

RESETTLEMENT AND CONVENTION PLUS INITIATIVES:

“How can resettlement be used in the context of possible *Convention Plus* agreements and what elements related to resettlement might be considered for inclusion in possible *Convention Plus* agreements”?

A Discussion Paper Prepared by Canada**Introduction to Resettlement:**

1. This paper is intended to stimulate discussion as to how resettlement could be used in the context of possible Convention Plus agreements. Canada sees the strategic use of resettlement as one important component of Convention Plus agreements providing the potential for comprehensive durable solutions for refugee situations. We acknowledge that there may be other perspectives on the importance of resettlement and that other issues related to other durable solutions will need to be further explored at subsequent Forums. Canada supports and endorses the discussion paper on the strategic use of resettlement prepared by the Working Group on Resettlement (WGR). The Canadian Forum paper builds on the WGR discussions and on the lessons learned from the Canadian resettlement experience. It seeks to identify the potential elements of any Convention Plus Agreement with a resettlement component.
2. In Canada's view, the value of including a resettlement component in Convention Plus agreements would be to maximize the comprehensive provision of durable solutions through enhanced burden and responsibility sharing arrangements. As discussed during the Global Consultations, resettlement serves three equally important functions. *First*, it can be a tool to provide international protection and meet the special needs of individual refugees whose life, liberty, safety, health or other fundamental rights are at risk in the country where they have sought refuge. *Second*, it can be a durable solution for larger numbers or groups of refugees, alongside the other durable solutions of voluntary repatriation and local integration. *Third*, it can be a tangible expression of international solidarity and a responsibility-sharing mechanism, allowing States to help share each other's burdens, and reduce problems impacting the country of first asylum.¹
3. The Agenda for Protection calls for the more efficient use of resettlement both as a protection tool and as a durable solution.² Convention Plus agreements including a resettlement component would permit the further implementation of these goals. One can envisage the use of resettlement in conjunction with other durable solutions as part of a comprehensive

¹ See *Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities*, EC/GC/02/07 of 25 April 2002. The document is available on the Global Consultations page of UNHCR's website at www.unhcr.org.

² Goal 5(6)

solution to a particular refugee situation. The WGR paper elaborates further on these possible scenarios.³

4. The WGR paper suggests that Convention Plus provides an opportunity for States to consider whether a more strategic and concerted use of resettlement would address refugee needs more effectively while yielding broader benefits. Resettlement is a discretionary activity on the part of states, based on their support for the principle of international solidarity and their commitment to burden and responsibility sharing. The multilateral agreements envisaged by Convention Plus could allow resettlement to be used more strategically in order to maximize the benefits that can be derived from its use. This does not mean that Convention Plus agreements would supplant either asylum or existing resettlement activities. Rather, they would complement these activities, by providing access to comprehensive durable solution arrangements for specific contexts and caseloads.
5. Canada's resettlement programme places emphasis on refugees and people in refugee-like situations by providing durable solutions to persons in need of protection. While examining the strategic use of resettlement in the context of possible Convention Plus agreements, one should not lose sight of this protection role.
6. A Convention Plus Agreement providing a comprehensive durable solution to a refugee situation should consider the availability of all three durable solutions: repatriation, local integration and resettlement.
7. Convention Plus does not mean that resettlement will become the principle durable solution for the majority of refugee situations. Voluntary repatriation is generally viewed as the preferred durable solution if for no other reason that it signals a positive change in the conditions of the country of origin. When considering the role of resettlement in the provision of durable solutions, it must be recognized that given the limited number of resettlement countries and the costs of resettlement, only a minority of the world's refugees can be expected to secure a durable solution through third country resettlement.
8. Notwithstanding this limitation, resettlement can play an important catalytic role in encouraging comprehensive durable solutions. Regardless of the particular context of a Convention Plus Agreement, resettlement may help lead to the political climate and political will necessary in the countries of asylum and countries of origin to foster cooperation on voluntary repatriations and local integration.
9. Participation in a Convention Plus agreement, would not obviate states obligations under the 1951 Convention and 1967 Protocol. Convention Plus is intended to compliment these international instruments.
10. By definition, a solution is only durable when it results in a refugee having a secure legal status in the country providing the durable solution. In Canada's experience, this has meant,

³ See WGR paper, paragraphs 7 and 8.

in most cases, the right to permanent residency, with the possibility of eventually having the right to nationality.

