Ministerio de Relaciones Exteriores
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CARTAGENA +40

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SECRETARÍA DE RELACIONES EXTERIORES

First Thematic Consultation of the Cartagena+40 Process

Protection of persons in situations of human mobility and statelessness

***Mexico City, 4 -5 April* 2024**

CONCEPT NOTE

I. Introduction

This document was prepared by the Technical Secretariat of Cartagena +40 (C+40), led by the Government of Chile with the support of UNHCR. It will serve to inform and guide discussions during the First Thematic Consultation of the Cartagena+40 Process among Latin American and Caribbean States, local authorities and municipalities, regional and sub-regional mechanisms, international organisations, civil society organisations, refugee-led organisations, academia, national institutions for the promotion and protection of human rights, private sector, and international development and finance actors.

This First Consultation aims to identify the current and future protection needs in the region and design common responses to the protection of persons in situations of human mobility and statelessness. Two other Consultations on Solutions and Displacement caused by disasters will occur in May and June respectively and will be announced in due course.

The debate generated during the three Consultations will serve as input for the elaboration and subsequent adoption of a new Regional Action Plan for 2024-2034, following up on the Brazil Action Plan 2014-2024.

In a cross-cutting manner, a comprehensive protection approach involving the actions required in countries of origin, transit, destination and return will be promoted through a comprehensive and exhaustive approach that considers the needs of displaced and stateless persons. In addition to the causes of displacement, it is essential to address the severe human rights violations suffered by displaced persons along the route, the protection risks in host countries, and to assess the guarantees and favourable conditions for a voluntary, dignified and safe return as a durable and sustainable solution.

In this regard, a perspective that ensures that people are at the centre of all actions considering a gender, intersectional and intercultural approach, which responds to the specific risks and needs of those with special protection needs along their entire route will be promoted, contributing to the responses currently provided by States. The importance of solidarity, international cooperation, and responsibility sharing will be reinforced, bearing in mind the needs of countries of origin, transit, destination and return.

II. The Cartagena Process: Four Decades of Legal and Humanitarian Solutions

In 1984, the Cartagena Declaration on Refugees was adopted. This marked a new milestone in the generous tradition of solidarity, asylum, refugee protection and regional cooperation in Latin America and the Caribbean. It provided an innovative and flexible framework for responding, in a comprehensive manner, to the legal and humanitarian regional challenges in international protection. In particular, it recommended the adoption of a regional refugee definition, extending protection to persons forced to flee in situations other than those stipulated in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

Following this Declaration, the region established a decade-long tradition of commemorating its adoption, initiating the "Cartagena Process" and inspiring what has become known as the "Spirit of Cartagena", characterised by a focus on refugee protection and solutions; the convergence with existing protection mechanisms and frameworks; a peaceful and humanitarian approach to protection challenges; the evolutionary, pragmatic, flexible and visionary nature of refugee and stateless persons protection; a human rights approach recognising the links between international humanitarian law, international human rights law and international refugee and stateless law, including the contributions of the Inter-American Human Rights System in the construction of standards and principles; the principles of solidarity, international cooperation, responsibility sharing and burden sharing between states.

The above-mentioned considerations have been built up over time through the various phases of the Process:

- In 1994, the **San José Declaration on Refugees and Displaced Persons** was adopted in Costa Rica, which reviewed the importance of the Cartagena Declaration as a protection tool and included the need to address the situation of internally displaced persons in the region.
- In 2004, the **Mexico Declaration and Plan of Action to Strengthen International Refugee Protection in Latin America** (PAM) was adopted. It innovated by including a ten-year Regional Plan of Action that introduced pioneering protection and durable solutions programmes: "borders of solidarity", "resettlement in solidarity", and "cities of solidarity".
- For the 30th commemoration, the **Brazil Declaration and Plan of Action** (BPA) was adopted in 2014, involving Caribbean states and territories for the first time. The BPA, as a ten-year roadmap, implemented the principles of solidarity, international cooperation and responsibility sharing, later included in the 2018 Global Compact on Refugees, incorporating statelessness as a new area of protection along with the "quality asylum" and "comprehensive and sustainable solutions" programmes. It also set out strategies for the Caribbean and Northern Central America countries based on their specific needs. At the end of the decade of implementation of the PAB, UNHCR, in compliance with the States' request, together with Brazil, submitted a Final Implementation Report, highlighting significant progress in all chapters and programmes.

III. The Cartagena+40 Process: a new scenario of challenges and emerging needs for protection and solutions

The Cartagena+40 Process will build on the region's consensus, progress, and achievements in recent decades, ensuring their inclusion at national and regional levels. It will give continuity to the Brazil Plan of Action, maintaining the validity of its tools and good practices and ensuring they are strengthened, expanded, and regionalised in Latin America and the Caribbean.

This Process is articulated as a space for reflection on the current regional context. It incorporates the new dynamics that affect it, fostering the adoption of legal and humanitarian solutions to address them. It is also a space for debate on existing challenges and those that may arise in the future, aiming to anticipate responses and generate a strategic regional framework of priorities through the development of flexible, adaptable, visionary and innovative tools. Also, considering the progress made in the region, particularly since the implementation of Brazil Plan of Action, the Process seeks to continue advancing in the adoption of concrete measures aimed at providing effective responses to people in contexts of human mobility.

