

**ANALYSIS OF NORMATIVE DEVELOPMENTS IN
HUMANITARIAN RESOLUTIONS SINCE THE
ADOPTION OF 46/182**

**An independent review by Edward Tsui
(Consultant)**

Table of Contents

I.	Introduction.....	Page 2
II.	Methodology.....	Page 2
III.	The Changing Humanitarian Environment and Challenges.....	Page 3
	Complex Emergencies.....	Page 4
	Natural Hazards.....	Page 6
	Internal UN Processes.....	Page 7
IV.	Legislative Development since 46/182.....	Page 8
	Principles and Framework for Humanitarian Assistance.....	Page 8
	Protection of Civilians in Armed Conflicts (POC).....	Page 9
	Humanitarian Access.....	Page 11
	Internal Displacement.....	Page 11
	Safety and Security of Humanitarian Personnel.....	Page 12
	Humanitarian-Military Relations.....	Page 13
	Disaster Reduction, Preparedness and Transition.....	Page 14
	Disaster Reduction and Preparedness.....	Page 14
	Transition.....	Page 16
	Humanitarian Coordination.....	Page 17
	The Emergency Relief Coordinator.....	Page 18
	IASC.....	Page 18
	Humanitarian Financing Including the CERF.....	Page 19
	CAP.....	Page 20
	Humanitarian Coordination in the Field.....	Page 21
	Stand-by Capacity.....	Page 22
V.	Reflections and Recommendations.....	Page 23
	Moving Forward.....	Page 26

EXECUTIVE SUMMARY

The Office for the Coordination of Humanitarian Affairs (OCHA) has commissioned this study to review the normative developments legislated by United Nations intergovernmental bodies, on humanitarian assistance, since the GA adopted resolution 46/182 entitled “Strengthening of the coordination of humanitarian emergency assistance of the United Nations” in 1991.

GA resolution 46/182 articulated a framework for humanitarian assistance and a set of principles that should inform such assistance. The resolution also situated humanitarian emergency response in the context of disaster risk reduction, preparedness, recovery and subsequently development. On humanitarian coordination, 46/182 articulated the central role of the United Nations in providing leadership and coordinating the humanitarian efforts of the international community in support of the affected countries. It also made organizational arrangements and established a number of tools and mechanisms to strengthen humanitarian coordination, including the creation of the post of the Emergency Relief Coordinator (ERC) and a supporting office, the Inter-Agency Standing Committee (IASC), the Central Emergency Revolving Fund and the Consolidated Appeals.

The humanitarian environment has experienced significant changes since 46/182. The number and magnitude of emergencies, including natural hazards and conflict-related humanitarian crises, have increased steadily. Civilians are increasingly targeted in conflicts. In many instances, civilians have become part of the conflict strategy of parties, resulting not only in rising numbers of civilian casualties, but also in increased displacement. Access, which remains essential for the provision of assistance and the protection of civilians, has been a consistent challenge for the humanitarian community. There is also a steady erosion of the respect for international humanitarian laws, which resulted among other things in the increase in deliberate and violent attacks against humanitarian workers, resulting in higher fatalities. The humanitarian enterprise has expanded with the increased involvement of actors, including the military, in the provision of humanitarian assistance. Primarily on the basis of the reports of the Secretary-General, United Nations intergovernmental bodies have been trying to address the changing humanitarian environment and the challenges that have emerged from it.

The review of the legislative development of United Nations intergovernmental bodies has indicated that considerable progress has been made since 46/182. UN intergovernmental decisions were able to advance normatively on issues not addressed by 46/182 such as protection of civilians, internally displaced persons, safety and security of humanitarian personnel. Little progress however has been made on access despite being included in 46/182 and addressed repeatedly by the UN intergovernmental bodies. In the foreseeable future, the GA and ECOSOC may benefit from reviewing the implementation of the policies agreed to date on these issues. The Secretary-General could report on the constraints encountered to the General Assembly (GA) for their consideration and request their support in overcoming them.

In the area of disaster reduction and preparedness, the United Nations intergovernmental bodies have recognized the increasing relevance of the economic, social

and environmental factors, including climate change. The Hyogo Declaration and Framework for Action has provided an updated policy framework for disaster reduction and preparedness. The GA and the Economic and Social Council (ECOSOC) have also recognized the importance of supporting developing countries in strengthening their capacity in disaster reduction, preparedness and response. However, support for capacity building at the national and regional levels remains rather limited in contrast to the support provided to strengthening of international humanitarian organizations. Given the preference of disaster prone countries towards strengthening national disaster management capacity in order for them to better prepare and respond to future disasters, it is essential that the United Nations provide these countries with the necessary support as well as to promote synergy and mutual support between national, regional and international efforts. The GA should give priority consideration to this issue and mobilize the necessary donor support for disaster reduction and preparedness activities at all levels.

Transition from relief to development is one area that has witnessed the least progress, both in terms of policy and operational support from the General Assembly. To date, there is no consensus among donors on whether early recovery and reconstruction activities should be funded by humanitarian or development resources. Issues that would benefit from greater intergovernmental support: include the strengthening of in-country capacity of development organizations, the streamlining of the conditions and procedures for programming and disbursement of resources for recovery activities and establishing arrangements for adequate and predictable funding for such activities.

Humanitarian coordination is one area that benefited the most from 46/182 and subsequent decisions of the GA. The central role of the United Nations in coordinating international humanitarian assistance has now been accepted by all key humanitarian actors, leading to an improved culture of cooperation and coordination. The mandate of the ERC has benefited from a sharper focus, including advocacy, including as a result of the UN reform of 1997. The upgrading of the Central Emergency Revolving Fund and the evolution of the Consolidated Appeals process into an inclusive tool for strategic planning, have provided the ERC and OCHA an opportunity to realize the potential for humanitarian coordination as envisaged in 46/182.

Considerable progress has also been made in the financing of humanitarian assistance. The Good Humanitarian Donorship (GHD) initiative adopted by major donors in 2003 reflected the consistent call by the GA for reliable, predictable, equitable, timely and needs based funding of humanitarian assistance. At the heart of these efforts is the urgent need to improve needs assessment so that there is a credible and objective basis for the allocation and prioritization of resources. The GA should ensure that needs assessment is strengthened without further delay. It could also encourage the implementation of the GHD as well as the broadening of the participation of donors, including potential new donors in this endeavour.

There are a number of larger contextual issues that would benefit from greater intergovernmental attention. First and foremost is the question of the increase in the number and diversity of humanitarian actors and its implication for humanitarian coordination and the applicability of the guiding principles and framework as enshrined in

46/182. Secondly, accountability of the United Nations system and other actors providing humanitarian assistance. Thirdly, the changing dynamics of humanitarian assistance provided at the national, regional and international levels and its implications for the role of the United Nations.

The study concludes that OCHA is in a unique position to support the GA and the ECOSOC to advance normative developments on issues of concern. OCHA enjoys the confidence of both developed and developing countries and is responsible for providing Secretariat support for intergovernmental bodies' legislation on humanitarian coordination. OCHA should consider its support to the United Nations intergovernmental bodies, an integral component of its overall strategy to promote and facilitate a principled, effective and accountable humanitarian system. OCHA – and other relevant UN actors including ECOSOC and DESA - should work closely with governments and humanitarian partners to identify key humanitarian issues that could be usefully addressed by intergovernmental bodies in a five year time horizon and to help prepare such discussions through the reports submitted by the Secretary General to ECOSOC and the GA. OCHA could draw on the positive experiences of advancing internal displacement issues, including the establishment of a small but dedicated capacity on each of the key issues to support both field operations and the intergovernmental process.

Much has changed since 46/182, and in more ways than one, the United Nations may very well be at a turning point. Relief assistance has expanded greatly in recent years, with increased resources provided by governments as well the public and the private sectors. The international community has been witnessing a steady erosion of the respect for international humanitarian laws. The number and diversity of actors involved in humanitarian assistance has increased considerably, including the military, the private sector, contractors, and faith-based organizations. Many nongovernmental humanitarian organizations have become larger, more professional, and in some areas more effective in delivering assistance than the UN system itself. There is also a steady increase in the number of nongovernmental organizations from the developing countries, and despite being relatively small in number, retain great potential to be more responsive and effective at the national and regional contexts.

All of these considerations and developments have affected and will continue to affect the future of humanitarian assistance including coordination. What may have more far-reaching implications for the international humanitarian system is the increasing preference of developing countries to respond to disasters as much as possible using local capacities if necessary, seeking support from neighbouring countries. This trend combined with the projected increased incidence of natural hazards, dictates the need for a new approach, or the adaptation of the current approach and practice of the United Nations in humanitarian assistance. A reflection on the humanitarian future and the role of the United Nations would indeed be timely and useful.

