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Fifty-fifth session

REPORT OF THE THIRTIETH MEETING OF THE STANDING COMMITTEE
(29 June – 1 July 2004)

I. INTRODUCTION

1. The meeting was opened by the Chairman of the Executive Committee, His Excellency Ambassador Jean-Marc Boulgaris (Switzerland), who extended a special welcome to the delegations of Egypt and Zambia as new members of the Executive Committee, and to observer participants from States, intergovernmental and non-governmental organizations. The presentations and discussion on the study on mass influx (agenda item 4(iii)) and on legal safety issues in the context of voluntary repatriation (agenda item 4 (iv)) were chaired by His Excellency Ambassador Alfredo Vicente Chiaradia (Argentina), Vice-Chairman of the Executive Committee.

II. ADOPTION OF THE AGENDA OF THE THIRTIETH MEETING

2. The agenda for the meeting (EC/54/SC/CRP.6) was adopted.

III. ADOPTION OF THE DRAFT REPORT OF THE TWENTY-NINTH MEETING

3. Following the incorporation of a short extract from the report of the Chairman following his visit to the Islamic Republic of Iran and the Democratic Socialist Republic of Sri Lanka, the draft report of the Committee's twenty-ninth meeting, held from 9-11 March 2004 (EC/54/SC/CRP.7), was adopted.

4. This report restored the practice of adding a list of points for follow-up action. With respect to these points, the Chairman informed the Standing Committee that the Secretariat would provide the requested information on the role of the Inspector-General's Office at the next Standing Committee meeting in September and that UNHCR had last contributed to the Refugee Education Trust in 2002. Other requested information on the points for follow-up action was provided under relevant agenda items.

IV. PROGRAMMES, BUDGETS AND FUNDING

A. Overall programmes, budgets and funding for 2004 and projections for 2005

5. The Deputy High Commissioner presented an update on programmes, budgets and funding in 2004 and funding projections for 2005, contained in document EC/54/SC/CRP.8 and its addendum CRP.8/Add.1. She announced that the preliminary projected budget for 2005 of US\$ 978 million attempted to reflect three key qualities: stability, prioritization and transparency. Stability had been achieved after three years of austerity, with the 2005 budget being only some 2.5 per cent above the approved 2004 Annual Programme Budget. The re-prioritization efforts had led to a rationalization of the information technology function with the purpose of developing information systems that would improve the quality of programme and resource management, as well as the assessment and management of results. A review of organizational methods and processes at Headquarters had also recently been initiated to pursue these goals. Finally, in a move to achieve greater transparency in the context of human resources management, 400 temporary assistance positions had been discontinued or converted to permanent posts.

6. The Director of the Division of Communication and Information (DCI) noted with appreciation that the 2004 Annual Programme Budget had been well-funded to date. After adjustments and the incorporation of new supplementary programmes, total requirements for 2004 at that point amounted to \$1.1 billion, of which \$769.5 million had already been raised. However, UNHCR was concerned about lack of funding of parts of the supplementary programme budget, notably for supplementary programmes in Africa, and the Director called for further donor support for these outstanding needs. He reminded the Committee of the Office's continuing efforts to bridge the gap between the required budget and projected income, in particular through broadening the donor base; using the 30 per cent base-level model as an objective indicator; and improving coordination amongst partners through the application of the newly developed standards and indicators to assess needs and help identify gaps in minimum standards of assistance.

7. The Controller and Director of the Division of Financial and Supply Management made reference to the *Aide-Mémoire* (EC/54/SC/CRP.8/Add.1) which provided clarification on a number of budget and funding issues raised by delegations at the March Standing Committee meeting and at a subsequent consultation in early April. In relation to the Operational Reserve, 95 per cent of Category I was expected to be funded and used; the experimental Category II had shown positive results with almost \$21 million in contributions by mid-year, and further

recommendations concerning this pilot scheme would be made to the Standing Committee in September. The Controller then drew attention to the matrix showing the status of implementation of recommendations of the 2002 Report of the United Nations Board of Auditors made available to the Committee.

8. Despite the more positive funding trends in 2004, several delegations echoed UNHCR's concerns over remaining gaps, notably in relation to achieving minimum standards of assistance in protracted situations, especially in Africa. There was widespread encouragement to apply the new set of standards and indicators rapidly to enhance needs assessment and quantification together with partners, and thus progress further in the direction of needs-based budgeting. One delegation pointed out that these efforts should find support through the Management Systems Renewal Project (MSRP) and the more efficient registration process (under Project Profile) being "rolled out" in the field. In relation to needs assessment, several delegations expressed reservations concerning the choice of funding mechanisms other than the annual programme budget, recommending that supplementary programmes should be reserved for emergency situations and that activities funded under the Operational Reserve should only be for unplanned activities. There were several calls for UNHCR to exercise caution in accepting funds for activities under the Operational Reserve Category II and to share the selection criteria with the Committee. Delegations looked forward to receiving further analysis of the results of the pilot phase in September, while one representative suggested continuing the pilot phase into the 2005 budget year. Some delegations voiced concern over the increase in headquarters costs in the 2005 budget proposal.