Over the past decade, the region has witnessed a steady growth in the scale and complexity of forced displacement and addressing it has become a persistent challenge. The situation has been exacerbated by the consequences of the global financial crisis, the proliferation of transnational organised criminal gangs, the sustained socio-economic impact of the COVID-19 pandemic, and the adverse effects of climate change and disasters.

The number of people on the move has reached unprecedented levels in the region, and displaced persons also face increasing risks, such as extortion, kidnapping and death along the route, various and severe forms of gender-based violence, forced recruitment, exploitation and trafficking. The risk of statelessness has also increased, with difficulties in accessing birth registration procedures, acquiring a nationality at birth, and obtaining documentation to prove nationality, among other challenges.

These large-scale movements are mainly mixed movements of people who travel together, often along the same routes and using the same means of transportation, but who leave their countries of origin for different reasons, including persecution, violence and insecurity, armed conflicts, and the search for a better life. Mixed movements are comprised of people who have different needs and may include asylum-seekers, refugees, victims of trafficking, unaccompanied or separated children, stateless persons, and migrants in irregular situations.

This scenario imposes the challenge of distinguishing why people leave their countries. Those who move because their life, safety or freedom are at risk and in need of international protection (access to asylum procedures or refugee status determination, complementary protection), require tailored solutions and specific attention. This is without prejudice to the protection, integration and solutions needs of those who, without being refugees, are also in need of other international protection responses. However, whichever the reasons for human mobility, people require safeguarding fundamental rights such as education, health, work, and livelihoods, documentation, birth registration, and access to a nationality, as appropriate, as well as access to other international protection responses. This is especially important considering the situations faced along the route, which often affect women, children, and adolescents differently, who represent an alarming proportion within these movements.

The demands this implies for Latin America and the Caribbean countries are even greater as these movements are multi-directional, successive, changing, and at a continental level, and affect all countries to a greater or lesser extent.

Therefore, it is essential to implement a comprehensive protection approach to strengthen protection and solutions in countries of origin, transit, destination, and return. This approach should address people's broad spectrum of needs throughout their journey according to the reasons that motivated their movement. It also requires that countries address this situation in a supportive, coordinated, and articulated manner.

The comprehensive protection approach will be a priority in Chile's Plan of Action, in coherence with the 2018 Global Compact on Refugees (GCR) objectives. The commitments that each country announced at the Second Global Forum on Refugees in 2023 will be crucial to achieving the objectives of the GCR: (i) easing pressures on host countries, (ii) enhancing refugee self-reliance, (iii) expanding access to third-country solutions, and (iv) supporting conditions in countries of origin for safe and dignified returns.

In this sense, the Chile Plan of Action will be aligned and articulated with the implementation mechanisms of the GCR in particular, the Global Forum on Refugees; the first step has been the formulation of the regional pledge on "Cartagena+40", as well as the High-Level Officials Meetings. The Chile Plan of Action aims to become the mechanism for articulating the pledges of Latin American and Caribbean countries to strengthen protection, solutions and eradication of statelessness in the region.

In this manner, the Chile Plan of Action will stand as an adapted regional implementation of the Global Compact on Refugees, reinforcing values that have been cross-cutting in the history of the Cartagena Process, particularly the need for solidarity, international cooperation, and responsibility sharing among countries to achieve common progress and consolidate a regional protection framework.

V. First Consultation of the Cartagena+40 Process: *Protection and Assistance to Persons in Situations of Human Mobility and* Statelessness

The First Consultation of the Cartagena+40 Process will focus on the protection and assistance of persons in situations of human mobility and statelessness, with emphasis on admission, reception, access to the refugee or statelessness determination procedures; the guarantee of non-refoulement as a cornerstone of international refugee protection; efficient case management; protection-sensitive mechanisms that facilitate access to alternatives for legal stay and documentation; or temporary stay agreements, and complementary pathways of humanitarian protection.

The above key areas have been established in response to the priorities and needs identified in recent years in the region, in synergy with the principles of the 2018 Global Compact on Refugees.

The First Consultation will generate an inclusive space for reflection towards formulating strategies, commitments and common responses to coordinate efforts to protect people in situations of human mobility and statelessness. People and their journey along the route will be the central focus of all actions, considering a gender, intersectional and intercultural perspective and specific protection risks and needs.

Five technical discussion areas have been identified in this context.

To facilitate the work around these areas, guiding questions are provided to enable the identification of common solutions. States and other stakeholders are encouraged to frame their interventions around the suggested guiding questions to achieve an effective and substantive outcome.

