

## BACKGROUND PAPER

### I. INTRODUCTION

1. Dramatically high numbers of people risk their lives at sea, in all regions of the world, in desperate bids to escape persecution, conflict, instability and poverty. Refugees, asylum-seekers, stateless people and migrants routinely experience exploitation, abuse or violence during their journeys, and untold numbers have perished after boarding unseaworthy vessels. It is against this backdrop that this year's High Commissioner's Dialogue takes place. The Dialogue is a key element of UNHCR's two-year *Global Initiative on Protection at Sea*, which seeks to catalyse action to prevent further loss of life and to ensure that responses are sensitive to those who are in need of international protection.

2. The Dialogue's objectives include:

- Recognizing the imperative of search-and-rescue efforts, the need for robust coordination at the national and regional levels, and the specific challenges and dilemmas faced by commercial vessels
- Encouraging renewed commitment to the international framework for search, rescue and disembarkation<sup>1</sup>
- Promoting greater international cooperation to share burdens and responsibilities, including through regional protocols for rescue and timely disembarkation that incorporate safeguards for those in need of international protection
- Promoting support for comprehensive, whole-of-government and regionally-linked approaches that acknowledge the distinct roles of States, international organizations, local authorities and civil society actors at different points along the migration and displacement continuum and that ensure access to asylum, protection, and durable solutions—including livelihood opportunities—for refugees
- Encouraging—alongside heightened resettlement and humanitarian-admission efforts—workable protected-entry or alternative migration pathways, including labour mobility and family reunification, to secure protection of refugees and to promote self-reliance, and
- Enlisting support for inclusion of migration- and forced-displacement-related goals and indicators in the Post-2015 Sustainable Development Agenda, as well as reflection on the potential contribution of the Global Forum on Migration and Development towards creating alternative migration pathways, including for refugees.

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<sup>1</sup> In particular, *United Nations Convention on the Law of the Sea* (UNCLOS), 1982, entered into force 16 November 1994, Article 98; *International Convention for the Safety of Life at Sea* (SOLAS), 1974, entered into force 25 May 1980, Chapter V (as amended); *International Convention on Maritime Search and Rescue* (SAR), 1979, entered into force 22 June 1985 (as amended); IMO, *Guidelines on the Treatment of Persons Rescued at Sea*, 20 May 2004, MSC.167(78), <http://www.refworld.org/docid/432acb464.html>; IMO, *Principles Relating to Administrative Procedures for Disembarking Persons Rescued at Sea*, 22 January 2009, FAL.3/Circ.194, <http://www.refworld.org/docid/524be8244.htm>.

## II. BACKGROUND

3. Every day, refugees, asylum-seekers, trafficked people, stateless persons, as well as those seeking a better life, risk everything trying to cross the world's oceans and waterways. Crammed aboard flimsy vessels that often are operated by ruthless criminal groups, all too many perish without a trace. At the mercy of smugglers and traffickers, many are beaten, raped, tortured or tossed overboard. Those who manage to reach foreign shores often arrive in a condition near death due to thirst, starvation, exposure or mistreatment.

4. The global, clandestine nature of these mixed movements of both refugees and migrants makes determination of the exact numbers impossible. Given the circumstances in which crossings take place, even the known numbers are staggering. The Dialogue comes amid growing demand for more comprehensive approaches to protection at sea from a wide range of stakeholders. In addition to UNHCR, they include a number of coastal governments struggling to cope with continuing arrivals, as well as countries of origin, transit and final destination. Others include shipping companies, international maritime and migration organizations, NGOs, diaspora and other civil society actors, refugees and migrants who have survived these brutal journeys and family members of those who did not.

5. While many of those on the move today are trying to escape hardship in countries with weak economies, high unemployment and governance challenges, their understandable desire for a better life does not make them refugees. But alongside these migrants—and often using the same smugglers, routes and means of transport—there are refugees fleeing violence and persecution, stateless people and victims of trafficking. For UNHCR, this is a protection issue affecting persons of direct concern to the Office.

