

1st Meeting

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MECHANISMS OF INTERNATIONAL COOPERATION TO SHARE RESPONSIBILITIES
AND BURDENS IN MASS INFLUX SITUATIONS

I. INTRODUCTION

1. International solidarity and burden or responsibility-sharing is a major cross-cutting theme of the Global Consultations on International Protection. The inclusion of "responsibility" along with "burden-sharing" reflects a more positive image of refugees and a stronger framework for international cooperation, in line with the wording of the Conclusion on international protection adopted by the Executive Committee at its fifty-first session¹. Its importance is particularly crucial when States are faced with large-scale influxes of refugees fleeing persecution and/or generalized violence. In such situations, the countries that bear the brunt of receiving large numbers of arrivals shoulder a disproportionately heavy burden in fulfilling their obligations under international refugee law. These States often have to tackle serious developmental, economic, infrastructural, environmental, social, political, and national security problems which arise from the influx.

2. In situations such as these, other States also have a responsibility to cooperate in sharing this burden, even if they are not immediately affected. This responsibility is based on the commitment they have made under various international instruments² to uphold the basic principles of refugee protection, to ensure respect for human rights, and to promote international peace and security, in the face of potential destabilizing effects of a mass influx. Recognizing this responsibility and addressing situations of mass influx in a spirit of international solidarity promotes international stability as well as refugee protection, and is thus in the interests of all States, refugees and UNHCR.

3. This note draws on earlier Executive Committee discussions, notably at its forty-ninth session which considered "*International Solidarity and Burden-sharing in All its Aspects: National Regional and International Responsibilities for Refugees*"³ as its annual theme. It is also based on practical experience gained in various forms of burden or responsibility-sharing, and explores a series of measures and mechanisms for a more predictable framework for international cooperation. The proposals it contains are intended to assist States and UNHCR in developing a "tool kit" for use in varied combinations and forms in diverse situations, so as to allow a more predictable, effective and fair sharing of the burdens and responsibilities arising from a mass influx. Elements for discussions are included in **bold print**, at the end of each sub-section.

4. **It is proposed that, as suggested in this paper, States agree upon a checklist of possible collective responses to situations of mass influx and that UNHCR works with States to develop and elaborate the modalities of how such measures and mechanisms should be activated and implemented.**

¹ Conclusion No. 89 (LI), (A/AC.96/944, para.23).

² 1951 UN Convention Relating to the Status of Refugees, preamble, para. 4; 1967 United Nations Declaration on Territorial Asylum, Art. 2(2); United Nations Charter, Arts. 1(1),1(3), 55; 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa of the Organization of African Unity, Art. II(4); 1987 Addendum to the Bangkok Principles on the Status and Treatment of Refugees.

³ A/AC.96/904

II. MEASURES FOR BURDEN AND RESPONSIBILITY-SHARING

5. As outlined in several Executive Committee Conclusions,⁴ international cooperation to share the burdens and responsibilities of mass influx situations can take many forms. It includes assistance and support at all stages of the displacement cycle, although the main focus of the measures described below is on addressing problems arising after flight. Burden and responsibility-sharing aspects of the solutions phase will also be examined further under the third theme of the Global Consultations, relating to the search for protection-based solutions.

A. Material assistance

6. Prompt material and in-kind assistance, including the provision of personnel with appropriate skills, is especially vital in the early stages of a mass influx. UNHCR's emergency capacity is geared to enable the organization to respond efficiently and effectively to emergencies, including those involving mass influx. This is enhanced by stand-by agreements with more than a dozen governmental organizations and non-governmental organizations (NGOs) covering a wide range of support, services and relief items. Recent emergencies in which UNHCR has been involved have also revealed the need for the organization to strengthen its capacity to manage security in volatile situations of high risks to refugees and staff.

