

The Premier Model United Nations Conference in the Pacific Northwest



Background guide for the
UN HIGH COMMISSIONER FOR REFUGEES
EXECUTIVE COMMITTEE
(UNHCR)

Northwest Model United Nations | November 22-24, 2013 | Seattle, Washington, USA

August 1, 2013

Dear Delegates,

Welcome to the 2013 Northwest Model United Nations (NWMUN) Conference and the United Nations High Commissioner for Refugees (UNHCR) Executive Committee. The committee staff of the UNHCR, consisting of Director Aaron Raymond, Chair Mike Hills, and Special Adviser Valerie Ziegler, is looking forward to working with you at our conference.

The entire Secretariat is very excited to work with you in November and appreciate the hard work and research you are undertaking in preparation for what we are confident will be a great conference!

We are immensely pleased to present to you the background guide, written by Aaron Raymond, Joyce Adams, Mike Hills, Valerie Ziegler and Sabrina Grover.

The structure for this year's agreement negotiated under the auspices of the United Nations High Commissioner for Refugees Executive Committee is as follows:

- I. Preamble
- II. Scope and Definitions
- III. Assistance and Protection
- IV. Implementation
- V. Final Provisions

Every participating delegation is required to submit a position paper prior to attending the conference. NWMUN will accept position papers until **Sunday, November 10th at 11:59 pm Pacific Time. Please submit all position papers to unhcr@nwmun.org AND positionpapers@nwmun.org.**

Please refer to the following pages for position paper requirements, as well as an example position paper. Delegates' adherence to these guidelines is crucial, because it not only ensures a well-prepared committee, but is also a key component of the awards process.

We wish each of you the best as you prepare for this conference and committee. We urge you to move beyond the background guide as you learn more about both the Member State you will represent and the topics we will be discussing. Please do not hesitate to direct any questions or concerns toward your Director or the Director-General. We look forward to meeting you at the conference!

Sincerely,

Aaron Raymond
Director,
UNHCR
unhcr@nwmun.org

Mike Hills
Chair,
UNHCR
unhcr@nwmun.org

Sasha Sleiman
Director-General
NWMUN 2013
dg@nwmun.org

Position Paper Guidelines

Your position paper should consist of a well-developed introduction and a summary of the position of your country on each of the topics to be discussed in your committee. It is important to remember that while you will have lots of information on your country's actions on a local or national level, you must discuss your country's position on an international level, particularly including suggestions for policies and future action that could be taken by the committee. Additional examples of high quality position papers are available on the NWMUN website.

Formatting

Position papers should be formatted using the following specifications:

1. Times New Roman
2. Size 10 – 12 font
3. Single spaced
4. 2 pages in length

Please Note: Anything over two pages will not be read.

Submission Process

NWMUN will accept position papers until **Sunday, November 10th at 11:59 pm Pacific Time.**

1. Please **send each position paper in a separate e-mail to the committee** with the subject line: COUNTRY – COMMITTEE
 - a. Example: BELARUS – HRC
 - b. Example: TRINIDAD & TOBAGO - GA

2. Please **cc all position paper submissions** to positionpapers@nwmun.org.

General Assembly Plenary:	ga@nwmun.org	Economic and Social Council:	ecosoc@nwmun.org
UN Environment Programme:	unep@nwmun.org	Security Council:	sc@nwmun.org
Reformed Security Council	rsc@nwmun.org	UN High Commissioner for Refugees:	unhcr@nwmun.org

Please Note: Delegates who have not submitted a position paper by the specified deadline will not be given consideration for awards.

Content Requirements

Position papers should include, and will be graded, on the following items

1. **Formatting** and presentation;
2. **Spelling and grammar that is reflective of the level of education** being pursued by attendees to the conference.
3. The content should include:
 - a. **Background information on the topic**, why your country thinks it is important, relevant national commitments and action on the issue. Remember to focus on national policies which influence your country's action on this topic within the UN and internationally.
 - b. **International commitments and your country's support of specific resolutions**, initiatives, conventions or treaties. Describe what actions have been taken by your country to address prior international agreements made by your country.
 - c. **Specific and concrete proposals** for next steps on the topic, priority issues, and how your country can move forward on addressing the topic. This is the most important section of the position paper, and should be the longest paragraph.

Research Tips

1. Look for statements made by your country – you will often find the exact position of your country within a speech that they have been made.
2. Look for the voting record of your country, which indicates its support or lack of support for particular resolutions on the topics when they were previously discussed.
3. Look for recommendations made in Secretary-General reports or within resolutions that have been adopted in order to identify the ways in which you can move forward or take action on the topic.

Key Resources

1. **UN Website “On the Record”**: <http://www.un.org/depts/dhl/unms/>
This website provides direct access to official documents reflecting the views of United Nations Member States.
2. **UN Website “Global Issues”**: <http://www.un.org/en/globalissues/>
This website offers an overview of some of the global issues we will be discussing at NWMUN, and links to other resources where you can get additional information.
3. **Website of the UNHCR**: <http://www.unhcr.org>
The UNHCR's website has refugee-related news, as well as information on country-specific crises involving refugees and thematic issues that affect refugees in multiple geographic contexts.

Sample Format & Content of Position Papers

Delegation from
(Bold, Italicized, Times New Roman, Size 10-12)
[Member State]
(Bold, Times New Roman, Size 10-12)

Delegation from
(Bold, Italicized, Times New Roman, Size 10-12)
[Member State]
(Bold, Times New Roman, Size 10-12)

Position Paper for [Committee Name]
(Bold, Italicized, Times New Roman, Size 10-12, Centered)

Introductory sentence providing an overview of the topics and, if appropriate, your delegation's relationship with the committee. (Times New Roman, Size 10 – 12)

I. Section One Title
(Bold, Italicized, Times New Roman, Size 10-12, Centered)

Paragraph #1: Background information on the topic, why your country thinks it is important, relevant national commitments and action on the issue. Remember to focus on national policies which influence your country's action on this topic within the UN and internationally.
(Times New Roman, Size 10 – 12)

Paragraph #2: International commitments and your country's support of specific resolutions, initiatives, conventions or treaties. Describe what actions have been taken by your country to address prior international agreements made by your country (Times New Roman, Size 10 – 12)

Paragraph #3: Specific and concrete proposals for next steps on the topic, priority issues, and how your country can move forward on addressing the topic. This is the most important section of the position paper, and should be the longest paragraph. (Times New Roman, Size 10 – 12)

II. Section Two Title
(Bold, Italicized, Times New Roman, Size 10-12, Centered)

Paragraph #1: Background information on the topic, why your country thinks it is important, relevant national commitments and action on the issue. Remember to focus on national policies which influence your country's action on this topic within the UN and internationally.
(Times New Roman, Size 10 – 12)

Paragraph #2: International commitments and your country's support of specific resolutions, initiatives, conventions or treaties. Describe what actions have been taken by your country to address prior international agreements made by your country (Times New Roman, Size 10 – 12)

Paragraph #3: Specific and concrete proposals for next steps on the topic, priority issues, and how your country can move forward on addressing the topic. This is the most important section of the position paper, and should be the longest paragraph. (Times New Roman, Size 10 – 12)

(Repeat the topic header and content for other sections if your committee has more than two.)

Example Position Paper

*Delegation from
Canada*

*Represented by
University of Southern Washington*

Position Paper for the Economic and Social Council Plenary

The topics before the Economic and Social Council are: 1) Promoting Economic and Social Gender Equality as a Means to Achieve Sustainable Peace, 2) Implementing International Agreements to Ensure Global Public Health, and 3) Promoting Sustainable Cities. Canada is committed to strengthening the role of ECOSOC on the issues before it, and looks forward to promoting enhanced cooperation amongst Member States in order to reach consensus and take concrete action.

I. Promoting Economic and Social Gender Equality as a Means to Achieve Sustainable Peace

In conflict and post-conflict societies, economic and social rights are often given lower priority than political and civil rights. In these cases, women are not treated equally, and are often the victims of gender discrimination, which manifests itself in violations of human rights such as rape, violence and displacement. The prevalence of these crimes is exacerbated by a lack of protection for women, who often do not possess the right to own land, have no means to receive adequate health care and have no access to justice.

Canada has long been a champion of women's economic, social, and cultural rights. As an original signatory of the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights (CESCR), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Canada has a formal commitment to gender equality and, more specifically, supports the explicit and systematic integration of a gender perspective into all peace-building and foreign aid initiatives. Canada continues to press for specific initiatives with concrete and measurable outcomes when addressing gender inequality. The Canadian International Development Agency (CIDA) has developed its own Framework for Addressing Gender Equality Results. This framework has been an important advance in assessing the effectiveness of its initiatives and has consistently provided CIDA with useful and relevant data. Canada recognizes the advancements made in Security Council resolution 1820 (2008), 1888 (2009) and 1889 (2009) to strengthen the original principals of Security Council resolution 1325 (2000). However, Canada firmly believes that ensuring the implementation of SCR 1325 (2000) at the national level is vital. That is why Canada suggests that the CEDAW committee issue recommendations to both the Security Council and ECOSOC on positive models for National Action Plans (NAP) for incorporating SCR 1325 (2000), a set of progress and impact indicators through which its implementation can be monitored, and benchmarks designed towards strengthening the principals of SCR 1325 (2000).

Canada recommends that the Commission on the Status of Women (CSW), along with the ECOSOC Committee on Non-Governmental Organizations (NGOs) reach out to local NGOs and civil society organizations (CSOs) to coordinate the monitoring of, and reporting on, the progress of these NAPs. CSW will then report its findings to ECOSOC, the Security Council, and the Secretary-General. Canada urges for the adoption of benchmarks requiring 30% of UN-mandated peacekeeping forces and negotiating delegations be women. Canada also believes that while peacekeeping troops are vital to facilitating the cessation of hostilities, a separate unit with a specialized mandate is necessary to deal with the psychological and health issues of women that continue in post-conflict situations long after the violence is over. The specialized mandate will also lay the groundwork for legal procedures that may

need to be taken to ensure just peace. Canada calls for the creation of this specially trained unit to be deployed in post-conflict situations, with a specific mandate to address sexual and gender based violence, help to eliminate impunity, and offer same-sex interviewers for rehabilitation purposes. The newly created unit will facilitate reconciliation and violence prevention.

II. Implementing International Agreements to Ensure Global Public Health

Effectively addressing global public health lies at the center of achieving the Millennium Development Goals (MDGs). Through agreements such as the Paris Declaration on AID Effectiveness, the Accra Agenda for Action (AAA), and global health initiatives such as the Global Alliance for Vaccines and Immunizations (GAVI), and the Global Fund to fight AIDS, TB, and Malaria, the international community has made significant progress in addressing the world's health concerns. Canada is focused on creating frameworks and resolutions that foster greater coordination, eliminate corruption and overlap, improve AID consistency, encourage the untying of AID, emphasize a focus on national health systems, and hold all the countries involved accountable for producing tangible and measurable results.

Canada has been a leader in the use of innovative funding mechanisms, such the Advance Market Commitment (AMC), which provides incentives for pharmaceutical companies to accelerate the development of vaccines and sell them at prices that poor countries can afford. This project, which is being implemented in coordination with the World Bank and GAVI, is expected to save an estimated 7.7 million lives by 2030. Canada will continue to urge its fellow member states to become more involved in the creation and implementation of such innovative funding mechanisms.

Especially now, due to the downturn in the global economy, where the world's poor are disproportionately suffering, there is a greater need for all donor countries to fulfill their Official Development Aid (ODA) commitments. Canada was the first country to fulfill its G8 commitment to double ODA in Africa by 2008, and throughout the world by 2010. This has been accomplished through both the African Health Systems Initiative (AHSI) and the Catalytic Initiative to Save a Million Lives. Canada has not only committed USD 450 million to these initiatives, but with them has demonstrated its focus on both strengthening, and developing local ownership, of national health systems. Canada urges the implementation of year-by-year funding targets to ensure that ODA commitments for health initiatives are kept. Currently The Measles Initiative is facing a funding gap of \$59 million for 2010, and the Global Fund to fight AIDS, TB, and Malaria is also facing a funding crisis of \$5 billion for this year. These gaps in funding could cause millions their lives. Canada strongly urges it fellow member states to fulfill their commitments to these funds.

