

**BALI PROCESS STEERING GROUP NOTE
ON
THE OPERATIONALISATION OF
THE REGIONAL COOPERATION FRAMEWORK IN THE ASIA PACIFIC
REGION**

BACKGROUND

The 4th Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Trans-national Crime agreed that “an inclusive but non-binding Regional Cooperation Framework (RCF) would provide a more effective way for interested parties to cooperate to reduce irregular movement through the region.”¹ Ministers tasked “officials from Ad Hoc Group (AHG) countries and other interested countries to operationalise the regional cooperation framework in conjunction with UNHCR and IOM as appropriate through bilateral and multilateral arrangements.”

The Bali Process Steering Group meeting in Brisbane, Australia on 17 June 2011 provided a first opportunity to discuss the next steps in implementing the Regional Cooperation Framework. At that meeting, UNHCR presented a *Discussion Note on the Operationalisation of the Regional Cooperation Framework* (hereafter UNHCR Discussion Note). The Steering Group requested that Member States provide comments to UNHCR Discussion Note and that a revised document be subsequently presented to the Steering Group Co-Chairs.

The present Note has been prepared by UNHCR in consultation with IOM for submission by the two Co-Chairs to the Ad Hoc Group meeting on 11-12 October 2011 in Sydney, Australia. It includes comments and recommendations received by all Bali Process Steering Group Member States (Australia, Indonesia, New Zealand and Thailand).

1. REGIONAL SUPPORT OFFICE (RSO)

The Steering Group recommends the establishment of a Regional Support Office (RSO) to facilitate the operationalisation of the Regional Cooperation Framework and to support and strengthen practical cooperation among Bali Process Member States regarding refugee protection and international migration, including irregular migration, human trafficking and smuggling.

¹ Fourth Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, Co-Chairs’ Statement, Bali, Indonesia, 29-30 March 2011. Paragraph 16 describes the core principles that are to underpin the Regional Cooperation Framework including:

- i. “Irregular movement facilitated by people smuggling syndicates should be eliminated and States should promote and support opportunities for orderly migration.
- ii. Where appropriate and possible, asylum seekers should have access to consistent assessment processes, whether through a set of harmonised arrangements or through the possible establishment of regional assessment arrangements, which might include a centre or centres, taking into account any existing sub-regional arrangements.
- iii. Persons found to be refugees under those assessment processes should be provided with a durable solution, including voluntary repatriation, resettlement within and outside the region and, where appropriate, possible “in country” solutions.
- iv. Persons found not to be in need of protection should be returned, preferably on a voluntary basis, to their countries of origin, in safety and dignity. Returns should be sustainable and States should look to maximize opportunities for greater cooperation.
- V. People smuggling enterprises should be targeted through border security arrangements, law enforcement activities and disincentives for human trafficking and smuggling.”

The RSO will operate under the oversight and direction of the Co-Chairs of the Bali Process and in consultation with UNHCR and IOM. Operational guidance and governance mechanisms for the RSO will be agreed by the Co-Chairs in consultation with the Bali Process Steering Group.

The RSO will act as a focal point for interested States with respect to the following:

- information sharing between Bali Process States on refugee protection and international migration, *inter alia* human trafficking and smuggling, border management and other components of migration management including in the asylum context in the Asia Pacific region;
- capacity building and exchange of best practices among Bali Member States;
- pooling together of common technical resources;
- logistical, administrative, coordination and operational support for joint pilot projects.

The draft Terms of Reference (TORs) for the Regional Support Office and a timeframe for implementation are included in Annex I.

Recommendation 1: That the Ad Hoc Group agrees to the establishment of a Regional Support Office and that the co-chairs, in consultation with the Steering Group, be authorised to set up the RSO as per the draft Terms of Reference and timeframe included in Annex I.

The co-chairs, in consultation with the Steering Group, commit to oversee and guide the operationalisation of the Regional Support Office in consultation with UNHCR and IOM with respect to location, budget, activities and formation of staff as outlined in the draft TORs included in Annex I.

