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Preface

On 4 July 1997, the Minister of Foreign Affairs, the Minister of Defence and the Minister for Development Cooperation asked the Advisory Council on International Affairs (AIV) to draw up a report on the issue of humanitarian aid in conflict situations. The report was prepared by the Council's Development Cooperation Committee, the members of which are as follows: Dr J. Bunders, Dr O.B.R.C. van Cranenburgh (deputy chair), Professor F. van Dam, Ms I.E.M. Dankelman, Professor J.W. Gunning, Professor E.J. de Kadt (chair), F.D. van Loon, Professor R. Rabbinge, Ms A.H. Roemer, Ms E.M. Schoo, Professor N.J. Schrijver, Professor J.T. Schrijvers, J.F. Timmer and Professor I. Wolffers. The following also contributed to the report: Dr P.P. Everts, Professor B.A.G.M. Tromp (Committee on Peace and Security) and Professor E. van Thijn (Committee on Human Rights). The Conflict Management and Humanitarian Aid Department of the Ministry of Foreign Affairs also assisted the Committee in compiling the report. A.P. Hamburger and Dr K.A. Koekkoek, official advisers from the Ministry of Foreign Affairs, assisted the Development Cooperation Committee by contributing to the compilation of this report.

As part of the preparatory work for this report, the Development Cooperation Committee undertook fact-finding missions to UN agencies in Geneva and New York in order to find out about activities performed under the aegis of the UN and to ascertain the UN's views on humanitarian aid. The AIV wishes to express its gratitude to those whom it consulted. A special word of thanks is due to Ms F. de Vlaming for her work in running the secretariat of the Development Cooperation Committee during this period, which was so important for the compilation of this report.

The AIV adopted this report on 27 October 1998.

I Introduction

This report is about humanitarian aid, i.e. aid which is provided in the event of a humanitarian crisis resulting from a 'complex political emergency'. Such situations are frequently associated with anarchy, ethnic cleansing, displacements and violence (including sexual violence) committed both by armed groups and by individuals. Media and public interest in this type of conflict and emergency has grown since the end of the Cold War. Under pressure from the media and the aid organisations, the moral imperative of providing aid has evolved into an increasingly powerful appeal to the international community to take humanitarian action.

Not surprisingly, therefore, the international response to violent crises and conflicts which have figured prominently in the news in recent years has tended to focus more and more on the distribution of humanitarian aid. There are those who claim that humanitarian aid has simply been used as a cover to conceal the inability of the international community to adopt a common position and to take joint action when complex emergencies occur. This inability or reluctance to take action at an international political level is a recurring factor in every situation in which humanitarian aid is provided. It is also a factor over which the Netherlands has very little control, and this necessarily limits the thrust of any suggestions made by the AIV in this report. For this reason, the AIV has decided to devote more space to those aspects over which the Netherlands does have some degree of control (and specifically, aspects relating to the implementation of humanitarian aid), and to policy in this field.

Expenditure on humanitarian aid has risen sharply in recent years. Since the early nineties over USD 30 billion has been spent on humanitarian aid around the world, mainly by the OECD countries. Aid organisations have spent five times as much on humanitarian aid in the past decade as they spent in the previous decade. The amount of humanitarian aid as a percentage of all the bilateral aid supplied to DAC countries rose from 1.5% in 1991 to 7.5% in 1995[1]. At the same time, international spending on official development aid in general terms declined in virtually all countries[2]. It is worth mentioning, however, that there has been a slight decrease in spending on humanitarian aid during the past two years[3]. The picture is the same in the Netherlands: an increasing proportion of the development cooperation budget is now spent on emergency aid, humanitarian aid and reconstruction aid.

Humanitarian aid has done a great deal to mitigate the effects of crises and emergencies. At the same time, it has also proved inadequate in certain instances, and has actually had an adverse impact in others. As the official request for an advisory report points

1 The Reality of Aid, An Independent Review of Development Cooperation, 1997-1998, Earthscan, London 1997, p. 286.

2 In his report entitled 'The causes of conflict and the promotion of durable peace and sustainable development in Africa', UN Secretary-General Kofi Annan expressed concern that a higher level of spending on humanitarian aid would mean a lower level of other forms of development assistance: 'This concern heightens the importance of ensuring a rational allocation of resources between humanitarian relief and development assistance.' (April 1998, A/52/871 - S/1998/318, para. 60).

3 UNHCR, The state of the world's refugees. A humanitarian agenda, 1997, p. 42, based on OECD figures.

out[4], aid organisations have been accused, for example in relation to the Great Lakes region in Africa, of unwittingly helping to prolong the conflict and contributing to the spread of violence in the region by supplying aid to refugees. As the adverse effects of the aid have made themselves felt, so a debate has arisen on the question of whether it is right to continue on the same course. It is against the background of this debate on the desirability and effectiveness of humanitarian aid that the government has requested the AIV to compile an advisory report on the 'limits of humanitarian aid'.

One of the questions raised by the Minister of Foreign Affairs, the Minister of Defence and the Minister for Development Cooperation in their letter (see Annexe I) is what sort of role the AIV feels that humanitarian aid should play in certain emergency situations caused by conflicts. This is complex material, the background to which is briefly discussed in the government's letter to the AIV. The wording of the letter itself suggests that the government has raised its expectations of what can be achieved by providing humanitarian aid. The AIV, for its part, draws the conclusion that this springs from a tendency to continually widen the definition of humanitarian aid. This is hardly surprising, since the ultimate objective is to use the aid not simply to mitigate the impact of the conflict on the civilian population, but also to help prevent the occurrence of conflicts and resolve them when they do occur. At the same time, it has become more apparent than ever before that aid can affect the course of a conflict. This automatically means there is an increased risk of the aid having certain adverse effects. Mindful of this interaction, the AIV has decided that it would be expedient to redefine the scope of humanitarian aid. So as not to jeopardise the fundamental objective of humanitarian aid, i.e. relieving human distress, policy should be aimed at satisfying the basic needs of those who are affected. The AIV believes that aid which is supplied under the budget heading of 'emergency aid' should be restricted to a basic package of genuine acute emergency aid. An examination of the ministry's current commitments shows that some 29 per cent of the budget is now spent on aid which could be defined as forming part of this basic aid package. The AIV feels it is important to distinguish between emergency aid that is supplied in a conflict situation and aid of a more structural nature, which is designed to promote an incipient process of reconstruction (sometimes referred to as 'rehabilitation'). A clear line should also be drawn between providing aid on the one hand and engaging in political activities on the other. Emergency aid should not be mingled with preventive action or with activities which are intended to bring about a solution to the conflict, because these are by definition more political by nature and hence more likely to be controversial. In choosing to emphasise this distinction, the AIV has decided to shine the spotlight in this report on aid which may be defined as humanitarian emergency aid. This means that, whilst the AIV acknowledges the tremendous importance and urgency of the issues of prevention and conflict resolution raised by the Ministers in their request to the AIV, these aspects will play only a minor role in this report.

The issue of *defining the limits of humanitarian aid* is both wide-ranging and complex. On the one hand, many armed conflicts, particularly in developing countries, stem from a crisis of economic and political development. An increasing number of conflicts also have an ethnic dimension, which is characterised by discriminatory practices targeted at certain population groups, as well as a struggle for scarce local resources or land. At the same time, there are also large groups of people who live outside crisis areas and who still face a crisis, a 'crisis of survival'. This means it is important to define the nature of humanitarian aid relative to other forms of aid.

4 See point 3 (p. 2). The full text of the request for an advisory report is reproduced in Annexe I.

Those who criticise the rise in spending on humanitarian aid (i.e. emergency aid and reconstruction aid) often assume that such spending is to the detriment of structural development cooperation. The implication here is that the latter form of spending should be given higher priority. The AIV does not believe that it is wise to think in terms of this type of dichotomy. In principle, humanitarian aid is intended to guarantee the short-term survival of its recipients, and is used in different circumstances than forms of aid which are designed to promote sustainable development. The key aim is to ensure that a situation of conflict and violence is transformed into a situation in which the population can live in peace, even if this is peaceful poverty. Once this situation has been achieved, any other aid (assuming that the recipient country is a developing country) must satisfy the criteria for structural development cooperation and be funded from the appropriate budget. The AIV does not believe that there are any inconsistencies in this argument, but feels that changing circumstances call for a clear distinction between humanitarian aid in conflict situations on the one hand and structural development cooperation on the other. Against this background, the AIV is in favour of establishing a strict demarcation in the way in which these two forms of aid are distributed. Having said this, it remains essential that there are no inconsistencies between the various aid programmes at a political level.

The present report starts by setting out (in Chapter II) the broad thrust of Dutch policy on humanitarian aid from1983 to the present day. Chapter III examines the factors which affect the opportunities for providing humanitarian aid, the gap between humanitarian aid and lasting solutions, and the problems experienced by international aid organisations in supplying humanitarian aid, and the resultant adverse effects which such aid may have.

The report continues in Chapter IV by setting out the AIV's definition of humanitarian aid and describing its constituent parts, and the criteria on which any decision to provide humanitarian aid is based. Other subjects covered by Chapter IV include initiatives for improving the coordination of aid activities, and present and proposed future codes of conduct and minimum standards for humanitarian aid. Chapter V discusses the transition from emergency aid to reconstruction aid and development cooperation. The AIV argues in favour of making a strict distinction between the various forms of aid. Chapter VI looks at international efforts to achieve a greater degree of cohesion between political and humanitarian decision-making. Finally, the report's conclusions and recommendations are set out in Chapter VII.

Obviously, in compiling this report, the AIV was aware of both the opportunities available to the Netherlands and the limitations within which it operates in the international arena, particularly as these impact on development cooperation. Whilst it is true that the Netherlands can derive some authority from its position as one of the main donor countries, its influence is generally restricted to championing certain causes and supporting certain policies in the European Union and the United Nations, and specifically in the governing councils of a number of specialised UN agencies. The subject matter of this AIV report is also largely restricted to policy over which the Netherlands in principle has some control, such as the way in which it spends its own resources and the relationship with the private sector in the context of humanitarian aid and development cooperation.

II Dutch policy on humanitarian aid

II.1 The 1983 and 1993 memoranda and the policy review

On 5 August 1983, minister E.M. Schoo, who was then the Minister for Development Cooperation, presented a memorandum entitled 'The Limits of Humanitarian Aid' to the Lower House of the Dutch parliament. The policy principles set out in this document were aimed at preventing 'undesirable side-effects when providing humanitarian aid to countries with regimes of a questionable reputation, because of human rights violations and/or breaches of international law'. The prime objective of supplying aid was described as being to satisfy the basic needs of people in distress.

The policy was underpinned by the following basic principles:

- aid should be targeted at clearly defined population groups which are in a state of distress;
- aid should be provided directly, where possible in the form of goods which satisfy people's basic needs;
- the only activities for which funding is provided should be those which would be very unlikely to be performed without any outside help;
- aid should be channelled as far as possible through non-governmental channels and international bodies;
- it should be possible to monitor the way in which funds are spent, as well as the channels through which the aid is distributed.

The memorandum makes it clear that, where there is a risk of aid leading to undesirable side-effects, these can be eliminated by providing the aid through multilateral rather than bilateral channels.

The government concluded, in a memorandum published in 1993[5], that humanitarian aid had reached 'the limits of its potential'. The need for humanitarian aid had become so great that the international aid system was no longer capable of satisfying it. The government expressed concern that further spending on humanitarian aid would place pressure on the amount of funds available for structural aid.

The 1993 policy document examined the opportunities for strengthening and expanding the international humanitarian aid effort, in particular by improving the coordination of aid activities. The document underlined the importance of issuing guidelines for the way in which aid organisations should operate, and suggested that, if the responsibilities of humanitarian actors on the one hand and political and military actors on the other were more clearly defined, this could help to reduce the risk of the aid becoming politicised. The document also stressed the need for finding ways and means of improving the enforcement of international humanitarian law.

The general intensification of policy as proposed in this policy document was intended to cover not only the provision of aid in emergencies and during the 'frequently long process of recovery', but also the prevention and alleviation of emergency situations by means of

5 'Humanitarian aid between conflict and development', government policy document published in November 1993.

the provision of structural aid. The government suggested that there should be 'a certain degree of flexibility in the management of financial resources' when it came to emergency aid. In order to expand its own operational capacity, the government proposed improving coordination between the various government departments and aid organisations, training experts, stockpiling emergency supplies and designing a structured framework for the deployment of Dutch armed forces[6].

II.2 The definition of humanitarian aid in the context of Dutch government policy

The definition of humanitarian aid in the context of Dutch government policy has been broadened in recent years. Today, in 1998, the Dutch government takes the term 'humanitarian aid' to refer to activities aimed at:

- direct aid in the wake of a sudden disaster;
- long-term aid to refugees, displaced persons, people who are left behind in a crisis area and population groups in the country of first asylum who suffer the immediate effects of a huge influx of refugees and displaced persons;
- assistance with the initial process of reconstruction;
- repatriation programmes, including demobilisation and mine clearance;
- ensuring that governments are better prepared for severe humanitarian emergencies (whether arising as a result of natural disasters or complex crises), realize the danger in time, are able to prevent them and can alleviate their effects[7].

It is clear from the above list that more and more activities have been added to the definition of the term 'humanitarian aid' since the 1983 memorandum was published.

II.3 The development-for-peace policy

Minister Pronk claimed in 1996 that 'political mediation, military and security operations, emergency aid and development assistance are often fragmentary and ineffective because of a lack of proper coordination'[8]. For this reason, the Minister proposed developing a new form of development cooperation 'which in war-torn societies or in failed states does not confine itself to short-term emergency aid measures, postponing rehabilitation and development activities until after peace has been reached or after a new legitimate authority has been established'. In other words, development programmes should start whilst the conflict is still in progress so as to support the peace process, and notably local initiatives in the field of reintegration, free access to information and traditional forms of conflict resolution.

The desire to bridge the gap between emergency aid on the one hand and crisis management and prevention on the other and to formulate an integrated policy led, later on in 1996, to the creation of the Crisis Management and Humanitarian Aid Department in the

6 This policy led inter alia to the creation of an NGO known as the Disaster Relief Agency, now operating under the name of the Dutch Relief and Rehabilitation Agency (DRA).

7 Taken from the letter of 9 April 1998 from the Minister for Development Cooperation to the Speaker of the Lower House.

8 Paper given by Jan Pronk at the UNHCR Conference on 'Healing wounds, refugees, reconstruction and reconciliation', Princeton, 30 June 1996, in: Voorlichtingsdienst Ontwikkelingssamenwerking, No. 30, 10 July 1996.

context of the government's foreign policy review[9]. The idea was to improve the degree of cohesion between emergency aid provided during a conflict situation and aid supplied during the transition to peace and stability. The Dutch policy on Afghanistan was the first to put this into practice. In 1997, the Minister for Development Cooperation presented what was termed a 'development-for-peace strategy' for Afghanistan. This was aimed not only at promoting economic growth and material prosperity, but also at bringing about social reconciliation[10]. This new policy included peace-building activities and committed the government to supporting an international strategy which was to be 'the result of close coordination between political efforts, humanitarian aid and development work'[11].