Canada is also a strong proponent of the International Health Partnership & Related Initiatives (IHP+). The Canadian International Development Agency (CIDA), through the IHP+ framework, is the chair of the Mozambique National AIDS Council (CNCS) and has made long-term financial commitments to IHP+. Canada believes that IHP + will not only prove to be extremely effective in addressing the issues of AID effectiveness, redundancy, and accountability, but will also go a long way towards creating a united front dedicated to improving global public health. Canada urges for the creation of new commitments that compel 15 Organization for Economic Co-operation and Development (OECD) countries to join in either bilateral or compact agreements through IHP+ by 2020.

The United Nations High Commissioner for Refugees at NWMUN 2013

The NWMUN Secretariat works each year to create as accurate a simulation as is possible for our delegates. Therefore, we have developed some additional ways for delegates to interact within the simulation, including enabling delegates to take multiple forms of action on an issue. While in other committees at NWMUN 2013, this approach has led to empowering delegates to choose the best form of action to take from a group of choices, the United Nations High Commissioner for Refugees Executive Committee at NWMUN 2013 is a unique simulation, in which delegates will create a draft agreement and, if it is adopted, open it for signature and ratification.

Briefings

While discussing a topic, delegates on the United Nations High Commissioner for Refugees Executive Committee are able to receive briefings from representatives of relevant member states or UN subject matter experts. The specific thematic experts available will be announced on the NWMUN website, as well as the beginning of the conference.

Mandate

The mandate of the United Nations High Commissioner for Refugees at NWMUN 2013 is:

The United Nations High Commissioner for Refugees, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and of seeking permanent solutions for the problem of refugees by assisting Governments and, subject to the approval of the Governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities.

Functions & Powers

- Promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto;
- Promoting through special agreements with Governments the execution of any measures calculated to improve the situation of refugees and to reduce the number requiring protection;
- Assisting governmental and private efforts to promote voluntary repatriation or assimilation within new national communities;
- Promoting the admission of refugees, not excluding those in the most destitute categories, to the territories of States;
- Endeavouring to obtain permission for refugees to transfer their assets and especially those necessary for their resettlement;
- Obtaining from Governments information concerning the number and conditions of refugees in their territories and the laws and regulations concerning them;
- Keeping in close touch with the Governments and inter-governmental organizations concerned;
- Establishing contact in such manner as he may think best with private organizations dealing with refugee questions;
- Facilitating the co-ordination of the efforts of private organizations concerned with the welfare of refugees.

Outcome Document

NWMUN 2013 is simulating a special session of the United Nations High Commissioner for Refugees Executive Committee, the outcome of which will be an agreement on Persons Displaced by Climate Change.

Rules of Procedure

The UNHCR Executive Committee will use the normal NWMUN 2013 Rules of Procedure and a special set of rules for the simulation, which will be a Rules Addendum for the UNHCR. Both sets of rules, of which the Addendum will take precedence for the UNHCR, will be available to all delegates during the conference, as well as prior to the conference on our website.

Members of the United Nations High Commissioner for Refugees at NWMUN 2013

Algeria	Argentina	Australia	Austria
Bangladesh	Belgium	Benin	Brazil
Bulgaria	Cameroon	Canada	Chile
China	Colombia	Congo	Costa Rica
Cote d'Ivoire	Croatia	Cyprus	Denmark
Djibouti	Democratic Republic of the Congo	Ecuador	Estonia
Ethiopia	Finland	France	Germany
Ghana	Greece	Guinea	Holy See
Hungary	India	Iran	Ireland
Israel	Italy	Japan	Jordan
Kenya	Kiribati	Lebanon	Lesotho
Luxembourg	Macedonia	Madagascar	Maldives
Mexico	Morocco	Mozambique	Namibia
Netherlands	New Zealand	Nicaragua	Nigeria
Norway	Pakistan	Palau	Philippines
Poland	Portugal	Republic of Korea	Republic of Moldova
Romania	Russian Federation	Rwanda	Serbia
Slovenia	Somalia	South Africa	Spain
Sudan	Sweden	Switzerland	Thailand
Togo	Tunisia	Turkey	Turkmenistan
Uganda	United Kingdom	United Republic of Tanzania	United States
Venezuela	Yemen	Zambia	

United Nations High Commissioner for Refugees Executive Committee Background & Overview

The United Nations High Commissioner for Refugees (UNHCR) was established as a subsidiary body of the General Assembly (GA) in 1949 under GA resolution 319, and reports annually to the GA and the Economic Social Council (ECOSOC).¹ The committee was first conceived to address the refugee situation, which emerged in Europe during and following the end of the Second World War.² Following that, the committee extended missions into Africa, Asia and Latin America.³ The original mandate of the committee was set out as a Statute in resolution 428, and initially only extended for three years until 1953.⁴ The committee mandate was subsequently renewed under resolutions by ECOSOC and the GA.⁵ In 2004, the GA passed resolution *A/RES/58/153*, which indefinitely extends the mandate of UNHCR.⁶ Outside of the Statute, UNHCR's activities are governed by the 1951 *Convention relating to the Status of Refugees*, which forms the foundation for international refugee law.⁷ The convention provides the international definition of refugees, as well as the standards for treatment of those who fall under that definition.⁸ In 1967, the *Protocol relating to the Status of Refugees* expanded the definition of refugees to lift geographical restrictions and applicability of certain events occurring at the time.⁹

The organization's budget has grown to 3.59 billion USD in 2012 and it now assists 33.9 million "persons of concern," including 10.5 million refugees, 3.1 million returnees, 3.5 million stateless persons, and 837,000 asylum-seekers.¹⁰ It is important to note that UNHCR protections only apply to refugees who fall within their scope, and are not actively under the mandate of any other UN body or program, including those which deal with specific refugee populations such as the UN Relief and Works Agency for Palestine Refugees (UNRWA).¹¹

Governance

The UNHCR Executive Committee (ExCom) is made up of 87 members elected by ECOSOC, "who meet in Geneva annually to review and approve the agency's programmes and budget, advise on international protection and discuss a wide range of other issues with UNHCR and its intergovernmental and non-governmental partners."¹² Climate change and displacement was discussed at the 2012 UNCHR-NGO Consultation, in preparation for the most recent ExCom meeting.¹³ The NGOs urged the ExCom to work to define and identify "the root causes of displacement linked to environmental change, developing a legal and normative protection framework for people displaced by climate change and working with states to support strong national protection mechanisms for people displaced by climate change, both internally and across borders."¹⁴ This is the task that the ExCom will be taking up this

¹ UNHCR, *Statute of the Office of the United Nations High Commissioner for Refugees*, 2009. <http://www.unhcr.org/3b66c39e1.html>

² UNHCR, Self-Study Module 1: *An Introduction to International Protection. Protecting Persons of Concern to UNHCR*, 2005, p 8-10. <http://www.unhcr.org/publ/PUBL/3ae6bd5a0.pdf>

³ *Ibid.*

⁴ UNHCR, *Statute of the Office of the United Nations High Commissioner for Refugees*, 2009. <http://www.unhcr.org/3b66c39e1.html>

⁵ UNHCR, Self-Study Module 1: *An Introduction to International Protection. Protecting Persons of Concern to UNHCR*, 2005, p 8-10. <http://www.unhcr.org/publ/PUBL/3ae6bd5a0.pdf>

⁶ General Assembly, *Implementing actions proposed by the UNHCR to strengthen the capacity of his Office to carry out its mandate, (A/RES/58/153)*, 2004. <http://www.un.org/Docs/journal/asp/ws.asp?m=a/res/58/153>

⁷ UNHCR, Self-Study Module 1: *An Introduction to International Protection. Protecting Persons of Concern to UNHCR*, 2005, p 8-10. <http://www.unhcr.org/publ/PUBL/3ae6bd5a0.pdf>

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ UNHCR, *History of UNHCR*, n.d. <http://www.unhcr.org/pages/49c3646cbc.html>

¹¹ UNHCR, Self-Study Module 1: *An Introduction to International Protection. Protecting Persons of Concern to UNHCR*, 2005, p 8-10. <http://www.unhcr.org/publ/PUBL/3ae6bd5a0.pdf>

¹² UNHCR, *Executive Committee*, 2013, <http://www.unhcr.org/pages/49c3646c83.html>

¹³ Refugee Council of Australia, *RCOA Report on the 2012 UNHCR-NGO Consultations and Annual Tripartite Consultations on Resettlement*, 2012, <http://www.refugeecouncil.org.au/r/urpt/2012-NGOCons-ATCR.pdf>

¹⁴ *Ibid.*

November at Northwest Model United Nations 2013, with the goal of creating a new normative framework, a convention for the protection of persons displaced by climate change.

The UNHCR houses an Inspector General's Office (IGO) based out of Geneva, which acts as an internal monitoring mechanism for UNHCR activities.¹⁵ The IGO is tasked with assessing the quality of UNHCR management, including locating inefficiencies in resource allocation; investigating allegations of misconduct within the agency; and conducting inquiries into violent attacks on staff and operations.¹⁶

Areas of Work

UNHCR engages in several different areas of work to carry out its mandate in providing international protection for refugees.¹⁷ On the ground, UNHCR works to provide assistance, emergency response, capacity building and, immediate legal and physical protection for individuals.¹⁸ Additionally, UNHCR works with governments, humanitarian partners and other UN bodies to raise awareness through advocacy on the status of refugees, to create plans for asylum and migration, and to raise funds for the organization's program of work.¹⁹ UNHCR serves as a member of the Inter-agency and Expert Group on MDG Indicators (IAEG) to monitor progress towards achievement of the MDGs.²⁰ In conjunction with its work on the IAEG, UNHCR issues several country reports, which evaluate the state of refugees in comparison with the projected and desired MDG indicators.²¹

The two most prominent areas in which UNHCR works is to provide immediate protection for refugees, and to find long term durable solutions for displaced individuals.²² Under the parameters of protection, UNHCR works to secure admission for refugees into a country of asylum, grant asylum, and ensure their right to not be forcibly returned to where their safety is threatened.²³ Additionally, the organization extends protection and humanitarian assistance to other persons of concern, including Internally Displaced Persons (IDPs) and stateless persons.²⁴

Current Outlook

Each biennium, UNHCR focuses on a set of Global Strategic Priorities (GSP) as their goals and outlook for the following two years based off of the results-based management framework for the Organization.²⁵ In 2012, the GSP for 2012-2013 operating years was based off of an operational framework and a support and management framework.²⁶ Some of the key goals include seeking improvements to national law and policy to be consistent with international standards for refugees, secure birth registration for children born in refugee situations, increase support and protection for those at risk of sexual and gender based violence, and to mobilize political and financial support through partnerships, interagency coordination and public campaigns.²⁷

Climate Related Displacement

In 2011, UNHCR participated in the Nansen Conference on Climate Change and Displacement in the 21st Century.²⁸ The conference was spearheaded by the Government of Norway, and included advisory board members from UNHCR, the United Nations Framework Convention on Climate Change Secretariat, the Norwegian Institute for International Affairs, and United Nations University.²⁹ The conference recommended addressing the complex

¹⁵ UNHCR, *Inspector General's Office*, 2013. <http://www.unhcr.org/pages/49f0619f6.html>

¹⁶ *Ibid.*

¹⁷ UNHCR, *What We Do*, 2013. <http://www.unhcr.org/pages/49c3646cbf.html>

¹⁸ *Ibid.*

¹⁹ UNHCR, *What We Do*, 2013. <http://www.unhcr.org/pages/49c3646cbf.html>

²⁰ UNHCR, *Millennium Development Goals*, 2013. <http://www.unhcr.org/pages/49e5a9e56.html>

²¹ *Ibid.*

²² UNHCR, *Self-Study Module 1: An Introduction to International Protection. Protecting Persons of Concern to UNHCR*, 2005, p 8-10. <http://www.unhcr.org/publ/PUBL/3ae6bd5a0.pdf>

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ UNHCR, *Global Appeal 2012-2013*, 2012, p 12-16. <http://www.unhcr.org/4ec230e916.html>

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Norwegian Refugee Council, *The Nansen Conference: Climate Change and Displacement in the 21st Century*, 2011.

