

REFUGEE COUNCIL OF AUSTRALIA

(INCORPORATED IN A.C.T)

37-47 ST JOHNS RD, GLEBE, NSW, 2037
PO BOX 946, GLEBE, NSW, 2037
TELEPHONE: (02) 9660 5300 • FAX: (02) 9660 5211
e-mail: rcoa@cia.com.au • <http://www.refugeecouncil.org.au>

REPORT ON THE FIFTY FIRST SESSION OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES EXECUTIVE COMMITTEE

Margaret Piper
October 2000

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1. Introduction:

RCOA represents over 50 non-government organisations working with and for refugees in Australia and around the world.

The 51st session of the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR Excom) was held in Geneva from 2-6 October 2000. Excom was preceded by a meeting of the Standing Committee¹ and by the annual UNHCR Consultation with non-government organisations (NGOs).

It is the role of the Executive Committee to²:

- advise the High Commissioner, at her request, in the exercise of her functions under the Statute of her Office;
- advise the High Commissioner as to whether it is appropriate for international assistance to be provided through her Office in order to help to solve specific refugee problems;
- authorise the High Commissioner to make appeals for funds to enable her to solve specific refugee problems, to approve projects for assistance to refugees and to give directives to the High Commissioner for the use of the emergency fund;
- determine the general policies under which the High Commissioner shall plan, develop and administer the programs and projects required to help to solve refugee problems;
- review at least annually the use of funds made available to the High Commissioner and the programs and projects being proposed or carried out by her Office; and
- have authority to make changes in, and give final approval to, the use of funds and the programs and projects.

Australia was represented at UNHCR Excom by a delegation headed by the Minister for Immigration and Multicultural Affairs, the Hon. Philip Ruddock.

The delegation also consisted of the Ambassador to the UN, the Secretary of the Department of Immigration and Multicultural Affairs (DIMA), the Minister's Chief Adviser, the First Assistant Secretary of DIMA's Refugee and Humanitarian Division, two other representatives from DIMA, one from DFAT and one from AusAID. Peter Nygh, Principal Member of the Refugee Review Tribunal was also on the delegation. There were two non-government advisers to the delegation, Major General Warren Glennly from Austcare and Paris Aristotle from the Victorian Foundation for the Survivors of Torture.

In addition to myself, there were two other Australian NGO representatives present at Excom: Loreto Conroy from the National Council of Churches and Alistair Gee from Amnesty International.

¹ The Standing Committee is the decision-making body and is made up of States that have been admitted as members of the UNHCR Executive Committee.

² As set out in the Background paper prepared by DIMA for the Pre-Excom Consultation on 14 July 1999.

2. General Observations:

Each year's Excom has a "flavour" about it which sets it apart from those which have preceded it. Often this is more to do with the broader context within which the meeting occurs rather than anything in particular that happens in the formal plenary sessions.

Excom in 1997 was a particularly fraught meeting and possibly one of the most controversial in recent years. UNHCR came under intense criticism for its handling of the crisis in the Great Lakes of Africa and many spoke in worried tones about the collapse of the entire protection regime.

The following year (1998) saw a much more measured debate, with the focus of the Plenary being on finding constructive ways to resolve the many problems that still confront the international community. The tension had not entirely dissipated however, and showed forth in the drafting sessions of the Excom Conclusions.³ Right up until the 11th hour there was the view that the Conclusions were so unhelpful, and in fact retrograde in terms of refugee law, that it would be better to have no Conclusions at all than ones so severely flawed. The final outcome did not reflect the tension involved in the drafting process and the resultant Conclusion on International Protection was judged helpful.

In broad atmospheric terms, Excom 1999 had many similarities to that of 1998. Once again the politeness of the plenary debate disguised the tension in the drafting room, and once again there was deep concern about the Conclusions. As was explained in RCOA's report of this meeting, some States endeavoured to use the Conclusions to rewrite sections of the Convention⁴ and others to give domestic law precedence over international treaty obligations.

The 2000 meeting was radically different in many ways, not least being:

- the fact that this was the last Executive Committee meeting for the High Commissioner for Refugees, Sadako Ogata, who retires at the end of the year after 10 years in office. The meeting was thus dominated by tributes to her;
- the dark cloud which hung over the meeting due to the recent deaths of four UNHCR field staff⁵ who had not, as many before them, died accidentally but who had been murdered because they were UN staff;
- the first appearance at Excom of the UN Secretary General, Kofi Annan;
- the absence of any controversy over the Conclusions. As will be explained later, UNHCR chose to take a minimalist approach to the Conclusions, recognising that consensus on more robust Conclusions would be unlikely;
- significant changes in the format of Excom which for the first time enabled some form of debate to occur on current issues.

These will be expanded upon in the sections below.

3. The Excom Plenary:

³ The Excom Conclusions are the substantive outcomes from Excom and form the "soft law" intended to guide the actions of governments in relation to refugees.

⁴ The 1951 Convention Relating to the Status of Refugees.

⁵ Three UNHCR staff were killed in Atambua in West Timor and one in Guinea. There was also a female UNHCR staff member kidnapped in Guinea whose release was secured during Excom.

3.1. Plenary Agenda

The Excom Plenary is a very formal meeting which is opened, closed and presided over by the High Commissioner for Refugees, Sadako Ogata. Mrs Ogata is accompanied on the podium by senior UNHCR staff. The meeting is chaired by an elected representative of one of the member states, in this case Ambassador Ali Khorram of the Islamic Republic of Iran.

In the past, the Plenary has been heavily dominated by one agenda item: the discussion of the annual theme. This has consisted of member States and observers each delivering statements which are supposed to be limited to 10 minutes but sometimes run for considerably longer. This agenda item has therefore taken the best part of three days to complete, leaving the remaining two days for Protection Debate, the adoption of the annual program and budget, adoption of the Standing Committee agenda for the coming year and the adoption of the Excom Report.

In 1999 the newly appointed Deputy High Commissioner, Rick Barton, announced his intention to try to do something to reform Excom. As previously mentioned, there was evidence of this at the 2000 meeting, with some significant changes to the agenda:

- thematic statements were reduced to 5 minutes (at least in theory);
- an opportunity was provided to ask questions of the High Commissioner after her opening address;
- a number of thematic discussions were organised (see later), including that which gave refugees a voice at Excom for the first time.

These might seem fairly minor changes but given the reality that changing an institution as embedded as Excom is somewhat akin to turning an aircraft carrier, they were highly significant and made for a much more interesting and meaningful meeting.

3.2. Opening Session

After the formalities of the election of the Chairman, Vice Chairman and Rapporteur and the adoption of the agenda, the opening session of Excom gets underway with an address from the High Commissioner (the text of which is included as Appendix A).

This being Mrs Ogata's last Excom⁶, her address was more reflective than is usual, looking back over a decade which saw on the one hand, the end of the Cold War and on the other, the outbreak of conflict in many areas including the Middle East, the Great Lakes region of Africa, the Balkans and West Africa. It was a decade, she recalled, which saw a new era of so-called "humanitarian wars" characterised by an increasingly crowded humanitarian space.

There were many "successes" she was able to look back on with pride, in particular the return of millions of refugees to their homes over the ten year period. Amongst these were ANC exiles from South Africa, followed by 1.7 million Mozambicans, plus refugees from many parts of Latin America and Asia. She made particular reference to the closure of the Comprehensive Plan of Action which ended a 25 year saga

⁶ It is understandable that there was much speculation in the corridors about who the next High Commissioner will be. Many names were mentioned, including those of Sergio Viera de Mello (formerly Deputy High Commissioner and now the UN Secretary General's Special Representative in East Timor), Soren Jessen-Petersen (Assistant High Commissioner for Refugees), Lloyd Axworthy (Canadian Foreign Affairs Minister), Carl Bildt (UN Special Envoy to the Balkans), Jordanian Prince Hassan, Bernard Kouchner (former head of MSF and now UN Special Envoy to Kosovo), Knut Vollebaek (former Norwegian Foreign Minister) and Jan Pronk (former Dutch Prime Minister). As time went on, many of the names dropped off this list, with the last two remaining as favoured candidates, though a rumour began to spread that the next HCR might be an "outsider". The Secretary General will make the announcement at the UN General Assembly in late October.

in the history of our region. She noted that even the most complex of problems can be solved if sufficient resources are available and if governments have the political will to resolve the fundamental problems of power sharing and democratisation.