The aim was to put an end to the 'neither war nor peace' situation by adopting an integrated strategy embracing political action, preventive diplomacy, emergency aid, reconstruction and structural development cooperation. Cooperation with local partners and the coordination of the activities performed by all the actors involved were also regarded as vital elements of the strategy. With a view to promoting the process of national reconciliation, support for local peace-building structures and organisations, and also for traditional decision-making mechanisms, formed an integral part of the 'development-for-peace strategy'. The Minister for Development Cooperation referred to the issue of the repatriation of refugees and the resulting need for reintegration and reconstruction at a time when the conflict may still be in full swing in other parts of the country. The new Dutch policy was consistent with recent developments in policy at the United Nations, and represented an abandonment of the long-held view that development aid can be effective only once a formal truce has been agreed. In principle, the new strategy assumed that aid would be provided for a period not exceeding two years. A review would then be conducted, using existing criteria, to decide whether the country in question was eligible for structural development aid[12]. Chapter V contains a critical examination of this new policy.

9 Development Cooperation 1996 Annual Report. Dutch policy: facts and background.

10 J. Pronk: Time for a change: Support for Peace in Afghanistan, paper given at the International Forum on Aid to Afghanistan, Turkmenistan, January 1997, in: Informatiebulletin OS, No. 3, 7 February 1997.

11 Letter of 28 April 1998 from the Minister for Development Cooperation to the Speaker of the Lower House, concerning the report on the minister's visit to Afghanistan and Pakistan (15-22 February 1998).

12 The Taliban, the orthodox Islamic movement which is now in control in Afghanistan, expelled all foreign aid workers in mid-1998. Most of the Dutch aid programme was halted in the wake of this measure.

III Current problems

The increase in the volume of humanitarian aid since the beginning of the 1990s has been accompanied by tremendous growth in its significance in both financial and socio-political terms. This has turned the spotlight on the issue of its effectiveness.

To a great extent, the humanitarian aid provided in the 1990s may be described as both worthwhile and effective in the sense that it has relieved a tremendous immediate need. Whether international aid has been equally successful in the longer term, however, is another matter. After all, if the alleviation of distress is accompanied by long-lasting, damaging socio-economic side-effects (such as the severing of trade relations subsequent to the provision of food and supplies in Somalia[13]), the needless prolongation (or exacerbation) of conflicts and the preservation of the structures underlying such conflicts, humanitarian aid would appear to function as no more than a useful but temporary stopgap[14].

One of the factors which has often stood in the way of effective international action on humanitarian crises is the sheer number of actors involved. Not only are there wide differences in terms of institutional framework, structure, responsibilities and resources between the various governmental and non-governmental players, but there is also a certain degree of overlap between them. At one level, there are differences in organisation and strategy between governmental and non-governmental organisations (NGOs). However, the NGO community is in itself a very broad church. Some organisations, for example, have more extensive mandates than others; some NGOs and IGOs (international governmental organisations) are geared towards certain sectors (such as health care or food), whilst others focus on specific target groups (such as children or refugees); and finally, some international organisations have an international status and are affiliated to a (political) UN agency (such as UNDP), whereas others either have looser ties (as is the case with UNICEF and the WFP) or are completely independent (e.g. the ICRC).
There are also other difficulties which impact on the effectiveness of the aid provided. A number of these problems are discussed in the following sections.

Growing lack of clarity on 'humanitarian intervention'
The emergencies which occurred in Liberia, northern Iraq, Somalia, Haiti and Bosnia-Herzegovina in the late 1980s and early 1990s forced the international community to undertake what were referred to as 'humanitarian interventions'. This term is taken to mean the use or threat of the use of force by one or more states within the territory of another state, the chief object being to prevent or put an end to serious violations of fundamental human rights[15]. The operations which were mounted in these countries all had a broadly defined objective: their aim was not only to provide emergency aid to a population in distress, but also to put an end to violations of human rights. There was a world of difference between this type of operation and the interventions which took place during

13 Humanitarian aid to Somalia, Evaluation Report 1994, Netherlands Development Cooperation, Operations Review Unit, The Hague 1994, p. 294 ff.

14 J. Prendergast, 'Crisis response, humanitarian band aids in Sudan and Somalia', Chicago 1997, p. 151.

15 See for definition: Advisory Committee on Human Rights and Foreign Policy and Advisory Committee on Issues of International Law, 'Het Gebruik van Geweld voor Humanitaire Doeleinden' *(The Use of Force for Humanitarian Purposes)*, Report No. 15, The Hague, 1992.

the Cold War, when individual countries (often neighbours of the country in question) would intervene, generally without any authorisation from the Security Council. This was because, during the Cold War, virtually all proposals for UN-backed intervention were vetoed by one of the permanent members of the Council. Slowly but surely, the concept of humanitarian intervention was broadened so far that it was totally unclear what it covered and what it did not[16]. The 1990s have seen two new objectives added to the activities embraced by humanitarian intervention, i.e. protecting humanitarian aid workers and facilitating and supporting humanitarian aid operations. In one or two instances, humanitarian interventions have also had a third objective, which has been to enforce war crimes legislation by arresting suspected war criminals.

Until 1992, there was very little in the way of coordination between the military and humanitarian components of international operations. NGOs and humanitarian UN agencies focused on alleviating the suffering of the local population, whereas the armed forces tried to create a safe environment by brokering deals with the warring factions and using a minimum of force. This situation changed during the course of the 1990s, however. It became harder and harder to distinguish between the civilian population and the warring factions, the local people themselves came to be treated more and more as military targets, and the appearance of huge numbers of refugees and displaced persons produced a conflict between protection and humanitarian aid. Peacekeeping operations gradually became more multi-dimensional. Peacekeeping forces were deployed with vague mandates and were sometimes inadequately equipped for the job. They, too, extended their remit to include more civilian duties such as policing, repairing the infrastructure and protecting aid workers.

Many humanitarian aid organisations have claimed that overemphasising the protective role of the military component has worked as a means of concealing the absence of a political and/or military objective. It is precisely this fact which, it is alleged, threatens the humanitarian mission of an intervention. As the organisation Médecins Sans Frontières has said: 'The real danger for humanitarian workers lies in blurred political objectives, in operations without a real aim, in which protection of aid workers - who never asked for it - becomes a substitute for thinking clearly about what is to be achieved by armed intervention.'[17]

The lack of clarity about the objectives of humanitarian interventions was further exacerbated by the gradual change in the mandate under which peacekeeping forces operated. There was a shift away from operations mandated under Chapter VI of the UN Charter (pacific settlement of disputes) towards peacekeeping operations which were undertaken without the full consent of the parties involved. Such operations require more military resources, but these were frequently not provided.

16 See Oliver Ramsbotham, 'Humanitarian intervention 1990-1995: A need to reconceptualize?', in: Review of International Studies, 1997, pp. 445-468.

17 Jean-Christophe Rufin, 'The paradoxes of armed protection', in: Life, death and aid. The Médecins Sans Frontières Report on World Crisis Intervention, Routledge 1993. See also: report by UN Secretary-General Kofi Annan entitled 'The causes of conflict and the promotion of durable peace and sustainable development in Africa' (April 1998), in which he says that 'in situations of conflict, the purposes of humanitarian operations, as well as their limitations, need to be better understood by the public and constantly recalled, so that they do not serve as an excuse for political inaction.' (Para. 58).

In his *Supplement to an Agenda for Peace,* former UN Secretary-General Boutros-Ghali claims that it becomes more difficult to persuade the warring factions to give their approval to a peacekeeping operation, and there is more likelihood of the mandate being undermined, if peacekeeping operations turn into armed humanitarian interventions and soldiers behave in a way which could be regarded as being biased and/or use force for reasons other than self-defence. In practice, this is more or less inevitable if the operation in question has not been mandated under Chapter VII of the UN Charter (i.e. enforcing peace).

Extending the duties of those responsible for executing the humanitarian interventions, especially where these are members of the armed forces, has had a dramatic effect not only on the neutrality of aid operations, but also on confidence in the effectiveness of humanitarian intervention as such. Secretary-General Boutros-Ghali took the view that the UN is well equipped to perform more conventional UN peacekeeping operations (i.e. maintaining peace), in which the vital elements are the consent of the parties, impartiality and a minimum use of force (i.e. for self-defence only). He claimed that what has been learnt from Somalia and the former Yugoslavia, however, is that the UN is not capable of taking sole responsibility for protecting humanitarian aid in a war situation, protecting a population in designated 'safe areas' and forcing the warring factions to enter into a peace process. Moreover, the UN's capability is further weakened if its member states are not willing to supply it with the resources needed for this purpose.

At the same time, it is the Security Council rather than the Secretary-General which, in some cases in conjunction with the regional organisations, has been pivotal in recent years in determining the timing and manner of humanitarian interventions. Because of the way in which political decisions are taken at the UN, however, humanitarian operations have been characterised not only by vague and ambiguously worded mandates, but also by the allocation of insufficient resources to do the job. There has also been confusion about the relationship between humanitarian interventions on the one hand and peacekeeping operations, such as those performed in Liberia, Somalia, Haiti, Bosnia and Rwanda on the other.

The international decision-making process is often a slow affair, partly because the members of the Security Council are unable to reach agreement on the nature of the crisis in question and the type of action which needs to be taken. As a result, the Security Council's decisions and resolutions have often been described as weak, inconsistent, ambiguous and poorly timed[18].

These developments have allowed the growth of humanitarian aid in the absence of political and/or military action by the international community. Where humanitarian aid has been distributed as a substitute for political or military action, the result has been the creation of a 'policy vacuum'. It is this vacuum which explains why the demand for humanitarian aid has grown in the 1990s, while at the same time doubts have grown about its effectiveness[19].

18 N. Azimi, M. Boisard, T. Koh and H. Owada. Summary of discussions and recommendations, in: Humanitarian action and peace-keeping operations: debriefing and lessons, report of the 1997 Singapore Conference, IPS/UNITAR, NIRA, Kluwer Law International 1997, p. 4.

19 See, for example: Adam Roberts: Humanitarian action in war. Aid, protection and impartiality in a policy vacuum, Adelphi paper No. 305, Oxford University Press, 1996.

Humanitarian aid as an alibi for political action and the politicisation of aid
The hopes expressed in the early 1990s that the world community would now have the means - and the will - to guarantee peace and security have not been fulfilled. The sense of optimism that was articulated in the *Agenda for Peace* (1992) published by the former UN Secretary-General has now more or less evaporated in the wake of the devastating experiences with UN interventions in recent years. The events in Somalia and the former Yugoslavia have induced the international community to water down its earlier ambitions. This change of heart became very apparent in the attitude that was taken to the crisis affecting the Great Lakes region in Africa. Even whilst a genocide was in progress, the international community remained unwilling to station a multinational force in the region. The current UN Secretary-General has drawn attention to this problem in his latest report on the background to and potential solutions for conflicts in Africa: 'the failure of the major actors to maintain a common political approach to an erupting or ongoing crisis is one of the principal impediments to progress towards a solution'[20].

In certain instances, the international community's inability and/or reluctance to take political action to deal with complex emergencies has prompted humanitarian aid organisations to overstep their strictly humanitarian mandates. Serious violations of human rights (such as cases of 'ethnic cleansing') or breaches of humanitarian law have placed the organisations in question in both moral and operational dilemmas. These could result in the humanitarian aid provided by both NGOs and UN agencies losing its neutrality and becoming politicised. At the same time, however, aid operations can help to depoliticise a conflict in that 'outsiders' are seen to be taking care of civilians (see below under 'Disintegration of local structures'). In some cases, the mere fact that international aid workers do not know enough about local political relations may worsen the situation.

The limits of neutrality
The conditions in which humanitarian aid has been provided in the past decade have been characterised by an increase in the number of domestic conflicts, many of which have been accompanied by the collapse of central government. In this context, it is generally the parties to the conflict, and no longer just the central authorities, who decide whether aid can be provided. For example, one of the warring factions might deny the population access to food and other basic necessities simply because they are under the control of its enemies. Despite the fact that this is contrary to humanitarian law, as embodied by the Geneva Conventions, this tactic has been used as a weapon in conflicts, with the aim of either substantially weakening or completely eliminating the opposition. If aid is supplied to the victims of such tactics, it makes it more difficult for the other faction to achieve its aims, and hence leads to the perception that the aid effort is not neutral.

Misuse of aid
There is a heightened risk that aid organisations working in the context of an internal conflict will be manipulated by the parties and that the aid will be misused. One of the parties may confiscate consignments of aid, for example. Levying 'tax' on aid that has been imported or is in transit, and selling free consignments of aid have also become common occurrences. The misuse and theft of aid may worsen and/or prolong conflicts. Finally, the presence of aid goods may also lead to corruption and may constitute such a powerful market factor as to seriously distort competition on the local market.

20 The causes of conflict and the promotion of durable peace and sustainable development in Africa, report of the Secretary-General on the Work of the Organization, 13 April 1998 (UN Doc. A/52/871 - S/1998/318).

Exposure of victims and aid workers to danger

The changing nature of violent conflicts, the growth in corruption, the disintegration of effective instruments of state control and the limited influence of local leaders are all factors which have placed severe pressure on both the accessibility and the safety of the recipients of aid. Aid organisations are also becoming increasingly concerned about the safety of their own aid workers, who are tending more and more to be identified with political and military elements in the UN system. This has not only undermined their neutrality, but has also (in certain cases) made them an easy target for the warring factions.

Disintegration of local structures

An undesirable effect of the distribution of international humanitarian aid in complex emergencies may be that the involvement of international organisations prevents local political structures from exercising their potential role as troubleshooters.[21] In practice, the presence of humanitarian organisations often relieves local authorities and/or warring factions of the political responsibility for looking after their own people. Although this applies particularly to aid operations, the same thing often happens when peace talks are initiated. It should be borne in mind, however, that many complex emergencies are associated with a complete breakdown of local government, when rival warlords have put an end to local and traditional power structures.

Lack of accountability

Many humanitarian organisations are not subject to monitoring procedures, are not required to conduct impact assessments and evaluations, and are not accountable for their actions in either financial or other terms, whether to donors or to the recipients of aid. Because of the complexity of aid operations and the fact that no two operations are alike, both donors and aid organisations tend to be reluctant to institute proper monitoring procedures. There is also a lack of public or political accountability, particularly within the UN system. The way in which decisions are taken at the UN, where humanitarian aid is often used instead of political or military action, is not subject to any political or other form of accountability. Some critics have claimed that accountability has been reduced to 'a set of technical issues, notably financial probity'.[22] These factors make it difficult to find out exactly how effective aid operations are and whether they have any adverse effects. Even when the implementation and impact of an aid operation have been subjected to close scrutiny (as was the case following the crisis in Rwanda[23]), there are still those who allege that insufficient heed is paid to the conclusions drawn and recommendations made. Indeed, the recommendations on policy coordination by the Security Council, the UN General Assembly and the UN Secretariat figure particularly prominently on researchers' lists of issues that have been ignored[24].

