

## The Global Compact on Responsibility-sharing for Refugees

### Past practice, guidance from ExCom Conclusions and UN General Assembly resolutions

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## 1. Background

As early as the 1950s the global community has shown solidarity in situations of crisis by working with UNHCR to find solutions for refugees, both those in protracted situations as well as situations of mass-influx. While the evolution of each of these approaches was the result of unique circumstances, they represented efforts to bring about a comprehensive response that responded to humanitarian needs, supported host States and delivered enhanced solutions to refugees. The Comprehensive Refugee Response in the Global Compact on Responsibility-Sharing for Refugees will build on these past experiences and will explicitly link humanitarian efforts for refugees to broader development efforts to respond to the needs of countries severely impacted by a refugee influx.

## 2. Examples of past practice

### 2.1 Comprehensive Plan of Action for Indo-Chinese Refugees, 1989-1996

**Background:** The conflict in Indochina led to mass movements of people from Cambodia, Laos and Viet Nam across land borders and by boat to other countries in the region throughout the late 1970s and early 1980s. In 1987, the rate of new arrivals increased and by 1989 many host countries in the region were overwhelmed. Governments were threatening to close their borders and pushbacks of boats were increasing. By the end of 1989, approximately 200,000 refugees were in camps throughout the region, in addition to those along the Thai-Cambodian border. Vietnamese boat arrivals in Malaysia, Indonesia, and Hong Kong also continued to increase at a dramatic rate.

**International response:** At a conference in Geneva attended by over 70 governments in June of 1989, the Comprehensive Plan of Action (CPA) was adopted. The CPA set out a number of complementary mechanisms intended to preserve asylum, increase resettlement from host countries in the region, create an organized departure programme to provide legal emigration from Viet Nam as well as a return programme for those found not to be in need of international protection with monitoring by UNHCR.

Over the seven-year lifespan of the CPA, approximately 125,000 Vietnamese and Laotian refugees were resettled and 110,000 Vietnamese and Laotians were repatriated back to their home countries after being determined not to be in need of protection. An additional 400,000 individuals left Viet Nam through the “orderly departure programme”, which provided legal emigration options. The number of irregular movements decreased dramatically and the first-country-of-asylum principle was largely preserved in the region.

### 2.2 International Conference on Central American Refugees (CIREFCA), 1987-1994

**Background:** At the end of a decade of civil conflict in Central America, around 2 million people were displaced throughout the region, including approximately 150,000 recognized refugees, an estimated 900,000 undocumented ‘externally displaced’ and around 900,000 internally displaced persons. With the Esquipulas Peace Accords in 1987 laying the framework for peace in the region, the international community took action to find durable solutions for the displaced.

**International response:** In May of 1987, UNHCR convened the Consultative Working Group on Possible Solutions to Refugee Problems in Central America which led to the CIREFCA process. Over 50 States, several intergovernmental organizations and 15 international agencies participated. CIREFCA adopted a Declaration and a Concerted Plan of Action, to provide durable solutions for refugees, returnees and displaced persons in the region. As CIREFCA focused on encouraging refugees and returnees to contribute to economic development in their communities and sought to link development and solutions, close collaboration between UNHCR and UNDP provided over US\$400 million in development resources to the region.. Not only did CIREFCA provide solutions for many of the region's displaced, but it also strengthened the legal framework for refugee protection for countries in the region.

### 2.3 Commonwealth of Independent States Conference, 1996-2005

**Background:** Following the break-up of the Soviet Union in 1991, over 60 million people, or one-fifth of the total population of the Commonwealth of Independent States (CIS) were estimated to be living outside their home countries. Asylum systems were either non-existent or underdeveloped and there were large scale irregular movements within the region. In late 1993, the United Nations General Assembly called on the UNHCR "to continue to consider comprehensive regional approaches to the problems of refugees and displaced persons" and to convene a regional conference to address the problems of refugees, displaced persons, other forms of involuntary displacement and returnees in the countries of the region.<sup>1</sup>

**International response:** The Commonwealth of Independent States Conference was held in May 1996 with four key goals: to provide a reliable forum for countries in the region to discuss population displacement problems; to review population movements in the region; to devise an integrated strategy by elaborating a Plan of Action; and, finally, to provide the foundation for a ten year Plan of Action.

