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Executive Committee of the Programme of the United Nations High Commissioner for Refugees

Sixty-first session

Extraordinary meeting

Summary record of the 637th meeting

Held at the Palais des Nations, Geneva, on Tuesday, 8 December 2009, at 10 a.m.

Chairperson: Ms. Millar(Australia)

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The meeting was called to order at 11.50 a.m.

Opening remarks by the Chairperson

1. **The Chairperson** declared open the extraordinary meeting of the Executive Committee, the purpose of which was to adopt both a draft conclusion on protracted refugee situations and a draft decision on a revision of the financial rules for voluntary funds administered by the High Commissioner for Refugees.

Adoption of the agenda

2. **The Chairperson** drew attention to the provisional agenda of the extraordinary meeting, a document without a symbol, which had been circulated in the meeting room.
3. *The agenda was adopted.*

Adoption of the conclusion on protracted situations

4. **The Chairperson** invited the Rapporteur of the sixty-first session of the Executive Committee to present the draft conclusion on protracted refugee situations, a document without a symbol, which had been circulated in the meeting room in English and French only. She said that she wished to commend the Rapporteur of the sixtieth session, Ms. Birladianu (Romania), for initiating and steering the negotiations on the draft conclusion.
5. **Ms. Pittoti** (Rapporteur of the Executive Committee) drew attention to the text of the draft conclusion on protracted refugee situations, which read:

“The Executive Committee,

Recalling the principles, guidance and approaches elaborated in previous Conclusions of the Executive Committee which are pertinent to protracted situations,

Welcoming the initiatives taken by the High Commissioner to maximize all opportunities to unlock and find comprehensive solutions to the existing protracted refugee situations, including the convening in 2008 of a High Commissioner’s Dialogue on Protection Challenges on the specific topic of protracted refugee situations,

Noting with deep concern the plight of millions of refugees worldwide who continue to be trapped in “protracted refugee situations” for 5 years or more after their initial displacement, without immediate prospects for implementation of durable solutions,

Noting with concern the detrimental effects of long-lasting and intractable exile on the physical, mental, social, cultural and economic well-being of refugees,

Recognizing that priorities for responding to protracted refugee situations are different from those for responding to emergency situations,

Further recalling the need for the countries of origin to undertake all possible measures to prevent refugee situations, particularly those that can become protracted, to address their root causes, and to promote and facilitate with the full cooperation of host countries, the international community, UNHCR, and all other relevant actors, refugees’ voluntary return home from exile and their sustainable reintegration in safety, dignity, and social and economic security,

Recognizing that, in principle, all refugees should have the right to have restored to them or be compensated for any housing, land or property of which they were deprived in an illegal, discriminatory or arbitrary manner before or during

exile; *noting*, therefore, the potential need for fair and effective restitution mechanisms,

Acknowledging that protracted refugee situations also impose considerable burdens and generate significant problems and challenges in different sectors for host States and communities which are often developing, in transition, or with limited resources and facing other constraints,

Affirming that support should be provided for addressing the problems and needs of the host States, especially the local host communities, which face additional social and economic difficulties and suffer negative consequences to their local environment and natural resources,

Expressing deep appreciation for the generosity, commitment and determination which these States nevertheless continue to demonstrate in hosting refugees and asylum-seekers, providing protection and facilitating essential humanitarian interventions on their behalf, in keeping with international refugee law, international human rights law and international humanitarian law as applicable,

Thanking those States which have taken measures to bring to an end some of the most enduring refugee situations including through concrete support to the voluntary return to the country of origin, local integration, the provision of resettlement places; and the acquisition of citizenship through naturalization where this has taken place,

Acknowledging that, while awaiting the implementation of a durable solution, refugees may make positive contributions to their host societies drawing on opportunities to become self-reliant and noting the importance of participatory approaches in this regard,

Noting the importance of refugee access to basic services, including education and health, in order to enhance their opportunities,

Further acknowledging that in times of global financial and economic crises, the impacts are severe for the most vulnerable, not least refugees in protracted situations and their host countries, and the need to give special attention to those who are most affected by the crises is therefore all the greater,