9. In reply, the Deputy High Commissioner reiterated UNHCR's commitment to moving towards a needs-based approach. She underlined that the Office's strategy was designed to advance its policy in planning, advocacy and fund raising by identifying needs, developing a consistent approach and establishing a clear baseline. This required investment – hence the increase in some headquarters costs – and time, as new systems were established and consolidated. In terms of the growth in headquarters costs, potential areas for cutting expenses, time and posts would be monitored and assessed through an intensive review of working processes at Headquarters which was already under way. In response to queries concerning the use of Operational Reserve Category II to fund some posts, the Deputy High Commissioner explained that most of these cases which had arisen in 2004 had been mainstreamed into the 2005 Annual Programme Budget.

10. In response to several queries concerning the budget reduction of 5 per cent at the beginning of 2004, the Controller pointed out that this coincided with the anticipated 95 per cent level of funding and that it had been applied in an attempt to allow the organization to operate for the rest of the year in a stable manner. As regards a query about the Junior Professional Officer carry-over, he explained that this was because some programmes ran over two years and not just one annual cycle. Concerning the United Nations Regular Budget contribution which had registered an increase, UNHCR intended to ask for further increases in the future.

11. In closing the responses to this agenda item, the Director of DCI informed one delegation that it was still necessary to raise funds for the Operational Reserve, unless it was frozen. He also confirmed to another delegation that while developing partnership arrangements would help reduce the gap in needs, nevertheless it was unlikely that this alone would enable the achievement of minimum standards of assistance.

12. Following adjustment of figures in the light of updated information provided on the day of the meeting, the draft decision on overall programme and funding projections for 2004 was adopted as amended (see Annex I).

B. Global Report on Activities in 2003

13. The Director of DCI presented the Global Report for 2003 which had been made available in English and French prior to the meeting. He recalled that the Global Report was designed to meet the reporting requirements of as many of UNHCR's donors as possible, with the aim of avoiding the need for tailor-made reports. Much of the information on income and expenditure could be cross-referenced to UNHCR's Annual Accounts for 2003 which would be presented to the Executive Committee in October 2004.

14. Delegations welcomed the report as containing a wealth of information. There were a number of constructive comments and suggestions, notably regarding future linkages to standards and indicators and global strategic objectives. The Director acknowledged these as well as referring to the Regional Bureaux two questions taking issue with UNHCR's policy in relation to the anticipated phasing out of certain assistance programmes for refugees.

V. INTERNATIONAL PROTECTION

15. The Director of the Department of International Protection presented the Note on International Protection (EC/54/SC/CRP.9). She explained that this year's Note followed the structure of the Agenda for Protection, thereby reporting on the latter's implementation at the same time as bringing to attention problems and setbacks, as well as advances. The Agenda brought home that protection was about more than promotion of legal regimes and extended to a complex of activities from registration to gender mainstreaming.

16. The Director noted that despite positive developments, in particular those allowing the return of large numbers of refugees, the outlook for millions of refugees and others of concern to UNHCR remained bleak. She also distinguished between refugee policy, which concerned the broader external normative framework including the promotion of solutions, and asylum policy, which related to the internal operation of procedures and access to them. She called on States to practise consistent and compatible policies at home and abroad.

17. The Director recalled that Conclusions scheduled for consideration at the forthcoming session of the Executive Committee would include, in addition to the general conclusion, texts on international cooperation and burden and responsibility sharing in mass influx situations and on legal safety issues in the context of voluntary repatriation.

A. Note on International Protection

18. In all, there were 22 interventions from the floor by delegations from all continents in the debate on the Note on International Protection. A good number of statements recalled the central role of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol as the cornerstone of international protection. The accession of St. Vincent and the Grenadines to the 1967 Protocol was welcomed, while there was also a call for the removal of reservations to the Convention and Protocol for those States maintaining them. One State said that lack of accession should not be misinterpreted as a lack of commitment to refugees.

19. In addition to the Convention and Protocol, particular reference was made to the upcoming 20th anniversary of the 1984 Cartagena Declaration on refugees, which was described as an opportunity to underline the commitment of the region to asylum. In the African context, the Cotonou Declaration and Programme of Action resulting from the June 2004 African Parliamentary Union conference in Benin were also welcomed.

20. Statements from the floor reaffirmed that the responsibility for providing protection lay with States, with UNHCR's role being that of a catalyst in ensuring international protection. Providing such protection was described as the core function, the central pillar and *raison d'être* of UNHCR. In this respect, a number of interventions referred to the importance of protection partnerships, including with intergovernmental organizations such as the International Organization for Migration (IOM), with civil society and with non-governmental organizations (NGOs). UNHCR's efforts to enhance cooperation with the United Nations Children's Fund (UNICEF), the International Committee of the Red Cross (ICRC) and development bodies, including through the United Nations Development Group, were also welcomed, with one delegate noting they represented a beginning, not an end in themselves.