The twelve CIS countries participated together with 36 other interested countries as well as several international organizations and NGOs. The conference resulted in a comprehensive Plan of Action that covered refugee movements, statelessness and migration issues. UNHCR, IOM and OSCE were entrusted with monitoring implementation and produced several progress reports. During its lifespan, all CIS states, with the exception of Uzbekistan, acceded to the 1951 Refugee Convention and most also signed the 1954 Statelessness Convention. In addition, many states had made significant legislative reforms, including putting in place national asylum legislation and comprehensive citizenship laws. These changes had a positive impact on displacement within the region and provided an opportunity for newly-emergent countries to cooperate on displacement and statelessness issues.

### 2.4 Kosovo refugee crisis, 1998-1999

**Background:** In 1998 the conflict between the armed forces of the then Federal Republic of Yugoslavia and the Kosovo Liberation Army erupted, followed by unsuccessful peace talks, an 11 week air campaign by NATO against the Federal Republic of Yugoslavia, and the subsequent closing of the former Yugoslav Republic of Macedonia border. By April 1999 there were an estimated 260,000 internally displaced persons within Kosovo, over 700,000 Kosovo Albanian refugees and displaced people in the region, and more than 100,000 further afield.

**International response:** A system of international burden-sharing was developed, involving the evacuation or transfer of some of the refugees to third countries, driven in large part by the need to continue to maintain open borders, particularly in the former Yugoslav Republic of Macedonia. By the end of the emergency, almost

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<sup>1</sup> UN General Assembly Resolution 49/173, 23 December 1994. Available at: <http://www.un.org/documents/ga/res/49/a49r173.htm>

96,000 refugees had departed via the Humanitarian Evacuation Programme (HEP) to 28 host countries. While UNHCR was clear that the HEP was not a resettlement programme, some countries did provide arrivals with the opportunity to claim asylum or remain permanently. During the course of 1999, the countries participating in evacuation programmes also received an additional 123,000 asylum applications from individuals from the former Federal Republic of Yugoslavia (mostly Kosovars). After the peace agreement in mid-1999, organized returns began and, by the end of 1999, 820,000 Kosovo Albanians had returned.

## 2.5 Regional Refugee and Resilience Plan for the Syria situation, 2014-present

In response to the Syria crisis, the Regional Refugee and Resilience Plan (3RP) brings together the plans developed under the leadership of national authorities in the region to provide both humanitarian assistance to refugees and to strengthen their resilience and that of communities supporting them. The 3RP involves approximately 200 national and international institutions and organizations, and includes resilience-based development programmes and support for national capacity-building to deliver assistance, including longer-term development planning. The close collaboration of humanitarian and development actors, together with the leading role of national authorities set this initiative apart from prior regional response plans. The early engagement of international financial institutions like the World Bank underlined the macro-economic impact of the conflict and the demographic shock of a large and sudden population increase on local service delivery and absorption capacities. The worrying indicators of deepening poverty among the Syrian refugee communities further highlighted the need to prepare for a more comprehensive response requiring additional financial resources beyond the normal scope of humanitarian assistance. Although there has been an increase in resettlement and humanitarian pathways as well as developments in complementary pathways for Syrian refugees to move beyond the region, the conflict continues.

## 3. Summary of Relevant UN General Assembly Resolutions and ExCom Conclusions

The Charter of the United Nations and the 1951 Convention relating to the Status of Refugees underpin the principle of international cooperation and responsibility-sharing.

