"Towards a global compact on refugees"

Thematic discussion 1
Past and current burden- and responsibility-sharing arrangements
Palais des Nations (room XVII), Geneva, 10 July 2017

Concept paper

I. Introduction

1. The New York Declaration for Refugees and Migrants (New York Declaration), adopted by the United Nations General Assembly in September 2016,[1] called for the High Commissioner for Refugees, in consultation with States and other stakeholders, to develop a global compact on refugees for inclusion in his annual report to the General Assembly in 2018. As part of this process, and as outlined in its "roadmap" document,[2] the Office of the United Nations High Commissioner for Refugees (UNHCR) will, among other initiatives, convene a series of thematic discussions in the second half of 2017 to inform the development of the global compact on refugees, and specifically its "programme of action".[3]

2. The first of these discussions will be held on 10 July 2017 in Geneva. It will focus on past and current burden- and responsibility-sharing arrangements.

II. Objectives of thematic discussion 1

3. One of the key issues addressed by the New York Declaration is burden- and responsibility-sharing: that is, the idea that the countries and communities that host large numbers of refugees should be supported in doing so by the international community.[4] The adoption of the New York Declaration represented a milestone in this regard, containing for the first time in decades a strong concrete statement of international commitment:

> We underline the centrality of international cooperation to the refugee protection regime. We recognize the burdens that large movements of refugees place on national resources, especially in the case of developing

[1] New York Declaration for Refugees and Migrants, Resolution adopted by the General Assembly on 19 September 2016, A/RES/71/1, available from: http://www.unhcr.org/57e39d987.
[2] UNHCR, "Towards a global compact on refugees: a roadmap", 17 May 2017, available from: http://www.unhcr.org/58e625aa7 (the roadmap).
[3] As set out in the roadmap, the global compact on refugees will consist of two parts: (i) the comprehensive refugee response framework, as agreed by States in annex I to the New York Declaration, supplemented by preambular and concluding paragraphs; and (ii) a programme of action that sets out actions that can be taken to underpin the comprehensive refugee response framework and to ensure its full implementation.
[4] Various terms are often referred to when discussing the principles and mechanisms that are the subject of this paper. These include international solidarity, burden-sharing, responsibility-sharing, and international cooperation. For the purposes of this paper, the expression "burden- and responsibility-sharing" is preferred in line with the language used in the New York Declaration, and should be seen as encompassing all these principles and the arrangements designed to implement them. See further, Volker Türk and Madeline Garlick, "From Burdens and Responsibilities to Opportunities: the Refugee Response Framework and a Global Compact on Refugees" (2016) 28 (4) *International Journal of Refugee Law* 656.

countries. To address the needs of refugees and receiving States, we commit to a more equitable sharing of the burden and responsibility for hosting and supporting the world's refugees, while taking account of existing contributions and the differing capacities and resources among States.[5]

4. Since its foundation, the international refugee regime has been predicated on burden- and responsibility-sharing between States, reflecting the reality that refugee challenges are inherently transnational and cannot be addressed by any one State alone. The need for international cooperation to share the burdens of granting asylum to refugees is referred to in the preamble of the 1951 Convention relating to the Status of Refugees, as well as regional instruments, such as the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention), the 1984 Cartagena Declaration on Refugees, and the Treaty on the Functioning of the European Union. The importance of burden- and responsibility-sharing in responding to refugee challenges has also been emphasized in numerous General Assembly resolutions and conclusions adopted by consensus by UNHCR's Executive Committee.[6]

5. Over time, a number of burden- and responsibility-sharing arrangements have also been put in place to respond to specific large-scale refugee situations, including protracted situations. The programme of action that the High Commissioner proposes will build on good practices and lessons learned from these examples, in order to implement the commitments contained in the New York Declaration and to make future comprehensive responses to large-scale situations more predictable and equitable.

