

THE 10-POINT PLAN OF ACTION

REGIONAL CONFERENCES ON REFUGEE PROTECTION AND INTERNATIONAL MIGRATION IN CENTRAL AMERICA, WESTERN AFRICA, EASTERN AFRICA AND ASIA

SELECTED CONFERENCE MATERIALS

Division of International Protection
June 2011



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UNHCR
The UN Refugee Agency

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**REGIONAL CONFERENCE ON “REFUGEE PROTECTION AND
INTERNATIONAL MIGRATION IN THE GULF OF ADEN”**

SANA’A, YEMEN, 19-20 MAY 2008

Regional Conference on “Refugee Protection and International Migration in the Gulf of Aden”

Sana’a, Yemen, 19- 20 May 2008

1. Background

People have been moving between the Horn of Africa and the Arabian Peninsula throughout history. The outbreak of civil war in Somalia in 1991 and subsequent collapse of governmental structures have forced thousands of Somalis - primarily from the South and Central regions of the country – to seek protection and access to livelihood opportunities across the Gulf. Significant numbers of Ethiopians, many from the Somali region of Ethiopia, are also part of these movements. In addition a small number of Eritreans and persons of other nationalities are also moving across the Gulf. While many in the movement qualify for refugee protection, there is a proportion which is motivated to leave for reasons unrelated to protection.

The points of departure have varied over time, shifting in response to a number of factors. Djibouti, Somaliland and Puntland have all been major departure areas though, in recent years, the most significant hub has been the coastal town of Bosasso, in Puntland (Somalia). Of particular concern is the extreme danger involved in the crossing of the Gulf of Aden which has resulted in a large number of deaths, many -- perhaps even most-- caused by the brutality of the smugglers. While at the end of 2007 the movement briefly shifted to the shorter and relatively safer route from Djibouti to Yemen, the prompt and resolute action of the Djiboutian authorities against the smugglers has shifted the locus of activities back to Bossasso, from where crossings proceed at an ever increasing rate.

Yemen, a regular landing point for boats from the Horn, is considered by many as a temporary destination *en route* to the comparatively richer economies of the Gulf States. Yemen has traditionally maintained an open door policy towards refugees, particularly those from Somalia and is hosting a substantial Somali refugee community. The large number of migrants arriving with the refugees has, however, resulted in pressure from its neighbors to police its borders more vigorously, which risks eroding the Government’s historically generous approach towards those arriving. In light of the considerable resources required to respond to this challenge, Yemen has repeatedly requested more support and assistance from the international community.

International agencies, including UNHCR, have joined Yemen in the call for increased international attention and resources to support the needs of those making the crossing and to establish a strategy for achieving the conditions which will reduce the number of persons prepared to hazard the journey. To help ensure a regionally coherent and coordinated response, it has been suggested that UNHCR’s 10 Point

Plan of Action on Refugee Protection and Mixed Migration¹ be employed as the framework for articulating the comprehensive response required.

In 2007, international agencies working in Somalia joined forces to establish a Mixed Migration Task Force (MMTF),² co-chaired by UNHCR and IOM. Among its activities, the MMTF commissioned the preparation of a strategy paper setting out the main features of the mixed movement through Somalia and the challenges States, international agencies and civil society confront in responding to it. While the conversion of the main recommendations of the paper into a comprehensive regional strategy will involve additional research and analysis in the other affected countries, MMTF member agencies have already begun a number of concrete activities, such as an information campaign to publicize the dangers involved in the crossing and the protection and assistance available for migrants and refugees in Bossaso, including assistance for voluntary return.

In Yemen, UNHCR and its partners have increased reception and registration facilities on the coast over the past several months. Additionally, training and other support has been provided to the Yemeni Coast Guard to encourage rescue at sea operations and to ensure that the more vigorous actions taken to combat smuggling do not endanger the lives of refugees and migrants. Improvements in protection facilities for refugees in Yemen, which are in the process of being implemented, are expected to decrease the number of persons moving onward from Yemen to other destinations.

At the Dialogue on Protection Challenges hosted by UNHCR's High Commissioner Antonio Guterres in December 2007, the mixed migration in the Gulf of Aden was cited as a prominent example of the need to uphold the rights and protect the welfare of all people, whatever their reasons for moving, since all are vulnerable to abuse and exploitation in the course of their journey and after arrival. In this context it was recognized that a coherent, comprehensive and integrated approach reconciling the tasks of refugee protection with those of law enforcement, border control and migration management, was the best way to address irregular migration.

In furtherance of the progress made at the Dialogue and in response to the continuing needs of migrants and refugees in the Gulf of Aden, including elaboration of a regional strategy, UNHCR is convening, in cooperation with the Mixed Migration Task Force, a regional conference in Yemen on refugee protection and international migration. The meeting will be supported by financing from the European Commission as part of its broader assistance to the development and implementation of the 10 Point Plan.

Bearing in mind its multifaceted nature, the conference will benefit from other related initiatives. In particular the results of the workshop on "Interstate and Intra-Regional

¹ The 10 Point Plan can be viewed at <http://www.unhcr.org/protect/PROTECTION/4742a30b4.pdf>.

² The following agencies participate in the MMTF: International Organization for Migration (IOM), United Nations High Commissioner for Refugees (UNHCR), United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), United Nations Children Fund (UNICEF), United Nations High Commissioner for Human Rights (UNHCHR), Danish Refugee Council (DRC) & Norwegian Refugee Council (NRC).

