

**ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION**



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**STATUS AND TREATMENT OF REFUGEES**

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## **STATUS AND TREATMENT OF REFUGEES**

### **I. INTRODUCTION**

1. The item entitled “Status and Treatment of Refugees” was placed on the agenda of AALCO upon a reference made by the Government of Arab Republic of Egypt in 1963. Since then it has been under consideration at its several annual sessions and inter-sessional meetings. From the very beginning, AALCO has been working closely with UNHCR. One of the fruitful outcomes of such collaborative arrangements was the adoption of AALCO’s “Principles on Status and Treatment of Refugees” at its Bangkok session in 1966. Although these principles have no binding force, it reflected the practice followed by the Asian and African States in dealing with matters concerning refugees.

2. An addendum to the Bangkok Principles elaborating rights of refugees to return was adopted at AALCO’s eleventh session held in Accra in 1970. Another addendum elaborating the Principles on burden sharing was adopted at the 26<sup>th</sup> session in Bangkok in 1987. At the AALCO’s 35<sup>th</sup> session held in Manila in 1996, a proposal put forward by UNHCR’s representative to commemorate the 30<sup>th</sup> anniversary of the adoption of the Bangkok Principles was welcomed by the AALCO Member States. It took four years to accomplish that objective. AALCO at its New Delhi session in 2001 adopted the Revised Text of the Bangkok Principles on Status and Treatment of Refugees.

3. Apart from the adoption of the Bangkok Principles, two other important initiatives of AALCO related to refugee item were the preparation of model legislation on refugees and the concept of safety zones. It is a matter of great satisfaction that AALCO had always the benefit of active participation and assistance of UNHCR in developing its work programme on refugee matters. With a view to formalizing its long-established close relationship, a Memorandum of Understanding (MoU) was signed between the two organizations on 23 May 2002. The MoU, besides providing for exchange of documentation and mutual representation also envisages undertaking jointly, preparation of studies and holding of seminars and workshops on topics of mutual interest and concern.

4. At the AALCO’s 42<sup>nd</sup> session held in Seoul in 2003, the resolution adopted on the item (RES/42/3) recalled the resolution (RES/41/3) adopted at its forty-first session which directed the Secretary-General to explore the possibility of convening a workshop in cooperation with UNHCR, welcomed the initiative of the Secretary-General to convene a workshop in cooperation with UNHCR on 17 and 18 October 2003 in New Delhi.

5. The present report briefly covers recent developments in the field of international refugee law. In accordance with resolution RES/42/3, the AALCO Secretariat organized a two-day seminar in cooperation with UNHCR on 17-18 October 2003 in New Delhi on the topic of “Strengthening Refugee Protection in Migratory Movements”. Summary of

discussions of this seminar prepared by Mr. Wilbert Van Hovell, Deputy Director, Department of International Protection, UNHCR, Geneva, is annexed herewith.

## **II. GLOBAL CONSULTATIONS**

6. As part of the commemoration of the 50<sup>th</sup> anniversary of the 1951 Convention, the UNHCR took an important initiative in December 2000, termed as Global Consultations involving governments, intergovernmental and non-governmental organizations and experts and focused attention on matters concerning promotion of the implementation of the 1951 Convention as well as protection problems that are not adequately or clearly covered by the Convention. Following 18 months of discussions, UNHCR and States Parties adopted a joint Agenda for Protection.

### **A. Agenda for Protection**

7. The Agenda for Protection is intended to serve as a guide for concrete action to improve the protection of refugees and asylum seekers around the world. The agenda consists of two sections: the Declaration of States Parties and a Programme of Action.

8. The Declaration of States Parties was adopted unanimously by the States Parties to the 1951 Convention and/or its 1967 Protocol at the Ministerial Meeting of States Parties, organized jointly by Switzerland and UNHCR on 12-13 December 2001. This Declaration recognizes the enduring importance of the 1951 Convention and 1967 Protocol, reaffirms political commitment to upholding the values and principles they embody, and urges all States to consider ways to strengthen their implementation. It also affirms the need for closer cooperation between States Parties and UNHCR to facilitate UNHCR's duty of supervising the application of these instruments.