21 'African Rights': Humanitarianism unbound? Current dilemmas facing multi-mandate aid operations in political emergencies. Discussion paper No. 5, November 1994.

22 Alex de Waal: Famine crimes, politics & the disaster relief industry in Africa, Oxford/Bloomington 1997, p. 71.

23 See, for example: The International Response to Conflict and Genocide: Lessons from the Rwanda Experience, Joint Evaluation of Emergency Assistance to Rwanda, Steering Committee of the Joint Evaluation of Emergency Assistance to Rwanda, March 1996.

24 L. Minear, Learning to learn, discussion paper prepared for a seminar on lessons learned in humanitarian coordination, Office for the Coordination of Humanitarian Affairs (OCHA) and the Ministry of Foreign Affairs of Sweden, Stockholm, April 3-4, 1998, p. 6.

Limited set of international instruments

The principle of state sovereignty implies that the distribution of humanitarian aid by outside organisations (such as international organisations, NGOs and governments) is subject to certain restrictions. At the same time, the duty that exists under international law to respect the sovereignty and political independence of every state is limited by other international rules which have been laid down in international humanitarian law. In a growing number of cases, systematic and flagrant breaches of human rights and the existence of acute humanitarian emergencies are cited as grounds on which other states are justified in providing aid unsolicited and on their own initiative, provided that such aid is intended solely to help alleviate humanitarian distress. The 'humanitarian intervention' which took place in northern Iraq in 1991 is a case in point. Generally speaking, however, humanitarian operations are governed by the 'Guiding Principles' on humanitarian aid, which the UN General Assembly adopted in 1991[25] and which stipulate that the country concerned should give its consent to the operation. In other words, the guiding principles reflect the primacy of the principle of non-intervention and respect for a state's domestic jurisdiction, as recorded in Article 2.7 of the UN Charter.

The scope for providing humanitarian aid depends *inter alia* on the rights and obligations laid down in international humanitarian law and embodied in the four Geneva Conventions of 1949 and the 1977 Protocols, and also in international human rights agreements.

The Geneva Conventions form the hub of international humanitarian law. Article 3, which is the same in all four conventions, states that all persons who are not involved in the conflict, including combatants who have laid down their arms or who have been put out of action as a result of illness, injury, imprisonment or any other cause, should be treated humanely in all circumstances, without discrimination on the basis of their race, colour, religion or creed, sex, birth, origin, financial capacity or any other similar criterion.

The second protocol, which was agreed in 1977, represents an attempt to apply the basic rules on the conduct of war to domestic armed conflicts. Not all states have signed or ratified this protocol, however[26]. Moreover, the rules represent only a fraction of the body of international humanitarian law and apply only to conflicts involving a country's regular armed forces and more or less organised rebel movements. In other words, they do not apply to irregular outbursts of violence within a country or to the treatment of people who have been displaced from their homes. Finally, there is also a problem in that, formally speaking, of the parties to a civil war only states, and hence only the competent authorities in a state, can be party to treaties on humanitarian law. This does not mean, of course, that non-state actors cannot be called to account for breaches of humanitarian law, as is clear from the findings of the International Criminal Tribunal for the former Yugoslavia (including in the Tadic case).

In general terms, however, the international community has only limited resources at its disposal for enforcing humanitarian law. The establishment of an International Criminal Court could represent a step forward in this respect. It should be borne in mind, though, that the International Criminal Tribunal for the former Yugoslavia enjoys greater powers (for example, on the apprehension of suspects) than those granted to the International Criminal Court. On the other hand, the latter has not been set up on an ad-hoc basis,

25 See Annexe II: UN Doc. A/RES/46/182 of 19 December 1991.

26 149 States had done so on 16 November 1998.

and has a much wider geographic scope. The AIV would like at this point to express its appreciation for the efforts of the Dutch government, as a result of which the prosecuting authorities of the future international court will enjoy a certain degree of independence. At the same time, however, we must emphasise that nation states will continue to bear an important responsibility for the preservation of the rule of international law.

IV The AIV's definition of humanitarian aid

The demand for humanitarian aid is just one aspect of a bigger and wider problem, i.e. the vulnerability of poor population groups faced with imminent violence. The need for aid emanates from the acuteness of the situation, which temporarily prevents a more structural form of development.

The AIV takes the term 'humanitarian aid' to mean the provision of a basic package of aid aimed at providing people with the bare necessities of life. Whilst activities in the field of prevention or reconstruction (such as education) are undoubtedly relevant, they do not form part of this basic provision. It is vital that a clear distinction be made between the various forms of aid provided by a wide range of different organisations. In the AIV's opinion, humanitarian aid should be neutral, impartial and independent, and should be designed to alleviate human suffering. This definition of humanitarian aid is closer to that given in the government's 1983 policy document than to the definition formulated in 1998. The earlier definition also assumes that the bulk of the humanitarian aid is provided through multilateral channels and NGOs. Reconstruction aid and other structural forms of aid are based on other, more political, principles and should therefore be assessed on the basis of other criteria. A clear distinction helps to prevent boundaries from becoming blurred and confusion arising about the purpose of the aid. In drawing this clear line, the AIV wishes to restrict the purpose of humanitarian aid to the alleviation of human suffering. There is no point in hoping that the provision of humanitarian aid will constitute an adequate response to a conflict. The AIV believes that, if the concept of humanitarian aid is interpreted more narrowly and its practical application is subject to stricter limits, there will be less likelihood of the aid becoming politicised and being misused. Moreover, a stricter interpretation of humanitarian aid will make it more difficult for it to be used as an alibi for political action. A more limited form of humanitarian aid will not conceal the underlying causes of the conflict or crisis, and will not hide the need for a lasting solution. Obviously, this does not mean that we should now refrain from helping to rebuild countries in crisis. The AIV takes the view that reconstruction aid should be geared specifically at normalising social relations, defusing crises and preventing them from flaring up again. Any shift away from the provision of emergency aid towards reconstruction aid and other forms of structural aid (see Chapter V on the criteria for reconstruction) should always be the result of a conscious decision. It may, however, be necessary to continue providing humanitarian aid for some time afterwards, in parallel with the reconstruction effort.

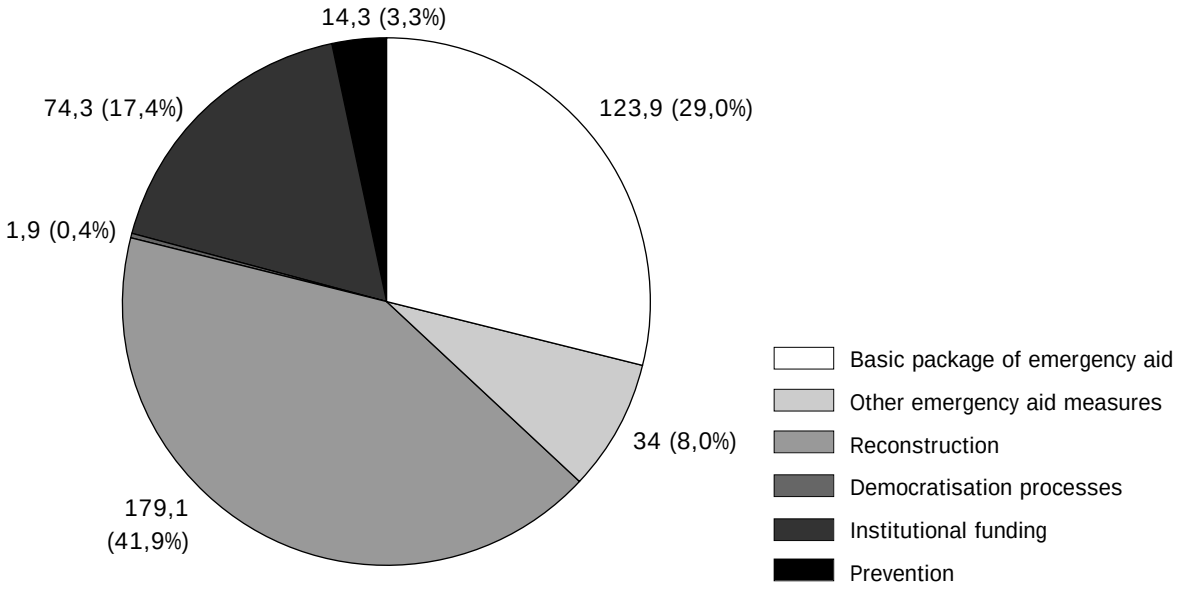
The minimum provision

Given that we wish to distinguish between humanitarian aid and other forms of aid or intervention in the field of prevention and reconstruction, we need to have a clear idea of the precise contents of the 'basic package' of humanitarian aid. The broader interpretation given to humanitarian aid today springs not only from the lack of political will displayed by the international community (and its reluctance to deploy sufficient resources), but also from the wider remit which humanitarian organisations have claimed for themselves, partly to fill the gap. The basic package must consist of aid which can be provided at short notice, because it is intended to be in response to an acute crisis and should satisfy basic needs. In other words, the basic package of humanitarian aid should be made up of food, water and sanitary facilities, shelter, medical care and fuel. As more than three quarters of all refugees are women and children, the medical care provided should include facilities for reproductive healthcare.

The AIV believes that humanitarian aid provided in emergency situations should consist of a basic package of provisions, and urges the Dutch government to use this as a guiding principle when funding aid organisations. The composition of the basic package should be based on local needs, customs and facilities (markets).

The following chart shows how the funds which were budgeted for emergency aid in 1997 were used. The figures show that 29 per cent of the aggregate 1997 budget was used for the basic package of provisions. The figures relate only to emergency situations which were described as being politically complex and which involved acts of violence.

Total emergency aid in millions of guilders *(1997 figures)*



These figures are from the Ministry of Foreign Affairs and relate to commitments under budget category VIIa (emergency aid). The chart is the result of an attempt to break this item down into a number of different activities. Commitments relating explicitly to natural disasters or epidemics have been discounted. To a certain extent, however, the classification we have made is somewhat arbitrary. Some commitments related to a number of different activities (such as food and education), in which case we classified the commitment under the activity which accounted for most of the expenditure. This does mean, however, that in practice the dividing line is not as clear as the diagram purports it to be, with 29% spent on the basic package of emergency aid, 8% on other emergency aid, 41.9% on reconstruction[27], 0.4% on democratisation processes, 17.4% on institutional funding and 3.3% on prevention.

27 The term 'rehabilitation' is commonly used in the same sense.

Definitions of the terms used by the AIV

Basic package of emergency aid (as proposed by the AIV in this report):
food, water, sanitation, shelter, medical care and fuel (i.e. not education)

Other emergency aid measures:
Education in the crisis area, transport and the coordination of emergency aid

Reconstruction:
Repatriation projects, mine clearance and infrastructural projects

Democratisation processes:
In particular, support for elections in Liberia

Prevention:
Peace-building, information projects and emergency preparedness

Institutional funding:
Mainly debt forgiveness, research and evaluation, and international organisations' overheads

Chronic need in conflict situations
The basic package of provisions could be extended if an emergency lasts longer than expected[28]. Support could be given to initiatives taken by the victims themselves to ward off lethargy and take charge of their own destinies again. The AIV suggests that this could include activities relating to primary education and forms of self-help which would alleviate the situation. If the circumstances are right, aid could also be provided to enable people (both refugees and the local population) to regain their self-sufficiency. However, proper account should be taken of long-term factors, such as the need to preserve the natural environment (i.e. the ecological carrying capacity). It is worth remembering, though, that situations of chronic need are not restricted to the countryside, but also occur in towns and cities. The overriding consideration at all times should be that the provision of aid should not serve to prolong the status quo or prevent the resolution of the conflict. Provided there are opportunities for launching a reconstruction process in a certain area, and the conditions are right for such a process to succeed, organisations other than those responsible for providing emergency aid should be asked to contribute.

Criteria and minimum requirements
Amid a growing awareness of the potentially adverse impact of humanitarian aid on the development of conflicts and on the situation of victims, bodies such as the United Nations and international NGOs have attempted to formulate a set of rules to boost the effectiveness of the humanitarian aid effort. This has led inter alia to the adoption of the eight 'Providence Principles'[29] and the ten basic principles of the international 'NGO

28 Jozias van Aartsen, Minister of Foreign Affairs claimed, in a speech delivered to the General Assembly of the United Nations on 24 September 1998, that the average duration of a conflict had risen from two to 141/2 months between 1945 and 1995. However, some conflicts last many decades and destabilise an entire region (as in Sudan and Afghanistan).

29 Larry Minear & Thomas Weiss, Providence Principles of humanitarian action in armed conflict: eight humanitarian guideposts, in: Humanitarian action in times of war, a Handbook for Practitioners, Rienner 1993.

Code of Conduct (1994)'[30]. The AIV welcomes the support which the Dutch government has given to standard-setting projects[31].

The Providence Principles and the NGO Code of Conduct have a great deal in common with each other. Both recommend that the provision of aid should meet the following basic requirements:

– the aid should be adapted to and targeted at the local situation;
– local customs should be respected;
– local organisations should be involved;
– the recipients should play a role in planning and implementing the aid effort;
– the aid should be impartial and independent;
– the principle of proportionality should be applied;
– those providing the aid should be accountable to the donors and the recipients.

Recent initiatives have been aimed at formulating a 'code of best practice' which would also include aspects such as training and the safety of aid workers[32].

The chief objective of supplying emergency humanitarian aid is to ensure the short-term survival of the victims of a violent conflict. It is also accepted that this should not be at the expense of their human dignity. Humanitarian organisations have, however, sometimes been accused of having a 'delivery mentality' and showing a lack of respect or understanding for the recipients of the aid. It is claimed that they have a tendency to regard emergency situations simply as technical problems. This problem has not been helped by the arrival of new aid organisations, many of which lack experience and target their aid at specially selected target groups. Indeed, in some cases, they have only helped to exacerbate the problems.

The AIV recommends applying the following criteria when selecting NGOs to distribute humanitarian aid. The organisation should:

– *conduct regular and adequate needs assessment studies among men, women and children in and around the crisis region;*
– *systematically monitor aid activities and evaluate and assess their impact at regular intervals;*
– *endorse and observe the NGO Code of Conduct for humanitarian organisations.*

The AIV advises the Dutch government to enter into discussions with other governments with a view to establishing an international incident centre to which complaints about failures to observe the Code of Conduct can be reported. Aid recipients, i.e. victims, their relatives, NGOs, governments and other parties should be able to submit any complaints

30 An initiative of the Federation of Red Cross and Red Crescent Societies, adopted by a large number of NGOs. See also: The state of the world's refugees, UNHCR, 1997.

