

INFORMAL RECORD
MEETING OF THE CONVENTION PLUS
CORE GROUP ON THE STRATEGIC USE OF RESETTLEMENT
(Geneva, 24 November 2003)

I. INTRODUCTION

1. The first meeting of the Convention Plus Core Group on the Strategic Use of Resettlement took place at UNHCR Headquarters on 24 November 2003, co-chaired by Canada, as Facilitating State for the resettlement strand of Convention Plus, and UNHCR. The Core Group comprises the following States and organizations/entities: Australia, Brazil, Denmark, Ecuador, Egypt, Iran, Kenya, Nepal, the Netherlands, Nigeria, South Africa, Sweden, Tanzania, Thailand, the United Kingdom, the United States of America, the European Commission, and the International Organization for Migration. The agenda for the meeting (FORUM/CG/RES/01) is attached as Annex I.¹ (This informal record should be read in conjunction with the background document prepared by Canada referred to in section IV, below.)

II. OPENING REMARKS

2. Canada opened the meeting by recalling that the background document it had prepared built on the exploration of the strategic use of resettlement by the Working Group on Resettlement, pursuant to the Agenda for Protection, and Canada's background document for the High Commissioner's Forum meeting of June 2003. In follow-up to the Forum, Canada and UNHCR had identified a representative group of countries that have an interest in resettlement, either as countries doing resettlement or refugee-hosting countries from which resettlement is taking place or will commence in future. Canada hoped that the discussion would lead to consensus on understandings in the background document and contribute to the drafting of text language, to be examined by the Core Group in subsequent meetings, describing undertakings regarding resettlement for use in situation-specific agreements. The Canadian Co-Chair stressed that the discussions would be limited to resettlement, since other strands of Convention Plus would be examined in other processes and venues.
3. On behalf of UNHCR, the Director of the Department of International Protection recalled that resettlement had three broad goals. It is a protection mechanism for individuals, a durable solution for individual refugees and groups in protracted refugee situations, and a manifestation of burden-sharing. The High Commissioner was keen on partners in resettlement undertaking commitments on which he could rely in developing strategic plans of action to address specific situations. If not legally binding, he would like the commitments to carry political weight in relation to resettlement, secondary movements, application of development assistance to promote a more favorable environment for refugee protection and durable solutions, as well as in the area of burden-sharing. UNHCR was therefore seeking understandings and commitments regarding resettlement of a sort to which UNHCR

¹ All documents referred to in this informal record will be made available on UNHCR's website at www.unhcr.org, under "Protecting Refugees".

could revert to in addressing specific refugee situations. The Director observed that such undertakings would, in and of themselves, constitute a special agreement under Convention Plus.

II. TERMS OF REFERENCE

4. The proposed terms of reference (FORUM/CG/RES/02) were adopted without amendment, on the understanding that participation in the Core Group should not be taken to mean willingness to participate in situation-specific agreements. In response to a suggestion that participation in the Core Group be open-ended, the Canadian Co-Chair recommended that this question be addressed once the group had reached an outcome. He recognized that this outcome would need to be endorsed more widely. In the interim, the Co-Chairs would be open to discussing with States requesting to join the Core Group their interest in resettlement. UNHCR observed that the question of what action the High Commissioner's Forum and the Executive Committee of the High Commissioner's Programme (ExCom) would take in response to the outcomes of the Core Group would very much depend on the final product.

III. CONSIDERATION OF CANADA'S PAPER

5. The Canadian Co-Chair observed that the background note for the meeting (FORUM/CG/RES/03) had no status, but was instead intended to lay the foundation for the drafting process which the Core Group would embark upon in subsequent meetings. The first part of the paper, entitled "general principles and joint undertakings", could be viewed as preamble language for such a text, whereas the remainder of the document should be looked at as potential operative paragraphs. Following a short presentation on each segment of the paper and a discussion period, the Canadian Co-Chair would check whether the Core Group members had a shared understanding of the meaning and intent. Draft text language would later be explored on this basis. Non-governmental organizations (NGOs) had been invited to comment on the background note and their suggestions would also be considered (FORUM/CG/RES/04).
6. During the ensuing discussion, the Director of the Department of International Protection encouraged the participants to react in broad lines to the background document. The aim was not to re-write it. Rather, participants were urged to comment on the suggested undertakings contained in it in such a way as to facilitate the drafting of what would be submitted to the next Core Group meeting – that is a draft Convention Plus generic "agreement" on resettlement. She added that no one particular application should be given to the term "special agreement". It was not a term of art. It did not, for example, only attach to documents of a legal character. It did not connote any one particular form of document.