I. Introduction

1. Seventeen years have passed since the GA adopted resolution 46/182 on the Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations. Though this resolution continues to serve as the principal framework for humanitarian assistance, subsequent deliberations and decisions of United Nations (UN) intergovernmental bodies responding to humanitarian crises and emerging challenges have articulated policies and operational directives that have, in some areas, advanced beyond the provisions of 46/182.
2. This review commissioned by the OCHA, with the financial support of the Government of Switzerland, attempts to map the normative development of key thematic issues, to analyze their development and to draw lessons on how the intergovernmental process can provide better policy guidance and operational support to future humanitarian assistance. While the GA and the ECOSOC have been seized with humanitarian assistance related issues before 46/182, including Resolution 2816 (XXVI) of 14 December 1971, that dealt with natural disasters and created the United Nations Disaster Relief Organisation (UNDRO), the present review took as a point of departure GA resolution 46/182, since it was in this resolution that the GA elaborated a comprehensive framework for humanitarian assistance.
3. The team undertaking the review was also tasked to prepare a matrix of intergovernmental decisions on humanitarian assistance since 46/182, which could serve as a reference for the international humanitarian community, as well as Member States. The matrix is a faithful compilation of language adopted by the intergovernmental bodies of the UN, organised around thematic issues of concern.
4. On the basis of this matrix, a reference guide for OCHA staff has been prepared. The reference guide provides a succinct overview of relevant intergovernmental decisions pertaining to humanitarian assistance. This could be useful for OCHA staff, particularly those in the field, to ensure that their work is better informed by these legislative decisions. The reference guide could also serve as a tool for their interaction with concerned governments and other relevant parties in strengthening a better understanding of and support for a more principled, accountable and effective humanitarian response.

II. Methodology

5. The team undertook a review of relevant decisions related to humanitarian assistance taken by the GA (the plenary, second and third committees), ECOSOC, and the Security Council (SC). The team analysed the Secretary-General's reports that were submitted to these intergovernmental bodies to better understand the context of intergovernmental decisions as well as to examine the relevance of the analysis and recommendations of the Secretary-General to these decisions. A review of consolidated appeals issued since 46/182 was also undertaken with a view to understand better the correlation between the challenges posed by humanitarian crises (particularly as reflected in field operations) and the intergovernmental decisions that attempted to address them. The team also benefited from a number of other studies of humanitarian operations and issues undertaken by academic institutions and the NGO community.

6. In addition to conducting a literature review, the team also conducted interviews with selected OCHA staff both from Headquarters and the field, as well as a number of present and past humanitarian coordinators. Interviews were also conducted with humanitarian practitioners outside of OCHA to get their perspective and advice on the intergovernmental process as well as on humanitarian issues and future challenges. The team also met with selected number of government representatives, who have been involved in intergovernmental decision-making process.

7. For the purpose of this review, including the compilation of the matrix and the preparation of the reference guide, the authors divided the humanitarian topics addressed in GA resolution 46/182 into three main areas: (i) humanitarian principles and framework; (ii) prevention, preparedness, and transition; and (iii) humanitarian coordination.

8. The matrix aims to be comprehensive and includes relevant decisions of the three Chartered bodies of the UN, namely the GA, the SC and the ECOSOC. Since UN intergovernmental bodies have a practice to reiterate key language of previous decisions in order to highlight their importance, to solidify and/or to balance legislative documents there are many instances in the matrix, where identical or similar texts are reproduced.

9. The reference guide is intended to provide a concise overview. It includes relevant decisions of the three UN intergovernmental bodies since they are all equally binding for the UN Secretariat. Similar language adopted at different times by different bodies are compared and consolidated for ease of use and to avoid repetition. The guide does not include intergovernmental decisions adopted for specific humanitarian emergencies or disasters in order to maintain the policy nature of the text. Each section is structured to display the initial focus on relevant policies followed by the operational directives of intergovernmental bodies. No attempt was made to put them in chronological order, on the understanding that intergovernmental decisions remain valid unless they are abrogated by subsequent decisions.

10. While every effort has been made to use or adhere to the exact language of intergovernmental decisions of the UN in the preparation of the guide, there are some instances where editing is needed to ensure consistency in format and presentation. The reference guide is intended to provide a clear and concise overview of the key policy decisions of the UN intergovernmental bodies. Selectivity is therefore unavoidable. In all cases, the reference guide was prepared with due respect to the original intent and spirit of the relevant intergovernmental decisions that inform it. While efforts have been made to seek the comments of OCHA colleagues on the content of the reference guide, the review team takes full responsibility for the final text presented.

III. The Changing Humanitarian Environment and Challenges

11. While GA resolution 46/182 was entitled “Strengthening of the coordination of humanitarian emergency assistance of the United Nations”, the resolution addressed issues beyond humanitarian coordination. It articulated a framework for humanitarian assistance and the principles shaping this assistance. It situated humanitarian emergency response within a spectrum of activities ranging from disaster risk reduction and preparedness, to

recovery and development. 46/182 established organisational arrangements and mechanisms for humanitarian coordination, such as the creation of the post of the Emergency Relief Coordinator (ERC) and a supporting office, namely the Inter-Agency Standing Committee (IASC), the Central Emergency Revolving Fund (CERF), and Consolidated Appeals Processes (CAPs).

12. The GA succeeded in adopting 46/182 by consensus, despite resistance of key UN humanitarian organizations. The resolution is comprehensive in scope, strategic in approach, and substantive in content. It was widely recognized as a well balanced, addressing the right of victims of complex emergencies and disasters to assistance while emphasizing the primary responsibility of the affected State to provide such assistance; balancing the need for international support and the consent of the affected State; balancing the need to strengthen emergency relief assistance and support for disaster reduction, recovery and development; and strengthening the risk management capacity of developing countries and that of international humanitarian organizations. The resolution was considered by many Member States as a compact to strengthen humanitarian assistance that should be implemented in a holistic and balanced manner.

13. Resolution 46/182 is also noted for the absence of any reference to protection of civilians, safety and security of humanitarian personnel, sexual violence and the role of military in humanitarian assistance; issues that are increasingly taking centre stage in current humanitarian debates. Internal displacement received a passing reference in 46/182. However, like all other intergovernmental decisions adopted by consensus after prolonged negotiations, 46/182 should be understood for the elements that were excluded as much as for the elements, which were successfully included. As if to compensate for existing gaps, 46/182 also instituted an annual review of humanitarian assistance by the GA through ECOSOC.

14. To some degree, subsequent intergovernmental decisions could be seen as efforts to further extend the international consensus reached in 46/182 in order to address important pending or emerging issues that affect humanitarian assistance. Since 1991, the environment for humanitarian operations has undergone profound changes. Indeed, it is the humanitarian challenges that have emerged during this period that have informed and resulted in subsequent intergovernmental decisions.

15. In the aftermath of 46/182, the GA and the ECOSOC were mainly preoccupied with ensuring the implementation and the proper functioning of the new coordination arrangements and coordination tools. UN humanitarian organizations, which had serious reservations about the new arrangements, were particularly called upon by Member States to cooperate with the Emergency Relief Coordinator. Further directives were also provided on the functioning and further development of the CERF, the consolidated appeals, and the IASC. However, disasters and emergencies continued to unfold, testing the nascent humanitarian coordination system at its very early stages.

Complex Emergencies

16. One of the major crises that confronted the international community after the adoption of 46/182 was Somalia in mid-1992. Many of the critical humanitarian challenges arising from the Somalia crisis, including access, protection of civilians, internal displacement, safety and security of humanitarian personnel and the relationship between the humanitarian, political and military actors, have continued to preoccupy the attention of the UN and its humanitarian mandates.

17. The inability of humanitarian actors to gain access in Somalia, which was then facing large scale starvation and mounting numbers of civilian deaths, led the SC to sanction a US-led military deployment in December 1992, with the objective of facilitating humanitarian assistance. While many lives were saved as a result of this intervention, the engagement of the same military operation in hunting down one of the Somali warlords resulted in a rapid loss in local communities' acceptance of this operation, and called into question the neutrality and impartiality of the humanitarian assistance associated with it. The end result was the withdrawal of the US military in 1994 followed by the UN in 1995. This searing experience has influenced the SC and contributed to a great extent to the Council's reluctance to take decisive action to intervene in the genocide in Rwanda in April 1994. It also affected the UN operation in Bosnia and the subsequent inability of the UN to prevent atrocities such as Srebrenica in July 1995.

18. These tragic events have prompted a great deal of introspection, but no consensus has emerged within the international community on how to prevent and address mass atrocities, war crimes and other gross violation of international humanitarian law and human rights law.

19. In 1999, the international community adopted two different approaches taken in Kosovo and East Timor. In East Timor, when the UN-supervised referendum was followed by violent clashes and civilians killings, the SC took prompt and effective action authorizing a multinational force. This reflected the unity of purpose and political will within the SC. Kosovo proved more difficult, the possibility that a UN-sanctioned intervention would be vetoed in the SC, led to a decision by NATO to lead a "humanitarian intervention" in March of 1999. The concerns about the legality of this intervention and its possible replication has created suspicion within many developing countries regarding the objectives of international humanitarian assistance and the political agenda driving it. The efforts by the Secretary-General at the GA that same year to achieve a consensus among Member States on "ways of deciding what action is necessary, when and by whom" with the intention to avoid massive and systematic violations of human rights did, as a result of such misgivings, not achieve any agreement. It was also not surprising that in 2000, ECOSOC could not reach a consensus on its humanitarian resolution, caused by a failure to agree on a reference to IDPs and the Guiding Principles on Internal Displacement. In the same year, the GA adopted, in the field of humanitarian affairs, a procedural resolution.

