Consultation with National Human Rights Institutions on advancing implementation of the Global Compact for Safe, Orderly and Regular Migration (GCM) in Asia and the Pacific

Facilitated by the Office of the UN High Commissioner for Human Rights, Regional Office for South-East Asia (OHCHR) and the Asia Pacific Forum of National Human Rights Institutions (APF)

24 November 2021, 11:00-14:00 hrs. (Bangkok time) - Virtual

SUMMARY REPORT
DRAFT

I. Background

1. In accordance with General Assembly resolution 73/195,1 Member States, in 2018, committed to a periodic and effective follow-up and review mechanism of the Implementation of the Global Compact for Safe, Orderly and Regular Migration (GCM).2

2. Member States committed to implementing the GCM at the national, regional and global levels in cooperation with all relevant stakeholders. 12 distinct categories of stakeholders were identified, namely migrants, civil society, migrant and diaspora organizations, faith-based organizations, local authorities and communities, the private sector, trade unions, parliamentarians, national human rights institutions (NHRIs), the International Red Cross and Red Crescent Movement, academia, the media and other relevant stakeholders (para 41 and 44).

3. The Regional UN Network on Migration for Asia and the Pacific (the Regional Network),3 of which OHCHR is an Executive Member entity, is committed to facilitating and translating into practice meaningful engagement of stakeholders in line with the principles underpinning a whole-of-society approach:

- **Transparency**: Generating an open call for engagement to all relevant stakeholders and providing an open and equal channel to receive inputs;
- **Inclusivity**: Creating room for the widest possible access to all relevant stakeholders through different forms of engagement;
- **Diversity**: Ensuring non-discriminatory access to all, with particular attention to underrepresented voices and to migrants in situations of vulnerability;

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2 The Global Compact for Migration is available here: [https://refugeesmigrants.un.org/sites/default/files/180711_final_draft_0.pdf](https://refugeesmigrants.un.org/sites/default/files/180711_final_draft_0.pdf)
3 The Regional UN Network on Migration for Asia and the Pacific (The Regional Network) is comprised of all United Nations agencies at Asia and the Pacific regional level wishing to join. The Regional Office of IOM, Asia-Pacific serves as the Coordinator and Secretariat of the Regional Network. The Executive Committee of the Regional Network currently comprises of ESCAP, ILO, IOM, OHCHR, UNDP, UN DRR, UNFPA, UNHCR, UNICEF, UNODC, and UN Women.
Meaningful participation: Providing effective access to all preparatory and follow-up processes within the context of the regional review and encouraging the mobilization of resources to enable participation of stakeholders.4

4. The Regional Network organized the Regional Review of Implementation of the GCM in Asia and the Pacific from 10 to 12 March 2021. Over 300 representatives from ESCAP Member States and about 60 stakeholders, representing 7 stakeholder groups, including NHRIs, took part in the three-day intergovernmental meeting. On 23 September 2021, the Regional Network organized a consultation to explore ways to strengthen stakeholder engagement5, and in the lead-up to this meeting, organized additional focused group conversations. These conversations were with stakeholder categories, including NHRIs, who had no, or limited, presence during five stakeholder consultations6 held between October 2020 and March 2021.

5. During the focused discussion with NHRIs, including representatives from Australia, the Maldives, Nepal and the Philippines, there was a call for more information on the GCM and to explore ways in which NRHIs could engage in their countries and collaborate across migration corridors on implementation, follow up and review of the GCM, including on the upcoming International Migration Review Forum (IMRF), and how NHRIs could further build partnerships with OHCHR and the Regional Network.

6. As per December 2021, the active network of stakeholders compiled by the Regional Network consisted of around 300 persons from around 200 organizations in around 25 countries across Asia and the Pacific. There were around 35 active representatives from NHRIs in the region.