9. The Programme of Action, the other constituent of Agenda for Protection, identifies specific objectives and activities grouped according to six inter-related goals. These are:

#### **a. Strengthening Implementation of the 1951 Convention and 1967 Protocol.**

10. As the Convention and Protocol are the cornerstones of the international refugee protection regime, their implementation is considered to be the first step in improving protection of refugees and asylum seekers. The Programme of Action suggests that this can be done in myriad ways including, by working towards universal accession to the convention and Protocol, by improving domestic asylum procedures of States and bringing them in uniformity with other States. It also requires to offer other forms of protection to those who need it but may not be qualified under the 1951 Convention definition.

#### **b. Protecting Refugees within Broader Migration Movements.**

11. Apart from the movement of refugees there are other categories of people who move from one country to another. These include economic and other categories of migrants. However, there are limited ways through which migrants can move from one country to another and many persons who are not refugees try to enter countries as asylum seekers. Therefore, protection of refugees within broader migration movements can be achieved by encouraging States to develop migration management policies that do not jeopardize refugee protection and that promote a more positive environment for asylum by reducing strains on asylum seekers. The task also seeks UNHCR and International Organization for Migration, other intergovernmental agencies and States to collect more data on the nexus between asylum and migration. The Programme of Action further aims to better understand “push” and “pull” migration factors, i.e., factors that drive people out of their home countries and lure them to other countries. It further calls for combating human trafficking and smuggling and encourages States to accede to the 2000 United Nations Convention against Transnational Organized Crime and its Protocols.

**c. Sharing Burdens and Responsibilities more Equitably and Building Capacities to Receive and Protect Refugees.**

12. With a view to achieving this goal, the Programme of Action calls upon UNHCR to work with States, particularly first-asylum States, to develop specific burden-sharing agreements that would be applied in response to mass influxes and to resolve protracted refugee situations. The High Commissioner has termed this initiative and other related efforts “Convention Plus”<sup>1</sup>, since the intention is to build on the 1951 Convention by developing special agreements and multilateral arrangements to improve responsibility-sharing. States are also encouraged to make greater use of resettlement, both as a protection and burden-sharing tool, particularly in mass-influx situations.

**d. Addressing Security-Related Concerns more Effectively.**

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<sup>1</sup>. Convention Plus is an initiative announced by the High Commissioner for Refugees, Ruud Lubbers, in September 2002, following the conclusion of UNHCR's Global Consultations on International Protection. Its basic premise is that while the Refugee Convention remains an essential framework of refugee rights it “does not alone suffice”. There is a need to clarify the apportioning of responsibilities and to promote a better sharing of responsibilities by States, notably in the context of mass influxes and mixed migratory flows, as well as for durable solutions. Convention Plus seeks to create a basis on which States might negotiate “special agreements” to address issues which are said not to be adequately covered by the Refugee Convention. Convention Plus does not seek to revise the Refugee Convention but to build on it through the adoption of non-binding agreements between States. Subject to content they may in some cases be legally binding. In terms of content, Convention Plus seeks to develop comprehensive plans of action to ensure more effective and predictable responses to mass influx, to secure development assistance as a way of addressing burden-sharing arrangements, to bring about multilateral commitments for resettlement, and to find clarity on roles and responsibilities of states in the context of irregular and secondary movements. Convention Plus draws, as the legal basis for the special agreements that it proposes, on paragraph 2(b) of General Assembly Resolution 428(V) of 14 Dec 1950, and paragraph 8(b) of the UNHCR Statute. Their purpose is “the execution of any measures calculated to improve the situation of refugees falling within the competence of the Office and to reduce the number requiring protection”.

13. Security problems confronting refugees can take many forms. The breakdown in social and cultural structures and norms; the separation from and loss of family members and community support; and impunity for perpetrators of crimes and violence make refugees; particularly women and children, vulnerable. Refugee women and girls are often subject to specific forms of abuse, such as rape, abduction, trafficking, or demands for sexual favors in exchange for offers of protection, documents or assistance. To address security-related concerns more effectively, four objectives, together with accompanying activities, have been identified. They are:

1. The resourcing of States for securing the safety of refugees and for the separation of armed elements from refugee populations.
2. Keeping the Secretary-General and the Security Council seized with the issue.
3. Prevention of military recruitment of refugees, including refugee children.
4. Prevention of age-based and sexual and gender-based violence.