6. Determining who within these mixed migratory movements at sea is in need of international protection is in itself a complex undertaking. But it is just one of several related challenges that must be addressed collectively if lives are to be saved and people protected. These include:

- improving search-and-rescue capacity and procedures
- easing disembarkation for those rescued
- ensuring that refugees, asylum-seekers, stateless people, victims of trafficking and others are identified and get the help they need
- addressing the root causes of movements and providing alternative pathways
- improving data collection and analysis, and
- limiting harmful, inhumane or prohibited measures, such as routine detention and 'pushbacks' at sea, and expanding alternatives to them.

7. Ultimately, addressing the challenges arising from movements by sea requires a response to the root causes and drivers which prompt people to move in the first place. This, in turn, entails a sustained focus on peacebuilding, creating opportunities for decent work and sustainable development, and awareness raising in countries of origin, asylum and transit. That may seem a distant aspiration in a world where an average of 32,200 people fled their homes every day in 2013, and where this pattern of displacement has continued in 2014. But lives depend on it.

## III. BREAKOUT SESSIONS

8. In addition to plenary sessions, three breakout sessions during the Dialogue will address the following areas:

- Saving lives: Search, rescue and disembarkation
- Providing safer options: Comprehensive approaches to address the drivers of dangerous sea journeys, and
- Making it work: International cooperation to share burdens and responsibilities.

9. Protection at sea begins with preventing loss of life at sea. UNHCR’s understanding of ‘protection at sea’ extends well beyond rescue, to encompass comprehensive approaches that share responsibilities and burdens among States and that address the drivers and consequences of movements by sea. But effective national, regional and global search-and-rescue systems remain the foundation upon which protection at sea is built.

10. Not all people who undertake dangerous sea journeys are persons of concern to UNHCR, but many are. Most often, they travel alongside migrants who are not fleeing persecution or conflict and have taken to the sea for other reasons. Nonetheless, when people are found in distress at sea, it is of secondary importance whether they meet the refugee definition or not: the first priority must be to protect the universal human right to life by ensuring that those in distress are rescued and disembarked to a safe location in a timely manner.

11. International law,<sup>2</sup> enshrining long-standing maritime tradition, establishes the duties of States and ship captains to assist those in distress at sea—regardless of their status—and deliver them to a place of safety. This tradition continues to be widely honoured by States and commercial actors alike. However, substantial challenges for both States and the shipping industry are increasingly evident: coastguards, navies and merchant vessels have come under significant pressure along major mixed-migration routes.

12. In many parts of the world search-and-rescue capacity remains limited or is strained by large numbers of people moving by sea. These limitations can relate to material and technical capacity, but also to political will, institutional arrangements, and coordination at the national and regional levels. Importantly, they affect not only capacity to respond to a known distress situation, but also arrangements for surveillance, search and communications to ensure that distress situations are identified and those at risk are assisted in a timely fashion.

13. Search-and-rescue operations are not infrequently undertaken by commercial vessels. While the continuing respect for the rescue-at-sea tradition of their captains and crews is central to the integrity of the global search-and-rescue system, commercial vessels coming to the aid of people in distress at sea are often faced with considerable difficulties, including cost and delay occasioned by the rescue operation itself or by the process of finding a coastal State willing to allow disembarkation; concerns about the security and wellbeing of crew; and the risk, in some instances, that captain or crew undertaking a rescue may even be penalized under national anti-people-smuggling laws.