A. General Principles and Joint Undertakings

7. *Resettlement should be undertaken in a spirit of co-operation, partnership and consultation.* One delegation observed that it saw merit in discussing elements of the Convention Plus initiative in "bite-sized" portions, but encouraged the Core Group not to lose sight of the overall picture. It would have preferred a more situation-specific approach from the outset, but wished to make a positive contribution to the discussions. Another delegation recommended including the notion that resettlement is one of many components of an effort to resolve a refugee situation and offered to articulate its partnership role in a clearer way throughout the document.

8. In response to a question, the Canadian Co-Chair said that consultations could be launched on the initiative of a host State. On the question of how specific the drafters should be, there was agreement on maintaining the broad nature of the general principles and joint undertakings. The listing of the potential issues to be subject to consultations contained in the third paragraph was found useful by way of example, although one delegation saw merit in expanding the list to include the sorts of caseloads to be covered, UNHCR's role in identifying them, the role of registration, etc. It was suggested, however, that the listing be introduced by language such as "including on such things as", so as not to be overly prescriptive. The Canadian Co-Chair emphasized that while UNHCR should lead the consultative process, text language should commit States to participate in it.
9. *All parties will undertake to maintain transparency in order to achieve the internationally agreed objectives of the resettlement process.* In response to a question from one delegation, the Canadian Co-Chair pointed out that "parties" does not include refugees. There was broad agreement that the sharing of information with the refugee population should be approached with caution, in order to avoid generating undue expectations. The potential risks could be limited if a proper approach were put in place, such as targeted information campaigns. It was agreed that parties should ensure the *integrity* of the resettlement process, a notion which could not be entirely covered by "transparency". The Canadian Co-Chair summed up the discussion by asking the Secretariat to prepare one paragraph on information sharing generally and another applicable in a specific situation.
10. *All parties will endeavor to deliver the resettlement programme in as cost-effective a way as possible.* A number of delegations requested that any reformulation of the text take into account that domestic data-protection legislation can constrain the full exchange of information. One delegation requested that the notion of cost-effectiveness be framed in terms of the benefits it would have for resettlement generally. A number of delegations expressed concern about the passage relating to the choice of the location of refugee sites by the host country. The Canadian Co-Chair summed up the discussion by saying that the focus should be on the efficiency of the resettlement effort and not cost-effectiveness *per se*. There was also broad agreement on the need for candidates for resettlement to be located in areas accessible for the purpose of resettlement processing, with the caveat that much depends on the capacity of the host State.
11. *All parties should commit to continue to be part of a Convention Plus comprehensive arrangement.* One delegation suggested weaving in a clear undertaking to provide a fixed number of places in the context of a situation-specific agreement. A number of States disagreed with the passage affirming that refugees should be dealt with in the order in which they arrive in the country of asylum, feeling that this was an extraneous consideration. The Canadian Co-Chair suggested that the ideas contained in this general principle should be divided into separate paragraphs: one focusing on the commitment of all parties to remain in an agreement until a durable solution has been reached and a second on the commitment of parties to determining whether there are pull factors being created and tackling them.
12. *All parties agree to diversify resettlement opportunities.* There was broad agreement to split the ideas in the section into two clauses: one calling on States to diversify resettlement opportunities and another containing a commitment to provide technical assistance to increase the capacity of emerging resettlement countries. One delegation welcomed the reference to support for creating or consolidating resettlement capacity and suggested that the 1989 Comprehensive Plan of Action for Indo-Chinese Refugees (CPA) provides helpful language in this regard. The Canadian Co-Chair

then introduced the NGO suggestion regarding the right of refugees to be consulted and, as far as possible, participate in the decision-making process and asked whether there was a need for a specific paragraph on consulting refugees. A number of delegations suggested that this issue should go under the broad principle of transparency.

13. In summing up this discussion, the Canadian Co-Chair said that, where appropriate, parties should engage the refugee population and provide counseling on the range of options open to them. The refugee population should also be consulted on how information regarding resettlement opportunities should be disseminated. It was agreed that the methodology or mechanism should be developed for consulting refugee leaders or spokespersons on the types of information that would be useful to disseminate to the broader refugee population.