**e. Redoubling the Search for Durable Solutions.**

14. The Programme of Action encourages countries of origin, host States, UNHCR, humanitarian partners and refugees to integrate voluntary repatriation, local integration and resettlement into a comprehensive approach to finding durable solutions, particularly for protracted refugee situations. The Programme of Action recognizes that voluntary repatriation in conditions of safety and dignity remains the preferred solution for refugees. Resettlement is also considered as a vital tool for protection and also as an instrument of international solidarity and burden sharing. Local integration is considered to have proven instrumental in resolving the plight of particular refugees or groups of refugees. In this regard eight objectives have been identified. They are:

1. Realization of comprehensive durable solutions strategies, especially for protracted refugee situations
2. Improved conditions of voluntary repatriation
3. Strengthened cooperation to make repatriation sustainable
4. Local integration having its proper place as part of a comprehensive strategy for durable solutions
5. Expansion of resettlement opportunities
6. More efficient use of resettlement both as a protection tool and as a durable solution
7. Achievement of self-reliance for refugees
8. Rehabilitation of refugees-impacted areas in former host countries.

**f. Meeting the Protection Needs of Refugee Women and Refugee Children.**

15. The Programme of Action seeks States, UNHCR and other protection partners to ensure that refugee women participate equally in decision-making processes that affect their lives. It also envisages application of gender-sensitive approach while developing, implementing and evaluating programmes designed to assist refugees. It is observed that the international community and UNHCR have developed a wealth of international

norms, policies and guidelines to improve the protection and care of refugee women and refugee children.<sup>2</sup> However it is felt that there is a gap in the application and implementation. Thus, it is suggested that UNHCR will make sure that its Guidelines on Gender-related Persecution, Guidelines on the Protection of Refugee Women and Guidelines on how to prevent and respond to sexual and gender-based violence are widely disseminated and implemented. It is further encouraged to ratify the 1979 Convention on the Elimination of All Forms of Discrimination against Women and its 1999 Optional Protocol and the 1989 Convention on the Rights of the Child and its 2000 Optional Protocols on the Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography.

### **III. EXCOM 54<sup>TH</sup> SESSION**

16. Fifty-fourth session of the Executive Committee (ExCom)<sup>3</sup> of the UNHCR was held in Geneva, from 29 September to 3 October 2003. ExCom adopted four conclusions on protection issues covering major areas relating to refugee protection, namely, international protection, the return of persons found not to be in need of international protection, protection safeguards in interception measures and protection from sexual abuse and exploitation.

#### **A. General Conclusion on International Protection<sup>4</sup>**

17. This is a general Conclusion on international protection and it explicitly acknowledges the linkage between asylum issues and human rights. This Conclusion recalls the previous Conclusion No. 92 (LIII) endorsing the Agenda for Protection as a statement of goals and objectives. It welcomes the High Commissioner's "Convention Plus" initiative, while encouraging the High Commissioner and States to offer to facilitate "Convention Plus" agreements with a view to strengthening international protection regime.

#### **B. Conclusion on the Return of Persons Found not to be in Need of International Protection<sup>5</sup>**

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<sup>2</sup>. For eg. *An Independent Evaluation of the Impact of UNHCR's Activities in Meeting the Rights and Protection Needs of Refugee Children*, EPAU/2002/02 (May 2002) and *UNHCR Policy of Refugee Women and Guidelines on Their Protection: An Assessment of Ten Years of Implementation* (May 2002).

<sup>3</sup>. UNHCR began activities in January 1951. The Executive Committee of the High Commissioner's Programme did not exist until 1958. The Executive Committee held its first session early in 1959. To become a member of the Executive Committee, states must fulfill the following requirements:- be a member of the United Nations or one of its specialized agencies- be elected by ECOSOC- represent the widest possible geographical basis- have a demonstrated interest in and devotion to the solution of the refugee problem. The number of members grew from 25 in 1959 to 64 in 2003. Formal sessions are held in Geneva, in October each year. (Until 1967, there were two sessions yearly.)