<http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=4ea969729&query=climate%20change>

²⁹ *Ibid.*

situation arising from climate change and related displacement through ten key principles.³⁰ Key themes which emerged from the principles included the recognition of the state as the primary actor responsible for the protection of individuals; the prominent role that local governments and civil society must take in climate change displacement; the need for international networks and support to fill gaps where national policies may not be adequate; the need for greater preventative measures to reduce the impact of disaster; and the development of a guiding framework or instrument to address the international approach to protection.³¹ One important message, which arose in several presentations, was that though the number of persons displaced as a result of climate change is not large at present, the international framework for protection needed improved consistency and coherence to address the challenges of the future.³² From the protection perspective for displaced persons, important points included recognizing the drive to displacement (climate related versus environment related) as well as the understanding of which, if any, international instruments were applicable in each situation and if conversations about both types of displacement could be merged.³³

Conclusion

Over the last six decades, UNHCR has made monumental strides in developing, improving and restructuring the framework for protection of refugees and displaced persons. With the 2003 indefinite extension of the UNHCR mandate, the need to work towards coherent solutions which local governments, states and the international community can adequately implement in the face of new displacement related challenges has become more evident.

NWMUN 2013 will focus on one of these key challenges: climate related displacement and Persons Displaced by Climate Change (PDCCs). Following the steps of previously developed conventions and treaties such as the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, and the *Convention Relating to the Status of Refugees*, the goal for delegates is to develop a comprehensive convention which adopts internationally recognized principles into a new framework for protection specifically related to climate change displacement. The following sections of the background guide will introduce delegates to the specific structure of an agreement and detail the technical components of each section; it will also provide a foundation for the current substantive framework for the topic.

³⁰ Norwegian Refugee Council, *The Nansen Conference: Climate Change and Displacement in the 21st Century*, 2011.

<http://www.unhcr.org/cgi-bin/txis/vtx/home/opendocPDFViewer.html?docid=4ea969729&query=climate%20change>

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*

I. Preamble

The purpose of the preamble section is to describe the objectives of the agreement and summarize events that may be relevant to the objectives of the agreement.

Delegates at NWMUN 2013 will be provided with a draft text of the preamble section as a starting point for negotiation, which they can edit. Traditionally, the preamble is not a contentious section of the agreement. This portion of the background guide will provide an overview of the key concepts and issues to take into consideration as underpinning the agreement itself, and thus important basis for delegates' work in committee. This section also provides guidance on relevant international documents to refer to in the preamble section.

Introduction

Over the last several decades, the issue of climate change has gained increased attention as a problem that requires a global solution.³⁴ A substantial and rising concern, as part of that question, is the threat of climate related population displacement.³⁵ As the risk of climate change displacement increases and widens its scope over the coming years, the international community must work together in finding solutions and developing effective approaches to addressing this problem.³⁶ Until recently, climate change negotiations have revolved primarily around reducing greenhouse gas (GHG) emissions; however, as the threat to human security becomes one of the effects of climate change, negotiations must adapt to include it as well. Among the highest priority human security issues is climate change displacement. The international community must develop an agreement to respond to displacement due to climate change.³⁷

The purpose of this section is to provide delegates with a foundation to draft the "Preamble" section of the Agreement. The issue of persons displaced by climate change (PDCCs) has drastically grown in recent years, with United Nations (UN) committees and working groups as well as academics calling for long-term plans to prepare for an increase in the number of PDCCs.³⁸ This section will first provide a background to the issue, and secondly will provide a context for the information that will need to be included in the Preamble of the agreement.

Key Concepts

With displacement trends difficult to forecast, there remains a wide range of estimates for PDCCs; however, it is expected between 50 to 200 million people will migrate due to climate change by 2050.³⁹ Walter Kälin, Representative of the Secretary-General for the Rights of Internally Displaced Persons, identified five movement scenarios that could result from climate change: "hydro-meteorological disasters (flooding, hurricanes/ typhoons/ cyclones, mudslides etc.), zones designated by governments as too high risk for habitation, environmental degradation and slow onset disaster (reduction of water availability, desertification etc.), and armed conflict triggered by a decrease in essential resources due to climate change."⁴⁰ The breakdown of ecosystem-dependent livelihoods is "likely to remain the premier driver of long-term migration during the next two to three decades," as climate change will intensify the situation unless "vulnerable populations are assisted in a transition to climate-resistant livelihoods."⁴¹ Additionally, the High Commissioner António Guterres has stated that climate change will

³⁴ UNHCR, *Summary of Deliberations on Climate Change and Displacement*, 2011, p. 1. <http://www.unhcr.org/4da2b5e19.html>

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ Hall, *Climate change and institutional change in UNHCR*, 2010.

http://www.microinsuranceconference2006.com/de/dms/MRS/Documents/Source2011_Warner_Shen_Leighton.pdf#page=104

³⁸ *Ibid.*

³⁹ IOM, UNHCR, UNU, NRC, and the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, *Climate change, migration, and displacement: impacts, vulnerability, and adaptation options*, 2009.

<http://www.unhcr.org/4a1e51eb0.html>

⁴⁰ UNHCR, *Climate Change (including environmental migrants) | Internally displaced persons (IDPs)*. 2009.

<http://www.unhcr.org/pages/49e4a5096.html>

⁴¹ Warner, *In Search of Shelter: Mapping the Effects of Climate Change on Human Migration and Displacement*, 2009, p. 8.

http://www.ciesin.columbia.edu/documents/clim-migr-report-june09_media.pdf

continue to blur the boundaries between migration and displacement.⁴² Migration due to climate change directly, such as that caused by desertification or abnormal floods, should not be the only consideration, as climate change affects the basic requirements of health, such as clean air and water, sufficient food, and adequate shelter.⁴³ In the current environmental context, 2.2 million people die each year from diarrhoea, and another 3.5 million for malnutrition; UNHCR attributes this primarily to lack of access to basic health services, and while some of these deaths are not directly climate-related, climate change is exacerbating the causes, which is increasing the numbers of deaths related to lack of access each year.⁴⁴ The change in climate also increases the spread of infectious diseases, such as malaria and dengue.⁴⁵

Climate change related impacts have a range of direct and indirect implications around the world, which affect a variety of Human Rights.⁴⁶ The Human Rights Council (HRC) has recognized in the relationship between the research on climate change and potential impacts on human rights in various resolutions.⁴⁷ The existence of such a relationship is reaffirmed by the International Migration Organization (IOM), who notes that “a consensus is emerging on the need for a global strategy to study, plan for, adapt to and mitigate the process and effects of environmental change. The movement of people and the implications for sound migration management will be key elements of this endeavour.”⁴⁸

Currently the UNHCR “has mandated to protect as refugees, persons who fear serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order, in addition to persons falling within the 1951 Convention definition”; however, there remains significant gaps in international law regarding the place of persons displaced by climate change.⁴⁹ Adding to the difficulties is that there are multiple immediate factors causing displacement and resulting from climate change, including disappearing states and non-viable homelands and irrevocably deteriorating living conditions, and it is unclear whether these will be addressed based on their similarities or their differences.⁵⁰

The United Nations High Commissioner for Refugees

It is important to note the UNHCR foresees challenges with the use of the term ‘environmental refugees.’⁵¹ The term “refugee” in international law refers to “a person who flees from and /or cannot return to their countries because of fear of persecution on specified grounds, or because of generalized violence.”⁵² Thus, the terms “climate refugee” and “environmental refugee” have no legal basis in international refugee law. Therefore, UNHCR has recommended the “terms not be used in official or unofficial documentation, as their use could potentially undermine the international legal regime for the protection of refugees.”⁵³ With the increase in displaced persons, the UNHCR has become more important in its role in assisting governments who are unable to adequately respond.⁵⁴ Presently, the

⁴² Hall, *Climate change and institutional change in UNHCR*, 2010, p. 9.

http://www.microinsuranceconference2006.com/de/dms/MRS/Documents/Source2011_Warner_Shen_Leighton.pdf#page=104

⁴³ WHO, IOM, World Vision, UNHCR, and IRCRC, *Protecting the health of vulnerable people from the humanitarian consequences of climate change and climate related disasters*, 2009, p.2. <http://www.unhcr.org/4a1e4f0e2.html>

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ UN HRC, *Human rights and climate change (Resolution 10/4.)*, 2009.

http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_4.pdf

⁴⁷ UN HRC, *Resolution adopted by the Human Rights Council (A/HRC/RES/18/22)*, 2011.

<http://www.ohchr.org/Documents/Issues/ClimateChange/A.HRC.RES.18.22.pdf>

⁴⁸ IOM, *Discussion Note: Migration and the Environment (MC/INF/288)*, 2007.

http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/94/MC_INF_288.pdf

⁴⁹ UNHCR, *Summary of Deliberations on Climate Change and Displacement*, 2011, p. 1. <http://www.unhcr.org/4da2b5e19.html>

⁵⁰ Warner, *In Search of Shelter: Mapping the Effects of Climate Change on Human Migration and Displacement*, 2009, p. 9.

http://www.ciesin.columbia.edu/documents/clim-migr-report-june09_media.pdf

⁵¹ UNHCR, *UNHCR and Climate Change: Involvement, Challenges & Responses*, 2009. <http://www.unhcr.org/4ad5820f9.html>

⁵² UNHCR, *UN Convention Relating to Refugees*, 28 July 1951. <http://www.unhcr.org/3b66c2aa10.html>

⁵³ Informal Group on Migration / Displacement and Climate Change of the IASC, *Climate, Migration and Displacement: Who will be affected*, 2008, p.4. <http://unfccc.int/resource/docs/2008/smsn/igo/022.pdf>

⁵⁴ Norwegian Refugee Council, *Climate Change, the environment and displacement*, 2008.

http://www.nrc.no/arch/_img/9411999.pdf

UNHCR will engage in disaster prevention and relief when refugees and other persons of concern are affected, and when it has emergency stocks and the capability to help.⁵⁵

In 2011, a UNHCR-sponsored panel of experts met in Bellagio, Italy, where the importance of developing a “global guiding framework to apply to situations of external displacement other than those covered by the 1951 Convention” was reiterated.⁵⁶ Examining climate change as a humanitarian issue has only come about in the 2000s, as mitigation (reducing emissions) was the focus when climate change first came to the global agenda.⁵⁷ The roundtable indicated that “protection and assistance responses to externally displaced persons must be guided by fundamental principles of humanity, human dignity, human rights and international cooperation, and must equally take into account particular vulnerabilities and protection needs based on age, gender, disability and other forms of diversity.”⁵⁸ Moreover, the panel reinforced the notion that indigenous and mobile peoples are in a unique position requiring special attention.⁵⁹

The danger of statelessness should also be considered as a potential result of climate change, especially as related to the Small Island Developing States (SIDS).⁶⁰ The most dramatic scenario is the ‘sinking island state,’ such as Maldives, Tuvalu, Kiribati, and Marshall Islands, potentially ceasing to exist.⁶¹ The UNHCR notes that “Article 1 of the 1954 *Convention Relating to the Status of Stateless Persons* defines a stateless person as ‘a person who is not considered a national by any state under the operation of its law.’ Should a state cease to exist, citizenship of that state would cease, as there would no longer be a country to be a national.”⁶² Thus, there is the danger climate change could affect statehood, a circumstance which must be in consideration when creating a agreement.⁶³

The UNHCR has noted that the consequences of climate change are vast, and that this requires a change to its environment-related planning to deal with the implications of climate change for at-risk persons.⁶⁴ In addition to the threat of statelessness, Internally Displaced Persons (IDPs) also are a concern, though the 2011 roundtable suggested the current Guiding Principles on Internal Displacement suffice in handling IDP due to climate change and should not be the predominant focus of discussion.⁶⁵ There may be, however, applicable principles to the case of external displacement.⁶⁶

UNHCR’s “Proposed strategic framework for the period 2012-2013” (EC/61/SC/CRP.15) recalls General Assembly Resolution A/65/6, mandating the Office of the High Commissioner to “encourage States to ensure protection of refugees and others within broader migration movements.”⁶⁷ These activities will be framed around the UNHCR 10-point plan of action for mixed migration, which provides a framework of protection tools.⁶⁸ In addition, the ExCom’s Note on International Protection (EC/62/SC/CRP.12) addresses the problem of statelessness in international law, building on the 1961 *Convention on the Reduction of*

⁵⁵ UNHCR, *Climate Change is a Humanitarian Problem: Where people flee, UNHCR is there to help*, n.d., <http://www.unhcr.org/4937fc712.html>.

