WAYS FORWARD ON EXCOM CONCLUSIONS
ExCom Conclusions and Process 2008 – 2012

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I. RESUME OF CONCLUSIONS REVIEW

- October 2007 ExCom Decision on Conclusions process
- Two track process: ICM and Review
- More effective Conclusions process
  - Theme identification
  - Multi-year plan
  - Negotiation process
  - Stakeholder aspects
- Use and value of Conclusions
II. CONTINUATION OF A MULTIYEAR PLAN

- 2002-2007 themes based on Agenda for Protection (AfP)
- AfP schedule essentially exhausted
- Continuation of a predictable selection methodology
- From UNHCR angle: would continue to be issues which require guidance by ExCom or development of international standards or affirmation of approaches
- Proposals herewith cover 2009-2012 period
- 2008 effectively a transition year
- Focus on review of ExCom Conclusion process, value of Conclusions and multi-year plan of themes
- Agreed to dispose all in a General Conclusion
III. THEME SELECTION: HOW?

- Issues arising in national, regional, or global operations requiring global guidance and development or (re-) affirmation
- Legal, policy or operational in nature (see Slide 7)
- Focus on gaps, problems, challenges or good practices regarding performance, compliance, delivery
- Derived from:
  - Operations/Field
  - Annual Protection Reports
  - Operational reviews, evaluations, inspections
  - Other UNHCR processes and sources (Field Protection Reference Group, High Commissioner’s Dialogue, etc.)
  - States
  - Other stakeholders, including NGOs (see Slide 13)
IV. NORMATIVE V. OPERATIONAL THEMES?

- Long-standing debate within ExCom
- Concern that “operational” themes created lengthy texts and a protracted negotiation process
- Therefore, that themes should revert to only “normative”
- Operational issues to be developed in Handbooks and Guidelines

- Broad UNHCR agreement. At the same time:
  - States themselves have called for more “practical” and “concrete” themes
  - Historically, there has been a mix of both
  - A theme can have both normative and operational character (statelessness)
  - While emphasising “normative” themes, flexibility necessary
V. LINKAGES WITH OTHER PROCESSES

- The High Commissioner’s Dialogue (HCD)
  - HCD instituted as open/flexible process for frank dialogue on protection challenges
  - Need not be tied to a specific result / consensus
  - Conclusion themes may draw from HCD; some may be related (e.g. protection and solutions issues arising in the maritime context; protracted refugee situations)
  - Otherwise, different processes and should continue to remain separate

- Field Reference Group on Protection Policies
  - Important structure for internal operational protection policy dialogue and input
  - Group of 20 experienced, knowledgeable field managers and staff
  - Include all regions and types of operations
  - Project real problems experienced in the field
  - Multiplicity of concerns and perspectives
VI. INITIAL PRESENTATION OF THEMES

- Proposals for Conclusions come to ExCom initially as thematic papers at March Standing Committee
- Issues analysed and explained:
  - The issue as such
  - Problems and challenges
  - Legal and/or policy framework
  - Issues or gaps for ExCom attention, guidance or development
  - Issues for Conclusions consideration
- UNHCR has understood request by States to improve all the above
- Will enhance character of thematic papers accordingly
- Importance for “preliminaries” not to become unduly burdensome and even hamper substantive focus
VII. INITIAL DRAFTS OF CONCLUSION TEXTS

- ICM has emphasized:
  - Clarity
  - Brevity
  - Quality
  - Explanation of foundational issues, including gaps
  - Standards not to be diminished
  - Repetitiveness (previously addressed issues) to be avoided

- Full UNHCR commitment
  - Thematic papers to detail out problems, gaps, issues
  - Drafts to be as well and clearly written as possible
  - Also as succinct as possible
  - Subject matter and complexity will however often determine length
  - Flexibility therefore necessary
VIII. THE NEGOTIATION PROCESS

ICMs have underscored:

- Early / more time to negotiate Conclusions
- Focus / priority attention on protection objectives and standards
- Linguistic and national concerns not to dominate the process
- Advantages of informal settings for initial consultations
- Crucial importance of attendance by all State Parties
- Value of external “experts” or resource persons