7. A greater number of States and other actors could be encouraged to participate in establishing stand-by arrangements to strengthen preparedness for mass influx emergencies and enhance local capacity, expertise and flexibility. In particular, States could help develop and participate in arrangements to assist affected States and UNHCR in providing security in refugee-populated areas, especially where host governments lack the capacity to do so themselves.

B. Financial assistance

8. Financial support from States and other donors represents an important tool of burden or responsibility-sharing in mass influx situations and can help to offset expenditure incurred by countries of first asylum. Financial assistance for refugee-hosting States has generally been provided both from UNHCR's budget and on the basis of interagency appeals relating to a particular situation.

9. The European Union's (EU) European Refugee Fund offers a unique example of advance funds committed among a particular group of States.⁵ The Fund can be used, amongst other things, to compensate EU States for expenditure resulting from a sudden mass influx of refugees or to evacuate the refugees from a third country to the EU.

10. States should ensure the full funding of UNHCR's annual budget. They could also examine the possibility of financial support measures at a global or regional level. Such funds should be clearly defined as to the particular refugee needs they are designed to meet,

⁴ EXCOM Conclusion No. 22 (XXXII) of 1981 on the protection of asylum-seekers in situations of large-scale influx (A/AC.96/601); Conclusions No. 15 (XXX) of 1979 (f) and (g), (A/AC.96/572, para. 72 2); No. 52 (XXXIX) of 1988, (A/AC.96/721, para. 24); No 61 (XLI) of 1990 (g), (A/AC.97/760 para. 20) No. 77 (XLVI) of 1995 (o), (A/AC.96/860, para.19); No. 80 (XLVII) of 1996, (a), (A/AC.96/878, para. 22); No. 85 (XLIX) of 1998 (o) and (p), (A/AC.96/911, para. 21), and No. 89 (LI) of 2000, (A/AC.96/944, para. 232).

⁵ European Council Decision of 28 Sept. 2000 establishing a European Refugee Fund, Official Journal L/252, 6 Oct. 2000, p. 12.

C. Long-standing refugee populations

11. In States which host a large population over many years, as for instance, Pakistan and the Islamic Republic of Iran which accommodate large numbers of Afghan refugees, financial and other assistance can offer a crucial link between emergency measures and durable solutions. It is important for the international community to give full recognition to the burden these countries assume, often for many years.

12. Financial support together with a broader understanding and acknowledgement of the problems faced by countries in Africa resulted from the two International Conferences on Assistance to Refugees in Africa (ICARA I and II) of 1981 and 1984. These sought to enable States outside the region to provide expertise and funds for development-oriented assistance to achieve self-sufficiency and durable solutions for refugees. Similarly, financial commitments from outside Central America were accessed through the 1989 International Conference on Central American Refugees (CIREFCA) and proved essential in enabling the return and rehabilitation of refugees and displaced persons, or their integration elsewhere. More recent examples include that of the Stability Pact in South-East Europe, that has sought to mobilize external resources for reconstruction and rehabilitation after the devastation caused in that region through prolonged conflict and forced displacement. In a broader context, the Brookings Process has sought to offer opportunities of bridging the gap between humanitarian assistance and long-term development notably in certain countries in Africa.

13. Countries of asylum hosting large numbers of refugees should be given full recognition of the burden they have assumed. States should examine the role of particular forms of financial assistance as means of sharing burdens and responsibilities in the search for solutions to protracted refugee situations. States should also seek to identify other forms of support which could be offered to countries of first asylum, as well as linkages with broader economic, development and other concerns these countries may have, such as debt relief.

D. Resettlement

14. In the 1970's and 1980's, the resettlement of refugees proved an important burden or responsibility-sharing mechanism in resolving the situation of Indochinese refugees in South-East Asia. In addition to extensive resettlement places secured for Vietnamese, Cambodians and Laotians arriving in neighbouring States, a special programme was devised to address the needs of those rescued at sea by ships flying flags of convenience. Called the Disembarkation Resettlement Offers (DISERO) and launched at an international conference in 1979, this scheme allowed the refugees to disembark in countries of first asylum, until such time as they were resettled. It was later followed by a companion Rescue at Sea Resettlement Offers (RASRO) scheme for Indochinese refugees. The strength of DISERO and RASRO lay in the collective guarantee of Western States to resettle Vietnamese refugees rescued at sea against a pool of pre-established resettlement quotas. Subsequently, under the Comprehensive Plan of Action (CPA) adopted in 1989, resettlement was used as one component of a comprehensive set of measures, described further below.