⁵⁶ United Nations High Commissioner for Refugees, *Summary of Deliberations on Climate Change and Displacement*, 2011, p. 5. <http://www.unhcr.org/4da2b5e19.html>

⁵⁷ Hall, *Climate change and institutional change in UNHCR*, 2010, p. 7. http://www.microinsuranceconference2006.com/de/dms/MRS/Documents/Source2011_Warner_Shen_Leighton.pdf#page=104

⁵⁸ United Nations High Commissioner for Refugees, *Summary of Deliberations on Climate Change and Displacement*, 2011, p. 5. <http://www.unhcr.org/4da2b5e19.html>

⁵⁹ *Ibid.*

⁶⁰ United Nations High Commissioner for Refugees, *Climate Change and Statelessness: An Overview*, 2009, p. 1. <http://unfccc.int/resource/docs/2009/smsn/igo/048.pdf>

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ United Nations High Commissioner for Refugees. *Climate Change*, 2013. <http://www.unhcr.org/pages/49e4a5096.html>

⁶⁵ United Nations High Commissioner for Refugees, *Summary of Deliberations on Climate Change and Displacement*, 2011, p. 1. <http://www.unhcr.org/4da2b5e19.html>

⁶⁶ *Ibid.*

⁶⁷ Executive Committee of the High Commissioner’s Programme. *UNHCR’s programme in the United Nations: Proposed strategic framework for the period 2012-2013 (EC/61/SC/CRP.15)*, 2010. <http://www.unhcr.org/4c0526e79.pdf>

⁶⁸ *Ibid.*

*Statelessness.*⁶⁹ The UNHCR has also expanded its operational response to statelessness by improving data, promoting accession, and improving various legal reform and support.⁷⁰

Treaty Making Context

UNFCCC

The United Nations Framework Convention on Climate Change (UNFCCC) came into force on 21 March 1994 and currently has near-universal membership.⁷¹ The ultimate goal of the UNFCCC is “to prevent ‘dangerous’ human interference with the climate system.”⁷²

The Cancun Agreements (1/CP.16), which emerged from the 16th Conference of the Parties to the UNFCCC (COP 16) in 2010, reaffirmed the impact of climate change and the potential on migration patterns; the agreements assert that migration should have the same priority as adaptation and requires appropriate institutional arrangements.⁷³ Within the Cancun Agreements, parties adopted the Cancun Adaptation Framework.⁷⁴ This section emphasizes the importance of planning and implementing adaptation plans which follow a country-driven and gender-sensitive transparent approach that takes into consideration “vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and tradition and indigenous knowledge.”⁷⁵ Additionally, Cancun encourages the improvement of data, information systems, and education regarding climate change, and advocates sharing experiences between states and institutions to help identify medium and long-term adaptation needs and develop necessary strategies.⁷⁶ The Cancun Agreements mark the first time an international agreement was created to enhance measures to answer the challenge of displacement due to climate change.⁷⁷

Preambles

The purpose of any treaty’s preamble section is to describe the objectives of the treaty and summarize events that may be relevant to the objectives of the treaty. This may include calling upon previous recommendations or actions of the United Nations, which includes resolutions. The 1951 *Convention Relating to the Status of Refugees* provides an example of this in its preamble: “Considering that the Charter of the United Nations and the Universal Declaration of Human Rights [...] have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination.”⁷⁸

When considering uses for the Preamble section, delegates should consider a wide variety of documents and actions taken by the United Nations and the international community. Within the scope of this topic, some of the key international documents include the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic Social and Cultural Rights*, the 1954 *Convention relating to the Status of Stateless Persons*, the 1961 *Convention on the Reduction of Statelessness*, the 1998 *Principles on Internal Displacement*, and the Organization of African Unity *Convention Governing Specific Aspects of Refugee Problems*. The Convention and the 1967 *Protocol Relating to the Status of Refugees* provide guiding points for preamble and other sections of the Treaty; however, each use refugees as the primary typology in referring

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ United Nations Framework Convention on Climate Change, *First steps to a safer future: Introducing the United Nations Framework Convention on Climate Change*, n.d. http://unfccc.int/key_steps/the_convention/items/6036.php

⁷² *Ibid.*

⁷³ United Nations Framework Convention on Climate Change, *Report of the Conference of Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010: Addendum (FCCC/CP/2010/7/Add.1)*, 2011. <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ United Nations High Commissioner for Refugees, *Summary of Deliberations on Climate Change and Displacement*, 2011, p. 1. <http://www.unhcr.org/4da2b5e19.html>

⁷⁸ United Nations High Commissioner for Refugees, *UN Convention Relating to Refugees*, 1951. <http://www.unhcr.org/3b66c2aa10.html>

to affected individuals.⁷⁹ The UNHCR and other relevant stakeholders however advise that with respect to a new treaty concerning climate change displacement, the use of the word refugee undermines the legal basis for protection because the current definition does not include displacement due to climate change.⁸⁰ The Cancun Agreements and the Bali Action Plan also serve as important points of reference with respect to their stances on displacement and climate change, and should be referenced as such, alongside other UNFCCC and Intergovernmental Panel on Climate Change (IPCC) publications.

When framing the preamble for this agreement, delegates should look at other documents to compare and determine what items they would like to include in their work. One example of a recently-negotiated treaty that allows for some comparison in structure, if not in content, is the Arms Trade Treaty (ATT). The ATT provides a useful example for a comprehensive preamble section. The ATT preamble highlighted the objectives of the treaty, recalls relative UN documents and fundamentals, outlines the impacts the treaty is looking to address and finally, it outlines the principles to be followed when implementing the treaty.⁸¹ Other negotiated agreements within the issue, such as those mentioned above, will also be helpful to delegates.

Questions to Consider

Delegates will want to answer the following questions in the **preamble** section of the agreement:

- What is the philosophical grounding for the agreement?
- What is the nature of the problem? Why does it require a new agreement to address it?
- What other treaties, conventions, charters, or agreements does this agreement draw upon and intend to build upon?
- What other treaties, conventions, charters, or agreements already address the problem and can be considered as creating norms that this agreement will convert into actions, pledges and obligations?

⁷⁹ Norwegian Refugee Council, *Climate Change, the environment and displacement*, 2008.

⁸⁰ *Ibid.* http://www.nrc.no/arch/_img/9411999.pdf

⁸¹ United Nations Office for Disarmament Affairs, *Arms Trade Treaty*, 2013.

http://treaties.un.org/doc/Treaties/2013/04/20130410%2012-01%20PM/Ch_XXVI_08.pdf#page=21

II. Scope and Definitions

This section of the background guide is intended to provide delegates with a consideration for the scope of the treaty, as well as provide a foundation for the definitions on the issue. The goal for the treaty is to provide protections for Persons Displaced by Climate Change (PDCCs), while simultaneously fitting within the existing international framework of protection and standards for refugees.

Delegates will be expected to draft a scope and negotiations section of the treaty which should consist of several clauses laying out the scope of the treaty as well as several clauses laying out definitions of the key terms laid out in the remainder of the treaty;

Scope

The scope of a treaty is two-fold; it is used to set the parameters for the issue area at hand, and additionally used to set the framework for the national and international implications of the treaty itself. The scope of a treaty will define the relationship which exists between the actors party to the treaty with respect to implementation actions.⁸² Specifically, for this treaty, it will be important to identify the parties responsible for protective action, which UNHCR has argued should be primarily States, and the relationship between states and humanitarian partners in fulfilling obligations of the document that are outlined in other sections of the treaty.⁸³

The chief discussions surrounding climate change have had a strong focus on the scientific and technical aspects of the issue such as greenhouse gas reduction, emission targets and sustainable resource development.⁸⁴ In the last several decades, UNHCR and related UN partners have shifted some focus away from the science of climate change to the forthcoming humanitarian challenges of climate-related disasters.⁸⁵ The focal point for UNHCR within the context of climate change is addressing the gap that exists currently in protection and international standards of treatment afforded to PDCCs, both those who cross borders and Internally Displaced Persons (IDPs).⁸⁶ As such, while several other humanitarian challenges arise as a result of climate change related disasters, they fall outside of the purview of *this* treaty and the mandate of this committee.⁸⁷

The identification and categorization of displacement scenarios, and the recognition that each scenario presents a unique situation of displacement, which can possibly affect whether or not international protection may be afforded, is an important point for delegates to consider.⁸⁸ A new framework of protection will need to clearly identify the different approaches to protection for the slow onset of displacement as a result of gradual environmental change as compared to a drastic movement of persons as a result of a climate related disaster.⁸⁹ Second to immediate protection needs that must be addressed is the formation of long term, durable solutions for PDCCs.⁹⁰ This will require addressing the normative frameworks of relocation for displaced persons, especially in the event of statelessness as a result of climate change, or returning displaced persons to their country of origin.⁹¹

⁸² *International Covenant on Civil and Political Rights*, 2008. <http://untreaty.un.org/cod/avl/ha/iccpr/iccpr.html>

⁸³ Kalin, *The Climate Change- Displacement Nexus*, 2008. <http://www.brookings.edu/research/speeches/2008/07/16-climate-change-kalin>

⁸⁴ UNHCR, *Climate Change, natural disasters and human displacement: a UNHCR perspective*, 2009. <http://www.unhcr.org/cgi-bin/texis/vtx/home/opensslPDFViewer.html?docid=4901e81a4&query=climate%20change>

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

⁸⁸ Kalin, Walter, *The Climate Change- Displacement Nexus*, 2008. <http://www.brookings.edu/research/speeches/2008/07/16-climate-change-kalin>

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*;

UNHCR, *Statute of the Office of the United Nations High Commissioner for Refugees*, 2009. <http://www.unhcr.org/3b66c39e1.html>

⁹¹ Kalin, Walter, *The Climate Change- Displacement Nexus*, 2008. <http://www.brookings.edu/research/speeches/2008/07/16-climate-change-kalin>

Definitions

The definitions section of the treaty lays out definitions of key terms in the rest of the treaty.

Persons Displaced By Climate Change (PDCC)

Defining the group of persons who are to be the beneficiaries of state action on climate change-related migration is one of the most important and complex issues facing the Executive Committee.

There is a general consensus amongst humanitarian partners that this group of persons should **not** generally be called “environmental refugees” or “climate refugee,” as there is presently no basis in international law and the use of the term refugee may undermine existing and future protections of those included in the current definition.⁹² “Refugee” as defined in the 1951 Refugee Convention and the Protocol relating to the Status of Refugees, is a person who:

“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”⁹³

While there are environmental migrants who may also be Convention-defined refugees, such as a group specifically denied disaster relief on account of their ethnicity, most persons displaced by climate change will likely not be Convention refugees because they do not face persecution on account of a status that is protected by the Convention.⁹⁴ There is a concern, particularly among international lawyers, that any attempt to redefine a refugee would, in the current geopolitical climate, result in a narrowing of the definition, not an expansion.⁹⁵ Furthermore, a refugee *must*, by definition, be outside his or her home country.⁹⁶ A PDCC may be either internally or internationally displaced from his or her home; much of the displacement is expected to remain internal.⁹⁷

In 2007, the International Organization for Migration (IOM) adopted a working definition for PDCCs: “persons or groups of persons who, for compelling reasons of sudden or progressive change in the environment that adversely affects their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad.”⁹⁸ Movement triggered by climate change and environmental factors may be temporary or permanent.⁹⁹ It may be forced or, to a certain extent, voluntary, and may involve the movement of entire families or only the most economically productive members of the family.¹⁰⁰ Distinguishing between forced displacement and voluntary movement is a significant obstacle in the quest to create a convention to protect PDCCs.¹⁰¹

⁹² Norwegian Refugee Council, *Climate Change, the environment and displacement*, 2008.

<http://www.nrc.no/arch/ img/9411999.pdf>;

Zetter, “The role of legal and normative frameworks for the protection of environmentally displaced people,” *Migration, Environment and Climate Change: Assessing the Evidence*, 2009, p. 397.

http://publications.iom.int/bookstore/free/migration_and_environment.pdf

⁹³ UNHCR, *Convention Relating to the Status of Refugees*, 1951, Art. 1. <http://www.unhcr.org/3b66c2aa10.html>

⁹⁴ Norwegian Refugee Council, *Climate Change, the environment and displacement*, 2008.

<http://www.nrc.no/arch/ img/9411999.pdf>

⁹⁵ Guzman, *Overheated: the Human Cost of Climate Change*, 2013, p. 10.

⁹⁶ UNHCR, Self-Study Module 1: *An Introduction to International Protection. Protecting Persons of Concern to UNHCR*, 2005, p. 8-10. <http://www.unhcr.org/publ/PUBL/3ae6bd5a0.pdf>

⁹⁷ Norwegian Refugee Council, *Climate Change, the environment and displacement*, 2008.