14. These challenges are compounded by recurrent disagreements about the scope and locus of responsibilities under international maritime, refugee and human rights law for rescue, disembarkation, and meeting the protection needs of those rescued. It has long been recognized in international discussions on protection at sea that a key challenge is reaching agreement on how to achieve swift disembarkation to a place of safety following a rescue. Although international treaty law on search and rescue<sup>3</sup> imposes a duty on States to coordinate and cooperate to ensure that those rescued are disembarked and delivered to a place of safety as soon as possible—with the coastal State in whose search-and-rescue region the rescue takes place having primary responsibility—States do not always agree in practice on who is responsible within this framework for (i) disembarkation and (ii) subsequent follow-up. This uncertainty can lead to delay and risks to safety at sea both for the assisting vessel and for those rescued. A broader concern is that such uncertainty may, in some instances, also constitute a disincentive to active search-and-rescue efforts.

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<sup>2</sup> See *supra*, n 1.

<sup>3</sup> See SOLAS, Chapter V, Regulation 33(1-1), as amended by IMO Resolution MSC.153(78), 20 May 2004; SAR, Annex at paragraph 3.1.9, as amended by IMO Resolution MSC.155(78), 20 May 2004. These amendments entered into force on 1 January 2006. See also IMO Guidelines, *supra* n 1.

15. Similarly, while there is agreement for the most part on what constitutes a situation of ‘distress’ and what is required by the duty of rescue, disagreement over what level of assistance is required and in what circumstances can hinder timely responses. So-called ‘help-on’ policies and practices provide assistance that falls short of rescue, generally facilitating onward travel by sea, often in precarious conditions. Such practices may endanger safety or life at sea, avoid or shift responsibilities, and increase the risk of ‘orbit situations’ or even *refoulement*. They also tend to increase inter-State tensions and undermine regional cooperation. Similar concerns arise with regard to ‘interception’ or ‘pushback’ practices aimed at preventing or deterring unauthorized arrival by sea.

16. ‘Rescue’ and ‘interception’ are two different things. ‘Interception’ measures undertaken for humanitarian reasons, which seek to retrieve people in potentially dangerous circumstances at sea and deliver them to safety before a distress situation arises, represent invaluable contributions to protection at sea so long as they are safely conducted and allow intercepted asylum-seekers and refugees to access international protection. Interception measures which are directed at avoiding or shifting refugee-protection responsibilities, which frustrate access to international protection or seek to ‘deter’ asylum-seekers, which lead to a risk of *refoulement* or which endanger safety, are not consistent with international standards and cannot be characterized as ‘rescues’.

17. The relationship between the law of the sea and international refugee law—and the consequent need, recognized by the International Maritime Organization’s guidelines on rescue at sea, to take into account the risk of persecution, ill-treatment or onward *refoulement* in identifying a ‘place of safety’ for the disembarkation of rescued asylum-seekers or refugees—is not always respected in practice. A proposed place of disembarkation cannot be considered ‘safe’ if it could be reasonably foreseen that disembarkation of rescued asylum-seekers or refugees there could place their lives or freedoms at risk or lead to their *refoulement*. Ship captains—including those of commercial vessels—who are involved in rescue operations cannot be expected to make fine judgements as to the ‘safety’ in this sense of a proposed place of disembarkation or the possible protection needs of those rescued. Primary responsibility for avoiding *refoulement* in such cases falls to coastal States tasked with search-and-rescue coordination, as well as the flag States of assisting ships.

18. Shipboard safety and security, providing accommodation and immediate assistance to those rescued, and identifying those who may be seeking asylum or have other protection needs prove challenging for captains and crews of assisting vessels. This is particularly so where large numbers of people are involved or where those rescued need to be brought aboard a vessel that is structurally unsuited for search-and-rescue functions. Protection screening and refugee status determination should *not* take place at sea. Nor are they the responsibility of a ship captain. But those involved in rescue operations may benefit from increased guidance and practical support for appropriate on-board arrangements pending disembarkation. One area warranting attention is the importance of preserving, wherever possible, family units following a rescue (both pre- and post-disembarkation).