11. Another important element in any comprehensive durable solution arrangement will be the timely registration of the entire refugee population. It will facilitate determination as to what durable solution would be most appropriate for any particular individual, as well as facilitating family reunification. While recognizing the importance of registration in any particular comprehensive agreement, a note of a caution that the development of a global registration system, while desirable, is not a necessary pre-condition to Convention Plus agreements.

Potential Elements of a Resettlement Component of a Convention Plus Agreement:

12. Ideally, Convention Plus agreements would encompass all three available durable solutions. Any resettlement component would likely not constitute the only solution for an entire refugee population; but could be used to benefit a portion of the population in a country of first asylum. Further discussions are required on issues related to the implementation of durable solutions, including, self-reliance, effective protection, and development assistance to facilitate local integration. Without wanting to pre-judge the outcome of these discussions, it is our position that these will also be important considerations if Convention Plus agreements are in fact to result in comprehensive solutions to refugee situations.
13. At the point when resettlement is being considered as a durable solution, the host country or designate has already made a determination that the person is in need of protection and has undertaken the obligation of non-refoulement. The emphasis is therefore on finding durable solutions within a reasonable timeframe. It has been Canada's experience that resettlement can be effectively managed as an administrative process. As a result resettlement decisions are not subject to the same level of formality as asylum determinations. In addition to being less costly to administer, this allows for quicker decision-making than is the case for asylum adjudication.
14. The first step towards the successful implementation of resettlement in a multilateral context lies in a clear and common understanding of what is resettlement. This clear understanding is necessary both to manage expectations among participating states and for continued public support of resettlement programs in resettlement countries. For Canada, resettlement is an orderly selection of refugees through an administrative decision making system that includes various steps that assure the refugee's integration needs are met.
15. A second important element is that of partnership. Canada and other resettlement countries have successfully worked with partners such as the UNHCR and civil society organizations in receiving countries. Partners can assist in making referrals about refugee cases to States and help in conducting medical examinations, transportation arrangements, orientation and integration support. An important element of partnership arrangements and possible Convention Plus agreements is the need for joint prior analysis and assessment of resettlement needs. Parties to a resettlement component of a Convention Plus agreement

should participate in early and periodic joint assessments of the resettlement needs of a given refugee population, based on solid registration data.

16. The adoption of clear selection criteria is another important element of any resettlement component of a Convention Plus agreement. The inclusion of protection-based criteria that go beyond the 1951 Convention to include subsidiary grounds for protection has, in Canada's experience, helped to make resettlement a more flexible tool.
17. Canada along with some other resettlement countries is considering the value of a group processing approach to resettlement. The Resettlement Section of the UNHCR is developing a "group methodology" that could be useful in this regard. It should be noted that identification of a potential group for resettlement would not necessarily be inconsistent with countries applying their own inadmissibility screening criteria on an individual basis. The potential for group processing is an issue that could be explored further in the context of a resettlement component of a particular Convention Plus agreement.
18. Resettlement as an orderly process allows for the application of medical exams and the application of screening tools on other admissibility requirements such as security and criminality. The speed and effectiveness of a screening system involved in processing large numbers of cases is very much dependent on the availability and reliability of information and screening tools.
19. It is not necessary that all criteria be harmonized. Where for instance, one resettlement country is willing to accept certain cases that another resettlement country would not, this may form part of the content of a burden-sharing agreement. For example, one resettlement country may agree to take more cases, whereas another resettlement country would take fewer cases but would include persons with serious medical conditions within this group. Importantly, in the context of Convention Plus agreements, mindful of the catalytic role of resettlement, resettlement countries should not apply overly rigid screening criteria.
20. Under Convention Plus agreements, where there are certain persons who would be inadmissible to all resettlement parties, e.g. as a result of their participation in war crimes, or terrorism, states could work together to design and apply tailored screening tools focused on providing the essential information needed to identify those individuals. Such inadmissibility decisions, however, should not equate with impunity. There must be legal mechanisms in place to deal with the actions of war criminals, terrorists and other serious criminals.
21. In any Convention Plus Agreement resettlement countries must be prepared to make multi-year resettlement commitments. In order, for example, to find durable solutions to a protracted refugee situation it may take several years to find durable solutions for all the refugees concerned. A comprehensive approach risks failure where voluntary repatriations or local integration are continued until the situation is resolved, but where resettlement numbers remain to be negotiated each year. Again, this is an issue that can be explored further in the context of a case-specific Convention Plus agreement.