This being said, she stressed that she was by no means leaving a clean slate. There are many serious problems that remain to challenge her successor, not least being dealing with the ongoing conflict in Central and Western Africa and the Caucasus, dealing with the displacement in the Balkans and finding durable solutions for seemingly intractable problems such as those of the Iraqi and Afghan caseloads in the Middle East, the Bhutanese in Nepal, more than 400,000 Sudanese refugees in various parts of Africa, the 100,000 Burmese refugees in Thailand and many other groups for whom solutions remain elusive. Mention was also made of the plight of the East Timorese refugees in West Timor who have thus far been prevented from making a free choice about their future.

The High Commissioner then went on to outline 5 challenges for UNHCR:

- strengthening UNHCR's emergency preparedness and response capacity to reflect the changing nature of world events and the speed with which emergencies unfold;
- creating a secure environment for refugee populated areas and humanitarian operations - making mention not only of the recent staff casualties but also, *inter alia* to the UN Secretary General's efforts to develop a protocol to the 1994 Convention on the Safety of United Nations and Associated Personnel that would extend legal protection to all UN staff;
- developing new approaches to complex forced population movements - noting the increasing difficulty of distinguishing genuine asylum seekers from people moving for economic, environmental or other reasons and the concerns that many states have about the activities of smuggling and trafficking networks. In this regard, she commended the Three Circles Consultation process which will be covered later in this report;
- bridging the gap between humanitarian and development assistance in the tradition of war to peace⁷: in this regard mention was made of the chronic funding crisis (more on this later) and the importance of the continuation of the consultations initiated at the Brookings Institution in 1999 which focus on strengthening links between major players;
- promoting co-existence in shattered communities - in other words, resolving the "returnee crisis" so that children no longer have to go to school accompanied by armed escorts.

She then spoke of the structural and financial challenges that need to be addressed if the humanitarian challenges are to be met.

In closing, the High Commissioner made reference to the slogan chosen for UNHCR's 50th anniversary: "Respect":

"Respect your own commitment to protect the poorest of the poor, those who have lost their homes. Respect humanitarian workers, who are with them on the frontlines. And above all, respect refugees."

As previously mentioned, the presence of the UN Secretary General, Kofi Annan, was a notable feature of the opening session as this was his first attendance at Excom. His presence was clearly linked to his desire to pay tribute to Mrs Ogata and to express his condolences about the UNHCR staff who had recently been killed in West Timor and Guinea. His address is included as Appendix B.

⁷ It is significant to note that this was the topic of the first of the debates scheduled at Excom.

It has become usual practice for the High Commissioner to be joined in the opening session by the head of one of the UN agencies with which UNHCR has close cooperation. In 1999 this was the head of UNICEF and in 1998, the UN High Commissioner for Human Rights. Despite the presence of the Secretary General, this practice continued in 2000 with the presence of Mrs Catherine Bertini, Executive Director of the World Food Program.⁸ The main focus of her address was staff security.⁹

3.3. Thematic Debate

The next agenda item at Excom is the Thematic Debate. As previously mentioned, this has traditionally dominated Excom, being a highly formal and somewhat ritualistic process, with a succession of statements from:

- governments that have been admitted as members of the Executive Committee: these governments are elected by the General Assembly's Economic and Social Council (ECOSOC) and are expected to have "a demonstrated interest in, and devotion to, the solution of the refugee problem". In most cases Excom members are signatories to the 1951 Convention and the 1967 Protocol but this is not a requirement and there are some notable exceptions (eg India and Thailand). There are now 57 members of the Executive Committee, with Chile, Cote d'Ivoire and the Republic of Korea being admitted in the last year;
- observer governments: the list of which is significantly longer than the list of members. Most are developing countries but there are some notable exceptions such as New Zealand;
- international organisations such as the European Commission, the Council of the European Union, the International Committees of the Red Cross and the Federation of Red Cross and Red Crescent Societies;
- the United Nations system observers, including the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations International Children's Fund (UNICEF), the Office for the Coordination of Humanitarian Affairs (OCHA), the United Nations Development Program (UNDP) and the World Health Organisation (WHO);
- intergovernmental organisations such as the International Organisation for Migration (IOM), the League of Arab States, the Council of Europe and the Organisation of African Unity;
- non-governmental organisations (NGOs) who are represented in the Plenary Debate by the International Council of Voluntary Agencies (ICVA).

The theme for the 2000 Session of Excom was **UNHCR @ 50: Response to Solutions**. This was far less focused than the themes of previous years and the co-incidence of the High Commissioner's last Excom with UNHCR's 50th anniversary in many ways left the door open for statements to dwell on tributes rather than attempt substantive analysis of issues. Almost without exception, the statements began by congratulating the High Commissioner, with Afghanistan most certainly taking the prize for its reference to her as "*affectionate, tender and sorrowful mother of refugees destined to perpetual wandering*".

This being said, a number of states did try to grapple with the issue of where UNHCR should be heading and there were some issues which were highlighted in many of the statements:

⁸ It is significant to note that the UN High Commissioner for Refugees, the UN High Commissioner for Human Rights and the heads of UNICEF and WFP are all women (at least until the end of this year).

⁹ A copy of this paper is available on request.

i. Security:

As previously mentioned, the recent UNHCR staff casualties cast a dark cloud over proceedings and meant that the issue of security featured prominently in the statements. The contemporary reality of large scale population movements, where combatants and civilians are intermingled and where borders are porous has meant that the challenge of protecting refugees and those who provide humanitarian assistance to them is becoming increasingly complex. Much stress was placed on the role of governments to ensure that such protection was provided to refugees on their territories and the importance of bringing to justice perpetrators of crimes against refugees and humanitarian workers. The role of the military in humanitarian operations also featured. This issue will be discussed further later in the report.

ii. Enhancing Protection:

There is widespread recognition that on many levels the international community is failing to provide adequate protection to refugees - be this in situations of mass outflow, for those seeking access to asylum or those in intractable refugee scenarios. There is widespread recognition that new responses are required to meet the changing circumstances. This is, however, the point at which consensus stops. The interpretation of what is needed to meet the new challenges varies from country to country, more often than not driven from a domestic perspective. It is apparent that the task ahead of UNHCR is to secure commitment for the basic principles of the Convention and to build far greater consensus about what protection actually means. In an effort to advance this, UNHCR is embarking on what they are calling "Global Protection Consultations" which will take place over the coming year and will be explained further in the section of this report on protection.

iii. Bridging Gaps:

The gap between emergency response and development featured prominently in the statements to Excom, as well as being the subject of the first Excom Debate (below). States stressed the importance of ensuring that refugee situations were not just left to fester after the initial limelight faded and for this, far greater attention has to be given to strategic planning and enhancing cooperation within the UN and between the UN and other key players.

iv. Internally Displaced Persons (IDPs):

It is acknowledged that one of the greatest protection gaps is that related to IDPs. In this regard, the secondment of Dennis McNamara, formerly head of UNHCR's Division of International Protection and most recently Deputy Envoy in Kosovo, to OCHA to focus on IDPs was welcomed.

v. Burden Sharing:

It is common for countries of first asylum to use their country statements to draw attention to the sizeable burden they are faced with in hosting large numbers of refugees. This was very much the case this year, with strong appeals from countries such as Iran, Cote d'Ivoire and Guinea for more support from the international community.

vi. Trafficking and Smuggling:

The illicit movement of people is an increasing concern of governments, including our own, and featured in many statements. Many aspects were highlighted, including the complex dilemma of primary and

secondary refugee movements and the often grey zone between refugee movements and those on the move for other reasons and/or those who conceal their flight from persecution by pretending to move for other reasons. Linkages were also drawn between the increasingly restrictive migration policies of some countries and the increase in reliance on smugglers. The call for responses varied from those focusing primarily on the need to control the activities of smugglers through to those whose emphasis was on the need to protect the right to asylum, with levels in between.

vii. HIV/AIDS:

For the first time UNAIDS was present at Excom and they were able to join with a number of States, in particular those from Africa, in highlighting the importance of acknowledging the impact of HIV/AIDS on refugee populations. In Africa there are 23 million people who are HIV+ and already there are 11 million AIDS orphans. In Africa too, UNHCR is caring for some 6 million refugees, most of them in regions where there is a high prevalence of HIV/AIDS. Concern was also raised about other areas, in particular SE Asia. A clear link was drawn between meeting the basic needs of refugees (in particular food and education) and protecting them from AIDS - ie if women have sufficient food, they are less likely to be forced into prostitution to feed their children and thus are at less risk of infection ... if children have access to education, they are less susceptible to exploitation etc.

viii. Funding Shortfall:

UNHCR has experienced a 20% budget shortfall this year which it has asked all offices to absorb. This has meant that many programs have had to be terminated prematurely and others have had to curtail operations. Statements approached this from different perspectives, from calling for greater transparency of financial reporting by UNHCR to highlighting the problems caused by the cuts.

ix. Regional Issues

It is typical at Excom for a particular region or regions to be the focus of attention. Last year, for instance, Kosovo was very much at the centre of the refugee world, something which once again emphasised the dominance of the European donors in setting the agenda (the fact that the post-referendum violence in East Timor was occurring at the same time as the meeting being largely overlooked).

Excom 2000 was a little different, with no dominant regional focus. Certain regions and countries were highlighted, however, for various reasons:

- the tragic failure of the peace accords in Sierra Leone and the major security problems in the region;
- the ongoing instability in the Great Lakes, with Burundi, in particular, teetering on the brink and little progress in the Democratic Republic of Congo;
- the fighting early in 2000 that displaced 1.5 million people from Eritrea and Ethiopia;
- positive developments in the Balkans, not only the recent changes in Serbia but also the elections in Croatia that have opened more doors for return;
- the need to protect refugees in West Timor from the militias and to allow them to exercise free choice about where they want to live;
- the need to find solutions for intractable refugee problems, in particular those in the Middle East (with reference to the Iraqi and Afghan refugees).

3.4. The Australian Statement:¹⁰

The Australian statement was much anticipated, given the comments made by the Minister for Immigration in August about the need to reform UNHCR and Excom. The key arguments presented in the delivered statement, and the longer written version (Appendix D) were:

- the failure to find durable solutions for refugees after a long period of displacement is resulting in these refugees seeking solutions of their own;
- smugglers are capitalising on this and are organising movement to western asylum countries;
- western states are spending \$US10 billion per year on status determination and associated activities;
- UNHCR has been unable to raise the \$US1 billion needed to cover its programs this year;
- a 10% reduction in the cost of status determination could double UNHCR's budget.¹¹

The statement went on to outline initiatives that Australia is taking to provide additional support to refugees in the Middle East and address the issue of smuggling. It then called for the development of a comprehensive approach to asylum and migration which “upholds protection principles¹² while addressing states concerns” (citing the CPA as a successful example). In conclusion, reference was made to the Excom process, claiming that it is a “squandered opportunity ... (being) too unwieldy for frank debate and problem solving”.¹³

3.5. NGO Participation in Excom:

NGOs are present as observers at the Excom plenary and also have the opportunity to make a joint statement. This is prepared (in consultation) and delivered by the International Council of Voluntary Agencies (ICVA) and is included as Appendix E.

The NGO statement made the very valid point that while so much focus had been on the 4 UNHCR staff deaths, no such attention had been paid to the much greater number of NGO staff who had been killed in the preceding year, including the 11 national staff who had been killed in Guinea in the week before Excom. They also stressed the importance of not losing sight of the fundamental need to ensure that refugees were the primary focus of security initiatives. A call was made to governments to prioritise investments in front line protection responses, including human rights monitors, law enforcement officials and an international policing capacity.

States - in particular western states - came under criticism for the declining respect given to the basic principles of refugee protection, with the concern raised that “several states are using the perceived abuse of the asylum system or the practices of human traffickers or smugglers as reasons to mix refugee protection with migration control measures. Measures adopted by industrialised States, including tighter

¹⁰ For the third year, the Australian Government agencies with a particular interest in refugees consulted with NGOs on the Excom theme and on other areas of Excom. The NGO Report on this dialogue is included as Appendix C.

¹¹ Assuming such savings are directed to UNHCR.

¹² There was a feeling amongst many of the NGOs that the Australian paper weighed too heavily on the side of national interest and too little on recognising and protecting the right to asylum.

¹³ While this comment would certainly been valid in any other year, the fact that it was made at the very time UNHCR was trying to change the Excom format and introduce more opportunities for debate was seen as unfortunate.

border controls, interception, or detention of asylum seekers, do have an 'export value' as noted by UNHCR, but a markedly negative one."

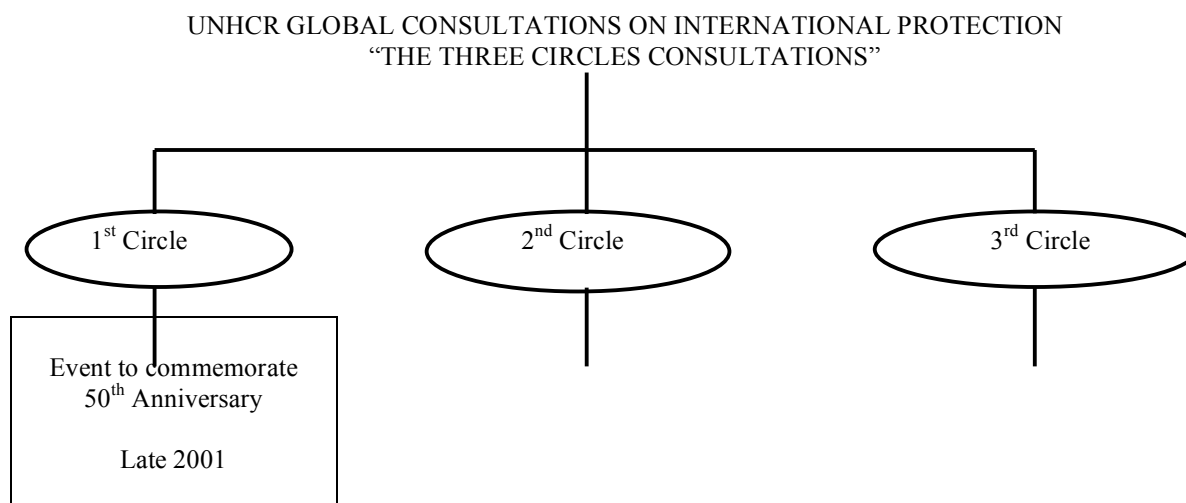
3.6. The Debate on International Protection

The deceptively named Debate¹⁴ on International Protection follows the Annual Theme in the Excom agenda. It enables reflections on protection related issues in general, and the Note on International Protection (issued at the July Standing Committee Meeting) in particular. The Debate is opened by the Director of UNHCR's Division of International Protection and then the floor is open to States to make interventions.