19. Closely related to the question of safe and predictable disembarkation arrangements is the capacity of disembarkation States to provide adequate first-assistance as well as reception facilities and services—including mechanisms to identify asylum-seekers and others with particular vulnerabilities and refer them to appropriate services and procedures. Bringing those rescued ashore raises further issues including, first, identifying alternatives to routine post-disembarkation detention; and, second, apportioning responsibility for assessing protection claims and for providing solutions. The latter may account for occasional reluctance by some coastal States to allow disembarkation on their territory. While UNHCR has long recognized that the disembarking State need not be solely responsible for providing protection and solutions, it will often be that State whose protection responsibilities are engaged in the first instance, in the absence of established mechanisms for sharing burdens and responsibilities following a rescue.

20. Finally, when people travelling by sea lose their lives or go missing, it is vital that effective systems are in place for identifying those who perish, and for tracing and informing their family members.

21. None of these challenges are new. Progress towards meeting them will largely depend on better cooperation and coordination at the national and regional levels. Implementation of the existing international framework for rescue and disembarkation may be enhanced by the development of regional or sub-regional agreements clarifying, for instance, what constitutes a distress situation; who is responsible for disembarkation; how refugee-protection considerations can be taken into account; and how the role of commercial ship captains can be recognized and protected. In some parts of the world, agreed temporary protection and stay arrangements for rescued asylum-seekers and refugees may form part of a regional approach. Beyond broader burden- and responsibility-sharing arrangements, mobile multidisciplinary protection response teams might be one way of supporting differentiation and referral of disembarked persons across a number of locations and allow for a flexible response capacity in situations of fluctuating need.

*Questions for consideration:*

- What steps can States and others take to strengthen search-and-rescue capacity and coordination at the national and regional levels?
- What can States do to support rescue by commercial vessels so that ship captains can continue to fulfil their obligations under maritime law without being penalized or incurring avoidable costs for doing so?
- How can States achieve more effective and predictable coordination and cooperation so that rescued people are disembarked (i) as safely and as swiftly as possible, and (ii) to a place where those in need of international protection can find it?
- How can definitions of ‘distress’ and approaches to search and rescue be better harmonized?

Breakout session 2 – Providing safer options: Comprehensive approaches to address the drivers of dangerous sea journeys
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22. Reference to ‘protection at sea’ evokes images of distress situations, search-and-rescue operations and the disembarkation and reception of rescued people. But a comprehensive approach to fully achieving protection at sea must, by necessity, involve concerted action in countries of origin, transit or first asylum, including countries of embarkation. Preventing loss of life at sea requires confronting the drivers of dangerous sea journeys and providing safe alternatives to desperate people who might otherwise place themselves at the mercy of the seas and smugglers. These drivers, including those of so-called ‘onward movements’, are well known and defy easy solutions: they include conflict, war, persecution and human rights abuses; statelessness; family separation; poverty and economic inequality; established migrant-smuggling routes and networks; inadequate national and regional protection systems; poor human security or limited access to basic services and livelihood opportunities in countries of first asylum; and meagre prospects of access to a durable solution within a reasonable time.

23. Responses to such sea movements are sometimes framed solely in terms of preventing, deterring, or punishing those who seek to travel by sea and their facilitators. For ‘destination’ and ‘transit’ States, the question of addressing the drivers of such movements is often linked to legitimate concerns about sovereignty, border management, the prevention of international and cross-border crime (including migrant smuggling and trafficking in human beings), preventing deaths at sea, and avoiding possible ‘pull factors’. Similarly, States of embarkation have an interest in preventing departures in unseaworthy vessels. Comprehensive approaches to protection at sea need to be mindful of these concerns, while respecting the rights of those on the move, including the right of those fleeing persecution and conflict to seek and find protection.

24. Capacity building and development assistance in countries of transit or first asylum are important components of comprehensive approaches. Such efforts can help to stabilize asylum-seeker and refugee populations in such countries by increasing the level of protection available there, including freedom of movement, livelihood opportunities and access to basic services. In some

regions and for some groups, temporary protection and stay arrangements with appropriate safeguards might be a productive starting point. Good faith efforts on the part of countries that traditionally see themselves as transit points and of those considered destination countries are critical to ensure equitable responsibility sharing.

