

INTERNATIONAL COOPERATION AND BURDEN
AND RESPONSIBILITY SHARING IN MASS INFLUX SITUATIONS

I. INTRODUCTION

1. The Agenda for Protection recognizes the need for more effective and predictable responses to mass influx situations and also for better responsibility-sharing arrangements to shoulder the burdens of first asylum countries.¹ Since the Agenda's approval in 2002, a number of developments have taken place in connection with these related objectives.

2. In June 2004, UNHCR presented the summary findings of a study on protection responses to mass influx,² which prompted a productive discussion at the 30th session of the Standing Committee.³ In these discussions there was broad agreement on the need to look at ways to strengthen responsibility and burden sharing in mass influx situations and to clarify the standards applicable.

3. In the parallel and ongoing Convention Plus process, proposals were also presented for ways to make comprehensive approaches to resolving refugee problems more systematic.⁴ Although these proposals were essentially oriented towards resolving protracted refugee situations, they contained ideas that are also potentially useful, particularly in relation to burden and responsibility sharing in mass influx situations, and that were discussed at the October 2004 meeting of the Forum.

4. These various processes in turn informed the negotiations which resulted in the Executive Committee approving in October 2004 Conclusion No. 100 (LV) on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations. This Conclusion provides a useful complement to Conclusion No. 22 (XXXII) on the Protection of Asylum-seekers in Situations of Large-scale Influx and sets out in greater detail a number of possible approaches the international community could adopt to address collectively different aspects of mass influx situations from emergency response to durable solutions.

¹ *Agenda for Protection*, A/AC. 96/965/Add.1, 26 June 2002, Goal 1, Objective 10 and Goal 3, Objective 1.

² *Ensuring international protection and enhancing international cooperation in mass influx situations – Advance summary findings of the study commissioned by UNHCR*, EC/54/SC/CRP. 11, 7 June 2004.

³ *Report of the thirtieth meeting of the Standing Committee*, A/AC. 96/998, 24 September 2004, paras. 42–49.

⁴ *Making Comprehensive Approaches to Resolving Refugee Problems more Systematic* FORUM/2004/7, 16 September 2004.

II. NEXT STEPS

5. Despite the progress made on these issues thus far, the need remains for a clearer understanding of the protection mechanisms involved, as well as for a better articulation of the standards of treatment applicable. In relation to the commissioned study, UNHCR considers certain aspects would benefit from further reflection before the study should be considered finalized and hence issued for broad dissemination. This is not least as a result of issues and possibilities being brought to light through the Strengthening Protection Capacity Project.⁵

6. At this stage, it is judged productive for the Office to undertake further discussions both widely within UNHCR, to tap the different expertise and experience available in the Office, as well as with States and other interested partners. In this respect, it will be particularly useful to bring in expertise from different regions, including persons who have been directly involved in responding to a range of mass influx situations.

7. Issues requiring further clarification in regard to the **nature and content of international protection** in mass influx situations and the applicable standard of treatment include:

- applicable procedures for the operation of *prima facie* refugee status, of temporary protection and possibly other tools;
- applicable standards of treatment for *prima facie* refugees and persons benefiting from temporary protection, taking into account 1951 Convention standards and related human rights standards;
- procedures necessary to identify and deal with excludable individuals and to ensure the civilian character and physical safety of refugee groups.

8. It would also be useful to investigate further, in the light of discussions and feedback thus far, **possible mechanisms for international cooperation**. One possibility would be to develop a generic framework of understandings on the elements of a comprehensive plan of action to respond to mass influx situations. This could perhaps be developed within the Convention Plus context and could, for instance, build on the work currently under way to develop situation-specific comprehensive plans of action. It could be helpful, in this context, to agree on a response framework for international consultations and the building of consensus, along the lines set out in Executive Committee Conclusion No. 100, paragraphs (f)-(j). Such a framework could enable the international community to respond more promptly and predictably when a mass influx takes place. This could set out the mechanism to be used, for instance, if the High Commissioner wished to convene a meeting at the outset of a crisis. It could define the modalities of such consultations and include commitments as regards implementation and a review mechanism. Such measures could conceivably feed into a more general declaration on international cooperation and burden and responsibility sharing in mass influx situations to be considered by the Executive Committee for proposal to the General Assembly.

⁵ See *Note on International Protection*, EC/55/SC/CRP.12, para. 39.

III. CONCLUSION

9. This update is presented largely for information at this stage. States may, though, have a view, including based on their experience in mass influx situations, how these various issues can best be taken forward. UNHCR envisages convening a round-table meeting to provide a forum for further expert input, which should enable the earlier mentioned study to be further refined and finalized. That study would then serve as valuable background on the basis of which the possible activities flagged in this present note might be pursued in consultation with the Executive Committee.