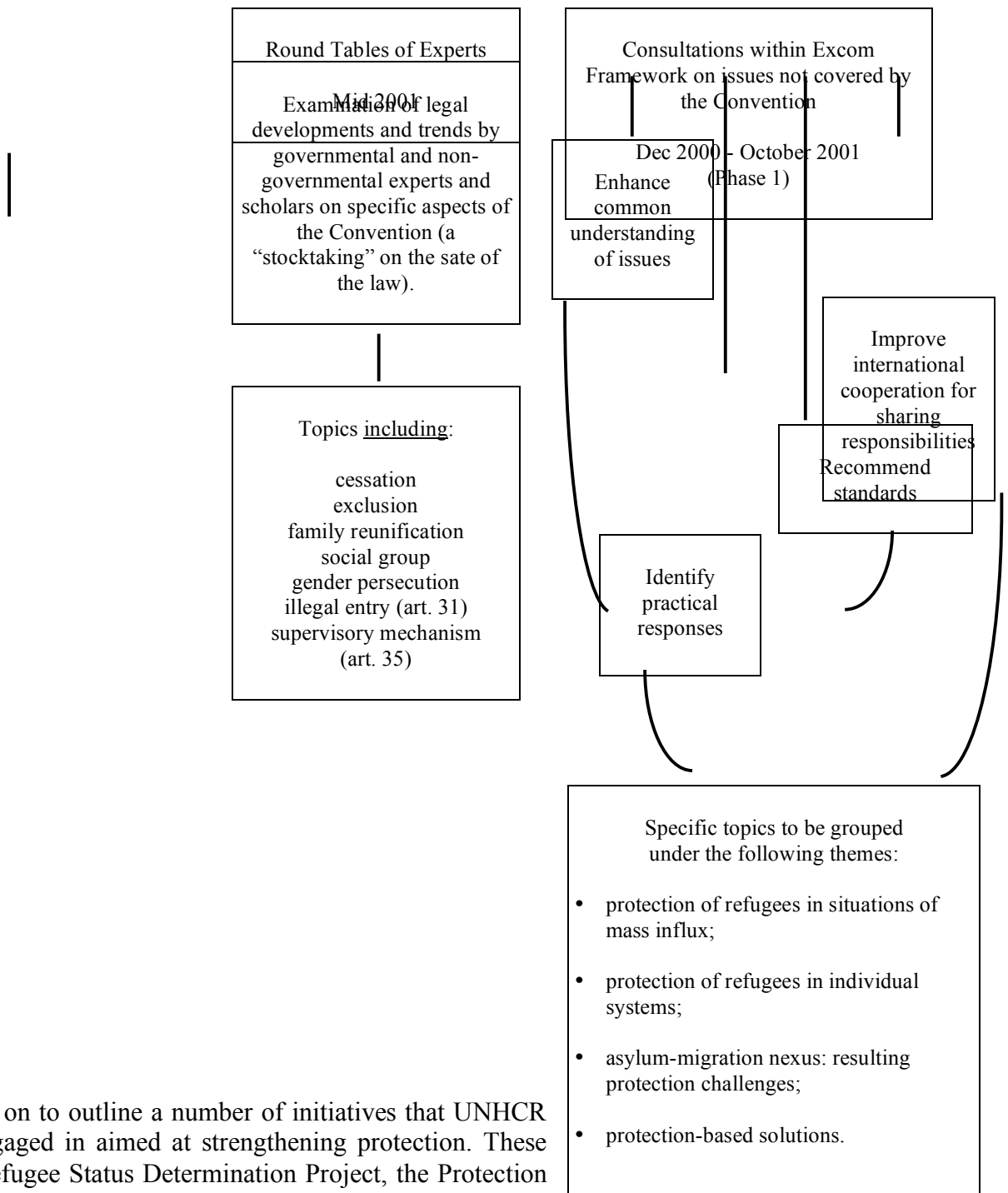
3.6.1. The Director of The Division of International Protection

In a characteristically insightful paper (included as Appendix F), Ms Feller identifies and explores what she sees as the four unmet challenges to the delivery of protection:

- i. How to ensure refugee protection in situations of mass influx: in this regard, consideration was given to both ends of the cycle. At the front end, where refugees are fleeing, it is common for the conflict to spread with them across the border and cause major problems for the host country and the local population. The challenge is how to address this and ensure that borders are not closed. At the other end of the cycle are those large refugee populations who have been in exile for long periods and for whom no solutions have been found. How do you deal with the inevitable compassion fatigue?
- ii. How to ensure that individual refugees are protected in an environment where states are becoming increasingly concerned about the costs of status determination procedures and the difficulties of applying refugee concepts to mixed groups of arrivals.
- iii. How to deal with the nexus between migration and asylum, in particular where refugees resort to smugglers in order to seek protection or where migrants misuse asylum procedures or, most significantly, where laws designed to control migration have the effect of impeding access to status determination procedures.
- iv. How to realise solutions for individuals, as well as groups, which are both lasting and protection-based - especially where voluntary repatriation remains an elusive dream for so many.



¹⁴ The agenda item is a far cry from a "debate", being a series of statements by countries and agencies that ask to contribute.



She then goes on to outline a number of initiatives that UNHCR have been engaged in aimed at strengthening protection. These include the Refugee Status Determination Project, the Protection Learning Program and the Reachout Process (see Section 6.2).

The paper then turns to **UNHCR’s Global Consultations on International Protection**¹⁵ which will be a key focus of the Division’s work in the coming year. These are linked to the 50th anniversary of UNHCR (2000) and the Convention (2001) and have as their key objective, strengthening the implementation of the 1951 Convention (and its 1967 Protocol). UNHCR are presenting the consultation process as one involving “3 circles”. As can be seen from the diagram on the preceding page:

¹⁵ In addition to the Debate on International Protection, a special session was held to give further explanation to governments and others about the Global Protection Consultations and to enable questions to be asked.

- the **first circle** involves a reaffirmation of the Convention itself through an event or series of events of symbolic nature;
- the **second circle** is endeavouring to provide clarification about those areas of interpretation around which there is some dispute - not only those listed on the chart but also other contentious issues such as non-state agent persecution.. This process is being billed as a “stocktaking exercise” in which experts from State party governments, together with specialist NGOs and academics will meet to debate these issues and hopefully reach consensus about interpretation. It is intended that their findings will be presented in a publication which will complement the UNHCR Handbook;
- the **third circle** focuses on “gaps” - in other words issues not covered by the Convention which have arisen because of changes in the dynamics of population movements (namely the 4 areas listed above). It is envisaged that the consultations on these issues will be “through the Excom process” ie with Excom Members taking the lead and having the decision making role but with observers (including NGOs - through ICVA) having an opportunity to enter into the debate. The third circle consultations are not seen as a discrete event but rather an ongoing process which could well lead to the adoption of a new set of standards.

It is noted that there are some States who have reservations about the process on a number of fronts. Some see the third circle, in particular, as potentially taking UNHCR into areas beyond its mandate. Others have expressed concern that the decision making power might be taken away from States if too many other players are involved. The Director’s paper, and the separate information session organised by the Division, were intended to allay some of the concerns.

In the conclusion of her paper, Erika Feller made a comment worth noting:

There is certainly an irony in the fact that protection is both the most promoted in practice and most disliked in rhetoric of the functions entrusted to the High Commissioner. That it is the office’s central responsibility is often repeated and UNHCR is encouraged to give it absolute priority. At the same time, it is the exercise of this responsibility which attracts the greatest suspicion from a number of States and brings the office most often into confrontation situations.

She then goes on to reflect on some of the reasons for this, one being States’ concern when protection obligations are seen to run counter the freedom of the State to treat citizens or non-citizens at discretion. Another is the challenge by some States that the protection regime of which UNHCR is the guardian does not meet contemporary needs. Noting these concerns, she concludes with an appeal to States to work with UNHCR to find a way of “meeting the needs of vulnerable and threatened individuals” which takes into account “the exigencies of the environment in which protection must be delivered, including the rights and interests of States and host communities”.