25. Responding to the drivers of movements by sea would entail providing alternative pathways and means of entry for those seeking international protection. These could, according to regional contexts and needs, take a range of forms, including:

- Increased resettlement or humanitarian-admission efforts for vulnerable refugees whose situation in a country of first asylum might place them at risk of seeking to move on by sea. While a crucial element, it is recognized that resettlement will not be available or appropriate for all such people, and some countries of ‘transit’ may be concerned that it could, in some circumstances, function as a ‘pull factor’.
- Exploration of ‘protected entry’ mechanisms, such as humanitarian visas and embassy-based procedures. Such schemes could allow asylum-seekers and refugees in certain circumstances to approach a potential country of refuge outside that country’s territory (in a country of origin, transit, or first asylum) and seek permission to enter the country before travelling there.
- Exploration of whether and how other regular migration pathways (such as labour mobility schemes) could be made available to people with protection needs, including asylum-seekers and refugees in countries of first asylum, in order to facilitate safe access to livelihood opportunities. Increased opportunities for family reunification or the possibility of entering a ‘destination’ country on the basis of private sponsorship may also attenuate the drivers of some sea movements.

26. More broadly, expanding opportunities for regular migration by people who might otherwise take to the sea may provide safe alternatives for those fleeing conflict and persecution. They may also serve to remove incentives to claim asylum among those who do not have protection needs and are primarily seeking economic opportunity or to join family.

27. Although alternatives to risky sea journeys are an essential component of any comprehensive approach, the availability of such pathways to protection may not always have a straightforward impact on the overall numbers of those risking their lives at sea. Likewise, attention to providing alternative routes to safety cannot detract from the primary obligation of States to fairly examine the claims of—and, where needed, provide protection to—those who arrive at their borders or who otherwise fall within their jurisdiction.

28. In recent years, various proposals for ‘joint’, ‘regional’ or ‘externalized’ processing arrangements have been made, in part as a possible response to certain drivers of sea movements. The rationale has been to weaken or counteract these drivers by:

- constituting a purported ‘deterrent’ or control mechanism (by, for example, returning or transferring spontaneous sea arrivals to a place of reception or processing outside the intended destination country), or
- eliminating the need for dangerous onward sea travel by processing protection claims in a ‘transit’ location pre-departure.

29. UNHCR has generally advocated that processing (whether joint or not) take place within the State (or regional grouping) of arrival/destination. However, it is recognized that—in exceptional circumstances and subject to appropriate safeguards—cooperative, ‘external’ processing arrangements in a safe transit or first-asylum location could play a role in reducing the need for unsafe travel by sea.

30. As noted above, a significant factor contributing to migration by sea is the existence of established smuggling routes and networks. These networks are often highly exploitative or abusive of their ‘clients’ and pose serious security and border-management threats to the States on whose

territories they operate. At the same time, for many, they provide the sole means of escape from a desperate situation and serve as a thread linking the promise of protection on the one hand and the increasingly restrictive migration-management practices of destination countries on the other. Cooperation to prosecute criminal and exploitative facilitators and dismantle their networks is undoubtedly a vital part of addressing dangerous movements by sea, yet so long as deeper drivers of these movements persist, it is unlikely that prevention, criminalization and prosecution of smugglers alone will stop people from taking to the sea.

31. Targeted campaigns providing information to at-risk groups on the dangers of travel by sea and of using smugglers may be effective to prevent some departures. But others who leave may be well aware of the risks involved and either consider them worth taking in view of the limited alternatives available to escape from dangerous or intolerable circumstances or, having begun a journey to hoped-for safety, find themselves coerced or otherwise without choice.

32. Ultimately, the most significant drivers for asylum-seekers and refugees fleeing by land or sea are the conflict or persecution from which they flee. A truly comprehensive response therefore also requires effective development and peacebuilding processes in countries of origin. Statelessness and the precariousness it can cause must also be recognized as an important driver of sea movements in some circumstances.

