



Update October 2001

UNHCR's Global Consultations on International Protection – in the 50th year of the 1951 Convention relating to the Status of Refugees – seek to promote the full and effective implementation of the Convention and to develop complementary new approaches, tools and standards to ensure the availability of international protection where Convention coverage needs to be buttressed. The Global Consultations are taking place against a backdrop of debate around large and protracted refugee situations, the high costs of asylum systems in industrialized countries, the real or perceived abuse of asylum systems, and the burden on developing countries of hosting refugees.

“The Global Consultations reflect the heightened recognition over recent years of the fact that the refugee problem is an international one and that crafting responses to address many of today’s issues is best approached on the basis of multilateral cooperation, fully informed by the protection concerns at stake, as well as the dilemmas and challenges in addressing them in all regions”, says Director of UNHCR’s Department of International Protection, Erika Feller. “It is up to us, together, to renew and revitalize the refugee protection system through the Global Consultations,” emphasizes Feller.

At the Organizational Meeting for the Global Consultations on International Protection, which took place on 12 December 2000, delegations expressed a high level of interest in and support for the Global Consultations. This interest and support was most recently confirmed at the 52nd session of ExCom in early October.

The Consultations have been designed along three parallel tracks:

- 1st track: Ministerial Meeting of States Parties;
 - 2nd track: Expert Roundtables; and
 - 3rd track: Policy formulation in the Executive Committee framework.
- **1st Track – Ministerial Meeting of States Parties**

The "first track" seeks to strengthen the commitment of States Parties to respect the centrality of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in the international refugee protection system and to promote further accessions to both instruments. The Government of Switzerland and UNHCR have decided jointly to convene the first formal meeting of States Parties to the Convention, which will be held at ministerial level at the *Palais des Nations* in Geneva on 12 and 13 December 2001. Invitations were extended to all 141 States Parties to the 1951 Convention and/or 1967

Protocol. All other UN Member States that have not yet acceded were invited to participate as observers, alongside other UN, intergovernmental and non-governmental organizations accredited as observers to UNHCR's Standing Committee and related consultations.

The Ministerial Meeting will serve to:

- commemorate the 50th anniversary of the 1951 Convention;
- reaffirm, in a declaration to be adopted, the collective commitment of States Parties to the full and effective implementation of the 1951 Convention and 1967 Protocol and the values they embody;
- encourage States that *are* Parties to withdraw any reservations that they may have made at the time of their accession and encourage States that *are not yet* Parties to the 1951 Convention/1967 Protocol to accede to these treaties; and
- enable them to present their vision of how to improve the international governance of the refugee problem and the directions to be pursued for refugee protection in the future. Elements of a Provisional *Agenda for Protection*, drawing on the principal understandings, assumptions and follow-up of the discussions taking place within the Global Consultations framework to date, will be submitted to inform the discussions.

An Advisory Group of States Parties, chaired by the Swiss Ambassador to the UN Office at Geneva, played an active part in preparations for the Ministerial Meeting. The Advisory Group met on 15 June, 13 July and 19 July 2001 and laid the ground for the Preparatory Session for the Ministerial Meeting which was held in Geneva on 20–21 September 2001. The Preparatory Session approved the text of the Draft Declaration for the Ministerial Meeting, which it recommended for adoption, as well as the rules of procedure and a revised format for the Ministerial Meeting. The Session also elected Algeria, Belgium, Canada, Philippines and Venezuela to serve as Vice-Chairs. Consultations are continuing on the themes of the three roundtables, which will be held during the Ministerial Meeting, in the morning of 13 December.