<http://www.nrc.no/arch/ img/9411999.pdf>

⁹⁸ Laczko & Aghazarm, *Introduction and Overview: Enhancing the Knowledge Base*, 2009, p. 19.

http://publications.iom.int/bookstore/free/migration_and_environment.pdf

⁹⁹ UNHCR, *Forced Displacement in the Context of Climate Change: Challenges for States Under International Law*, 2009.

<http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=4a1e4d8c2&query=climate%20change>

¹⁰⁰ *Ibid.*

¹⁰¹ Laczko & Aghazarm, “Introduction and Overview: Enhancing the Knowledge Base,” *Migration, Environment and Climate Change: Assessing the Evidence*, 2009, p. 2. http://publications.iom.int/bookstore/free/migration_and_environment.pdf

Finally, it should be noted that PDCCs are already entitled to certain protections.¹⁰² If they have crossed international borders, they may not be returned to any country where they would be in danger of being subjected to torture, in accordance with Article 3 of the *Convention Against Torture*.¹⁰³ They are protected under international and regional human rights law.¹⁰⁴ They are also entitled to all protections that any other foreign visitor enjoys and, if internally displaced, are entitled to the same rights that other citizens enjoy. Finally, they would be under the protection of the 1998 *Guiding Principles on Internally Displaced Persons* if their state chooses to implement those guidelines.¹⁰⁵ UNHCR reports quote Roger Zetter, a UNHCR researcher and director of Oxford University's Refugee Studies Centre, as identifying persons displaced across international borders by climate change as those least protected by existing international law, since so few of them qualify for the protections of the Refugee Convention.¹⁰⁶

The development of a definition within the existing international legal framework is a crucial element of treaty implementation. The implementation of a definition will need to reference existing frameworks within international law and fit into pre-existing treaty structures and obligations to which member states are currently committed.¹⁰⁷ It is noteworthy that PDCCs are not currently considered refugees as defined by the 1951 Refugee Convention and the 1967 Protocol.¹⁰⁸

While regional legal instruments, such as the Organisation of African Unity (OAU) Convention and the Cartagena Declaration in Latin America, adopt broader definitions of the term "refugee" than the 1951 Convention, it remains unclear whether even these broader definitions protect PDCCs.¹⁰⁹ Nevertheless, it has become common practice for some parties to offer temporary protection to persons who cross international borders to escape the effects of natural disasters, making it clear that informal customary processes are being implemented in response to climate change displacement.¹¹⁰

Climate Change

Additional important definitions for the purposes of this treaty will be the identification of climate change, and the effects of climate change. With respect to related international conventions, the *United Nations Framework Convention on Climate Change* (UNFCCC) provides the nearest appropriation of a related convention for a definition to be drawn from; such a definition could be used verbatim, adapted and modernized, or replaced entirely in the development of this treaty.¹¹¹ Article 1 of the UNFCCC provides the definitions used in that document and the processes based upon it:

- *Climate Change* "means a change of climate, which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods."¹¹²

¹⁰² NRC, *Climate Change, the environment and displacement*, 2008. <http://www.nrc.no/arch/img/9411999.pdf>

¹⁰³ UNHCR, *UNHCR Note on the Principle of Non-Refoulement*, 1997. <http://www.unhcr.org/publ/PUBL/419c75ce4.pdf>

¹⁰⁴ Zetter, *The role of legal and normative frameworks for the protection of environmentally displaced people*, 2009, p. 406-09. http://publications.iom.int/bookstore/free/migration_and_environment.pdf

¹⁰⁵ Laczko & Aghazarm, *Introduction and Overview: Enhancing the Knowledge Base*, 2009, p. 27. http://publications.iom.int/bookstore/free/migration_and_environment.pdf

¹⁰⁶ Zetter, *The role of legal and normative frameworks for the protection of environmentally displaced people*, 2009, p. 419. http://publications.iom.int/bookstore/free/migration_and_environment.pdf

¹⁰⁷ United Nations Treaty Handbook, 2012. <http://treaties.un.org/doc/source/publications/THB/English.pdf>

¹⁰⁸ Refugee Studies Centre, Oxford University. *Protecting environmentally displaced people: Developing the capacity of legal and normative frameworks*. 2011. <http://www.rsc.ox.ac.uk/pdfs/workshop-conference-research-reports/Zetter-%20EnvDispRep%2015022011.pdf>

¹⁰⁹ Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama. 1984. http://www.oas.org/dil/1984_Cartagena_Declaration_on_Refugees.pdf;

Organization of African Unity. *Convention Governing the Specific Aspects of Refugee Problems in Africa*, 1969.

http://www.african-court.org/en/images/documents/Other_Relevant_Instruments/Convention%20Governing%20Refugees%20Problems%20in%20Africa.pdf

¹¹⁰ UNHCR, *Summary of Deliberations on Climate Change and Displacement*, 2011, <http://www.unhcr.org/4da2b5e19.pdf>

¹¹¹ UNFCCC, *United Nations Framework Convention on Climate Change*, 1992, Art. 1.

http://unfccc.int/essential_background/convention/background/items/2536.php

¹¹² *Ibid.*

- *Adverse effects of climate change* “means changes in the physical environment or biota resulting from climate change, which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and welfare.”¹¹³

Questions to Consider

Delegates will want to answer the following questions in the **scope** section of the treaty:

- When and where does this treaty apply?
- Will the treaty be expected to create obligations for only states party or are these obligations expected to also cover other individuals or entities, such as corporations, operating within the state party?
- Are states party obligated to apply the treaty only to their official borders or to all territories under their control, or some middle option between these?

Delegates will want to answer the following questions in the **definitions** section of the treaty:

- What is the definition(s) of the populations being protected by this treaty (i.e. persons displaced by climate change)?
- What is the definition(s) of other contextual terms (i.e. climate change, adverse effects of climate change)?

¹¹³ *Ibid.*

III. Assistance and Protection

This portion of the background guide is intended to provide delegates with guidance on the ways in which to define and explain the obligations that states party to this treaty have in assisting and protecting the individuals whom will be addressed by this treaty, specifically persons displaced by climate change (PDCCs). This section has a vital role in determining the international obligations to which states are to be held accountable and is essentially the heart of the document, tying the agreement back to the issue and defining what will be done for PDCCs.

In this section of the treaty, delegates should negotiate and draft:

- Several clauses laying out what protection PDCCs are obligated to receive under existing international law;
- Clauses which define what protections PDCCs are entitled to that do not exist in international law as of yet and would be new obligations for states party to this treaty;
- Several clauses laying out what assistance PDCCs are obligated to receive in order to be fully protected;
- Clauses which describe the role of individual states, regional organizations and international organizations in ensuring the protections and assistance explained in the clauses described above.

This section of the treaty will most likely be one of the longest sections of the treaty; however, should delegates wish, it can draw on existing assistance and protection frameworks heavily.

Key Concepts

Some of the important concepts for this section and the treaty include:

Protection: The term “protection” includes a range of activities, including assistance activities that are aimed at securing refugee rights, which are already defined in a number of international and regional treaties that provide guidance for humanitarian workers.¹¹⁴ As per international law described in detail below, “governments are responsible for the protection of all people on their territory. In reality, however, governments may be unable or unwilling to provide such protection, and they may require the support of the international community.”¹¹⁵ In recent years, it has been recognized that “refugees need to be engaged in their own protection.”¹¹⁶

Assistance: The term “assistance” refers to activities aimed at supporting the realization of rights of refugees and ensuring they are protected both physically and legally.¹¹⁷ The way in which “assistance programmes are managed and implemented can facilitate the participation of refugees and subsequently enhance their protection. In order to enhance refugee protection, it is important to determine when an assistance activity might detract from or potentially threaten refugee protection.”¹¹⁸

Existing Assistance and Protection Framework

A range of international and regional instruments, including the 1951 *Refugee Convention* and 1967 *Protocol*, the *Inter-Agency Standing Committee Operational guidelines on the Protection of Persons in Situations of Natural Disasters*, the *Cartagena Declaration* and the *Organisation of African Unity Convention*, are in place to address displaced populations.¹¹⁹

Notably absent from the existing legal framework, however, is a coherent multilateral document which directly addresses climate change displacement and the individuals displaced.¹²⁰ As a result of this gap, “complementary

¹¹⁴ Reach Out, *Module 1: What is Refugee Protection*, 2009. https://icvanetwork.org/system/files/versions/ro_04_module1.pdf

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*;

UNHCR, *Refugee Protection: A Guide to International Refugee Law*, 2001. http://www.ipu.org/pdf/publications/refugee_en.pdf

¹¹⁷ Reach Out, *Module 1: What is Refugee Protection*, 2009. https://icvanetwork.org/system/files/versions/ro_04_module1.pdf

¹¹⁸ *Ibid.*

¹¹⁹ Kolmannskog, Vikram, Norwegian Refugee Council, *To what extent can existing forms of legal protection apply in climate change-related cross-border displacement*, 2009. <http://www.nrc.no/arch/ img/9448543.pdf>

¹²⁰ IASC, *Operations Guidelines on the Protection of Persons in Situations of Natural Disasters*, 2011. <https://ochanet.unocha.org/p/Documents/Operational%20Guidelines.pdf>;

protection,” which is protection of PDCCs granted through national and regional actors in the absence of an international framework, has made advances but remains ineffective and fragmented.¹²¹

This gap in specific protection for PDCCs has been the leading factor in the call for the establishment of a convention focused specifically on climate change displacement.¹²² A variety of proposals—regional agreements under the umbrella of an international framework; a protocol to the *United Nations Framework Convention on Climate Change* (UNFCCC); and a stand-alone agreement—have been put forwards as mechanisms of resolving the protection gap.¹²³

Climate Change and International Human Rights Law

United Nations Human Rights Council (HRC) resolution 7/23 (2008) articulates concerns regarding the impact of climate change on the enjoyment of human rights, and in its follow-up, the Office of the United Nations High Commissioner for Human Rights (OHCHR) began to explore the relationship between human rights and climate change.¹²⁴

The OHCHR identified the right to life, the right to adequate food, the right to water, the right to the highest attainable standard of health, and the right to adequate housing as the human rights under the gravest threat due to climate change displacement.¹²⁵ These rights will thus need to be secured within the context of a treaty addressing climate change displacement, but should rely on the normative framework of existing international obligations.¹²⁶

Intellectual discourse on the subject of climate change has focused primarily on its scientific, technical and economic implications. Consideration has likewise been devoted to broad human and social dimensions of the phenomenon however, a focus on climate change displacement is relatively recent.¹²⁷ Recognizing the potential for climate change displacement to result in circumstances where individuals have diminished human rights provides a strong legal pillar on which broader protection of PDCCs may be built.¹²⁸

Demographic Vulnerabilities

Any treaty on the protection of PDCCs must recognize and account for the varied nature of climate change displacement.¹²⁹ Furthermore, it must be recognized that different groups of displaced individuals will require

¹²¹ UNHCR. *Climate Change Displacement and International Law: Complementary Protection Standards* (PPLA/2011/03), 2011, <http://www.unhcr.org/4dff16e99.html>;

UNHCR, *Providing International Protection Including Through Complementary Forms of Protection* (EC/55/SC/CRP.16), 2005, <http://www.unhcr.org/42a005972.html>

¹²² Norwegian Refugee Council, *Climate Change, the environment and displacement*, 2008. http://www.nrc.no/arch/_img/9411999.pdf

¹²³ Williams, *Turning the Tide: Recognizing Climate Change Refugees in International Law*, 2008; Biermann and Boas, *Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees*; Betaille, *Draft Convention on the International Status of Environmentally-Displaced Persons*, 2008, p. 395.

¹²⁴ UNHRC, *Human Rights and Climate Change* (A/HRC/RES.7.23), 2008. <http://undocs.org/A/HRC/RES/7/23>;

UNHRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights* (A/HRC/10/61), 2009.