1) Eradication of statelessness

- **Simplified birth registration in a timely and late manner.** ***What mechanisms can be developed, and what measures can be taken to encourage simplified birth registration? What role can new technologies (digital and other) and consular legations play along the route?***
- **Facilitation of legal identification.** ***How can birth registration and documentation be facilitated in countries of origin, transit and destination? What bilateral or multilateral agreements can be generated to provide key documents in the respective processes? What joint mechanisms can be developed to jointly address the needs of cross-border populations or people in transit?***
- **Facilitated naturalisation for refugees and stateless persons as a mechanism for the solution of their plight.** ***What mechanisms, policies or regulations can be implemented to facilitate the naturalisation of refugees and stateless persons?***

The presentation of good practices developed in the region - including at the national level or in other existing forums- that can be adapted, replicated or generalised at the regional level is encouraged. Stakeholders are also encouraged to present innovative responses and solutions to facilitate crafting new common policies, programs, and strategies.

2) Comprehensive protection of persons in human mobility in countries of origin, transit, destination and return

- **Mechanisms to address internal displacement in countries of origin:** ***What mechanisms and tools can be developed for the prevention of internal displacement; to provide care, protection, stabilization, and socio-economic integration of IDPs; incorporate guarantees of safe and voluntary return and with dignity; or consider other solutions such as relocation?***

- **Protection of persons with specific protection needs along the route.** ***What mechanisms and tools can be developed to achieve adequate and timely identification, care and referral for protection needs along the route, with a special focus on prevention and response to gender-based violence, age, diversity, and ethnic specificities (such as indigenous peoples or afro-descendants)? What actions and mechanisms can be developed to strengthen prevention and responses to exploitation and care for victims of trafficking in persons, both at the national and regional levels? Are there good practices developed in this area that can be replicated and, if necessary, reinforced?***
- **Coordination, protection, access, assistance and safeguards against refoulement at borders in transit and host countries.** ***What areas and measures need to be strengthened in transit and destination countries to implement solidarity and secure borders in terms of access to the territory, non-refoulement, reception, identification and referral? What kind of binational/regional inter-state cooperation can reinforce these objectives?***
- **Protection considerations and solutions for safe and dignified return:** ***What effective, efficient and pragmatic policies, mechanisms and tools can be designed to strengthen the care, identification, reception and socio-economic reintegration of returnees?***

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3) Strengthening refugee status determination systems - Quality of Asylum

- **Fair and quality procedures:** ***What requirements, structures and mechanisms would allow a fair and quality procedure to resolve pending requests and strengthen respect for due process?***
- **Efficient, adaptable and integral procedures:** ***How can the efficiency of asylum systems be strengthened, without affecting quality, at all stages of the procedure: registration, refugee status determination - differentiated procedures? What procedures are the most efficient for adapting systems to large-scale movements and what do they require for their implementation? How can new technologies (digitalisation) be used, the scope of national institutions be extended (decentralisation of the procedure), and safeguards be foreseen in order to protect the integrity of procedures and the rights of individuals?***
- **Consideration of a collective or group-based refugee status determination approach:** ***How can a collective or group-based refugee status determination approach contribute to the efficiency and fairness of systems while ensuring the legitimate security and policy concerns of states' migration management and international refugee protection policies?***

The presentation of good practices developed in the region - including at the national level or in other existing forums- that can be adapted, replicated or generalised at the regional level is encouraged. Stakeholders are also encouraged to present innovative responses and solutions to facilitate crafting new common policies, programs, and strategies.

4) Temporary or complementary protection mechanisms

- **Protection-sensitive mechanisms alternatives to refugee status determination but not substitutes for.** ***What protection-sensitive mechanisms additional to the asylum system can be established in contexts of mixed movements of people? What rapid and efficient humanitarian responses can be made in situations of emergency or large-scale movements? What safeguards should be built into these mechanisms based on human rights norms and standards?***

- **Strengthening family unity:** ***How can the right to family unity be strengthened and family reunification procedures—requirements, procedures, administrative management—simplified? What measures can be taken to avoid family separation in contexts of mixed movements (persons in need of international protection and migrants, among others)?***

The presentation of good practices developed in the region - including at the national level or in other existing forums- that can be adapted, replicated or generalised at the regional level is encouraged. Stakeholders are also encouraged to present innovative responses and solutions to facilitate crafting new common policies, programs, and strategies.

5) Co-operation and shared responsibility mechanisms

- **Synergies with other regional mechanisms.** ***How can other mechanisms in the region contribute to the C+40 Process and the implementation of the Chile Declaration and Plan of Action? What elements and tools of the Global Compact on Refugees can be incorporated into the Declaration?***
- **Regional cooperation, strengthening solidarity and considerations of responsibility sharing (between states and other stakeholders).** ***How can the region's countries strengthen international cooperation, solidarity, and responsibility or burden sharing among themselves? How can Cartagena+40 contribute to generating multilateral articulation towards the fulfilment of this objective?***
- **Creation of a C+40 Support Platform with other interested states and entities: continental platform.** ***What successful experiences of support platforms exist in the region? (MIRPS; Quito Process) How could a C+40 Platform be a tool for the implementation of the Chile Action Plan?***
- **Role of other stakeholders in the follow-up and implementation mechanism.** ***How can other stakeholders contribute substantively and constructively to strengthening the implementation of the Chile Plan of Action?***