15. Since then, the resettlement mechanism has evolved through an elaborate consultation process involving governments, NGOs and UNHCR, and has become an essential element of a comprehensive refugee protection strategy. Although resettlement is primarily of benefit to individual refugees, it can also have the effect of enhancing protection and asylum prospects for an entire refugee population. While meeting the needs of refugees whose life, liberty, safety, health or other fundamental human rights are at risk, resettlement can also reduce the strain imposed on receiving States, both in terms of sheer numbers and of the political pressure they may face. (This issue will also be examined further under the third theme of the Global Consultations)

16. A recent suggestion that draws on the experience of traditional countries of resettlement, such as the United States, Canada and Australia, has been for the establishment of an EU-wide resettlement programme. Under such a programme, an agreed number of refugees – and possibly others in need of protection – would be identified in their own regions and brought to the territory of the EU for resettlement. The criteria used to determine the eligibility of refugees under such a programme would be crucial. If “integration potential” were narrowly defined or other kinds of migration criteria applied, this would undermine the crucial function of resettlement as a vital protection mechanism for those in particular danger and as a burden or responsibility-sharing tool. It would also be essential that such “off shore” processing for resettlement not be used to block the admission of individual asylum-seekers for assessment “on shore”, since this would undermine the right to seek asylum.

17. Closer attention should be given to the relationship of resettlement with other solutions and as a burden and responsibility-sharing tool. More specific measures should be undertaken to expand resettlement opportunities, to apply greater flexibility in acceptance using UNHCR criteria, including for long-standing refugee problems, and to increase and consolidate the capacity of more States to offer resettlement opportunities. The possibility of creating additional resettlement pools, as a particular response mechanism in specific situations, should be further explored.

E. Other solution-oriented approaches

18. In devising burden and responsibility-sharing measures, the international community should recognize the importance of addressing durable solutions at an early stage, and the need to gain the commitment and cooperation of the country of origin. Efforts by the international community to help resolve conflicts and facilitate voluntary return are also crucial. Assistance can, in addition, include the promotion of coexistence, reconciliation, rehabilitation and reconstruction in the country of origin, the development of civil society, practical measures such as mine clearance to enable return, and broader economic development aid.

F. Humanitarian evacuation or transfer

19. The sudden influx of a large number of refugees can present particular security or other problems for the receiving State, endangering the continuation of admission and first asylum. In such situations, burden or responsibility-sharing measures may involve the physical transfer of refugees on a temporary basis, pending a durable solution. Examples of such tools are the humanitarian evacuation (HEP) and humanitarian transfer (HTP) programmes for Kosovo Albanian refugees implemented in 1999.

20. Evacuations under the HEP were made from The former Yugoslav Republic of Macedonia to 28 countries outside the region. Drawing on an exceptional set of circumstances, this programme attempted to relieve pressure on The former Yugoslav Republic of Macedonia and assist the continued admission of refugees at the border. A high media profile and a strong coalition of States prepared to share the burden were key to the size and success of the programme, notwithstanding some practical, logistical and other problems in its implementation. The proximity to developed countries with the capacity to mount the evacuation programme was also an essential factor.

21. A smaller-scale HTP scheme was initiated simultaneously within the region but failed to attract large numbers, partly because of the ongoing HEP programme. Humanitarian transfer can have the advantage of being less disruptive for the individuals concerned, making eventual return easier than in the case of evacuation outside the region. On the other hand, containing refugees within the region can aggravate other problems, notably those of security.