*Questions for consideration:*

- What actions can be undertaken in countries of origin, transit, and first asylum to limit unsafe departures by sea and mitigate their drivers, while at the same time ensuring that those who need protection have access to it? By whom?
- In particular, what needs to be done—and by whom—to increase access to protection and livelihood opportunities for those in countries of transit, first asylum or embarkation? Is there a role for regional temporary protection and stay arrangements? Under what circumstances?
- What are the most sustainable ways of providing alternative pathways for those seeking protection? What are the foreseeable unintended consequences, and how can these be avoided or mitigated?
- What are the causes of ‘onward movement’ by sea, and how can these be addressed? What are the implications for international cooperation and responsibility sharing?
- What forms of prevention are realistic while being compatible with international protection and equitable responsibility sharing?

Breakout session 3 – Making it work: International cooperation to share burdens and responsibilities
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33. States have important responsibilities under international refugee and human rights law, the law of the sea and international criminal law. At the same time, it is clear that cooperative arrangements involving a mix of State and other actors are required to effectively address the complexity of this issue. This is true of search-and-rescue coordination and capacity building, of disembarkation arrangements, and of responsibility sharing to provide durable solutions for those with protection needs. It is equally true for post-rescue reception and asylum processing, and for joint preventive action to address the drivers and root causes of sea movements.

34. While coastal States along migration routes necessarily have particular responsibilities towards those who find themselves in distress at sea or who arrive at their shores, the burdens and responsibilities of responding to sea movements or distress at sea, and the associated refugee-protection responsibilities, must not be left to those States alone.

35. The costs of insufficient international cooperation are stark. These costs—both immediate and longer term—are humanitarian (lives lost, trauma suffered, and people without protection), political (damage to the regional goodwill and trust necessary for sustainable protection systems), and

financial. Insufficient international cooperation not only depletes the political, institutional and financial capacity of coastal States experiencing large numbers of arrivals or high demand on search-and-rescue services, but can also lead to delays in the disembarkation of rescued people, at great cost to those affected and to the shipping industry at large.

36. Responsibility sharing in this context may take a wide range of forms, including:

- financial, material, technical or other capacity-building assistance (e.g. for reception and refugee-processing infrastructure or for search-and-rescue services)
- assumption of responsibility by non-disembarking States for status determination, protection or durable solutions, by means of the physical relocation of asylum-seekers or refugees—including resettlement, intra-regional ‘relocation’ or transfer, and protected-entry or alternative pathways such as labour migration, family reunification, and other migration options
- direct in-kind assistance or participation in joint operations or processes (e.g. joint search-and-rescue operations, joint regional processing or reception arrangements, and bilateral or centralized regional support for national asylum procedures).

37. Regional and sub-regional cooperation can take place on the basis of *ad hoc* arrangements following a particular incident, or they can be grounded in more stable arrangements. Typically, however, issues relating to disembarkation, status determination, protection and solutions following a rescue operation are resolved on an *ad hoc* basis between stakeholders. This approach is at times appropriate and can lead to good cooperative outcomes. But it can also result in unnecessary delays and disputes, and it fails to provide the predictability—including for commercial vessels involved in rescue operations—required by sustainable and effective international cooperation.

38. Effective regional cooperation is likely to be encouraged and facilitated by the development of standing agreements or frameworks that clarify responsibilities. Such frameworks need to build upon the existing international and regional legal regimes regulating refugee protection and search and rescue. The broad lines of a model framework agreement for responsibility sharing were developed at the Expert Meeting on Refugees and Asylum-Seekers in Distress at Sea convened by UNHCR in Djibouti in 2011. This model framework suggests that arrangements—whether regional standby agreements or responses to particular situations—should address the distribution of State responsibilities for:

- coordination
- search-and-rescue activities
- identification of a safe and appropriate disembarkation country
- reception arrangements, first assistance, and protection from *refoulement*
- identification of rescued people who are seeking asylum or have particular needs or vulnerabilities, and referral to appropriate processes, procedures and services
- determination of international protection needs
- outcomes for rescued persons (including local settlement and integration, or resettlement, for those determined to be refugees; regularization, migration options, or return for those without international protection needs; and responses for non-refugees with specific needs such as people with disabilities, unaccompanied or separated children, or victims of trafficking)
- arrangements for capacity-building support to disembarking countries.