21. Many delegates welcomed the fact that the format of the Note followed that of the Agenda for Protection and a number took up the invitation of the Director of International Protection to report back on their implementation of the Agenda at national and regional levels. Efforts to strengthen implementation of the 1951 Convention included reforms introduced to asylum legislation, measures to ensure access to legal advice and to meet the special needs of women and children, and acceptance that gender-related persecution could result in recognition as a refugee. The International Council of Voluntary Agencies (ICVA) commended the practice, already introduced in one country, of relevant government agencies and NGOs meeting to discuss jointly implementation of the Agenda in that country. Another delegate outlined a protection strategy for international protection in the region which he described as a "road map".

22. Many delegates also welcomed the reduction in the number of persons of concern to UNHCR. It was hoped that this development could free up resources to deal both with protracted refugee situations and new displacements. Other statements called on States to guard against premature return and emphasized the need vigorously to uphold the principle of return in safety and dignity. Further, it was noted that although significant voluntary repatriation had taken place, this was set against continued significant internal displacement challenges and an increased number of protracted refugee situations.

23. The current crisis in Darfur was of particular concern to numerous delegations which commended Chad for welcoming so many refugees and for its efforts to provide adequate protection and assistance in arduous conditions. Interventions stressed the importance of strengthening the presence of protection officers in UNHCR's operations in Chad and Sudan and urged for more refugees to be moved away from the border area to greater safety from cross-border incursions by the Janjaweed militia. The efforts of the African Union to find a solution to the crisis as well as the visit of the United Nations Secretary-General and others to the region were welcomed, as were the commitments made by the Government of Sudan to address the root causes that had prompted flight. The Government was nevertheless urged to do more to address the situation, including by granting humanitarian organizations access to the region and disarming the militias.

24. Another major concern of delegates was security, both that of the displaced and of humanitarian workers assisting them. In this respect, several delegates welcomed UNHCR's recently held expert roundtable meeting on maintaining the civilian and humanitarian character of asylum. Some nevertheless proposed that the complexity of the issues involved meant that more work should be done, including with other involved organizations, to identify appropriate roles and evaluate experience further before operational guidelines on the identification, disarmament, separation and internment of armed elements from among refugees were drafted.

25. Several delegations regretted that attacks targeting humanitarian workers had reduced the humanitarian "space" for the delivery of protection and assistance, which in turn added to the vulnerability of refugees in a number of situations around the globe. The matter required continuous attention, including through efforts to strengthen United Nations security coordination, ensure implementation of security standards and broaden support for humanitarian action. One speaker acknowledged that, while it might sometimes be necessary to rely on armed guards, it was important to put a clear distance between the security and military on the one hand and humanitarian workers and civilians on the other so as to safeguard the independence of humanitarian action.

26. A large number of interventions expressed support for the Convention Plus initiative which was described as offering significant opportunities. They described the initiative as a useful mechanism which could help achieve a breakthrough in protracted situations through burden and responsibility-sharing arrangements, particularly if the focus was on specific situations and concrete pilot projects. Other speakers welcomed the framework of understandings on resettlement which they said should enable them to reach vulnerable groups they would otherwise not be able to assist. The Convention Plus initiative was also viewed as a good vehicle to help strengthen protection in regions of origin, including through the European Union-funded project in Somalia and the Horn of Africa, which it was hoped could identify practical ways to address capacity-building needs in Africa. The efforts of the three working groups were widely appreciated. Some delegates said that it was also important for States to have an opportunity to discuss and address the linkages between the three complementary strands in order to develop a coherent approach. Others felt that the success of multilateral approaches and framework agreements reached in the Convention Plus context would depend on the willingness of a wide range of States to participate and emphasized the need to ensure the process was inclusive.

27. In discussing UNHCR's capacity-building efforts, delegates highlighted initiatives such as the Protection Learning Programme (PLP) for partners launched earlier in the month, the honorary liaison officer system in the Caribbean and the issue of UNHCR's refugee status determination procedural standards. A number of other delegates welcomed the revival of country of origin information, which assisted both UNHCR and national status determination operations.

28. The complex facets of the migration-asylum debate were among the other issues of concern to many delegates. Several States expressed concern that the mixing of the distinctions between migrants and refugees was to the detriment of international protection, especially as a result of the focus of migration policies on deterrence and security. It was further recalled that States had a clear obligation to apply coherent policies both within and beyond their borders.

29. Several delegates referred to efforts to reinforce protection in the region of origin, with one stressing the importance of focussing on push factors at the point of origin. Other delegates agreed that international cooperation and capacity-building efforts, especially in regions of origin, were indeed important, but said that it was also important for the integrity of the international protection system to protect the human rights of refugees wherever they were in the world. The focus of industrialized countries on control and diversion, according to another speaker, had to be balanced against the fact that seven out of ten refugees were in developing countries, where social, environmental and economic pressures tended to result in increasing protection gaps, which were in turn a factor prompting onward movement, including through the use of people smugglers. At the regional level, UNHCR's role in the "Bali Process" was welcomed and had brought a protection focus to those discussions. It was reported that the intention was to revive the Asia-Pacific Consultations (APC) on refugees, displaced persons and migrants. Another intervention warned that regional processes on migration might dilute refugee protection and increase the danger of refugees becoming viewed as a "subset" of migrants.

