

GLOBAL CONSULTATIONS  
BACKGROUND ON THE PROCESS AND  
PROPOSED WORK PROGRAMME FOR "THIRD CIRCLE" ISSUES

I. BACKGROUND

1. At its fifty-first session in October 2000, the Executive Committee "Welcome[d] the proposal of UNHCR to commence a process of Global Consultations with States, with the close involvement, *inter alia*, of refugee protection experts, NGOs and refugees, to revitalize the international protection regime and to discuss measures to ensure that international protection needs are properly recognized and met, while due account is also taken of the legitimate concerns of States, host communities and the international community generally".<sup>1</sup> The Global Consultations reflect the heightened recognition that the refugee problem is an international one and that crafting responses to address many of today's issues is best approached on the basis of multilateral cooperation, fully informed by the protection concerns at stake, as well as the dilemmas and challenges in addressing them in all regions.
2. Through a "three circles" process, the objective is to promote the full and effective implementation of the 1951 Convention, while simultaneously developing new approaches, tools and standards to strengthen protection in areas not adequately covered by the Convention regime.
3. The objective of the "first circle" is to reaffirm the commitment of States parties to full and effective implementation of the 1951 Convention and 1967 Protocol Relating to the Status of Refugees and to promote further accessions to both instruments. This goal will be pursued, *inter alia*, through a major inter-governmental event towards the end of 2001 to mark the 50th anniversary of the Convention.
4. The "second circle" will take place in an expert process, outside the Executive Committee framework, and will examine specific interpretative aspects of the 1951 Convention and 1967 Protocol. The process will comprise a series of Roundtables of experts, drawn from governments of States parties, academia, the judiciary, the legal profession and relevant non-governmental organizations (NGOs). The Roundtables should allow for a thorough stocktaking of developments and trends in the law, so as to inform and enhance the understanding of decision-makers. Following informal consultations with a number of States, NGOs and other interested parties, UNHCR has identified issues for consideration by experts, which are listed in annex to this document, and on which background papers have been commissioned from scholars. The reports of the Roundtables will be published by UNHCR as a contribution to the 50<sup>th</sup> anniversary of the Convention.
5. The "third circle" of the Consultations will be conducted within the framework of the Executive Committee. This process is designed, firstly, to foster a common understanding of the protection challenges and enhanced cooperation to address them; secondly, to identify and promote practical responses to protection problems; and thirdly, to lead to the development of new approaches, tools, and standards to strengthen protection in areas not adequately covered by the Convention. The discussions should seek to achieve concrete outcomes, which could include, depending on the issue: the identification of appropriate mechanisms and practical arrangements;

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<sup>1</sup> A/AC.96/944 para. 23 (a)

tools to implement guidelines; guidance to States or to UNHCR; and Executive Committee conclusions.

6. It is proposed to structure the deliberations in the context of the "third circle" around three broad themes:

- Protection of refugees in mass influx situations;
- Protection of refugees through individual asylum systems, including in the context of challenges arising from the interface between asylum and migration;
- Search for protection-based solutions.

Given its importance, international solidarity and responsibility or burden sharing will be a crosscutting theme.

7. Under these broad themes and as outlined in the proposed Work Programme below, the Executive Committee will be asked to focus on specific topics and issues, which lend themselves positively to such an intergovernmental consultative process. In view of the comprehensive nature of the list, the Executive Committee, at its first organizational meeting on 12 December 2000, may wish to establish some criteria in order to prioritize the topics for discussion. Some of the topics may require consideration at more than one meeting.

8. It is proposed to have three meetings during 2001 and one in 2002, to complete the first phase of the Consultations. Additional meetings are envisaged in 2002 to carry the process forward.