II. Objectives and Attendance

7. It is in this context that OHCHR and APF facilitated the stakeholder consultation with NHRIs which was held on 24 November 2021. Based on needs and requests from participants, the following objectives of the consultation were identified:

- identify and discuss key areas of human rights concerns, as they relate to the implementation of the GCM, including migrants in situations of vulnerability, immigration detention, access to health, and discrimination and xenophobia;
- engagement with human rights mechanisms on migrants, monitoring tools and collaboration across borders;

4 For more information on the Regional Network’s overall approach to stakeholder engagement in the GCM process in Asia and the Pacific, please see: Engagement of civil society organizations and other stakeholders in the Asia-Pacific Regional Review of Implementation of the Global Compact for Safe, Orderly and Regular Migration. At: https://www.unescap.org/sites/default/files/Stakeholders_engagement_20200819.pdf
6 For more information on the five stakeholder consultations, please visit the website of the Asia-Pacific Regional Review of Implementation of the Global Compact for Safe, Orderly and Regular Migration. At: https://www.unescap.org/intergovernmental-meetings/asia-pacific-regional-review-implementation-global-compact-safe-orderly
• information on how NHRIs can engage with the International Migration Review Forum (IMRF), to be held on 17-20 May, 2022 and the one-day, informal, interactive, multi-stakeholder hearing on 16 May.

8. The consultation was an informal and interactive open plenary, and conducted under the Chatham House rule. 30 participants attended the meeting, including 18 NHRI representatives from 12 countries in Asia and the Pacific, namely Cambodia, Indonesia, Kazakhstan, the Maldives, Mongolia, Nepal, the Philippines, the Republic of Korea (ROK), Samoa, Sri Lanka, Thailand, and Timor Leste. In addition, representatives from the International Detention Coalition (IDC) and a representative from The Global Alliance of National Human Rights Institutions (GANHRI) took part, as did representatives from various UN agencies in the region and at HQ. 65 percent of the participants were women and 35 percent were men. There were no participants who identified as other, or did not prefer to disclose their gender identity and/or expression.

9. This report aims to be a non-exhaustive informal summary of the key points raised in the consultation. The five Power Point Presentations used in the consultation will accompany the report.

III. Opening

10. Ms. Cynthia Veliko, OHCHR Regional Office for South-East Asia, and Mr. Kieren Fitzpatrick, APF, welcomed participants. Ms. Veliko emphasized that the aim of OHCHR, as an expert resource, is to play a key role in helping to bring human rights standards and mechanisms into discussions on political, social, economic and developmental issues amongst governmental and non-governmental actors in the region. OHCHR’s work on migration and human rights combines advocacy on human rights issues of concern, technical support, and capacity building with key partners and stakeholders.

11. Ms. Veliko highlighted that the GCM is rooted in the UN Charter and international human rights law and standards. It is grounded in values of a whole-of-government and whole-of-society-approach; on international cooperation and responsibility-sharing; non-discrimination, and human rights, and includes child-sensitivity and gender-responsiveness as guiding principles across the 23 GCM objectives. She emphasized that one of OHCHR’s objectives is to work with NHRIs to ensure a strong focus on human rights in GCM implementation at the national and regional level, including through cross-border collaboration between NHRIs.

12. Mr. Fitzpatrick, APF, acknowledged the presence of many and diverse NHRI participants, including those in the process of developing into a fully established Human Rights Institution. He highlighted the benefit of the work of NHRIs on migration, including efforts to strengthen the rule of law and strategic investigative work.

13. Mr. Klaus Dik Nielsen, OHCHR Regional Office for South-East Asia, advised that participants would have one week to provide further comments following the meeting, and added that OHCHR and APF would draft a short informal summary report which would be shared for feedback with all participants.
IV. Key areas of human rights concerns as they relate to the implementation of the GCM

A. Introduction

14. Ms. Pia Oberoi, Senior Advisor on Migration and Human Rights (Asia Pacific), OHCHR, explained that OHCHR was trying to get a sense of how best to work with NHRIs and how the GCM can become a living document used at country level by NHRIs. She added that tools to support implementation for national action plans would be shared with participants.

15. Acknowledging that here are a number of human rights concerns in the region, Ms. Oberoi encouraged participants to bring forward their particular concerns, roles, and challenges, for example in their roles as watchdogs and in efforts to ensuring that there is accountability and adherence to the rule of law.

16. Ms. Oberoi reflected that where NHRIs may play a particular role in GCM implementation, review and follow up is in undertaking screenings, and monitoring risks and early warning signs that compel people to migrate. Individual assessment and monitoring of conditions of migrants, including undocumented migrants, such as access to basic services, should include a human rights perspective. Other potential roles of NHRIs included tracking discrimination and discriminatory profiling, ensuring access to remedies, and collaborating with stakeholders and partners in GCM implementation.