<sup>4</sup>. No. 95 (LIV) - 2003

18. The Conclusion on the Return of Persons Found not to be in Need of International Protection – including asylum seekers who have been found not to be refugees – is the first of its kind and is of paramount importance. For many years there has been a debate about whether or not UNHCR should concern itself directly with this issue. However, last year, the ExCom cleared the way with the adoption of the landmark Agenda for Protection. There were also repeated requests by some States in this regard.

19. The Conclusion underlines that everyone has a right both to leave and return to his or her own country, and that States have an obligation to receive back their own nationals. The Executive Committee says it is "seriously concerned, as regards the return of persons found not to be in need of international protection, that some countries continue to restrict the return of their own nationals, either outright or through laws and practices which effectively block expeditious return."

20. The Conclusion also lays down certain safeguards, saying that the return of such people "should be undertaken in a humane manner, in full respect for human rights and dignity and that force, should it be necessary, be proportional and undertaken in a manner consistent with human rights law; and emphasizes that in all actions concerning children, the best interests of the child shall be a primary consideration."

21. The Conclusion underscores the importance of ensuring the sustainability of returns and of avoiding further displacements in countries emerging from conflict. In this context, the Conclusion notes that phasing the returns of people not in need of international protection "can contribute to this; while also recognizing that once a person found not to be in need of international protection has made an informed decision to return voluntarily, this should take place promptly."

### **C. Conclusion on Protection Safeguards in Interception Measures<sup>6</sup>**

22. The third conclusion relates to a specific topic is on Protection Safeguards in Interception Measures. This is a complex issue as there are significant differences in the international laws and practices relating to interception on land, air and sea and this complexity contributed to some of the measures being very general in nature.

23. Nevertheless, the Conclusion contains some important general principles. The acceptance of interception measures is clearly stated to be "without prejudice to international law, particularly international and human rights law."

24. The Conclusion lists a number of fundamentally important safeguards, including that "interception measures should not result in asylum seekers and refugees being denied access to international protection, or result in those in need of international protection being returned, directly or indirectly, to the frontiers of territories where their life or

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<sup>5</sup>. No. 96 (LIV) - 2003

<sup>6</sup>. No. 97 (LIV) - 2003



freedom would be threatened or where the person has other grounds for protection based on international law”.

25. The conclusion recognizes the emerging legal framework for combating criminal and organized smuggling and trafficking of persons, particularly the United Nations Convention against Transnational Organized Crime and its Protocols. It further emphasizes in this regard the references to the 1951 Refugee Convention and 1967 Protocol and the principle of *non-refoulement* in the savings clauses of both the Protocols.

26. In addition, the Conclusion spells out certain key elements of the 1951 refugee Convention, such as Article 31 which states that refugees should not be penalized for illegal entry or presence, and recommends that all state officials and other employees implementing interception measures should be trained on how to deal properly with people expressing international protection needs.

#### **D. Conclusion on Protection from Sexual Abuse and Exploitation<sup>7</sup>**

27. The Conclusion on Protection from Sexual Abuse and Exploitation was drawn up in an effort to address one of the most sordid threats facing refugees, especially women and children living in camps. It includes an extensive range of measures to be enacted by states, UNHCR, NGOs and other partners who work with refugees around the globe, with a strong emphasis on preventive measures and systems. It seeks to initiate training at all levels and implementation of guidelines and codes of conduct, as well as prompt investigation and accountability once abuses are found to have taken place. The conclusion also addresses such issues as the need to ensure that the camp management "is conducted in an equitable manner that empowers women, children and vulnerable groups and that the physical layout of camps is designed in such a way as to make such individuals less vulnerable to sexual abuse and exploitation”.

28. The Conclusion also recognizes that one of the core problems that can lead to sexual abuse and exploitation is lack of resources, and calls on the international community in cooperation with UNHCR and other international organizations to mobilize the resources necessary to ensure the provision of protection and material assistance as it is found since inadequate protection, or inadequate, inappropriate or poorly distributed assistance can increase the vulnerability of refugees and asylum seekers to sexual abuse and exploitation.