30. Many delegations stressed the importance of mainstreaming gender, age and community-sensitive approaches to protection. As an example, one country reported that new measures were being introduced to allow victims of trafficking to remain in the country to assist prosecution of traffickers and that the punishment for trafficking was being increased. Other delegates welcomed the issue of UNHCR's gender training kit as a valuable tool, as well as the progress made on the High Commissioner's five commitments to refugee women. Further efforts were necessary, however, to provide a continuing and stronger response to the challenges faced by forcibly displaced women and children. In particular, these related to their vulnerability to sexual and gender-based violence, including forced prostitution, and to forced military recruitment, including of child soldiers.

31. When speaking about durable solutions, a number of delegates reiterated that voluntary repatriation was the preferred durable solution for refugees, while others recalled the importance of drawing on all three durable solutions in a given situation. Several interventions stressed the importance of efforts to ensure the sustainability of return, including through strengthened inter-agency cooperation and rebuilding of the infrastructure in the country of origin, since safe and sustainable return could make an important contribution to peacebuilding. There was also support for the High Commissioner's initiative on Repatriation, Reintegration, Rehabilitation and Reconstruction ("4Rs"). As regards resettlement, several countries mentioned its value and

called for its expanded strategic use. Efforts to enhance registration through the use of biometrics were commended as they assisted resettlement operations, especially those of smaller resettlement countries. With respect to the third durable solution of local integration, some willingness was expressed to explore this solution, although the importance of meeting the socio-economic requirements of countries of asylum was stressed if inequalities between refugees and host communities were to be avoided.

32. Responding to a number of queries from the floor, the Director of International Protection concurred with interventions referring to the shortage of protection staff in the field, saying that protection was a very resource-intensive function. In order to meet such shortages, she gave a further update on the three complementary deployment schemes for resettlement and refugee status determination, which involved both capacity building and training, as well as the “surge project”. The Director noted that in, principle, surge deployments were not used to cover long-term staffing needs, but acknowledged that postings had been extended in some situations to ensure consistency and maximize the benefits of the deployment. The Director also thanked governments which made protection staff available for short periods to assist UNHCR’s work.

33. In response to statements from some member States of the European Union stressing the positive elements of the European Union harmonization process (which, they felt, had not been reflected in the Note), the Director reiterated UNHCR’s broad support for this process and said that the more critical elements expressed in the Note reflected UNHCR’s position which had been made known publicly on a number of occasions.

34. Reporting on UNHCR’s cooperation with IOM within the framework of the Action Group on Asylum and Migration (AGAMI), the Director indicated that this forum was not a venue where operational issues were addressed. She said that seven meetings had been held since it was formed in 2001 and that the intention was now to meet on a quarterly basis to exchange information and examine ways to enhance cooperation, for instance through joint training. With regard to the Geneva Migration Group, she reported that four meetings had been held since its formation and were chaired in rotation by the six participating agencies. The Group sought to enhance cooperation, identify gaps and challenges along the entire migration cycle and develop thinking conceptually, including by integrating refugee and human rights protection concerns and support for victims of trafficking into the migration agenda. More generally, the Director welcomed one speaker’s statement that courage was needed to do things differently in order to be able to fulfil obligations and tackle problems and another’s call for innovative efforts. She said that this was very much the spirit behind the Global Consultations and Convention Plus processes and other UNHCR initiatives.

B. Progress report on resettlement

35. The Chief of the Resettlement and Special Cases Section introduced the Progress Report on Resettlement, which provided an update on activities implemented by UNHCR in cooperation with resettlement partners pursuant to the strategic directions and priorities presented to the Standing Committee in June 2001. She emphasized the need to place resettlement in broader protection strategies which reflect regional priorities, and informed the meeting of the establishment of a coordinating body, the Resettlement Management Working Group, and of the two regional resettlement hubs in Africa.

36. The strategic use of resettlement and new operational methodologies such as group identification and processing were complementing resettlement's traditional role with a more comprehensive vision of resettlement both as a tool of protection and a durable solution. It was now important to maintain the renewed focus on enhancing resettlement and to follow up on the initiatives that had been started. Resettlement countries were encouraged to support these efforts by providing necessary resources, applying flexible criteria for the selection of refugees for resettlement and supporting a cooperative and coordinated approach to planning and implementing resettlement programmes. NGOs should also continue to play an expanded role in the resettlement process.

37. The recent Annual Tripartite Consultations had demonstrated the renewed commitment of UNHCR, resettlement countries and NGOs to expanding and refining the resettlement process. UNHCR was particularly grateful to countries which had decided to become resettlement countries, were providing extra resources to UNHCR or had increased their resettlement quotas.

38. There was widespread support among the delegations for making greater use of resettlement both as a tool of protection and as a durable solution, and for being considered core to UNHCR's mandate. Several existing resettlement countries welcomed the expansion of the community of resettlement countries and offered their expertise to newly emerging resettlement countries. Delegations considered "twinning" of new resettlement countries with established ones as extremely helpful.