6. Against this background, this first thematic discussion will provide an opportunity to analyse current and previous burden- and responsibility-sharing arrangements in order to:

- take stock of past and present arrangements in different regions;
- "unpack" the elements of each of these arrangements and their commonalities and differences;
- identify which have been most effective in terms of protecting refugees while sharing burdens and responsibilities more equitably among States, and which have had less impact; and
- draw together a set of actions, good practices and lessons learned for States and other actors that could inform the development of the programme of action.

III. Burden- and responsibility-sharing arrangements in practice

7. Participants in thematic discussion 1 will review a number of specific examples of past and current burden- and responsibility-sharing arrangements which are set out below, and extrapolate from them possible ideas for the programme of action of the global compact on refugees. While interventions on other arrangements are welcome, the following examples have been selected for their geographical and

[5] New York Declaration, para 68. See also para 1 of annex 1, "Comprehensive refugee response framework".

[6] Most recently, the conclusion of the Executive Committee on international cooperation from a protection and solutions perspective, No. 112 (LXVII) 2016, available from: http://www.refworld.org/docid/57f7b5f74.html.

contextual diversity and their potential relevance in identifying elements for the programme of action.

(a) Past examples of burden- and responsibility-sharing arrangements

The Comprehensive Plan of Action for Indochinese Refugees (CPA) (1989)

8. Starting in the late 1970s, a number of multilateral arrangements were developed to address the large numbers of refugees leaving the Lao People's Democratic Republic and Viet Nam, principally by sea, including the Rescue-at-Sea Resettlement Offers Scheme (known as "RASRO") and the Disembarkation Resettlement Offers Scheme ("DISERO"). By the late 1980s, however, departures increasingly consisted of people without international protection needs. The CPA was adopted in June 1989. Its objectives were to protect refugees from the Lao People's Democratic Republic and Viet Nam, while discouraging further departures for non-protection related reasons. A key feature of the CPA was a series of interlocking commitments made by countries of origin, countries of first asylum and resettlement countries to process and provide solutions for refugees (as well as migrants). It included measures in countries of origin such as mass media campaigns to discourage departures for non-protection related reasons and orderly departure migration programmes to provide alternative avenues to leave the Lao People's Democratic Republic and Viet Nam legally. At the same time, temporary protection and refugee status determination was provided for new arrivals in countries of first asylum in the region, on the understanding that those determined to be refugees would be resettled in third countries. Support for the return of people found not to be refugees was provided through economic assistance for reintegration in countries of origin and counselling. The CPA involved close cooperation between UNHCR and the International Organization for Migration, and the establishment of a steering committee for coordination and follow-up. Over 1 million refugees were given temporary asylum in South-East Asia and then resettled in countries outside the region.[7]

The International Conference on Central American Refugees (1989)

9. By the late 1980s, about 3 million people were estimated to have been displaced in Central America following decades-long interlinked civil conflicts in Guatemala, El Salvador and Nicaragua. This included some 150,000 recognized refugees and 900,000 undocumented people in refugee-like situations. Regional peace negotiations resulted in 1987 in the Esquipulas II agreement, which established a roadmap for peace in Central America and, together with the 1984 Cartagena Declaration on Refugees, recognized that resolving the large-scale displacement situation in the region was an integral part of the peace initiative. Efforts to find a regional response to displacement were bolstered in 1989 by the signing of the Declaration of the International Conference on Central American refugees (CIREFCA). CIREFCA was conceived as a regional process, not just a one-

[7] Further information: UN General Assembly, "Office of the United Nations High Commissioner for Refugees: International Conference on Indo-Chinese Refugees: Report of the Secretary-General", A/44/523, 22 September 1989, available from: http://www.refworld.org/docid/3dda17d84.html; Richard Towle, "Processes and Critiques of the Indo-Chinese Comprehensive Plan of Action: An Instrument of International Burden-Sharing?", (2006) 18 (3/4) *International Journal of Refugee Law* 537.