17. Ms. Oberoi expressed her hope that this consultation and future collaboration between NHRIs, OHCHR, additional UN agencies and other stakeholders, would empower participants, for example to push their governments to become champion countries of the GCM. Some progress had been made in Asia and the Pacific, for example in GCM champion countries, who led by example in GCM implementation, and a number of countries had changed their policies and practices, such as for example, including returning migrants in social protection schemes.

B. Children in the context of migration: ASEAN Declaration and Regional Plan of Action

18. Ms. Nicola Brandt, UNICEF, East Asia and Pacific Regional Office, acknowledged that a benefit of the GCM is that children, for the first time, are recognized as key actors in the context of migration governance. She referred to two main documents – the ASEAN Declaration on the Rights of Children in the Context of Migration (adopted in 2019), and the Regional Plan of Action (adopted in 2021), whose overall objectives are to respect, promote and protect the rights of all children in the context of migration, regardless of their migration status, in accordance with the Convention on the Rights of the Child (CRC).

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7 There are currently six Champion Countries in Asia and the Pacific: Bangladesh, Cambodia, Indonesia, Nepal, the Philippines and Thailand. See here for more information: https://migrationnetwork.un.org/champion-countries
8 For this, and subsequent interventions by presenters, please refer to Power Point Presentations, sent separately to participants, for more detailed information.
9 Please go to the Annex to find links to these and other official documents related to migrants’ rights and migration governance.
The Regional plan of Action has five focus areas:

- Strengthening policies and procedures to enhance accessibility to child protection systems for all children, including ending child detention;
- Revising policies, procedures and practices to ensure access for all children to basic quality services, such as education, housing, and health;
- Increasing the capacity of social workers, law enforcers, teachers, service providers, civil society organizations and others to respond to the rights and needs of children in the context of migration;
- Strengthening the evidence base on the situation of children in the context of migration, by improving and increasing collection and analysis of data and evidence; sharing of good practices; and conducting more research, for example on the drivers of unsafe migration for children;
- Strengthening partnerships and networking among ASEAN Member States, international organizations and stakeholders. NHRIs are specifically mentioned and have key roles to play in pushing for effective and timely implementation of the Declaration.

Ms. Brandt highlighted that there was a robust monitoring process in place in the Regional Plan of Action, as well as priority indicators for the first five years. There would be a launch of the Regional Plan of Action in January 2022, it would be translated into ASEAN languages, child-friendly versions of the Declaration would be produced, and a number of workshops were being planned.

A participant reflected that NHRIs should pay more attention to migrant children, that some NHRIs has a dedicated Commissioner who responds to children’s rights, and recommended that the ASEAN Declaration on the Rights of Children in the Context of Migration should be disseminated to regional offices and at local level. One NHRI worked with the bar association, exploring how to meet the great needs for legal assistance of migrants, including services in different languages. There was a call for better coordination with legal institutions, as well as guidance and recommendations on how to protect the rights of migrants, and ensure access to services. This was particularly important during the COVID-19 pandemic and subsequent lockdowns for migrants. Many migrants had been stuck in countries of destination for extended periods of time, during which, for example, access to adequate health services needed to be facilitated for migrants and their children.

C. GCM objective 13: Use migration detention only as a measure of last resort and work towards alternatives.

Ms. Vivienne Chew and Ms. Carolina Gottardo from the International Detention Coalition (IDC)\(^\text{10}\), described their advocacy in partnership with NHRIs, to end immigration detention and to secure the human rights of people impacted by and at-risk of immigration detention, highlighting that alternatives to detention (ATD) is not defined under international law. However, there are a wide range of resources, tools, processes and systems that can be used to advocate for ATD, which are often cheaper and have better human rights outcomes.

\(^{10}\) International Detention Coalition: https://idcoalition.org/
23. Ms. Chew and Ms. Gottardo emphasized that the role of NHRIs is critical towards ending immigration detention, and that members of IDC in the region were working with NHRIs to facilitate spaces for dialogue, raising detention issues, advocating for ATD, and holding authorities accountable. The current general trends in Asia and the Pacific includes lack of individualised screening and assessment, prolonged and indefinite detention, poor conditions and limited availability of ATD. The trend had been exacerbated by the COVID-19 pandemic, and in some cases had resulted in access to detention centres being restricted and/or closed off.