For further information regarding the Ministerial Meeting, please contact:

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- **2nd Track – Expert Roundtables**

The Global Consultations also provide a forum to take stock of **developments in refugee law** and to examine a number of emerging issues. This is being done in the **second track** through a series of expert discussions on specific aspects of the interpretation of the 1951 Convention and 1967 Protocol. The second track comprises four Expert Roundtables, with participants drawn from governments of States Parties, NGOs, academia, the

judiciary and the legal profession. Following informal consultations with a wide range of States, NGOs and other interested parties, UNHCR identified issues for consideration by experts, which are listed below and on which background papers have been commissioned from scholars:

ROUNDTABLES	TOPICS
<p>1st Roundtable Date: 3-4 May 2001 Venue: Lisbon Co-Organizer: Carnegie Endowment for International Peace in Washington DC Hosted by: Fundação Luso-Americana para o Desenvolvimento</p>	<ul style="list-style-type: none"> • Cessation (Article 1C) • Exclusion (Article 1F)
<p>2nd Roundtable Date: 9-10 July 2001 Venue: Cambridge Co-Organizer: Lauterpacht Research Centre for International Law in Cambridge, UK</p>	<ul style="list-style-type: none"> • Principle of <i>Non-refoulement</i> (Article 33) • Supervisory Responsibility (Article 35)
<p>3rd Roundtable Date: 6-8 September 2001 Venue: San Remo Co-Organizer: International Institute of Humanitarian Law at San Remo, Italy</p>	<ul style="list-style-type: none"> • Membership of a Particular Social Group (Article 1A(2)) • Gender-related Persecution (Article 1A(2)) • Internal Protection/Relocation/Flight Alternative
<p>4th Roundtable Date: 8-9 November 2001 Venue: Geneva Co-Organizer: Graduate Institute of International Studies, in Geneva, Switzerland</p>	<ul style="list-style-type: none"> • Illegal Entry (Article 31) • Family Unity (Final Act of the 1951 UN Conference)

To allow in-depth examination of the topics and active exchange of ideas, participation in the Roundtables is limited to some 30 experts. However, to promote the widest possible consideration of the topics under analysis, the discussion papers and conclusions are posted on UNHCR's website (www.unhcr.org). The background papers and conclusions of the Roundtables will be published by UNHCR as a contribution to the 50th anniversary of the 1951 Convention. They will also assist UNHCR in updating and refining its own guidelines on these subject matters in the form of a complement to the Handbook on Procedures and Criteria for Determining Refugee Status.

➤ [Lisbon meeting on exclusion and cessation](#)

The first of the four Expert Roundtables was held in Lisbon on 3 and 4 May 2001. Thirty-two experts from 25 countries met to discuss the exclusion and cessation clauses, two issues relating to the refugee definition that have posed legal and operational challenges to States Parties and to UNHCR. Discussions took place on the basis of two background papers, namely *Current Issues in the Application of the Exclusion Clauses* by Professor Geoff Gilbert and *Current Issues in Cessation of Protection under Article 1C of the 1951 Convention and Article 1.4 of the 1969 OAU Convention* by Professor Joan Fitzpatrick.

➤ Cambridge meeting on *non-refoulement* and supervising the Convention

The second Expert Roundtable was held in Cambridge on 9 and 10 July 2001. Twenty-eight experts from 19 countries discussed Article 33, based on a legal opinion on *The Scope and Content of the Principle of Non-refoulement* by Professor Sir Elihu Lauterpacht and Daniel Bethlehem. In addition, the participants explored possibilities for strengthening supervision of the 1951 Convention under Article 35, based on the discussion paper *Supervising the 1951 Convention on the Status of Refugees: Article 35 and Beyond* by Professor Walter Kälin.

➤ San Remo meeting on gender-related persecution, membership of a particular social group, and internal protection/relocation/flight alternative

The third Expert Roundtable was held in San Remo from 6-8 September 2001. The topics of discussion were gender-related persecution, based on the discussion paper *Gender-related Persecution* by Rodger Haines; membership of a particular social group, based on the discussion paper *Membership in a Particular Social Group: Analysis and Proposed Conclusions* by Professor T. Alexander Aleinikoff; and internal protection/relocation/flight alternative, based on the discussion paper *Internal Protection/Relocation/Flight Alternative as an Aspect of Refugee Status Determination* by Professor James Hathaway and Michelle Foster.