off event, with the aim of finding durable solutions for displaced people through an integrated development approach, closing the "gap between relief and development". The process explored, in a comprehensive manner, all three durable solutions for refugees. It also addressed possibilities for return to areas of origin or local integration for internally displaced people, and formulated development projects to address the needs of displaced persons as well as host communities.[8] One core feature of CIREFCA was the engagement of many actors: governments of affected States, donor governments and organizations, United Nations agencies and non-governmental organizations, and in particular the cooperation between UNHCR and the United Nations Development Programme (UNDP). The process included specific follow-up mechanisms to involve all key actors in building consensus. CIREFCA raised approximately US$ 422 million and helped over 134,000 displaced Central Americans, mostly refugees, return to their areas of origin or integrate locally.[9]

Humanitarian Evacuation Programme (HEP) and Humanitarian Transfer Programme (HTP) (1999)

10. Following the outbreak of conflict in the Federal Republic of Yugoslavia in late March 1999, more than 850,000 refugees fled from Kosovo[10] across borders, mainly to Albania and the former Yugoslav Republic of Macedonia. In April 1999, the former Yugoslav Republic of Macedonia, concerned about the potentially destabilizing effects of a large influx of refugees, requested a system of international burden-sharing be put in place. The former Yugoslav Republic of Macedonia agreed to continue to admit refugees on the understanding that some would then be evacuated to third States on a temporary basis. By the end of the emergency, almost 96,000 refugees had been temporarily evacuated from the former Yugoslav Republic of Macedonia to 28 countries through the Humanitarian Evacuation Programme (HEP). Within the region, a Humanitarian Transfer Programme (HTP) was established, through which an additional 1,400 persons were transferred from the former Yugoslav Republic of Macedonia to Albania. In both countries, UNHCR, the World Food Programme, other international organizations, inter-governmental organizations, and numerous non-governmental organizations worked together to

[8] CIREFCA also included reference to an expert legal document which outlined a set of principles and criteria by which States were to be guided in their treatment of refugees: CIREFCA, "Principles and Criteria for the Protection of and Assistance to Central American Refugees, Returnees and Displaced Persons in Latin America", January 1990, available from: http://www.refworld.org/docid/4370ca8b4.html.

[9] Further information: UN General Assembly, "Office of the United Nations High Commissioner for Refugees, International Conference on Central American Refugees: Report of the Secretary-General", 3 October 1989, A/44/527, available from: http://www.refworld.org/docid/3ae68f404.html; Jeff Crisp and Andrew Mayne, "Review of the CIREFCA Process", 1 May 1994, EVAL/CIREF/14, available from: http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3bd410804&query=Review%20of%20the%20CIREFCA%20Process; Megan Bradley, "Unlocking Protracted Displacement: Central America's 'Success Story' Reconsidered", August 2011, Working Papers Series No. 77, Refugee Studies Centre, University of Oxford, available from: https://www.rsc.ox.ac.uk/files/publications/working-paper-series/wp77-unlocking-protracted-displacement-central-america-2011.pdf.

[10] All references to Kosovo in this document shall be understood in the context of Security Council Resolution 1244 (1999).

provide food, water, shelter, sanitation and emergency assistance. UNHCR also provided support to Albanian families hosting refugees, including cash grants.[11]

(b) Current examples of burden-sharing and responsibility-sharing arrangements

Syria refugee response (*2012*)