Underlining that the status quo is not an acceptable option and, while every situation is unique, all feasible and practical efforts should be taken to unlock all continuing protracted situations especially through the implementation of durable solutions in the spirit of international solidarity and burden sharing,

Reiterating that voluntary repatriation remains the preferred durable solution of refugee situations and that, while one or another solution may be more directly applicable to each of the respective protracted situations, all solutions will usually complement and intersect with each other, requiring careful tailoring, sequencing and phasing in some situations, and simultaneous application in others,

Mindful that there are compelling legal, protection, health, social and economic problems in all situations which can become protracted and should therefore also receive due attention,

Noting that, vis-à-vis Palestinian refugees, this Conclusion shall only be implemented subject to Article 1 (d) of the 1951 Convention, Article 7 (c) of the UNHCR Statute and in accordance with United Nations General Assembly resolutions relevant to the issue,

Further noting that States' domestic laws could offer more protection and assistance, as appropriate, than outlined in the 1951 Convention,

(a) *Calls upon* States and all other relevant actors to commit themselves, in a spirit of international solidarity and burden sharing, to comprehensive, multilateral and multi-sectoral collaboration and action in addressing the root causes of protracted refugee situations; in ensuring that people are not compelled to flee their countries of origin in the first place to find safety elsewhere; and in resolving the protracted refugee situations which persist, in full respect for the rights of the affected persons;

(b) *Recognizes* the importance of political will in securing comprehensive solutions for protracted displacement and calls upon States to act as catalysts to unlock protracted refugee situations and begin progress towards the resolution of these situations;

(c) *Expresses concern* about the particular difficulties faced by the millions of refugees in protracted situations, and emphasizes the need to redouble international efforts and cooperation to find practical and comprehensive approaches to resolving their plight and to realize durable solutions for them, consistent with international law and relevant General Assembly resolutions, while bearing in mind broader political processes that may be under way to address protracted refugee situations, including their root causes;

(d) *Strongly reaffirms* the fundamental importance and the purely humanitarian and non-political character of the function of the Office of the High Commissioner of providing international protection to refugees and seeking permanent solutions to refugee problems, and recalls that those solutions include voluntary repatriation and, where appropriate and feasible, local integration and resettlement in a third country, while reaffirming that voluntary repatriation, supported, as necessary, by rehabilitation and development assistance to facilitate sustainable reintegration, remains the preferred solution;

(e) *Calls on* countries of origin, countries of asylum, UNHCR, and the international community to take all necessary measures to enable refugees to exercise their right to return home freely in safety and dignity while recalling that voluntary repatriation should not necessarily be conditioned on the accomplishment of political solutions in the country of origin in order not to impede the exercise of the refugees' right to return;

(f) *Underlines* the responsibility of countries of origin, with the help of the international community where appropriate, to create and/or ensure conditions for refugees to regain the rights of which they were deprived before or during exile, even after refugees have remained in exile for extended periods of time, and to enable and consolidate their sustainable return and reintegration free of fear;

(g) *Recommends* further that action to address and facilitate durable solutions, with a view to burden and responsibility sharing, be directed, as appropriate, in the form of voluntary repatriation, local integration or resettlement in third countries or, where applicable, in a strategic combination, and assistance to host countries, including through:

(i) The provision of financial assistance and other forms of support in situations where voluntary repatriation is foreseeable or taking place, in particular bearing in mind that voluntary repatriation is the preferred solution;

(ii) Where local integration is appropriate and feasible, the provision of financial assistance and other forms of support, including development

assistance, for the benefit of refugees and the communities hosting them so as to assist countries of asylum in integrating refugees locally;

(iii) The more effective and strategic use of resettlement as a tool of burden and responsibility sharing, including through the application of a group resettlement referral methodology;

(iv) The mobilization of support for rehabilitating refugee-impacted areas in the host country from which refugees have returned;

(h) *Recalling* that local integration is a sovereign decision and an option that may be exercised by States considering the specific circumstances of each refugee situation, *encourages* States and UNHCR, in consultation with other relevant actors, to consider local integration where appropriate and feasible and in a manner that takes into account the needs, views, and impact on the hosting communities and refugees;