➤ Geneva meeting on illegal entry (Article 31) and family unity

The final Expert Roundtable will be held in Geneva on 8–9 November 2001. The topics are illegal entry (Article 31), based on the discussion paper *Article 31 of the 1951 Convention relating to the Status of Refugees: Non-penalization, Detention and Protection* by Professor Guy Goodwin-Gill; and family unity, based on the discussion paper *Family Unity and Refugee Protection* by Kathleen Newland and Kate Jastram. The papers are posted on UNHCR's website. Comments on the papers are welcome and will be fed into the Roundtable discussion as appropriate. They should be sent to: Ms Alice Edwards (Edwards@unhcr.org).

• **3rd Track – ExCom Process¹**

The **third track** of the Consultations is structured around a **number of protection policy matters, including issues not adequately covered by the 1951 Convention**. This component of the Global Consultations is designed, firstly, to foster a common understanding of the protection challenges and enhance cooperation to address them; secondly, to identify and promote practical responses to protection problems; and thirdly, to lead to the development of new approaches, tools and standards to strengthen protection. The discussions seek to achieve concrete outcomes, which could include, depending on the issue: i) the identification of new and practical cooperative

¹ See Work Programme for “Third Track” Issues in the Context of the Executive Committee Framework (Working Document), EC/GC/01/1/Rev.2, 9 May 2001.

arrangements; ii) tools to implement guidelines; iii) guidance to States or to UNHCR; iv) Executive Committee conclusions; and v) more formal standard setting.

The discussions are being held within the framework of UNHCR's Executive Committee at meetings during 2001 and 2002. They centre on four broad themes:

2001	MEETINGS	THEMES/ISSUES
	1st meeting: 8-9 March	1st Theme: Protection of Refugees in Mass Influx Situations a) Overall protection framework b) Civilian character of asylum, including separation of armed elements and screening in mass influx situations, as well as status and treatment of ex-combatants c) Registration d) Mechanisms of international cooperation to share responsibilities/burdens in mass influx situations
2001	MEETINGS	THEMES/ISSUES
	2nd meeting: 28-29 June	2nd Theme: Protection of Refugees in the Context of Individual Asylum Systems a) Refugee protection and migration control, including interception practices and the treatment and return of persons not in need of international protection b) Asylum processes, including access to refugee protection; expedited procedures; undocumented and/or uncooperative asylum-seekers
2001	MEETINGS	THEMES/ISSUES
	3rd meeting: 27-28 September	2nd Theme: Protection of Refugees in the Context of Individual Asylum Systems (continued) a) Asylum processes (continued): reception of asylum-seekers, including standards of treatment; complementary forms of protection b) Strengthening protection capacity in host countries
2002	MEETINGS	THEMES/ISSUES
	4th meeting	3rd Theme: The Search for Protection-Based Solutions a) Voluntary repatriation b) Local integration c) Resettlement 4th Theme: Protection of Refugee Women and Refugee Children

International solidarity and responsibility or burden sharing, as well as aspects of protection of refugee women and refugee children, are cross-cutting themes which are being considered throughout the discussions of the various topics.