Cooperation on Migration Management in the IGAD Region” organized jointly by the African Union, IGAD and IOM, 12-14 May 2008 will be drawn into the deliberations.

2. Objectives of the Conference

The principal objective of the conference is to establish a regional medium and longer term Plan of Action on Refugee Protection and Mixed Migration in the Gulf of Aden. Participants will take stock of the challenges in the main countries of departure, transit and arrival in the region. Based on detailed discussions of current needs and activities, participants will identify and jointly recommend a comprehensive, rights-based and protection sensitive strategy responding to the challenges of the mixed migratory movement across the Gulf of Aden, bearing in mind its significant refugee component. To assist participants in preparing for the discussions, the MMTF strategy paper and the draft strategy tables prepared by UNHCR offices in the region will be shared prior to the meeting.

It is expected that recommendations will range from the resolute tackling of smuggling and trafficking to the increased protection facilities for refugees in countries of transit and destination. Significant emphasis will be placed on the exploration of alternative, legal migration channels as well as opportunities for voluntary return and reintegration. Resource implications, including for institutional capacity-building, will also be explored.

3. Convener and Participants

UNHCR is convening this conference, working in cooperation with the MMTF. The meeting will be opened by the Government of Yemen and the UN High Commissioner for Refugees will make a keynote address. Participants will include:

- Senior level government representatives from Djibouti, Ethiopia, Somalia (including Somaliland and Puntland), Yemen, Saudi Arabia and other Gulf States;
- Representatives from the African Union and Intergovernmental Authority on Development (IGAD);
- Representatives of the European Commission, as the funder of the project, and other interested donors and representative(s) of Coalition Forces;
- Representatives of the MMTF (UNOCHA, UNHCR, IOM, UNHCHR, UNICEF, DRC and NRC) as well as other organizations involved in migration issues in the Horn region;
- Representatives of civil society.

4. Proposed Agenda for the Conference

Monday, 19 May 2008:

Morning: Plenary

Opening session:

Opening address by Government of Yemen

Keynote speech by UN High Commissioner for Refugees, Mr. Antonio Guterres

Mapping the problem:

Presentation of key challenges of mixed migration across the Gulf of Aden:

- from the perspective of countries of origin
- from the perspective of main places of transit (Puntland, Djibouti)
- from the perspective of Yemen as a country of both transit and destination
- from the perspective of countries of destination [for migrants] in the Gulf
- other regional and global perspectives

Afternoon: Working Groups

Searching for solutions

Introduction of key elements around which a strategy could be built, to be discussed in

Working Groups:

- Combating smuggling and trafficking
- Rescue at sea
- Reception arrangements at points of departure and arrival
- Mechanisms for profiling, including identification of asylum-seekers and refugees (ensuring opportunity to claim asylum – in Puntland, Somaliland, Djibouti and Yemen)
- Ensuring asylum and protection for refugees
- Legal migration options

Evening:

Reception

Tuesday, 20 May 2008:

Morning: Working Groups

Searching for solutions continued

- Information strategies in countries of origin and transit
- Return migration for non-refugees
- Durable solutions for refugees
- Improved cooperation

Afternoon:

Endorsing key elements of the regional strategy

Chairs of Working Groups will present the respective recommendations. These will be consolidated in a single set of recommendations to assist in the framing of the regional strategy.



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Regional Conference on Refugee Protection and International Migration in the Gulf of Aden, Sana'a, Yemen, 19- 20 May 2008

Summary Report

The conference was convened by UNHCR in cooperation with the Mixed Migration Task Force Somalia¹ and with funding from the European Commission. Its principal objective was to contribute to the establishment of a regional medium and longer term Plan of Action on refugee protection and mixed migration in the Gulf of Aden region. The Government of Yemen kindly agreed for the Conference to take place in Sana'a. The meeting brought together representatives of Yemen; the Horn of Africa region (Djibouti, Ethiopia, Puntland and Somaliland); the Arabian Gulf (Bahrain, Oman, Qatar, Saudi Arabia and United Arab Emirates); regional organizations including the African Union; donors (EC, France, Germany, Italy, Netherlands, Spain, Japan, US); international agencies; and local and international non-governmental organizations.

There were extended and wide-ranging discussions of the humanitarian challenges involved in the increasing number of refugees and migrants traveling through the Horn, across to Yemen and then, in some cases, onward to third countries. In plenary and eight different working groups, recommendations were elaborated on how best to meet these challenges and how cross regional co-operation could be improved.

Conference participants expressed gratitude to the Government of Yemen for allowing the conference to take place, to the European Commission for financing it and to UNHCR for organizing it in co-operation with the MMTF Somalia. They agreed that the problem of mixed migration is a regional one and must be addressed in a holistic manner. Better cooperation is required at the national and the regional levels.

This report contains a summary of the discussions and the recommendations of the Conference. It is structured along the lines of the topics considered by the eight working groups. An additional first section is devoted to the need to address the root causes motivating migration across the Gulf of Aden, the importance of which was underlined throughout the Conference.