¹²⁵ UNHRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights* (A/HRC/10/61), 2009. http://reliefweb.int/sites/reliefweb.int/files/resources/AE7A98AA86C6B9838525757D00677EC6-Full_Report.pdf;

¹²⁶ *Ibid.*

¹²⁷ Norwegian Refugee Council, *Climate Change, the environment and displacement*, 2008. http://www.nrc.no/arch/_img/9411999.pdf

¹²⁸ Commission on Human Rights, *Promotion and Protection of Human Right, Science and Environment: Report of the Joint OHCHR-UNEP Seminar on Human Rights and the Environment* (E/CN.4/2002/WP.7), 2002. [http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/a1f082fc193adc1fc1256ba500394473/\\$FILE/G0211932.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/a1f082fc193adc1fc1256ba500394473/$FILE/G0211932.pdf)

¹²⁹ UN General Assembly, *International Co-operation to Avert New Flows of Refugees: Note by the Secretary-General* (Doc. A/41/324), 1986. http://www.un.org/ga/search/view_doc.asp?symbol=A/41/324, para. 38.

different forms and levels of support.¹³⁰ Within this context, demographic vulnerabilities must be a point of particular focus within the treaty text.¹³¹

The United Nations Human Rights Council (UNHRC) has identified women, children and indigenous peoples as three victim groups of climate change displacement warranting specific consideration.¹³² The United Nations Population Fund (UNFPA) has added urban populations to this list.¹³³ As previously noted, populations of islands and coastal areas, such as those of Small Island Developing States (SIDS), are also at particular risk. The inclusion of these groups as special entities within the treaty is vital, as it addresses the substantial problem of vulnerability-based protection, which existing treaties and international frameworks fail to address. Vulnerability analysis remains a new component in the overall discourse of climate change displacement, but serves an important role within the context of the UNHCR framework of PDCCs.¹³⁴

Relocation Considerations

Two aspects of climate change-induced relocation are particularly relevant to the protection of PDCCs: (a) *when* people will abandon their territories and (b) *where* they will choose to resettle.¹³⁵ Noting that the protection of PDCCs will involve temporary as well as permanent relocation, the 2010 *Cancun Agreement* called upon states “to enhance understanding, co-ordination and co-operation” with a focus on relocation.¹³⁶

As a current part of the existing legal framework, the “non-refoulement” principle, found in the 1951 *Convention on the Status of Refugees*, provides protection for refugees from being expelled back to their country of origin, or to any country in which they may face persecution. Any new treaty addressing PDCCs will need to specifically frame this concept in defining terms and strategies for cooperation on relocation challenges.¹³⁷

As stated earlier, two aspects of climate change induced relocation are particularly relevant to the protection of PDCCs: (a) *when* people will abandon their territories and (b) *where* they will choose to resettle.¹³⁸ The first element is dependent partially in the present actions and policies of Member States and the international community, aimed at mitigating the effects of climate change and slowing the rate at which territorial abandonment becomes the more feasible option than staying for people living in at-risk areas.¹³⁹ The second element is rooted in co-operation between states party. The resettlement options available to PDCCs not only raise questions regarding the rights to which PDCCs are entitled within host countries, but also brings to the fore significant queries vis-à-vis the self-determination of displaced populations.¹⁴⁰ The question of self-determination in the context of climate change displacement is particularly acute for Small Island Developing States.¹⁴¹ The right to self-determination should not

¹³⁰ UNFPA, *Population and Climate Change*, http://www.unfpa.org/pds/climate/docs/climate_change_unfpa.pdf

¹³¹ Intergovernmental Panel on Climate Change. *The Regional Impacts of Climate Change: An Assessment of Vulnerabilities*, 1997. <http://www.ipcc.ch/pdf/special-reports/spm/region-en.pdf>

¹³² UNHRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights* (A/HRC/10/61), 2009. http://reliefweb.int/sites/reliefweb.int/files/resources/AE7A98AA86C6B9838525757D00677EC6-Full_Report.pdf

¹³³ UNFPA, *Population and Climate Change*, http://www.unfpa.org/pds/climate/docs/climate_change_unfpa.pdf

¹³⁴ UNHRC, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights* (A/HRC/10/61), 2009. http://reliefweb.int/sites/reliefweb.int/files/resources/AE7A98AA86C6B9838525757D00677EC6-Full_Report.pdf;

UNHCR, *Summary of Deliberations on Climate Change and Displacement*, 2011, <http://www.unhcr.org/4da2b5e19.pdf>

¹³⁵ Hodgkinson and Young, *In the Face of Looming Catastrophe: A Convention for Climate Change Displaced Persons*, 2012. <http://www.ccdpconvention.com/documents/Updated%20treaty%20proposal.pdf>

¹³⁶ UNFCCC, *Cancun Adaption Framework*, 2010, Art. 14(f). <http://unfccc.int/adaptation/items/5852.php>

¹³⁷ UNHCR, *Declaration of States Parties to the 1951 Convention and/of the 1967 Protocol relating to the Status of Refugees*, (HCR/MMSP/2001/09), 2002. <http://www.unhcr.org/419c74d64.pdf>

¹³⁸ Hodgkinson and Young, *In the Face of Looming Catastrophe: A Convention for Climate Change Displaced Persons*, 2012. <http://www.ccdpconvention.com/documents/Updated%20treaty%20proposal.pdf>

¹³⁹ UNHCR, *Climate Change and Statelessness*, 2009. <http://unfccc.int/resource/docs/2009/smsn/igo/048.pdf>

¹⁴⁰ Willcox, “A Rising Tide: The Implications of Climate Change Inundation for Human Rights and State Sovereignty,” 2012. *Essex Human Rights Review* 9(1).

¹⁴¹ *Ibid.*

be overlooked amongst the rights enjoyed by PDCCs.¹⁴² When crafting mechanisms to protect PDCCs for this agreement, delegates should aim to strike a balance between the right to self-determination of PDCCs and the sovereignty of the host countries.¹⁴³

Technical Assistance and Capacity-building for States

Equally important as the protection granted to PDCCs is the assistance offered to states to help them provide that protection.¹⁴⁴ The 2010 *Cancun Adaptation Framework* acknowledged the importance of assisting countries through capacity-building initiatives and charged the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) with monitoring progress.¹⁴⁵ Capacity development is closely linked with the transfer of technology, as indicated by the *United Nations Framework Convention on Climate Change* (UNFCCC).¹⁴⁶

Focusing on developing countries and island states, the *Nairobi Work Programme* (NWP), an initiative undertaken by the Subsidiary Body for Scientific and Technological Advice (SBSTA) of the UNFCCC, is actively engaged in the transfer of technology and sharing of expertise as a means of providing assistance to states.¹⁴⁷ Moreover, the continued adaptation of states through capacity-building and the transfer of technology, whether conducted through the NWP or other initiatives, not only assists states in responding to climate-related migrations but also addresses, albeit in a cursory fashion, the root causes, such as poverty and inequity, which underlie vulnerabilities.¹⁴⁸ Therefore, processes to strengthen capacity-building and accelerate technology transfer should not be neglected in a treaty relating to the protection of PDCCs.

Questions to Consider

Delegates will want to answer the following questions in the **assistance and protection** section of the treaty:

- What rights must be protected for PDCCs that are particularly at risk in the context of climate change?
- What obligations do states have for protecting and assisting PDCCs generally (with particular effort to address the currently existing “protection gap”)?
- What obligations do states have for protecting and assisting specific demographic groups that are particularly vulnerable?
- What protection concerns do PDCCs have in regards to relocation and what rights are they afforded in that regard?
- What role, if any, do regional and international organizations have in ensuring protection for PDCCs?
- What needs can developed states help developing states address to help those developing states meet their protection obligations, and what sort of assistance framework can this agreement create to ensure that help is given to states who need it?
- What role, if any, do regional and international organizations have in the creation or implementation of the assistance frameworks described above?

¹⁴² Displacement Solutions, *Climate Change Displaced Persons and Housing, Land and Property Rights: Preliminary Strategies for Right-Based Planning and Programming to Resolve Climate-Induced Displacement*, 2009. http://displacementsolutions.org/files/documents/DS_Climate_change_strategies.pdf

¹⁴³ *Ibid.*

¹⁴⁴ Parry, *Climate Change 2007: Impacts, Adaptations and Vulnerabilities*. Cambridge University Press, 2007. p. 720.

¹⁴⁵ UNFCCC (FCCC/CP/2010/7/Add.1), 2011., <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=16>

¹⁴⁶ *Ibid.*

¹⁴⁷ UNFCCC, *Nairobi Work Programme*. http://unfccc.int/adaptation/workstreams/nairobi_work_programme/items/3633.php

¹⁴⁸ McLeman, *Climate Change Migration, Refugee Protection, and Adaptive Capacity-Building*, 2008 4(1). http://www.mcgill.ca/jsdlp/sites/mcgill.ca/jsdlp/files/4_1_1_mcleman.pdf

IV. Implementation

This portion of the background guide is intended to provide an overview of the key considerations for the ways in which the treaty must address implementation of the obligations included in the Assistance and Protection and Scope sections. The implementation of a treaty serves as one of the more challenging aspects of treaty formulation. Moreover, the subject at hand, the protection of persons displaced by climate change, is itself a multifaceted matter, adds further complexity to the implementation process.

In this section of the treaty, delegates should negotiate and draft the following:

- Clauses which define whether an international entity shall serve as a Secretariat for a treaty, and if so, either explicitly define the nature of the new entity being created or name an existing entity to carry out the duties assigned to a Secretariat;
- Clauses which define the nature of the Secretariat and its responsibilities, rights and methodologies;
- Several clauses which define how the other sections shall be put into effect and which responsibilities fall upon states, and which upon the Secretariat;
- Clauses defining reporting obligations upon states, including content, recipient and timing;
- Clauses which define the ability (or lack thereof) of the Secretariat to monitor state implementation and create independent reports, to collect regional organizations' reports, and to collect information from civil society organizations;
- At least one clause defining whether states have an obligation to craft domestic legislation to convert obligations under the treaty to practices under domestic law;
- At least one clause defining whether territories under the control of a state will be included in the obligations of a state party to the treaty;

This section of the treaty has the potential to be one of the longer sections of the treaty; however, should delegates wish, it can draw on existing implementation frameworks heavily.

This portion of the background guide provides: (a) a step-by-step overview of the procedural matters relating to the implementing a multilateral agreement as well as (b) a compilation of substantive issues associated with implementing a treaty for the protection of PDCCs.

Primary Responsibility for Implementation

Drawing upon the *Guiding Principles for Internal Displacement*, the state is recognized as the primary actor and has the primary role for protecting displaced persons.¹⁴⁹ The role of the state within the context of protecting PDCCs will be a particular point of focus in the establishment of the treaty, as it will frame the responsibilities, accountabilities and implementation mechanisms of the final document for signatories. The primacy of the state within an international context recognizes that while the UNHCR may carry out important activities relating to a climate change displacement treaty, the chief responsibility for the protection of PDCCs rests with states.¹⁵⁰ An important dynamic of the relationship between the state and non-governmental organizations, is the execution of humanitarian activities following climate related, and other natural disasters.¹⁵¹ Though the state is responsible for the implementation of the treaty, it may require assistance from humanitarian partners such as UNHCR.¹⁵²

While the UNHCR has engaged in protection activities relating to Internally Displaced Persons (IDPs) fleeing armed conflict, generalized violence and human rights abuses, the UNHCR has not had a prolonged involvement in displacement stemming from natural disasters and climate change.¹⁵³

¹⁴⁹ UNHCR, *Summary of Deliberations on Climate Change and Displacement*, 2011, <http://www.unhcr.org/4da2b5e19.pdf>

¹⁵⁰ Cohen, "Strengthening Protection of IDPs: The UN's Role," *Georgetown Journal of International Affairs*, 2006 (1), p. 107.