22. In Canada's experience, in any situation where resettlement could be used as part of a comprehensive solution there will always be the question of residual caseloads, or persons, where for a number of reasons, resettlement and voluntary repatriation as a durable solution is not available and local integration may be considered. Again, this is an important issue that will have to be addressed in subsequent discussions.
23. Currently only a limited number of countries engage in resettlement. Resettlement as a component of a broader comprehensive solution to a refugee situation, has the potential to encourage more countries to participate in providing durable solutions, including through resettlement.
24. Similarly, countries participating in the resettlement component of a Convention Plus agreement may be encouraged to resettle greater numbers of refugees, if they feel that they are in fact contributing, for example, to the actual resolution of a protracted refugee situation. Where this is the case, an important consideration will be the impact on the UNHCR's resources. Would a reallocation of resources be necessary? Or would additional resources have to be ear-marked?
25. Parties to any Convention Plus agreement providing a comprehensive durable solution arrangement would include at a minimum resettlement/donor countries, countries of first asylum and the UNHCR. Where voluntary repatriation is possible, countries of origin would also be parties. In this multi-party context, collective decision-making and burden-sharing including the provision of all three durable solutions between all participating states would be essential. This would include an early discussion on the part of participating resettlement countries to analyze the needs of caseloads and discussion to agree upon resettlement objectives.

Next Steps:

26. The first meeting of the High Commissioner's Forum provides an opportunity for the international community to begin identifying the elements of a framework for the more strategic and, hence, effective use of resettlement in the context of a Convention Plus agreement. Others that may be raised during discussion of the WGR report in the 27th meeting of UNHCR's Standing Committee in June 2003 will undoubtedly complement those offered in this paper. Following the Forum discussion, it is proposed that Canada and UNHCR co-lead consultations with interested States and organizations to follow-up on the Forum's deliberations on resettlement and elaborate the elements of a framework on resettlement that could be drawn upon for future Convention Plus situation-specific agreements with a resettlement component. The objective would be to identify a set of resettlement "tools" which can be drawn upon in specific Convention Plus agreements. Appendix A to this document sets out a preliminary list of what in Canada's view would be key considerations in developing such tools.

Appendix A: Summary of Key Considerations in any Resettlement Component of Convention Plus Agreements:

- *Resettlement is one of three available durable solutions and can play an important catalytic role in the context of Convention Plus.*
- *Solutions are only durable when they result in a refugee having secure legal status in the country providing the durable solution.*
- *As an administrative decision, resettlement can be a timely and cost efficient durable solution.*
- *The inclusion of protection-based criteria that go beyond the 1951 Convention would help to make resettlement a more flexible tool.*
- *In the context of Convention Plus Agreements, the screening criteria of individual countries can form the basis for burden sharing arrangements.*
- *Resettlement countries should be prepared to make a multi-year commitment.*