



COUNTRY OPERATIONS PLAN

Executive Committee Summary

Country: Thailand

Planning Year: 2005

Part I: Executive Summary

The condition of Myanmar refugees in Thailand fits the definition of a protracted refugee situation. However, at the time of this writing, there are signs pointing to a possible change in this static scenario. In Myanmar, it is too early to judge how and whether the "Roadmap for National Reconciliation" and the national convention process could affect the refugee situation. On the other hand, the following two factors are likely to have a significant impact: first, the continuous improvement in Thai-Myanmar bilateral relations and second, the initiation of ceasefire talks between the SPDC and the Karen National Union (KNU).

The Pagan Summit held in November 2003 adopted the Economic Cooperation Strategy (ECS) which aims at improving relations between Thailand and its neighbours, *inter alia*, through the development of border areas. While mutual economic benefits are a driving force underpinning the ECS, they are by no means the only motivation. Thailand expects that the implementation of the strategy will create an enabling environment to address three other priority areas, namely drug trafficking, the refugee problem and the situation of illegal migrants from Myanmar in Thailand, whose number is estimated to be over one million. On the diplomatic front, Thailand has initiated the "Bangkok Process" which aims at generating support among like-minded countries for Myanmar's roadmap to democracy. The process is still in its infancy. It is congruent with the ECS and the constructive engagement policy to which Thailand is firmly committed.

The SPDC-KNU ceasefire talks are taking place against this background, namely in a political environment which may be more conducive to a compromise than heretofore. There are numerous obstacles to overcome and the refugee issue may not be placed on the agenda of the discussions for some time. However, the process needs to be carefully monitored, particularly if it leads to the establishment of "safety zones" with people being induced to move without the adequate international safeguards required for voluntary repatriation.

The recent agreement with Myanmar on the eastern border positions UNHCR as a key actor in a future voluntary repatriation. This is also acknowledged and supported by Thailand. These developments have paved the way to a contingency planning exercise which will have a normative value in clarifying conditions and standards pertaining to such an operation. The design of this participatory process involving a large range of stakeholders (refugees, Thai authorities, NGOs, donors, UN and other agencies, receiving communities and leaders, etc.) will be the first step in this challenging exercise. Its success will be predicated on connectivity with a similar process to be conducted on the Myanmar side, to ultimately produce an integrated structure. Stakeholders on the Thailand side have already expressed broad support for this process.

The Royal Thai Government's concerns about the presence of Myanmar refugees in Bangkok came to a head in June 2003, leading to a request, with particular reference to this group, for UNHCR to stop carrying out status determination under its mandate and issuing "persons of concern" (POC) letters. UNHCR submitted several proposals to address this issue, including relocation from the camps, but emphasized all along the need for a mechanism allowing access to asylum, to be implemented either directly by the RTG or jointly with UNHCR. While a definitive conclusion has yet to emerge from these negotiations, it is safe to assume that an alternative formal mechanism will be in place in 2004 and remain operational throughout 2005. The new mechanism being contemplated will lead the recognized Myanmar cases to camp placement in lieu of the provision of subsistence allowance in urban centres.

With this new policy in place, it is anticipated that the number of Myanmar applicants for status determination in urban centres will significantly decrease. Those that have a justification for not accepting camp placement will be resettled. This working assumption has been reflected in the budget proposals for 2005. For non-Myanmar cases, resettlement remains the only viable option.

Following an offer from the United States, the RTG has in principle agreed that the resettlement option could be opened for the Myanmar urban caseload. This is an important development which gives UNHCR added flexibility in the search of durable solutions. At the time of writing, UNHCR has already submitted half of the caseload for resettlement processing and is redoubling its efforts to clear the backlog of some 2,000 persons. Resettlement from the camps for vulnerable groups and persons with specific protection concerns will gather momentum in 2005. This will make the protection situation in Thailand more manageable by having one system for all Myanmar asylum-seekers while safeguarding individual RSD for non-Myanmar cases.