Accordingly:

- Since 2006, thematic papers presented in March and not June, so negotiations could start early
- This practice will be continued
- Multi-year schedule will also enable greater lead time
- UNHCR strongly agrees with attention being focused on protection priorities and substantive aspects
- Attendance by all States Parties critical
- UNHCR ready to facilitate experts and resource persons
IX. THE ROLE OF UNHCR

- By its mandate and accountability, has a primary substantive stake in the process
- High Commissioner’s privilege to seek the guidance of ExCom through Conclusions
- By its mandate, role and vocation, has knowledge and experience in refugee law and protection

UNHCR
- Identifies the issues
- Analyses the subject
- Highlights gaps, problems and issues requiring ExCom deliberations and guidance
- Shares operational information and good practices
- Substantively participates in the negotiations
- Provides administrative, technical and secretarial support for the process
X. THE ROLE OF NGOs

- Are important protection actors and stakeholders
- Have grass-roots engagement
- Operational knowledge
- Advocacy
- Role in Conclusions process increasingly acknowledged
- Further considerations may streamline roles in:
  - Theme identification
  - Substantive dialogue on the themes
  - Dissemination and awareness
  - Implementation and follow-up
  - Reporting
XI. MULTI-YEAR CONCLUSIONS THEMES 2009-2012

Proposals include:

- “Unfinished” AfP business (Asylum procedures)
- Matters considered already thematically in 2007 and 2008 (Disability, Older Persons)
- Themes suggested / prioritised by UNHCR already (“Rescue at sea”)
- Priorities expressed by States (“Protracted situations”)
- Proposals by NGOs (“Self-reliance”)

Assumptions:

- General Conclusions would be retained?
- Two substantive themes to be considered each year?
- Flexibility to adjust schedule in view of new/unforeseen issues/imperatives
- A “rolling” negotiation process?
- 2012 as a “carry-over” year for unfinished matters
XII. WORKPLAN 2009-2012

<table>
<thead>
<tr>
<th>Year</th>
<th>Conclusions</th>
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<tbody>
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<td>2008</td>
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<td>2009</td>
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<td>Conclusion on Protracted Refugee Situations</td>
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<td>Conclusion on Self-reliance of Refugees</td>
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<td>2011</td>
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<td>Conclusion on the Protection and Solutions Issues Arising in the Maritime Context (Rescue at Sea)</td>
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<td>Conclusion on Asylum Procedures</td>
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<td>2012</td>
<td>General Conclusion on International Protection</td>
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<td>New multi-year plan</td>
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Rolling negotiation process
XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion on International Protection

Will comprise:

i. Protection Issues drawn from the Note on International Protection and debate

ii. Other protection issues drawn from March and June 2008 Standing Committees

iii. Decision on 2009 – 2012 Conclusions themes and work plan

iv. Dispositions on Value and Use of Conclusions

v. Follow-up Steps
XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion

i. Note on International Protection

- Builds on the relationship between refugee protection and human rights. Some highlights include:
  - Principle of non-refoulement, access to territory and to asylum procedures
  - Right to life, liberty and security of persons (xenophobic crimes, scope of SGBV problem)
  - Problems of detention
  - UNHCR’s role in internal displacement settings
  - Humanitarian access
  - Protracted refugee situations
  - Reintegration
XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion

ii. Other protection issues from March / June Standing Committee

- High Commissioner’s Dialogue
- Agenda for Protection
- Resettlement
- AGDM
- Protracted situations
- IDPs
XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion

iii. 2009 – 2012 Conclusions themes and work plan

- Agreed themes
- Agreed work plan
- Agreed timetable for drafting and negotiation for the next 3 - 4 years
XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion

iv. Value / use of Conclusions

- Priority findings from Deschamp report, recommendations and result of ICM debate
- Other issues identified at ICM
XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion

v. Improving the Conclusions process

- Results of ICM debate/dialogue
- Indicative issues as per this presentation
- Cf summary in Slide I and following details
XIII. SCHEMATIC OUTLINE OF THEMES