1. Root causes

Participants acknowledged the efforts of the international community to improve the situation of migrants and refugees in the Gulf of Aden region but underlined that, first and foremost,

¹ The following agencies participate in the MMTF: International Organization for Migration (IOM), United Nations High Commissioner for Refugees (UNHCR), United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), United Nations Children Fund (UNICEF), United Nations High Commissioner for Human Rights (UNHCHR), Danish Refugee Council (DRC) & Norwegian Refugee Council (NRC).

the problem needed to be addressed at its root. They urged, in particular, a more sustained effort by the international community towards the resolution of the conflict in Somalia. The resolution of once seemingly intractable conflicts in southern and western Africa was cited as examples that should inspire optimism, provided international commitments to and concrete support for the achievement of solutions are sustained.

Another, often interlinked, root cause of the mixed migratory movement across the Gulf of Aden identified by participants is the lack of access to sufficient livelihood opportunities for many people in the Horn and Somalia in particular. The search for better economic opportunities to support families is thus a key reason for migration from Ethiopia. Due to the complexity of the phenomenon and the fact that migrants are frequently obliged to resort to irregular channels and the assistance of smugglers, the collection of reliable data is difficult.

At the same time, participants stressed that peace and development are long term solutions. Strategies to improve the situation of migrants and refugees and their host communities should not be neglected in the meantime.

Recommendations

- Recognizing that the conflict in Somalia represents a root cause of the refugee and migrant movement and the importance of supporting efforts to achieve peace, countries implicated in the movement, and above all, the Somali parties themselves, were called upon to take all efforts to resolve the conflict and to improve the protection of people's rights in Somalia, and the international community to more vigorously support such efforts.

2. Working together and seeking support

Participants remarked upon the utility of the Mixed Migration Task Force (MMTF) Somalia as an important mechanism for interagency cooperation and exchange. Another platform identified for interagency exchange is the UN Country Team. A third suggestion made was to include migration as a broader topic into the UNDAF and/or World Bank development plans to ensure the intersection between migration and development.

Participants recommended the establishment of a MMTF or other coordination mechanisms in Yemen and other countries in the region, including, where appropriate, at the sub-country level. Participants urged that MMTFs or similar mechanisms should be open to new members and ensure regular information exchange with relevant government counterparts, donor countries and agencies not formally part of the MMTF. Coordination of the various national MMTFs should be facilitated through nomination of focal points and regular meetings on issues of common interest. The CERF process, it was suggested, could be used as a basis for funding life-saving activities proposed by MMTFs or similar entities.

Participants also urged improved cooperation and communication between concerned authorities, particularly in Puntland and Somaliland, Djibouti and Yemen. It was suggested that expert workshops on particular topics could be convened as part of the follow-up to the conference as well as the elaboration of a regional response strategy.

Participants acknowledged already existing regional institutions and processes as important fora for moving the response agenda forward. Highlighted among actors who ought to be or already were pursuing a more prominent role in response to mixed migration through the Gulf of Aden were the African Union (AU) and the Inter-Governmental Authority on Development (IGAD). The AU has adopted four major policy instruments on migration. Governments were encouraged to contribute to their implementation. IGAD meanwhile, at a meeting co-hosted with the AU and IOM the previous week, had agreed to host a regional consultative process on migration (IGAD-RCP). The IGAD-RCP is a venue for Member States and other stakeholders including countries of transit and destination to exchange information on migration and related issues of common interest including mixed flows and refugees. Linkage with and among these fora is also important, to simultaneously prevent gaps and ensure against redundancy. Clearly identified migration focal points at the AU and IGAD would facilitate this objective.

Participants also urged enhanced engagement by the League of Arab States and the Gulf Cooperation Council. These institutions could assist in the development of a regional strategy for migrants and refugees crossing to Yemen via the Gulf of Aden or Red Sea including, possibly, co-ordination functions.

Similarly, participants noted the importance of frameworks developed by different partners, for example, IFRC Societies, and encouraged that all be utilized to increase government and civil society engagement on the Gulf of Aden situation.

Finally, participants urged that discussions at the conference should be followed up with action. Based on the recommendations elaborated at the conference, a comprehensive regional strategy and project proposals need to be crafted. A participant emphasized the need for the international community to examine the option of providing shelter and assistance to the Internal Displaced Persons (IDP's) and the Refugees in Somalia and also in the neighbouring countries. Such activities will require continued and even increased donor support, including from governments in the Gulf, which were encouraged by participants to consider favourably such requests.

Recommendations

At national level

- Establish inter-ministerial committees responsible for the multiple aspects of responding to mixed migration to ensure cooperation within governments.
- Coordination among the various actors should be improved through the creation of appropriate national consultative platforms and the adoption of national strategies. The 'Mixed Migration Task Force Somalia' (MMTF) should be relied upon as an example of good practice and a possible model for replication elsewhere. The consultative platforms, once established, should designate focal points to foster increased regional cooperation.
- Donors should financially and politically support the establishment of MMTFs or similar entities in other countries in the region, especially Yemen.

At regional level

- A regional strategy should be established based on the discussions and recommendations of the conference, fully taking into account the specificities of individual country situations. UNHCR's Ten Point Plan of Action could be a useful framework for the development of protection-sensitive strategies.
- A more in-depth discussion of the various topics of the conference through expert workshops could further regional coherence and contribute to the development of a regional strategy. Expert roundtables could be hosted by different governments in the region.
- Regional organizations, such as the African Union, IGAD, the League of Arab States and the Gulf Cooperation Council are already undertaking important initiatives.
- The newly created IGAD Regional Consultative Process should be used as a mechanism through which through IGAD members and observers could discuss and harmonize regional migration policy.