**The Charter of the United Nations<sup>2</sup> — 1945** notes at Article 1(3) the importance of “international cooperation in solving problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction to race, sex, language and religion.” At Articles 55-56, it states that “all members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of” fundamental standards of human rights and conditions of stability.

**1951 Convention Relating to the Status of Refugees<sup>3</sup> — 1951** highlights the importance of responsibility-sharing in the Preamble, and notes that “the international scope and nature” of refugee crises means that responses to such situations “cannot [...] be achieved without international co-operation” and that States should do “everything within their power to prevent [refugee crises] from becoming a cause of tension between States”.

The General Assembly, in resolutions on the Office of the United Nations High Commissioner for Refugees, has called on States, “in a spirit of international solidarity and burden- and responsibility-sharing,” to “cooperate and to mobilize resources with a view to enhancing the capacity of, and reducing the heavy burden borne by, host countries, whose generosity is appreciated, in particular those that have received large numbers of

<sup>2</sup> United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, available at: <http://www.refworld.org/docid/3ae6b3930.html>

<sup>3</sup> UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, <http://www.unhcr.org/3b66c2aa10.pdf>

refugees and asylum-seekers...” See **UNGA Resolution on the Office of the United Nations High Commissioner for Refugees, A/RES/67/149, 20 December 2012<sup>4</sup> - 2012.**

In **UNGA Resolution on Assistance to refugees, returnees and displaced persons in Africa, A/RES/70/134, 17 December 2015<sup>5</sup> - 2015,** the General Assembly reiterated the need for responsibility-sharing in the context of assistance to refugees, returnees and displaced persons in Africa, reaffirming “that respect by States for their protection responsibilities towards refugees is strengthened by international solidarity involving all members of the international community and that the refugee protection regime is enhanced through committed international cooperation in a spirit of solidarity and burden- and responsibility-sharing among all States.”

The **United Nations, Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (annexed to UNGA res 2625(XXV), 24 October 1970<sup>6</sup> — 1970** reiterated the importance of international cooperation and the “duty [of States] to cooperate with one another, irrespective of the difference in their political, economic and social systems”, in seeking to achieve and maintain international peace and security, and the advancement of fundamental human rights and freedoms, and with respect to economic, social and cultural fields as well as in the field of science and technology, and the promotion of international cultural and educational progress.

More recently, a key pronouncement, the **UNGA Resolution on the United Nations Millennium Declaration, A/RES/55/2, 18 Sep 2000<sup>7</sup> — 2000,** set out more detailed principles of international cooperation and responsibility-sharing. The Millennium Declaration highlights the importance of ensuring the benefits and costs of increasing globalization are more evenly shared<sup>8</sup> and that efforts to address threats to international peace and security should also be shared<sup>9</sup>. The Millennium Declaration further asserts that international cooperation must be strengthened to ensure the protection of civilians – especially the particularly vulnerable – in situations of “natural disasters, genocide, armed conflicts and other humanitarian emergencies” and that the principle of responsibility-sharing should be expanded to ensure the “coordination of humanitarian assistance to countries hosting refugees”.<sup>10</sup>

Further to guidance contained in the above pronouncements, a number of ExCom Conclusions further expand upon and promote these standards.

The **UNHCR Executive Committee Conclusion No. 11 (XXIX) (1978) - General<sup>11</sup> — 1978** contained a reaffirmation of “the principle of international solidarity as a primary condition for the practice of liberal asylum policies, and for the effective implementation of international protection in general”.

Building on this Conclusion, **UNHCR Executive Committee Conclusion No. 22 (XXXII) (1981) – Protection of Asylum Seekers in Situations of Large Scale Influx<sup>12</sup> — 1981** highlighted that large movements of refugees in a mass influx “may place unduly heavy burdens on certain countries; a satisfactory solution of a problem, international in scope and nature, cannot be achieved without international co-operation. States shall, within

<sup>4</sup> <http://www.un.org/en/ga/67/resolutions.shtml>, at OP24.