#### **IV. GENERAL COMMENTS**

29. The Conclusion of the ExCom on the return of persons found not to be in need of international protection is of immense significance as it extends the role of UNHCR to the return of persons also. Despite the fact that this Conclusion is in accordance with the Goal 2, Objective 7 of the Agenda for Protection, it needs to be looked at critically to

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<sup>7</sup>. No. 98 (LIV) - 2003

avoid diversion of focus of the institutions involved in the humanitarian work from the protectionist perspective to the rejectionist view.

30. The Conclusion on protection safeguards in interception measures is also of important nature in view of the recent developments in the international law making and the attitude of States towards asylum seekers. Adoption of the United Nations Convention against Transnational Organized Crime and its two Protocols against Trafficking in Persons and Smuggling of Migrants are intended to be crime control instruments and accordingly impose various border control measures. Though the savings clauses in both the Protocols refer to the 1951 Refugee Convention and the 1967 Protocol, it is essential that crime control measures under these Protocols should take utmost care while intercepting people at borders because many a time there are mixed flows of people and sometimes genuine asylum seekers approach traffickers and smugglers to cross borders. The issue of interception measures has attained much significance in the context of Australia's response towards asylum seekers on board Norwegian Freighter MV Tampa. In this case the Australian government's response and the "Pacific Solution" method adopted by them is considered as a cause of concern so far as the humanitarian responsibilities of international community are concerned.<sup>8</sup> Therefore the Conclusion adopted by the ExCom in this regard is of very significance as it is essential to safeguard the rights of asylum seekers and refugees in situations of crime control initiatives.

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<sup>8</sup>. On 26 August 2001, the Norwegian freighter *MV Tampa* rescued 438 people from a dilapidated Indonesian fishing boat in distress off Australia's Christmas Island in the Indian Ocean. Most of them were Afghan and Iraqi asylum seekers. When some of them insisted upon being taken to Australia, first the Australian and then the Indonesian governments denied them permission to land, although the *Tampa's* crew sent medical distress messages. As the two governments and Norway argued about their fate, they spent eight days in hot, crowded conditions on the *Tampa's* deck. Their widely-reported ordeal and subsequent changes in Australian refugee policy illustrated a serious disregard for human dignity by governments. At the same time, the *Tampa* incident highlighted the ruthlessness of people smugglers who exploit the desperation of asylum seekers and economic migrants alike by sending them on unsafe boats with false promises of acceptance by wealthy countries like Australia. In response to the *Tampa* incident, the government in Canberra resolved to no longer permit anyone to reach the Australian continent to exercise their right to seek and enjoy asylum in Australia unless they were carrying valid travel documents. Two Pacific countries, the Republic of Nauru and Papua New Guinea (PNG), as well as the International Organization for Migration (IOM) quickly accepted Australia's financial and aid incentives to detain asylum seekers in improvised, isolated camps run by the IOM. Australia has been meeting virtually all costs of establishing and maintaining detention camps in these countries, and of processing applications for refugee status. This new approach has become known in Australia as "the Pacific Solution".



## **Annex**

### **AALCO-UNHCR Seminar on “Strengthening Refugee Protection in Migratory Movements”, 17-18 September 2003, New Delhi**

AALCO in cooperation with UNHCR organized a two-day seminar on “Strengthening Refugee Protection in Migratory Movements” in New Delhi on 17-18 September 2003. The seminar comprised of three sessions: Migration and Refugee Protection in the Asian-African Context: Policy, Law And Practice; Strengthening Asylum Systems: Challenges and Legal Responses; and Asylum and National Security Concerns in a Refugee Context. Following is the summary of discussions prepared by **Mr. Wilbert Van Hovell**, Deputy Director, Department of International Protection UNHCR, Geneva.

#### **Summary of Discussions**

We have had rich and constructive discussions, preceded by thought provoking presentations, with a useful mixture of legal analysis and policy considerations. We have also listened to interesting accounts of the refugee situation and preoccupations in several countries, in particular China, Egypt, India, Kenya, Syria and Tanzania.

#### **A. Globalization and Migration**

Several references were made to increasing globalization, which, while promoting the movement of persons, good and services around the globe, has given rise to mixed migration rendering it at times difficult, but all the more essential, to distinguish between migrants and refugees. Migration and refugee protection have evolved as separate categories, historically and legally, and while recognizing the nexus, there was a consensus that the two themes ought to be dealt with distinctively.