At international level

- The efforts of countries and host communities to respect refugee and human rights are acknowledged and appreciated. The open door policy for refugees of the Government of Yemen serves as a model of good practice.
- Countries hosting refugees and/or IDPs and migrant-hosting countries are encouraged to continue their engagement on protection issues arising out of the mixed migratory flow through the Gulf of Aden while the international community and donor countries were urged to provide more support and substantially increase assistance to refugee-, IDP- and migrant-hosting countries both in the Horn and in Yemen.

3. Controlling borders while ensuring protection

The Yemeni Coast Guard provided an overview of the various security threats which exist in the Gulf of Aden region, piracy, attacks on private and commercial vessels, the smuggling of arms and drugs and the smuggling and trafficking of human beings. A number of speakers described the lawlessness and brutality of the pirates and smugglers, ranging from their use of rocket-propelled grenades on unarmed vessels to over-crowding of boats and throwing of passengers overboard, many of whom cannot swim. In light of its strategic location and the effect these activities have had on the lives of people traveling through the Gulf, enhanced security measures were needed to ensure safety of navigation. Governments referred to the continuing lack of adequate search and rescue facilities in the Gulf which make it virtually impossible for the Coast Guard to rescue people in distress.

Noting that their territories were implicated either as source, transit or destination regions for the mixed migratory movement, Governments expressed concern about their legitimate national interests not being served by the current response to irregular migration in the Gulf of Aden. Ethiopia informed, among other things, on a variety of measures it was taking to combat smuggling and trafficking, including the adoption of various policy instruments to improve access to services in Ethiopia, sanctioning of persons who assisted Ethiopians to

work illegally abroad, and the establishment of a National Task Force on the Trafficking of Women and Children.

Djibouti referred to its considerable efforts to improve control of its coastline and combat smuggling. Yemen advised that it had adopted a Plan of Action to guide activities until 2012. These include completion of additional Coast Guard bases and infrastructure, especially along the coast, implementation of the Vessel Trafficking Service System (VTSS), increasing human resources and procuring larger patrol boats. The Action Plan also includes increased international cooperation in training, the enhancement of reception facilities for new arrivals, and stepped-up attention to human smuggling by the Yemeni Coast Guard.

Despite the variety of measures taken on both sides of the Gulf, Governments have so far been unable to fully address every aspect of this unceasing movement of desperate people. More action is needed to combat smuggling and trafficking. Participants called for better information-sharing and the enhancement of cooperation between governments in the region, especially in light of the apparent multi-country operations of the smugglers and traffickers. In several countries, it will be necessary to amend or establish national legal frameworks in line with the international anti-smuggling and anti-trafficking protocols to more effectively combat the criminal activities of the smugglers and traffickers while ensuring respect for the human rights of those victimized by them. Countries in the region indicated that they would appreciate the support of the international community to increase their capacities in respect of these two vital issues, i.e. search and rescue and the development of legal frameworks for combating smuggling and trafficking.

It was observed that people who arrived without the necessary documentation were sometimes detained for longer periods of time under difficult conditions. While detention can be necessary to enforce return, it was also underscored that detention should be avoided as much as possible and existing human rights standards should be adhered to. UNHCR, its partners and other specifically mandated organizations should be given access to detainees. Voluntary return in safety and dignity was mentioned as the preferred return option. Forced return, where necessary, should comply with relevant international human rights standards.

It was pointed out that the objective of increased law enforcement ought not to be to stop movements as such but to manage them more effectively, with due regard to the international legal rights of those in need of protection. Accordingly, it was recognized that in addressing the security aspects of the movements, the approach should go beyond mere control. A comprehensive approach, addressing all the different aspects of the mixed migratory movement, is preferable and more effective.

Recommendations:

- The security aspects of the movements should be addressed in an approach which goes beyond mere control and addresses all the different aspects of the mixed migratory movement.

Crime prevention and victim protection

- Countries of origin, transit and destination should take more vigorous action to combat smuggling and trafficking while protecting those who fall victim to smugglers and traffickers, including through:

- the ratification of the UN Convention against Transnational Organized Crime and its Protocols;
 - the implementation of the obligations in the Convention and Protocols into national law and practice;
 - the provision of training on human rights and refugee law for law enforcement officials;
 - the prosecution of smugglers and traffickers and others responsible for criminal acts against migrants and refugees;
 - the protection of those victimized by such crimes, including the addressing of their medical and rehabilitation needs;
 - enhanced information sharing and cooperation.
- Relevant specialized UN agencies should provide the necessary technical and material support to assist governments in establishing the capacity required to combat smuggling and trafficking.

Establishing Search and Rescue facilities

- Coastal states should ratify maritime Conventions relating to rescue at sea and establish and/or improve their Search and Rescue capacities.
- The international community should provide support for the coast guards of the countries in the region. The International Maritime Organization (IMO) was invited to supplement available technical assistance.

Detention and voluntary return

- Detention for individuals arriving irregularly should only be resorted to where necessary and should be proportionate to the purpose.
- UNHCR and other agencies with specifically relevant mandates should be given access to detention facilities to identify refugees and others in need of protection.
- Mechanisms for voluntary return, in safety and dignity, should be established, ideally on the basis of bilateral or multilateral agreements.
- Measures for forcible return should be confined to appropriate cases only and ensure compliance with relevant international human rights standards.