B. Resettlement Country Undertakings

14. *Apply selection criteria for individual refugees or groups of refugees, in keeping with the humanitarian nature of refugee protection and the search for durable solutions.* In introducing this undertaking, Canada said that inclusion of broader eligibility criteria going beyond the 1951 Convention definition could give added flexibility and also help to provide durable solutions for residual populations in protracted refugee situations. One host country welcomed this approach, observing that a group methodology, if applied to groups with no prospects for durable solutions, can provide solutions for certain groups and show that progress is being made. If flexible and open selection criteria are added, it felt this would be a highly positive development. One delegation said that it could not commit to doing group resettlement *per se*, since individual screening would always be required, but could accept the notion of *group identification*. It was agreed that the need for individual screening does not preclude the resettlement of groups. Another delegation did not wish to preclude State screening for issues such as identity and possible grounds for exclusion under Article 1F of the 1951 Convention. Some States were in favor of group identification, whereas others said they were constrained by national legislation. It was suggested that any reference to selection criteria should add the qualification “in accordance with national legislation”. A number of States said they would have no difficulty with a multiyear resettlement commitment.
15. The Canadian Co-Chair drew attention to the NGO proposal, suggesting that States move away from national selection criteria towards acceptance of international (UNHCR) standards. A number of delegations said they could not support the NGO proposal. On the NGO language suggesting that refugees not be discriminated against on the basis of protected characteristics, another delegation observed that it was legitimate for resettlement States to factor into the equation of choice the fact that it had already resettled refugees of a given origin. The Canadian Co-Chair suggested that the question of differing, and hopefully complementary, criteria could be addressed in an annex to any situation-specific agreement. The body of the agreement would commit to resettling a particular group and the annex could set out each country’s criteria and any limitations regarding the group envisaged.
16. The Canadian Co-Chair summed up the discussion by saying that there was a consensus about making a reference to selection criteria being in accordance with national legislation. Another paragraph should identify the population which is the subject of the resettlement effort. With regard to the commitment to resettle, the drafters could prepare a paragraph that could have a commitment to resettle refugees until a durable solution is realized for the entire population and another with language that resettlement would be conducted over an “x”-year timeframe.

17. *Recognition of the integrity of the family unit.* The Canadian Co-Chair drew attention to the NGO position, recommending that States use the UNHCR definition of social and economic dependency when defining family units, as well as the UNHCR definition for family reunification. The NGOs also suggested that the definition of “family” applied be that of the refugee, and not left solely to the discretion of the country of resettlement. Delegations described their own practice, rooted in legislation, which provides greater or lesser flexibility as a function of whether the extended family is identified on the spot, whether an application for reunification is made once the refugee has been resettled, whether secondary movement is involved, whether the family members satisfy the 1951 Convention definition or self-reliance criteria, etc. There was no objection to the principle of the integrity of the family unit *per se*. The Canadian Co-Chair summed up the discussion by suggesting that the drafters prepare two options: one committing countries to family unity based on the nuclear family approach and another on the extended family approach, using language like “best efforts”.
18. *Provide secure legal status.* There was a consensus on the need to provide a secure legal status to resettled refugees, which includes fundamental rights.
19. *Provide appropriate assistance to facilitate integration into the receiving country.* Following the introduction of this principle by Canada, the Canadian Co-Chair drew attention to the NGO proposal. There was a consensus on the usefulness of the principle and on the advisability of keeping it as broad as possible, without being overly descriptive. Some were happy to see examples in the text, noting that specific State initiatives relating to integration could be described in an annex to any agreement. It was noted that a number of States provide integration-related assistance before arrival and including a reference to “pre-departure and post-arrival activities” was therefore suggested. The idea that integration is a joint effort between the resettlement country and the resettled refugee should also be included. A reference to such assistance coming from both “governmental and non-governmental sources” was deemed useful.
20. *Engage in regular consultations to determine the number of refugees and types of caseloads to be resettled by each country.* One delegation recalled that regular consultations already take place in the context of the Working Group on Resettlement and the Annual Tripartite Consultations and that these fora provided a ready-made venue. There was broad consensus that consultations would be advisable and should be based on an overview of resettlement needs and a strategic analysis furnished by UNHCR. It was agreed that it should be a process involving host countries as well. It was suggested that this section be moved to become part of general provisions referring to consultations.
21. *Protection of individual refugees is an integral element of all resettlement programmes.* There was a broad consensus that this undertaking should be included in the preamble. It was agreed to amend the passage encouraging resettlement countries to continue providing *sufficient* resettlement places for refugees not covered by comprehensive arrangements, since the notion of “sufficiency” was unclear. Regarding the NGO suggestion that countries should provide targeted development assistance, the Canadian Co-Chair noted that such language focusing on development assistance was outside the purview of the Core Group.