2. AHG WORKING GROUP(S) ON SPECIFIC ACTIVITIES UNDER THE RCF

In its *Discussion Paper on a Regional Cooperative Approach to address refugees, asylum seekers and irregular movement* (Manila Discussion Paper) endorsed by the Workshop on Regional Cooperation and Irregular Migration in Manila on 22 and 23 November 2010, UNHCR identified three broad areas for engagement and cooperation under the RCF (the so called Regional Support Functions): processing and case management; resettlement and burden sharing; and return to countries of origin.

The Manila Discussion Paper was considered by the 4th Bali Process Ministerial Conference as a useful foundation for operationalising the RCF, “particularly the three regional functions.”²

2.1 Pilot-Testing of Joint Activities on Selected Caseload(s)

The 4th Bali Process Ministerial Conference recommended that a regional framework could address initially a selected caseload or caseloads and that “participating States should seek to enter into arrangements which would ensure that persons in that

² Ibid, para. 23.

caseload are dealt with in accordance with the processes established under the framework.”³

Such caseloads could include: a) specific groups of a manageable size for the majority of whom return or voluntary repatriation is viable; and b) specific caseloads under future bi-lateral arrangements concluded under the framework of the Regional Cooperation Framework.

Recommendation 2: That a Working Group(s) is established on an *ad hoc* basis under the Ad Hoc Group to further discuss and provide advice on the operationalisation of the Regional Cooperation Framework including the pilot-testing of joint activities in areas such as: processing and case management; resettlement and burden sharing and return to countries of origin with respect to selected caseloads including early warning and prevention.

2.2 Irregular Movements by Sea

The irregular movement of refugees, asylum-seekers and migrants by sea creates particular challenges for States and raises humanitarian concerns for the individuals involved. Cooperative arrangements between affected States and other interested stakeholders including UNHCR and IOM, supported by the Regional Support Functions, could assist to develop coherent and predictable responses tailored to the special circumstances of these movements.

Among the activities commemorating the 60th anniversary of the Refugee Convention, UNHCR, in cooperation with other agencies, will organise a global expert meeting on rescue at sea. The meeting will explore practical measures to better resolve rescue at sea emergencies involving asylum-seekers and refugees. It is expected that the meeting will involve participation by a number of Bali Process Member States and that its outcomes could contribute to initiatives developed under the RCF.

Recommendation 3: That following the global expert meeting on rescue at sea, the AHG considers the organisation of a regional roundtable in close cooperation with UNHCR and IOM to promote a common understanding of conceptual issues on irregular movements by sea with a view to informing the development of bilateral or multilateral arrangements among interested States.

Recommendation 4: That the AHG commissions the RSO to carry out a pilot study on information exchange and data analysis on irregular migration by sea.

³ *ibid*, para 18.

ANNEX I: Terms of Reference for a Regional Support Office in the Asia-Pacific Region

Purpose

A Regional Support Office (RSO) in the Asia-Pacific region will be established to facilitate the operationalisation of the Regional Cooperation Framework and support and strengthen practical cooperation on refugee protection and international migration; *inter alia* human trafficking and smuggling, border management and other components of migration management including in the asylum context in the Asia Pacific region.

Objectives

The RSO will act as a focal point for interested States in the RCF with respect to the following:

- information sharing between States on refugee protection and international migration; *inter alia* human trafficking and smuggling, border management and other components of migration management including in the asylum context in the Asia Pacific region;
- capacity building and exchange of best practices;
- pooling of common technical resources;
- logistical, administrative, operational and coordination support for joint projects.

The implementation of any activities under the RSO will take into account existing work under way. In doing so, the RSO will seek to complement and not duplicate other relevant programs and initiatives and to work towards developing synergies between various activities under the Bali Process.