(b) Conclusion on Persons with Disabilities

(i) Resume

- Conference room paper and debate in June 2007 Standing Committee
- Gaps identified and protection concerns highlighted
- Need for Conclusion elaborated
- Key elements of Conclusion outlined (see next Slide)
XIII. SCHEMATIC OUTLINE OF THEMES

(b) Conclusion on Persons with Disabilities

(ii) Elements for a Conclusion

- Specific protection risks and concerns of persons with disabilities
- Overarching principles and approaches (participation, non-discrimination, accessibility, inclusion, equal access)
- Need for attitudinal shift among all actors
- Partnership and broader institutional responses
- Priority actions and measures
XIII. SCHEMATIC OUTLINE OF THEMES

(c) Conclusion on Older Persons

(i) Resume

- Conference room paper and debate in June 2007 Standing Committee
- Gaps identified and protection concerns highlighted
- Similar challenges as for persons with disabilities
- Need for Conclusion explained
- Key elements of Conclusion outlined (see next Slide)
ExCom Conclusions and Process 2008 – 2012

XIII. SCHEMATIC OUTLINE OF THEMES

(c) Conclusion on Older Persons

(ii) Elements for a Conclusion

- Specific protection risks of older persons
- Overarching principles and approaches (participation, non-discrimination, family unity, equal access to services)
- Awareness among all actors
- Partnership and broader institutional response
- Priority actions and measures
XIII. SCHEMATIC OUTLINE OF THEMES

(d) Conclusion on Protection and Solutions
Issues Arising in the Maritime Context

i. Resume:

- Tragic events on high seas involving asylum-seekers
- Importance of rescue at sea issues
- Need to affirm a system of protection response and solutions
- Gaps in protection standards and response
- High Commissioner’s 2007 Dialogue
- Systematic paper not presented yet, nor debate taken place
XIII. SCHEMATIC OUTLINE OF THEMES

(d) Conclusion on Protection and Solutions

Issues Arising in the Maritime Context

ii. Elements / concerns highlighted

- Normative framework and intersection between different areas of law
- Risk on high seas and imperative / responsibility to rescue
- Disembarkation
- Treatment of persons rescued
- Fundamental principles, including non-refoulement, access to asylum procedures, protection for victims of trafficking
- Role of concerned actors, including UNHCR
- Responsibility and burden sharing and international solidarity
- ExCom Conclusions thus far and gaps
- The Ten-Point Plan
XIII. SCHEMATIC OUTLINE OF THEMES

(e) Conclusion on Asylum Procedures

- Foreseen in the Agenda for Protection
- Standards emerging at regional level
- Ensure greater global consistency
- Procedural safeguards as regards
  - admissibility of claims
  - use of accelerated procedures
  - persons with specific protection needs
  - undocumented and uncooperative asylum seekers
  - appeals
- Case management tools and methodologies
- Best practice models (e.g. quality initiatives)
- Systematic paper not presented yet or debate taken place
XIII. SCHEMATIC OUTLINE OF THEMES

(f) Conclusion on Self-reliance

- Suggested by NGOs
- Restrictions on self-reliance and protection risks including poverty, sexual and gender-based violence
- Self-reliance and legal rights to participate
- Self-reliance and the realization of all three durable solutions,
- Links with host communities and need to integrate refugees into national development plans
XIII. SCHEMATIC OUTLINE OF THEMES

(g) Conclusion on Protracted Refugee Situations

- Important policy priority for the High Commissioner
- High Commissioner on-going initiative
- Subject of June Standing Committee and 2008 High Commissioner’s Dialogue
- States have signaled strong interests including as Conclusion subject
- Salient aspects:
  - Characterization
  - Priority situations
  - Problems and challenges
  - Comprehensive solutions approach
  - Strengthened efforts for solutions
  - International solidarity and other support elements
  - Framework for concerted action
XIV. NEXT STEPS

- In view of ICM discussions, revise and finalise themes and work plan
- Following June Standing Committee prepare initial draft of General Conclusion
- Link results of ExCom process and ExCom Conclusion tracks
- Elaborate implementation / follow-up plans accordingly