C. Host Country Undertakings

22. *Commitment to the principle of non-refoulement.* One delegation suggested that this undertaking should be included in the preamble. The Canadian Co-Chair observed that the second paragraph's emphasis on encouraging host countries to continue to provide asylum to those rejected for resettlement argued in favor of keeping this in the operative section. There was a consensus that the text should be more specific in its references to international law to ensure that it would be without prejudice to the existing international obligations of States.
23. *Cooperation in the identification and registration of a refugee population.* There was broad recognition of the importance of registration in profiling the refugee population and helping to determine their prospects for durable solutions. However a number of host countries pointed out that it was important to bear in mind host country capacity and refrain from implying that there can be no resettlement without prior registration.
24. *Facilitate ongoing access to a refugee population by resettlement countries, UNHCR and international organizations.* In response to a question about the meaning of the term "pre-screening", the Canadian Co-Chair observed that "case preparation" might be a better term. This refers to the first set of paperwork for those who wish to apply for asylum. The UNHCR Co-Chair pointed out that, in the case of UNHCR and implementing partners, resettlement is an ongoing activity which may require a continued presence, not just access.
25. *Facilitate the movement of refugees within the host country, as required by the resettlement process.* The Canadian Co-Chair explained that the intent was for the host country to authorize refugee movements within the country for the purpose of resettlement processing or actual departure; not that the host country would need to pay for such travel.
26. *Facilitate the departure from the host country of persons selected for resettlement.* There was a broad consensus on the notion that departure is an integral part of the resettlement process, but a concern was expressed about the ability of a host country to issue exit permits or travel documents to refugees who have not been registered. The Canadian Co-Chair explained that, in practice, the paperwork generated by the resettlement process often sufficed for host countries to provide exit permission, where needed.
27. Regarding the additional NGO paragraph, suggesting that the host country should also provide access to land and resources for refugees for whom local integration is the desired and appropriate durable solution, the Canadian Co-Chair observed that development-related issues are simply not part of the Core Group's responsibility.

D. UNHCR Undertakings

28. *Conduct systematic needs analysis and search for comprehensive and durable solutions.* There was a consensus that UNHCR should lead a thorough analysis of those refugee situations that could benefit from a comprehensive durable solutions arrangement and recommend an overall strategy, although such an analysis can start at the request of a host country or other partners. One delegation asked States also to consider the logistical and operational constraints faced by partner organizations in implementing the resettlement component of any such plan, so that expectations are not created which cannot later be met. Another suggested that UNHCR's undertakings be placed at the beginning of the operational portion of the text.
29. *Develop mechanisms for identifying groups and populations for resettlement.* In response to a question, the Canadian Co-Chair said that the clause is one in which

UNHCR would lead a collective process of identifying groups for resettlement and setting priorities, in an environment characterized by mixed populations of refugees and limited places for resettlement. UNHCR observed that this would complement the ongoing process of identifying individuals with protection concerns and durable solutions needs. It was suggested that a reference to NGOs and other partners be included and that UNHCR also work with host countries in the application of the group methodology.