22. Another possible example of evacuation as a burden and responsibility-sharing would be the temporary evacuation of specifically targeted groups or individuals to States within the region, in accordance with the wishes expressed by these groups or individuals. Under such a scheme, States outside the region could work in partnership with those directly concerned by helping to meet the living costs of those evacuated, share expertise in asylum matters and, if subsequently necessary, provide resettlement places should return prove impossible. Such measures should not, however, undermine the right to seek asylum elsewhere.

23. **The possible establishment of a pool of States prepared to offer places in situations where humanitarian evacuation or transfer is appropriate, should be examined. The types of situations which would benefit most from evacuation or transfer from the country of asylum are likely to be those which pose a significant and immediate threat to the lives and physical integrity of the refugees, and in which voluntary repatriation or other solutions would be possible at a later stage. The precise criteria for determining such situations, appropriate modes of operation, agreed standards of treatment, and the process and criteria for their closure, would need to be identified in advance.**

24. **A pre-agreed, quota-based system based on generous criteria would allow an immediate response to urgent protection and security needs. It would also allow UNHCR and States to develop appropriate administrative and logistical systems in advance, and to trigger immediate implementation as soon as the need arose. Such a scheme should, however, be regarded as a "contingency measure", for exceptional situations, and not as a substitute for first asylum.**

III. PROCEDURAL MECHANISMS FOR BURDEN AND RESPONSIBILITY-SHARING

25. Experience has shown that initiating and implementing burden or responsibility-sharing measures depends largely on strong political commitment, adequate financial resources, and effective mechanisms and procedures. Many successful burden and responsibility-sharing measures, particularly those taking a comprehensive approach to refugee problems, have resulted from a meeting of interested and concerned parties, frequently triggered by a request from the countries of first asylum or by UNHCR.

26. An interesting example was the CPA initiated by interested States and UNHCR. Adopted at an international conference in 1989, the CPA's objective was to resolve a protracted refugee problem through a set of interlocking and interdependent actions by the country of origin, countries of first asylum and of resettlement, donors, UNHCR and other organizations. Implementation was monitored through a steering committee chaired by UNHCR and led to regular reviews, as well as a coordinated effort to resolve problems.

27. Another example of a comprehensive approach was the CIREFCA process. A conference agreed measures to address the consequences of the mass displacements caused by the long-running conflicts in Central America. The process allowed governments in the region to prepare projects facilitating and consolidating return, and to present them to international donor conferences, which in turn pledged financial and other support from outside the region. The CIREFCA framework strengthened the establishment of peace, the realization of common interests, cooperation between agencies, and permitted NGOs and civil society to make valuable contributions to the peace process.

28. **As these experiences demonstrate, the key procedural elements for burden and responsibility-sharing include a multilateral approach, a broad range of actors, and a multifaceted, comprehensive strategy to devise burden and responsibility-sharing measures which provide protection and solutions through the use of the tools identified above. The procedures for how best**

to bring the necessary actors together and to devise comprehensive strategies would benefit from closer examination.

29. Other issues for further reflection concern the possible role of the Executive Committee, and how the subsequent multilateral process should be steered. In this context, the process of defining and implementing the appropriate burden and responsibility-sharing response and the criteria to be applied could be clarified.

IV. CONCLUSION

30. In situations of mass influx, it is at present a "coalition of the willing" which addresses problems as they arise. Through measures and mechanisms as suggested above, it should be possible to create a true partnership of States in which are recognized the mutually reinforcing benefits of operating together, within a common regime, to address these issues more predictably and equitably. The proposals outlined in this paper seek to strengthen existing international responses to the mass influx of refugees by making them more predictable, so as to enable States to address such situations more promptly and effectively. They favour a multilateral approach involving many States with varying perspectives, so that measures taken secure broad acceptance, and burdens and responsibilities can be shared more fairly. Such an approach will require, as precondition, a broad agreement on the relevant structures and mechanisms.