31 Such as the 'Guidelines on the assessment of humanitarian projects', designed by the Thomas J. Watson Jr Institute for International Studies and the Refugee Policy Group, as part of the Humanitarianism and War Project, Conflict Management and Humanitarian Aid Department, Ministry of Foreign Affairs, the Netherlands, January 1997.

32 See also, on the subject of safety standards, an ECHO Working Paper entitled 'Security of relief workers and humanitarian space', European Commission, 1997 (draft 6.0, 14 November 1997).

about problems or serious breaches of the Code of Conduct on humanitarian aid to the centre, which would collect information and report on any shortcomings and cases of abuse. This centre could be set up as part of the Office for Coordination of Humanitarian Affairs (OCHA), recently established by the UN, as the OCHA performs a coordinating role and is in close contact with the organisations involved.

Involvement of local actors

The establishment of local aid structures hinges on the involvement of local organisations in aid operations. It is impossible to properly satisfy the need for aid in a crisis situation without having access to the expertise of local actors. Prendergast has described this criterion in the following terms: 'a new paradigm for emergencies must give priority to pressuring authorities to assume their public welfare responsibilities, and empowering communities to take care of their own needs and manage the response to their own emergencies'[33]. This is the only way of reducing the dominance of the role played by international aid organisations, whose work often deprives local authorities and organisations of their own responsibilities.

The AIV recommends that, when the Dutch government decides whether or not to support aid operations performed by a humanitarian organisation, one of the points it should consistently take into consideration is the degree of involvement of local organisations in the aid effort. The criterion applied in this respect should be whether the organisation in question promotes self-sufficiency by strengthening local capacity and, where possible, involving the recipients in the aid effort.

Neutrality and impartiality

The decline in the effectiveness of aid, coupled with the undesirable effects which have become more and more apparent, has sparked off a debate on impartiality and neutrality in recent years. A number of questions have been raised: Does the principle of neutrality mean that aid organisations should not speak out in public about violations of human rights and humanitarian law? Does the principle of neutrality really help in the realisation of the objectives which the aid effort is intended to achieve - gaining access to the victims and supplying them with effective aid? Are there situations in which humanitarian aid workers should be given military protection, precisely in order to enable them to gain access to the victims, even if such protection seems to be at the expense of the operation's neutrality?

Opinions tend to differ (although these differences are often exaggerated in the public debate on the issue). The International Committee of the Red Cross is strict in its observance of the principle of neutrality, whereas other organisations, such as Médecins Sans Frontières, claim that the principle has lost its relevance in the light of the type of emergency situations which occur these days and the conditions in which aid workers are called upon to operate. Generally speaking, however, aid organisations do not interpret the principle so strictly that it prevents them from criticising parties for violating human rights or humanitarian law. There are various ways of doing this, including low-key diplomacy alongside and in contrast to more public criticism. Operational neutrality, the object of which is to secure access to the victims, should not stand in the way of the application of what is sometimes referred to as the 'neutrality of principle'[34], which means that all parties can be called upon to observe internationally accepted rights and standards.

33 J. Prendergast, p. 149.

34 In particular by African Rights.

Some organisations have taken the argument one step further by insisting that aid organisations should act as 'advocates'. As the former Director of MSF Holland, Jacques de Milliano, said, 'humanitarian aid should be embedded in a wider political commitment'[35]. The idea behind this is that aid is always and inevitably provided in a political context, and hence always and inevitably affects the course of the conflict in question. Strict of observance of the principle of neutrality would, they claim, lead in practice to aid organisations being accessories to serious violations of human rights.

The Dutch government has decided to leave it up to the aid organisations themselves to form their own judgements on this issue. The government has pointed out, however, that 'humanitarian aid workers are not expected to adopt a high profile in addressing the causes underlying the conflict' and has therefore argued in favour of 'retaining the principle of neutrality in relation to the provision of humanitarian aid'[36]. The AIV wishes to stress the latter point in particular. Emergency aid is not always compatible with public advocacy. The mere fact of drawing attention to human rights violations committed by one of the parties may be enough to create an impression of bias. The aid organisation may subsequently find itself on the receiving end of punitive action by the alleged offenders, and this may jeopardise the effectiveness of the aid operation.

The AIV shares the view taken by the Dutch government that it is important to uphold the principle of the neutrality of humanitarian aid. The AIV therefore urges the government to exercise caution in funding humanitarian organisations which explicitly couple the provision of humanitarian aid with public advocacy. The AIV wishes to make clear, however, that it does not consider the reporting of breaches of humanitarian law or human rights to the appropriate bodies (such as the UN High Commissioner for Human Rights) as being a form of public advocacy, and that it hence regards this as compatible with the provision of humanitarian aid.

The AIV is of course aware that it is often the absence of international political action which forces humanitarian aid organisations into this role. For this reason, the AIV believes that the most of the problems surrounding the neutrality of humanitarian aid can be solved if action is taken at an international level not only to commit humanitarian resources, but also to provide a political (and, if necessary, a military) solution to the conflict (see Chapter VI). Organisations which are not directly involved in the provision of humanitarian aid are better suited to the role of advocates.

There has been an increase in recent years in the number of privately funded humanitarian NGOs, many of them relatively small, which espouse certain political or religious principles. The AIV believes that the neutrality of the humanitarian aid organisations has been jeopardised in part by the growth of and the role played by new aid organisations which, because of their lack of experience and expertise, have failed to observe the guiding principles of humanitarian aid and hence either have formed easy targets for manipulation by the parties to the conflict or have undermined the neutrality of other actors. During the aid effort in Cambodia, for example, many smaller NGOs were found to have associated themselves with one or other of the rival factions, without wishing to take any

35 J. de Milliano, Toekomstvisies op humanitaire hulpverlening ('Views on the future of humanitarian aid'), Loopgraven, autumn 1997.

36 Ministry of Foreign Affairs: Positie van noodhulporganisaties in conflictgebieden ('The position of relief organisations in conflict areas'), letter to the Permanent Committee on Foreign Affairs, 17 April 1997 (HH-1165/97).

account of the interests of other parties[37]. Similarly, the evaluation report on the humanitarian aid campaign in Rwanda in 1994 concluded that 'the performance of NGOs in providing humanitarian assistance was mixed. A number behaved professionally and compassionately delivered high-quality care and services. But ... other NGOs performed in an unprofessional and irresponsible manner that resulted not only in duplication and wasted resources, but, in a few egregious cases, in unnecessary loss of life'[38].

The Netherlands and other donors will need to continue supporting those aid organisations which have demonstrated their ability to provide aid both effectively and in accordance with the principles laid down in the Geneva Conventions and the NGO Code of Conduct. New organisations will need to prove that they have sufficient capacity and will also need to endorse the Code in order to qualify for support.

Accountability

The foundations for an effective and regular reporting procedure are laid with the endorsement of a code of conduct and the performance of a needs assessment prior to the aid operation itself. After the operation, full financial accounts and an impact assessment should be provided as part of the normal reporting procedure[39].

The Netherlands can provide the necessary stimulus by funding needs assessment studies prior to aid operations, as well as evaluations and impact assessments following operations. Donors can also improve the efficiency of the process by requiring aid organisations to use a common model as the basis for their financial reports[40]. The AIV urges the Dutch government to undertake initiatives to this effect.

37 International Peace Academy, 'Peacemaking and peacekeeping for the next century. Report of the 25th Vienna Seminar', Vienna 1995, p. 46.

38 Joint Evaluation of Emergency Assistance to Rwanda, 'International Response to Conflict and Genocide: The Lessons from the Rwanda Experience. Synthesis Report', Copenhagen, 1996, p. 59.

39 The Dutch government is subsidising a project entitled 'Minimal Performance Standards in Humanitarian Relief'. The project is an initiative of the Steering Committee for Humanitarian Response (SCHR), an alliance of several NGOs including Care International, Caritas International, the IFRC, the International Save the Children Alliance, Oxfam International and the World Council of Churches in conjunction with InterAction, a coalition of 150 US non-profit-making organisations. The aim of the project is to set minimum standards, *inter alia* for improving the way in which the activities of aid organisations are evaluated and monitored. The project is seeking to define standards for fields such as food, water and sanitation, medical care, clothing, and housing. The standards address the nature and quality of the aid provided, the methodology used, the aid organisation's reporting procedure, as well as a number of specific issues such as the environment and gender.

40 As a matter of interest, international aid organisations generally all send out the same 'consolidated appeal' forms when a crisis occurs. A similar type of framework document could also be designed for financial reporting purposes.

Security

Increasing concern is being expressed about the safety of aid workers[41]. At the UN, official responsibility for the security of personnel lies with UNSECOORD, which is answerable to the Secretary-General. However, this department operates at a tremendous distance from the scene of the actual problems. In situations where peacekeeping forces have been deployed, they often protect aid workers. The UN Resident Representative plays a key role in coordinating security on the spot.

A number of organisations have drawn up internal guidelines for improving the safety of their staff. One of the findings of a study conducted by the UNHCR in 1997 into the security of personnel was that 'strengthened management and leadership in the field and at Headquarters'[42] was likely to prove one of the best means of solving the problem. The researchers concluded that security had not yet been properly integrated into operational policies and staff and financial policies. Interestingly, the security of aid workers is frequently discussed at international level, whereas the spotlight is rarely turned on the security of the victims themselves[43].

There have been calls from various quarters for donors to take more interest in the funding of security measures, as this would help to improve planning, training and policy preparation on the part of the aid organisations themselves. *The AIV urges the Dutch government to support the plans made by aid organisations for developing and planning a wide range of incremental security measures which would allow them to respond effectively to threats to the safety of aid workers and the security of aid shipments. The range of non-military measures would include providing better communication tools, better facilities for storing aid shipments under lock and key, better training and the use of local security guards. Donors should look more closely at these and other non-military security measures*[44].

The most drastic form of action which can be taken to protect humanitarian aid during a crisis is the dispatch of military forces. UN forces have played a variety of roles in humanitarian operations since the end of the Cold War. Firstly, soldiers have been deployed to protect aid workers. Secondly, soldiers have themselves provided humanitarian aid and helped to repair equipment and rebuild buildings. Thirdly, soldiers have been involved in negotiations on matters such as the resettlement of displaced persons, the repatriation of refugees and enabling people to visit graves. Finally, soldiers have protected civilians in areas designated as 'security zones'[45].

41 See Resolution of December 1994, Convention on the Safety of UN and Associated Personnel. See also the Security Council report entitled 'Report of the Secretary-General on Protection for Humanitarian Assistance to Refugees and Others in Conflict Situations', September 1998, S/1998/883.

42 Executive Committee of the High Commissioner's Programme, Standing Committee 9th meeting, Staff Stress and Security: A Management Challenge for UNHCR, 15 August 1997 (EC/47/SC/CRP.49).

43 This is sometimes referred to as 'civilian protection drift', with attention being focused initially on protecting the victims, then on protecting aid workers, and finally on protecting members of peacekeeping forces.

44 One of the possibilities is encouraging aid organisations to use checklists of security measures.

45 Adam Roberts: Use of UN peacekeeping forces for humanitarian purposes, in: Refugee Participation Network, January - April 1997, issue 23, pp. 4-6.

Humanitarian organisations have claimed that the presence of the military in humanitarian operations poses a serious threat to the neutrality (and hence the effectiveness) of the humanitarian aid. In a number of instances, aid organisations have withdrawn for this very reason. Clear arrangements need to be made about the conditions and mandate under which the military component of a peacekeeping force becomes involved in aid operations. Only in exceptional situations should soldiers play a direct role in the distribution of humanitarian aid, for example if the aid organisations have been obliged to pull out. The guidelines for the deployment of armed forces in humanitarian operations, issued in 1994 by the then United Nations Department of Humanitarian Affairs, rightly cite the following conditions: aid organisations should themselves decide when it is appropriate to deploy military force; military assistance should be provided only if no civilian option is available; the humanitarian operation should retain its non-military character; soldiers should respect humanitarian principles and the code of conduct; large-scale military interventions should be avoided; and the humanitarian operation should retain an international character[46].

The AIV endorses these guidelines and believes that military forces should only play a supporting role in humanitarian operations. The AIV regards situations such as that which occurred in Somalia in 1993, when for every dollar that was spent on humanitarian aid, ten dollars were spent on military protection, as undesirable[47].

A UN police force

The Security Council recently requested the UN member states, as part of the debate on the safety of aid workers, to suggest ways and means of dealing with the current problems[48]. One suggestion was to form a UN police force, which could protect humanitarian aid operations without there actually being any need for an international military presence.

The idea of placing a humanitarian aid operation under the protection of an international police force has already been tried out in practice, for example in the case of the UN Guards, a 500-strong police contingent which has been given the task of protecting the humanitarian operation in northern Iraq. The Civilian Security Liaison Group, which operated under the auspices of UNHCR in 1995, in supervising the activities of the Zaïrean army in the Hutu refugee camps in eastern Zaïre, also had a sort of UN police component. There have also been other examples of police units which have played a role in supporting humanitarian aid within the context of military peacekeeping operations. This was the case, for example, with UNIFIL (in Lebanon), UNTAC (in Cambodia), UNOSOM (in Somalia) and UNAMIR (in Rwanda)[49]. Policing by the UN, as in northern Iraq or eastern

46 Guidelines on the use of military & civil defense assets in disaster relief, New York, May 1994, DHA/94/95.

47 International Peace Academy, p. 42.

48 UN Doc. S/PRST/1997/34.

49 Strictly speaking, even the multinational police force (MNPF) which was deployed in Albania in 1997 falls in the same category. The chief object of the operation (under Security Council resolution 1101) was to protect humanitarian aid and to create a safe environment for the international organisations working in the region. In the event, however, the MNPF (which was mandated under Chapter VII of the UN Charter) operated primarily as a military force whose main objective was to put an end to the anarchy prevailing in Albania. The AIV would prefer to regard the MNPF as a unique case, given that the scale and equipment of the force were closer to that of a fully-fledged military peacekeeping force than to that of a police unit.

Zaïre, is restricted mainly to post-conflict situations with a relatively low level of risk. Where the situation is regarded as posing a higher level of risk, any police component is inevitably embedded in a military organisation. This sort of set-up has indeed now become more customary, given the increasing multi-functionality of UN peacekeeping operations. Where a peacekeeping operation comprises a police component, it usually includes monitoring and training local police forces, collecting weapons, helping election observers and facilitating the judicial process. With one or two exceptions, military units have traditionally taken responsibility for protecting humanitarian aid efforts.