20. Somalia exemplified the type of conflict that dominated the nineties. Such conflicts were primarily intrastate and in most instances the fighting was no longer conducted solely between conventional soldiers, leading to blurring the distinctions between combatants and

civilians. The 9/11 terrorist attack and the subsequent global 'War against Terrorism' has added new dimensions to conflict. Conflict strategies have become characterised by the increased targeting of civilians by militant groups; and by military forces utilising humanitarian assistance as one of the principal means to win the hearts and minds of civilians in countries such as Iraq and Afghanistan. Such strategies have resulted in increased vulnerabilities and casualties among civilians, and a rise in war-time-phenomena such as child soldiers and sexual and gender-based violence.

21. Since the adoption of 46/182 in 1991, the challenge of better protection of civilians in conflict situations remains a key humanitarian preoccupation. This is clearly illustrated by response and attention devoted to the genocide and ethnic cleansing of Rwanda and Bosnia; to the war crimes committed in Sierra Leone and Liberia; to the high civilians casualties in Iraq and increasingly also in Afghanistan; to the still unfolding complex emergencies in Darfur-Sudan, and the Democratic Republic of Congo (DRC). These unprecedented challenges have compelled intergovernmental bodies to shift towards a more human-rights based approach in humanitarian assistance provision, while maintaining primary emphasis on relief materials and supply as reflected in 46/182. In this regard it is worth noting that the SC now considers periodically issues such as the protection of civilians, children and women. Since 1999, the SC has adopted four resolutions and six presidential statements on protection of civilians, including the adoption of an *Aide-Memoire* as a practical guide for its protection of civilians' deliberations.

22. Some complex humanitarian emergencies have provided the theatre for deliberate violent attacks against humanitarian workers. The safety and security of staff has always been an important consideration in humanitarian action. To a large extent, UN humanitarian organizations and the International Committee of the Red Cross (ICRC) depend on local populations for their safety. The United Nations and other humanitarian organizations had benefited from perceptions among local populations as neutral, impartial and independent organizations there to provide life-saving assistance. Today, humanitarian organizations face a completely new paradigm: their workers, both international and national, are being threatened and deliberately targeted in places such as Iraq, Afghanistan and Somalia. These deliberate attacks are partly caused by the change in local populations' perceptions of humanitarian assistance and actors, as impartial and neutral.

23. Perceptions of neutrality and impartiality are challenged by extremist and terrorist groups who view international humanitarian organizations as directly supporting the regimes and systems which they oppose. The engagement of military actors in humanitarian relief operations during complex emergencies further undermines these principles and has blurred the distinctions between the mandates, roles and responsibilities of military and humanitarian actors.

24. The central role assigned to the UN in the coordination of humanitarian assistance enshrined in 46/182 was perceived during a time when the UN was expected to engage actively in peace making, peace keeping and peace building. Indeed, the UN has been involved in many of the crises that have erupted since the end of the cold war. The challenge however remains how to situate UN humanitarian assistance and coordination, which should

be impartial and neutral, within the broader mandates and missions of the UN including its peace support operations. This is an issue that has evoked many opinions and studies.

25. One of the cumulative results of the changing political and security environments is the erosion of the respect for international humanitarian laws, another preoccupation of intergovernmental deliberations and decisions.

Natural Hazards

26. The past two decades have witnessed an increased incidence and severity of natural hazards. Hydro-meteorological disasters, particularly floods and storms that account for nine out of every ten recorded hazards. Current projections suggest that this trend is set to continue and that weather related hazard events will become even more frequent and volatile. Additionally, patterns of drought and desertification are intensifying. These developments, partly caused by climate change, have influenced the thinking and approach to disaster management and response among Member States, particularly disaster prone developing countries. These events challenged the status quo in the delivery and coordination of humanitarian assistance.

27. Resolution 46/182 had a primarily “scientific and technical” approach to disaster-reduction and response. Subsequent intergovernmental deliberations reflect an increasing recognition that natural hazards do not necessarily lead to disasters. Disasters result mainly from high vulnerability of population due to environmental degradation, unsound and unsustainable development practices, and unsafe settlements. Analysis and research have now proven that climate change is increasing the frequency and severity of extreme weather events, resulting in increased casualties and physical damage.

28. In 1999, developing countries decided to request a separate report from the Secretary-General on international cooperation in humanitarian assistance in the field of natural disasters, and have put forward each year since 1999 a separate resolution on this matter. This reflected the importance they attached to disaster reduction and response, to the need to strengthen their own capacity in disaster risk management and to some extent the preference of many developing countries to keep natural disaster response separate from the more “controversial” complex emergency issues.

29. The Indian Ocean Tsunami in 2004 presented a point of transformation in disaster reduction and response. The tsunami not only raised awareness about the devastation of disasters, it also highlighted the importance of effective and timely action by national authorities and international humanitarian organizations. The response galvanized financial support from traditional donors, and also from developing countries across the globe. Since then, many developing countries have attached greater importance to the strengthening of national capacities for better disaster preparedness and response. They have also intensified efforts to strengthen regional cooperation in disaster management and response. One outcome was the adoption by the Association of South East Asian Nations (ASEAN) countries of an Agreement on Disaster Management and Emergency Response in July 2005, an instrument that has proved useful in the response to Cyclone Nargis in Myanmar in 2008.

30. The response to Cyclone Nargis in Myanmar witnessed the active involvement of China, India, and Bangladesh and other ASEAN countries in providing a substantial amount of humanitarian assistance. These efforts did not receive much acknowledgement by mainstream media outlets. The response to Nargis demonstrated that timely and skilful regional level, humanitarian diplomacy backed by the international community can secure access; and the importance of a better understanding of the local population's coping mechanism, when determining the need for external assistance.

Internal UN Processes

31. Within the UN, there have been a number of policy and structural decisions that have affected humanitarian legislative development. The UN reform of 1997 which transformed the Department for Humanitarian Affairs (DHA) into the Office for the Coordination of Humanitarian Affairs (OCHA); the Brahimi report on UN Peacekeeping operations in 2000 which articulated the concept of UN integrated missions; the Millennium Summit and Declaration of 2000 that highlighted the resolve of Member States to protect the vulnerable; and the Millennium + 5 Summit and the subsequent Outcome Document of 2005 that articulated the concept of responsibility to protect and the commitment of Member States to fully implement the Hyogo Declaration and Framework for Action on Disaster Reduction.

32. The humanitarian reform initiated by the previous Under-Secretary General for Humanitarian Affairs Jan Egeland in 2005, posed questions about: the role of the GA in reform-related issues, the balance between strengthening the international humanitarian system capacities and national capacities in the field of disaster response. The system-wide humanitarian reform process was implemented to improve the effectiveness of humanitarian response by promoting greater predictability, accountability and partnerships. This effort resulted in the adoption of a cluster approach for better response to key humanitarian requirements, as well as measures to strengthen humanitarian financing and the humanitarian coordinator system. The reform was executed relatively quickly and received positive feedback from humanitarian and government practitioners. In contrast, at the UN intergovernmental level some developing countries viewed the reform as an example of the continuous efforts to strengthen the international humanitarian system without commensurate efforts to strengthen national response capacity. They were of the view that during the last 20 years more resources have been devoted to the strengthening of the international humanitarian system than to building capacity of the developing countries. They also felt that the process was undertaken without sufficient consultations with Member States, who remain the primary actor responsible for the coordination and provision of humanitarian assistance at the country level, as envisaged in 46/182.

IV. Legislative Development Since 46/182

Principles and Framework for Humanitarian Assistance

33. GA resolution 46/182 articulated clearly the guiding principles for humanitarian assistance and established a framework for this assistance. The principles underlined that humanitarian assistance is of cardinal importance for the victims of natural disasters and

other emergencies and that such assistance must be provided in accordance with the principles of humanity, neutrality and impartiality. The framework for humanitarian assistance, while not labelled as such but well articulated in 46/182, consists of the following five key components:

- The right of victims to humanitarian assistance,
- The primary responsibility of the concerned State to provide such assistance,
- International support if the disaster/emergency is beyond the capacity of the State,
- Such international support is to be provided on the basis of consent of/or request from the State, which would then have the responsibility to facilitate such assistance, and
- The applicability of the guiding principles - as laid down in 46/182 - and International Humanitarian Laws (IHL) on all actors involved in humanitarian assistance.