3.6.2. Contributions to the Debate

It was noted with interest that the first bank of speakers in the Protection Debate made strong statements in support of UNHCR and its protection mandate. The first intervention, by Sweden, made the point:

States must resist the temptation to use measures incompatible with our obligations to give protection to those who need it. Criticism by UNHCR may not always be welcomed by States, or found to be relevant or fair. But UNHCR has an important role to monitor state practices and methods.

Sweden went on to pledge its commitment to engagement in the Global Consultations and announce that during its upcoming Presidency of the EU, the rights of children will be an “overriding priority”. Sweden will host an EU conference on the rights of children affected by violent conflict and displacement and urged that next year’s Excom include a focus on children and protection.

Many of the other statements picked up on themes also covered in the thematic statements - staff security, gaps etc - as well as emphasising important issues such as protection of women and children. Many areas were targeted for greater attention, including enhancing UNHCR’s surge capacity and the need to do more work on developing registration procedures. Then of particular relevance to Australia were the following remarks in the Canadian statement:

... Canada continues to face the challenge of illegal migration and its impact on its asylum process. Effective migration management is central to public confidence. This means closing the back door which smugglers and traffickers use so that we can keep the front door open to refugees and immigrants. Interceptions are part of our effort to close the back door. ... our common aim should be the elaboration of international approaches to this issue that ensure protection to refugees who are intercepted, while denying access to illegal migrants who are not refugees.

The Australian intervention responded directly to the Global Consultations and stressed the importance of building coalitions to improve protection. The intervention (Appendix G) described the importance of three particular coalitions, those between:

- states and UNHCR
- cash donor states, host donor states¹⁶ and UNHCR;
- NGOs and advocacy groups, states and UNHCR;

and concluded by saying that “the most important coalition of all is, of course, between refugees and all of us”.

4. Additions to the Agenda

As previously mentioned, the Excom agenda departed from the path that it has taken for many years to include a number of sessions in which far greater exchange of views was possible. These were:

4.1. Consultation With Refugee Women

While this was not the first of the sessions chronologically, it was by far the most exciting thing that happened at Excom and thus will be reported on first.

The session was significant on a number of levels, not least being the fact that it was the first time anyone could recall that refugees had been given a platform at Excom. And having been given this platform, the refugee women made the most of it.

Five women from very different parts of the world, all of whom are working with refugee women, returnees or IDPs, had been invited to Geneva to speak about their work and also to make recommendations to the Excom members about the nature of assistance to refugee women. They had been well prepared for the meeting and their presentations were informative, insightful and constructive - and in one case, compellingly passionate. They reinforced the comments of the new Senior Coordinator for

¹⁶ The intervention makes the point that the term “host donor states” is a more accurate reflection of the indispensable contribution that some states make to international protection than simply the term “host states”.

Refugee Women who, in introducing the session, reminded us that *refugee women are not inherently vulnerable, they have just been made vulnerable by the circumstances in which they have been caught up.*

The five women were:

- Sarafina Ndikumana, a refugee from Burundi who was involved in the deliberations on the Arusha Accords (which relate to return to Burundi);
- Binta Mansaray from Sierra Leone who works on gender issues with the Campaign for Good Governance in Freetown and is a specialist on women in armed conflict. She is soon to join a joint agency team that will be investigating, documenting and preparing witnesses for the International Criminal Tribunal of Sierra Leone;
- Naung Naung Htet Thu, a Burmese refugee who is a member of the backpack workers' health team which provides reproductive health services to the displaced population along the Thai-Burma border;
- Pranvera Reqica who, like many Albanians from Kosovo spent time last year in Macedonia where she worked with Oxfam and now she has been working on the implementation of the Kosovo Women's Initiative;
- Marisela Moreno Cuesta, who is one of the leaders of one of Colombia's Peace Communities that have been set up as places of non-violence and neutrality in a violent state

While their backgrounds differed considerably, the women's presentations had a number of very important common themes:

- women's lack of participation in decision making and the perception of women as subordinates and sexual objects increases their vulnerability in times of crisis;
- this is exacerbated by denial of fundamental rights, for example, the failure to provide adequate food means that women could be forced into prostitution to feed their children, the failure to provide education makes children more vulnerable to being drawn into militias and/or exploited in other ways etc;
- the practice of abruptly cutting off assistance to refugee populations in an effort to make them repatriate is a form of institutional violence that promotes sexual violence;
- it is essential that refugee support programs address the above concerns and focus on inclusion of women in decision making and improving their status within the community. The latter, of course, requires as much work with the men as the women;
- it is important that resources be devoted to assisting local NGOs because these are the ones that will be there long after the crisis;
- there is a need to recognise that projects develop slowly, especially in the immediate post-conflict situation, and donors must recognise that quantifiable outcomes will not always be immediate; and
- it is necessary to insert a gender perspective into all projects, not just include a couple of "women's projects".

The women's presentations generated much discussion and the general feeling was that the session was enormously successful. Hopefully such sessions will become a feature of all future Excoms.

4.2. Panel Discussion

Another "first" for Excom was the insertion of a panel discussion in the formal program. The theme of the discussion was **Promoting and Building Peace: linking refugee and humanitarian assistance with longer term development**. The format was conventional: a panel of four speakers after which there was time for questions and comment. The four speakers were:

- Sadako Ogata, High Commissioner for Refugees
- Dr Leonardo Santos Simal from the Mozambican Government
- Paul Nielsen, Danish Minister for Development Cooperation
- Michael Aaronsen, Director of Save the Children Fund (UK).

The High Commissioner opened by setting out some of the dilemmas facing humanitarian agencies, in particular in establishing sustainable communities in a post-conflict situation: How do you make institutions and infrastructures sufficient to support refugees? How do you bring back people to live alongside those who killed their families? ... Once again, reference was made to the importance of the Brookings Process which is exploring the development gaps. The High Commissioner concluded by arguing that, in a post-conflict situation, "reconciliation" was perhaps too high a goal and that it would be better to focus on practical achievable initiatives that enabled people to live and work side by side and that "community development" was a better objective.

Dr Simal addressed the issue from the perspective of a country which had successfully repatriated over one million refugees. He spoke of the importance of creating a culture of peace and the need to ensure that there were no vacuums between the various stages of repatriation. In this context he stressed the need to create a "security framework" which involved all key players including UNHCR and the International Criminal Court (ICC).

Paul Nielsen began by considering how the structural incompatibilities of UNHCR and key donors exacerbate the funding problems the institution is having. He then focused on what he identified to be the major challenges facing the international humanitarian community:

- the "transition gap problem": it was expected that the end of the Cold War would lead to a reduction in the number of crises but the reverse has happened - there are now more and more places where it is impossible for humanitarian agencies to work normally and, for many reasons, there are more and more tasks building up with no clear exit strategies;
- the change in the nature of conflicts: conflicts such as those in Sudan, Somalia and the Democratic Republic of Congo require humanitarian agencies to deal with many players - the military, militias etc that compromise their impartiality and undermine their ability to increase local capacity;
- institutional barriers: the issue of who can do what and how - noting that coordination and decision making are often complicated by other forces, in particular the media;
- the resource gap: he referred to the "ODA gap¹⁷" as "the mother of all gaps", in other words, there is just not enough money been made available to do all that needs to be done.

He concluded by announcing a number of scheduled EU initiatives that will focus on policy development.

¹⁷ This is a reference to global average of Overseas Development Assistance being at 0.23% of GNP, well below the UN target of 0.35%.

The final speaker, SCF head, Michael Aaronsen, presented an NGO perspective on the topic. He stressed the following:

- good humanitarian assistance requires a long term perspective: he stressed the importance of recognising that humanitarian assistance does not take place in a vacuum so one must understand the context within which it is occurring and recognise that every intervention will be different. NGOs have a particular contribution to make in this area;
- education is not a luxury but a necessity for children who are caught up in emergencies, as is reintegration of children who have been caught up in conflict (as child soldiers, prostitutes etc);
- the current institutional realities do not help: he made reference to the “turf battles” that exist between agencies and argued that NGOs have to be prepared to accept some kind of operational framework and the notion of complementarity;
- preventative action requires **foresight, insight and courage**, all of which are linked to political will;
- protection is about building an environment in which human rights are respected - and in this regard, he stressed the importance of adoption of the statute of the International Criminal Court.