Recently, there has been a sharper focus on the use of resettlement as a burden-sharing tool, particularly in a protracted refugee situation such as Thailand. In practice, this would mean opening resettlement in camps, starting possibly with Tham Hin, an extremely overcrowded camp where living conditions are inadequate. The proposal takes into account the need to address weakened coping mechanisms resulting from a prolonged stay in difficult camp conditions. As the idea has yet to solidify, possible budgetary and staffing implications have not been factored into this submission. The advisability of this approach will also have to be weighed against the prospects of voluntary repatriation.

The strategic use of resettlement is also being effectively tested in the Tham Krabok operation under which some 14,500 Hmong are being screened for resettlement to the US, and possibly a few to Australia. An estimated 97% of this population are former UNHCR camp residents. They are unable to return to Laos and are also facing a potential statelessness situation. The operation provides a cogent example of group repatriation. UNHCR's participation is on a "good offices" basis and funding has been secured through an extra-budgetary contribution. When completed, this operation will bring to a close a significant – but somewhat overlooked – residual problem from the CPA period. UNHCR's involvement is expected to be completed in 2004.

An understanding has been reached with the RTG for a comprehensive registration in refugee camps. The UNHCR/MOI headcount was carried out in 1999, and since the Provincial Admission Boards (PABs) ceased functioning in 2001, no official registration of new arrivals has taken place. This has produced a significant discrepancy between the official camp population figure, which remains at 116,711, and the actual figure which is estimated at some 140,000. Although food assistance is in principle provided on the basis of the official figure, the RTG has shown flexibility in this regard. A pilot registration project for Tham Hin was planned for 2003, but it could not take off due to problems encountered in the finalisation of the sub-agreement (MOU) with the MOI. Besides updating the refugee camp population figures and providing an identity card to residents, the registration exercise will provide valuable data with respect to voluntary repatriation and resettlement. Subject to availability of funds, it is expected that this exercise will already start in 2004. Budget requirements for this new activity have been reflected in the 2005 submission.

Traditionally, assistance to refugees in camps has been provided by NGOs directly funded by donors. As a case in point, the 2004 budget of the Burma Border Consortium (BBC), a key player in this programme, amounts to \$21.5 million; other NGOs – some of whom are direct implementing partners of UNHCR – collectively contributed some \$8.1 million to the programme. With respect to assistance, UNHCR assumes a subsidiary role, mainly by addressing gaps identified in the programme. International protection remains UNHCR's primary responsibility, and it is provided in close coordination with NGOs. This division of labour has been effective in delineating responsibilities and building partnerships. UNHCR has been an active participant in CCSDPT (the NGO coordination body) meetings. Additionally, the UNHCR/CCSDPT working group on protection has evolved into a useful advocacy and information-sharing mechanism. A central item on the working group's agenda has been protection training for NGOs. There has also been a sharp focus on registration of births. This is an important issue on which a breakthrough was achieved in 2003 with the RTG's decision to provide delivery certificates for the registered refugee population.

UNHCR's agenda for protection in Thailand focuses on ensuring non-*refoulement* and addressing the following issues: SGBV; administration of justice in the camps; freedom of movement; registration and issuance of identity documents; relocation of refugee camps away from the border; the civilian nature of camps; and protection of vulnerable individuals. In coordination with UNICEF, a joint programme to address problems related to child soldiers is also being developed. This is a priority for both agencies as well as an excellent example of partnership.

The proximity of the camps to the border has been a lingering problem. Despite security concerns, the RTG proceeded with the relocation of Mae Kong Kha to a site closer to the border. The authorities nevertheless agreed to assume full responsibility for the security of refugees and made additional arrangements to that effect. While this situation is unsatisfactory, no major security incident has been reported.