34. The legislative process has advanced two significant developments to the guiding principles found in GA Resolution 46/182. Firstly, is the addition of the principle of independence, defined as the autonomy of humanitarian objectives from the political, economic, military or other objectives, into the guiding principles for humanitarian assistance. Secondly, is the request addressed to the Secretary-General to ensure that the design and implementation of UN integrated missions takes into account the guiding principles for humanitarian assistance, and to fully associate the ERC from the earliest stages of the planning of UN peacekeeping and other relevant missions. In this regard, it should be noted that the Secretary-General issued a Guidance Note on Integrated Missions in February 2006. OCHA is currently developing a doctrine to strategically and coherently engage with peace support operations without jeopardising humanitarian organisations independence, impartiality, neutrality and strictly civilian nature. UN inter-governmental processes could be called upon by the international humanitarian community to address this rising concern through measures that safeguard humanitarian organisation's independence and impartiality, while ensuring that both military and civilian humanitarian workers are able to engage in a strategic and mutually supportive manner.

35. While the overall framework for humanitarian assistance has not changed, the ECOSOC and the GA in 2008 took an important step forward in promoting international disaster relief assistance when it encouraged "*Member States and, where applicable, regional organizations to strengthen operational and legal frameworks for international disaster relief, taking into account, as appropriate, the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, adopted at the thirtieth International Conference of the Red Cross and Red Crescent in November 2007.*" These guidelines draw from existing international instruments, including GA resolution 46/182 and the Hyogo Framework for Action of 2005. The UN should pursue this initiative, particularly OCHA which should collaborate with the International Federation for the Red Cross & Red Crescent Societies (IFRC) in supporting relevant Member States in this regard. In promoting

international disaster relief efforts, OCHA and other international actors may wish to draw upon some of the experiences of the Representative of the Secretary-General on Internal Displacement in supporting Member States develop domestic legislation to address challenges related to IDPs.

Protection of Civilians in Armed Conflicts (POC)

36. While 46/182 did not have any references to protection, considerable progress has been made by UN intergovernmental bodies, particularly the SC, in their deliberations and decisions on the protection of civilians in armed conflicts. The obligations of States and parties to armed conflicts to protect civilians under international humanitarian law, human rights law and refugee law were repeatedly stressed and underlined by the SC and warring parties were constantly being called upon to provide such protection. States were asked to adopt preventive measures, effectively investigate and prosecute acts of violence intentionally directed against civilians, including gender-based and sexual violence. The Council invited Member States to promote a culture of protection, taking into account the particular needs of women, children, older persons, and persons with disabilities.

37. The GA and the SC devoted increased attention to protection issues relating to women and children and have recognized that all humanitarian emergencies have gender and age specific dimensions. Parties to armed conflicts were called upon to respect fully international law applicable to the rights and protection of women and girls. Member States and relevant organizations were requested to strengthen support services to victims of such violence. The UN was asked to integrate a gender perspective into the planning and implementation of humanitarian assistance activities and into prevention and recovery strategies. The UN was urged to take appropriate action in response to allegations of sexual violence and exploitation by humanitarian workers; to make systematic, concerted and comprehensive efforts on behalf of children during immediate emergency assistance and long-term programming. In pursuance of these intergovernmental decisions, the Secretary-General promulgated special measures for protection from sexual exploitation and sexual abuse in 2003, as well as policies on prevention of workplace harassment, sexual harassment and abuse of authority in 2005 and 2008.

38. Bearing in mind its responsibility to maintain international peace and security, in its 2000 resolution on protection of civilians, the SC expressed its readiness to respond to situations of armed conflict where civilians are being targeted or humanitarian assistance is being deliberately obstructed.

39. The Millennium Summit + 5's outcome document highlighted the responsibility of the international community, through the UN, to use appropriate diplomatic, humanitarian and other peaceful means, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. It also expressed its readiness to take collective action through the SC, in accordance with the Charter, including Chapter VII, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

40. To date, UN intergovernmental bodies have focused primarily in establishing and promoting a policy framework for addressing protection of civilians' issues through articulating the responsibilities and obligations of States and parties to armed conflicts and by calling upon warring parties to refrain from violating individual rights. The GA and the SC could consider additional focus during the next few years, on the implementation of these decisions in humanitarian emergencies where protection of civilians is an integral part of the humanitarian programmes. The GA may consider mandating the Secretary-General and the ERC to engage in dialogue with concerned governments and as appropriate with parties to armed conflicts in implementing these policies. The UN should be encouraged to support governments in strengthening their domestic legislation on protection of civilians, including the prevention and prosecution of sexual and gender violence. In doing so, the UN could draw on the cooperation and support of relevant regional organizations.

Humanitarian Access

41. An important prerequisite for the protection of civilians in particular and humanitarian assistance in general, is the need for humanitarian access. As ECOSOC stated in 2003, reaching the vulnerable is essential for providing adequate protection and assistance in the context of natural disasters and complex emergencies as well as for strengthening local capacity to cope with humanitarian needs. 46/182 recognized the importance of access and highlighted the responsibility of the ERC to actively facilitate access, for humanitarian organizations, by obtaining the consent of all parties concerned. Since 46/182, UN intergovernmental bodies have repeatedly addressed the question of access and called upon all governments and parties in complex humanitarian emergencies, particularly in armed conflicts, to cooperate fully with the UN and other humanitarian organizations, to ensure the safe and unhindered access of humanitarian personnel and supplies.

42. The linkages drawn between access and thorny issues such as the 'responsibility to protect' and 'humanitarian interventionism', has rendered intergovernmental negotiations on the issue of access quite difficult. This is further compounded with the need for balancing respect for national sovereignty and the need for timely access. Since 46/182, intergovernmental decisions on access focused primarily on urging concerned States and parties to conflicts to facilitate such access. However, intergovernmental discussions have not yet delved into a detailed examination of the operational complexities associated with access, some of which are not State related. It may be useful for the GA and/or the ECOSOC, in the near future to have an informed discussion on the basis of case studies that illustrate operationally the problems and constraints encountered by humanitarian organizations in reaching affected populations. Such a discussion could benefit Member States towards gaining a better appreciation of the constraints faced by humanitarian organizations, and generate a discussion about the specific steps that could and should be undertaken by the concerned parties in humanitarian emergencies to facilitate access. In this regard, the ERC could also share his experiences, including negotiations with concerned parties.

43. While many of the intergovernmental decisions focused on the responsibility of States and parties to conflicts to protect and provide access, there remains no system to implement these decisions, nor a mechanism to systematically engage relevant officials of affected states and other concerned actors of countries with humanitarian emergencies on access. In most

cases, UN field staff were not systematically advised of such intergovernmental decisions and how to utilize them to facilitate their discussions with concerned parties.

Internal Displacement

44. Resolution 46/182 expressed deep concern about the suffering of the victims of mass displacement, but it did not lay down any policies relating to internal displacement. Since the adoption of 46/182, the GA has addressed the plight of internally displaced persons (IDPs) on a periodic basis in its Third Committee.

45. Internal displacement was the issue that prevented Member States to reach a consensus resolution in 2000. Currently displacement has made most progress -compared to the other thematic issues examined in this document - in gaining international acceptance and recognition in subsequent intergovernmental decisions. The GA has called upon Governments to provide protection and assistance to internally displaced persons, and to facilitate the efforts of humanitarian organizations, including by improving access to IDPs. In 2003, the Guiding Principles on Internal Displacement were recognized by the GA as an important international framework for the protection of internal displaced persons. The GA encouraged all relevant actors to make use of the Guiding Principles when dealing with situations of internal displacement. Member States with internally displaced persons were encouraged to develop, implement or strengthen domestic legislation and policies dealing with all stages of displacement, taking into account the Guiding Principles. To date more than 15 countries have put in place domestic legislation on internal displacement.

46. The need to address the specific protection and assistance needs of IDPs in natural disasters as well as in peace processes was underlined by the GA in 2005 and in subsequent years. In 2006, the IASC published operational guidelines on protecting persons affected by natural disasters. The guidelines on human rights and natural disasters aim to ensure that humanitarian workers supporting natural disaster response are informed on how to protect the rights of affected communities. In the 2008 GA natural disasters deliberations any attempt to acknowledge these guidelines, which were mentioned in the relevant SG report on natural disasters, was blocked by a group of concerned G77 & CHINA Member States. These delegations cited concerns with the human rights remit of the guidelines.

47. The GA emphasized the central role of the ERC for inter-agency coordination of protection and assistance to IDPs. The GA also commended the catalytic role of the Representative of the Secretary-General on Internal Displacement in raising awareness about the plight of IDPs, in his continued dialogue with governments, and in promoting the mainstreaming of the human rights of internally displaced persons into all relevant parts of the UN system.

48. Indeed lessons can be drawn from the legislative and normative advancements achieved on displacement. The success of the GA can be explained by the following:

(a) the support of a small but dedicated Secretariat capacity on internal displacement headed by the Representative of the Secretary-General;

(b) the issue was first addressed by a specialized body, namely the Commission on Human Rights, with the GA being able to benefit from its technical views and recommendations;

(c) the issue is addressed in the Third Committee as a stand-alone item, and thereby less subjective to concerns of “balances” as in the omnibus resolution on humanitarian coordination;

(d) linking the policy discussion and decision of the GA with the implementation at the country and operational level.

