lead to a request for asylum. Should an event of this nature occur, it would be advisable to continue this procedure.

ZAMBIA

[16 July 1982]

There is no law in Zambia which caters specifically for cases of asylum for persons who have fled their country because of their objection to military service. The only piece of legislation which can broadly relate to this issue is the Refugees (Control) Act, cap. 112 of the Laws of Zambia.

Section 3 (1) of cap. 112 provides "... the Minister may declare, by Statutory Order, any class of persons who are, or prior to their entry into Zambia were, ordinarily resident outside Zambia to be refugees for the purposes of this Act."

Through Statutory Instrument 240 of 1971, the Refugees (Control) (Declaration of Refugees) order, "Persons who are, or prior to their entry into Zambia were, ordinarily resident outside Zambia and who have sought asylum in Zambia owing to well-founded fear of being persecuted for reasons of race, religion, membership of a particular social group or political opinion are declared to be refugees for the purposes of the Act".

Comments from specialized agencies

UNHCR

[15 February 1982]

Objection to military service for reasons of conscience is not a subject on which this Office, having regard ot its terms of reference, possesses comprehensive information. Conscientious objectors may however by considered as refugees and be granted asylum if they fulfil the normal criteria of refugee status i.e. if they have a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion. In applying these criteria to conscientious objectors, it should be borne in mind that fear of prosecution or punishment for objection to military service, desertion or draft evasion is not a reason for granting refugee status unless there are also elements indicating a well-founded fear of persecution under the refugee definition. Whether such elements exist must of course be determined according to the circumstances of the particular case.

With regard to persons who refuse service in military or police forces which are used to enforce apartheid, I should like to refer also to General Assembly resolution 33/165 of 20 December 1978 which, inter alia, calls upon member States to grant asylum and to consider favourably the granting to such persons of all the rights and benefits accorded to refugees under existing legal instruments.

Comments from regional intergovernmental organizations

ORGANIZATION OF AFRICAN UNITY

[11 March 1982]

We propose to discuss the question of conscientious objection to military service as it affects refugees emanating from the dependent territories of southern Africa vis-à-vis those emanating from independent Africa.

Our modest experience in refugee service in Africa reveals that a substantial number of refugees fleeing both South Africa and Namibia do so on the basis of conscientious objection to the military service obtaining in these two territories. More specifically, those who flee these territories do so mainly because (a) they do not want to be used by the obnoxious regime of South Africa to massacre their own kith and kin, and (b) they are consciously opposed to the abhorrent apartheid regime of South Africa, in all its forms.

Related to this notion of conscientious objection to military service in the dependent territories of southern Africa is the tendency of some members of the liberation movements to abandon their respective movements usually to seek asylum in other countries altogether. They do this when they no longer agree with the methods used by the rest of the members of the movement in their enduring struggle to bring the racist South African Government to its knees. The proviso is that those who forsake their movements do so not because they are no longer interested in advancing the collective aims and objectives of the movement. Rather it is a question of the approach or method for achieving these noble objectives that causes them to split with their movements.

Our office does not have substantive information indicating that conscientious objection to military service constitutes a serious issue with independent Africa.