The formation of a UN police force could represent a valuable addition to the range of measures available for combating humanitarian crises. Such a force would not be as threatening to local leaders as a fully equipped military peacekeeping force, and could be deployed more rapidly in emergencies. Provided it was adequately equipped, it could provide a certain degree of protection in situations where the humanitarian aid effort is frustrated at local level by bandits and theft. However, a police force is by definition unsuitable as a means of enforcing the peace. Whilst a police force could, depending on the circumstances, carry out certain duties in the field of prevention and mediation, it is not equipped for dealing with high-risk situations in which there is a need for action to enforce the peace.

A UN police force would need to be deployable at short notice and would have to be deployed for a short period only, until either the situation would appear to have stabilised or a further escalation of violence necessitated the use of more force. Once it becomes clear that either individual warlords or whole sections of the population (e.g. certain ethnic groups) are opposed to UN intervention, there is nothing much the presence of a lightly armed police force can do. Indeed, its presence could even be counterproductive if the parties regarded it as a compromise that was the result of international reluctance to take tough action. This means that, as soon as the decision were taken to deploy a UN police force, the Security Council would have to make preparations for the deployment of a regular UN peacekeeping force to take over from the police force if the situation got out of hand. *The AIV therefore believes that a UN police force should on no account be used as the sole means of protecting a humanitarian aid effort in a situation in which there has been only a limited escalation of violence. The UN should always assume there is a possibility of violence escalating to such an extent that it can no longer be controlled by a police force. In other words, the Security Council must be responsible for deciding whether or not to deploy a UN police force. The Security Council should also ascertain whether the aid workers really need assistance and should, if required, be ready to provide information about its plan for the deployment of such a force.*

A UN police force can often play a successful role in a post-conflict situation, as in northern Iraq (albeit as part of a wider strategy).

Any UN police force would need to be both broadly based and flexible in order to be able to discharge the wide range of duties with which it could potentially be entrusted. Its members would have to be capable of using relatively robust weapons in order to counter any attempt to intimidate them. At the same time, there might also be a need for very lightly armed (or perhaps even unarmed) police officers to perform a more civilian role (such as monitoring, training or dealing with certain human rights issues). The AIV believes that the Security Council would most probably reject any proposal to set up such a broadly based and flexible force on a permanent basis. Even without considering the cost aspect, the AIV feels it is unlikely that a majority of the UN member states would agree to the formation of such a police force.

The AIV would therefore recommend making a UN police force part of the United Nations Standby Arrangements System. A number of UN member states have already proposed extending this system (currently no more than a database for the deployment of rapid-response army units on peacekeeping missions) by adding a police force to it. A multinational standby UN police force could therefore be formed along the lines of the Danish proposal for a multinational Standby Forces High Readiness Brigade (Shirbrig) with a permanent HQ and rapid-response troops.

Exit humanitarian aid

The humanitarian aid effort should be adjusted or stopped once the humanitarian emergency begins to lose some of its urgency. In any event, the aid should not be unnecessarily continued. As we have already explained, humanitarian organisations should really leave the work of reconstruction in a post-conflict situation to organisations which are equipped for this purpose and which do not need to remain neutral at all costs. There may also be circumstances, however, in which a decision has to be taken to discontinue the distribution of humanitarian aid even though the humanitarian distress remains highly acute. The issue of whether aid organisations should withdraw in certain circumstances, i.e. if they are prevented from doing their job or if they can only do their job in conditions which are unacceptable to them, has become increasingly pressing. A decision to withdraw may have to be taken if there is no other way in which to prevent humanitarian aid from having certain undesirable effects, as described in Chapter II. This may follow, for example, if the aid can no longer reach the victims or if the aid workers are exposed to an unacceptable level of risk. The question of whether there is any point in continuing to provide humanitarian aid may also arise if emergency aid has become a substitute for other forms of intervention.

The Office for the Coordination of Humanitarian Affairs has decided to formulate a policy on this issue in the near future, and also to draw up rules of engagement which could act as a guideline for any humanitarian organisation that find itself in an untenable position. Such guidelines would enable the various organisations to coordinate their policies. Nevertheless, the adoption of a common structure could imply that, depending on the nature of their mandates, different organisations could decide to withdraw in different circumstances. This is because some organisations, on account of the nature of their work, are more prone to attract aggression than others (particularly if they have access to scarce commodities like food).

The AIV proposes that clear criteria be drawn up on the basis of which aid organisations can decide whether or not to withdraw from a particular crisis situation. These criteria must be adopted before the humanitarian operation in question is launched. Moreover, they can also be applied in order to determine whether there is any point in continuing to provide aid. The AIV suggests the decision to abandon aid efforts could be taken:

1 if the aid is not reaching the target group;
2 if aid workers are regarded as targets by the warring factions.

The AIV suggests that aid organisations be asked in such situations to weigh the benefits of providing aid against the costs of an unnecessary extension of the conflict caused by misuse of the aid. Aid organisations themselves, and not governments, should be responsible for taking the final decision as to whether to continue the aid programme.

V From humanitarian aid to reconstruction aid and development cooperation

The conclusion of a formal peace treaty could signal the start of a post-conflict period, especially if the treaty is widely supported by all the parties involved in the conflict. In other cases, it is difficult to say exactly when the post-conflict stage begins: it is generally characterised by a fragile peace which can be disturbed at any time by fresh outbreaks of violence. This means that activities aimed at preventing renewed violence are essential. The conditions within the country may also vary from one region to another: there may be peace in certain parts of the country, whilst war is still raging in others. What can aid organisations and donors do in this type of situation? In regions where there is a genuine prospect of stability and where the local authorities and other parties have openly stated their serious intention of working towards lasting peace, a start could be made with the provision of reconstruction aid, provided that certain conditions have been met (see the criteria below). If, however, the situation is one of chronic crisis marked by very frequent outbursts of violence, the effort could be limited to emergency aid. As we proposed in Chapter IV, the basic package of aid could be extended in such situations once a needs assessment has been performed, preferably in consultation with the local population.

Whatever the situation, however, a decision will always need to be taken at some point as to whether the conflict can be regarded as over, so that the provision of emergency aid can be replaced by other forms of aid which are more in the nature of development cooperation, i.e. reconstruction aid or more long-term structural aid.

The AIV takes the view that this transition should be observed clearly and consciously, given that aid to support the process of reconstruction can be effective only in certain circumstances. Whilst there may still be good reasons for continuing to provide some humanitarian aid in this post-conflict stage (i.e. to ensure the survival of the population in the short term), organisations must be aware of the need to make sure that such aid is not provided for too long a period, as it can, for example, prevent markets and production from recovering and functioning properly. If reconstruction aid is offered at the same time as humanitarian aid, a clear distinction should be made between the two.

Unlike humanitarian aid in the strict sense of the word, which (as we have already explained) is aimed largely at guaranteeing the survival of the local population in the short term and at alleviating acute suffering, reconstruction aid is directed at achieving a longer-term goal, i.e. helping the population to regain their self-sufficiency, restoring normal social relations and preventing any fresh outbreaks of violence. It goes without saying that such assistance can only be provided if both stability and security in the region are guaranteed.

The AIV recommends that reconstruction aid should be provided only if the following conditions are met:

1 *the situation should be relatively stable, and a sufficient level of security should be guaranteed;*
2 *all parties involved should be willing to work towards peace and reconstruction;*
3 *local leaders should display a certain level of respect for the law and should also show respect for human rights;*

4 *if there is no effective national power structure, aid activities should be planned and implemented as far as possible in the context of local structures;*
5 *alongside local authorities, civil society organisations and local groups should be involved as closely as possible in reconstruction aid; there are good opportunities here for ensuring that women play a prominent role;*
6 *reconstruction aid should help to strengthen local institutions which are essential to the rule of law (i.e. the judiciary, an independent public prosecution service and the police);*
7 *decisions to provide aid should be taken on the same basis as decisions to initiate structural development ties.*

In connection with this last point, the AIV recommends that decisions on reconstruction aid should not be taken by the department responsible for allocating emergency aid, though simplified procedures should be drawn up to guarantee a swift response.

Most donor countries distinguish between humanitarian aid and structural development cooperation. This does have the drawback, however, of leading to the formation of separate circuits for funding emergency aid and development aid, and hence of making it easy for a gap to emerge between the two. Humanitarian organisations have sought to close this gap in recent years by undertaking all sorts of activities in the field of reconstruction. The UNHCR, for example, has stepped up its work in this field during the past few years, *inter alia* as a result of the absence of an active UN partner, but also because of the tremendous growth in the volume of repatriations[50]. According to the UNHCR, the need to repatriate large numbers of refugees has forced the organisation to play an active role in rebuilding their country of origin. Moreover, it is important that the rebuilding work should be targeted not only at the returnees, but also at those who remained behind during the war, so as to be able to monitor the returnees and prevent new conflicts from breaking out (and a new exodus of refugees from starting). However, such activities are not consistent with the nature of the organisation and may prevent it from carrying out its original mandate, i.e. protecting refugees. The AIV therefore supports the position adopted by the Dutch government, as articulated during the October 1997 meeting of UNHCR's Executive Committee, which spoke out against the expansion of UNHCR's activities to include reconstruction work.

The AIV believes that the Dutch government should continue to insist in international fora that a distinction be made between international organisations which are responsible for providing humanitarian aid, and those whose duties lie in the field of reconstruction and development cooperation. Accordingly, the Dutch government should not support humanitarian organisations which couple the provision of emergency aid in crisis situations with structural aid. Aid organisations should clearly earmark their emergency aid operations as such. The Dutch government should furthermore continue to lobby for the strengthening of organisations which are equipped to provide reconstruction aid as part of development cooperation programmes, and should devise procedures for starting a reconstruction programme as soon as possible after the termination of a conflict, and in any event more quickly than is the case at present.

The above arguments throw a critical light on the 'development-for-peace' policy described in Chapter II. The activities in Afghanistan were performed as part of an international, UN-coordinated programme bringing together a range of different activities. The AIV wishes to

50 The High Commissioner, Sadako Ogata, stressed this point again during the Van Heuven Goedhart Lecture which she gave in The Hague on 1 September 1998 as part of World Refugee Week.

stress the risk that the 'development-for-peace' strategy will result in an excessively broad interpretation of the concept of humanitarian aid, and that the borderline between humanitarian aid and other forms of aid will become dangerously blurred. The AIV regards reconstruction as a form of long-term development aid that is intended to lead to a structural improvement in living conditions. The type of aid that is provided in a typical post-conflict situation will differ from traditional forms of aid supplied to countries which are not involved in conflicts. Post-conflict development aid typically includes trauma counselling, peace-building activities, restoration of public utilities, etc. The AIV would like to emphasise, however, that aid should be allocated to reconstruction programmes only if the criteria and conditions described above have been satisfied. The AIV also takes the view that such programmes, and other types of reconstruction aid, should generally be funded from the 'regular' development budget rather than from the emergency aid budget.

The AIV regards it as highly important that different organisations should be involved in implementing the policies on emergency aid and reconstruction aid/development cooperation. The chief reason for this is that humanitarian aid is subject to different criteria and principles than reconstruction aid and development cooperation.

VI Towards greater consistency in international decisions

International organisations have spent many years trying to find ways and means of harmonising political and military strategies with activities in the field of humanitarian aid and development cooperation. This also implies an attempt to improve coordination between activities aimed at preventing conflicts and crises, and activities which constitute a response to violent conflicts.

The AIV would like to point out that the pursuit of an effective political strategy may sometimes be at odds with the need to help the victims. Emergency aid should not be allowed to evolve into a political instrument. It is an end in itself, an ethical imperative. However, consistency between the various activities is important.

Early warning and prevention

Whilst the AIV sets great store by prevention, it believes that the problems relating to prevention are of a completely different order from those surrounding the subject matter of this report, i.e. humanitarian aid. A future report could perhaps discuss the issue of the potential offered by existing preventive strategies, as well as forms of prevention which could be developed in the future. We have, however, decided to discuss the issue of early-warning systems here, because it has a direct bearing on the level of preparedness of aid organisations.

The UN, governments, NGOs and researchers have designed a range of early-warning systems in recent years with the aim of giving advance notice of tensions or even imminent violent conflicts. The media also have an important role to play in this connection. The various early-warning systems are based on an assumption that a source of reliable information is vital to any attempt to provide an effective response to a conflict before it is too late.

In his report on the causes of conflict in Africa, the Secretary-General of the UN writes that 'the critical concern today is no longer lack of early warning of impending crises, but rather the need to follow up early warning with early and effective action'[51]. Early-warning systems can be used to identify potential hot spots, particularly those stemming from politically manipulated ethnic differences, glaring economic disparities (especially when accompanied by the social exclusion of identifiable groups) or the violent repression of opposition to an authoritarian regime. The crises in Rwanda, Bosnia, Liberia, Somalia, Sudan and, most recently, Kosovo cannot simply be dismissed amid a flurry of claims that no one realised that any violent conflict was impending. At the nub of the issue lies the question of whether states are willing and able to respond, and the speed with which their response takes shape. Against this background, the AIV believes it is vitally important that state and intergovernmental organisations in particular take more steps to explore the potential for responding to the information supplied to them. The AIV believes that every early-warning system should include regularly updated plans for possible action, including preventive political action. However, developing a strategy for this is a considerably more complex affair than the relatively straightforward business of collecting information. Despite the surfeit of information, we are still without an effective strategy for preventive diplomacy, and insufficient use is made of economic measures (whether positive or negative), sanctions, conditionality, force and the threat of force.

51 Annan, 13 April 1998, UN Doc. A/52/871 - S/1998/318, para. 16.

The AIV is aware of the obstacles inherent to the UN system and believes for this reason that the question of where the information is analysed, i.e. inside or outside the international political bodies responsible for taking the final decision on the strategy to be pursued, is of vital importance to the preparation of preventive action. The AIV recommends separating analysis from decision-making on strategy. The UN Secretary-General, Kofi Annan, made a similar proposal in the report referred to above, i.e. to start by appointing a special intermediary or forming special committees in the event of a potential or actual conflict in order 'to look into the sources of the dispute, build confidence, and recommend practical solutions'[52]. If this proposal were implemented, it could strengthen the UN Secretary-General's position in relation to decisions taken in the political bodies, because he would be able to point to the fact that such decisions are based on relatively impartial and objective analysis.

The AIV advises the government to formulate a common international policy whereby information on potential crisis areas could be analysed by bodies other than those responsible for taking political decisions. This could be achieved, for example, by implementing an earlier recommendation by the Advisory Council on Peace and Security to establish a 'Red Alarm Group' at the United Nations[53]. The same goal could be served by appointing a special intermediary or committee, as proposed by UN Secretary-General Kofi Annan.