24. IDC’s current work in the region included supporting the piloting and expansion of ATD for children and families in Malaysia, Thailand and Indonesia, and supporting law and policy reform to limit and end detention in Japan, Taiwan, South Korea and Hong Kong. IDC was working with UN member agencies of the Regional and Global Networks on Migration in pushing for implementation of GCM objective 13.

25. As a preparation for the IMRF, IDC in collaboration with the Regional Network was undertaking a mapping on promising practices in 20+ countries in the region, which would be published ahead of the IMRF. IDC would also facilitate global peer learning activities for governments, a webinar on government and civil society partnerships on ATD, and encourage governments to champion progress on ATD at the IMRF.

26. A participant commented that although their NHRI submitted recommendations based on monitoring and complaints received from immigration detainees to their government to improve detention conditions and find alternatives to detention, progress on keeping women and children out of detention altogether, was still slow. Another participant reported that their NHRI was supporting a law reform to end immigration detention in their country, and asked for advice on what kind of regulations were being used internationally. She asked for clarification on the link between the GCM and supporting alternatives to detention, and Ms. Chew responded that the work on incorporating alternatives to detention in the GCM had been undertaken in close collaboration with lawyers working on legal reforms for migrants, refugees, asylum-seekers, including children. Ms. Chew added that the IDC could share research on practices on ADT which some governments were using, and which could be adapted to a national perspective and pave the way for limiting detention of migrants.

D. Towards strengthening legal and human rights frameworks at country and regional level – and capacity building needs.

27. Participants called for strengthening investigations and the legal and human rights frameworks to protect migrants who remained in vulnerable situations, due, for example, to lack of efficient monitoring and implementation of the law. One participant reported that some private sector stakeholders were now attempting to adhere to laws and policies to protect migrants, but that there was a severe lack of adherence in the fishing industry - in particular on vessels.

28. NHRI representatives urged that NHRI staff be equipped with adequate investigative tools and methods, in particular when investigating complicated cases. There was a call for continued capacity building in order to be up-to-date with legislation and applying relevant reporting tools. A participant reflected that understanding the many different frameworks, mechanisms and declarations at regional and national levels in Asia and the Pacific could be
challenging, including when reporting to the UN. Another participant noted that there were different levels of awareness among NHRIs and other stakeholders of relevant human rights treaties, including on how to apply ASEAN declarations, and that it was particularly challenging when addressing cross-border and mixed-migration issues. She stressed the importance for NHRIs to understand mechanisms and know how to push for implementation, and asked APF if a working group to address these issues had been considered.

29. Ms. Oberoi and Ms. Brandt acknowledged the challenges with the proliferation of and interplay between frameworks. Ms. Gottardo stressed that the whole-of-society approach was important, and that mechanisms should be looked at from a holistic perspective, and reiterated that IDC is keen to work with NHRIs on detention, including on complex matters, including issues of statelessness in the region.

E. GCM implementation, review and follow up: Guidance and tools

30. Ms. Carolina Hernandez, Migration Unit, OHCHR, informed participants that OHCHR was looking to convene similar consultations with NHRIs in other regions. She outlined how OHCHR, in collaboration with other UN agencies, was supporting Member States and stakeholders to develop ambitious and practical national responses for GCM implementation, as per paragraph 53 of the GCM. OHCHR, as co-chair of a UN Migration Network core working group, provides reference documents and guidance to support GCM implementation at national level. Ms. Hernandez emphasized that mainstreaming GCM efforts in national plans was not always a linear process.

31. An implementation guide with a suggested 6-step process, including on how to review legislation and policies related to GCM implementation had been produced. It includes guidance on reporting and the use of reporting mechanisms, for example treaty bodies, and provides practical tools, resources and concrete actions to advance GCM implementation. A booklet was also available, which, in addition to providing substantial information on all 23 GCM objectives, includes promising practices. Noting that the booklet would be enriched by input from NHRIs, Ms. Hernandez encouraged participants to come forward with good practices of GCM implementation, follow-up, and review efforts from their national contexts.