39. Regional frameworks and processes also need to include cooperative mechanisms for:

- combatting trafficking in human beings and protecting its victims
- addressing people smuggling

- facilitating the return, readmission and reintegration of rescued people who are not in need of international protection, including with regard to the role and responsibilities of countries of origin.

40. Regional cooperative frameworks could also address existing protection gaps. For example, although Article 3 of the 1961 Convention on the Reduction of Statelessness provides that children born on a ship are deemed to have been born in the territory of the flag State, children born on board vessels which are not registered with any State (or on board ships flying the flag of a non-Contracting State) may be at risk of statelessness. The principle of the best interests of the child requires that a child acquire a nationality and be registered as soon as possible after birth. This suggests that children born on unregistered vessels be registered in the country of disembarkation. If the child would otherwise be stateless, or if the parents are unknown, it is recommended that the child also acquire the nationality of the country of disembarkation.

41. The model framework recognizes that considerable further work and negotiation would be needed to operationalize its suggested approaches for different regional or sub-regional contexts. It remains a useful tool on the basis of which such work could proceed. For instance, in regions or sub-regions where national asylum systems anchored in the 1951 Refugee Convention are weak or not present, cooperative regional or sub-regional frameworks for post-rescue disembarkation and protection could facilitate temporary protection or stay arrangements enabling the disembarkation and protection of rescued people while longer term solutions are identified.

42. Additionally, cooperative responses could be assisted by regional or sub-regional ‘hubs’ that would support post-rescue profiling, referral, reception monitoring or status determination. According to regional needs and available resources, these could take the form of a physical or virtual hub where regional resources and expertise would be pooled, or could incorporate interdisciplinary mobile protection response teams which could at short notice provide onsite support for post-rescue differentiation and referral. Such hubs could involve States and international organizations, such as UNHCR and IOM, as well as NGOs, and could be complemented, as needed, by ‘spokes’ in countries requiring particular support.

43. Joint processing in transit locations or centralized regional asylum-processing centres may, in certain circumstances, allow for increased or more effective responsibility sharing. Such arrangements would be appropriate where they constitute genuine responsibility-sharing efforts on the basis of clear undertakings and understandings, rather than attempts to avoid protection responsibilities.

*Questions for consideration:*

- What needs to happen so that coastal States experiencing large numbers of people with protection needs arriving by sea are better supported? How can such support take a form that simultaneously leads to a fair distribution of responsibilities and assists in avoiding pressures towards irregular onward movement?
- What role can States that are not located along sea migration routes play in strengthening search and rescue or otherwise contributing to regional cooperation?
- What is an appropriate response to the phenomenon of rescued asylum-seekers refusing to cooperate with identification processes at the place of arrival?
- How can assistance provided by destination States to ‘embarkation’ States help to minimize dangerous sea travel on unseaworthy vessels without blocking access to protection or risking *refoulement*?
- What are the lessons from historical examples and models of burden and responsibility sharing on protection at sea, e.g. the Disembarkation Resettlement Offers (DISERO) and Rescue at Sea Resettlement Offers (RASRO) Schemes; the Comprehensive Plan of Action on Indo-Chinese Refugees; the EUREMA pilot project for intra-EU relocation from Malta?

