

UNHCR'S ACTIVITIES IN RELATION TO THE
ASYLUM-MIGRATION NEXUS

I. FOCUS OF THE PAPER

1. The Global Consultations on International Protection, launched by UNHCR in late 2000 with the aim of engaging States and other partners in a broad-ranging dialogue on refugee protection, recognized that issues at the nexus between asylum and migration posed specific challenges, requiring stronger multilateral commitment and cooperation. One of the six goals set out in the *Agenda for Protection*, which is the “jointly owned” outcome of the Global Consultations process, is “protecting refugees within broader migration movements.”¹ Pursuant to the *Agenda for Protection*, UNHCR has been tasked to take a more active interest in aspects of international migration linked to refugee protection and solutions.² The *Agenda* specifically calls upon UNHCR to work with States and other partners on a package of measures which might be brought into play as part of a comprehensive plan of action for particular irregular or secondary movement situations.³ It also asks UNHCR, in partnership with other concerned actors, to develop strategies in the context of rescue at sea, trafficking and readmission of rejected asylum-seekers.⁴

2. During its 38th meeting in March 2007, the Standing Committee requested UNHCR to present a report on “UNHCR’s activities in relation to the asylum-migration nexus”. The purpose of this paper is to update the Standing Committee on recent UNHCR activities and initiatives in this area. It does not purport to be exhaustive. The broad objectives underpinning UNHCR’s activities are notably: to raise awareness of the need for migration policies to contain adequate mechanisms to identify and make provision for those in need of international protection; to contribute more effectively to international efforts to combat and address the consequences of human trafficking; and to ensure that refugee, returnee and IDP issues are adequately reflected in the discourse on migration and development. The goal, consistent with the *Agenda for Protection*, is to promote a situation where people in need of

¹ *Agenda for Protection*, Goal 2, A/AC.96/965/Add.I of 26 June 2002, endorsed by the Fifty-third session of the Executive Committee in October 2002 and welcomed by the United Nations General Assembly in December of the same year.

² These aspects are examined in more detail in “UNHCR, refugee protection and international migration,” Rev.1, January 2007. This document is available on UNHCR’s website at: <http://www.unhcr.org/home/RSDLEGAL/44ca0f874.pdf>.

³ *Agenda for Protection*, Goal 2, Objective 4, second bullet.

⁴ *Ibid*, Objectives 1, 2 and 4.

protection find it; people who wish to migrate have options other than through resort to the asylum channel; and unscrupulous smugglers cannot benefit through wrongful manipulation of available entry possibilities.⁵

II. ACTIVITIES

A. Refugee Protection and Mixed Migration: A 10-Point Plan of Action

3. UNHCR developed “Refugee Protection and Mixed Migration: A 10-Point Plan of Action”, which it issued in June 2006,⁶ to assist States to ensure that refugee protection needs are recognized and appropriately addressed in situations of mixed migration. The Plan sets out ten areas in which UNHCR has an interest and a potential role to play in partnership with other key actors. These are areas where the Office believes initiatives are called for and could make a positive impact on the overall management of challenges at the nexus where migration and asylum movements meet. The areas are: 1) cooperation among key partners; 2) data collection and analysis; 3) protection-sensitive entry systems; 4) reception arrangements; 5) mechanisms for profiling and referral; 6) differentiated processes and procedures; 7) solutions for refugees; 8) addressing secondary movements; 9) return arrangements for non-refugees and alternative migration options; and 10) information strategy. The Plan is especially relevant to situations where refugees are at risk of *refoulement* or hazardous onward movements.

4. The High Commissioner introduced the 10-Point Plan at the Euro-African Ministerial Conference on Migration and Development held in Rabat in July 2006. The Plan was also presented by the Assistant High Commissioner for Protection during the Africa-European Union meeting on migration held in Tripoli on 22-23 November 2006.⁷ It was the subject of an event on asylum and migration that UNHCR organized during the Executive Committee session in October 2006. The 10-Point Plan was developed against the backdrop of protection concerns arising with movements of “boat people” in the Mediterranean and in the Atlantic Ocean off the coast of West Africa. The Plan is not targeted towards any specific region, however, since mixed migration is a global phenomenon. It does not purport to offer a blueprint for action, but instead suggests areas for possible responses to mixed asylum/migration challenges, which need in themselves to be adapted and tailored to individual situations. The Plan was informed by examples of good practice and experiences from different regions.

5. The elements in the 10-Point Plan are being explored for their relevance and implementability in North Africa, under a two-year project funded by the European Union titled “Improvement of refugee protection within broader migration movements in North Africa”. The collaborative approach underpinning the Plan has already proved valuable in strengthening partnerships and operational cooperation between UNHCR and key actors in the migration field, including IOM. UNHCR’s relationships with Governments in the region,

⁵ *Ibid*, Introduction to Goal 2.

