

## **Background Note for the Roundtables**

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## **I. Introduction**

1. This background note has been prepared to facilitate the discussions during the roundtables of the intergovernmental event. For each roundtable, some background information on the topic is provided, followed by some questions that participants might like to consider and a list of relevant background material.

## **II. Roundtable I**

### **Protection challenges and opportunities:**

#### **Where will we be in ten years?**

**(Wednesday, 7 December, Room XVI, 13:30-15:00)**

### **A. Background**

2. The environment in which protection for refugees and stateless persons is delivered is complex. This has certainly been the case over the past decade, and in a world undergoing fast-paced transformation, will likely remain true in the future. The purpose of this roundtable discussion is not only to anticipate the protection challenges we may face, but also to think creatively in legal, policy and practical terms about what can be achieved over the next ten years.

3. Looking back since the last ministerial meeting in 2001, which commemorated the 50<sup>th</sup> anniversary of the 1951 Convention, displacement has become increasingly multi-faceted. Crises have multiplied and conflicts have deepened, triggering new flows of refugees and prolonging already protracted situations. Most recently, the world has been shaken by a number of large-scale, complex emergencies. In addition, factors such as population growth, urbanization, climate change, natural disasters, extreme poverty, food insecurity, resource scarcity and the world's financial and economic crisis are combining in complex ways, further complicating protection responses.

4. Yet the picture is not entirely bleak. The past decade has also seen the continued and enormous generosity of refugee-hosting countries, other countries affected by humanitarian emergencies, and the international community more widely; the closure – or near closure – of several displacement chapters; the creative use of durable solutions; the strengthening of regional cooperation in some parts of the world; and the development of new research, guidance and initiatives to improve protection responses. There has also been an appreciable increase in awareness of the ongoing need to prevent and reduce statelessness worldwide. This is due to stronger government commitment to address this issue, deeper engagement by UNHCR and its partners, and ongoing advocacy efforts.

5. Where will we be in ten years? It is likely that patterns of displacement will become increasingly difficult to address in the face of new challenges and trends, which will call for agile responses and greater cooperation. The 60<sup>th</sup> anniversary of the 1951 Convention is not only an opportune time to reaffirm its vital and enduring value, but also to take stock of the other tools with which the international community is already equipped to address protection challenges. A discussion on how to prepare for the coming decade in terms of new research, guidance, tools and operational responses is also timely, as is further reflection on how to resolve certain stateless situations.

6. Participants during this roundtable might like to draw on the discussions and outcomes of the 2010 High Commissioner's Dialogue on Protection Challenges on the theme 'Protection Gaps and Responses' as well as the various UNHCR-sponsored expert

roundtables and meetings that have been held throughout 2011.<sup>1</sup> Participants are also encouraged to share existing good practices that could shed light on the way forward.

## **B. Possible discussion questions**

7. In preparing for this roundtable and in making interventions, participants might like to consider the following questions:

(i) Over the sixty years since its adoption, the 1951 Convention has demonstrated considerable resilience and adaptability. What is the key to maintaining its vital role as the centrepiece of the international protection regime for the years to come? Striving to achieve universal ratification? Improving implementation, by overcoming various resource, capacity, political, legal and security obstacles? Filling legal gaps through standard-setting initiatives?

(ii) A major gap in the implementation of States' protection obligations relates to the difficulty of accessing territory where protection can be obtained. There is a need to reaffirm the fundamental principle of *non-refoulement* to ensure that people are not sent back to harm's way. How can migration control and security concerns be better balanced with protection obligations, to ensure that refugees and asylum-seekers can exercise their right to seek asylum?

(iii) In this year alone, we have seen a number of large-scale, complex emergencies. In addition to providing life-saving assistance, it is imperative that core protection concerns are identified and addressed promptly and efficiently. What more can be done to ensure that protection receives the priority it deserves in emergency situations?

(iv) The large-scale movement of refugees alongside people who move for reasons other than persecution, conflict and serious human rights abuses is unlikely to subside in the coming years. What more can be done to address such movements, building on the 10 Point Plan of Action on Refugee Protection and Mixed Migration<sup>2</sup>?