The discussion that followed the interventions went in many directions. Picking up the immediate concerns of the states concerned. One of the strong statements that came out was the call to governments to be careful not to focus all of their resources on some situations while neglecting others and to take both individual and collective responsibility for ensuring that States uphold the responsibilities taken on with accession to various human rights treaties.

4.3. Workshop on Refugee Children

While not given the same profile as the other sessions, this lunchtime workshop covered some very important protection issues in relation to children. It began by listing some of the positive developments in this and related areas:

- the inclusion of children on the agenda for the Security Council;
- the International Conference on War Affected Children - Winnepeg - September 2000
- the development of the Optional Protocols to the Convention on the Rights of the Child
- UNHCR involvement in the Stockholm Plus 5 process (on sexual exploitation)
- an increase in UNHCR’s budget for refugee children.

The workshop then went on to consider regional initiatives:

- in Africa: in particular protection of separated children, access to education and programs for adolescents (in particular in relation to reproductive health and HIV);
- in Europe: in particular a joint UNHCR-Save the Children Fund initiative focusing on children in the determination process and child-specific grounds for refugee status;
- in the Commonwealth of Independent States: in particular the issue of ensuring registration of births and access to citizenship, access to education and consideration of children during status determination.

Reference was also made to the Geneva-based subgroup on Refugee Children and Children in Armed Conflict which had hoped to work towards the adoption of an Excom Conclusion on refugee children (incorporating some of the recent developments such as the Optional Protocols to CROC, as well as unaccompanied minors and registration procedures), but as will be discussed below, the Excom Conclusion process was unusual this year and the group's objectives could not be met.

5. The Excom Conclusions

The most tangible and practical outcome from Excom each year are the Excom Conclusions. The Conclusions represent the consensus views of States on protection related matters.¹⁸ Excom Conclusions are not binding on States. Rather they are considered as "soft law" and can have considerable persuasive value. Of most significant from an NGO perspective are the Conclusions relating to protection issues, in particular the Conclusion on International Protection.

For the last few years, the drafting process for the protection conclusions has been fraught for most parties. For the government delegations who are part of the process, it has meant long sessions, often extending well into the night, dissecting drafts in either English or French and then arguing about the accurate reflection of the intent in the alternate language. For NGOs, who are excluded from the drafting process, it has meant a frustrating time of watching some very troubling proposals coming up for debate and not being able to be part of the process (other than by talking to delegates and hoping that they will carry forward the ideas being presented to them).

The situation in 2000 could not have been more different. UNHCR had hoped to have conclusions on two issues debated at the July Standing Committee meeting - interception and complementary protection - but recognised that chances of reaching the consensus needed to adopt the Conclusions would be slim and thus opted for putting forward a very "bland" conclusion related to the Global Consultation process.

In this, the preambular paragraphs reflect the discussion that has taken place about these two contentious issues and note some of the concerns that have been expressed by States. The operative paragraphs then focus on the Global Consultations and set the parameters of who should be involved in the consultations and to what end. The text of the Conclusion on International Protection is contained in the Draft Excom Report (Appendix H).

Also included in this report are the other Conclusions passed at Excom, most of which are administrative in nature. There is one that was passed with minimal comment but which is, in fact, of considerable interest to Australian NGOs (a number of whom have been lobbying on this issue for many years). This is Conclusion F which announces the adoption of a **World Refugee Day** which will be first celebrated on **20th June 2000** to mark the 50th Anniversary of the Convention and thereafter annually on that date.

6. The UNHCR-NGO Consultation

In the week prior to the commencement of Excom, it is traditional for UNHCR to meet formally with NGOs. This year's meeting, which took place over three days, was notable for a number of reasons including:

- the record attendance - over 300 delegates registered from almost 200 NGOs. As is typical, the majority were from Europe (with an increasingly large attendance from Eastern and Central Europe) and North America, with a large African presence and smaller numbers from other regions. South East

¹⁸ Consensus opinions on non-protection related matters are called "Decisions". These usually relate to administrative and financial issues.

Asia was, as usual, poorly represented with the exception of Japan from which there was a large contingent of predominantly new NGOs;

- a marked shift in the agenda away from a succession of regional reports to thematic based discussions on issues of mutual relevance;
- Excom Members were invited to attend as observers;
- the recent murders of UNHCR staff in West Timor and Guinea clouded the meeting and was mentioned in most interventions;
- tributes were paid to the High Commissioner as she nears the end of her term in office.

The High Commissioner addressed the Consultation on the second day. The central topic in her presentation was her recent visit to Afghanistan during which she had meetings with the Taliban in an effort to find a way through some of the barriers that are preventing movement towards durable solutions.

The remainder of this section will focus on the key areas of the UNHCR-NGO Consultation.

6.1. UNHCR-NGO Partnership

In opening this section, UNHCR's NGO Coordinator presented a neat and useful list of common challenges facing UNHCR and NGOs:

- **ensuring the right to asylum**
- **ensuring the right to care and maintenance**
- **ensuring the right to rights.**

And from these comes the challenge of finding ways to coordinate better the activities that each sector engages in and deal with some of the misconceptions and misunderstandings that have beset the relationship between UNHCR and NGOs in general and the PARinAC¹⁹ process in particular. In this regard he made the point that partnership depends on attitudes and perceptions and requires mutual respect and even handed cooperation. Reference was made to the many levels of UNHCR-NGO partnerships: in the field, in asylum countries and in the formulation of policy.

The NGO paper on this issue was presented by the Chairperson of the International Council of Voluntary Agencies (ICVA), Anders Laderkal. He too focused on challenges, which he listed as:

- safeguarding the institution of protection - noting the hostile environment in many countries (with reference to Europe, USA and Australia) which has lead to restrictive interpretations of the Convention and the introduction of more and more barriers to those seeking asylum. He called on governments to use the Global Consultations to strengthen protection;
- dealing with the decline of financial resources - calling on governments to pay up when they have made commitments and urging UNHCR not to enter into the private sector in direct competition with NGOs;
- selecting the next High Commissioner - arguing that it is critical that this person have the skills needed to take UNHCR into the next millennium;

¹⁹ PARinAC stands for **Partnership in Action** and refers to the process of dialogue and information exchange between UNHCR and NGOs.

- resolving the issue of field cooperation - noting that UNHCR talk about NGOs as partners but treat them as contractors and have yet to fully implement the UNHCR Framework for Field Cooperation;
- resolving the issue of partnership with the military - noting that UNHCR had brought NATO into the Balkans in 1999 but there were still many reservations about this partnership in relation to whether it compromised the neutrality and impartiality that many NGOs consider to be fundamental to their activities;
- finding ways to ensure the safety of refugees and humanitarian workers - the “major unmet challenge”.

The need to ensure meaningful participation of NGOs in the Global Protection Consultations was stressed. In this regard, a call was made to UNHCR to ensure that the process was inclusive and ICVA have undertaken to coordinate the NGO consultation process. To this end they have set up a website at:

www.icva.ch/parinac

While it was acknowledged by both UNHCR and ICVA, and reinforced in the discussion that followed, that PARinAC has its difficulties, it was agreed that it is an important process which should be strengthened.

6.2. Protection

As in the formal Excom process, the debate on Protection was opened by the Director of UNHCR’s Division of International Protection, Erika Feller. She began by focusing on the many challenges the Division had faced in the last year and outlined a number of their initiatives designed to address these, including:

- the Reachout Consultations on protection²⁰ - in particular taking these to the third stage: exploring the possibility of protection links to the corporate sector²¹;
- production of the **NGO Field Guide to Protection** - an extremely valuable resource for anyone working with refugees which is available in a number of languages;
- training initiatives aimed at building NGO capacity to undertake protection work;
- joint activities with NGOs eg the UNHCR-IRC resettlement alliance in Pakistan;
- holding “Refugee Legal Clinics” in Central and Eastern Europe aimed at increasing local status determination capacities.