39. While delegations welcomed UNHCR's progress report and the initiatives outlined in it, some delegations remained concerned that resettlement continued to rely on funding additional to the Annual Programme Budget, putting at risk the sustainability of the resettlement programme. Others emphasized the need to ensure the integrity of resettlement processes and the need for proper registration processes, given the scope for fraud in this area.

40. Delegations supported the development of the group methodology, though emphasized this must not be at the expense of the resettlement of individual refugees in need of protection. They were also supportive of the multilateral framework of understandings developed in the Core Group on the Strategic Use of Resettlement in the Convention Plus process. One delegation urged UNHCR to examine the safety risks posed by refugees referred for resettlement thoroughly, especially in the group resettlement process, and several others stressed the need for UNHCR to enhance its referral capacity, possibly with the assistance of NGO partnerships and possibly on the basis of a needs-based as opposed to capacity-based projection. One delegation thought it important for UNHCR, in selecting refugees for resettlement, to take into consideration the scale and protracted status of refugee populations.

41. The Director of the Department of International Protection and the Chief of the Resettlement and Special Cases Section noted the concerns of delegations and assured them that the overall management of resettlement was being actively considered, to ensure the integrity of the process and in order to determine how best to reflect the fundamental importance of resettlement, as a protection tool and durable solution, in UNHCR's commitment of resources.

C. Ensuring International Protection and Enhancing International Cooperation
in Mass Influx Situations

42. The Deputy Director of the Department of International Protection presented conference room paper EC/54/SC/CRP.11, outlining the preliminary findings of the study which States had requested UNHCR to prepare in the context of Goal 1, Objective 10 of the Agenda for Protection. He solicited feedback from the Standing Committee, with the stated intention of assisting the process of finalizing the study and the preparation of a Conclusion of the Executive Committee on responsibility and burden sharing in mass influx situations.

43. In the ensuing debate, 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. Some States expressed the view that there was a gap in the protection afforded by the 1951 Convention in such situations. Other delegates affirmed, however, that the Convention and its 1967 Protocol were sufficient, stating that these instruments applied to all refugees, regardless of their mode of arrival, and thus provided an adequate legal foundation for future efforts.

44. Among the issues raised by delegates as requiring attention in mass influx situations was the question of ensuring the physical safety of refugees, as well as the humanitarian and civilian character of asylum. Here it was suggested that a more robust use of registration and the issuance of guidelines, for instance on the separation of combatants in mass influx, could be useful tools. The importance of addressing the root causes of a mass influx from the outset was highlighted. Political will, early coordination of responses and international solidarity were identified as being crucial to the eventual resolution of such situations. Many delegates affirmed that all responses to mass influx must take account of the principle of burden and responsibility sharing as well as the situation of countries which are hosting the majority of refugees. Whatever the approach eventually opted for should be based on the standards established in Executive Committee Conclusion No. 22.

45. It was generally recognized that *prima facie* refugee status and temporary protection were appropriate responses to mass influx situations and delegates stressed the importance of retaining clarity on the differences between the two. On the question of standards of treatment of those enjoying temporary protection, one delegate expressed the view that it was not realistic to apply the 1951 Convention standards in mass influx situations, while another said a certain degree of flexibility was needed to allow States to determine the appropriate standards of protection offered. Other delegates said, however, that any legal instrument relating to a collective protection mechanism in mass influx would have to apply the same standards of treatment as those under the Convention. The question of how temporary protection should end was another issue on which the need for clarification was noted.

46. The idea of another protocol to the 1951 Convention elicited a hesitant and cautious response, with some States describing this as premature and over-ambitious. Other delegations, whilst not ruling out the possibility of a protocol, said that a stronger case needed to be made if such an approach were to be pursued and, in the event of such an outcome, any new protocol should complement the 1951 Convention.

47. Some speakers could see the benefits of having certain basic elements agreed in advance for a practical response to mass influx, but noted that mass influx situations varied widely and therefore to an extent required ad hoc responses, drawing on the applicable legal framework, political will and other factors. In this respect, a large number of delegates described Convention Plus as a potentially useful forum within which to bring together relevant actors and build the necessary political will.

48. Several European States pointed out that regional instruments and legislation on temporary protection were already in place within their region. In response, a number of other States expressed concern at the viability of a purely regionalized approach, particularly in the very regions which had experienced the largest refugee influxes, generally in the developing world. They therefore called for a multilateral approach, drawing on best practices and in keeping with international human rights, humanitarian and refugee law, as well as relevant regional norms and standards.

49. Other suggested approaches included the use of the Executive Committee as a framework within which to address the policy issues arising in a given mass influx situation and the possibility of the High Commissioner convening a specialized meeting, as for the situation in the Balkans in the 1990s. A number of interventions suggested that good practices and experience should initially be identified before proceeding further. Several delegates affirmed the need for practical responses, especially since the delivery of protection in situations of mass influx was a resource-intensive undertaking. In addition, operationalization of the High Commissioner's initiatives on development through local integration (DLI) and the "4Rs" were seen as potentially useful approaches. Humanitarian evacuation as carried out in the Kosovo context in 1999 was also mentioned as a possible response, as long as it was voluntary, although this was seen as a last resort which was more practical if implemented within the region concerned.