In 2005, a key objective will be to continue strengthening the elaborate SGBV prevention, reporting and follow-up mechanisms already in place. SGBV workshops were carried out throughout 2003 and have helped in building awareness on SGBV among refugees and camp committees. Participants have been trained in recognizing signs of gender based violence. Improving the administration of justice in the camps is a related and complementary challenge. Application of the Thai justice system is expected to assume a more prominent role. The Thai authorities have been receptive and closer cooperation is now being developed with the Ministry of Justice. Workshops to sensitize camp committees will continue during 2004 and 2005. One objective is to develop a better understanding on issues that can be dealt with internally and others that need to be referred to the Thai justice system. Combined with other measures, this two-pronged protection approach paves the way to further progress on the implementation of the High Commissioner's "Five Commitments towards Refugee Women". Progress has been achieved in ensuring a better representation of refugee women in camp committees. Implementation of the registration project will also ensure that all refugee women are provided with proper documentation. All UNHCR and NGO personnel are being reminded of their commitments toward adherence to the Code of Conduct.

Thailand is not party to the international refugee instruments and UNHCR's encouragement towards accession have so far failed. However, Thailand has largely abided by the principles of the Convention, despite being, for more than three decades, the country in the region most affected by refugee influxes. The tradition of temporary asylum is well anchored, as evidenced by asylum provided to a large

number of Myanmar refugees, albeit with some restrictions and under difficult camp conditions. Screening was carried out during the first Lao influx and subsequently under the CPA. In the latter, the refugee definition was used for status determination.

While accession to the Convention will continue to be encouraged, this should not be at the detriment of pro-actively pursuing solutions which could ultimately improve the protection regime. To that effect, UNHCR has commissioned a study by a well known Thai professor. His report – which has just been completed – details concrete recommendations for a programme of work which would help foster the Agenda for Protection in Thailand. These suggestions offer scope for creative action. Consultations with government counterparts on the report will be carried out during 2004 and may hopefully lead to some tangible results in 2005.

The June 2003 crisis on "persons of concern" has, interestingly, opened new avenues in the search of solutions that could meet the concerns of both the RTG and UNHCR. The negotiation process has yet to reach a formal conclusion. However, there are positive signs that it will produce a re-assessment of the 1998 "working arrangements" and the restrictive "fleeing fighting" criteria which had rendered the PABs dysfunctional. The availability of the resettlement option – and the RTG's acquiescence thereto – have broadened the range of options and offered a unique solutions opportunity. Should a credible joint UNHCR-RTG admission mechanism emerge, individual RSD conducted by UNHCR under its mandate for Myanmar cases could be considerably scaled down.

Turning partnerships into a tangible, operational and policy-oriented reality is perhaps the single most important objective for 2005. Notwithstanding difficulties that may be faced, partnership has a unique impact in achieving a better protection regime and finding durable solutions. In a way, it is an "apex" objective which will largely shape the success of others. It also offers space for change, even in a protracted refugee situation.

Main Programme Goals and Objectives – Myanmar Refugees

For the Myanmar refugee population in Thailand, UNHCR will focus on achieving the following objectives in 2005:

- Ensure admission, documentation and reception of asylum seekers and refugees
- Facilitate the re-registration of the camp population and ensure the issuance of documentation to refugees and asylum-seekers
- Ensure the physical safety and respect for basic rights of refugees in camps and in urban centres in accordance with international standards
- Conduct contingency planning for voluntary repatriation to Myanmar
- Expand the strategic use of resettlement as a protection tool and as a durable solution
- Improve partnerships with donors, government, UN and inter-governmental agencies and NGOs for protection support and resource mobilization.

Main Programme Goals and Objectives – Non-Myanmar Urban Refugees

- Ensure admission, documentation and reception of asylum seekers and refugees

- Ensure the physical safety and respect for basic rights of non-Myanmar refugees in urban centres in accordance with international standards
- Expand the strategic use of resettlement as a protection tool and as a durable solution

Main Programme Goals and Objectives – Public Information, Promotion and Training Activities

UNHCR's goals in the area of public information, promotion and training activities will continue in 2005 and will focus on the following objectives:

- Increase awareness of UNHCR's mandate and refugee law
- Strengthen local protection capacity
- Achieve an attitude change on accession issues
- Reduce negative public attitude towards the presence of refugees in Thailand.