30. *Apply tools and techniques for registration.* There was agreement to move up the final sentence and place it first, in order to change the balance of this undertaking. Describing the broader use and importance of registration and including a commitment to share information, insofar as possible, to avoid duplication of efforts, was also suggested. The Canadian Co-Chair observed that this undertaking was narrowly drafted and could be broadened to include identifying the necessary infrastructure and capacity for resettlement processing. There was consensus on the need to expand the analysis of overall infrastructure needs for carrying out resettlement processes and ensuring that responsibilities are agreed for putting this in place.
31. *Co-ordinate resettlement activities, including facilitation of regular consultations among parties.* There was agreement to reflect the ideas contained in this undertaking in two paragraphs: one focusing on the need for UNHCR to have a strategic overview and the second to ensure ongoing project management for each resettlement initiative under Convention Plus. It was suggested that the Working Group on Resettlement could provide an opportunity for side meetings to focus on implementation of specific agreements.
32. *Provide support to the host country and resettlement country.* Delegations observed that there was no reference to refugee status determination or to UNHCR's overall protection responsibilities. The UNHCR Co-Chair suggested that a reference to UNHCR's protection responsibilities could be included in the preamble. It was also suggested that it be made explicit that nothing in the agreements would prejudice UNHCR's protection responsibilities. The Canadian Co-Chair recommended placing the third and fifth undertakings together, especially if the third were to expand the analysis of overall infrastructure needs for carrying out resettlement processes and ensuring that responsibilities are agreed for putting this in place.
33. The Canadian Co-Chair introduced the three additional undertakings suggested by NGOs: providing training on the strategic use of resettlement to UNHCR and implementing partner field staff, creating field positions for Durable Solutions Officers, and providing information to refugees affected by any comprehensive agreement. He observed that the latter undertaking is linked to the notion of transparency to be placed in the preamble. On this point, there was a broad consensus that UNHCR in consultation with host States and other partners, will undertake to develop an information strategy to inform refugees regarding the resettlement process and their options and all parties will cooperate in implementation of this strategy. Further, it was agreed that there is a need to develop a paragraph calling on UNHCR to undertake a detailed analysis of the need for staff to support the objectives of a Convention Plus agreement involving resettlement, including any training needs, and develop a plan of action to meet those needs. There was also a consensus on crafting a paragraph to commit host States to take action regarding situations of exploitation of refugees or fraudulent or corrupt behavior by refugees as well as by host-country officials and other nationals with regard to the resettlement process.

34. Additional comments included the need to craft language that would invite the involvement of States that are not host countries or resettlement countries, yet may wish to provide resources and lend support. One delegation recalled that the CPA contained helpful language in this regard. Another delegation suggested including language about UNHCR and partners proposing the most effective modality to implement the resettlement effort, in order to give States an opportunity to seek economies and make the most effective use of resettlement processing infrastructure.

E. Implementing Partner Undertakings

35. There were only a few comments on this entire section. Several delegations emphasized the need for resettlement countries and UNHCR to coordinate their activities so as to avoid a multiplicity of implementing partners to the detriment of overall efficiency and cost-effectiveness. The Canadian Co-Chair referred to the NGO proposal, which suggested including a reference to the role of implementing partners in identifying and advocating for durable solutions for refugees. It was agreed this paragraph should contain an undertaking by NGOs to advocate for solutions so as to balance implementing partner undertakings. While one organization wished to see it explicitly referred to as a “preferred partner”, a proposal was made to set out partners in specific agreements rather than spell them out in a framework of understandings. It was also emphasized that “partners” are not limited to NGOs, but can be any institution that is not a Government. The Canadian Co-Chair suggested that there be a paragraph including a commitment by implementing partners to doing what is set out in a specific agreement.
36. In response to a suggestion to reflect the course of action *vis-à-vis* non-refugees, one delegation felt dealing with this question would be inappropriate, whereas another recalled that the CPA contained helpful wording in this regard but suggested that the language be drafted as broadly as possible. The Canadian Co-Chair also observed that some work would be required in future to find “bridging” language for issues straddling all segments of Convention Plus.

IV. NEXT STEPS

37. The Canadian Co-Chair described the next steps as being the drafting of language that would look like an agreement setting out the understandings reached and suggestions made on the basis of the Canadian non-paper. This text language would serve as the basis for the next discussion of the Core Group in late January or mid-February 2004. Depending on progress, a third meeting might be scheduled before the next High Commissioner’s Forum meeting on 12 March 2004 in order to complete a document for presentation to the Forum. A short report describing the points of consensus and suggestions made during the meeting would accompany the next text before the beginning of the end-of-year holidays.

V. ANY OTHER BUSINESS

38. One delegation asked what avenues would be available to discuss issues such as how UNHCR might go about identifying caseloads or dealing with caseloads that are not 1951 Refugee Convention refugees. The UNHCR Co-Chair suggested that the Core Group not get bogged down on question of process. He encouraged delegations to reflect on the question of how the group could expand ownership of its outcomes in the run-up to the Forum and how members of the group could champion their work with the broader community of stakeholders. Since the Core Group was pioneering work within the Convention Plus framework, he asked for creative ideas that could support work in other strands of Convention Plus as well.