The AIV would also like to see analysis taking place at a regional level. This could be done by organising regional conferences, or by setting up regional networks or organisations which would concentrate on region-specific elements of conflict prevention and conflict resolution (e.g. the OAU, OAS, NATO, etc.). If indicators were developed on this type of regional basis, it would be easier to take account of cultural and developmental aspects that have a direct bearing on the region in question. The current regional organisations are not properly equipped to perform such activities. The Dutch government could help to strengthen the capacity of regional organisations in this respect.

In their letter requesting the AIV to submit a report, the ministers in question asked the AIV for its opinion on the advisability of seeking to focus international attention on the causal link between international cooperation, support for bad governance and conflict escalation. The AIV believes that this should indeed be discussed by the OECD's Development Assistance Committee (DAC). The Dutch contribution to this debate should take the form of specific, in-depth information on the possible link between financial support for bad governance and the outbreak of conflicts. In its 1997 World Development Report[54], the World Bank produced conclusive evidence that the effectiveness of a state is a vital factor in the development process. This implies that aid only works if the recipient countries can boast both good governance and effective policy. This, in turn, leads inevitably to the issue of conditionality. The AIV endorses the current Dutch policy, which is based on the assumption that making 'regular' development aid subject to certain

52 Annan 1998, para. 17.

53 The idea is that this should consist of 'eminent political figures' from the UN member states whose task it would be to advise and support the Secretary-General in bringing to the attention of the Security Council, pursuant to Article 99 of the Charter, any matter which constituted a threat to international peace and security, Advisory Council on Peace and Security, 'Innocence Lost: the Netherlands and UN operations', Report No. 20, 1996, recommendation VII.2, page 44.

54 World Development Report 1997, The State in a Changing World, World Bank, Washington 1997.

conditions can help to effectuate preventive policies, particularly in countries where the government is guilty of human rights violations.

The issue of conditionality mainly affects those countries with which the Netherlands has a regular development relationship. The Dutch government also has other measures at its disposal in the context of foreign policy, such as measures to prevent the proliferation of arms[55].

Conditionality can also include sanctions. *The AIV believes that, if sanctions are imposed, these should be targeted more clearly at governments, specific parts of a government and/or powerful groups. Such sanctions could include bans preventing members of such groups from travelling, and the freezing of bank deposits.* This should be approached with some caution, however, as it remains unclear whether sanctions are actually effective[56].

An integrated approach

Various international fora, particularly within the UN, have recently adopted the concept of an 'integrated' approach in their policies on humanitarian aid. The experiences in Sudan, Somalia and Rwanda have demonstrated the need for greater coordination between political mediation, military and security operations and the provision of emergency aid. An integrated strategy enables such coordination to be combined with more efficient coordination of the work of national and international organisations and government bodies in the field.

In addition, the UN recognises the need 'to couple aid efforts with more comprehensive approaches that include promoting political settlements, rebuilding capacity and restoring economic opportunity'[57]. In 1997, the UN formulated a Strategic Framework Approach 'for response to and recovery from crisis'. An informal briefing note on this approach proposes that the strategy 'should reflect the primacy of national ownership and domestic resources, complemented by international support'[58]. The plan speaks of a 'holistic' approach to bridge the gap between emergency aid and development work, combining analysis of the situation in the country with a list of policy principles and priorities. This would require close cooperation between the UN agencies and the various other actors, such as the IMF, the World Bank, donors and NGOs. Clearly, an integrated strategy of this type requires closer international coordination in the field.

After all, the more blurred the dividing line between responsibilities and the greater the overlap in activities, the more difficult it will be to achieve the international aim of bringing about greater coordination at a decision-making level between political and military strategies, humanitarian objectives and the goals of development work. The AIV therefore believes that the government should continue to insist in international fora that international organisations which operate partly in the field of humanitarian aid and partly in the

55 See AIV report No. 2, 'Conventional arms control: urgent need, limited opportunities', The Hague, April 1998.

56 Advisory Committee on Human Rights, 'De rechten van de mensen en de internationale economische betrekkingen' *('Human rights and international economic relations')*, Report No. 12, The Hague 1991, pp. 31 ff.

57 Report of the Secretary-General to the UN General Assembly, UN Doc. A/52/1, 1997.

58 Informal briefing note on Strategic Frameworks, 1997.

fields of reconstruction and development cooperation should clearly distinguish between these two roles.

The AIV feels that it will prove extremely difficult in practice to realise an integrated strategy of this type. The UN Security Council is responsible in principle for setting the international political framework for any political or military action with humanitarian objectives. Firstly, Security Council member states may disagree on the nature of the crisis and the type of action needed to contain it. Secondly, humanitarian aid is provided by a huge range of generally autonomous UN and non-governmental organisations operating under their own permanent mandates and missions. Forms of rivalry between aid organisations are not uncommon, and this makes it even more difficult to carry out and coordinate an integrated policy.

The many (often wide-ranging) assessments of the humanitarian operations which took place during the crisis in the Great Lakes region of Africa have made clear that the greatest obstacle to a solution to the crisis and to an efficient aid operation was the failure of the main international players, i.e. donors, UN member states, Security Council members, international and regional organisations and the UN's political division, to agree on a common, coordinated policy. The absence of a coherent, international policy hindered interaction between the UN and local leaders, and this in turn hampered the provision of humanitarian aid.

The AIV urges the Dutch government to keep up its efforts, channelled through the executive bodies of the various UN agencies, to restrain institutional rivalry between the various UN agencies which deal with humanitarian crises, calling on them to abide by their mandates. Aid organisations should operate on the basis of common analyses of the situation and of general principles of complementarity and transparency.

A coherent policy does not necessarily imply close practical cooperation between the various actors involved in the field. For example, aid operations may actually be hindered if aid workers work arm-in-arm with armed forces, as the former may be identified with political standpoints adopted by the UN, with UN peacekeeping operations or with sanctions imposed by the UN. Experience shows how easy it is for any anti-UN sentiment to be vented on aid workers, and also what sort of impact this may have on the humanitarian operation[59].

In a recently published article[60], the former Minister of Defence Joris Voorhoeve refers to the changes which occur in the relationship between military and civilian organisations during the process of reconstruction. Soldiers have played a supporting role in a number of reconstruction processes, and are indeed still involved in this type of work in Bosnia. Voorhoeve claims that, here too, there is a need for a clear division of responsibilities, if the impartiality of the peacekeeping force is not to be undermined. He also warns against the risk of the local population becoming dependent on military protection and other forms of support. The military units should gradually withdraw during the course of the peace-building process. *The AIV, too, favours adopting a cautious approach to any military role during the reconstruction process.* This does not alter the fact, of course, that the United Nations carries a tremendous responsibility for maintaining the peace by military means.

59 Larry Minear 1998, p. 5.

60 Internationale Spectator, June 1998.

New proposals by the United Nations

After two previous attempts, in 1971 and 1991, to improve the UN response to humanitarian crises, the UN published a new set of proposals in 1997 on coordination, accountability and integration in relation to peacekeeping, political decision-making and humanitarian aid. An Executive Committee on Humanitarian Affairs (ECHA) was formed, consisting of representatives from a wide range of UN departments, which reports to the Secretary-General. This enables account to be taken of decisions on peacekeeping, political matters and development cooperation, when decisions are taken on humanitarian aid. The UN's plans for improving the preparation of humanitarian operations and enhancing cooperation during such operations have resulted in the establishment of a new Office for the Coordination of Humanitarian Affairs (OCHA) in New York. Whereas the Humanitarian Affairs Coordinator reports directly to the Security Council and is in charge of the process of policy-making and advocacy, actual coordination of specialised agencies takes place in Geneva, with a UN Resident Representative being responsible for operational matters in the field. The new structure has only just become operational, so it is not yet clear whether it is going to work in practice. It would be wrong to entertain very high hopes of success, however. Past reforms have tended to concentrate on technical, procedural, logistic or administrative aspects, and very little has changed at an institutional or policy-making level[61].

To a certain extent the UN proposals mask the differences and tensions between the mandates and interests of the various UN agencies. Specialised agencies, such as Unicef, the WFP and UNDP, are reluctant to accept any restraints in the interests of effective political coordination. UNHCR has displayed similar reluctance to see its remit, which has grown considerably in recent years, brought back into line with its original mandate.

A great deal will depend on whether an improved procedure can be devised for consultations between the Security Council and the relevant UN agencies. The OCHA office is already playing a prominent role in providing information to the Security Council. A more careful selection of the UN Secretary-General's Special Representative could also help to improve consultation procedures in future.

The AIV supports plans making the UN Resident Representative responsible for coordinating activities in the field. However, it would stress the importance of ensuring that the candidate is properly equipped for the job. There is still scope for improvement in the role played by the Resident Representative vis-à-vis the non-governmental humanitarian aid organisations. Whilst voluntary cooperation mechanisms work well in some cases, they remain inadequate in others.

The AIV recommends that financial support given to organisations involved in emergency aid should be made conditional on their participation in the coordination mechanisms organised by the UN Resident Representative.

The greatest challenge, however, is the need to formulate effective political strategies, as these play a key role in ensuring the efficacy of the other elements of the response to a humanitarian crisis. The only way of preventing humanitarian aid from becoming an alibi for the absence of political action is by actively pursuing the chosen political strategy. The Dutch government should do all it can to promote the formulation of a political strategy and to improve the level of coordination between political and humanitarian organisations.

61 See also L. Minear, 1998.

Whilst it is true that any explicit coordination of the activities of the various UN bodies will inevitably expose conflicting objectives and throw up other dilemmas, it will also enable clear choices to be made. For this reason, the AIV supports the aim of strengthening the harmonisation of the various aspects of UN policy (i.e. political, military, humanitarian, developmental and human rights) on humanitarian crises. In the present UN structure, responsibility for policy coordination is rightly vested in the Security Council, the Secretary-General and the Humanitarian Affairs Coordinator.

Humanitarian law

There remains a problem in that not all states have ratified the relevant conventions and protocols on humanitarian law. This applies particularly to the 1977 Protocols. Many of the rules of international humanitarian law are regarded as ensuing from customary law. Given that, of the parties involved in a civil war, only the established authorities can be directly party to international humanitarian conventions, and given the recent, often tragic, cases in which international humanitarian law has not been applied, steps should be taken to find ways of improving the enforcement of international humanitarian law. Rebel movements should for example be encouraged to sign a statement to the effect that they are prepared to respect international humanitarian law. If they do not do so, they should be denied an international platform.

The AIV wishes to see international humanitarian law further strengthened and enforced. This can be achieved inter alia by ensuring that the relevant conventions are ratified by a large number of states, and by devising better institutionalised procedures whereby non-state actors can agree to be bound by the rules of international humanitarian law. Also, facilities should be improved for gaining immediate and unconditional access to victims in order to distribute humanitarian aid. Any deliberate obstruction of such access should be construed as an international criminal offence, for which the perpetrators (politicians, members of armed forces or warlords) can be tried[62]*. It should be reiterated, however, that national states retain their own responsibility in this area.*

Enforcing humanitarian law remains largely a matter of political will, however.

In addition to the material and institutional strengthening of humanitarian law, the AIV would also like resources to be used to heighten the level of awareness of humanitarian law among both the warring factions and the population, particularly in an impending crisis.

62 In his report on the backgrounds of and solutions to conflicts in Africa, UN Secretary-General Kofi Annan says: 'I recommend that combatants be held financially liable to their victims under international law where civilians are made the deliberate target of aggression. I further recommend that international legal machinery be developed to facilitate efforts to find, attach and seize the assets of transgressing parties and their leaders' (para. 50). The International Criminal Court, which has now been established but which is not yet operational, should ultimately be able to play a role in this respect.

VII Conclusions and recommendations

One of the key questions in the letter asking the AIV to produce a report is: what sort of role can humanitarian aid play in situations of conflict? And, what sort of political preconditions need to be fulfilled for humanitarian aid to be effective in such situations? Furthermore, how can humanitarian aid and development cooperation be prevented from exacerbating conflict situations?

In answering these questions the AIV has chosen, in its definition of the term 'humanitarian aid' to focus on the provision of a basic package of facilities such as food, water, sanitation, shelter, health care and fuel. The AIV favours a strict distinction between humanitarian aid and other forms of aid, such as reconstruction aid. This is important, not only to ensure that aid operations retain their neutrality, but also to enable aid organisations to adhere more closely to the original principles underlying their mandates. The AIV believes that a strict interpretation of the responsibilities of aid organisations will necessarily lead to the adjustment of the policy which has been pursued in recent years. Lacking any clear empirical basis, this policy has sought to encompass an increasing number of aspects contiguous to humanitarian aid. A clear line also needs to be drawn between aid on the one hand and political or military action on the other.

Recommendation 1:
The AIV believes that humanitarian aid should consist of a package of provisions designed to supply basic needs in emergency situations, and urges the Dutch government to use this as a guiding principle when funding aid organisations. The composition of the basic package should be based on local needs, customs and facilities.

The AIV believes that the Netherlands, as a leading contributor to many humanitarian aid operations, should insist that the latter meet a number of clear conditions relating to the provision of humanitarian aid. The basic prerequisites are: neutrality of aid, respect for local conditions and actors, and security guarantees for both aid workers and recipients.

The basic package of provisions could be extended in long-term emergencies. Support could be given to initiatives taken by the victims themselves, since these reduce apathy and enable people to regain control of their own lives. Activities relating to primary education and self-help are ideal in this respect. If the circumstances are right, aid could also be provided to enable people (both refugees and the local population) to regain their self-sufficiency. However, proper account should be taken of long-term factors, such as the need to preserve the natural environment (i.e. the ecological carrying capacity). It is worth remembering, though, that situations of chronic need are not restricted to the countryside, but also occur in towns and cities. The overriding consideration at all times should be that aid should not serve to prolong the status quo or prevent the resolution of the conflict.

Recommendation 2:
The AIV shares the view taken by the Dutch government that it is important to uphold the principle of the neutrality of humanitarian aid. The AIV therefore urges the government to exercise caution in funding humanitarian organisations which explicitly couple the provision of humanitarian aid with public advocacy. The AIV wishes to make clear, however, that it does not consider the reporting of breaches of humanitarian law or human rights to the appropriate bodies (such as the UN High Commissioner for Human Rights) as

being a form of public advocacy, and that it hence regards this as compatible with the provision of humanitarian aid.

Recommendation 3:
The Netherlands and other donors will need to continue supporting those aid organisations which have demonstrated their ability to provide aid both effectively and in accordance with the principles laid down in the Geneva Conventions and the NGO Code of Conduct. New organisations will need to prove that they have sufficient capacity and will also need to endorse the Code in order to qualify for support.

Recommendation 4:
The AIV advises the Dutch government to enter into discussions with other governments with a view to establishing an international incident centre to which complaints about failures to observe the Code of Conduct can be reported. Aid recipients, i.e. victims, their relatives, NGOs, governments and other parties should be able to submit any complaints about problems or serious breaches of the Code of Conduct on humanitarian aid to the centre which would collect information and report on any shortcomings and cases of abuse. This centre could be set up as part of the Office for Coordination of Humanitarian Affairs (OCHA), recently established by the UN, as the OCHA performs a coordinating role and is in close contact with the organisations involved.

