NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

SALE, ACTING COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ET AL. *v.* HAITIAN CENTERS COUNCIL, INC., ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 92–344. Argued March 2, 1993—Decided June 21, 1993

An Executive Order directs the Coast Guard to intercept vessels illegally transporting passengers from Haiti to the United States and to return those passengers to Haiti without first determining whether they qualify as refugees, but ``authorize[s] [such forced repatriation] to be undertaken only beyond the territorial sea of the United States.'' Respondents, organizations representing interdicted Haitians and a number of Haitians, sought a temporary restraining order, contending that the Executive Order violates §243(h)(1) of the Immigration and Nationality Act of 1952 (INA or Act) and Article 33 of the United Nations Convention Relating to the Status of Refugees. The District Court denied relief, concluding that §243(h)(1) does not protect aliens in international waters and that the Convention's provisions are not self-executing. In reversing, the Court of Appeals held, *inter alia,* that §243(h)(1) does not apply only to aliens within the United States and that Article 33, like the statute, covers *all* refugees, regardless of location.

Held: Neither §243(h) nor Article 33 limits the President's power to order the Coast Guard to repatriate undocumented aliens intercepted on the high seas. Pp. 14–32.

(a) The INA's text and structure demonstrate that §243(h)(1)—which provides that ``[t]he Attorney General shall not deport or return any alien . . . to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country . . .''—applies only in the context of the domestic procedures by which the Attorney General determines whether deportable and excludable aliens may remain in the United States. In the light of other INA provisions that expressly confer upon the President and other officials

certain responsibilities under the immigration laws, §243(h)(1)'s reference to the Attorney General cannot reasonably be construed to describe either the President or the Coast Guard. Moreover, the reference suggests that the section applies only to the Attorney General's normal responsibilities under the INA, particularly her conduct of deportation and exclusion hearings in which requests for asylum or for withholding of deportation under §243(h) are ordinarily advanced. Since the INA nowhere provides for the conduct of such proceedings outside the United States, since Part V of the Act, in which §243 is located, obviously contemplates that they be held in this country, and since it is presumed that Acts of Congress do not ordinarily apply outside the borders, *see, e.g., EEOC* v. *Arabian American Oil Co.,* 499 U. S. ___, §243(h)(1) must be construed to apply only within United States territory. That the word ``return'' in §243(h)(1) is not limited to aliens in this country does not render the section applicable extraterritorially, since it must reasonably be concluded that Congress used the phrase ``deport or return'' only to make the section's protection available both in proceedings to deport aliens already in the country and proceedings to exclude those already at the border. Pp. 15–18.

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(b) The history of the Refugee Act of 1980—which amended §243(h)(1) by adding the phrase ``or return'' and deleting the phrase ``within the United States'' following ``any alien''—confirms that §243(h) does not have extraterritorial application. The foregoing are the only relevant changes made by the 1980 amendment, and they are fully explained by the intent, plainly identified in the legislative history, to apply §243(h) to exclusion as well as to deportation proceedings. There is no change in the 1980 amendment, however, that could only be explained by an assumption that Congress also intended to provide for the statute's extraterritorial application. It would have been extraordinary for Congress to make such an important change in the law without any mention of that possible effect. Pp. 18–21.

(c) Article 33's text—which provides that ``[n]o . . . State shall expel or return *(`refouler')* a refugee . . . to . . . territories where his life or freedom would be threatened . . . ,'' Article 33.1, and that ``[t]he benefit of the present provision may not . . . be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is [located],'' Article 33.2—affirmatively indicates that it was not intended to have extraterritorial effect. First, if Article 33.1 applied on the high seas, Article 33.2 would create an absurd anomaly: dangerous aliens in extraterritorial waters would be entitled to 33.1's benefits because they would not be in any ``country'' under 33.2, while dangerous aliens residing in the country that sought to expel them would not be so entitled. It is more reasonable to assume that 33.2's coverage was limited to those already in the country because it was understood that 33.1 obligated the signatory state only with respect to aliens within its territory. Second, Article 33.1's use of the words ``expel or return'' as an obvious parallel to the words ``deport or return'' in §243(h)(1) suggests that ``return'' in 33.1 refers to exclusion proceedings, see *Leng May Ma* v. *Barber,* 357 U. S. 185, 187, and therefore has a legal meaning narrower than its common meaning. This suggestion is reinforced by the parenthetical reference to the French word ``*refouler,*'' which is *not* an exact synonym for the English word ``return,'' but has been interpreted by respected dictionaries to mean, among other things, ``expel.'' Although gathering fleeing refugees and returning them to the one country they had desperately sought to escape may violate the spirit of Article 33, general humanitarian intent cannot impose uncontemplated obligations on treaty signatories. Pp. 23–27.

(d) Although not dispositive, the Convention's negotiating history—which indicates, *inter alia,* that the right of *non-*

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refoulement applies only to aliens physically present in the host country, that the term ``*refouler*'' was included in Article 33 to avoid concern about an inappropriately broad reading of the word ``return,'' and that the Convention's limited reach resulted from a hard-fought bargain—solidly supports the foregoing conclusion. Pp. 28–31.

969 F. 2d 1350, reversed.

STEVENS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and WHITE, O'CONNOR, SCALIA, KENNEDY, SOUTER, and THOMAS, JJ., joined. BLACKMUN, J., filed a dissenting opinion.