Understanding was expressed for the concerns of States about sometimes, considerable illegal economic immigration. One of the concerns mentioned was the possibility of tension, with the local population and even between States. It was also noted, however, that migration can have many positive aspects for receiving countries and countries of origin, for example the considerable amount of remittances which migrant workers send home. Viewing migration solely from the perspective of modality of entry (legal or illegal), or from the perspective of national security, often overshadows attention to the causes of movement and the need to protect those who flee armed conflict or persecution. Negative perceptions of migration risk undermining the legal and moral commitment of States to protect persons in need of international protection.

Concerns were voiced by some delegates that asylum systems are sometimes exploited by economic migrants, i.e. those who are not genuinely seeking asylum. An emphasis on restrictive measures may compromise the protection of refugees, and increase recourse to smugglers and traffickers to gain entry into territory. Several participants felt that regulating migration in a way which would open channels for legal

migration, would help to avert recourse to illegal means or abusing asylum systems to gain entry. There was agreement that against a background of increasing economic migration, States should continue to ensure that the right to seek asylum is respected and that persons in need of international protection can be identified.

The Challenge for States is to address mixed migration by establishing effective refugee status determination mechanisms through procedures and policies, which would enable the filtering of refugees from migrants allowing those who need international protection to receive it. It was noted, as a positive development, that several countries in Africa have instituted refugee status determination procedures.

## **B. The 1951 Convention Relating to the Status of Refugees and the Refugee Definition**

Some participants felt that the refugee definition as conceived in Europe in the 1950s was rather narrow, and may not be sufficient to address mass flows of victims of armed conflict and generalized violence in the Asia and Africa regions (as indicated by the broader refugee criteria applied in later regional instruments). Several delegates referred to the difference in the type of refugee movements faced by Europe at the time when the refugee protection regime was originally conceived, which was individual in nature, and contemporary mass flows faced by countries in the developing world of Africa and Asia. Questions were raised as to whether the regime envisaged in the 1951 Convention was adequate to meet the problems related to mass influxes.

At the same time it was emphasized that any expansion of the definition as well as the possibility to grant humanitarian status should not dilute the refugee protection regime, embodied in the 1951 Convention, which remains of primary importance. As the example of Bosnia has shown, armed conflict and persecution may well coincide, and armed conflicts may therefore well generate refugees in the sense of the 1951 Convention in addition to persons fleeing the effects of generalized violence. It was noted that while individual refugee status determination procedures and judicial mechanisms were applied in industrialized countries, administrative procedures had proven useful in Africa and Asia to accord recognition on a group basis. It was also highlighted that determining refugee status is an exercise of national sovereignty, which however, needs to be conducted in accordance with international law.

## **C. Effective Protection and Quality of Asylum**

Several participants emphasized the need for a legislative framework and clear policies to deal with refugee issues, including instructions and guidance to border and local authorities on how to deal with persons seeking asylum. A legal framework could provide predictable guidance to all pertinent actors on treatment of refugees. It would enable the various categories or persons in need of international protection to be spelled out and differentiated. It was noted that where there is adequate protection, this will also help to reduce unnecessary and irregular secondary movements of refugees from one

country of asylum to another. Several participants mentioned that the principle of non-refoulement has the character of customary international law.

An issue was raised as to the standards of treatment which ought to be accorded to refugees in mass influxes and accommodated in camps. Whereas ethnic affiliations across borders often facilitate the hosting of refugees, the question arises as to which extent the standards of treatment foreseen in the 1951 Convention are applicable in mass influx situations. This matter might be worth reviewing. Concerns were voiced that standards should not be higher than those accorded to the local population. Several of you argued that public education and awareness building are crucial to maintain a tolerant and receptive environment and to explain, as the Assistant Minister of Egypt put it, that refugees have rights including in countries that are not party to the 1951 Convention. It was also pointed out that relief assistance should not merely sustain life, but enable refugees to lead a dignified life.