¹⁵¹ Kolmannskog, Vikram, Norwegian Refugee Council, *To what extent can existing forms of legal protection apply in climate change-related cross-border displacement*, 2009. <http://www.nrc.no/arch/ img/9448543.pdf>

¹⁵² *Ibid.*

¹⁵³ Sven Pfeiffer, *Environmental Refugees: How to Ensure Adequate Legal Protection?*, 2008,

http://www.academia.edu/1102742/Environmental_Refugees_How_to_ensure_adequate_legal_protection;
UNHCR, *UNHCR's Role in Support of an Enhanced Humanitarian Response to Situations of Internal Displacement* (EC/58/SC/CRP.18), 2007, <http://www.unhcr.org/excom/EXCOM/46641ff2.pdf>

International Framework

Existing international law provides a collection of documents including the 1954 *Convention relating to the Status of Stateless Persons* and the 1961 *Convention on the Reduction of Statelessness*, accompanied with close consideration of the rights and responsibilities outlined in the 1951 Refugee Convention and the 1967 Protocol as well as the Guiding Principles on Internal Displacement, which provide the components for setting up the parameters of a new treaty on climate change displacement. The *Convention Relating to the Status of Stateless Persons* as well as the 1951 Refugee Convention set up clear frameworks for those that can and cannot receive protection under the treaties.¹⁵⁴ Specifically, those persons who already receive protection from UN agencies other than UNHCR do not fall under the purview of these conventions, nor do those individuals who are treated as nationals in their State of refuge.¹⁵⁵ Of particular importance for States implementing a new treaty on PDCCs is adherence to the guidelines on the treatment of refugees, outlined in the 1951 Refugee Convention, which notes the minimum standards of treatment in areas including access to wage earning employment, freedom of association, access to education and access to the judicial system.¹⁵⁶ Under the 1951 Convention and the 1967 Protocol, the UNHCR does not have specific treaty oversight mechanisms, such as a responsibility to handle individual or inter-State complaints.¹⁵⁷ The specific role for UNHCR identified by the GA is to “facilitate its duty of supervising the application of the provisions,” and further to provide authoritative guidance on the interpretation of the conventions.¹⁵⁸ The 1961 Convention on the Reduction of Statelessness expands on the definitional parameters set up in the 1951 Convention and works towards better harmonization of national laws.¹⁵⁹ One key note for the 1961 Convention is that it imposes positive obligations on Contracting States to grant nationality in some circumstances.¹⁶⁰

These documents are particularly useful in two areas: for identifying areas of existing agreement between states and for establishing existing state responsibilities. The state responsibilities within these documents, upon which states have already agreed, must be adapted to suit the international character of climate change displacement. For example, while the Guiding Principles on Internal Displacement have been deemed sufficient to address climate change displacement *within* a country, the principles must be reshaped to suit the ingress and egress of displaced persons across national borders.¹⁶¹

Monitoring

While establishing the substantive elements of the treaty, it is beneficial for Member States to consider how to monitor any measures, guidelines or procedures, which were initiated within the treaty.¹⁶² Many conventions and treaties will frequently include some form of monitoring and reporting, to ensure that states and applicable parties are acting in accordance to the treaty.¹⁶³ The UN has two systems for the monitoring for conventions related to human rights: conventional committees which have been formally set up through primary international treaties, and an ad-hoc system set up generally as working groups or special rapporteurs.¹⁶⁴ As an example, the Committee on the Rights of the Child (CRC) serves as the monitor for the Convention on the Rights of the Child.¹⁶⁵ One other option for monitoring is the development of an international review conference held regularly after each passage of a certain number of years, which keeps international efforts on the implementation and objectives of the treaty in check, and further serves as a knowledge hub for new information on the substantive content of a convention.¹⁶⁶ For

¹⁵⁴ UNHCR, *Convention Relating to the Status of Refugees*, 1951, <http://www.unhcr.org/3b66c2aa10.html>

¹⁵⁵ UNHCR, *Convention Relating to the Status of Refugees*, 1951, <http://www.unhcr.org/3b66c2aa10.html>

¹⁵⁶ UNHCR, *Convention Relating to the Status of Refugees*, 1951, <http://www.unhcr.org/3b66c2aa10.html>

¹⁵⁷ UN Office of Legal Affairs, *Convention Relating to the Status of Refugees*, 1951.

<http://untreaty.un.org/cod/avl/ha/prsr/prsr.html>

¹⁵⁸ UN Office of Legal Affairs, *Convention Relating to the Status of Refugees*. <http://untreaty.un.org/cod/avl/ha/prsr/prsr.html>

¹⁵⁹ UN Office of Legal Affairs, *Convention on the Reduction of Statelessness*, <http://untreaty.un.org/cod/avl/ha/crs/crs.html>

¹⁶⁰ UN Office of Legal Affairs, *Convention on the Reduction of Statelessness*, <http://untreaty.un.org/cod/avl/ha/crs/crs.html>

¹⁶¹ UNHCR, *Summary of Deliberations on Climate Change and Displacement*, 2011, <http://www.unhcr.org/4da2b5e19.pdf>

¹⁶² United Nations, *Final Clauses of Multilateral Treaties*, 2003:1. <http://treaties.un.org/doc/source/publications/FC/English.pdf>

¹⁶³ United Nations, *Final Clauses of Multilateral Treaties*, 2003:1. <http://treaties.un.org/doc/source/publications/FC/English.pdf>

¹⁶⁴ United Nations, *Human Rights Today- UN Human Rights Monitoring Mechanisms*, 1998. <http://www.un.org/rights/HRToday/>

¹⁶⁵ United Nations, *Human Rights Today- UN Human Rights Monitoring Mechanisms*, 1998. <http://www.un.org/rights/HRToday/>

¹⁶⁶ United Nations Framework Convention on Climate Change, *Convention Bodies*, 2013.

http://unfccc.int/essential_background/convention/convention_bodies/items/2629.php

example, the UNFCCC established within the Convention a subsidiary body, “to assist the Conference of the Parties in the assessment and review of the effective implementation of the Convention.”¹⁶⁷

A joint study was conducted in 2009 by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) and the Internal Displacement Monitoring Centre, in order to assess the number of persons displaced by climate-related natural disasters in 2008.¹⁶⁸ By establishing strict methodology which was then applied to 221 disasters within a twelve-month period, the results indicated that 20,293,413 people were displaced as a result of climate-related disasters, a figure which represents 56 percent of total persons displaced within 2008.¹⁶⁹ While this study demonstrates “that annual global monitoring of forced displacement related to natural disasters is achievable,” it acknowledges the need for expanded and systematic data collection of regions post-disaster and that, “improved data will only be relevant if partnered with strengthened policy and action in the future.”¹⁷⁰

It is recognized by many countries as well as the United Nations that not only is monitoring climate change is important with respect to scientific analysis, but that it also provides insight into the impact it has on humans, and on migration.¹⁷¹ Currently, there is a lack of any solid data or criteria relating to PDCCs, making this issue more difficult to address.¹⁷² With the substantive issues being addressed in the earlier parts of this agreement, monitoring is a necessary contribution addressing the rights and protections needed for PDCCs.¹⁷³ Including a segment on monitoring will express the long-term intentions behind this treaty, and a continual commitment to see this treaty be relevant, and effective in the coming decades.

Institutional and Financial Support

The mechanisms for financing the protection of PDCCs are central to the successful implementation of such a treaty. Any funding arrangement needs to reflect the different capacities of states to bear the cost of PDCC protection as well as the different needs of states to draw upon international resources in the effort of implementing a climate change displacement treaty.¹⁷⁴

The International Council on Human Rights Policy notes that “the most dramatic impacts of climate change are expected to occur in the world’s poorest countries.”¹⁷⁵ The German Advisory Council on Global Change (WBGU) corroborates these concerns, stating: “Most cross-border environmentally induced migration will probably take the form of south-south migration.”¹⁷⁶ With climate change displacement taking place within and between states which are least able, in terms of both the necessary capacity and resources, to address the issue, it is clear that the delivery of effective assistance and protection is contingent upon the burden of protection being spread across the international community. Scholars have proposed that state parties could contribute to a Global Fund to enable responses to specific climate change events, to assist in adaptation and mitigation strategies adopted by the affected

¹⁶⁷ *United Nations Framework Convention on Climate Change*, 1992: 21.

¹⁶⁸ UNOCHA, *Monitoring Disaster Displacement in the Context of Climate Change*, 2010: 4.

[http://www.internaldisplacement.org/8025708F004BE3B1/\(httpInfoFiles\)/12E8C7224C2A6A9EC125763900315AD4/\\$file/monitoring-disaster-displacement.pdf](http://www.internaldisplacement.org/8025708F004BE3B1/(httpInfoFiles)/12E8C7224C2A6A9EC125763900315AD4/$file/monitoring-disaster-displacement.pdf)

¹⁶⁹ *Ibid.*

¹⁷⁰ *Ibid.*

¹⁷¹ IOM, *Migration and Climate Change: IOM’s Perspective*, 2013. <http://www.iom.int/cms/envmig>

¹⁷² UNOCHA, *Monitoring Disaster Displacement in the Context of Climate Change*, 2009. [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/12E8C7224C2A6A9EC125763900315AD4/\\$file/monitoring-disaster-displacement.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/12E8C7224C2A6A9EC125763900315AD4/$file/monitoring-disaster-displacement.pdf)

¹⁷³ NRC, *Climate Change, the environment and displacement*, 2008. <http://www.nrc.no/arch/img/9411999.pdf>

¹⁷⁴ International Council on Human Rights Policy, *Climate Change and Human Rights: A Rough Guide*, 2008. http://www.ichrp.org/files/summaries/35/136_summary.pdf

¹⁷⁵ International Council on Human Rights Policy, *Climate Change and Human Rights: A Rough Guide*, 2008. http://www.ichrp.org/files/summaries/35/136_summary.pdf

¹⁷⁶ German Advisory Council on Global Change, *Climate Change as a Security Risk*, 2007. http://www.wbgu.de/fileadmin/templates/dateien/veroeffentlichungen/hauptgutachten/jg2007/wbgu_jg2007_kurz_engl.pdf

parties and to assist with the resettlement of PDCCs.¹⁷⁷ Determining the requisite contributions from member states and the means by which such a fund would be administered remain open to deliberation.

There are two essential questions related to institutional and financial support. The first is whether states should be obligated, encouraged, or requested to provide such support. Much of the answer to this question will be found in the “Assistance and Protection” section of the treaty. The second question, however, will be answered in this section, the “Implementation” section of the treaty; this question is what institutions and frameworks will be used to facilitate such support being given. Delegates are encouraged to concentrate on that question in this section to avoid redundancies with the previous section of this agreement.

Questions to Consider

Delegates will want to answer the following questions in the **implementation** section of the treaty:

- Do states have the primary obligation to implement the treaty?
- What institutional mechanism will support the implementation of the treaty?
- What financial mechanism will support the implementation of the treaty?
- Will there be a Secretariat? What form will that Secretariat take or what existing organization will serve the role of the Secretariat?

¹⁷⁷ Hodgkinson et al. “‘The Hour When the Ship Comes in’: A Convention for Persons Displaced by Climate Change,” 2012. http://www.ccdpconvention.com/documents/Hour_When_Ship_Comes_In.pdf

V. Final Provisions

This portion of the background guide is intended to provide delegates with an understanding of the final provisions required to facilitate the operation and functioning of the treaty. The Final Provisions section outlines procedural elements and details of the international agreement on PDCCs and focuses on details about the treaty coming into effect, as well as how it will be carried out by Member States in the preceding years.¹⁷⁸ This section is important, as “well-drafted final clauses allow for the easy operation of the treaty and facilitate implementation by the parties and the depositary.”¹⁷⁹ Final Provisions provide an opportunity for the specificities to be determined including actions regarding oversight, compliance mechanisms, reservations of Member States, and acknowledging potential challenges of the treaty.¹⁸⁰ The substance of the treaty can be significantly impacted by the Final Provisions included in the agreement.¹⁸¹

In this section of the treaty, delegates should negotiate and draft the following:

- Several clauses laying out the way in which the treaty implementation will be enforced;
- Several clauses laying out the number of countries required to sign onto the treaty for it to enter into force and the status of reservations;
- Clauses defining how disputes between states on treaty implementation will be resolved or settled;
- Clauses defining how reservations, understandings and declarations (RUDs) will be handled, including whether they will be allowed or not;
- Clauses defining how withdrawal from the treaty will be dealt with, including if it is allowed, the methodology used for withdrawal, and time limits associated with these processes;
- Although these will not be “negotiated” as they are relatively non-controversial, there should be some clauses in the Final Provisions section that define basic frameworks of the treaty, including which language version(s) are official; who the depositary of official text as well as signature, ratification and accession documents is; how accessions (which are essentially the same as ratification, but for states who were not present at the initial negotiation – this is particularly important given that the UNHCR Executive Board only has 87 of the 193 UN Member States and 2 non-member states on its membership) will be processed; how proposals to amend the text shall be handled; and a final date of the treaty’s negotiation.

This section of the treaty does not need to be extremely long, as much of it is non-controversial as noted above.