4. Addressing human rights abuses during travel and transit

Participants referred to the Background Paper of the Mixed Migration Task Force Somalia (MMTF) as helpful in outlining the human rights abuses that migrants and refugees may be subjected to during their journey. The key protection challenges for migrants, refugees and internally displaced persons (IDPs) identified by the MMTF are: the prevention of human rights abuses in an increasingly insecure environment; poor quality and availability of information upon which to craft protection responses; inadequate livelihoods for displaced persons in Somalia; limited capacity of the authorities to provide protection to migrants,

refugees and IDPs; no or uneven access to clan protection; insufficient numbers of international actors in Somalia; and weak operational linkages at the regional level.

In addition to abuses before or during their journey, it was pointed out that migrants and refugees may face human rights abuses and labor rights violations in countries of destination. These could include forced labor, physical, emotional and sexual abuse, detention, denial of wages or forced return, with obvious grave consequences in the case of refugees. The lack of status for migrants and asylum-seekers in some destination countries was identified as a factor contributing to their vulnerability.

Recommendations to improve the protection of the rights of migrants and refugees included a call for the ratification of relevant international instruments, including the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families and support for the implementation of international human rights obligations. It was urged as well that impunity be combated and perpetrators of abuse brought to justice. Achieving these objectives will require strengthening of law enforcement mechanisms, training in human rights for police forces, administrative and judicial officials, and more careful targeting by border control officials of traffickers and smugglers (as opposed to those victimized by them). Other measures might include enhancing rescue at sea capacity and awareness-raising campaigns aimed at the various actors involved (local authorities, migrants, smugglers, humanitarian workers), with particular attention to redressing the common misperception that migrants are necessarily or disproportionately criminals.

Recommendations:

- Deploping the human rights abuses against migrants and refugees and reaffirming the importance of human rights being enjoyed by all people without discrimination, governments were encouraged to take all necessary measures to protect the rights of migrants and refugees, including through:
 - the ratification of relevant international human rights and refugee law instruments, including the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families;
 - the adoption of relevant national laws and policies protective of rights of refugees and migrants;
 - establishing the necessary capacities to implement the legal obligations and policies and take practical action towards their realization;
 - advocacy and awareness-raising for human rights protection and to redressing the misperception that migrants are necessarily criminals;
 - the prosecution of perpetrators through strengthened law enforcement mechanisms and a targeting of traffickers and smugglers as opposed to those victimized by them.
- Recognizing that robust refugee and human rights protection will help reduce (secondary) irregular movements, the international community, international and national agencies and other actors should provide necessary financial and technical support for the achievement of the objectives set out immediately above.

- Protection alternatives should be provided with the help of the international community to internally displaced persons in Somalia and to refugees in countries of transit so that people do not have to make the perilous journey across the sea for accessing protection.
- Specific measures should be designed and implemented to reduce human rights abuse during travel.
- Rescue at sea capacities should be strengthened.

5. Life essentials for new arrivals

Participants agreed that it is essential to address the basic needs (food, shelter, medical aid) of newly-arrived migrants and refugees in a dignified way. There was recognition beyond this that individuals in different stages of their travel may require different kinds of response and support. Migrants and refugees in transit, particularly in urban areas, have distinct needs requiring distinct responses.

More assistance and more readily available shelter for the displaced in Puntland and Somaliland could provide people with the alternatives to risking their lives in overcrowded boats destined for Yemen. This would also counteract the possibility of assistance provided in Yemen being or becoming a pull factor. Participants urged that the risk of assistance being or becoming a pull factor be addressed – though in a way other than withholding necessary services.

For the initial arrival phase in Yemen following the sea crossing, the provision of services in reception centres has proved to be the most effective approach. A number of gaps however still exist in the delivery of essential services along the coast. There is insufficient capacity in terms of vehicles, first aid medics and staff to cover the entire coastline – that is, to ensure that all arrivals are received and enjoy access to necessary assistance. The means to address needs beyond immediate life-saving interventions are not always available. Obstacles to access to the centres continue to exist. Non-Somali arrivals are, for example, sometimes arrested before they can reach the centre. Conditions in existing reception centres require improvement, notably with respect to preventing and responding to sexual and gender based violence (SGBV) and other specific needs of arrivals. Coordination among partners operating in coastal areas also needs to be strengthened. The capacity of local NGOs needs to be enhanced so as gradually to replace the provision of services currently offered by international agencies.

The importance of establishing a proper burial regime was underscored. This would include the provision of burial grounds for those who died en route and the registration and issuance of death certificates. Currently bodies are buried at the shore with the risk that they are washed back out to sea or otherwise subject to the risk of indignities.

Recommendations:

- All new arrivals should have access to basic services (food, shelter, health) as well as to livelihood opportunities without distinction as to status. At the same time, necessary precautionary measures should be taken to avoid the availability of such services

becoming a pull factor. Non-governmental organizations and civil society representatives are especially important partners in the realization of these twin objectives.

- ‘Integrated reception centers.’ where different services are made available by different providers in a single setting, would help address the basic needs of new arrivals at the coast in Yemen.
- Measures should be taken to better address specific needs, such as those of victims of sexual and gender based violence.
- Proper burial grounds respecting human dignity should be provided for people who died en route.

6. Different people, different needs: determining profiles and responsibilities (asylum-seekers, victims of trafficking, separated children, people who wish to return)

There was general acceptance that mixed movements are composed of people with different backgrounds and needs. It was important that these be identified and addressed soon after arrival. New arrivals should be provided with information in their own language about relevant procedures and their rights and options. Preferably, various actors with the most relevant mandates should be involved in the profiling, channeling and response to new arrivals. The model of cooperation developed by different agencies on the Italian island of Lampedusa was cited as good practice in this respect.