Recommendation 5:
The AIV recommends applying the following criteria when selecting NGOs to distribute humanitarian aid. The organisation should:

- *regular and adequate needs assessment studies among men, women and children in and around the crisis region;*
- *systematically monitor aid activities and evaluate and assess their impact at regular intervals;*
- *endorse and observe the NGO Code of Conduct for humanitarian organisations.*

Recommendation 6:
The Netherlands and other donors can provide the necessary stimulus by funding needs assessment studies prior to aid operations, as well as evaluations and impact assessments following operations. Donors can also improve the efficiency of the process by requiring aid organisations to use a common model as the basis for their financial reports. The AIV urges the Dutch government to take an initiative to this end.

Recommendation 7:
The AIV urges the Dutch government to support the plans made by aid organisations for developing and planning a wide range of incremental security measures which would allow them to respond effectively to threats to the safety of aid workers and the security of aid shipments. The range of non-military measures would include providing better communication tools, better facilities for storing aid shipments under lock and key, better training and the use of local security guards. Donors should look more closely at these and other non-military security measures.

Recommendation 8:
The AIV believes that a UN police force should on no account be used as the sole means of protecting a humanitarian aid effort in a situation in which there has been only a limited escalation of violence. The UN should always assume there is a possibility of violence escalating to such an extent that it can no longer be controlled by a police force. In other

words, the Security Council must be responsible for deciding whether or not to deploy a UN police force. The Security Council should also ascertain whether the aid workers really need assistance. The AIV would recommend making a UN police force part of the United Nations Standby Arrangements System. A number of UN member states have already proposed extending this system (currently no more than a database for the deployment of rapid-response army units on peacekeeping missions) by adding a police force to it. A multinational standby UN police force could therefore be formed along the lines of the Danish proposal for a multinational Standby Forces High Readiness Brigade (Shirbrig) with a permanent HQ and rapid-response troops.

Recommendation 9:
The AIV recommends that reconstruction aid should be provided only if the following conditions are met:

1. *the situation should be relatively stable, and a sufficient level of security should be guaranteed;*
2. *all parties involved should be willing to work towards peace and reconstruction;*
3. *local leaders should display a certain level of respect for the law and should also show respect for human rights;*
4. *if there is no effective national power structure, aid activities should be planned and implemented as far as possible in the context of local structures;*
5. *alongside local authorities, civil society organisations and local groups should be involved as closely as possible in reconstruction aid; there are good opportunities here for ensuring that women play a prominent role;*
6. *reconstruction aid should help to strengthen local institutions which are essential to the rule of law;*
7. *decisions to provide aid should be taken on the same basis as decisions to initiate structural development ties.*

In connection with this last point, the AIV recommends that decisions on reconstruction aid should not be taken by the department responsible for allocating emergency aid, though simplified procedures should be drawn up to guarantee a swift response.

Recommendation 10:
The AIV believes that the Dutch government should continue to insist in international fora that a distinction be made between those international organisations which are responsible for providing humanitarian aid, and those whose duties lie in the field of reconstruction and development cooperation. Accordingly, the Dutch government should not support humanitarian organisations which couple the provision of emergency aid in crisis situations with structural aid. Aid organisations should clearly earmark their emergency aid operations as such. The Dutch government should furthermore continue to lobby for the strengthening of organisations equipped to provide reconstruction aid as part of development cooperation programmes.

Recommendation 11:
The AIV advises the government to develop a common international policy whereby information on potential crisis areas could be analysed by bodies other than those responsible for taking decisions on strategy. This could be achieved, for example, by implementing an earlier recommendation by the Advisory Council on Peace and Security to establish a 'Red Alarm Group' at the United Nations. The same goal could be served by appointing a special intermediary or committee, as proposed by the UN Secretary-General.

Recommendation 12:
The AIV would also like to see analysis taking place at a regional level. This could be done by organising regional conferences, or by setting up regional networks or organisations which would concentrate on region-specific elements of conflict prevention and conflict resolution (e.g. the OAU, OAS, NATO, etc.). If indicators were developed on this type of regional basis, it would be easier to take account of cultural and developmental aspects that have a direct bearing on the region in question. The current regional organisations are not properly equipped to perform such activities. The Dutch government could help to strengthen the capacity of regional organisations in this respect.

Recommendation 13:
The AIV believes that sanctions should be targeted more clearly at governments, specific parts of a government and/or powerful groups. These could include bans preventing members of such groups from travelling and the freezing of bank deposits.

Recommendation 14:
The AIV proposes that clear criteria be drawn up on the basis of which aid organisations can decide whether or not to withdraw from a particular crisis situation. These criteria must be adopted before the humanitarian operation in question is launched. The AIV suggests the decision to abandon aid efforts could be taken:

1 if aid is not reaching the target group;
2 if aid workers are regarded as targets by the warring factions.

Recommendation 15:
The AIV suggests that aid organisations be asked in such situations to weigh the benefits of providing aid against the costs of an unnecessary extension of the conflict caused by misuse of the aid. Aid organisations themselves, and not governments, should be responsible for taking the final decision as to whether to continue the aid programme.

Recommendation 16:
The AIV wishes to see international humanitarian law further strengthened and enforced. This can be achieved inter alia by ensuring that the relevant conventions are ratified by a large number of states, and by devising better institutionalised procedures whereby non-state actors can agree to be bound by the rules of international humanitarian law. Also, facilities should be improved for gaining immediate and unconditional access to victims in order to distribute humanitarian aid. Any deliberate obstruction of such access should be construed as an international criminal offence, for which the perpetrators (politicians, members of armed forces or warlords) can be tried. It should be reiterated, however, that national states retain their own responsibility in this area.

Recommendation 17:
In addition to the material and institutional strengthening of humanitarian law, the AIV would also like resources to be used to heighten the level of awareness of humanitarian law among both the warring factions and the population, particularly in an impending crisis.

Annexe I

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Chair, Advisory Council on International Affairs
P.O. Box 20061
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Date: 9 July 1997 **Ref.:** DCH - 176/97

Department: Conflict Management and Humanitarian Aid

Re: Request for advisory report on humanitarian aid

In spite of the fact that much of the tension of the former East-West conflict has now been removed, the international community is still confronted with numerous internal and international conflicts. As one of the prime causes of human suffering, they have made it necessary to prolong, and sometimes even step up humanitarian aid operations. It is becoming increasingly clear to those involved in such operations that there are limits to what they can achieve. This growing awareness, coupled with the current international debate on this issue (*inter alia* in the context of the reforms within the United Nations) has prompted the Government to ask the Advisory Council to examine the issue in detail. We have set out below a number of topics on which the Government would most appreciate receiving your opinion, in addition to any other points which you may wish to raise yourself.

1 The problem was first highlighted in the memorandum entitled 'Humanitarian aid between conflict and development', which we presented to Parliament on 12 November 1993. The Dutch government has now implemented the policy proposals outlined in this memorandum, both at home and abroad. Working together with other countries and international organisations, we have helped to strengthen the international humanitarian aid system. The integration of humanitarian aid with prevention and conflict management has also been improved, as has the coordination of rehabilitation and reconstruction on the one hand, and peace, security and development on the other. Nevertheless, there remains little cause for satisfaction.

2 Just after the end of the Cold War, the international community seemed to be ready and willing to intervene in serious humanitarian emergencies resulting from violent internal conflict. In a number of cases, such as UNOSOM in Somalia,

UNPROFOR in the former Yugoslavia and UNAMIR in Rwanda, the mandate under which the international force operated was either unclear or difficult to implement, or else the force in question was not equipped to implement it properly. As a result the conflict could not be halted. Although there have also been apparently successful operations, such as those in El Salvador, Mozambique, Haiti and (initially at least) Cambodia, it would seem that in the cases referred to above (which have done much to determine the political perception of UN operations) either the United Nations has reached the limits of its potential or it has proved very difficult to achieve agreement on an effective mandate.

3 This was borne out by the crises in the Great Lakes region of Africa, which reached a tragic climax in the genocide in Rwanda between April and June 1994. Not only did it prove impossible to reach multilateral agreement on a robust mandate under which an international force could be dispatched at the time of the genocide, but the international community also failed to agree on action to separate refugees from combatants shortly afterwards in Zaïre. The same problem occurred when the conflict threatened to escalate in Burundi, and later on in eastern Zaïre, where hundreds of thousands of refugees were cut off from aid workers. International and regional intervention was limited to (sometimes inconsistent) political pressure, diplomatic mediation and humanitarian aid. This situation not only threatened to undermine the credibility of the UN and the EU, both of which again demonstrated their inability to take effective political and military action, but also exposed humanitarian aid to serious criticism. Aid organisations were accused of unconsciously helping to prolong the conflict, and of allowing the violence to spread to other areas in the region by providing aid to refugees. Whatever the truth of such assertions, there is clearly a need for careful analysis.

4 In other crisis situations, however, some progress has been made (albeit on a modest scale) in devising an integrated strategy to deal with the underlying causes of humanitarian distress. In Liberia, for example, the deployment of ECOMOG (the military component of ECOWAS) has been complemented by gains on the political front (Abuja II). These regional efforts have been buttressed by international pressure under the auspices of the UN, resulting in a decision to hold elections in the near future. Finally, it has been possible to achieve a reasonable degree of international coordination concerning humanitarian aid efforts. Progress of this kind can however only be made if all the parties involved are sufficiently committed to the crisis area in question.

5 The coordination of humanitarian aid in the field is a matter of constant concern. The memorandum entitled 'Humanitarian aid between conflict and development' (Section 3.2.1) and the letter from the Minister for Development Cooperation to the Permanent Foreign Affairs Committee of the Lower House on 17 April (ref. DCH/HH-1165/97) both discuss the international debate on the issue of coordination, focusing on the role played by the UN Department for Humanitarian Affairs (DHA). The DHA has reinforced its pivotal role, providing 'humanitarian diplomacy' in situations in which humanitarian aid operations are seriously hampered by political problems. The question of whether the UN can strengthen this form of coordination is one of the key issues in the package of reform measures which the Secretary-General will be presenting to the member states in mid-July.

6 These recent experiences prompt a review of the role and impact of humanitarian aid. Humanitarian aid is just one element (and certainly not the most effective) in the whole range of political tools and military weapons available to states, inter-

governmental organisations and impartial NGOs seeking an international response to an acute crisis. Humanitarian aid cannot resolve violent conflicts. In acute emergencies, such as in the former Yugoslavia, Somalia and the Great Lakes of Africa, humanitarian aid must be supplemented by political and/or military action. However, if states and inter-governmental organisations fail to take the necessary action, this may place aid organisations in a moral dilemma. The question is, therefore, whether a policy can be formulated which can take account of the limits of humanitarian aid. It should be borne in mind that these limits do not ensue solely from a decision on whether or not to take military or political action. A limit may also be drawn by considerations of continuity. There is often a gap between the provision of humanitarian aid in an acute crisis and the decision on whether or not to resume structural development cooperation once the crisis has been resolved. One of the questions which needs to be addressed is whether aid organisations should not themselves formulate an exit policy; increasing the self-sufficiency of the local population is one of the aspects which such a policy should take into account.

What role does the AIV feel that humanitarian aid should play in certain emergencies caused by conflicts? Does the AIV believe it is important that the appropriate inter-governmental organisations, and notably the United Nations in pursuance of Chapters VI, VII and VIII of its Charter, should play a role in enforcing and promoting the rule of law in a conflict area? What means should be used for this purpose, as a supplement to the requisite humanitarian action?

If these inter-governmental organisations are not capable of taking adequate political and military action in acute emergencies, should aid organisations act with extreme caution, or even withhold humanitarian aid? How can these inter-governmental organisations be encouraged to adopt firm policies? What sort of political preconditions need to be fulfilled for there to be any point in providing humanitarian aid in such situations?

Should the Dutch government only fund humanitarian aid in a given country if it is also willing and able to provide rehabilitation aid once the crisis has been resolved?

7 The international debate is also looking at the scope for and desirability of providing 'neutral' humanitarian aid. It has been claimed that the work of neutral aid organisations has unwittingly helped to prolong terror and human rights violations. In acute emergencies, strictly neutral aid organisations have allegedly played into the hands of the strongest party by refusing to take sides - thus weakening the position of the victims. If, on the other hand, these organisations side with the victims against the oppressors and broadcast this partisanship, they may be prevented from working.

The inter-governmental character of the UN agencies (UNHCR, Unicef, the WFP and the UNDP) makes it difficult for them to adopt an impartial position in an internal or regional conflict. During the most recent meeting of the UNHCR governing council, for example, decision-making stalled because two of the states involved in the Great Lakes conflict (Zaïre and Rwanda) held diametrically opposed views.

The viewpoint adopted by the Government in 'Humanitarian aid between conflict and development' (1993) was that 'in order to avoid the politicisation of humanitarian aid in situations of armed conflict, a clear dividing line should be drawn

between humanitarian aid and politico-military actions. However, a complete separation, in the sense of all or nothing, is not always possible. Any outside involvement in the highly politicised environment of conflicts, even for transparently humanitarian motives, is likely to have political implications.' In the letter referred to in Section 5, which addressed the question of the neutrality of humanitarian aid in more detail, the Minister for Development Cooperation again underlined the need to distinguish clearly between political action and humanitarian aid: political action, he said, was the responsibility of states and inter-governmental organisations, but not that of humanitarian aid organisations. In this sense, the Minister for Development Cooperation favoured retaining neutrality in humanitarian aid operations, at least 'as long as the organisations actually distributing the aid regard neutrality as offering the best guarantee of effectiveness in their work'.

Does the AIV believe that it would be feasible in practice to make such a distinction between political action and humanitarian aid? How could this best be done, if it is assumed that these are two complementary fields?

Scope for drawing a clear line between political action taken by states and inter-governmental organisations, and humanitarian aid provided by aid organisations is restricted by the fact that the latter's activities are often funded by governments. Does this restrict their freedom of movement? What sort of attitude should the Netherlands adopt in this respect?

8 Changes in the nature of violent conflicts have exposed aid workers to ever greater danger. The number of violent attacks on aid workers has risen in recent years. It has become clear that the neutrality which aid organisations invoke does not offer sufficient protection.

The Government believes that the international system of humanitarian law in itself offers sufficient legal guarantees for the protection of civilians in conflict situations, as well as for the security and integrity of aid organisations responsible for protecting and distributing aid to victims. There is, however, a need to ensure that these guarantees are properly enforced in practice. See in this connection Section 3.3.2 of the memorandum entitled 'Humanitarian aid between conflict and development' (1993), which refers *inter alia* to the possibility of 'creating a permanent international criminal court' to try war crimes. One possible solution would be to set up a special UN-controlled police force, to protect aid workers and human rights observers in conflict areas.

