

WAYS FORWARD ON EXCOM CONCLUSIONS

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XIII. Schematic outline of themes

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- (d) Protection and Solutions Issues Arising in the Maritime Context
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I. RESUME OF CONCLUSIONS REVIEW

- ❑ October 2007 ExCom Decision on Conclusions process
- ❑ Two track process: ICM and Review
- ❑ More effective Conclusions process
 - Theme identification
 - Multi-year plan
 - Negotiation process
 - Stakeholder aspects
- ❑ Use and value of Conclusions

II. CONTINUATION OF A MULTIYEAR PLAN

- 2002-2007 themes based on Agenda for Protection (AfP)
- AfP schedule essentially exhausted
- Continuation of a predictable selection methodology
- From UNHCR angle: would continue to be issues which require guidance by ExCom or development of international standards or affirmation of approaches
- Proposals herewith cover 2009-2012 period
- 2008 effectively a transition year
- Focus on review of ExCom Conclusion process, value of Conclusions and multi-year plan of themes
- Agreed to dispose all in a General Conclusion

III. THEME SELECTION: HOW?

- ❑ Issues arising in national, regional, or global operations requiring global guidance and development or (re-) affirmation
- ❑ Legal, policy or operational in nature (see Slide 7)
- ❑ Focus on gaps, problems, challenges or good practices regarding performance, compliance, delivery
- ❑ Derived from:
 - Operations/Field
 - Annual Protection Reports
 - Operational reviews, evaluations, inspections
 - Other UNHCR processes and sources (Field Protection Reference Group, High Commissioner's Dialogue, etc.)
 - States
 - Other stakeholders, including NGOs (see Slide 13)

IV. NORMATIVE V. OPERATIONAL THEMES?

- ❑ Long-standing debate within ExCom
- ❑ Concern that “operational” themes created lengthy texts and a protracted negotiation process
- ❑ Therefore, that themes should revert to only “normative”
- ❑ Operational issues to be developed in Handbooks and Guidelines
- ❑ Broad UNHCR agreement. At the same time:
 - States themselves have called for more “practical” and “concrete” themes
 - Historically, there has been a mix of both
 - A theme can have both normative and operational character (statelessness)
 - While emphasising “normative” themes, flexibility necessary

V. LINKAGES WITH OTHER PROCESSES

- The High Commissioner's Dialogue (HCD)
 - HCD instituted as open/flexible process for frank dialogue on protection challenges
 - Need not be tied to a specific result / consensus
 - Conclusion themes may draw from HCD; some may be related (e.g. protection and solutions issues arising in the maritime context; protracted refugee situations)
 - Otherwise, different processes and should continue to remain separate

- Field Reference Group on Protection Policies
 - Important structure for internal operational protection policy dialogue and input
 - Group of 20 experienced, knowledgeable field managers and staff
 - Include all regions and types of operations
 - Project real problems experienced in the field
 - Multiplicity of concerns and perspectives

VI. INITIAL PRESENTATION OF THEMES

- ❑ Proposals for Conclusions come to ExCom initially as thematic papers at March Standing Committee
- ❑ Issues analysed and explained:
 - The issue as such
 - Problems and challenges
 - Legal and/or policy framework
 - Issues or gaps for ExCom attention, guidance or development
 - Issues for Conclusions consideration
- ❑ UNHCR has understood request by States to improve all the above
- ❑ Will enhance character of thematic papers accordingly
- ❑ Importance for “preliminaries” not to become unduly burdensome and even hamper substantive focus

VII. INITIAL DRAFTS OF CONCLUSION TEXTS

ICM has emphasized:

- Clarity
- Brevity
- Quality
- Explanation of foundational issues, including gaps
- Standards not to be diminished
- Repetitiveness (previously addressed issues) to be avoided

Full UNHCR commitment

- Thematic papers to detail out problems, gaps, issues
- Drafts to be as well and clearly written as possible
- Also as succinct as possible
- Subject matter and complexity will however often determine length
- Flexibility therefore necessary