⁶ In response to comments and requests for clarification, UNHCR issued a revised version of the 10-Point Plan in January 2007. See “Refugee Protection and Mixed Migration: A 10-Point Plan of Action”, Revision 1, January 2007. Available in Arabic, English, French, German, Spanish, and Russian.

⁷ See Joint Africa-EU Declaration on Migration and Development, Tripoli, 22-23 November 2006.

with civil society, and with other partners have broadened in countries such as Mauritania, where, for example, there is an EU-funded project in train to strengthen the Government's capacity to manage migration.⁸ UNHCR is a participant in the Mediterranean Transit Migration Dialogue launched by the International Centre for Migration Policy Development (ICMPD). In the Libyan Arab Jamahiriya, UNHCR is building its cooperation with the NGO, International Organization for Peace, Care and Relief (IOPCR), around implementation of aspects of the Plan.

6. In other areas, UNHCR is developing strategies for implementing the 10-Point Plan in southern and eastern Europe, southern and western Africa, the Gulf of Aden, as well as for specific groups in Asia.⁹ Examples of good practice, such as reception arrangements in Lampedusa involving cooperation between the Italian authorities, UNHCR, the International Organization for Migration (IOM) and the Italian Red Cross, are being used to guide implantation of the Plan and are being proposed for wider application. So too are a range of good and interesting initiatives elsewhere, such as alternative migration options offered to refugees in some countries involving temporary labour permits and access to health care and education; or programmes like the Border Management Central Asia Programme, through which UNHCR has cooperated in providing training on asylum and human rights issues to customs and border officials and national border-guard trainers; or profiling techniques developed by UNHCR, for example, in Eritrea, to allow early identification of protection needs.

7. Each year, hundreds of people are losing their lives during perilous crossings in overloaded vessels run by smugglers across the Gulf of Aden. Steadily increasing sea arrivals from the Horn of Africa have put a serious strain on Yemen's limited resources and traditionally generous, open-door policy towards refugees from the Horn. During a mission to Yemen in March 2007, the Assistant High Commissioner for Protection offered UNHCR's assistance to the Yemeni authorities to bring into play the 10-Point Plan as a basis for the establishment of a differentiated strategy towards new arrivals. UNHCR is currently following up on this offer.

8. The experience with screening new arrivals in Somalia is also currently a focus for the Office, within the framework of the 10-Point Plan. In north-east Somalia ("Puntland"), an official crackdown on smugglers in November 2006 led to the arrest, detention and deportation of both Ethiopians and Somalis. A "child sensitive" identification and referral process was jointly developed by UNHCR, IOM, and UNICEF to identify those Ethiopians wishing to apply for refugee status with UNHCR, others who were victims of trafficking (with or without international protection needs), and migrants wishing to return voluntarily with IOM's assistance.

⁸ "Initiatives pour la gestion de la Migration en Mauritanie"

⁹ For Southern Europe, see "Implementing the Ten-Point Plan of Action in Southern Europe: Activities Undertaken by UNHCR to Address Mixed Migration in the Context of the Mediterranean/Atlantic Arrivals", <http://www.unhcr.org/protect/PROTECTION/452ce4cd4.pdf>.

B. The General Assembly High Level Dialogue on International Migration and Development and its follow-up

9. The September 2006 High Level Dialogue on International Migration and Development, held in New York with the participation of the United Nations Secretary-General, was a landmark event, enabling the General Assembly to debate for the first time this increasingly important international issue. UNHCR issued two policy statements prior to the High Level Dialogue: one entitled: “UNHCR, refugee protection and international migration”, and another: “The High Level Dialogue on International Migration: UNHCR's Observations and Recommendations”.

10. These papers made it clear that UNHCR does not consider itself to be, nor does it intend to become, a migration organization, and identified the specific aspects of international migration that are relevant to the mandate of the Office. The papers also drew attention to the need for protection and human rights issues to be incorporated in any discussion on migration and development, and underlined the impact of large-scale refugee, returnee and displaced populations on the development process in developing countries. Given the substantial interest in UNHCR's advocacy and policies in the area of asylum and migration, UNHCR launched a page on its website dedicated to the issue of refugee protection and international migration.¹⁰

11. As a result of the High-Level Dialogue, a Global Forum on Migration and Development will be held in Brussels in July 2007, involving both State and civil society representatives. UNHCR has participated in all meetings of the Friends of the Forum and has seconded a staff member to the Forum Secretariat, established by the Government of Belgium. It will submit a paper to the Forum on “Forced Migration and Development”. The Office has also contributed to a number of multilateral initiatives relating to migration and development, involving States from, respectively, the African, Asia and Pacific, Caribbean and Mediterranean regions, with the purpose of sensitizing the participants to the need to give due consideration to refugee and asylum issues.