32. Possible ways of engagement by NHRIs included disseminating and promoting the guidance tools through networks, and when collaborating with Member States and other stakeholders. Ms. Hernandez encouraged participants to share examples and feedback on how to ensure sustainability of promising practices on GCM implementation. Reflecting on increasing the understanding of regular pathways for admission, stay, return and reintegration in the region, Ms. Hernandez highlighted that the guidance includes advice on how to advocate for ensuring regular pathways, including return and reintegration of migrants. She stressed that return is only one among several options, and that return must always be dignified and comply with international human rights law, as well as the clear provision that all migrants are protected by the principle of non-refoulement.

33. A participant reported that the Ministry of Foreign Affairs in their country had already applied GCM implementation tools and were engaging with stakeholders to discuss GCM implementation. She acknowledged, however, that conducting joint monitoring of detention conditions of migrants had not happened yet, due to COVID-19. Another participant
remarked that their government had organized consultative meetings with key stakeholders and had formed a committee to decide on the process of regularization and repatriation. However, the process did not include reintegration. She expressed concern about the large number of deportations and repatriations of migrants, many of whom were being detained in state facilities. There was a call for more robust data collection on how governments conduct migration governance in the context of the COVID-19 pandemic, and the particular challenges that undocumented workers face in host countries.

34. A participant welcomed stakeholder involvement in GCM implementation, and recommended that more information be provided to Member States and stakeholders, including statements and principles in the context of COVID-19, issued by the UN Migration Network. Ms. Oberoi acknowledged the need to increase the understanding of enhancing the availability and flexibility of pathways for regular migration, and mentioned a forthcoming OHCHR publication on 17 countries in the region, which includes the context of the COVID-19 pandemic.

F. Roles of NHRIs in GCM implementation, follow up and review, including in the International Migration Review Forum (IMRF)

35. Ms. Katharina Rose, Global Alliance of National Human Rights Institutions (GANHRI), reflected on the opportunities and multiple roles NRHIs can play, and how the GCM aligns with NRHIs’ current aims, objectives and strategies. The GCM is a human rights instrument which is shifting the framing to focus on people and clearly reaffirming their human rights, regardless of status. Ms. Rose called for NRHIs to continually conduct human rights-based expert assessment of progress and violations, the results of which should feed into all processes of the GCM implementation, follow up and review, including voluntary national reviews, regional review fora, IMRFs, as well as treaty bodies, special procedures, Universal Periodic Reviews (UPRs) and the Sustainable Development Goals (SDGs).

36. Ms. Rose emphasized that NRHIs could usefully assume leadership roles in

- dissemination;
- shaping debates and discourses on migration and migration governance;
- human-rights based national action planning;
- policy and legislative scrutiny;
- monitoring, review and reporting;
- international dialogues.

NRHIs should use their leverage and assume instrumental roles in ensuring that national GCM implementation plans are comprehensive and coherent, including by identifying and negotiating priorities for rights protection, as well as facilitating consultations with civil society, migrants and other NRHIs for cross border collaboration.

37. Ms. Rose outlined how the IMRF can serve as an important avenue for NRHIs at global level to achieve full implementation of the GCM. The IMRF is an intergovernmental global platform for Member States, with participation of non-governmental stakeholders, including NRHIs, to discuss and share progress on implementation of all aspects of the GCM, including as it relates to the 2030 Agenda. Taking place every 4 years, the first IMRF would be convened in May 2022, and consist of four interactive multi-stakeholder roundtables, a policy debate,
two days of plenary discussion, and the adoption of an inter-governmentally agreed Progress Declaration. Ms. Rose suggested a number of entry points for NHRIs leading up to and during the IMRF, including:

- engaging in national consultations;
- submitting independent NHRI reports;
- promoting stakeholder consultation at the IMRF;
- engaging in consultation processes to inform background papers to shape the discussions at the IMRF;
- promoting good practices, including on the UN Migration Network Hub Website;¹¹
- participating in the IMRF, including by organizing side events and briefings and as keynote speakers;
- following up at national level on commitments made at the IMRF.

Ms. Rose concluded by urging NHRIs to promote and disseminate information about the GCM, including the IMRF. She also encouraged NHRIs to share experiences and good practices, including with GANHRI, who would coordinate a position as a collective voice of NHRIs, to inform the global debate at the UN and other fora.