VIII. THE NEGOTIATION PROCESS

- ICMs have underscored:
 - Early / more time to negotiate Conclusions
 - Focus / priority attention on protection objectives and standards
 - Linguistic and national concerns not to dominate the process
 - Advantages of informal settings for initial consultations
 - Crucial importance of attendance by all State Parties
 - Value of external “experts” or resource persons

- Accordingly:
 - Since 2006, thematic papers presented in March and not June, so negotiations could start early
 - This practice will be continued
 - Multi-year schedule will also enable greater lead time
 - UNHCR strongly agrees with attention being focused on protection priorities and substantive aspects
 - Attendance by all States Parties critical
 - UNHCR ready to facilitate experts and resource persons

IX. THE ROLE OF UNHCR

- ❑ By its mandate and accountability, has a primary substantive stake in the process
- ❑ High Commissioner's privilege to seek the guidance of ExCom through Conclusions
- ❑ By its mandate, role and vocation, has knowledge and experience in refugee law and protection
- ❑ UNHCR
 - Identifies the issues
 - Analyses the subject
 - Highlights gaps, problems and issues requiring ExCom deliberations and guidance
 - Shares operational information and good practices
 - Substantively participates in the negotiations
 - Provides administrative, technical and secretarial support for the process

X. THE ROLE OF NGOs

- ❑ Are important protection actors and stakeholders
- ❑ Have grass-roots engagement
- ❑ Operational knowledge
- ❑ Advocacy
- ❑ Role in Conclusions process increasingly acknowledged
- ❑ Further considerations may streamline roles in:
 - Theme identification
 - Substantive dialogue on the themes
 - Dissemination and awareness
 - Implementation and follow-up
 - Reporting

XI. MULTI-YEAR CONCLUSIONS THEMES 2009-2012

□ Proposals include:

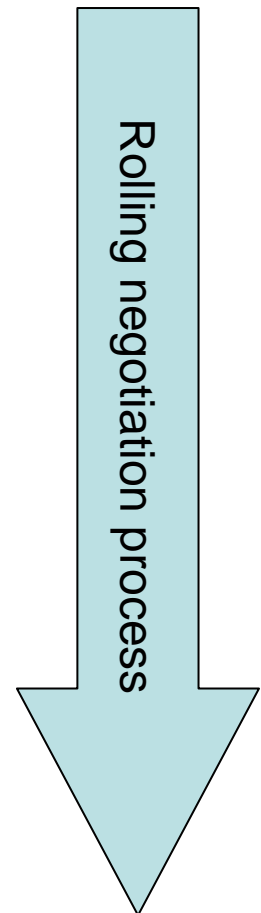
- “Unfinished” AfP business (Asylum procedures)
- Matters considered already thematically in 2007 and 2008 (Disability, Older Persons)
- Themes suggested / prioritised by UNHCR already (“Rescue at sea”)
- Priorities expressed by States (“Protracted situations”)
- Proposals by NGOs (“Self-reliance”)

□ Assumptions:

- General Conclusions would be retained?
- Two substantive themes to be considered each year?
- Flexibility to adjust schedule in view of new/unforeseen issues/imperatives
- A “rolling” negotiation process?
- 2012 as a “carry-over” year for unfinished matters

XII. WORKPLAN 2009-2012

2008	<ul style="list-style-type: none">▪ General Conclusion on International Protection
2009	<ul style="list-style-type: none">▪ General Conclusion on International Protection▪ Conclusion on the Protection of Persons with Disabilities▪ Conclusion on the Protection of Older Persons
2010	<ul style="list-style-type: none">▪ General Conclusion on International Protection▪ Conclusion on Protracted Refugee Situations▪ Conclusion on Self-reliance of Refugees
2011	<ul style="list-style-type: none">▪ General Conclusion on International Protection▪ Conclusion on the Protection and Solutions Issues Arising in the Maritime Context (Rescue at Sea)▪ Conclusion on Asylum Procedures
2012	<ul style="list-style-type: none">▪ General Conclusion on International Protection▪ New multi-year plan



XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion on International Protection

Will comprise:

- i. Protection Issues drawn from the Note on International Protection and debate
- ii. Other protection issues drawn from March and June 2008 Standing Committees
- iii. Decision on 2009 – 2012 Conclusions themes and work plan
- iv. Dispositions on Value and Use of Conclusions
- v. Follow-up Steps

XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion

i. Note on International Protection

- Builds on the relationship between refugee protection and human rights. Some highlights include:
 - Principle of non-refoulement, access to territory and to asylum procedures
 - Right to life, liberty and security of persons (xenophobic crimes, scope of SGBV problem)
 - Problems of detention
 - UNHCR's role in internal displacement settings
 - Humanitarian access
 - Protracted refugee situations
 - Reintegration

XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion

ii. Other protection issues from March / June Standing Committee

- High Commissioner's Dialogue
- Agenda for Protection
- Resettlement
- AGDM
- Protracted situations
- IDPs

XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion

iii. 2009 – 2012 Conclusions themes and work plan

- Agreed themes
- Agreed work plan
- Agreed timetable for drafting and negotiation for the next 3 - 4 years

XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion

iv. Value / use of Conclusions

- Priority findings from Deschamp report, recommendations and result of ICM debate
- Other issues identified at ICM

XIII. SCHEMATIC OUTLINE OF THEMES

(a) 2008 General Conclusion

v. Improving the Conclusions process

- Results of ICM debate/dialogue
- Indicative issues as per this presentation
- Cf summary in Slide I and following details

XIII. SCHEMATIC OUTLINE OF THEMES

(b) Conclusion on Persons with Disabilities

(i) Resume

- ❑ Conference room paper and debate in June 2007 Standing Committee
- ❑ Gaps identified and protection concerns highlighted
- ❑ Need for Conclusion elaborated
- ❑ Key elements of Conclusion outlined (see next Slide)



XIII. SCHEMATIC OUTLINE OF THEMES

(b) Conclusion on Persons with Disabilities

(ii) Elements for a Conclusion

- Specific protection risks and concerns of persons with disabilities
- Overarching principles and approaches (participation, non-discrimination, accessibility, inclusion, equal access)
- Need for attitudinal shift among all actors
- Partnership and broader institutional responses
- Priority actions and measures



XIII. SCHEMATIC OUTLINE OF THEMES

(c) Conclusion on Older Persons

(i) Resume

- ❑ Conference room paper and debate in June 2007 Standing Committee
- ❑ Gaps identified and protection concerns highlighted
- ❑ Similar challenges as for persons with disabilities
- ❑ Need for Conclusion explained
- ❑ Key elements of Conclusion outlined (see next Slide)



XIII. SCHEMATIC OUTLINE OF THEMES

(c) Conclusion on Older Persons

(ii) Elements for a Conclusion

- Specific protection risks of older persons
- Overarching principles and approaches (participation, non-discrimination, family unity, equal access to services)
- Awareness among all actors
- Partnership and broader institutional response
- Priority actions and measures



XIII. SCHEMATIC OUTLINE OF THEMES

(d) Conclusion on Protection and Solutions Issues Arising in the Maritime Context

i. Resume:

- Tragic events on high seas involving asylum-seekers
- Importance of rescue at sea issues
- Need to affirm a system of protection response and solutions
- Gaps in protection standards and response
- High Commissioner's 2007 Dialogue
- Systematic paper not presented yet, nor debate taken place