These measures provide valuable food for thought, particular when attempting to advance normatively on issues such as access.

Safety and Security of Humanitarian Personnel

49. Safety and security of humanitarian personnel is currently one of the most predominant concerns of the international humanitarian community. The issue was not addressed in 46/182, but was the subject of many subsequent intergovernmental discussions and decisions. The increasing number of deliberate and violent attacks against humanitarian workers has led the GA – since 1996 - to adopt a separate annual resolution on this topic.

50. On safety and security of humanitarian personnel, intergovernmental decisions have focused on urging governments and parties to conflicts to take the necessary measures to ensure the safety and security of humanitarian workers. The GA reiterated that attacks intentionally directed against personnel involved in humanitarian or peacekeeping missions are considered, according to the Rome Statute of the International Criminal Court, war crimes. States are urged to take strong actions to ensure that any threat or act of violence committed against humanitarian personnel in their territory is investigated fully and to ensure that the perpetrators of such acts are brought to justice.

51. At the same time, the Secretary-General was asked to take the necessary measures to ensure that security matters are an integral part of the planning for existing and newly mandated UN operations and that such precautions extend to all UN and its associated personnel. The Secretary-General was also urged to ensure that the UN operates in conformity with the minimum operating security standards and relevant codes of conduct, that urge respect for local customs, traditions, and practices while upholding UN core values of integrity, professionalism and respect for diversity.

52. In spite of all these notable efforts and support, the GA has yet to find an effective way to address the increased violent attacks and higher casualties among humanitarian personnel in complex emergencies. Concurrently, humanitarian organizations must find ways to operate in such environment that obliges the imperative of providing assistance for the need and the need for effective security and risk management.

Humanitarian-Military Relations

53. When 46/182 was adopted, the roles of the military and humanitarian organizations were relatively distinct, particularly within the UN context. During the Cold War period, the provision of humanitarian assistance was often the only viable role that the UN could meaningfully undertake. It is therefore not surprising that 46/182 made no reference to this issue.

54. With the military playing an increasingly active role in humanitarian assistance, particularly in the context of natural disasters, the GA and ECOSOC have addressed military engagement in humanitarian assistance on a number of occasions, the most recent being the ECOSOC resolution of 2008.

55. The GA emphasized the civilian character of humanitarian assistance and the leading role of civilian organizations in planning, implementing and assessing humanitarian operations. In situations where military capacity and assets are used, their use should be in conformity with international law, including international humanitarian law and the humanitarian principles. In this context, the value of the use of the 2003 Oslo guidelines was stressed. In this regard, it should be noted that the IASC has also adopted guidelines on Civil-Military relationships in complex emergencies and natural disasters, as well as guidance on the use of military and armed escorts.

56. Appreciating the increase in the frequency and magnitude of natural disasters as well as the potential and actual role played by the military in providing emergency assistance, the GA encouraged the Secretary-General to develop more systematic links with Member States offering military assets for natural disaster response, in order to improve predictability and use of these assets. The independent study on the use of foreign military assets in disaster relief - commissioned by OCHA based on request by ECOSOC in 2006 - was noted with interest by ECOSOC in 2008. Given the increasing use of the military in large-scale sudden onset disasters, it is most likely that this issue will continue to attract the attention of UN intergovernmental bodies.

57. On multidimensional integrated peacekeeping missions, the Secretary-General was called upon, by the GA in 2004, to ensure that such operations respect the need for humanitarian activities to be carried out in accordance with the humanitarian principles of humanity, neutrality, impartiality and independence.

58. Intergovernmental bodies are yet to address the issue of the engagement of military actors in the provision of humanitarian assistance in conflict situations, including in situations where the military is a party to the conflict. There remains a need for intergovernmental endorsed policy and guidance on the use of military assets in the provision of humanitarian assistance during complex emergencies. The policy should articulate the degree of engagement and conduct, as well as the relationship with humanitarian actors.

Disaster Reduction, Preparedness and Transition

59. Resolution 46/182 strategically situated humanitarian assistance in the broader context of disaster reduction and preparedness, and linked it to subsequent recovery and

development. While disaster reduction pertains primarily to natural disasters, preparedness and transition are critical for disasters and conflict-related emergencies.

60. With the increasing frequency and magnitude of natural disasters as well as the expectations of local populations, it is imperative for developing countries to continue strengthening their own disaster management capacity in order to prepare and respond in a timely manner to future disasters. Past experiences have demonstrated these countries, prefer to seek immediate assistance from neighbour states, because of their relative proximity and their understanding of the political, social, cultural and geographic characteristics of the country in need.

Disaster Reduction and Preparedness

61. The GA acknowledged in 46/182 that to reduce the impact of disasters there should be increased awareness of the need for establishing mitigation strategies, particularly in disaster-prone countries. It also acknowledged the need for greater exchange and dissemination of existing and new technical information related to the assessment, prediction and mitigation of disasters as well as intensified efforts to develop measures for prevention and mitigation through programmes of technical assistance.

62. Subsequent to 46/182, the GA recognized that States have the primary responsibility to take effective measures to reduce disaster risk, and called upon States to fully integrate disaster risk reduction strategies into all relevant legal, policy and planning instruments, as appropriate. Governments were also called upon to establish and strengthen national platforms or focal points for disaster reduction.

63. Further resolutions and decisions repeatedly sought to reflect the highly cooperative and holistic nature of effective disaster reduction. In this context, the GA acknowledged the important role of the inter-agency secretariat for the International Strategy for Disaster Reduction (ISDR) in strengthening the coordination of national emergency response agencies in natural disasters and advancing the implementation of provisions of vulnerability, risk assessment and disaster management.¹ Relevant organizations of the UN system were called upon to strengthen local, national and regional capacities in disaster prevention, and management mitigation, and where necessary to cooperate with regional organizations to increase the capacity of those organizations to respond to natural disasters.

64. The GA views reducing the vulnerability of societies to natural hazards through sustainable measures as vital, and in this regard the GA recommended that disaster reduction, including disaster risk analysis and vulnerability reduction should form an integral part of sustainable development strategies and be considered in the development plans of disaster prone countries. In this regard, the international community was encouraged to systematically invest in disaster risk reduction and to provide adequate voluntary financial contributions to the UN Trust Fund for Disaster Reduction.

¹ As contained in the Johannesburg Plan of Implementation adopted at the World Summit on Sustainable Development.

65. In 46/182, the GA stated that the international community should adequately assist developing countries in strengthening their capacity in disaster prevention and mitigation, both at the national and regional levels. It further held that international relief assistance should supplement national efforts by improving developing countries' capacities to mitigate the effects of natural disasters and to cope efficiently with all emergencies. Finally, 46/182 stated that early-warning information should be made available particularly to affected or disaster-prone countries and that the capacity of such countries to receive, use and disseminate this information should be strengthened. In this connection, the GA urged the international community to assist these countries with the establishment and enhancement of national early-warning systems.

66. The decisions and resolutions of UN intergovernmental bodies after 46/182 emphasized that prevention, preparedness and contingency planning were critical for an effective response to all emergencies. UN country teams and Governments were called upon to promote contingency planning for possible risks related to complex emergencies or natural disasters. The GA also acknowledged that disaster preparedness and early warning systems must be strengthened at the country and regional levels. At the field level, the GA called upon the resident coordinator and relevant agencies to improve response preparedness and capacity-building, including by maintaining a dialogue with all major actors before, during and after disasters.

67. While much has been done at the international level in strengthening the capacity of the UN and its humanitarian organizations, support for the capacity building of developing countries has been limited, in spite of the repeated calls by the GA. While the GA has established clear mechanisms for the financing of disaster and emergency responses, such as the CERF and the CAPs, no similar arrangements were made either in 46/182 or thereafter for financing national level preparedness and response capacities.

68. Without specific arrangements being put in place, donors' funding for disaster reduction and preparedness has been relatively poor. Even with the increased attention and commitment after Hyogo, the resources provided remain meagre and insufficient in comparison to the resources devoted to humanitarian response to disasters and emergencies. Funding for disaster reduction and preparedness has never had the allure, "urgency" and the political support available to humanitarian assistance. Additionally, there is no agreement among donors on whether financial support for disaster reduction should come from humanitarian or development resources.

69. At the institutional level the GA has stated the need for an integrated, multi-hazard and participatory approach in addressing vulnerability, risk assessment and disaster prevention, mitigation, preparedness and response. In most disaster prone countries reduction, preparedness and response are often addressed by a single disaster management structure. The UN has three separate entities dealing with disaster management: OCHA on response, the United Nations Development Programme (UNDP) on mitigation and preparedness and the ISDR Secretariat on prevention and reduction. This has undermined the development of a holistic UN disaster risk management approach and has fragmented UN support for disaster prone countries. The GA has on a number of occasions called for better

coordination and cooperation among the three entities, including the co-location of their regional presence.