(v) The drafters of the statelessness conventions debated whether statelessness could be eliminated but could only reach agreement on establishing principles for the reduction of statelessness. How can the momentum on statelessness that has been built through the commemorations not only be sustained but further enhanced? Will it ever be a realistic objective to seek to eliminate statelessness through the universal adoption of relevant safeguards that would guarantee the right to nationality?

(vi) Racism, xenophobia and anti-foreigner attitudes prevail in many parts of the world, sometimes manifested in acts of violence and hate crimes. This can have a disproportionate effect on already vulnerable asylum-seekers, refugees and stateless persons and threaten the protection space available to them. In the coming years, it is likely that societies will become increasingly multicultural, multiethnic and multireligious. What steps can political leaders take to build tolerant, open and inclusive societies?

(vii) We have seen the devastating impact that the combined effects of conflict, drought, and food and water insecurity can have on populations, including by forcing them to leave their homes and countries. How can the international

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<sup>1</sup> Please see the list of relevant background material.

<sup>2</sup> Available online at: <http://www.unhcr.org/refworld/docid/45b0c09b2.html>.

community work to prevent such humanitarian disasters, for example through the prevention of conflict, disaster risk reduction and measures to adapt to climate change?

(viii) There is no coherent international normative framework for protecting the rights of persons who are displaced across borders owing to forces other than persecution, serious human rights violations and ongoing conflict. Could the existing normative framework be consolidated to more clearly identify where there are gaps? Reflecting upon existing good practice, could national responses and regional arrangements be further developed to fill these gaps? Would it be useful for States, UNHCR and other relevant actors to develop a global guiding framework or instrument to apply to situations of displacement across borders other than those covered by the 1951 Convention? If so, should this be limited to displacement relating to climate change and natural disasters, or could it be broader? Could temporary or interim protection arrangements be useful? If so, in which situations?

### **C. Relevant background material**

- Note on International Protection: Report of the High Commissioner, UN Doc. A/AC/96/1098, 28 June 2011, available at: <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=4e5610e69&query=note%20international%20protection%202011>
- 2010 High Commissioner's Dialogue on Protection Challenges: 'Protection Gaps and Responses', 8 and 9 December 2010, Geneva, Switzerland, Background Paper and High Commissioner's Closing Remarks, 30 November 2010, both available at: <http://www.unhcr.org/pages/4ca099226.html>
- 2010 High Commissioner's Dialogue on Protection Challenges: 'Protection Gaps and Responses', 8 and 9 December 2010, Geneva, Switzerland, Breakout Session 1: Gaps in the International Protection Framework and its Implementation, Report by the Co-Chairs, available at: <http://www.unhcr.org/4d09e83d9.html>
- 2010 High Commissioner's Dialogue on Protection Challenges: 'Protection Gaps and Responses', 8 and 9 December 2010, Geneva, Switzerland, Breakout Session 3: Reduction of Statelessness and Protection of Stateless Persons, Report by the Co-Chairs, available at: <http://www.unhcr.org/4d09e5139.html>
- Expert Meeting on Climate Change and Displacement, 22-25 February 2011, Bellagio, Italy, Concept Paper and Summary of Deliberations, both available at: <http://www.unhcr.org/pages/4d22f95f6.html>
- Expert Meeting on the Complementarities Between International Refugee Law, International Criminal Law and International Human Rights Law, 11-13 April, Arusha, Tanzania, Concept Note and Summary Conclusions, both available at: <http://www.unhcr.org/pages/4d22f95f6.html>
- The Nansen Principles on Climate Change and Displacement, contained in the Chair's Summary of the Nansen Conference on Climate Change and Displacement in the 21<sup>st</sup> Century, 5-7 June, Oslo, Norway, available at: <http://www.nansenconference.no/>.
- Note on Statelessness: Report of the High Commissioner, UN Doc. A/AC/96/1098/Add.1, 28 June 2011, available at: <http://www.unhcr.org/4e5611109.html>

- UNHCR, Refugee Protection and Mixed Migration: A 10-Point Plan of Action, January 2007, Rev. 1, available at: <http://www.unhcr.org/refworld/docid/45b0c09b2.html>
- Reports of various regional conferences on refugee protection and international migration (Kazakhstan, Tanzania, Costa Rica, Yemen and Senegal) are available at: <http://www.unhcr.org/pages/4a16aac66.html>