D. Legal Safety Issues in the Context of Voluntary Repatriation

50. The Chief of the Protection Policy and Legal Advice Section of the Department of International Protection presented conference room paper EC/54/SC/CRP.12 on legal safety issues in the context of voluntary repatriation, which noted that new political initiatives and developments, stretching from Africa to Asia, had opened up possibilities for voluntary repatriation for large numbers of refugees. The recognition that voluntary repatriation remained the preferred solution for refugees had been reflected in many fora. Despite this, there had only been two Excom Conclusions providing guidance on the issue.

51. In the third track meeting of the Global Consultations, on the theme "The Search for Protection-based Solutions", a paper had been introduced which highlighted a number of legal issues which typically arose in the context of return. During the consultations, a number of States had supported further discussion on legal safety issues, and in particular, property rights issues, which were acknowledged to be extremely complex.

52. The Agenda for Protection set out under Goal No. 5 Objective 2, that the Executive Committee would adopt a Conclusion addressing legal safety issues including property concerns, as a complement to Excom Conclusion No. 40 on Voluntary Repatriation. The conference room paper suggested as a basis for such an Executive Committee Conclusion that the core of voluntary repatriation was return in and to conditions of physical, legal and material safety, with a particular focus on legal safety issues.

53. Legal safety was of vital importance as several aspects of it directly underpinned the attainment of national protection, and were therefore essential in order firmly to anchor and sustain returns. A key feature of legal safety was that it required an appropriate legal framework. The granting of amnesties, guarantees or assurances would promote return, as would possibilities of recovering property left behind and ensuring nationality. The paper also highlighted the importance of addressing women's inheritance issues in some situations. Legal safety constituted an important component of overall strategies for post-conflict reconstruction and rehabilitation which fell within the 4Rs integrated approach framework promoted by the High Commissioner.

54. Delegations recognized the importance of return in safety and dignity, but expressed differing views on the usefulness of an ExCom Conclusion on the subject. Some delegations were not in favour, while others were concerned that a Conclusion could negatively impact on the return of persons not in need of international protection. A number of delegations called for a balanced ExCom Conclusion which should not establish further obstacles to voluntary repatriation, but rather assist States to analyse what is needed to make return sustainable. Some delegations cautioned against including property because of its complexity; others said that the Conclusion should deal with physical and material as well as legal safety. Several delegations underlined the need for cooperation between the different agencies, States, NGOs and refugees, as well as the need for support by the international community to create conditions conducive for return. The NGO community welcomed the inclusion of human rights standards to measure the restoration of national protection. They felt, however, that the paper had a number of gaps.

55. The African group noted that voluntary repatriation was one of the core elements of durable solutions and had to be approached in a holistic manner, in conformity with international human rights and refugee law instruments. To ensure sustainability of return, the African group wished to stress that reintegration must include basic needs, access to education, rehabilitation of infrastructure, shelter, and a range of other material needs. This required a multi-sector approach involving numerous actors. In this regard, the participation of the international community was essential, and UNHCR played a catalytic role in ensuring that obstacles to return were removed and burdens shared equitably.

56. One delegation referred to the value of creating reintegration programmes, with both social and labour aspects, and of promoting strategies for rural economic development to realize self-reliance and ensure the sustainability of return. Another delegation described voluntary repatriation in conditions of safety and dignity as the paramount goal of UNHCR's work, but noted that it would not be reasonable to require all elements of legal and material safety in place before voluntary repatriation could commence.

57. Another delegation stressed that voluntary repatriation could not take place until peace had been re-established in the country of origin, the conditions that caused flight had ceased and a basic infrastructure was in place. The facilitation of effective reintegration required creating conditions conducive to return. Important to these were development assistance and equitable burden sharing, including support for demobilization and disarmament, rehabilitation of judicial systems, and other key factors which required the active commitment of donors and the international community.

58. The Chief of Section took note of the comments provided by delegates which would inform the preliminary draft of the ExCom Conclusion. She particularly noted the emphasis placed on voluntary repatriation as a durable solution and the catalytic role UNHCR could play in this area, particularly through organizing “go and see” visits, information campaigns and transport. She confirmed the Conclusion would not cover the return of persons not in need of international protection, which had already been dealt with in ExCom Conclusion No. 96.

59. The Director of International Protection reminded delegates that the Agenda for Protection had called for an ExCom Conclusion on legal safety issues in the context of voluntary repatriation, including property concerns, which she noted were not only a legal issue, but could present a major practical impediment for the individual to return.

VI. STATEMENT BY THE CHAIRPERSON OF THE STAFF COUNCIL

60. At the invitation of the Chairman, the Staff Council Chairperson delivered a statement in which he highlighted several current concerns for UNHCR staff: security, staffing, the special operation in Chad/Sudan, and the need for solidarity in the face of the heightened security risks. He appealed for continued support from the Committee, underlining in particular that UNHCR needed its own security apparatus and appropriate means to work in emergency situations where staff were trying to help and protect hundreds of thousands of people in flight.