(i) *Encourages* States and UNHCR to actively pursue, the strategic and increased use of resettlement in a spirit of international burden and responsibility sharing; and *calls upon* States, with the capacity to do so, to provide resettlement places and to explore more flexible approaches consistent with national legislation and regulations to bridge gaps which may exist between the resettlement criteria they use and the specific needs and situation of refugees in protracted situations, who may face difficulties in articulating a detailed claim or other constraints;

(j) *Urges* States, UNHCR and other partners to continue pursuing proactive measures in a manner that reduces dependency, promotes the self-sufficiency of refugees towards enhancing their protection and dignity, helps them manage their time spent in exile effectively and constructively and invests in future durable solutions;

(k) *Recognizes* that protracted refugee situations can increase the risks to which refugees may be exposed and that, in this respect, there is a need to identify and respond effectively to the specific protection concerns of men, women, girls and boys, in particular, unaccompanied and separated children, adolescents, persons with disabilities, and older persons, who may be exposed to heightened risks, including sexual and gender-based violence and other forms of violence and exploitation; and *encourages* UNHCR and States to pursue age, gender and diversity mainstreaming and participatory approaches with a view to enhancing the safety, well-being and development of refugees and promoting appropriate solutions for them;

(l) *Requests* UNHCR to enhance its efforts to raise awareness, including among refugees, through the organization of regular campaigns and local and regional workshops on durable solutions;

(m) *Encourages* States, and within their mandate, UNHCR and all other relevant actors to pursue comprehensive approaches toward the implementation of durable solutions and to take protracted refugee situations into consideration in their endeavours in order to create the necessary conditions to bring displacement to an end;

(n) *Urges* States, UNHCR and humanitarian and development partners to pursue active and effective partnerships and coordination in implementation of durable solutions, and to develop new opportunities for partnership including through engaging in and implementing in full the objectives of the Delivering as One initiative; increased information exchange and advice given to the United Nations Peacebuilding Commission; and partnerships with other actors such as international financial institutions, the Inter-Agency Standing Committee, the United

Nations Development Group, regional bodies, parliaments, local governments, mayors, business leaders, the media and diaspora communities;

(o) While reiterating that there is no “one size” which fits all protracted situations, *affirms* that good practices and lessons learned in protracted situations could prove valuable; and recommends to UNHCR, host countries, countries of origin, resettlement countries and other stakeholders the use of “core” or “working” or “reference” groups, or other similar mechanisms which may be established in the Field and/or in Geneva as appropriate, as a useful methodology to identify appropriate innovative, practical solutions, built around particular situations or themes, within a subregional, regional or multilateral context, for specific protracted situations;

(p) *Reaffirms* its call to the international community at large, in cooperation with UNHCR and other international organizations, to ensure, in a spirit of burden sharing, timely availability of adequate development and humanitarian funding and other resources, including sufficient support for host communities and countries of origin in order to provide assistance and achieve durable solutions in protracted refugee situations.”

6. The text of the draft conclusion, which had been inspired by previous Executive Committee conclusions and by the High Commissioner’s Initiative on Protracted Refugee Situations, represented a significant accomplishment. Despite a diversity of views, it had been possible to reach consensus on the definition of a protracted refugee situation, to draw attention to the plight of affected refugees in host countries and to identify the roles of all key stakeholders. Ultimately, the draft conclusion urged the international community to redouble its efforts to find durable solutions for the millions of people who had remained in exile for five years or more.

7. **Mr. Sadrkhah** (Islamic Republic of Iran) said that the implementation of sustainable solutions to protracted refugee situations such as repatriation or resettlement in third countries had declined considerably in recent years, increasing the burden on host countries and communities. The Government of the Islamic Republic of Iran, in extending, inter alia, health and educational services to some 3 million refugees over the course of the past 30 years, had exceeded its commitments, while the contributions which it had received from the international community had been insufficient. The Government could not offer more protection and assistance than that envisaged in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, with due consideration to its reservations to specific articles of that Convention.