### **III. Roundtable II**

#### **International cooperation, solidarity and burden sharing, including in protracted refugee situations (Thursday, 8 December, Room XVI, 13:30-15:00)**

##### **A. Background**

8. The international protection regime is grounded in the concept of international solidarity. Refugee challenges are inherently transnational and cannot be resolved by any one State alone. In particular, the vast majority of the world's refugees are hosted by developing countries that may lack the resources and capacity to fully respond to their protection and assistance needs. The need to enhance international cooperation to address refugee challenges, especially in protracted refugee situations, has been a longstanding challenge for the international community. The objective of this roundtable is to reflect upon the various efforts, discussions and initiatives that have already taken place in this area – and notably the results of UNHCR's Expert Meeting on International Cooperation to Share Burden and Responsibilities held in June 2011 – and to consider how to take these forward. In particular, this roundtable will be an opportunity to discuss the complex obstacles that stand in the way of resolving protracted refugee situations, and to consider how they could be overcome through enhanced international cooperation.

9. Seventy per cent of refugees of concern to UNHCR – more than seven million people – now live in protracted situations of exile.<sup>3</sup> Hosting large numbers of refugees over many years can place serious economic, social, security, environmental and political pressures on host countries and communities. The more protracted a displacement situation becomes, the more difficult durable solutions can be to achieve. In this context, international cooperation among States is key to ensuring that the generosity of host countries is matched by support from the international community to meet the protection and assistance needs of refugees and find durable solutions. This in turn can create space to allow host countries to provide self-reliance and local integration opportunities to remaining refugee populations. There are a number of good examples of the use of cooperative arrangements to address and resolve these situations, from which lessons can be learned.<sup>4</sup>

<sup>3</sup> "A protracted refugee situation is one in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. A refugee in this situation is often unable to break free from enforced reliance on external assistance": UNHCR, *Protracted Refugee Situations*, June 2004, EC/54/SC/CRP.14, <http://www.unhcr.org/refworld/docid/4a54bc00d.html>.

<sup>4</sup> Expert Meeting on International Cooperation to Share Burden and Responsibilities, 27-28 June 2011, Amman, Jordan, Discussion Paper, available at <http://www.unhcr.org/pages/4d22f95f6.html>.

10. In addition to protracted situations, cooperative arrangements have typically been developed by States, working with UNHCR and other relevant stakeholders, in three other main contexts: larger-scale situations (including mass influx); rescue-at-sea emergencies involving asylum-seekers and refugees<sup>5</sup>; and mixed movements, including irregular onward movements.<sup>6</sup>

11. A number of initiatives to enhance international cooperation have been developed over the years, including in the context of protracted situations. International cooperation has been a major theme of the 60<sup>th</sup> anniversary commemorations of the 1951 Refugee Convention. One of the three topics for discussion during the 2010 High Commissioner's Dialogue on Protection Challenges was international cooperation, burden sharing and comprehensive regional approaches. Participants concurred with the High Commissioner for Refugees that a 'new deal on burden sharing' was called for, and suggested the development of a Common Framework on International Cooperation to Share Burden and Responsibilities, consisting of a set of understandings and an operational toolbox. This approach was further considered, supported and elaborated during an expert meeting in Amman, Jordan in June 2011.<sup>7</sup> The need to improve international cooperation to address protracted refugee situations has also received particular attention in recent years. In addition to being the subject of a specific working group discussion in Amman, protracted refugee situations was the theme of the 2008 High Commissioner's Dialogue on Protection Challenges, and the Executive Committee adopted a Conclusion on this topic the following year.<sup>8</sup> The Dialogue in particular led to initiatives that helped to further engagement with governments and other stakeholders to resolve protracted situations around the world.

12. It is now an opportune time to explore the need for a coherent global framework on international cooperation, in order to enhance the predictability of burden and responsibility sharing arrangements. During this roundtable discussion, participants are encouraged to reflect upon the outcomes of these various meetings and to consider how the suggestions made could apply in their respective national and regional contexts. It would be particularly welcomed if participants could share examples of successful cooperative arrangements, especially where they relate to protracted refugee situations.

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<sup>5</sup> Note that an Expert Meeting in Djibouti on 'Refugees and Asylum-Seekers in Distress at Sea – How Best to Respond?' explored how cooperation to address distress at sea situations involving asylum seekers and refugees can be enhanced, as a first step. Summary conclusions forthcoming at <http://www.unhcr.org/pages/4d22f95f6.html>.