The remainder of her presentation focused on the aforementioned Global Consultations on Protection, introducing NGOs to the process and allowing time for discussion.

It is traditional that UNHCR contributions in the UNHCR-NGO Consultation are matched by an NGO contribution and in this case the presenter was Beth Ferris from the World Council of Churches. After reflecting on UNHCR-NGO partnership generally and stating some of the NGO concerns about possible exclusion from the Global Consultations, she then announced some of the initiatives that had been put in place to implement the recommendations of the Reachout Consultations:

²⁰ See RCOA Report on Reachout. 1999.

²¹ UNHCR commissioned a report on this that found that the issue is complex and fraught with problems;

- the Jesuit Refugee Service (JRS) have been identified to spearhead work on the sharing and use of sensitive information, eg what should local NGOs do when they see human rights abuses;
- the International Rescue Committee (IRC) and the International Federation of Red Cross and Red Crescent Societies are working with UNHCR to develop a training project on refugee protection;
- the International Catholic Migration Committee (ICMC) is focusing on capacity building and collaboration with national NGOs (which is linked into the above initiative);
- ICVA are examining standard setting; and
- Amnesty International are looking at accessions to and compliance with the Refugee Convention.

Furthermore, ICVA have agreed to convene a group of NGOs who will meet on protection issues in conjunction with the UNHCR Standing Committee Meetings.

The discussion that followed was, as always, lively, with NGOs stressing that they have become increasingly involved in protection and thus feel they have much to contribute to the Global Consultations. Some concern was expressed about the “second circle”, with the view being put that there could be danger, in the current climate, of opening up concepts (such as gender persecution) about which there is widespread agreement. The discussion also centred around, *inter alia*:

- the relationship between UNHCR’s consultations on protection and human rights instruments;
- interdiction and the broader issues of access to asylum procedures and difficulties in implementing the right to asylum;
- the need to find ways to address the lack of protection for internally displaced persons;
- detention of asylum seekers; and
- the need for UNHCR field offices to be more supportive of NGO work in the field of protection.

6.3. Thematic Discussions

There were two thematic discussion during the NGO Consultation:

i. NGOs as Implementing Agencies: Partners or Contractors

This was a very interesting and lively session which had much in common with the debate at the ACFOA Council meeting a few weeks earlier. There were three presenters:

- Dawit Zawde who spoke from the perspective of a Southern NGO
- Nick Carter, a development consultant; and
- Rick Barton, Deputy High Commissioner for Refugees.

Dawit Zawde opened with a hardhitting statement directed to donor NGOs and donor governments in which he emphasised:

- the danger of squeezing out Southern NGOs when new alliances are being developed;

- the fact that many Northern NGOs have become “big business” with all of the associated factors. Meanwhile Southern NGOs are typically remaining small and are seen simply as a source of cheap labour with little say in policy making;
- that many Northern NGOs have spent a lot of time and money developing capacities in areas such as water and sanitation without exploring local capacities (NGO and/or corporate);
- that donors usually fail to recognise that Southern NGOs have a life that extends beyond the project and one of the major difficulties for them is securing institutional funding so that they can develop capacities and resources;
- the need to develop strategies that enable the progression from the donor-recipient relationship that usually exists between Northern and Southern NGOs to that of a true partnership.

Nick Carter came at the issue from an entirely different angle, exploring the relationship between NGOs and the private sector. He began by talking about a scenario whereby an NGO was established to transport food into an emergency situation. When the operation ended they had to sell off the trucks, lay off staff ... why, he argued, didn't they just contract a local haulage company? His view was “if it can be measured, a company²² should be doing it” and emphasised the importance of the Sphere Project's recognition of the importance of differentiating specific roles for the different players and the need to develop partnerships and cooperative relationships. He then set out the following challenges for NGOs:

- to determine where the borders lie and how these can be worked across;
- not to use NGOs as cheap labour;
- to utilise better e-commerce for procurement and operations;
- to delineate the ethical standards that should govern commercial-NGO partnerships.

Deputy High Commissioner, Rick Barton, began by reminding NGOs that they are part of a multi-billion dollar industry (\$US10-20 billion per year), with some 40,000 international NGOs. He then said that he is not as concerned about the North-South divide as about the failure of NGOs (across the board) to live up to their claim that they are “close to the people”. He noted that while all NGOs want to be “partners”, more often than not they ended up being “contractors” and entering in to some form of paternalistic relationship, either with other NGOs or the recipients. He set out a of criteria by which NGOs can judge whether they are value-adding:

- are human rights at the centre of their protection work?
- is the focus on preventing and containing emergencies?
- are plans in place to move towards durable solutions?
- are efforts being made to ensure closeness with recipients?
- is there a focus on the promotion and protection of civil society?

He concluded by urging NGOs to think about what they can offer that others can not and to focus on professionalism.

The discussion that followed showed that the NGOs present were trying to grapple with the issues raised, in particular where it came to the delineation between work that would be better done by NGOs or by contractors. The view was put that NGOs do value add - they do not just build houses, they make sure the neighbours won't burn it down again. Other raised concerns about contractors employment standards and about whether their employees would be culturally sensitive and respectful of human rights. In response

²² He argued that many “development” projects hamper the development of local businesses and industries in areas where the NGOs operate.

to this, the Oxfam delegate described Oxfam's ethical purchasing policy that underpins their relationship with the private sector and local contractors.

The other theme that underpinned the discussion was the flow-on effect of UNHCR's budget crisis. There were a number of criticisms of the way UNHCR communicated this to the implementing partners and the decisions that were made about which programs had to be scaled back/terminated.

ii. The Humanitarian and the Military

The second thematic debate had four contributors who approached the topic from very different perspectives:

- Soren Jessen-Peterson, Assistant High Commissioner;
- Lieutenant Colonel John Rollins, former British Army, now SHAPE (NATO);
- Jean-Marie Kindermans, head of Medicines Sans Frontiers (MSF);
- Beth Ferris from the World Council of Churches (WCC).

The Assistant High Commissioner opened the panel by sharing his insights from his recent mission to West Africa where there is an urgent need for the borders to be secured in order to protect refugees. He pointed to the gap on internally displaced persons, the resource gap (as UNHCR is chronically underfunded) and the security gap as the three important challenges facing UNHCR. He then suggested several areas where the military can contribute to humanitarian operations:

- they can provide a secure environment;
- they can provide direct protection for humanitarian action;
- they can provide logistical support in complex emergencies;
- they can help with information about what to expect and enable better decisions to be made.

In so doing, he stressed that it must be a case of military support for humanitarian actions, not the other way around. Further, there must be humanitarian leadership of humanitarian action.

The NATO representative emphasised that the military are not comfortable about going beyond their traditional security mandates but are increasingly finding themselves drawn into humanitarian operations where the boundaries are blurred and where they take on non-military roles. He too stressed the importance of clarity of mandates, joint planning at an early stage and respect for the principles of impartiality and neutrality. This being said, he pointed to initiatives in the Balkans to advocate for collaborative action.

The MSF representative came from the opposite camp. He argued that the presence of the military in humanitarian actions can damage the image of NGOs and can exacerbate security problems (as in Somalia). Rather than joint initiatives, the two sectors should remain separate, each with their own areas of responsibility and respect for the differences.

The WCC delegate represented the middle ground, acknowledging the many difficulties in working too closely with the military but conceding that there were also many benefits to be derived from collaboration, in particular in the security arena and with de-mining.

The lack of consensus amongst NGOs about this issue was reflected in the discussions that followed.