8. **Ms. Baller** (Netherlands) said that the Netherlands endorsed the Executive Committee draft conclusion as an important step forward in assisting those concerned. It was now the common duty of all member States to implement the agreed solutions. The Netherlands supported, in particular, the three solutions of voluntary return, local integration and resettlement and recalled the key responsibility of countries of origin to create conditions of stability and security in order to facilitate safe and voluntary refugee returns.

9. **Mr. Boukili** (Morocco) said that the draft conclusion took a practical approach to the situation of millions of persons worldwide, who continued to be trapped, owing to a lack of durable humanitarian solutions to their situation. The draft conclusion provided an opportunity to reaffirm the commitment of the international community to durable solutions to such situations and to the mandate of UNHCR in that regard. While voluntary return remained the ideal solution, in cases where impediments existed, UNHCR had the statutory obligation to secure opportunities for local reintegration and resettlement. Such

opportunities should be afforded to all refugees in a protracted situation, without distinction.

10. The draft conclusion also stressed the purely humanitarian nature of the functions of UNHCR, which must seek lasting solutions to protracted refugee situations, irrespective of political considerations. His delegation encouraged UNHCR to pursue its dynamic approach to its mandate, in line with the strictly humanitarian principles laid down therein. Morocco would follow with much interest the implementation of the Executive Committee conclusion in keeping with that approach.

11. **Mr. Chebihi** (Algeria) welcomed the draft conclusion and fully endorsed the objectives set out therein. Although each refugee situation called for its own solution, political will was essential for securing comprehensive solutions for protracted displacement. His delegation was particularly gratified that the draft conclusion reiterated a number of basic principles which Algeria had always defended. For example, it stressed the need to find comprehensive approaches to protracted situations which involved the refugees themselves and their countries of origin and which were founded on the full enjoyment of internationally recognized rights.

12. Voluntary return remained the preferred solution and should be carried out in dignity and in accordance with the principles set out in the draft conclusion. His delegation hoped that the draft conclusion would provide UNHCR with an effective tool in its efforts to find durable solutions to protracted refugee situations.

13. **Mr. Mulrean** (United States of America) said that the United States welcomed the Executive Committee draft conclusion, which not only addressed an important issue, but was also an illustration of the Executive Committee's role in providing guidance to UNHCR.

14. **The Chairperson** said that if she heard no objection, she would take it that the Executive Committee wished to adopt the draft conclusion on protracted refugee situations.

15. *It was so decided.*

Adoption of the decision on the financial rules

16. **The Chairperson** said that the Committee had before it the draft decision on a revision of the financial rules for voluntary funds administered by the High Commissioner for Refugees, a document without a symbol which had been distributed in the meeting room in English and French only. She invited the UNHCR Controller to present the proposed amendments to the financial rules.

17. **Ms. Farkas** (UNHCR Controller) drew attention to the revised financial rules for voluntary funds administered by the High Commissioner for Refugees (subsequently to be issued in document A/AC.96/503/Rev.9). She recalled that, in October 2009, the Executive Committee had approved the biennial programme budget for 2010–2011, based on a comprehensive needs assessment conducted using a new budget structure. In order to support the new budget structure, to be introduced with effect from 1 January 2010, the financial rules for voluntary funds administered by the High Commissioner for Refugees had been revised and comments had been sought from member States, the Advisory Committee on Administrative and Budgetary Questions, the UNHCR Legal Affairs Section, the United Nations Office of Internal Oversight Services and the French team which constituted the external auditors of UNHCR. Several informal consultations had been held in 2009 to discuss the proposed revision. At the most recent consultations, held on 19 November 2009, the final proposed revision, incorporating the comments received, had been presented for consideration.

18. It was anticipated that further revisions to the financial rules would be submitted to the Executive Committee in October 2010, in preparation for the adoption of the International Public Sector Accounting Standards (IPSAS). The harmonized Financial Regulations and Rules of the United Nations would be used as a basis for those revisions.

19. She thanked member States for contributing to the revision exercise, which had allowed for the formulation of financial rules that fully supported the transition to the new budget structure.