70. In the context of an integrated disaster risk management, contingency planning is recognized as a critical instrument for preparedness and for a timely and effective response to natural disasters and other emergencies. While progress has been made on methodology and its implementation at the international level, additional efforts are required to improve the planning at the country level as requested by 46/182 and a number of subsequent GA decisions. This is a vital role for the UN, particularly if the organisation whichs to remain relevant to disasters response in the future.

Transition

71. The GA acknowledged that many emergencies reflect an underlying crisis in development. Resolution 46/182 stated that in order to ensure a smooth transition from relief to rehabilitation and development, emergency assistance should be provided in ways that will be supportive of recovery and long-term development. Humanitarian assistance should therefore be accompanied by a renewal of commitment to economic growth and sustainable development. In this context, adequate resources must be made to address the development problems faced by some countries. In response to concerns over limited funding, the GA stated that contributions for humanitarian assistance should not be to the detriment of resources made available for international cooperation for development.

72. Following 46/182, the UN's intergovernmental bodies worked to increase cooperation amongst actors involved in the transition from relief to development. Member States, relevant humanitarian and development organizations of the UN system together with the Bretton Woods institutions, regional commissions, and non-governmental organizations were called upon to work towards greater alignment of their planning systems, resource mobilization tools and coordination processes. Relevant actors were also encouraged to enhance the global capacity for sustainable post-disaster recovery. States were encouraged to support the development and implementation of the 4Rs (repatriation, reintegration, rehabilitation and reconstruction) and of other programming tools. Developing countries were increasingly seen by the UN intergovernmental bodies to be active contributors to solutions for early rehabilitation. Similar to the area of effective preparedness, UN intergovernmental bodies emphasized that existing local capacities should be integrated in planning and rehabilitation.

73. The GA and the ECOSOC address transition every year, with little progress achieved at the policy and operational levels. At the policy level, the accepted doctrine is that relief and recovery are not linear. There is a need to involve development agencies as early as possible, and that humanitarian organizations should take into account recovery considerations in the planning and implementation of humanitarian assistance. Despite an attempt by the Secretary-General in 2005, to address this policy gap, little has been achieved at the intergovernmental level to address country specific 'transition' circumstances including the existence of a viable peace agreement, legitimacy of the local government, its capacity, and the contribution of local actors. Local transitional contexts require different approaches and

strategies to ensure accountable and effective implementation for the benefit of the affected population.

74. The international community must address two outstanding constraints in relation to early recovery and transition. The first pertains to the capacity of international development organizations, particularly their – in some cases - their in-country capacity, and the procedure and conditions relating to development programming and disbursement. Though some progress has been made in recent years, development organizations are still thin and/or slow in establishing themselves on the ground. The procedures and conditions for the design and implementation of recovery activities remain too cumbersome to ensure timely response.

75. The other key constraint is funding. The recovery component of the CAP is consistently the least funded. Even today, there is no consensus among donors whether recovery should be funded from the humanitarian or development budgets, with corresponding implications for conditionality and procedures for disbursement. The establishment of the Peace-Building Fund has gone some way to address this constraint; however the use of the Fund is limited to a few countries with peace agreements in place and is not designed for quick disbursement for early recovery activities. Recently some donors have begun to consider the desirability of establishing a fund for recovery, but there seem to be diverging views on the desirability of setting up yet another global fund. Regardless whether there should be separate funding, the question of how to ensure adequate and sustainable funding for early recovery activities should be addressed and resolved by the GA as soon as possible.

Humanitarian Coordination

76. The main focus of 46/182, as reflected in the title of the resolution, is strengthening the coordination of humanitarian emergency assistance of the UN. The resolution clearly stated that the UN has a central and unique role in providing leadership and coordination of the international community efforts to support affected countries. 46/182 further stated that the UN should ensure the prompt and smooth delivery of relief assistance in full respect of the humanitarian guiding principles of humanity, neutrality and impartiality.

77. In order to strengthen the role of the UN in coordination, 46/182 established the post of the Emergency Relief Coordinator and a number of tools and mechanisms for coordination, including the IASC, CAPs and the Central Emergency Revolving Fund.

The Emergency Relief Coordinator

78. Resolution 46/182 elaborated in detail the functions and responsibilities of the ERC, including maintaining an overview of all emergencies with a view to coordinating and facilitating humanitarian assistance; organizing needs-assessment missions and preparing consolidated appeals and periodic situation reports; actively facilitating access, including through negotiation if needed; managing the Central Emergency Revolving Fund and assisting in the mobilization of resources; serving as a central focal point with Governments and intergovernmental and non-governmental organizations concerning emergency relief

operations, and when necessary mobilizing their emergency relief capacities; providing consolidated information; and actively promoting the transition from relief to development.

79. After 46/182, resolutions and decisions mainly focused on ensuring that the ERC had the necessary financial, staff, and the support of the various humanitarian organisations in discharging his role and mandate. As part of the UN reform of 1997, the GA endorsed the proposal of the Secretary-General that the ERC should focus on three core functions: policy development and coordination in support of the Secretary-General, including protection and assistance for internally displaced persons; advocacy of humanitarian issues with political organs, notably the SC; and coordination of humanitarian response by ensuring that appropriate response mechanism is established on the ground. The GA in 2001 further emphasized the ERC's central role for the inter-agency coordination of protection of and assistance to internally displaced persons.

IASC

80. Resolution 46/182 defined the IASC's role as key in coordination both within the UN and between the UN and NGOs. 46/182 states that an inter-agency standing committee was to be established under the chairmanship of the ERC with the participation of all operational organizations and with a standing invitation to the ICRC, the League of Red Cross and Red Crescent Societies and the International Organisation for Migration (IOM). Other non-governmental organizations could be invited on an ad hoc basis. Since the adoption of 46/182, the GA had on a number of occasions decided to expand the membership of the IASC, a reflection of its acknowledgement that there have been an increasing number of actors in the field of humanitarian assistance.

81. Subsequent to 46/182, UN intergovernmental bodies held that the IASC should serve as the primary mechanism for inter-agency coordination of humanitarian assistance policy. Under the overall leadership and coordination of the ERC, it should provide recommendations on issues related to field coordination, develop options and proposals to further define operational responsibilities between its members, and strengthen its work in priority setting and formulation of coherent humanitarian strategies. Since ensuring an overall accountability of humanitarian actors is important, the IASC was tasked to develop a field-based system for strategic monitoring that could help assess how programme targets and strategic objectives are being met.

82. Resolution 46/182 stated that the IASC should meet as soon as possible in response to emergencies. The IASC meets only a few times each year, and is not organized to be immediately responsive to many emergencies, particularly sudden-onset disasters. Partly because of this fact, coordination mechanisms such as the Executive Committee for Humanitarian Affairs (ECHA) were subsequently utilized to address urgent operational issues in humanitarian crises. NGOs are not members of ECHA and have therefore reservations about such arrangements, which would deprive them of opportunities to influence the UN in the formulation of policies and strategies relating to humanitarian emergencies.

83. Over the years, IASC membership has increased and more meetings are now convened at the working levels to address technical issues, such as early warning and contingency planning, civil-military relationship, sexual abuse, and the implementation of the humanitarian reform. Rather than a mechanism to formulate interagency strategy and operational plans to deal with emerging crises as envisaged in 46/182, over the years, the IASC has become quite useful in addressing broad humanitarian policy issues,

84. Given the increasingly important role of NGOs in the provision of humanitarian assistance, the question of how to engage them in humanitarian coordination has become even more pertinent. In 2007, the IASC has decided to increase the participation of the NGOs. However, NGOs, together with ICRC and IFRC, continue to participate only as invitees, and IASC decisions are not binding to them. Humanitarian coordination efforts led by the UN remain significantly challenged by the lack of systematic engagement of NGOs in the implementation of the IASC decisions.

Humanitarian Financing Including the Central Emergency Response Fund (CERF)

85. Resolution 46/182 underlined the importance of international support, including financial support for humanitarian activities. It recognized that the inadequacy of such resources posed a major constraint to an effective UN response to humanitarian emergencies and agreed that the UN system needed to be provided with resources commensurate with its needs. 46/182 also stated that contributions for humanitarian assistance should not be to the detriment of resources allocated to development programmes.

86. In the context of strengthening developing countries disaster prevention and mitigation capacities - at the national and regional levels - 46/182 encouraged the international community to support to programmes and activities to further the goals of the International Decade for Natural Disaster Reduction (IDNDR). It called on donors to provide sufficient resources to UN organisations involved in prevention of emergencies. Resolution 46/182 recognized the need for a central funding mechanism that ensures the provision of adequate resources in the initial phase of emergencies. The Central Emergency Revolving Fund was established as a cash flow mechanism to ensure a rapid and coordinated financial response to humanitarian emergencies. The fund would be managed by the ERC. Beginning with 50 million US dollars, the fund was established with voluntary contributions. Resources are to be advanced to the operational organizations of the system on the understanding that they would reimburse the fund in the first instance from the voluntary contributions received in response to consolidated appeals.