Structure

The RSO will operate under the oversight and direction of the co-chairs of the Bali Process and in consultation with UNHCR and IOM⁴. Operational guidance and governance mechanisms for the RSO will be agreed by the co-chairs in consultation with the Bali Process Steering Group.

Location

It is recommended that the Regional Support Office operates through a physical office to be located in South-East Asia. Consideration should be given to the pooling of resources and infrastructure together to keep budgetary implications to a minimum.

Budget

In the short term, Steering Group Member States will endeavour to mobilise support for funding the Regional Support Office through staff allocation from relevant departments, the hosting of the RSO office or through provision of financial support.

⁴ The scope and extent of UNHCR's participation under the RCF and RSO will be determined by its protection mandate.

Additional funding and resources might be sought from interested Bali Process States wishing to draw on the resources of the RSO.

Specific Activities

Possible activities which might be considered and/or undertaken by the RSO include:

a) *Information Sharing between States on issues related to refugee protection and international migration including irregular migration and border management*

The RSO will support the development of data collection, management and analysis systems on refugee protection and international migration, including *inter alia* human trafficking and smuggling, border management and other components of migration management in the Asia Pacific region with a view to informing policy making in the region. Such data could be made available through a restricted members' only section on the Bali Process website and in accordance with confidentiality principles and document security requirements. The RSO may be *inter alia* responsible for:

In the short term (2 years):

- undertaking a review and analysis of available systems for information collection, compilation and presentation in the Asia-Pacific region as it relates to refugee protection and international migration;
- pursuing cooperation with relevant international organisations (e.g. Interpol, UNODC) on data exchange;
- developing indicators and criteria for information collection, management and analysis as well as database development;
- establishing and operating a virtual network of National Contact Points from relevant national ministries of interested Bali Process Member States to track national and regional developments on immigration policies, procedures and practices;
- developing databases on country of origin information;
- developing statistical information on refugee protection and international migration trends in the region, as well as other information on refugee protection and international migration, including *inter alia* human trafficking and smuggling, border management and other components of migration management in the Asia Pacific region;
- making full use of existing information available at the national level including raw data and analytical reports.

In the longer term:

- producing and publishing 'situation analysis' reports as well as periodic comparative reports on refugee protection and international migration, including *inter alia* human trafficking and smuggling, border management and other components of migration management in the Asia Pacific region including analysis of developments and trends on refugee protection and international migration, similarities and differences across the region, emerging issues, challenges and responses;
- acting as an information focal point on issues relating to refugee protection and international migration in the Asia-Pacific region, including irregular

migration/work rights; opportunities for regular migration programs; alternatives to detention; resettlement opportunities; “in country” solutions for refugees.

b) Capacity Building and Exchange of Best Practices

The RSO may organize, promote and coordinate activities enabling the exchange of information and the identification and pooling of best practices in refugee protection and international migration, including *inter alia* human trafficking and smuggling, border management and other components of migration management as they relate to the Asia Pacific region between interested Bali Process States including through the organization of conferences and seminars as well as the facilitation of twinning activities involving Bali Process States as well as third countries. The RSO may *inter alia* undertake:

In the short term (2 years):

- developing best practice models on refugee protection and international migration including reception, registration and biometric collection, irregular migration, and migration management including border management as they relate to the Asia-Pacific region;

In the longer term:

- undertaking capacity building through:
 - the provision of assistance to interested States to develop and implement legislation and/or procedures related to refugee protection and migration management.
 - the development of training modules in relevant areas for which such material do not exist or is not adapted to the regional context
 - the development of function-specific Standard Operating Procedures for experts participating in the proposed “Regional Support Roster” (see next section);
 - the organization of technical trainings (i.e. on interview techniques, refugee status determination, reception, registration biometrics, unaccompanied and separated minors, document fraud, identification of victims of trafficking or of smuggled persons at borders, etc.) as well as trainings on relevant areas of international law and migration management;
 - the creation of a Centre for Training, Quality and Expertise for the region to train members of the Regional Support Roster as well as build capacity in interested countries;

c) Pooling of common technical resources

The RSO may draw an inventory of expertise in the region with the aim of making available to interested States technical and other resources on *inter alia*:

- language and document analysis;
- country of origin information to process cases and assist in identifying solutions, including facilitating the voluntary return of refugees or assisted voluntary return of irregular migrants;
- translation/interpretation;
- age determination;
- registration and documentation (ID cards, document security etc);

- addressing the special needs of vulnerable individuals or groups;
- medical and legal advice and counselling;
- transport arrangements;
- NGO expertise and services in the region;
- assisted voluntary return;
- migration legislation;
- any other areas of expertise on refugee protection and migration management of interest of Bali members including border management.

Such expertise might be made available virtually through web-based resources while taking into account the availability and accessibility of IT resources across the region. In addition, a Regional Experts' Roster might be established by the RSO to ensure coherent, efficient and effective delivery of regional support services.

The RSO may be responsible for:

In the short term (2 years):

- developing common tools and methodologies for collecting, processing, analysing and disseminating information on selected countries of origin as well as building capacity. Country of origin information would be provided to facilitate case management, but also in the context of voluntary return;
- establishing and maintaining a country of origin information portal linked to activities under information sharing;
- identify the types of expertise on refugee protection and migration management that Bali Process Member States would like to see included in a Regional Experts' Roster (with respect to refugee protection and international migration, including *inter alia* human trafficking and smuggling, border management and other components of migration management in the Asia Pacific region).

In the longer term:

- developing profiling, registration, documentation, referral, interpretation or other protocols, guidelines and tools;
- identifying a pool of regional experts and operating a Regional Experts' Roster.

d) Logistical and operational support for joint pilot projects

The RSO will provide logistical and other operational support to Bali Process members in connection with the operationalisation of the Regional Cooperation Framework, in particular in the context of joint pilot projects as agreed by the AHG. Such support might take various forms:

In the short term (2 years):

Regarding the activities of the Ad Hoc Group on selected caseloads, the RSO may assist with:

- the provision of a web-based information portal on conditions in the country of origin of selected caseload(s) as per point c) above.
- support in the design and implementation of information/communication campaigns on the risks of irregular migration, human trafficking and smuggling

and legal migration channels in countries of origin of selected caseload(s) and neighbouring host countries;

- building/strengthening national capacity to deal with the selected caseload through the development of joint tools, guidelines and common training for the identification, registration and documentation of asylum seekers;
- Support the development of harmonised processes and procedures for the voluntary repatriation of refugees;
- Support the development of harmonised processes and procedures for assisted voluntary return of migrants who do not have the right to stay in the host country to countries of origin;
- Support the processing for resettlement of selected refugee caseload(s).

In the longer term:

- harmonisation of Refugee Status Determination standards and timeframes for expedited processing of selected caseload(s) in accordance with international protection principles and standards through the deployment of pooled resources under the RCF;⁵
- harmonisation of standards for identifying and providing specialised support to trafficked persons;
- harmonised measures to return and reintegrate trafficked victims into the society and protection of witnesses;
- practical and effective readmission arrangements for nationals and permanent residents without international protection needs based on international human rights standards and domestic law;
- strengthening national capacity to provide social and other service support to asylum seekers, refugees, victims of human trafficking, migrants in an irregular situation and promote self-reliance activities to reduce demands on state resources.

Timeframe

September-October 2011	Finalization of Terms of Reference for Regional Support Office by Bali Process Steering Group
November-December 2011	Finalization of arrangements for staff allocation, hosting of RSO Office, provision of financial support
January-March 2012	AHG/UNHCR/IOM Regional meeting on irregular migration by sea Setting up of Regional Support Office Scoping Exercise of relevant activities by Bali Process members, IOM, UNHCR, other UN agencies
April-June 2012	Development of an Action Plan with a timeframe for Activities

28 September 2011

⁵ Pooled resources could be used to strengthen State or UNHCR operations as per country-specific arrangements.