

Roundtable on Temporary Protection

19-20 July 2012

International Institute of Humanitarian Law,
Villa Ormond, San Remo, Italy

CONCEPT NOTE

1. Background

In May 2011, Erika Feller, UNHCR's Assistant High Commissioner for Protection, stated at a conference in Prato, Italy: 'In [UNHCR's] assessment the time has come to work with states to develop an internationally agreed doctrine of temporary protection [TP], which would ensure the availability of interim protection to people in temporary need'.¹ In June of the same year, UNHCR convened an 'Expert Meeting on International Cooperation to Share Burdens and Responsibilities' in Amman, Jordan, which had as one of its conclusions, the desire for further guidance on temporary protection in relation to large-scale influxes.² At the 60th anniversary Ministerial-Level Meeting in December 2011, the need for greater predictability in responses to large-scale and other emergency movements, including those involving mixed movements, was part of the roundtable discussions.³

Temporary Protection is a well-known subject, having been studied by the international community through international consultations on at least three previous occasions, in 1981,⁴ 1996-7⁵ and in 2001.⁶ Scholars have also published widely on the issue, especially during the

¹ 'The Refugee Convention at 60: Still fit for its Purpose?', Statement by Erika Feller, Assistant High Commissioner for Protection, UNHCR, at the Conference on Refugees and the Refugee Convention 60 Years On: Protection and Identity, Prato, 2 May 2011, p. 9, available at: <http://www.unhcr.org/4ddb679b9.pdf>.

² UNHCR, Expert Meeting held in Amman, Jordan, 27-28 June 2011, 'Summary Conclusions on International Cooperation to Share Burdens and Responsibilities', 28 June 2011, Subheading II, para. 9, available at: <http://www.unhcr.org/refworld/docid/4e9fed232.html>.

³ UNHCR, 'Commemorating the Refugee and Statelessness Conventions, Ministerial Meeting, Background Note for the Roundtables', para. B (iv) [see also para. B (viii)], in relation to persons fleeing events other than persecution, serious human rights violations or ongoing conflict], HCR/MINCOMMS/2011/08, 2011, available at: <http://www.unhcr.org/4ecbaa9e9.html>.

⁴ See, e.g., UNHCR, 'Report of the Meeting of the Expert Group on Temporary Refuge in Situations of Large-Scale Influx Geneva, 21-4 April 1981', UN Doc. EC/SCP/16/Add.1, 17 July 1981, available at: <http://www.unhcr.org/refworld/docid/3ae68cd04.html>.

⁵ See, e.g., UNHCR, Standing Committee, 'Progress Report on Informal Consultations on the Provision of International Protection to All Who Need It', UN Doc. EC/46/SC/CRP.34, 28 May 1996; UN Doc. EC/47/SC/CRP.27, 30 May 1997, available at: <http://www.unhcr.org/3ae68cfc0.html>; and UN Doc. EC/48/SC/CRP.32, 25 May 1998, available at: <http://www.unhcr.org/3ae68cff4.html>.

⁶ UNHCR, Global Consultations on International Protection, 'Protection of Refugees in Mass Influx Situations: Overall Protection Framework', UN Doc. EC/GC/01/4, 19 February 2001, available at: <http://www.unhcr.org/3ae68f3e24.html>.

1990s; meanwhile the International Law Association developed guidelines on temporary protection in 2002.⁷ In practice, there have been varying approaches to temporary protection depending on the context and country. Since 1991, UNHCR has regularly called on States in specific situations to apply some form of temporary protection/admission for those departing their countries of origin or habitual residence for protection reasons, most recently in relation to events in North Africa and the Middle East.⁸

Still, there remains no general understanding of what temporary protection is or should be, what it does or should guarantee, or in what situations it should apply. At a minimum, it is associated with admission to safety for a limited period, protection against *refoulement*, respect for basic human rights, and safe return when conditions permit to the country of origin.⁹ UNHCR has previously indicated that temporary protection is

... best conceptualised as a practical device for meeting urgent protection needs in situations of mass influx. Its value in ensuring protection from *refoulement* and basic minimum treatment in accordance with human rights without overburdening individual status determination procedures has been demonstrated.¹⁰

2. Objectives and Expected Outcomes

Building on this background, and in light of new movement trends in the 21st Century – including once again a rise in large-scale refugee movements as well as mixed migration flows – UNHCR seeks to clarify its own understanding of temporary protection and to build international acceptance around it. The roundtable will assist UNHCR to elaborate a new doctrine on temporary protection, especially relevant in regions where existing instruments do not apply either because of the lack of signatories to the 1951 Convention and/or because of the character of the movements. This doctrine will establish the basic scope and content of temporary protection, including the beneficiaries of temporary protection as well as the situations/countries/regions in which it would apply (including the triggering events), applicable standards of treatment, burden-sharing/international cooperation components, when and how it would come to an end, and the legal form that temporary protection should take.

A longer-term strategy will be developed following the roundtable.

The expected outcomes of the roundtable are:

- To produce a doctrine on temporary protection;
- To discuss a strategy to take this forward.

⁷ International Law Association, *Resolution 5/2002 on Refugee Procedures (Guidelines on Temporary Protection)*, 6 April, 2002, available online at: <http://www.unhcr.org/refworld/docid/4280b0804.html>.

⁸ UNHCR, 'Protection considerations with regard to people fleeing from Libya - UNHCR's recommendations', p. 2, 25 February 2011, available at: <http://www.unhcr.org/refworld/docid/4d6b48858.html>; *Update No. 1*, 29 March 2011, available at: <http://www.unhcr.org/4d67fab26.html>. Turkey also announced a temporary protection regime for Syrians based on ExCom Conclusion No. 22 (XXXII) (1981) in 2012.

⁹ Executive Committee (ExCom) Conclusion No. 22 (XXXII) (1981), 'Protection of Asylum-Seekers in Situations of Large-Scale Influx', 21 October 1981, available at: <http://www.unhcr.org/3ae68c6e10.html>. See, also, ExCom Conclusion No. 74 (XLV) (1994), 'General Conclusion on International Protection', 7 October 1994, para. (r), available at: <http://www.unhcr.org/3ae68c6a4.html>.

¹⁰ *Supra* note 6, para. 13.

3. Convenor

The roundtable will be convened by UNHCR and hosted by the International Institute of Humanitarian Law in San Remo, Italy.

4. Participants

A select group of participants, including leading academics, practitioners and senior UNHCR staff in relevant operations, will be invited to the roundtable to contribute to these discussions.

5. Timing and location

Thursday 19th and Friday 20th July 2012 at the International Institute of Humanitarian Law, Villa Ormond, San Remo, Italy. Participants are expected to attend the entire meeting.

6. Documentation

A draft outline of the elements of the new doctrine on temporary protection, accompanied by an explanatory paper, will be prepared to facilitate the roundtable discussions.

**Division of International Protection
11 April 2012**