VII. PROTECTION/PROGRAMME POLICY

A. Implementation of the recommendations on the independent evaluations on refugee women, refugee children and community services

61. The Director of the Division of Operational Support introduced document EC/54/SC/CRP.13 which provided an update on key measures taken since the publication of the findings of the three evaluations on refugee women, refugee children and community services. She explained that the main approach being taken to address the weaknesses highlighted by the evaluations – the “Gender equality and age mainstreaming pilot project” – was based on a coordinated approach where multifunctional teams, under the leadership of the representative of the country office, would support UNHCR staff to mainstream a gender and age perspective into their operational work. This project was now being piloted in a number of countries, with the aim of going global in 2005. The strategy was to take stock of lessons learned and evaluate the overall approach. In parallel, UNHCR was also working on two other major initiatives: the “roll-out” to the field of the new registration technology under Project Profile and the introduction of the guide on the use of standards and indicators.

62. The Director expected these new tools and methodologies to create synergies, the outcome of which should lead to improved protection of refugee women and men, young and old. She reported that progress had been achieved in countering sexual and gender-based violence (SGBV) through regional training workshops and enhancement of staff training capacity; however, challenges remaining included under-reporting of SGBV cases and the tendency for refugees to use traditional justice systems for dealing with SGBV crimes. It would be important to strengthen national legislation and judicial capacity, as well as to raise awareness and build capacity within refugee communities themselves to deal with such issues more effectively in countries concerned. The Director announced that a senior advisor on SGBV within the Division would be established in January 2005 and, in closing, reiterated the importance being given to strengthening the organization's accountability framework with respect to gender and age mainstreaming.

63. While acknowledging the encouraging progress achieved in many areas, several delegations asked for more information on a number of issues, including: empowerment strategies for women and children; timelines and clarification of responsibilities in relation to establishing a staff accountability system; and the impact of measures being taken to mainstream gender and age concerns in order to analyse results rather than just to report on activities. One delegation commented that the role of standards and indicators would be crucial and that these should be established consistently across the pilot project locations. Another expressed concern that the pilot project was over-ambitious in attempting to cover so many countries at one time. Other delegations emphasized the importance of involving protection and field as well as community services staff. SGBV efforts should be integrated into health and community responses and refugee children's concerns should be mainstreamed into programmes.

64. In responding, the Director noted that the call for more reporting on impact was in line with the Office's current efforts to move towards results-based programming and reporting. The introduction of standards and indicators went in that direction, and once it was possible to assess their implementation and evaluate lessons learned, more information could be provided. She welcomed one delegation's offer of collaboration in a joint impact assessment. As concerned the involvement of a broad range of staff in mainstreaming gender and age concerns, the Director confirmed that this was precisely the objective of the pilot project which was designed to develop teams with horizontal involvement and shared ownership. She gave examples of ongoing work on empowerment strategies with the International Labour Organization (ILO) in various countries, and of collaboration being planned with NGOs on SGBV work in the pilot projects. In response to a renewed query by one delegation concerning the feasibility of a global "roll out" of the gender and age mainstreaming project, the Director explained that a regional approach was being taken and capacities developed on the ground as the project advanced.

B. Protracted refugee situations

65. The Assistant High Commissioner opened this item with a brief review of the current challenges for the Office in seeking solutions to protracted refugee situations, as presented in document EC/54/SC/CRP.14. He pointed to some of the key tools developed by UNHCR in recent years, including the Agenda for Protection, the High Commissioner's Convention Plus initiative and the Framework for Durable Solutions, and called for increased resources in order to implement relevant solutions. Citing examples of multilateral collaboration in addressing

these issues, he also reminded the Committee that true partnership must include recognition of the potential of the refugees themselves. He underlined the fact that each protracted situation required a specific approach and that solutions must be sought essentially in the political domain. UNHCR, as a humanitarian and non-political organization, could help to a certain extent but depended on the goodwill of States to deal with the root causes of the problems and conflicts that had given rise to such situations.

66. Many delegations expressed their concern for the plight of the refugees caught up in protracted situations, and several regretted the precarious conditions where assistance was often limited or cut back after time, and where frustration was rife, particularly amongst young people. One delegation quoted: "Camps that save lives may later waste lives". Several refugee-hosting countries recalled the added problem of environmental damage caused by long-staying groups of refugees and requested further assessment of the impact of this on the countries concerned. There were many calls for increased efforts to prevent crises through pressure from third countries. It was also considered important to examine root causes and support peace and stability processes, both from the political perspective, including through bodies such as NEPAD, and also through global, multisectoral partnerships, in order to link humanitarian and development action. Many delegations echoed UNHCR's belief that refugees should be recognized and supported to become "agents for development" while awaiting more durable solutions.

67. While believing that voluntary repatriation remained the preferred durable solution, some delegations proposed increasing opportunities for resettlement and others encouraged support for more local integration. Convention Plus was seen as an important potential channel for developing solutions, notably comprehensive plans of action. One delegation reminded UNHCR that the implementation of exit strategies did not discharge the organization from its protection responsibilities. Another delegation challenged the anticipated shift in focus to include migration concerns for Afghans following the completion of the voluntary repatriation operation, and warned that the phasing out of care and maintenance contributions would lead to suffering for refugees. There were calls for further strengthening the capacity of host countries to deal comprehensively with protracted situations, as well as for a more vigorous pursuit of resettlement options.