As an illustration of shared responsibility, it was observed that UNHCR could assist, for example, with the identification of refugees and other persons in need of international protection while UNICEF could assist with the identification of unaccompanied/separated minors and their needs. IOM meanwhile has specific expertise with respect to victims of trafficking. In terms of preconditions, cooperative identification and referral mechanisms require a safe environment and staff involved need to be appropriately trained. Participants also referred to the need for identification (and profiling and channeling) criteria in different countries to be harmonized.

Refugee status determination procedures (RSD) have been established in Puntland and Somaliland to identify persons in need of international protection. Nevertheless, more information on the RSD process and protection opportunities in the Horn should be made available to asylum seekers, for example, through information posts along known routes of transit. Such information posts would also facilitate monitoring.

Mechanisms to identify refugees and other groups also exist in Yemen. Cooperation and coordination among all parties concerned, especially in Aden, which is the governorate most affected by the mixed migratory movement, is essential to addressing the major operational challenges. In addition to refugee protection, arrivals may benefit from programs established to achieve other but related objectives (e.g, UNDP’s project to support female migrants.)

Trafficking was identified as a major problem in the region though one which, as of yet, has evaded precise surveying or statistics. One speaker referred to a high number of girls from Djibouti and Ethiopia being trafficked to Yemen. These girls were described as unaware of

their rights and lacking the requisite documentation to facilitate return. Further research was highlighted as being necessary to achieving a more comprehensive picture of the problem.

Recommendations:

- More information on the RSD should be made available in Puntland and Somaliland, for example through information posts along known routes of transit.
- New arrivals should be informed about relevant procedures and be provided with appropriate documentation, e.g. a certificate of registration or an asylum-seeker certificate.
- Cooperation and coordination among all actors concerned is essential. Preferably, various actors with relevant mandates should be involved in the profiling, channeling and response to new arrivals.
- Reception workers should be trained and capacitated to assess the needs of arrivals in a safe environment and refer them to the agency responsible for provision of the service required.
- Further research is necessary to get comprehensive information of the scope of trafficking from the Horn to Yemen.

7. Ensuring asylum and protection for refugees, including durable solutions

Participants underlined the importance of respecting the principle of *non-refoulement*. Refugees and other people in need of international protection should have access to international protection. The primary responsibility for providing effective protection rests with States. However, it was also emphasized that UN agencies, NGOs and all the other actors need to collaborate together and create partnerships in order to find solutions to the mixed migratory movement.

Participants emphasized repeatedly the importance of providing access to protection facilities in the countries in the Horn to, among other things, provide individuals with an alternative to making the perilous crossing. Suggestions included the improvement of existing and the establishment of new camps in the Horn. Increased financial support would be necessary from donor countries for that purpose.

The important role of Yemen in having provided and continuing to provide protection to refugees was specifically emphasized several times. Despite the complexity of the mixed migration phenomenon, Yemen continues to generously receive refugees and migrants from the Horn. The number of refugees registered with UNHCR, while significant, does not represent the actual number of refugees living in Yemen, a figure which is estimated to be in the order of half a million persons. Some speakers indicated that countries neighboring Yemen and the international community at large had not yet paid sufficient attention to the problem and could do more to support Yemen and the other States affected, none of which have the capacity to deal with the high numbers of arrivals.

Temporary and more enduring solutions such as self-reliance and resettlement were identified as important tools to provide recognized refugees with alternatives to dependency and want in displacement. The possibility of voluntary repatriation, on the other hand, may only become a viable option once the root causes of the conflicts in the Horn have been effectively addressed and, most importantly, the restoration of peace has occurred in Somalia. Recognizing that refugee camps should be temporary, training and education should be provided to refugees to enable them to contribute to their host communities as well as help them to reintegrate in their own countries when return becomes possible.

Recommendations:

- While governments have the primary responsibility to identify and provide protection to refugees and to ensure respect of the principle of *non-refoulement*, UNHCR and other agencies may play a supportive role and assist in the reinforcement of the government's capacity.
- Acknowledging the important role Yemen has in providing protection to refugees, countries neighboring Yemen and the international community at large were urged to provide increased support to Yemen.
- Fair and efficient refugee recognition procedures should be established and, where *prima facie* recognition is not appropriate, sufficient resources made available for individual determination.
- Governments of the region are encouraged to adopt a national asylum policy and to establish the necessary institutions and procedures.
- Refugees should be provided with temporary and more enduring solutions such as self-reliance and resettlement.

8. Providing legal migration options

Participants discussed the expansion of legal migration opportunities and how better to match labour needs with migrant labour supply. Participants also considered how already existing labour migration mechanisms could be improved to facilitate access to the labour market for migrants and refugees.

Increased legal migration opportunities could contribute to reduce the number of people moving irregularly. Caution was however called for in developing new migration channels out of concern that abrupt changes could become an additional pull factor. It was also urged that the development of such additional legal migration opportunities should not absolve countries of origin from responsibility for taking preventive measures against irregular migration.

Participants underscored the importance of integrating labour migration possibilities into national development plans and international development programs. It was suggested by some delegates that the international community should create initiatives to support countries of origin and transit countries to create job opportunities.