20. **The Chairperson** invited the members of the Executive Committee to consider the text of the draft decision, which read:

“The Executive Committee,

Having considered the proposed revision of the current Financial rules for voluntary funds administered by the High Commissioner for Refugees (A/AC.96/Rev.8),

Notes the comments of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) on earlier drafts (A/AC.96/1068/Add.1), as well as the advice of the United Nations Office of Internal Oversight Services (OIOS);

Endorses the proposed revision and requests the High Commissioner to promulgate the revised Financial rules with effect from 1 January 2010.”

21. **Mr. Chebihi** (Algeria) said that his delegation wished to express its hope that the revised financial rules would enhance the transparency, operations and flexibility of UNHCR with regard to the voluntary funds administered by the High Commissioner for Refugees.

22. **Mr. Desbiens** (Canada) said that, since most of the contentious issues had been removed from the proposed financial rules, Canada was pleased to join the consensus on the draft decision. He recalled, however, that very few of the substantive comments made by Executive Committee members at the most recent informal consultative meeting seemed to have been taken into account in the proposed version. His delegation therefore wished to encourage UNHCR, in producing future versions of the financial rules, to give thorough consideration to the members' substantive comments. In order to facilitate the process in 2010 and to allow for a thorough review of the proposed changes and the incorporation of member States' substantive comments, Canada encouraged UNHCR to inform members of the proposed changes well in advance of their expected adoption by the Executive Committee.

23. **Mr. Mulrean** (United States of America) drew attention to the important role of the Executive Committee in providing both guidance and oversight, particularly in view of the new budget structure and the High Commissioner's expanded authority under the revised financial rules. The United States would closely follow the implementation of the revised rules in order to ensure consistency with the original aim of the revision. He endorsed the comments of the Canadian delegation concerning advance notice of additional changes to the budget structure or to the financial rules.

24. **Ms. Baller** (Netherlands) welcomed the latest version of the financial rules, a carefully revised text that clearly addressed the points made by member States. The Netherlands also welcomed the flexibility introduced across the four budgetary pillars and hoped that the draft decision before the Executive Committee would advance the preparations for the introduction of IPSAS. Like the United States, the Netherlands would closely follow the implementation by UNHCR of the changes to the financial rules.

25. **The Chairperson** said that if she heard no objection, she would take it that the Executive Committee wished to adopt the draft decision on a revision of the financial rules for voluntary funds administered by the High Commissioner for Refugees.

26. *It was so decided.*

Closing remarks

27. **Ms. Walker** (Secretary of the Executive Committee) said that the secretariat would prepare the report of the extraordinary meeting and distribute it as soon as possible, in order to allow the members of the Executive Committee one week to comment. The secretariat would take any comments from members into account and would redistribute the report to the Executive Committee; if no comments were submitted, however, the secretariat would recommend that the report should be adopted. She asked whether that way of proceeding met with the approval of the Executive Committee.

28. *It was so decided.*

29. **Mr. Guterres** (United Nations High Commissioner for Refugees) expressed appreciation for the excellent leadership shown by the Chairperson and by the previous and current Rapporteurs, who had contributed to the adoption of the Executive Committee conclusion on protracted refugee situations. Many had been sceptical about the possibility of adopting a conclusion on such a complex issue. The process had shown that the Executive Committee continued to be an active body capable of adopting what amounted to a “soft law” instrument, which would guide the Office in handling one of the most delicate aspects of its mandate.

30. He expressed appreciation for the constructive attitude that had led to the adoption of the decision on the financial rules. He had taken note of the concerns expressed by the Canadian delegation and pledged that the Executive Committee would do its best to address them.

31. It was important to point out that, under the revised financial rules, the High Commissioner’s authority had not been expanded, but rather had been substantially restricted. Previously, only two thirds of UNHCR activities had been subject to the Executive Committee’s oversight, while under the new budget structure, nearly the whole of the UNHCR budget was subject to its oversight. In his view, it was fitting that the Executive Committee had substantially increased its powers of approval and oversight of UNHCR activities.

32. After the customary exchange of courtesies, **the Chairperson** declared the extraordinary meeting closed.

The meeting rose at 12.20 p.m.