68. In his responses, the Assistant High Commissioner acknowledged the different points raised, taking particular note of the requests to mainstream gender and age issues more consistently in documents submitted to the Committee. In terms of the phasing out of certain operations, he underlined that UNHCR did not want to leave refugees in a more difficult situation in terms of care and assistance, but that the responsibility for continuing the means to provide this lay, not just with the Office, but with the entire international community. On the question of a comprehensive solution for Afghan refugees, he reminded delegations that not all would go back, and that not all were refugees; therefore the anticipated solutions required strategic planning with the involvement of other concerned agencies, such as ILO and IOM, and States. The Assistant High Commissioner reiterated that in many cases, the Office continued to

work simultaneously with the three durable solutions to achieve an outcome appropriate to each situation. He reassured delegations that UNHCR was not looking to intervene in political peace talks, but stood ready to discuss and help on technical issues when required. In closing, he expressed his gratitude for the interest demonstrated by delegations in relation to the challenges of resolving protracted refugee situations.

VIII. ELEMENTS FOR UNHCR'S ORAL UPDATE TO ECOSOC

69. In anticipation of his oral presentation to the General Segment of the Economic and Social Council's substantive session in New York in July 2004, the Director of DCI briefed the Committee on the main aspects of UNHCR's work in collaboration and partnership with others in 2003 and up to mid-2004. He spoke first of the Office's participation in coordination bodies within the United Nations system, notably through joining the United Nations Development Group; continuing activities within ECHA and the IASC, including active participation in the review of the collaborative approach on IDPs; and the recent admission of UNHCR as a co-sponsor of UNAIDS. On bilateral partnerships within the United Nations system, the Director highlighted the welcome opportunities that had arisen during the year to enhance cooperation with a number of agencies, notably with DPKO, UN-HABITAT, ILO and with WHO. He also drew attention to the important strengthening of collaboration with WFP through a variety of exchanges at different levels and in particular through the revised MOU, involving joint evaluation missions in pilot countries.

70. Other valuable bilateral partnerships were further developed, including with IOM, the Inter-Parliamentary Union and African Parliamentary Union, and ICRC. In line with the High Commissioner's emphasis on the importance of building and strengthening partnerships with NGOs, work was being undertaken on several fronts, including through the launching of a protection learning programme for UNHCR's partners; capacity building, in collaboration with UNICEF and WFP, to enable NGOs to respond to allegations of staff misconduct; and dissemination of UNHCR's practical guide for using standards and indicators to facilitate prioritization and division of responsibilities.

IX. GOVERNANCE

71. On the subject of a theme for the annual plenary session, the Chairman had proposed to continue the practice of recent years in holding a general debate, articulated around a number of issues contained in the High Commissioner's opening statement, elements of which were made available to the Committee some weeks in advance of the plenary session. The Chairman had also proposed a formula whereby delegates could provide the High Commissioner with suggestions about the issues to include in his opening statement. Subject to the adoption of a longer-term decision, the Chairman thought this approach could be adopted for the upcoming annual plenary session as an interim measure. There was no objection to this proposal, and a brief discussion ensued on the topics that the High Commissioner might raise in his opening speech to the forthcoming plenary session.

DECISION ON OVERALL PROGRAMMES, BUDGETS
AND FUNDING FOR 2004

The Standing Committee,

Recalling the Executive Committee's decision at its fifty-fourth session on administrative, financial and programme matters (A/AC.96/979, para. 23) as well as its discussions under the programmes, budgets and funding item at the twenty-ninth meeting of the Standing Committee,

Recalling also, with appreciation, the burden shouldered by developing countries hosting refugees,

1. *Notes* that the amount of US\$ 954.9 million, approved by the Executive Committee at its fifty-fourth session for UNHCR's Annual Programme Budget for 2004 (which includes the amount of \$25 million from the United Nations Regular Budget and \$7 million for Junior Professional Officers), continues to correspond to currently known requirements;
2. *Notes* with concern that projected income for the year 2004 reveals a possible shortfall of \$51 million under the Annual Programme Budget and that this shortfall could negatively affect operations at field level;
3. *Notes* that Supplementary Programme Budgets established since the approval of the Annual Programme Budget for 2004, currently amount to \$180.7 million;
4. *Emphasizes* the importance of adequate and flexible funding for UNHCR's programmes on the part of the international community, and calls for firm indications of additional pledges as soon as possible;
5. *Notes* with interest the further progress achieved in the trial implementation of the Operational Reserve-Category II, and looks forward to receiving a final report on the results of the one-year trial period, with the High Commissioner's recommendation for the future, at the thirty-first meeting of the Standing Committee, in anticipation of a decision on this subject by the Executive Committee at its fifty-fifth session.

LIST OF POINTS
FOR FOLLOW-UP ACTION

1. Information on the role of the Inspector-General's Office;
2. More consistent mainstreaming of gender and age issues in documents submitted to the Committee.