Aid organisations such as the International Committee of the Red Cross (ICRC) and Médecins Sans Frontières have not shown a great deal of enthusiasm for this suggestion, for the reasons set out in the letter referred to in Section 5.

What new scope does the AIV see for improving the enforcement of the relevant guarantees provided by international humanitarian law? Is this a job for a permanent international criminal court, if such a court is established?

Does the AIV believe that specific action should be taken to protect humanitarian aid workers, as long as the international community is incapable of guaranteeing the freedom and security of individual citizens in accordance with the rules of international humanitarian law? Does the AIV regard the proposal to establish a special UN police force as desirable/feasible?

9 Both development aid and humanitarian aid, when distributed in conflict situations, may unintentionally exacerbate such conflicts, no matter how valuable they may be in assisting victims or helping the development of a particular group. Conversely, such aid can have beneficial side-effects by encouraging local groups to abandon the conflict and start working towards peace.

Aid may be counterproductive if aid workers are not sufficiently aware of the background to a violent conflict. Invoking neutrality or impartiality as a means of gaining access to victims is no guarantee that the aid in question will have a neutral effect on the conflict. Generally speaking, the parties involved in a violent conflict have a political or economic interest in its prolongation. One faction's aim may be to deny the other faction access to political power or to scarce economic resources, such as agricultural land, minerals and oil. In order to minimise the risk of aid adversely affecting the conflict, aid workers need to know about the warring factions and their motives, and about groups which are more interested in securing peace. By taking account of the disparate interests of these groups and being alert to their attitude in the conflict, aid workers will be better placed to decide whether aid will cause the conflict to escalate or will help to build support for peace.

More specifically, can the AIV indicate what can be done to prevent humanitarian aid and development cooperation from inadvertently exacerbating conflict situations? How can aid programmes for such situations be designed so as to raise awareness of their potential side-effects, maximise their benefits and minimise their adverse effects?

10 The memorandum on humanitarian aid (Section 3.2.3) reports on various initiatives taken by NGOs, the aim of which is to guarantee that humanitarian aid is distributed in a professional manner. International codes of conduct have been drawn up on staff training, professional standards, cooperation with local organisations, independence and impartiality, guidelines for salaries paid to local staff, etc.

Whilst a great deal of admiration and appreciation has been expressed for the work of countless humanitarian NGOs in conflict situations, NGOs have also come in for considerable criticism where they have behaved unprofessionally and irresponsibly, resulting in duplication, wastage and, in some cases, a needless loss of human life. The team which assessed the situation surrounding the conflict and genocide in Rwanda came to the conclusion that, whilst a system of voluntary self-regulation is certainly the most important means of professionalising NGO behaviour, it is not sufficient in itself. The team concluded that a form of regulation and supervision was needed to stamp out any misconduct by aid workers.

Would the AIV recommend designing an international framework that would set standards by which the conduct of aid organisations could be assessed and which could regulate the supervision of aid organisations?

11 Bilateral and multilateral aid provided to a government whose regime may be classified as bad governance (e.g. the Mobutu regime in Zaïre) cannot promote the country's development and may even help to prolong a conflict. Given that this type of aid helps to sustain tyranny and violence and does not assist in the country's development, it should be excluded from the category of 'official development aid' (ODA). In these cases, the answer to the question 'Does the aid actually aid?' is 'No'.

According to the OECD/DAC description, ODA consists of all public-sector financial flows which are intended principally to promote the economic growth of the recipient countries and of which at least 25% is distributed in the form of grants. However, this definition says very little about the potential effect of these flows.

Does the AIV believe it wo*uld be advisable/feasible to seek to focus international attention, for example through the OECD's DAC, on the causal link between international cooperation, support for bad governance and conflict escalation? If so, what role could the Netherlands play in this respect?*

We should appreciate it if the AIV could share with us its views on these issues and also on any other aspects connected with the problems surrounding the provision of humanitarian aid in situations of violent conflict. Given the urgent nature of the problems, we would be grateful if you could let us have your report by January 1998 at the latest.

H.A.F.M.O. van Mierlo
MINISTER OF FOREIGN AFFAIRS

J.J.C. Voorhoeve
MINISTER OF DEFENCE

J.P. Pronk
MINISTER FOR DEVELOPMENT COOPERATION

Annexe II

37. The Secretary-General should ensure that arrangements between the high-level official and all relevant organizations are set in place, establishing responsibilities for prompt and coordinated action in the event of emergency.

(b) *Inter-Agency Standing Committee*

38. An Inter-Agency Standing Committee serviced by a strengthened Office of the United Nations Disaster Relief Coordinator should be established under the chairmanship of the high-level official with the participation of all operational organizations and with a standing invitation to the International Committee of the Red Cross, the League of Red Cross and Red Crescent Societies, and the International Organization for Migration. Relevant non-governmental organizations can be invited to participate on an ad hoc basis. The Committee should meet as soon as possible in response to emergencies.

(c) *Country-level coordination*

39. Within the overall framework described above and in support of the efforts of the affected countries, the resident coordinator should normally coordinate the humanitarian assistance of the United Nations system at the country level. He/She should facilitate the preparedness of the United Nations system and assist in a speedy transition from relief to development. He/She should promote the use of all locally or regionally available relief capacities. The resident coordinator should chair an emergency operations group of field representatives and experts from the system.

VII. CONTINUUM FROM RELIEF TO REHABILITATION AND DEVELOPMENT

40. Emergency assistance must be provided in ways that will be supportive of recovery and long-term development. Development assistance organizations of the United Nations system should be involved at an early stage and should collaborate closely with those responsible for emergency relief and recovery, within their existing mandates.

41. International cooperation and support for rehabilitation and reconstruction should continue with sustained intensity after the initial relief stage. The rehabilitation phase should be used as an opportunity to restructure and improve facilities and services destroyed by emergencies in order to enable them to withstand the impact of future emergencies.

42. International cooperation should be accelerated for the development of developing countries, thereby contributing to reducing the occurrence and impact of future disasters and emergencies.

20. Early-warning information should be made available in an unrestricted and timely manner to all interested Governments and concerned authorities, in particular of affected or disaster-prone countries. The capacity of disaster-prone countries to receive, use and disseminate this information should be strengthened. In this connection, the international community is urged to assist these countries upon request with the establishment and enhancement of national early-warning systems.

IV. STAND-BY CAPACITY

(a) *Contingency funding arrangements*

21. Organizations and entities of the United Nations system should continue to respond to requests for emergency assistance within their respective mandates. Reserve and other contingency funding arrangements of these organizations and entities should be examined by their respective governing bodies to strengthen further their operational capacities for rapid and coordinated response to emergencies.

22. In addition, there is a need for a complementary central funding mechanism to ensure the provision of adequate resources for use in the initial phase of emergencies that require a system-wide response.

23. To that end, the Secretary-General should establish under his authority a central emergency revolving fund as a cash-flow mechanism to ensure the rapid and coordinated response of the organizations of the system.

24. This fund should be put into operation with an amount of 50 million United States dollars. The fund should be financed by voluntary contributions. Consultations among potential donors should be held to this end. To achieve this target, the Secretary-General should launch an appeal to potential donors and convene a meeting of those donors in the first quarter of 1992 to secure contributions to the fund on an assured, broad-based and additional basis.

25. Resources should 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.

26. The operation of the fund should be reviewed after two years.

(b) *Additional measures for rapid response*

27. The United Nations should, building upon the existing capacities of relevant organizations, establish a central register of all specialized personnel and teams of technical specialists, as well as relief supplies, equipment and services available within the United Nations system and from Governments and intergovernmental and non-governmental organizations, that can be called upon at short notice by the United Nations.

28. The United Nations should continue to make appropriate arrangements with interested Governments and intergovernmental and non-governmental organizations to enable it to have more expeditious access, when necessary, to their emergency relief capacities, including food reserves, emergency stockpiles and personnel, as well as logistic support. In the context of the annual report to the General Assembly mentioned in paragraph 35 (*i*) below, the Secretary-General is requested to report on progress in this regard.

29. Special emergency rules and procedures should be developed by the United Nations to enable all organizations to disburse quickly emergency funds, and to procure emergency supplies and equipment, as well as to recruit emergency staff.

30. Disaster-prone countries should develop special emergency procedures to expedite the rapid procurement and deployment of equipment and relief supplies.

V. CONSOLIDATED APPEALS

31. For emergencies requiring a coordinated response, the Secretary-General should ensure that an initial consolidated appeal covering all concerned organizations of the system, prepared in consultation with the affected State, is issued within the shortest possible time and in any event not longer than one week. In the case of prolonged emergencies, this initial appeal should be updated and elaborated within four weeks, as more information becomes available.

32. Potential donors should adopt necessary measures to increase and expedite their contributions, including setting aside, on a stand-by basis, financial and other resources that can be disbursed quickly to the United Nations system in response to the consolidated appeals of the Secretary-General.

VI. COORDINATION, COOPERATION AND LEADERSHIP

(a) *Leadership of the Secretary-General*

33. The leadership role of the Secretary-General is critical and must be strengthened to ensure better preparation for, as well as rapid and coherent response to, natural disasters and other emergencies. This should be achieved through coordinated support for prevention and preparedness measures and the optimal utilization of, *inter alia*, an inter-agency standing committee, consolidated appeals, a central emergency revolving fund and a register of stand-by capacities.

34. To this end, and on the understanding that the requisite resources envisaged in paragraph 24 above would be provided, a high-level official (emergency relief coordinator) would be designated by the Secretary-General to work closely with and with direct access to him, in cooperation with the relevant organizations and entities of the system dealing with humanitarian assistance and in full respect of their mandates, without prejudice to any decisions to be taken by the General Assembly on the overall restructuring of the Secretariat of the United Nations. This high-level official should combine the functions at present carried out in the coordination of United Nations response by representatives of the Secretary-General for major and complex emergencies, as well as by the United Nations Disaster Relief Coordinator.

35. Under the aegis of the General Assembly and working under the direction of the Secretary-General, the high-level official would have the following responsibilities:

(*a*) Processing requests from affected Member States for emergency assistance requiring a coordinated response;

(*b*) Maintaining an overview of all emergencies through, *inter alia*, the systematic pooling and analysis of early-warning information as envisaged in paragraph 19 above, with a view to coordinating and facilitating the humanitarian assistance of the United Nations system to those emergencies that require a coordinated response;

(*c*) Organizing, in consultation with the Government of the affected country, a joint inter-agency needs-assessment mission and preparing a consolidated appeal to be issued by the Secretary-General, to be followed by periodic situation reports including information on all sources of external assistance;

(*d*) Actively facilitating, including through negotiation if needed, the access by the operational organizations to emergency areas for the rapid provision of emergency assistance by obtaining the consent of all parties concerned, through modalities such as the establishment of temporary relief corridors where needed, days and zones of tranquility and other forms;

(*e*) Managing, in consultation with the operational organizations concerned, the central emergency revolving fund and assisting in the mobilization of resources;

(*f*) Serving as a central focal point with Governments and intergovernmental and non-governmental organizations concerning United Nations emergency relief operations and, when appropriate and necessary, mobilizing their emergency relief capacities, including through consultations in his capacity as Chairman of the Inter-Agency Standing Committee;

(*g*) Providing consolidated information, including early warning on emergencies, to all interested Governments and concerned authorities, particularly affected and disaster-prone countries, drawing on the capacities of the organizations of the system and other available sources;

(*h*) Actively promoting, in close collaboration with concerned organizations, the smooth transition from relief to rehabilitation and reconstruction as relief operations under his aegis are phased out;

(*i*) Preparing an annual report for the Secretary-General on the coordination of humanitarian emergency assistance, including information on the central emergency revolving fund, to be submitted to the General Assembly through the Economic and Social Council.

36. The high-level official should be supported by a secretariat based on a strengthened Office of the United Nations Disaster Relief Coordinator and the consolidation of existing offices that deal with complex emergencies. This secretariat could be supplemented by staff seconded from concerned organizations of the system. The high-level official should work closely with organizations and entities of the United Nations system, as well as the International Committee of the Red Cross, the League of Red Cross and Red Crescent Societies, the International Organization for Migration and relevant non-governmental organizations. At the country level, the high-level official would maintain close contact with and provide leadership to the resident coordinators on matters relating to humanitarian assistance.

37. The Secretary-General should ensure that arrangements between the high-level official and all relevant organizations are set in place, establishing responsibilities for prompt and coordinated action in the event of emergency.

(b) *Inter-Agency Standing Committee*

38. An Inter-Agency Standing Committee serviced by a strengthened Office of the United Nations Disaster Relief Coordinator should be established under the chairmanship of the high-level official with the participation of all operational organizations and with a standing invitation to the International Committee of the Red Cross, the League of Red Cross and Red Crescent Societies, and the International Organization for Migration. Relevant non-governmental organizations can be invited to participate on an ad hoc basis. The Committee should meet as soon as possible in response to emergencies.

(c) *Country-level coordination*

39. Within the overall framework described above and in support of the efforts of the affected countries, the resident coordinator should normally coordinate the humanitarian assistance of the United Nations system at the country level. He/She should facilitate the preparedness of the United Nations system and assist in a speedy transition from relief to development. He/She should promote the use of all locally or regionally available relief capacities. The resident coordinator should chair an emergency operations group of field representatives and experts from the system.

VII. CONTINUUM FROM RELIEF TO REHABILITATION AND DEVELOPMENT

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42. International cooperation should be accelerated for the developent of developing countries, thereby contributing to reducing the occurence and impact of future disasters and emergencies.

Annexe III

Key to abbreviations

AIV	Advisory Council on International Affairs
CMR	Human Rights Committee
COS	Development Cooperation Committee
CVV	Peace and Security Committee
DAC	Development Assistance Committee
DRA	Dutch Aid and Rehabilitation Agency
ECHA	Executive Committee on Humanitarian Affairs
ECHO	European Community Humanitarian Office
ICRC	International Committee of the Red Cross
IFRC	International Federation of the Red Cross
IGO	Inter-governmental organisation
IMF	International Monetary Fund
MNPF	Multinational Police Force
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental organisation
OAS	Organisation of American States
OAU	Organisation of African Unity
OCHA	Office for the Coordination of Humanitarian Affairs
OECD	Organisation for Economic Cooperation and Development
SCHR	Steering Committee for Humanitarian Response
Shirbrig	Standby Forces High Readiness Brigade
UNAMIR	United Nations Aid Mission to Rwanda
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFIL	United Nations Interim Force in Lebanon
UNOSOM	United Nations Operation in Somalia
UNSECOORD	United Nations Security Coordinator
UNTAC	United Nations Transitional Authority in Cambodia
UN	United Nations
WFP	World Food Programme

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