38. Ms. Monami Maulik, from the Secretariat of the UN Network on Migration, outlined and elaborated on the processes and activities leading up to and during the IMRF. She informed participants that the IMRF will be preceded by a one-day interactive multi-stakeholder hearing on 9 May 2022 and highlighted IMRF modalities resolution paragraph 6: *The General Assembly invites national human rights institutions compliant with the Paris Principles to register with the Secretariat in order to participate in the forums, including the informal interactive multi-stakeholder hearings[…..] and invites the institutions, as well as the Global Alliance of National Human Rights Institutions and regional human rights institution networks, to submit inputs prior to the forums.*

39. Ms. Maulik introduced a proposed roadmap for the UN Network on Migration’s support to the IMRF, both to Member States and stakeholders, which includes calls for inputs from stakeholders prior to the IMRF and voluntary GCM reviews at national level. She commented that the Secretariat would be happy to support GANHRI in assessing where there may be more voluntary reviews from Member States. All stakeholders, including NHRIs, were invited to submit their inputs to the IMRF to the Secretariat at unmignet@iom.int after which they will be posted on the UN Migration Network Hub website prior to the IMRF.

40. The roadmap includes further consultations to take place to increase stakeholder engagement, and Ms. Maulik encouraged participants to look out for and attend additional dialogues, ahead of the IMRF, on key thematic priorities and recommendations based on stakeholder inputs from reports, documents and stakeholder consultations from all regions over past 18 months. The roadmap also has information on procedures for accreditation for stakeholders, and Ms. Maulik advised participants to look out for forthcoming engagement notes issued by the Office of the General Assembly. All information would be posted on the UN Migration Network Hub website.

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¹¹ UN Migration Network Hub Website: [https://migrationnetwork.un.org/hub](https://migrationnetwork.un.org/hub)
41. Ms. Maulik emphasized that the UN Migration Network Hub Website, as a global knowledge platform and connection hub, is a vital element to ensure that accumulated national and regional knowledge, experience and expertise on migration dynamics is available, as well as functioning as a repository of good practices.

V. Closing and next steps

42. OHCHR and APF thanked all participants for their generous, expert and inspiring contributions and recommendations. As a response to a participant, Mr. Fitzpatrick confirmed that APF would aim to make sure that a training program would be rolled out with the GCM in mind. He concluded by saying that there would be additional capacity development and mechanisms for cooperation between human rights groups and for NHRI s to collaborate on trans-border related issues.

43. Ms. Oberoi emphasized that OHCHR and other UN agencies are here to support NHRI s in embedding a human rights perspective and a rights-based approach to migration and migration governance. She acknowledged the importance of national reporting as a framework into which to insert GCM objectives. She also recognized the importance of NHRI s to become more familiar with the GCM as a benchmark to inspire work on the various dimensions of migration, as well as bringing civil society actors on board to reflect the reality of migrants. Ms. Oberoi committed to continuing to engage with NRHI s, for example on preparing for the IMRF, and she welcomed regular collaborative discussions with NHRI s in the region. She concluded by encouraging participants to send any additional comments, reflections, and questions within a week, and reiterated that a short summary report would be drafted and shared for feedback with all participants.
VI. BACKGROUND DOCUMENTS

1. UN Migration Network guidance and booklet on National Action Plans: https://migrationnetwork.un.org/core-working-group-22-gcm-national-implementation-plans


PROVISIONAL AGENDA,
24 November 2021,
11:00-14:00 hrs. (Bangkok time) - Virtual

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<td>10.30-11.00</td>
<td>Virtual platform opens</td>
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<td>11.00-11.15</td>
<td>Welcome, introductions and overview of stakeholder participation in GCM implementation, follow up and review in the Asia Pacific region</td>
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<td>• Kieren Fitzpatrick, Asia Pacific Forum of National Human Rights Institutions (APF)</td>
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<td>11.15-12.30</td>
<td>Key areas of human rights concerns as they relate to the implementation of the GCM</td>
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<td>Key areas of human rights concerns as it relates to the implementation of the GCM (cont’d)</td>
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<td>• Monami Maulik, Secretariat, UN Network on Migration</td>
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<td>13.55-14.00</td>
<td>Conclusion, Closing and Next Steps</td>
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<td>• Pia Oberoi, OHCHR</td>
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