In addition, a suggestion was also made that bilateral labour agreements with countries of destination could be concluded to create more legal labour opportunities, even if such agreements were of a temporary nature. Participants encouraged countries of destination to consider the inclusion of expanded migrant worker opportunities in their development of domestic labour migration policies, based on a thorough assessment of domestic needs. It was acknowledged however that many migrants do not possess --or do not currently possess-- the skills required by countries of destination. Appropriate training in countries of origin and transit could redress this deficit to some extent and increase the number of those qualifying for labour migration schemes.

Reference was made to the proposal made at the workshop on migration hosted by IOM in Sana'a the previous week to create a labour migration agency within the Yemeni administration. The agency would be tasked with developing a database on employment vacancies in the sub-region and providing potential migrants with information about legal migration opportunities. Similar agencies could be established in other countries, of both origin and transit, at the sub-regional level. These entities would, working with the proposed enhancement of regional institutions on migration, improve information exchange between employment supply and demand markets. Academic analysis and research on migration trends were also identified as requiring strengthening.

Participants took note of the different initiatives that States in the region have taken regarding workers' rights and recommended that receiving countries ratify relevant international conventions pertaining to the labour and migrants' rights. Concerned States were encouraged to review national legislation to ensure its conformity with international human rights norms. The duty of migrants and refugees to respect the laws of the host country, including those on labour and migration, was given particular emphasis.

Recommendations:

- Governments are encouraged to develop comprehensive migration policies and integrate migration into national development plans (including UNDAFs).
- Governments are encouraged to replicate models pursued in West and North Africa with assistance from IOM and other agencies, including bilateral and/or multilateral agreements matching labor supply and demand, training opportunities for identified migrant worker skill gaps, and greater engagement by migrant and refugee diasporas.
- Possibilities for expanding temporary legal migration opportunities should be explored.
- Refugees should be integrated into labor migration opportunities.

9. Sharing information and improving understanding

Recognizing that migration is a regional phenomenon, participants agreed that accurate and detailed information was necessary in order to develop common policies and appropriate responses. While data is already being collected, for example, at the UNHCR reception centre on the Yemeni coast, more systematic collection and fuller data analysis is needed. The Somalia model of tracking population movements was mentioned as an example of good

practice which could be replicated in other countries. Participants also recognized the background and strategy paper prepared by the MMTF as a good departure point for a more comprehensive regional study.

Exchange of information among different agencies in and across the region could be improved, for example through the designation of focal points. Joint reports, newsletters and publications could be pursued to raise awareness of the issues in the Gulf among the international community.

Similarly, the need to raise awareness among refugees and migrants was also emphasized. Key messages could include information about the dangers and difficulties encountered in each part of the travel: for example, awaiting the crossing, the crossing itself, life in the refugee camp in Yemen, the risks involved in onward movement through the desert towards the Gulf countries, and the likelihood of exploitation or detention and expulsion from countries of destination. Prospective voyagers need to have access to accurate information about the limited possibilities in the countries of destination. Parents especially need to be warned about the appalling risks faced by children sent on the journey unaccompanied.

A further topic receiving attention in discussion by participants was the need to raise awareness among the general public in transit and destination countries, to combat the perception that all migrants and/or refugees are criminals and to confront and discourage xenophobia and human rights violations. The media are a crucial potential partner in this respect.

Recommendations:

Information about the mixed migration situation

- A regional study should be undertaken along the lines of the MMTF Somalia study shared with participants at the conference. The regional study should include, among other things, a mapping of agencies' current and planned activities, size of the migratory movement, main motivations, major push and pull factors. It should also provide further data on the size of the trafficking from the Horn to Yemen and other destination countries.
- The Somalia model of 'displaced population tracking,' an initiative begun in mid-2006 through which local NGOs (trained and supported by UNHCR) monitor key locations for IDPs and report regularly on their movement using a standardized form, could be replicated in other countries.
- Information-sharing mechanisms between agencies and Governments should be enhanced, possibly through joint participation in MMTF or similar consultative structures.

Improving access to information for refugees and migrants

- Interagency information campaigns should be developed for different target groups (communities in countries of origin; elderly, new arrivals and host communities). Key messages could, depending on the target group, include information about the dangers

and difficulties encountered in each part of a migrant or refugee's travel and the situation in countries of transit and destination.

- Broader awareness-raising campaigns should be organized to combat the perception that migrants are criminals and to prevent and better address xenophobia and human rights violations.
- Enhanced partnership with media should be pursued to reinforce desired messaging and expand the audience(s).

UNHCR, July 2008

Annex I: Conference Recommendations

Root causes

- Recognizing that the conflict in Somalia represents a root cause of the refugee and migrant movement and the importance of supporting efforts to achieve peace, countries implicated in the movement, and above all, the Somali parties themselves, were called upon to take all efforts to resolve the conflict and to improve the protection of people's rights in Somalia, and the international community to more vigorously support such efforts.

Working together and seeking support

At national level

- Establish inter-ministerial committees responsible for the multiple aspects of responding to mixed migration to ensure cooperation within governments.
- Coordination among the various actors should be improved through the creation of appropriate national consultative platforms and the adoption of national strategies. The 'Mixed Migration Task Force Somalia' (MMTF) should be relied upon as an example of good practice and a possible model for replication elsewhere. The consultative platforms, once established, should designate focal points to foster increased regional cooperation.
- Donors should financially and politically support the establishment of MMTFs or similar entities in other countries in the region, especially Yemen.