11. The conflict in the Syrian Arab Republic began in March 2011. By June 2017, more than half of the Syrian population (21 million) had been displaced, including over 5.5 million refugees. The vast majority of Syrian refugees have sought protection in neighbouring countries, notably Egypt, Iraq, Jordan, Lebanon and Turkey. These host countries have demonstrated extraordinary leadership and generosity, including by seeking to provide refugees with access to their national education and healthcare systems, as well as to the labour market. An early regional response mechanism, the "regional refugee plan", was established in 2012 by UNHCR, in close consultation with host governments and over 150 partners. As the conflict became more protracted, the regional response evolved in support of government-led national responses and, by 2014, the need to ensure adequate support to host communities, alongside refugees, had become an integral component. From 2015, the response developed into a combined "regional refugee and resilience" plan with UNDP joining UNHCR as co-coordinator. Under successive regional plans, international assistance in excess of US$ 11 billion has been provided. The practice of having annual international conferences (Kuwait, London, Brussels) and launches (Berlin, Helsinki) specifically devoted to the Syria crisis has helped to maintain momentum and attention by the international community.[12] From the early days of the crisis, UNHCR advocated for direct international development financing to be provided to host countries. Socio-economic impact assessments conducted by host governments and development partners, as well as poverty and targeting analysis by UNHCR and its partners, were valuable tools. The establishment of the concessional financing facility by the World Bank in 2016, offering loans at concessional rates to refugee-hosting countries, was a significant milestone. Resettlement and complementary pathways for admission to third countries have also been key elements of the Syria refugee response, with pledges to provide 250,000 places having been made by over 30 countries since 2013.[13] The Syria refugee response has demonstrated the importance of preparedness and early mobilization of humanitarian, resilience, development and structural support to host countries experiencing large-scale refugee arrivals. Efforts to ensure that this support complements national development strategies in host countries and is grounded in

[11] Further information: UNHCR, "Updated UNHCR Guidelines for the Humanitarian Evacuation Programme of Kosovar Refugees in the Former Yugoslav Republic of Macedonia", 11 May 1999, available from: http://www.refworld.org/docid/3ae6b31b7b.html; UNHCR, "Kosovo emergency", UNHCR Global Report 1999, available from: http://www.unhcr.org/3e2d4d5f7.pdf; Michael Baruticiski and Astri Suhrke, "Lessons from the Kosovo Refugee Crisis: Innovations in Protection and Burden-sharing", (2001) *Journal of Refugee Studies* 14 (2) 95.

[12] See, e.g., "Supporting Syria and the Region", London 2016, available from: https://www.supportingsyria2016.com/#page-top.

[13] A high-level ministerial meeting in Geneva in March 2016 helped to sustain this effort with the goal of providing resettlement places or complementary pathways to 10 per cent of the registered Syrian refugee population by the end of 2018. Further information is available at UNHCR, "Pathways for admission of Syrian refugees", available from: http://www.unhcr.org/pathways-for-admission-of-syrian-refugees.html.

reliable refugee registration, collection of socio-economic data and vulnerability assessments for both refugees and local communities have also been key features.[14]

Solutions Strategy for Afghan Refugees to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries (SSAR) (2012)

12. As at the end of 2016, some 2.5 million Afghan refugees lived in more than 70 countries around the world. An overwhelming majority, around 95 per cent, were hosted by the Islamic Republics of Iran and Pakistan. As part of the search for lasting solutions, a quadripartite consultative process was initiated in 2011, involving the Islamic Republics of Afghanistan, Iran and Pakistan and UNHCR. This led to an international conference on the Solutions Strategy for Afghan Refugees to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries (SSAR), which was co-hosted by UNHCR and the Government of Switzerland in May 2012. The conference endorsed both the SSAR and the establishment of follow-up mechanisms for implementation. Designed as a regional multi-year initiative, the SSAR aims to help facilitate voluntary return and sustainable reintegration, while also providing assistance to host countries. As part of the SSAR, governments, along with more than 50 humanitarian and development partners, developed three country-specific portfolios of projects in 2014. Designed around education, health, and livelihoods, the portfolios offer an integrated framework for multilateral cooperation. In 2015, the high level segment during UNHCR's 66th Executive Committee meeting was dedicated to the Afghan refugee situation, in a bid to renew global attention and strengthen coordinated action to promote durable solutions for Afghan refugees through protection, assistance and development. An updated SSAR Afghanistan portfolio of projects was also launched in 2015.[15]

Brazil Declaration and Plan of Action (2014)

13. In December 2014, 28 countries and three territories in Latin America and the Caribbean adopted the Brazil Declaration and Plan of Action, committing to work together to maintain the highest standards of protection at the international and regional levels, to implement innovative solutions for refugees and displaced people and to end the difficult situation faced by stateless people in the region. The Brazil Declaration and Plan of Action was adopted on the 30th anniversary of the 1984 Cartagena Declaration on Refugees, a landmark regional refugee instrument, and built on other regional frameworks, including the 1994 San José Declaration on Refugees and Displaced Persons and the 2004 Mexico Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America.