87. Since 46/182 the GA and the ECOSOC have repeatedly addressed the important issue of financing for humanitarian assistance. Their resolutions encouraged the donor community to provide assistance proportionate to needs assessments, to ensure equitable coverage of all humanitarian sectors and emergencies. Donors were also encouraged to establish reliable, predictable and timely funding flows and to increase the flexibility of funds. Donors were urged to ensure that financing of high-profile emergencies does not affect low-profile emergency appeals, inter alia, by making efforts to increase the overall levels of humanitarian assistance. Donors were further encouraged to harmonize reporting requirements, based on UN standards for financial reporting. The GA requested the ERC to

develop a global humanitarian financial tracking system in order to improve coordination and accountability. Subsequently, donors were encouraged to strengthen their reporting to the financial tracking system.

88. Donors have responded well to calls the UN and the broader humanitarian community for more principled and responsible assistance. In 2003, 15 key donors met and adopted “23 Principles and Good Practice of Humanitarian Donorship” (GHD). The GHD participants agreed that the objectives of humanitarian action are: to save lives, alleviate suffering and maintain human dignity during and in the aftermath of humanitarian crises. The GHD committed to prevent and strengthen preparedness natural hazards; and to strengthen the capacity of affected countries and local communities to prevent and respond to humanitarian crises. While stressing the importance of funding according to needs, the GHD also recognized the need for flexible and predictable funding and the reduction of earmarking. The GA welcomed the GHD initiative and encouraged donors to continue to improve their policies and practices of good donorship under this initiative.

89. In 2005, the GA upgraded the revolving fund into a Central Emergency Response Fund (CERF) by adding a grant window, while retaining the revolving window with a total target of 500 million dollars. In order to provide flexible funding arrangements at the country level, a number of donors also agreed to establish pool-funding arrangements for a number of emergencies. The GA and the ECOSOC encouraged Member States to make contributions to humanitarian funding mechanisms, including consolidated and flash appeals, the CERF and other funds, recognizing the importance of providing humanitarian assistance in a manner that is flexible, predictable and, where possible, multi-year and additional. The support for the upgraded CERF from an increasing number of developing countries - over one hundred countries - has demonstrated the importance of the principle of international solidarity in humanitarian assistance, and the potential of developing countries as donors.

90. While progress has been made in humanitarian financing, much more can be done in the systematic implementation of the GHD and in broadening the to include potential new donors. Greater efforts should also be made to the provision of support for disaster prevention and preparedness as well as in strengthening the capacity of affected countries and local communities in this regard. This would generate more support to humanitarian assistance, transforming it into a truly common endeavour of the international community.

CAP

91. Resolution 46/182 stipulated that for emergencies requiring a coordinated response, an initial consolidated appeal covering the needs of all concerned organizations of the system and prepared in consultation with the affected state should be issued within the shortest possible time, within one week at the most. In cases of prolonged emergencies, the initial appeal should be updated. The appeals are to be prepared on the basis of a joint inter-agency needs-assessments. 46/182 encouraged potential donors to adopt necessary measures to increase and expedite their contributions to the UN system in response to consolidated appeals.

92. Since 46/182, intergovernmental bodies have tried to transform the CAP into a more strategic document based on sound needs assessments. The GA held that the CAP should be a key component of a comprehensive strategy that addressed immediate humanitarian needs, and is compatible with longer-term rehabilitation and development requirements. The GA also called for CAPs to be developed at field level with the active participation of the host Government, the resident coordinator and field representatives of UN organizations, donors and non-governmental organizations. Donors were called upon by the GA repeatedly, to address imbalances in the funding of consolidated appeals. While there has been progress in the overall response to consolidated appeals, more donor support can be mobilised through the strengthening of needs-based assessments. .

93. Accurate and timely assessment of needs is critical to the usefulness and credibility of CAPs. UN intergovernmental bodies have consistently called upon the UN system, in consultation with Member States, to: develop common mechanisms to improve the quality, transparency and reliability of humanitarian needs assessments; to strengthen assessments of their performance; to ensure the most effective use of humanitarian resources; and to improve data on beneficiaries. Relevant UN entities were also called upon to cooperate towards more effective prioritization of needs. While the IASC has been seized with this question for sometime, progress has been slow. OCHA should take the lead towards accelerating the system's progress towards strengthening needs assessments, and should consider in the near future submitting a report to the GA on this issue, with concrete recommendations on the way forward.

94. Humanitarian actors including Member States are yet to resolve the issue of whether the CAP should be extended to the different phases of recovery. While the UN has been including early recovery activities in most of the CAPs issued, these activities remain one of the least funded sectors. There is no consensus still among donors on this question – a subject matter that would benefit from further examination by the GA.

Humanitarian Coordination in the Field

95. Resolution 46/182 outlines the responsibilities of the resident coordinator as follows: to coordinate the humanitarian assistance of the UN system at the country level; facilitate the preparedness of the UN system; assist in a speedy transition from relief to development; promote the use of all locally or regionally available relief capacities;; and chair an emergency operations group of field representatives and experts from the system. While acknowledging that in some instances, there may be a need to appoint a special coordinator for humanitarian assistance, the GA repeatedly emphasized that the UN Resident Coordinator and the Disaster Management Team should continue to be the primary actors responsible for coordinating the international humanitarian response.

96. The GA on many occasions expressed the need for a more effective, coherent and better performing UN country presence, with a strengthened role for the senior UN resident official responsible for the coordination of UN humanitarian assistance, including appropriate authority, resources and accountability. OCHA was tasked to ensure that the office of the in-country coordinator is adequately staffed and supported. UN agencies were requested to provide financial, staff and other resources in support of these offices.

97. As recently as 2008, the GA reiterated its request to the Secretary-General to strengthen the support provided to the resident/humanitarian coordinators and to UN country teams, including through the provision of necessary training, the identification of resources, and improving the identification, selection and training of resident/humanitarian coordinators to ensure their ability to respond to the full range of humanitarian issues including protection needs. It should be noted that the strengthening of the humanitarian coordinator system is one of the key components of the humanitarian reform of 2005 and steady progress has been made since then.

Stand-by Capacity

98. Resolution 46/182 stipulated that the UN should establish a central register of all specialized personnel, relief supplies and services available within the UN system, from Governments and non-governmental organizations that could be mobilised at short notice by the UN. The UN was tasked to make appropriate arrangements with interested Governments and intergovernmental and non-governmental organizations to enable it to have expeditious access, to their emergency relief capacities, including food reserves, emergency stockpiles and personnel, as well as logistic support. The Central Registry did not enjoy widespread participation, and has been put aside in favour of more targeted arrangements, such as the International Humanitarian Partnership (IHP), which remains a far cry from the centralized database envisioned by 46/182. The IHP can and should be extended more vigorously, to developing countries.

99. Since the adoption of 46/182, the GA encouraged Member States to work with relevant UN organizations to strengthen humanitarian standby capacities, in particular in the area of disaster relief, including by participating in humanitarian response networks, contributing to and maintaining the standby directories of the Central Register of Disaster Management Capacities and facilitating standby arrangements with the private sector.

100. Pursuant to the request of the GA, the ERC has established the UN Disaster Assessment and Coordination team (UNDAC), a standby mechanism to be deployed within hours of a disaster occurring, to undertake rapid needs assessments and to support an affected country and the UN Resident Coordinator in the coordination of international relief assistance. UNDAC is composed of disaster management professionals drawn from interested governments, UN humanitarian agencies, and OCHA. The ERC also established an International Search and Rescue Advisory Group (INSARAG) to address search and rescue related issues and to establish standards for international search and rescue support.

101. The GA requested the ERC to expand participation in UNDAC to include experts from all areas of the world and to encourage the active participation of UN organizations. Currently, UNDAC functions primarily through three regional teams for Africa-Europe, Americas, and Asia-Pacific, drawing on members from the affected region. This enables OCHA to deploy an UNDAC team of emergency managers who are familiar with local conditions, languages and culture.

102. The GA also encouraged efforts aimed at the strengthening of the INSARAG and its regional groups, particularly through the participation of representatives from a larger

number of countries. The Assembly also recognized the Guidelines of the INSARAG as a flexible and helpful reference tool for disaster preparedness and response efforts. The GA urged all States that have the capacity to provide international urban search and rescue assistance to take the necessary measures to ensure that the international teams under their responsibility are deployed and operate in accordance with internationally developed standards, particularly regarding the timely deployment, self-sufficiency, training, operating procedures and equipment, and cultural awareness.

103. In addition, the GA called on the Secretary-General to further develop and improve mechanisms for the use of emergency stand-by capacities, including, regional humanitarian capacities. Given the increasingly active role played by regional organizations such as ASEAN, OCHA has been working closely with regional entities with a view to strengthening cooperation.

V. Reflections and Recommendations

104. The review of UN intergovernmental decisions relating to humanitarian assistance has shown that considerable progress has been made in the policy decisions and operational directives articulated by the GA, ECOSOC and the SC since 46/182. Although the negotiating process has been time-consuming there has been a consistent broadening of the number of humanitarian issues covered, and more informed engagement of Member States in the deliberations and decisions.

