

EXTERNAL (for general distribution)

AI Index: ASA 22/03/94
Distr: UA/SC

UA 247/94

Health concern / Degrading Treatment /
Fear of Refoulement

24 June 1994

JAPAN

61 Chinese nationals, including possible asylum-seekers

Sixty-one nationals of the People's Republic of China are being held in Japan in conditions which may constitute ill-treatment, and many of them are reported to be seriously ill. Some may be asylum-seekers at grave risk of being forcibly returned to China.

On 22 May 1994 Japan's Maritime Safety Agency (coast guard, MSA) intercepted the small tanker that was carrying the Chinese to Japan. Since then, they have been restricted to the ship, anchored off Tanegashima, in Japan's southern prefecture of Kagoshima. They have been denied any access to the outside world and none of them has been able to gain access to any refugee determination procedure.

Officials at a press conference on 23 June said that 39 of the Chinese, and 6 of the 17 Indonesian crew, are suffering from diseases including serious skin diseases and stomach ailments. According to the head of a local hospital, some may need to be hospitalized. The number of sick people appears to be rising rapidly due to the bad conditions on board the ship, which is not equipped to carry passengers. The Chinese and crew have been restricted to the tanker for over a month, in conditions made harsher by the very warm weather in southern Japan at this time.

Passengers, possibly including asylum-seekers, who have tried in recent days to jump off the ship to get ashore have been caught and forced back onto the ship. The Immigration Bureau, which handles asylum requests in Japan, has refused to interview them, reportedly under the pretext that they were under MSA investigation for illegal entry. Some were reportedly interviewed by the MSA, whose officers are not trained in refugee determination procedures.

On 23 June, Amnesty International received reports that the Japanese authorities were considering sending all the Chinese nationals back to China without allowing them to land, or allowing any who may wish to apply for asylum to do so. They have had no access to lawyers or to representatives of the United Nations High Commissioner for Refugees (UNHCR).

Amnesty International is concerned that the Japanese authorities' refusal to allow the Chinese nationals to land in Japan, restricting them to an overcrowded ship for over a month in unsanitary conditions and refusing them appropriate medical treatment may constitute cruel, inhuman or degrading treatment, prohibited under international standards. The organization is also concerned that the Chinese nationals may include some who wish to seek asylum in Japan and may be at risk of forcible return (*refoulement*), prohibited under the 1951 Refugee Convention, to which Japan is a party.

BACKGROUND INFORMATION

Amnesty International has documented several instances in Japan in recent years, when the authorities have attempted in various ways to obstruct asylum-seekers from getting access to refugee determination procedures.

Asylum-seekers can only be sent back after a full and fair refugee determination procedure, if it is determined that they are in fact not refugees. It is therefore contrary to the Convention not to consider claims any of them may make. Japan is obliged under the Refugee Convention to grant access to a full and fair refugee determination procedure to any of the Chinese nationals who wishes to apply for asylum.

RECOMMENDED ACTION: Please send telegrams/faxes/express and airmail letters either in Japanese, English or in your own language:

- urging the authorities to immediately allow the 61 Chinese nationals and the tanker crew ashore, to provide them with reasonable accommodation, and to ensure that they are given adequate medical attention;
- urging the authorities to ensure that any of the Chinese nationals who wishes to seek asylum in Japan has access to the refugee determination procedure in full accord with international standards for the protection of refugees, and have access to the UNHCR, lawyers and relevant non-governmental organizations.

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and to diplomatic representatives of Japan accredited to your country.

PLEASE SEND APPEALS IMMEDIATLY. Check with the International Secretariat,
or your Section office, if sending appeals after 4 August 1994.