➤ 8 and 9 March 2001 meeting

The first substantive meeting dealt with *Protection of Refugees in Mass Influx Situations*. The debate on the various issues of the theme was participatory and wide ranging. Delegations expressed that there is a need for greater clarity concerning the scope of international protection in mass influx situations and also called for more guidance on how to identify and determine whether to exclude individuals from protection under the 1951 Convention in the context of group determination on a *prima facie* status. When discussing the topic of civilian character of asylum, delegations underlined the importance of the identification, separation and internment of armed elements as part of a comprehensive strategy to address the security of refugee camps and settlements. In addition, the need to address the serious repercussions of security problems on refugee women and children, including military recruitment of refugee children, was highlighted. The development of standards and procedures for the separation of armed elements from the refugee population and the adoption of an ExCom Conclusion setting out some guiding considerations to preserve the civilian character of asylum are just two of the follow-up activities envisaged. There was recognition that adequate registration, including the issuance of documentation, is a prerequisite for the legal and physical protection of refugees. As a concrete outcome of the consultations, standards for refugee registration were adopted in the form of an ExCom Conclusion.² Other follow-up activities concern the Project PROFILE and the updating/development of operational tools. Mechanisms of international cooperation to share responsibilities and burdens in mass influx situations was recognized as a difficult but vital subject, on which it was necessary to move beyond sympathy and rhetoric to practical measures. In the context of promoting comprehensive approaches to responsibility/burden-sharing in mass influx situations, UNHCR proposed to identify a situation, in cooperation with States, to test the applicability of lessons from past experiences of available tools and of how to promote their use as part of a comprehensive strategy.

➤ 28 and 29 June 2001 meeting

Under the theme, *Protection of Refugees in the Context of Individual Asylum Systems*, delegations focused on the interface between migration and asylum (including interception practices and the treatment and return of persons not in need of international protection) as well as on asylum processes, with an emphasis on fair and efficient procedures. All delegations recognized the importance and complexity of the asylum-migration nexus. It was widely acknowledged that legitimate measures to stem trafficking and smuggling should not be allowed to override States' commitments to respect refugee protection responsibilities. There was broad support for the suggestion that UNHCR develop Guidelines on Safeguards for Interception Measures, incorporating appropriate protection safeguards and drawing on the conclusions and recommendations of the

² See *Conclusion on Registration of Refugees and Asylum-seekers*, no. 91 (LII) – 2001.

Ottawa regional workshop. They also welcomed the first-ever joint UNHCR/IOM background paper, and supported the establishment of a UNHCR/IOM Action Group on Asylum and Migration. Turning to asylum processes, delegations recognized the need for basic common standards for refugee status determination procedures derived from the framework of international refugee law. They agreed to pursue discussions aimed at agreeing on basic common principles for refugee status determination procedures, on the basis of the compilation of best practices contained in UNHCR's background note.

➤ 27-28 September 2001 meeting

The third substantive meeting of the third track of the Global Consultations took place on 27 and 28 September 2001 to resume discussions on *Protection of Refugees in the Context of Individual Asylum Systems*. The meeting continued to examine asylum processes, focusing on issues relating to the reception of asylum-seekers, including standards of treatment, as well as complementary forms of protection. The meeting also examined how to strengthen protection capacity in host countries. Many converging views on the three topics under discussion emerged. There was widespread support for a human-rights-based approach in defining adequate reception standards for asylum-seekers, which might also draw on social, economic and cultural rights. Delegations agreed that a basic framework for reception policies could usefully be adopted in the form of an ExCom Conclusion, to be followed by the development of UNHCR *Guidelines on the Reception of Asylum-Seekers*. Delegations welcomed the inclusion of complementary (or "subsidiary") forms of protection on the Global Consultations agenda. The need for greater harmonization in the way States deal with complementary protection was acknowledged, and there was widespread support for the institution of a consolidated single procedure which first assesses whether an asylum-seeker qualifies for 1951 Convention refugee status, and, if not, then assesses the need for other complementary protection. There was broad consensus to frame the guidance on complementary forms of protection in the form of an ExCom Conclusion. Strengthening protection capacities in host countries, the third topic under discussion, was recognized as a *sine qua non* condition to implement effectively international protection standards. At the same time, many delegations underlined that such capacity-building must be framed in the broader context of international cooperation, solidarity and burden-sharing, and entail adequate funding, *inter alia* to UNHCR, to build protection capacity in host countries. There were many suggestions on how to operationalize this topic.