## II. PROPOSED WORK PROGRAMME FOR "THIRD CIRCLE" ISSUES IN THE CONTEXT OF THE EXECUTIVE COMMITTEE FRAMEWORK

### 1<sup>st</sup> theme: Protection of Refugees in Mass Influx Situations

#### A. Practical concerns

##### (i) Civilian character of asylum

Issues to be addressed will include:

- Preserving the civilian character of asylum;
- Separation of armed elements and screening in mass influx situations;
- Status and treatment of ex-combatants.

##### (ii) Protecting refugee women

Issues to be addressed will include:

- New elements for guidelines (e.g. domestic violence; access to asylum procedures; rights awareness);
- Tools and measures to implement standards and guidelines (e.g. legal status; documentation).

##### (iii) Protecting refugee children

Issues to be addressed will include:

- New elements for guidelines (e.g. separated children; adolescents; violence);
- Tools and measures to implement standards and guidelines (e.g. birth registration; documentation; identification and monitoring systems; access to education).

B. Overall protection framework

Issues to be addressed will include:

- Standards and mechanisms to ensure international protection in mass influx situations:
  - *prima facie* recognition;
  - temporary protection.

C. Mechanisms of international cooperation to share responsibilities/burdens in mass influx situations

Issues to be addressed will include:

- Some models of responsibility/burden sharing and lessons learned;
- Possible future arrangements for cooperation.

2<sup>nd</sup> theme: Protection of Refugees in the Context of Individual Asylum Systems

A. Migration control and refugee protection

Issues to be addressed will include:

- Safeguards to ensure access to refugee protection in the context of migration control (e.g. interception, carrier sanctions, action against smuggling and trafficking of persons);
- Other measures to enable access to protection.

B. Asylum processes

Issues to be addressed will include:

- Reception of asylum-seekers, including standards of treatment;
- Access to refugee protection (including safe third country notion and irregular movements);
- Expedited procedures (including notion of safe country of origin);
- Special problems (undocumented asylum-seekers; uncooperative asylum-seekers);
- Complementary forms of protection;
- Return of persons not in need of international protection.

C. Strengthening protection capacity in host countries

Issues to be addressed will include:

- Opportunities and constraints to strengthen protection;
- Models of capacity building (including regional approaches) and lessons learned;
- Possible future arrangements for cooperation.

3<sup>rd</sup> theme: The Search for Protection-Based Solutions

A. Voluntary repatriation

Issues to be addressed will include:

- Obstacles to return and strategies to overcome them;
- Practical arrangements (including voluntary repatriation agreements);
- Protection objectives for reintegration (restoration of national protection);
- Returnee monitoring (concept and modalities).

## B. Local integration

Issues to be addressed will include:

- Local integration as an element of a comprehensive approach;
- Self-sufficiency as an interim measure.

## C. Resettlement

Issues to be addressed will include:

- Resettlement as a protection tool (special groups and needs);
- Resettlement as a durable solution (relationship to other solutions);
- Resettlement and responsibility sharing (e.g. quotas; diversification of countries).

TOPICS FOR THE GLOBAL CONSULTATIONS:  
SECOND CIRCLE ISSUES

<u>ROUNDTABLES</u>	<u>TOPICS</u>
1 <sup>st</sup> Roundtable – April 2001	<ul style="list-style-type: none"><li>• Cessation (Article 1C)</li><li>• Exclusion (Article 1F)</li></ul>
2 <sup>nd</sup> Roundtable – July 2001	<ul style="list-style-type: none"><li>• Principle of <i>non-refoulement</i> (Article 33)</li></ul>
3 <sup>rd</sup> Roundtable – September 2001	<ul style="list-style-type: none"><li>• Membership of a Particular Social Group (Article 1A(2))</li><li>• Gender-related Persecution (Article 1A(2))</li><li>• Family Unity (Final Act of the 1951 UN Conference)</li></ul>
4 <sup>th</sup> Roundtable – November 2001	<ul style="list-style-type: none"><li>• Supervisory Responsibility (Article 35)</li><li>• Illegal Entry (Article 31)</li></ul>