## ANNEX

Relevant tools and guidance	Breakout Session		
	1	2	3
UNHCR, <i>Refugees and Asylum-Seekers in Distress at Sea – how best to respond? Summary Conclusions</i> ('Djibouti Conclusions'), 5 December 2011, <a href="http://www.refworld.org/docid/4ede0d392.html">http://www.refworld.org/docid/4ede0d392.html</a> [Summary Conclusions from the Expert Meeting on Refugees and Asylum-Seekers in Distress at Sea convened by UNHCR in Djibouti, 8-10 November 2011. Includes the <i>Model Framework for Cooperation following Rescue at Sea Operations involving Refugees and Asylum-Seekers</i> ]	x		x
UNHCR, <i>The treatment of persons rescued at sea: conclusions and recommendations from recent meetings convened by UNHCR</i> , 11 April 2008, A/AC.259/17, <a href="http://www.refworld.org/docid/49997aeb27.html">http://www.refworld.org/docid/49997aeb27.html</a> [Between 2002 and 2006, UNHCR convened a series of meetings on rescue, interception and refugee protection at sea. This report—originally a Background Note for the first High Commissioner's Dialogue on Refugee Protection, Durable Solutions and International Migration in 2007, and later presented to the General Assembly's Open-ended Informal Consultative Process on Oceans and the Law of the Sea—synthesizes the main conclusions and recommendations arising from those meetings.]	x		
UNHCR, IMO and ICS, <i>Rescue at Sea: A guide to principles and practice as applied to migrants and refugees</i> , September 2006, <a href="http://www.refworld.org/docid/45b8d1e54.html">http://www.refworld.org/docid/45b8d1e54.html</a>	x		
UNHCR, <i>Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention</i> , 2012, <a href="http://www.refworld.org/docid/503489533b8.html">http://www.refworld.org/docid/503489533b8.html</a>	x	x	
Executive Committee of the High Commissioner's Programme, <i>Conclusion on Protection Safeguards in Interception Measures</i> , 10 October 2003, No. 97 (LIV) – 2003, <a href="http://www.refworld.org/docid/3f93b2894.html">http://www.refworld.org/docid/3f93b2894.html</a>	x		
Executive Committee of the High Commissioner's Programme, <i>Problems Related to the Rescue of Asylum-Seekers in Distress at Sea</i> , 21 October 1981, No. 23 (XXXII) – 1981, <a href="http://www.refworld.org/docid/3ae68c4344.html">http://www.refworld.org/docid/3ae68c4344.html</a> [See also subsequent ExCom Conclusions on this theme, extracted at <a href="http://www.refworld.org/docid/4f9d3de82.html">http://www.refworld.org/docid/4f9d3de82.html</a> ]	x		
IMO, <i>Guidelines on the Treatment of Persons Rescued at Sea</i> , 20 May 2004, MSC.167(78), <a href="http://www.refworld.org/docid/432acb464.html">http://www.refworld.org/docid/432acb464.html</a>	x		
IMO, <i>Principles relating to Administrative Procedures for Disembarking Persons Rescued at Sea</i> , 22 January 2009, FAL.3/Circ.194, <a href="http://www.refworld.org/docid/524be8244.html">http://www.refworld.org/docid/524be8244.html</a>	x		
UNHCR, <i>Guidelines on Temporary Protection or Stay Arrangements</i> , February 2014, <a href="http://www.refworld.org/docid/52fba2404.html">http://www.refworld.org/docid/52fba2404.html</a>	x	x	x
UNHCR, <i>Guidance Note on bilateral and/or multilateral transfer arrangements of asylum-seekers</i> , May 2013, <a href="http://www.refworld.org/docid/51af82794.html">http://www.refworld.org/docid/51af82794.html</a>	x	x	

UNHCR, <i>Protection Policy Paper: Maritime interception operations and the processing of international protection claims: legal standards and policy considerations with respect to extraterritorial processing</i> , November 2010, <a href="http://www.refworld.org/docid/4cd12d3a2.html">http://www.refworld.org/docid/4cd12d3a2.html</a>	X	X	
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