Compliance Mechanisms

With climate change and related natural disasters forcing displacement, both within the borders of their country, or by crossing them, the issue remains one of both national and international concern.¹⁸² While there is framework established for persons displaced within their own country, or Internally Displaced Peoples (IDPs), there is marginal framework for those who are forced to cross borders due to environmental causes.¹⁸³ This international agreement on Environmentally Displaced Persons includes both environmental and human rights aspects, and “neither existing climate change law or refugee law adequately provides for CCDPs.”¹⁸⁴

There are multiple means of ensuring compliance, whether pre-emptive or through establishing a committee or treaty body. International conventions such as the CRPD include clauses to support the facilitation of international cooperation, information, technology, training, and program sharing.¹⁸⁵ The Kyoto Protocol established a Compliance Committee consisting of an enforcement branch which promotes compliance by providing assistance

¹⁷⁸ United Nations, *Final Clauses of Multilateral Treaties*, 2003:1. <http://treaties.un.org/doc/source/publications/FC/English.pdf>

¹⁷⁹ United Nations, *Final Clauses of Multilateral Treaties*, 2003:1. <http://treaties.un.org/doc/source/publications/FC/English.pdf>

¹⁸⁰ United Nations, *Final Clauses of Multilateral Treaties*, 2003:1. <http://treaties.un.org/doc/source/publications/FC/English.pdf>

¹⁸¹ United Nations, *Final Clauses of Multilateral Treaties*, 2003:1. <http://treaties.un.org/doc/source/publications/FC/English.pdf>

¹⁸² Norwegian Refugee Council, *Climate Change, the environment and displacement*, 2008. <http://www.nrc.no/arch/ img/9411999.pdf>

¹⁸³ Glahn, “Climate Refugees”? *Addressing the international legal gaps*, 2013.

<http://www.ibanet.org/Article/Detail.aspx?ArticleUid=B51C02C1-3C27-4AE3-B4C4-7E350EB0F442>

¹⁸⁴ Hodgkinson, D. and Young, L., *In the Face of a Looming Catastrophe: A Convention for Climate Change Displaced Persons*, 2012:7. <http://www.ccdpconvention.com/summary.html>

¹⁸⁵ Convention on the Rights of Persons with Disabilities, 2006. <http://www.un.org/disabilities/convention/conventionfull.shtml>

and advice to Parties, and the enforcement branch which determines consequences on an individual basis for Parties who fail to meet their commitments.¹⁸⁶ The United Nations has established 10 human rights treaty bodies, composed of experts, who monitor the implementation of core international human rights treaties. The treaty bodies consider “individual complaints, State parties’ periodic reports, consideration of individual complaints, conduct country inquiries and they also adopt general comments interpreting treaty provisions.”¹⁸⁷

Compliance mechanisms can be focused on preventing non-compliance by taking pre-emptive measures, often involving international cooperation and information and technology sharing.¹⁸⁸ There are also mechanisms which focus on addressing Parties who do not comply with the Treaty, often based around the creation of a body or committee to deal with these situations specifically.¹⁸⁹

Reservations

States must determine whether to permit reservations, prohibit reservations, or to only permit certain reservations, as one of the Final Provisions of this agreement. Permitting reservations in an international treaty is not a requirement, and is very dependent on the treaty, with human rights treaties often not making provisions for reservations.¹⁹⁰ With the United Nations Framework Convention on Climate Change prohibiting reservations, and the Convention Relating to the Status of Refugees permitting reservations, the choice of how to address reservations in this agreement is not obvious.¹⁹¹

Consent to be Bound – Signature, Ratification, and Accession

The initial procedural step of treaty implementation is determining the manner in which states consent to be bound to the treaty terms. There are several ways in which states can express their consent to be bound: signature, ratification, accession.¹⁹²

Signature

Multilateral treaties often specify a date up until which time the treaty will be open for signature. However, treaties can remain indefinitely open for signature, for example the International Covenant on Civil and Political Rights, and the Convention on the Rights of Persons with Disabilities both remain open.¹⁹³

Ratification

Pursuant to Article 14 of the *Vienna Convention on the Law of Treaties* (1969), most multilateral treaties provide for states to express their consent by signature *subject to* ratification.¹⁹⁴ In these cases, the signature, which precedes ratification, is considered a ‘Simple Signature’.¹⁹⁵ This provides States with time to seek approval for the treaty from domestic levels of government and to enact legislation necessary for the domestic implementation of the treaty terms prior to undertaking legal obligations at the international level.¹⁹⁶ Ratification at the national level is insufficient to generate international obligations; the instruments of ratification must be deposited with the United Nations Secretary-General.¹⁹⁷ This means that a treaty is not valid if it simply receives ascent through the national legislature and executive without the instrument of ratification being submitted to the Secretary-General.

¹⁸⁶ UNFCCC, *An Introduction to the Kyoto Protocol Compliance Mechanism*, 1992.

http://unfccc.int/kyoto_protocol/compliance/items/3024.php

¹⁸⁷ OHCHR, *Monitoring the Core of International Human Rights Treaties*. 2013.

<http://www.ohchr.org/EN/HRBodies/Pages/WhatTBDo.aspx>

¹⁸⁸ United Nations, *Final Clauses of Multilateral Treaties*, 2003:1. <http://treaties.un.org/doc/source/publications/FC/English.pdf>

¹⁸⁹ United Nations, *Final Clauses of Multilateral Treaties*, 2003:1. <http://treaties.un.org/doc/source/publications/FC/English.pdf>

¹⁹⁰ United Nations, *Final Clauses of Multilateral Treaties*, 2003: 49. <http://treaties.un.org/doc/source/publications/FC/English.pdf>

¹⁹¹ United Nations Framework Convention on Climate Change, 1992.

http://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf

¹⁹² UN, *United Nations Treaty Handbook*, 2012. <http://treaties.un.org/doc/source/publications/THB/English.pdf>

¹⁹³ UN, *United Nations Treaty Handbook*, 2012. <http://treaties.un.org/doc/source/publications/THB/English.pdf>

¹⁹⁴ *Vienna Convention on the Law of Treaties*, 1969.

¹⁹⁵ UN, *United Nations Treaty Handbook*, 2012. <http://treaties.un.org/doc/source/publications/THB/English.pdf>

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

Accession

States which did not participate in the negotiation of a treaty may also wish to be bound by the terms and may do so if the treaty provides for accession.¹⁹⁸ Generally, treaties provide for accession in two ways: the day after the document closes for signature or the day after the treaty enters into force.¹⁹⁹ Accession has the same legal effect as ratification but unlike ratification—which is a two-step process requiring a simple signature followed by the depositing of the instruments of ratification—the process of accession requires only the deposition of the instruments of accession with the Secretary-General.²⁰⁰

Entry into Force

When drafting a treaty relating to the protection of PDCCs, careful consideration is required as to the manner in which such a treaty is to enter into force. The entrance of a treaty into force marks the commencement of its legally binding nature.²⁰¹ There are four ways in which a treaty can enter into force:

- a) Upon a certain number of states depositing instruments of ratification or accession with the depositary,
- b) A specific time after a certain percentage, proportion or category of states deposit instruments of accession with the depositary,
- c) A specific time after a certain number of states have deposited instruments of ratification or accession with the depositary,
- d) On a specific date after certain conditions are fulfilled.²⁰²

The four methods for the entry of a treaty into force outlined above are considered *definitive* entries into forces.²⁰³ In addition international law provides for states which are able to implement the treaty prior to the meeting of the conditions required for the formal, definitive entry into force to have the treaty entered *provisionally* into force.²⁰⁴ This means that while the treaty terms are not yet legally binding on the state, the state opts to act as though the terms were legally binding.²⁰⁵

Questions to Consider

Delegates will want to answer the following questions in the **final provisions** section of the treaty:

- What threshold in terms of state approvals or ratifications is needed for the treaty to enter into force?
- What monitoring and compliance mechanisms will be enacted? What reporting obligations will states party to the treaty be under?
- Are reservations going to be permitted? Will there be any restrictions on the type of reservations allowed under the agreement?
- How will disputes between states on treaty implementation be resolved? What roles will a Secretariat, if one is created, play in dispute resolution?
- How can a state go about withdrawing from the treaty and its obligations?

¹⁹⁸ *Ibid.*

¹⁹⁹ Example of a treaty with accession the day after the document closes for signature: Article 24 (1) of the *Kyoto Protocol of the United Nations Framework Convention on Climate Change*, 1997. <http://unfccc.int/resource/docs/convkp/kpeng.pdf>;

¹⁹⁹ Example of a treaty with accession the day after the treaty enters into force: Article 13 of the *Comprehensive Nuclear Test Ban Treaty*, 1996. <http://www.ctbto.org/the-treaty/>

²⁰⁰ United Nations Treaty Handbook, 2012. <http://treaties.un.org/doc/source/publications/THB/English.pdf>

²⁰¹ Pursuant to article 2 of the *Vienna Convention on the Law of Treaties*, contracting parties—that is, those having provided simple or definitive signatures—are bound by the treaty terms before a treaty officially enters into force.

²⁰² *International Tropical Timber Agreement*, 2006. Article 39(1). <http://www.itto.int/itta/>;

Protocol relating to the Status of Refugees, 1967, Article 9. <http://untreaty.un.org/cod/avl/ha/prsr/prsr.html>;

Comprehensive Nuclear Test Ban Treaty, 1996, Article 14. <http://www.ctbto.org/the-treaty/>;

Article 126 (1) of the *Rome Statute of the International Criminal Court*, 1998. <http://untreaty.un.org/cod/icc/statute/rome.htm>

²⁰³ United Nations Treaty Handbook, 2012. <http://treaties.un.org/doc/source/publications/THB/English.pdf>

²⁰⁴ Article 57 (2) of the *International Cocoa Agreement*, 2010. <http://www.icco.org/about-us/international-cocoa-agreements.html>.

²⁰⁵ United Nations Treaty Handbook, 2012. <http://treaties.un.org/doc/source/publications/THB/English.pdf>

Conclusion

The need for an agreement for protecting PDCCs stems from two main objectives; first, in closing the gaps which exist in the current international framework; and second, in addressing the emerging displacement problems which have developed as a result of climate change. Most important in developing the content for a new agreement is to understand existing State obligations, and to contextualize the issues within the scope of new State obligations created by the agreement.

The questions that delegates should answer in the text of the sections of the treaty are presented again below, organized by the section of the text of the agreement that they should be addressed in.

I. Preamble

- What is the philosophical grounding for the agreement?
- What is the nature of the problem? Why does it require a new agreement to address it?
- What other treaties, conventions, charters, or agreements does this agreement draw upon and intend to build upon?
- What other treaties, conventions, charters, or agreements already address the problem and can be considered as creating norms that this agreement will convert into actions, pledges and obligations?

II. Scope and Definitions

- When and where does this treaty apply?
- Will the treaty be expected to create obligations for only states party or are these obligations expected to also cover other individuals or entities, such as corporations, operating within the state party?
- Are states party obligated to apply the treaty only to their official borders or to all territories under their control, or some middle option between these?
- What is the definition(s) of the populations being protected by this treaty (i.e. persons displaced by climate change)?
- What is the definition(s) of other contextual terms (i.e. climate change, adverse effects of climate change)?

III. Assistance and Protection

- What rights must be protected for PDCCs that are particularly at risk in the context of climate change?
- What obligations do states have for protecting and assisting PDCCs generally (with particular effort to address the currently existing “protection gap”)?
- What obligations do states have for protecting and assisting specific demographic groups that are particularly vulnerable?
- What protection concerns do PDCCs have in regards to relocation and what rights are they afforded in that regard?
- What role, if any, do regional and international organizations have in ensuring protection for PDCCs?
- What needs can developed states help developing states address to help those developing states meet their protection obligations, and what sort of assistance framework can this agreement create to ensure that help is given to states who need it?
- What role, if any, do regional and international organizations have in the creation or implementation of the assistance frameworks described above?

IV. Implementation

- Do states have the primary obligation to implement the treaty?
- What institutional mechanism will support the implementation of the treaty?
- What financial mechanism will support the implementation of the treaty?
- Will there be a Secretariat? What form will that Secretariat take or what existing organization will serve the role of the Secretariat?

V. Final Provisions

- What threshold in terms of state approvals or ratifications is needed for the treaty to enter into force?
- What monitoring and compliance mechanisms will be enacted? What reporting obligations will states party to the treaty be under?
- Are reservations going to be permitted? Will there be any restrictions on the type of reservations allowed under the agreement?
- How will disputes between states on treaty implementation be resolved? What roles will a Secretariat, if one is created, play in dispute resolution?
- How can a state go about withdrawing from the treaty and its obligations?

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