#### **D. National Security**

While participants acknowledged that refugee movements and asylum may have political dimensions of various sorts, the meeting expressed concern regarding the increasing negative impact on refugee protection of measures taken to enhance national security.

There was general acknowledgement that also in Africa and Asia, the post “September 11” era has given rise to heightened security concerns with terrorism and has resulted in closer scrutiny of the refugee protection regime. It was pointed out that in some countries borders have been closed without screening mechanisms, thereby leading to rejection at frontiers of asylum seekers. However, UNHCR continues to engage governments to ensure access to territories and to refugee status determination mechanisms and to prevent discriminatory treatment and arbitrary detention. It was noted that asylum-seekers under serving of international protection, because they have been involved in terrorist acts, are excludable from refugee protection in accordance with the 1951 Convention, and that the Convention takes account of the national security concerns of States. It was also noted, however, that “national security” is a broad undefined concept. UNHCR emphasizes the importance of due process safeguards in relation to extradition, expulsion and detention, and of applying article 33(2) of the 1951 Convention only in exceptional circumstances.

Reference was also made to the responsibility of States to separate combatants and armed elements from civilian refugee populations so that they do not jeopardize the civilian, humanitarian and peaceful character of refugee camps. Moving refugee camps away from borders was seen as important to prevent the infiltration of combatants and the spreading of insecurity. In spite of this, there are examples of camps having been located close to the border, or even in no-man’s land, so as to induce refugees to repatriate as soon as possible.

## **E. Durable Solutions and Root Causes**

It was emphasized that the refugee problem must be addressed at source so that voluntary repatriation as the preferred durable solution could be effected. The importance of the international community endeavouring to eradicate the root causes of refugee flows was mentioned, as was the need for countries of origin to demonstrate their willingness to address them. It was even suggested that countries of origin failing to do so, should be held to account.

Several of you welcomed the Convention Plus initiative of the UN High Commissioner for Refugees, aimed at encouraging comprehensive solutions to refugee problems including through the use of development assistance for refugees and returnees to promote local integration or sustainable return. At the same time some delegates stressed the limitations of local integration as a durable solution for large numbers of refugees hosted in developing countries.

## **F. International Burden and Responsibility Sharing**

International cooperation and burden sharing was a prominent theme in the discussions. The costs of granting prolonged asylum are difficult to quantify, since they are not only economic, but also include adverse effects on the environment as well as on the social infrastructure. The meeting agreed that more equitable burden-sharing is indispensable, in support of developing countries that host more than 7 out of 10 refugees worldwide, and in order to maintain or improve protection standards in practice.

Burden-sharing is based on international co-operation at the political level and a clear manifestation of it. Unfortunately, the collective responsibility which underpins the refugee protection regime appears to have receded to the background. Accession to the 1951 Convention, the two Conventions on statelessness and international human rights instruments will provide guidance for national law, policies and practices on the treatment of refugees, and thereby strengthen shared responsibility.

Increased burden-sharing figures prominently in the “Agenda for Protection”, the programme of action for States, UNHCR and NGOs which UNHCR’s Executive Committee endorsed last year. I was pleased to note the support for the Agenda expressed by the joint Secretary of India yesterday morning. Furthermore, burden and responsibility sharing through concrete financial or other support to improve protection and to solve refugee problems lies at the heart of the Convention Plus Initiative of the UN High Commissioner for Refugees, which I already mentioned.

The meeting also discussed resettlement, involving the organized transfer of refugees from one asylum country to another. The extent to which resettlement is a form of burden-sharing or serves other interests was queried. UNHCR seeks to expand resettlement places by enlarging the pool of resettlement countries as well as encouraging resettlement countries to focus on the refugee background and needs of the individuals, rather than primarily on their skills or integration potential. More flexibility in the

selection process would increase the burden sharing effect. Assisting States develop credible asylum systems through capacity building was cited by several participants as another and important form of burden-sharing.

We have looked at a number of important challenges, such as the increasing mixed movements of people, security concerns that may arise as well as insufficient international burden-sharing. At the same time, we should not forget that even the most complex refugee situations will at some point be solved, and that refugee protection continues to build on an impressive degree of solidarity amongst many people across the globe. On this positive note, I conclude these remarks, thank you.