12. In early 2006, the United Nations Secretary-General took the initiative to transform the Geneva Migration Group, founded by UNHCR and IOM, into a Global Migration Group (GMG). The GMG has within its terms of reference the promotion of the application of all relevant international and regional instruments and norms relating to migration. Through information exchange, early warning of developments and policy discussions, the GMG encourages the adoption by agency members of more coherent, comprehensive and better coordinated approaches to international migration challenges which cut across agency mandates. It consists of 10 intergovernmental organizations that are involved with different facets of international population movements. The chair rotates among the agency members and was held by UNHCR from mid-2006 until the end of the year.

13. Since its establishment, the GMG has met on a regular basis at both high and working levels in order to enhance the effective exchange of information and ideas among member agencies. The GMG's discussions have recently concentrated on the High Level Dialogue

¹⁰ For example, all the documents cited in this conference room paper can be easily consulted using the following link: <http://www.unhcr.org/protect/44d346092.html>.

and the Global Forum for Migration and Development. In this context, the GMG has consulted with the Secretary-General's Special Representative on International Migration, Mr. Peter Sutherland, as well as the Government of Belgium. The GMG has also produced summaries of the work undertaken by member agencies in areas such as research, data collection and capacity-building.

C. Rescue at sea

14. Questions relating to maritime interception (interdiction) of irregular migrants, the rescue of refugees and migrants in distress at sea, and challenges in ensuring their prompt disembarkation remained prominent for many States, as well as for private actors such as masters, ship-owners and insurance companies. In May 2006, UNHCR organized a meeting on rescue at sea and maritime interception in the Mediterranean, bringing together representatives of States bordering the Mediterranean Sea and relevant intergovernmental organizations. The meeting convened to follow up on recommendations put forward by an earlier meeting of experts in Athens in September 2005.¹¹ To provide further guidance on the principles and practices that apply to migrants and refugees rescued at sea, UNHCR and the International Maritime Organization (IMO) issued a leaflet in September 2006. The leaflet is available in several languages and has been widely distributed.¹² UNHCR has also produced a binder with selected reference materials on rescue at sea, maritime interception and stowaways, to provide UNHCR offices and interested partners with further guidance on applicable legal principles.¹³ UNHCR has also been involved in and facilitated disembarkation and the achievement of various solutions for a number of rescue at sea and stowaway cases in different regions.

D. Combatting trafficking in persons

15. In the context of international efforts to combat trafficking in persons, UNHCR has continued to collaborate closely with partners within the United Nations system, such as the United Nations Office on Drugs and Crime (UNODC) and UNICEF, and other organizations and regional fora including IOM, the Organization for Security and Cooperation in Europe (OSCE) and the Regional Conference on Migration ("the Puebla Process"), as well as with NGO partners. This collaboration was situated both at the global policy level as well as in the Field, in order to ensure that efforts to fight human trafficking and to address its consequences are comprehensive in approach and ensure that trafficked persons with international protection needs are protected from forcible return to their countries of origin.

16. UNHCR also contributed to the drafting of "Regional Guidelines for Special Protection in Cases of the Repatriation of Child Victims of Trafficking", adopted in the framework of the Puebla Process in April 2007, which contain important protection safeguards, such as the right of victims of trafficking to seek asylum.

¹¹ Meeting of State Representatives on Rescue at Sea and Maritime Interception in the Mediterranean, Madrid, 23-24 May 2006, Background Discussion Paper and Summary Proceedings.

¹² Rescue at Sea. A guide to principles and practice as applied to migrants and refugees. See <http://www.unhcr.org/publ/PUBL/450037d34.pdf>.

¹³ UNHCR: Selected Reference Materials. Rescue at Sea, Maritime Interception and Stowaways. November 2006.

17. The *Agenda for Protection* called upon UNHCR to explore the convening of an experts meeting focusing on the protection needs of trafficked children. This is currently being considered.

III. CONCLUSIONS

18. UNHCR's interest in addressing the asylum-migration nexus is by no means new. As this paper illustrates, however, UNHCR's activities in this area have somewhat intensified. There are important legal and policy questions behind this development. UNHCR looks forward to discussing them at an opportune time, possibly in the context of the High Commissioner's Forum initiative. The Standing Committee may already wish to comment on the timeliness of providing updated guidance on the protection of asylum-seekers and refugees at sea, as well as the desirability of a conclusion to address gaps relating to the protection of victims of trafficking.