<sup>5</sup> See: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/70/134](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/134), at OP15.

<sup>6</sup> See: <http://www.un-documents.net/a25r2625.htm>

<sup>7</sup> See: <http://www.un.org/millennium/declaration/ares552e.htm>

<sup>8</sup> See: I: Values and Principles (5).

<sup>9</sup> See: I: Values and Principles (6).

<sup>10</sup> See: VI: Protecting the Vulnerable (26).

<sup>11</sup> UN High Commissioner for Refugees, Executive Committee Conclusion No. 11 (XXIX) (1978) - General (Contained in United Nations General Assembly Document No. 12A (A/33/12/Add.1). Available at: <http://www.refworld.org/pdfid/4b28bf1f2.pdf>

<sup>12</sup> UN High Commissioner for Refugees, Executive Committee Conclusion No. 22 (XXXII) (1981) - Protection of Asylum Seekers in Situations of Large Scale Influx. Available at: <http://www.refworld.org/pdfid/4b28bf1f2.pdf>

the framework of international solidarity and burden-sharing, take all necessary measures to assist, at their request, States which have admitted asylum-seekers in large-scale influx situations.”

**UNHCR Executive Committee Conclusion No. 52 (XXXIX) (1988) - International Solidarity and Refugee Protection**<sup>13</sup> — 1988 reiterates that “international solidarity has a fundamental role to play in encouraging a humanitarian approach to the grant of asylum and in the effective implementation of international protection in general” and that “the principle of international solidarity is of utmost importance to the satisfactory implementation of these principles.” States were encouraged to actively “support the protection functions of the High Commissioner through all appropriate means, both bilateral and multilateral, as well as to abide by their own humanitarian responsibilities towards refugees, including, particularly, to safeguard the right to seek and enjoy asylum from persecution and to ensure full respect for the principle of non-refoulement.”<sup>14</sup>

**UNHCR Executive Committee Conclusion No. 89 (LI) (2000) - Conclusion on International Protection**<sup>15</sup> — 2000 recognized that “countries of asylum carry a heavy burden, in particular, developing countries, countries in transition and countries with limited resources” and that “international solidarity, burden-sharing and international cooperation to share responsibilities” was needed to “address the impact of large-scale refugee populations”.

Finally, **UNHCR Executive Committee Conclusion No. 100 (LV) (2004) - International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations**<sup>16</sup> — 2004 makes broad ranging and detailed pronouncements on the importance of responsibility-sharing in the context of large refugee movements. It recalls the principles of State responsibility and the need for international cooperation enshrined in the United Nations Charter, the 1951 Refugee Convention and international human rights law, and highlights “the importance of international burden and responsibility sharing in reducing the burdens of host countries” as well as the fact that “the refugee protection regime is enhanced through committed international cooperation in a spirit of solidarity and responsibility and burden sharing among all States”. The importance of not only responding to, but also seeking to address, the root causes of large refugee movements is also highlighted. The language and a number of elements contained within this Conclusion have fed into the drafting of the Secretary-General’s report, and have been further built upon to generate the Global Compact, as is reflected in Pillar II of the final report.

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<sup>13</sup> UN High Commissioner for Refugees, Executive Committee Conclusion No. 52 (XXXIX) (1988) - International Solidarity and Refugee Protection (1998). Available at: <http://www.refworld.org/pdfid/4b28bf1f2.pdf>

<sup>14</sup> See: paragraphs 3-5.

<sup>15</sup> UN High Commissioner for Refugees, Executive Committee Conclusion on International Protection, 13 October 2000, No. 89 (LI) - 2000, available at: <http://www.refworld.org/docid/3ae68c7e0.html>

<sup>16</sup> UN High Commissioner for Refugees, Executive Committee Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations, 8 October 2004, No. 100 (LV) - 2004, available at: <http://www.unhcr.org/41751fd82.html>