[14] Further information: "Syria Refugee Operational Update", 1 June 2017, available from: http://www.unhcr.org/59411f1c4; Regional Joint Secretariat (UNHCR and UNDP), "Compendium on Good and Innovative Practices in the Regional Response to the Syria Crisis", 2015, available from: https://data2.unhcr.org/en/documents/details/44372; "Regional Refugee & Resilience Plan 2017-2018 in Response to the Syria Crisis", available from: www.3rpsyriacrisis.org; "Syria Regional Refugee Response", Inter-agency Information Sharing Portal, available from: http://data.unhcr.org/syrianrefugees/regional.php.

[15] Further information: UNHCR, "Afghan Solutions Strategy", available from: http://www.unhcr.org/afghan-solutions-strategy.html; UNHCR, "International Conference on the Solutions Strategy for Afghan Refugees to support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries, 2-3 May 2012, available from: http://www.unhcr.org/afghanistan/solutions-strategy.pdf.

Acknowledging the new realities forcing people in Latin America and the Caribbean to flee their homes and seek protection, the Brazil Declaration contained a number of new strategies and commitments to enhance opportunities for local integration, resettlement and voluntary repatriation, as well as regional labour mobility and alternative migration programmes. The Brazil Plan of Action was further complemented by the San José Action Statement of July 2016, which saw nine countries making substantial commitments to strengthen the protection of people fleeing Central America.[16]

Response for Somali refugees including the Intergovernmental Authority on Development (IGAD) Special Summit on Protection and Durable Solutions for Somali Refugees and Reintegration of Returnees in Somalia and the London roundtable on supporting refugees and their host communities in the Horn and East Africa (2017)

14. The situation in Somalia is one of the world's most protracted humanitarian crises, now in its third decade. An estimated 1.8 million people are internally displaced and nearly 900,000 Somalis are refugees in the region. In March 2017, the Intergovernmental Authority on Development (IGAD) Assembly of Heads of State and Government held a Special Summit on Somali Refugees in Nairobi, Kenya. The resulting Nairobi Declaration on Durable Solutions for Somali Refugees and Reintegration of Returnees in Somalia (Nairobi Declaration) contains detailed commitments by IGAD Member States on protection and solutions, while also calling for the international community to demonstrate burden- and responsibility-sharing. An action plan, the "Nairobi comprehensive plan of action for durable solutions for Somali refugees", was adopted as an annex to the Nairobi Declaration. The important commitments in the Nairobi Declaration are intended to strengthen protection in countries of asylum, support host communities and deliver durable solutions. Commitments include incorporating refugees in national development plans and facilitating development assistance and investment in refugee-hosting areas. The Nairobi Declaration was complemented in May 2017 by the outcomes of the London roundtable on supporting refugees and their host communities in the Horn and East Africa, organized by the United Kingdom of Great Britain and Northern Ireland together with UNHCR, in collaboration with IGAD and the European Union. Participants emphasized the need to accelerate efforts to create conditions conducive for voluntary and sustainable return to Somalia, as well as to increase resettlement opportunities and expand complementary pathways for third country admissions. The importance of implementing and properly funding all commitments made in the Nairobi Declaration was also reiterated. The Nairobi Declaration and its action plan together constitute a comprehensive refugee response framework for the Somali refugee situation, in line with the New York Declaration. They build on existing initiatives, strategies and frameworks, including the 2014

[16] Further information: Brazil Declaration and Plan of Action, 3 December 2014, available from: http://www.refworld.org/docid/5487065b4.html; UNHCR, "The Brazil Declaration", available from: http://www.unhcr.org/brazil-declaration.html; San José Action Statement, 7 July 2016, available from: http://www.refworld.org/docid/57a8a4854.html.