➤ Year 2002 meeting

There are two additional themes to be discussed in 2002, namely: *The Search for Protection-based Solutions* (local integration, resettlement, voluntary repatriation) and *The Protection of Refugee Women and Children*.

• **Regional Meetings**

To ensure that the Consultations have a truly global reach, it is crucial to bring in the different national and regional perspectives of governments, regional organizations, NGOs and other experts, as well as refugees themselves, particularly on the issues for discussion under the third track. UNHCR has organized six Regional Meetings, with a seventh planned for 6 and 7 November 2001, in order to broaden participation on issues on the agenda of particular interest to one or other of the regions of the world. During discussions within the third track of the Global Consultations, participating delegations have recognized the useful contribution of the regional workshops, which have not only brought insights into the challenges and constraints experienced at field level, but also formulated a number of substantive comments and recommendations.

DATE	VENUE	SUBJECT
26–27 February 2001	Pretoria	Maintaining the civilian and humanitarian character of asylum, refugee status, camps and locations
14–15 May 2001	Ottawa	Incorporating refugee protection safeguards in interception measures
28–29 May 2001	Macau	Identification of persons in need of protection and development of effective protection frameworks
6–7 June 2001	Budapest	Application of the “safe third country notion” and its effect on the management of flows and the protection of refugees; inter-State agreements for the readmission of third country nationals and for the determination of the State responsible for examining the substance of an asylum application; legal and practical aspects of the return of persons not in need of international protection
7–8 June 2001	San Jose Co-organizers: Inter-American Court of Human Rights, the Inter-American Commission on Human Rights and the Inter-American Institute of Human Rights	UNHCR’s supervisory role and the Inter-American human rights bodies: a comparison
3–5 July 2001	Cairo	How to strengthen the capacity of first asylum countries in the region to offer adequate protection
6-7 November 2001	Oslo	Resettlement as a multi-faceted protection tool and its relationship to migration

- **Refugee participation**

As key stakeholders in refugee protection, refugees have actively been involved in the Global Consultations. The challenge has been to identify ways to make sure that their voices are heard and their views are taken into account. Given the diversity of views among refugees, those who contribute to the process, needless to say, have represented only a part of the refugee community. Nonetheless, their involvement has provided important perspectives for other stakeholders. At the June 2001 third track meeting, a refugee woman spoke of her experiences in seeking asylum, including a period of detention. Her direct testimony ended with a ringing plea of “Action, please,” on behalf of all refugees seeking asylum and a safe haven. The following events have been held, which *inter alia* give a voice to refugees in the process:³

- International Conference on the Reception and Integration of Resettled Refugees in Norrköping (25–27 April 2001);
- “Refugee Parliament” in Paris (16 June 2001);
- Respect our Rights: Partnership for Equality - Dialogue with Refugee Women in Geneva (20–22 June 2001) and other selected locations;
- Forum of Refugees in Europe in Rouen, France (14–16 September 2001).

- **Way forward**

The Global Consultations process will continue in 2002 with a focus on the themes *The Search for Protection-Based Solutions* and the *Protection of Refugee Women and Children* under the third track. An *Agenda for Protection*, which will derive from the entire Global Consultations process, will set out concrete goals and actions to strengthen protection and serve as a guide for UNHCR and an “inspiration” for States, NGOs and other protection partners for the years ahead.

For further information, please contact:

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- **3rd Track – ExCom Process:** Walpurga Englbrecht (Englbrew@unhcr.org)
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During the Global Consultations, the quarterly publication of UNHCR’s Department of International Protection, *prima facie*, will highlight the main developments and issues of the Global Consultations process (available on UNHCR’s public website). Further information on the Global Consultations can be obtained via the Internet at www.unhcr.org.

³ For further details, please consult the document *Global Consultations: Listening to Refugee Voices*, posted on UNHCR’s public website (click on Global Consultations).