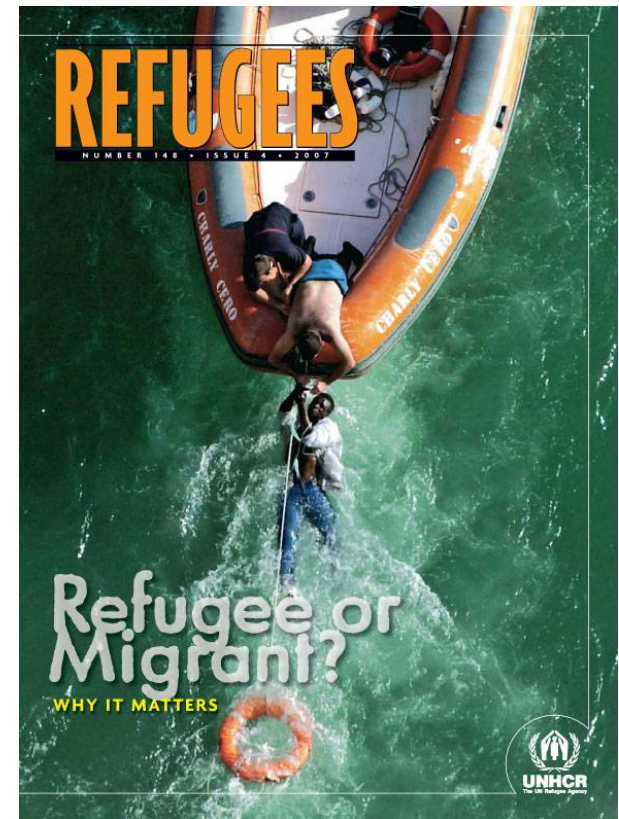


XIII. SCHEMATIC OUTLINE OF THEMES

(d) Conclusion on Protection and Solutions Issues Arising in the Maritime Context

ii. Elements / concerns highlighted

- Normative framework and intersection between different areas of law
- Risk on high seas and imperative / responsibility to rescue
- Disembarkation
- Treatment of persons rescued
- Fundamental principles, including non-refoulement, access to asylum procedures, protection for victims of trafficking
- Role of concerned actors, including UNHCR
- Responsibility and burden sharing and international solidarity
- ExCom Conclusions thus far and gaps
- The Ten-Point Plan



XIII. SCHEMATIC OUTLINE OF THEMES

(e) Conclusion on Asylum Procedures

- ❑ Foreseen in the Agenda for Protection
- ❑ Standards emerging at regional level
- ❑ Ensure greater global consistency
- ❑ Procedural safeguards as regards
 - admissibility of claims
 - use of accelerated procedures
 - persons with specific protection needs
 - undocumented and uncooperative asylum seekers
 - appeals
- ❑ Case management tools and methodologies
- ❑ Best practice models (e.g. quality initiatives)
- ❑ Systematic paper not presented yet or debate taken place



XIII. SCHEMATIC OUTLINE OF THEMES

(f) Conclusion on Self-reliance

- ❑ Suggested by NGOs
- ❑ Restrictions on self-reliance and protection risks including poverty, sexual and gender-based violence
- ❑ Self-reliance and legal rights to participate
- ❑ Self-reliance and the realization of all three durable solutions,
- ❑ Links with host communities and need to integrate refugees into national development plans



XIII. SCHEMATIC OUTLINE OF THEMES

(g) Conclusion on Protracted Refugee Situations

- ❑ Important policy priority for the High Commissioner
- ❑ High Commissioner on-going initiative
- ❑ Subject of June Standing Committee and 2008 High Commissioner's Dialogue
- ❑ States have signaled strong interests including as Conclusion subject
- ❑ Salient aspects:
 - Characterization
 - Priority situations
 - Problems and challenges
 - Comprehensive solutions approach
 - Strengthened efforts for solutions
 - International solidarity and other support elements
 - Framework for concerted action

XIV. NEXT STEPS

- ❑ In view of ICM discussions, revise and finalise themes and work plan
- ❑ Following June Standing Committee prepare initial draft of General Conclusion
- ❑ Link results of ExCom process and ExCom Conclusion tracks
- ❑ Elaborate implementation / follow- up plans accordingly