6.4. Regional Sessions

In the past, sequential regional sessions dominated the Pre-Excom meeting. In 2000 they were grouped into two blocks in which parallel sessions were run - useful time-wise but disappointing in so much as it was not possible to get the global overview we had in the past. The two sessions I attended were:

i. South-East Asia and the Pacific

The recent events in West Timor (staff killings, withdrawal of aid workers) dominated this session, with a briefing given about the situation on ground and the preconditions UNHCR has for return: “only when the government is prepared to address the security situation will UNHCR be prepared to consider re-entering the agreement”.

Reference was also made to:

- some of the challenges facing the UN and NGOs in East Timor;
- the large increase in the number of asylum seekers from Burma into Thailand and the problems caused by delays in admission decisions;
- concerns about the lack of progress in reaching agreement on the outstanding verification issues that would enable repatriation of Bhutanese from Nepal, despite high hopes after the High Commissioner’s visit;
- the plans UNHCR has for re-opening an office in Papua New Guinea (noting the possibility of a cross border flow if there is a significant deterioration in Papua);
- the extension of UNHCR activities for another 12 months in Rakhine State in Burma because plans to hand over operations to BNAP had proved problematic;
- UNHCR’s discussions with China aimed at encouraging the government to give greater support and protection to refugees from North Korea;
- UNHCR’s support of Tibetan refugees which must “remain discrete”.

Australia and New Zealand did not feature in the regional session except by way of a passing remark. NGOs from Australia met separately with representatives of the regional bureau.

ii. Central and South West Asia, North Africa and the Middle East

The main focus in this session was on the long-standing refugee situations in the region (in particular the Afghans and Iraqis) which have led to fatigue, frustration and a serious deterioration in the conditions in the countries of first asylum. It was argued that there is an urgent need for the international community to refocus on solutions (both at the practical and political levels). Much concern was raised from the floor about forced repatriation of Afghans from Iran and the issue of UNHCR involvement in interception activities in Indonesia was raised.

Other areas mentioned included Western Sahara and Yemen (new influx from Ethiopia and Eritrea). Reference was also made to concern about the increase of the use of violence by groups claiming asylum and the resultant increasing reluctance of governments to grant admission.

7. Fringe Meetings

Each year more and more “fringe meetings” are appearing on the pre-Excom agenda. This year there were two and sometimes three concurrent meetings organised each lunchtime and at least one breakfast session

per day. In most cases these are organised by NGOs hoping to profile activities they have been working on, sometimes UNHCR is behind the meetings. I attended the following meetings:

i. ICVA Meeting on Protection

Over 50 NGOs met with the International Council of Voluntary Agencies to discuss ways in which NGOs could have input into the forthcoming Global Consultations on Protection. It was agreed that ICVA facilitate this process and various suggestions were made about how best this could be done.

ii. Workshop on Refugee Women

This session was organised by the newly appointed UNHCR Refugee Women's Coordinator and was intended to brief participants on developments within UNHCR on refugee women, including:

- UNHCR's Position Paper on Gender Related Persecution (issued November 1999);
- the work being undertaken to revamp UNHCR's Guidelines on Refugee Women (the table of contents of which was circulated for comment). It was explained that one of the main thrust of this process is to look not only at gender as a social group but also to promote a gender-sensitive approach to all refugee status determination procedures;
- the review that is being undertaken of the work on refugee women within the last decade;
- initiatives aimed at promoting best practice in the field in relation to protection of refugee women.

A lively discussion followed the presentations in which there were two things worthy of note:

- a strong argument was put that the new guidelines should also cover trafficking and interdiction;
- reference was made to a forthcoming conference on refugee women and gender based persecution that is being planned for Montreal in Canada in early May, 2001.

iii. Economic, Social and Cultural Rights of Refugees: a West African Perspective

This workshop showcased a joint project between the Lawyers Committee for Human Rights and WARIPNET²³ which is based on the premise that there has been too much focus on civil and political rights when considering refugee rights and that there is much value in shifting the framework used in mass refugee flows to one based more on economic, social and cultural rights, in particular basic rights to food, health care and shelter. It was argued that these are the areas that are often being used to penalise asylum seekers (by restricting access to assistance) or to force refugees to repatriate (by withdrawing food rations). In other cases, the failure to provide for these basic rights increases the vulnerability of refugees to exploitation and abuse. A paper outlining the findings of the project is available from RCOA.

iv. Exclusion

This was another Lawyer's Committee for Human Rights initiative: a research project aimed at safeguarding the rights of refugees under Article 1F of the Refugee Convention and Article 1[5] of the OAU Convention (the Exclusion Clauses). This internationally-coordinated project was presented by London-based lawyer, Chaloka Beyani. Papers are available on this project for those who are interested and the next edition of the Journal of Refugee Law will be entirely devoted to this topic..

²³ WARIPNET stands for the West Africa Non-governmental Organisations Refugees and Internally Displaced Persons Network.

8. ECRE Biannual Meeting

The Biannual Meeting of the European Council on Refugees and Exiles is held over the weekend between the UNHCR-NGO Consultation and Excom. The meeting was opened by the High Commissioner and the main plenary session was on the topic “Global Perspectives on the Future Protection Regime”. The two presenters were Julia Taft, Assistant US Secretary of State and myself.

In addition to the usual meeting business (elections, finances etc), there were 7 workshops (in 2 sessions) on:

- regionalisation of asylum procedures
- trafficking and smuggling
- defending the protection system
- returns
- removal of rejected asylum seekers
- reception of asylum seekers in relation to possible return
- asylum seekers: housing alternatives and spacial distribution.

Discussion papers were made available for each of these workshops. In addition, a number of new ECRE Position Papers were presented (see Section 9 below).

9. List of Documents

In addition to the documents included in this report, the following papers/reports were brought back from Geneva and are available for viewing/copying on request.²⁴

Contributions to the Thematic Debate:

Albania
Canada
European Union (in French)
Germany
India
International Labour Organisation
Islamic Republic of Iran
OCHA
South Africa
Sudan
Sweden
Thailand
United Kingdom
United States of America
World Food Program

Contributions to the Debate on International Protection:

Canada
Sweden
United States of America

²⁴ If the documents requested are lengthy, payment will be required for duplication.

ECRE Papers

Discussion Papers:

Regionalisation of Asylum Procedures
The Impact of Immigration Controls on the Right to Seek Asylum
What is needed to Defend the Protection System?
The Reception of Asylum Seekers in Relation to Possible Return
Trafficking and Smuggling
Removal of Rejected Asylum Seekers
The Reception of Asylum Seekers: Housing Alternatives and Spatial Distribution
Returns

Position Papers:

Position on the Reception of Asylum Seekers (June 1997)
Position on the Interpretation of Article 1 of the Refugee Convention (Sept 2000)
Position on Complementary Protection (September 2000)

UNHCR Papers:

PARinAC Progress Report

State of the World's Refugees: 2000 - flier

Statement by the Director of the Bureau for Asia and the Pacific

Statement by the Director of the Regional Bureau for CASWANAME

UNHCR Position Paper on Gender Related Persecution (November 1999)

Draft Table of Contents: UNHCR (revised) Guidelines on Refugee Women

Other Papers:

Asociacion Espana con ACNUR: Papers from the Madrid Colloquium on Humanitarian Crises and Reconciliation (June 2000)

Canadian Council for Refugees: information about conference on Refugee Women - May 2001

Greek Council for Refugees: manual on how to conduct asylum interviews

Hungarian Helsinki Committee: Hungary - protecting or transmitting refugees

ICVA Talkback: The Next High Commissioner for Refugees (Sept 2000)

Interchurch Committee for Refugees: Excom Brief

Human Rights Watch: statement on rape of refugee women in Guinea

LCHR: Safeguarding the Rights of Asylum Seekers under the Exclusion Clauses (Oct 2000)

Refugee Consortium of Kenya: description of activities

WARIPNET: From Response to Solutions: strengthening the protection of refugees through economic, social and cultural rights

Yugoslav Red Cross: Humanitarian Situation in the Federal Republic of Yugoslavia.