Global Initiative for Somali Refugees and the State-led Durable Solutions Initiative in Somalia.[17]

III. Questions for discussion

15. In their contributions to thematic discussion 1, panellists and delegations are encouraged to reflect on the following questions:

- What are the key elements of these past and present examples of burden- and responsibility-sharing (e.g. use of resettlement; innovative funding arrangements; stakeholders and partnerships, including between humanitarian and development actors)?
- How do these elements relate to the four pillars of the comprehensive refugee response framework (i.e. reception and admission, support for immediate and ongoing needs, support for host countries and communities, durable solutions)?
- What are some of the main achievements and strengths of each arrangement? What good practices can be identified?
- What are some core gaps and lessons learned that should be addressed?
- Could some of the elements identified from past or current burden- and responsibility-sharing arrangements be adapted for use in other situations today?
- Based on past experiences, what measures can be taken to ensure that all key stakeholders, at the local, national, regional and international levels, take part in burden- and responsibility-sharing arrangements?
- What mechanisms could be envisaged to ensure adequate and predictable burden- and responsibility-sharing in the future? How could such mechanisms be reflected in the programme of action?

IV. Participation and organizational matters

16. Thematic discussion 1 will take place on 10 July 2017, from 10.00am to 6.00pm at the Palais des Nations (room XVII) in Geneva. It will be co-chaired by UNHCR's Assistant High Commissioner for Protection Volker Türk, and His Excellency, Ambassador Pedro Afonso Comissário of Mozambique.

17. After the opening of the session, a panel of four experts will make brief presentations on the contemporary examples of burden- and responsibility-sharing arrangements outlined in Part II (b) above. The panellists will remain on the podium throughout the day to help guide the discussion. The floor will then be opened to delegations who wish to intervene. The past examples of burden- and responsibility-sharing arrangements outlined in Part II (a) above will be discussed at a side event during the lunch period (1.30pm – 3.00pm). This discussion will be led by a separate panel of experts.

[17] Further information: Nairobi Declaration on Durable Solutions for Somali Refugees and Reintegration of Returnees in Somalia, 25 March 2017, available from: https://igad.int/communique/1519-communique-special-summit-of-the-igad-assembly-of-heads-of-state-and-government-on-durable-solutions-for-somali-refugees.

18. Invitations to participate in thematic discussion 1 will be extended to Member and Observer States of the United Nations, partners in the United Nations system, intergovernmental and non-governmental organizations, refugees, academics, and other experts. Delegations are requested to register their attendance by email to hqgovern@unhcr.org by close of business on Monday 3 July 2017. Kindly note that available seating will be limited. In order to facilitate the broadest possible participation, each State delegation will be allocated one seat at the desk and one seat behind. Other stakeholders will also be requested to limit their participation to two people per organization.

19. The event will be livestreamed on http://webtv.un.org/.

20. Short written contributions for thematic discussion 1 may be sent to refugeecompact@unhcr.org. These will be posted online via www.unhcr.org/refugeecompact.

20. Thematic discussion 1 will be conducted as an interactive dialogue. There will be no formal speakers list or rules of procedure, and delegates will have limited time (three minutes) to make short interventions. Interpretation will be provided in English and French. At the end of the thematic discussion, there will be a one-hour summary panel to bring together the key outcomes. A brief summary report of thematic discussion 1 will be made available via www.unhcr.org/refugeecompact. Statements will not be attributed, and the summary will reflect the key points and overall conclusions of the discussion. This will, in turn, feed into subsequent thematic discussions and the stocktaking at the High Commissioner's Dialogue on Protection Challenges in December 2017.

UNHCR
19 June 2017