<sup>6</sup> For examples in each of these contexts, see Expert Meeting on International Cooperation to Share Burden and Responsibilities, 27-28 June 2011, Amman, Jordan, Discussion Paper, available at <http://www.unhcr.org/pages/4d22f95f6.html>.

<sup>7</sup> Summary Conclusions available at <http://www.unhcr.org/pages/4d22f95f6.html>.

<sup>8</sup> UNHCR Executive Committee Conclusion on Protracted Refugee Situations, No. 109 (LXI) 2009, available at <http://www.unhcr.org/4b332bca9.html>.

## B. Possible discussion questions

13. In preparing for this roundtable and in making interventions, participants might like to consider the following questions:

(i) Past and present cooperative arrangements can serve as inspiration for future arrangements and as a source of lessons learned. What are some common elements of cooperative arrangements that could be replicated in the future? What are some lessons learned?

(ii) Protracted refugee situations are among the most complex to address, yet are one of the areas in which international cooperation is most needed. What are the main challenges to resolving protracted refugee situations? How could international cooperation be enhanced to address these? What are some good practice examples in this respect?

(iii) Providing greater self-reliance opportunities to refugees, such as education and access to livelihoods, not only enables them to access their basic human rights but also increases their likelihood of achieving durable solutions. As a result, this can contribute to reducing tensions with host communities, lessening the risk of trafficking and smuggling, and preventing irregular onward movement. What types of self-reliance opportunities could be provided to refugees? What are some good-practice examples?

(iv) Despite a recent increase in the number of places available, resettlement opportunities continue to fall far short of needs. How can the resettlement community make this solution more accessible, in particular to unlock protracted refugee situations?

(v) In addition to the classical solutions of voluntary repatriation, local integration and resettlement, what possibilities could be provided for refugees in protracted situations to access migration opportunities to third countries, such as through existing or new employment and education schemes?

(vi) UNHCR plays an important role in enhancing international cooperation among States to address refugee challenges, including protracted situations. How could UNHCR contribute further? By acting as a catalyst and facilitator of cooperative arrangements? By providing expertise to States? By assuming an operational role?

(vii) Building on the recent expert meeting on international cooperation in Amman, Jordan, the development of a common framework on international cooperation to share burdens and responsibilities could be a practical next step to enhancing cooperation. It was suggested during this meeting that this could comprise i) a set of common understandings on international cooperation and ii) an operational toolbox to facilitate the conclusion of bilateral and multilateral agreements. In which situations would such a framework be most useful? How could it be used? In addition to the suggestions listed in the Summary Conclusions of this expert meeting,<sup>9</sup> what could be included in the set of common understandings and in the operational toolbox?

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<sup>9</sup> Available at <http://www.unhcr.org/pages/4d22f95f6.html>.

### C. Relevant background material

- Note on International Protection: Report of the High Commissioner, UN Doc. A/AC/96/1098, 28 June 2011, available at: <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=4e5610e69&query=note%20international%20protection%202011>
- 2010 High Commissioner's Dialogue on Protection Challenges: 'Protection Gaps and Responses', 8 and 9 December 2010, Geneva, Switzerland, Background Paper, 30 November 2010, available at: <http://www.unhcr.org/4cf3bbec6.html>
- 2010 High Commissioner's Dialogue on Protection Challenges: 'Protection Gaps and Responses', 8 and 9 December 2010, Geneva, Switzerland, Breakout Session 2: International Cooperation, Burden Sharing and Comprehensive Regional Approaches, Report by the Co-Chairs, available at: <http://www.unhcr.org/4d09e83d9.html>
- Expert Meeting on International Cooperation to Share Burden and Responsibilities, 27-28 June 2011, Amman, Jordan, Discussion Paper and Summary Conclusions, both available at <http://www.unhcr.org/pages/4d22f95f6.html>.
- 2008 High Commissioner's Dialogue on Protection Challenges: Protracted Refugee Situations, 10-11 December 2008, Geneva, Switzerland, relevant documents available at: <http://www.unhcr.org/pages/4a12a4016.html>.
- For more documents relating to protracted refugee situations, please see the following website: <http://www.unhcr.org/4a1d43986.html>.