105. It should be noted that the decisions of the GA and the ECOSOC are only recommendatory as far as Member States are concerned even though they are binding on the UN Secretariat. Though decisions of the SC related to the maintenance of international peace and security are binding on Member States, it is not an enforcement agent in its own right and its decisions also suffered from poor communication to the field.

106. The review indicated that although the overall framework for humanitarian assistance has remained unchanged since 46/182, it remains valid and continues to enjoy the support of Member States. The Guidelines for the Domestic Facilitation and Regulation of International disaster relief and Initial Recovery Assistance adopted in 2007 by the International Conference of the Red Cross and Red Crescent is an important new milestone in the promotion of a more elaborated framework for international disaster assistance. OCHA should work closely with IFRC in supporting Member States to use these Guidelines to strengthen their operational and legal frameworks for disaster assistance.

107. Policies developed by UN intergovernmental bodies since 46/182 on access, protection, internal displacement and the safety and security of humanitarian personnel could constitute an adequate framework for the UN to address problems relating to these issues. The UN, working closely with other humanitarian organizations should incorporate these policies in the planning and implementation of humanitarian operations. On access, protection of civilians, and security of humanitarian personnel, the UN should support concerned government to strengthen local capacities and to adopt appropriate domestic legislation. The GA should provide the necessary support to the UN in such endeavours.

108. On access, OCHA could consider drawing on the policies adopted by the GA, as well as the operational experiences that humanitarian organizations have acquired to secure access. Since access is essential to the effective and timely provision of humanitarian emergency assistance, OCHA should collaborate with other humanitarian partners to integrating access requirements into contingency planning and preparedness. On natural disasters, OCHA should work closely with disaster-prone countries to strengthen their preparedness and response capacities, and aim towards reaching an agreement on a threshold where international support would be needed in future disasters. This should include measures that governments would undertake to expedite the access of international humanitarian organizations. A few years after the implementation of this system, OCHA could share its experiences, including constraints with the GA with a view to solicit its support in addressing them.

109. With the increasing use of the military in the provision of humanitarian assistance, both in sudden onset disasters as well as in some conflict-related emergencies, it would be opportune for the GA to undertake an in-depth review of such engagements in light of recent experiences as well as what has already been reflected in the Oslo Guidelines. The Assembly could consider, the adoption of a set of comprehensive guidelines concerning the use of national and international military forces in the coordination and provision of humanitarian assistance.

110. With most attention and resources devoted to the strengthening of international humanitarian assistance since 46/182, the GA should give more consideration and support to strengthening national and regional level capacities. OCHA should adopt a proactive strategy of building partnership with disaster prone developing countries both at the national and regional level focusing on disaster preparedness and response as part of a comprehensive disaster risk management approach.

111. Vulnerability mapping for natural hazards, contingency planning and preparedness should be designed, planned, and implemented jointly with the affected countries. Capacity building should be a key component of this strategy and the disaster management team at the country level should be actively involved in the implementation of this strategy. OCHA should also advocate for stronger support for disaster reduction, preparedness and capacity building, including more holistic organizational arrangement within the UN that can address and support disaster risk management in a complementary manner. OCHA should seek the policy and financial support of Member States through the UN intergovernmental bodies. OCHA could consider, working with UNDP and the ISDR Secretariat and other relevant organizations, to prepare and issue an annual appeal document on assistance for disaster reduction and preparedness, in order to seek funding from donors.

112. Transition remains an issue that would benefit from more informed intergovernmental discussions and support, particularly in addressing the institutional, procedural, and financial constraints as referred to earlier on. It may be timely for a consideration of distinct funding arrangement for recovery activities taking into account the different circumstances that require early recovery assistance and corresponding approaches needed for the effective utilization of such resources. OCHA should engage the

IASC in a more detailed discussion on this issue, with a view to submitting possible analysis and recommendations to the GA for consideration.

113. There is no doubt that 46/182 and subsequent intergovernmental decisions had the greatest impact on humanitarian coordination. Even though the basic architecture for humanitarian coordination as enshrined in 46/182 has remained essentially the same the tools for coordination have been systematically refined and updated. Equally important is that humanitarian coordination has slowly but gradually been accepted by all major humanitarian practitioners and there is now an improved culture of cooperation and coordination among humanitarian organizations within and outside the UN system.

114. As a result of the UN reform of 1997, the mandate of the ERC has benefited from a sharper focus on his/her functions, including advocacy. The upgrading of the CERF to include a grant component, and the transformation of the CAPs to be inclusive tools for strategic planning have provided the ERC and OCHA with an opportunity to realize the potential for effective coordination as envisaged by 46/182.

115. OCHA should continue to engage intergovernmental bodies in the further refinements of the tools and mechanisms established by the GA in 46/182, as well as in the implementation of Good Humanitarian Donorship. Efforts should promote more flexible funding support at the international level through the CERF and the CAPS and at the national level through pooled-funding and humanitarian emergency funding arrangements. Key to these efforts is the urgency to strengthen interagency needs assessment and prioritization. OCHA should devote the necessary staff resources to engage the IASC in developing mechanisms that generate objective, evidence-based and timely needs assessment that enjoy the confidence of the international humanitarian community. OCHA should engage member states in a discussion of how to make the humanitarian enterprise, including newly emerging actors, more accountable.

116. There are a number of challenges that would benefit from future intergovernmental attention. First and foremost is the question of accountability. The CERF two-year evaluation cites USD 12.5 billion being the total amount dedicated to humanitarian assistance in 2008, of which 8 % is channelled through the CERF and pooled funding mechanisms. With increasing resources devoted to humanitarian assistance, the UN system should be directed to enhance accountability, including through improved reporting, monitoring and evaluation. As mentioned earlier, the UN must also ensure that improving needs assessment is not only essential for enhancing the credibility of the CAPs and the effective use of the CERF, but also critical for gaining greater adherence of donors to the GHD.

117. The second challenge is the increase in the number and diversity of humanitarian actors and the implication for humanitarian coordination. Humanitarian assistance has now become a common undertaking and enterprise, for governments including military, civil society organisations, faith-based organizations, the private sector, contractors, individuals and celebrities. How does this multiplicity of actors affect coordination? Do the guiding principles and the framework of humanitarian assistance apply to all these actors? How can the quality of their assistance as well as their accountability, particularly to affected populations be addressed? What should be the UN Secretariat's role be, in providing

leadership and in coordinating the efforts of these various actors within the international community, in support the affected countries as stipulated in 46/182?

118. The third challenge is the changing dynamics between an affected country and international support in response to natural disasters. In light of the increasing importance that many disaster prone countries attach to building their own response capacity, and their preference for regional support, what should be the UN strategy in the longer term and the UN's comparative advantage? It would be timely for the UN to review and adapt its approach and strategy in order to fulfil its central role in promoting effective humanitarian assistance.

Moving Forward

119. Intergovernmental deliberations and decisions on humanitarian affairs, to a large extent reflect the constraints and challenges faced by the international community in supporting humanitarian assistance. There is a high correlation between the intergovernmental decisions and the analysis and recommendations presented by the Secretary-General in his reports.

120. The GA and ECOSOC in consultation with key humanitarian actors should consider putting in place a multi-year cycle that allows for in-depth discussions on key issues, identified by Member States and the international humanitarian community through OCHA. The agenda for these discussions could be updated, if required, on an annual basis.

121. The humanitarian operating environment has been altered significantly since 46/182 has been adopted. In many ways, the UN may be at a turning point in the context of humanitarian coordination and assistance. Relief assistance has become increasingly popular in recent years, attracting more resources from governments, public and private sector actors. At the same time, the international community has been witnessing a steady erosion of the respect for international humanitarian laws. The number and diversity of actors involved in humanitarian assistance has increased considerably, including the private sectors and faith-based organizations. Many nongovernmental humanitarian organizations have become larger, more professional, and in some areas more effective in delivering assistance than the UN system. There is also a steady increase in the number of nongovernmental organizations from the developing countries with great potential to be more responsive and effective in the national and regional context. In addition, the military has played an active role in relief coordination and assistance, including in the context of natural disasters. The direct provision of humanitarian assistance by military and/or other armed actors, who are directly involved in the conflict, is incompatible with the principles that guided humanitarian assistance (humanity, neutrality, impartiality and independence).

122. All of these considerations and developments will impact the future of humanitarian assistance and its coordination. What may have a more far-reaching implication for the international humanitarian system is the increasing preference of developing countries to respond to disasters as much as possible by themselves and seek, if necessary, support from neighbouring countries within their regions. If this trend continues, there is a possibility that international assistance may come to be considered as a last resort. This tendency, together with the likelihood that the world will most likely be dealing more with natural disasters

than conflict related emergencies in the future, would indeed be a new paradigm that would benefit from more considered reflection.

123. All these elements indicate a need for a new approach, or the adaptation of the current approach and practice of the UN in humanitarian assistance. A reflection on the humanitarian future and the role of the UN would indeed be timely and useful.