At regional level

- A regional strategy should be established based on the discussions and recommendations of the conference, fully taking into account the specificities of individual country situations. UNHCR's Ten Point Plan of Action could be a useful framework for the development of protection-sensitive strategies.
- A more in-depth discussion of the various topics of the conference through expert workshops could further regional coherence and contribute to the development of a regional strategy. Expert roundtables could be hosted by different governments in the region.
- Regional organizations, such as the African Union, IGAD, the League of Arab States and the Gulf Cooperation Council are already undertaking important initiatives.
- The newly created IGAD Regional Consultative Process should be used as a mechanism through which through IGAD members and observers could discuss and harmonize regional migration policy.

At international level

- The efforts of countries and host communities to respect refugee and human rights are acknowledged and appreciated. The open door policy for refugees of the Government of Yemen serves as a model of good practice.
- Countries hosting refugees and migrant-hosting countries are encouraged to continue their engagement on protection issues arising out of the mixed migratory flow through the Gulf of Aden while the international community and donor countries were urged to provide more support and substantially increase assistance to refugee- and migrant-hosting countries both in the Horn and in Yemen.

Controlling borders while ensuring protection

- The security aspects of the movements should be addressed in an approach which goes beyond mere control and addresses all the different aspects of the mixed migratory movement.

Crime prevention and victim protection

- Countries of origin, transit and destination should take more vigorous action to combat smuggling and trafficking while protecting those who fall victim to smugglers and traffickers, including through:
 - the ratification of the UN Convention against Transnational Organized Crime and its Protocols;
 - the implementation of the obligations in the Convention and Protocols into national law and practice;
 - the provision of training on human rights and refugee law for law enforcement officials;
 - the prosecution of smugglers and traffickers and others responsible for criminal acts against migrants and refugees;
 - the protection of those victimized by such crimes, including the addressing of their medical and rehabilitation needs;
 - enhanced information sharing and cooperation.
- Relevant specialized UN agencies should provide the necessary technical and material support to assist governments in establishing the capacity required to combat smuggling and trafficking.

Establishing Search and Rescue facilities

- Coastal states should ratify maritime Conventions relating to rescue at sea and establish and/or improve their Search and Rescue capacities.
- The international community should provide support for the coast guards of the countries in the region. The International Maritime Organization (IMO) was invited to supplement available technical assistance.

Detention and voluntary return

- Detention for individuals arriving irregularly should only be resorted to where necessary and should be proportionate to the purpose.
- UNHCR and other agencies with specifically relevant mandates should be given access to detention facilities to identify refugees and others in need of protection.
- Mechanisms for voluntary return, in safety and dignity, should be established, ideally on the basis of bilateral or multilateral agreements.
- Measures for forcible return should be confined to appropriate cases only and ensure compliance with relevant international human rights standards.

Addressing human rights abuses during travel and transit

- Deploing the human rights abuses against migrants and refugees and reaffirming the importance of human rights being enjoyed by all people without discrimination, governments were encouraged to take all necessary measures to protect the rights of migrants and refugees, including through:
 - the ratification of relevant international human rights and refugee law instruments, including the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families;
 - the adoption of relevant national laws and policies protective of rights of refugees and migrants;
 - establishing the necessary capacities to implement the legal obligations and policies and take practical action towards their realization;
 - advocacy and awareness-raising for human rights protection and to redressing the misperception that migrants are necessarily criminals.
 - the prosecution of perpetrators through strengthened law enforcement mechanisms and a targeting of traffickers and smugglers as opposed to those victimized by them.
- Recognizing that robust refugee and human rights protection will help reduce (secondary) irregular movements, the international community, international and national agencies and other actors should provide necessary financial and technical support for the achievement of the objectives set out immediately above.
- Protection alternatives should be provided with the help of the international community to internally displaced persons in Somalia and to refugees in countries of transit so that people do not have to make the perilous journey across the sea for accessing protection.
- Specific measures should be designed and implemented to reduce human rights abuse during travel.

- Rescue at sea capacities should be strengthened.

Life essentials for new arrivals

- All new arrivals should have access to basic services (food, shelter, health) as well as to livelihood opportunities without distinction as to status. At the same time, necessary precautionary measures should be taken to avoid the availability of such services becoming a pull factor. Non-governmental organizations and civil society representatives are especially important partners in the realization of these twin objectives.
- ‘Integrated reception centers.’ where different services are made available by different providers in a single setting, would help address the basic needs of new arrivals at the coast in Yemen.
- Measures should be taken to better address specific needs, such as those of victims of sexual and gender based violence.
- Proper burial grounds respecting human dignity should be provided for people who died en route.

Different people, different needs: determining profiles and responsibilities (asylum-seekers, victims of trafficking, separated children, people who wish to return)

- More information on the RSD should be made available in Puntland and Somaliland, for example through information posts along known routes of transit.
- New arrivals should be informed about relevant procedures and be provided with appropriate documentation, e.g. a certificate of registration or an asylum-seeker certificate.
- Cooperation and coordination among all actors concerned is essential. Preferably, various actors with relevant mandates should be involved in the profiling, channeling and response to new arrivals.
- Reception workers should be trained and capacitated to assess the needs of arrivals in a safe environment and refer them to the agency responsible for provision of the service required.
- Further research is necessary to get comprehensive information of the scope of trafficking from the Horn to Yemen.

Ensuring asylum and protection for refugees, including durable solutions

- While governments have the primary responsibility to identify and provide protection to refugees and to ensure respect of the principle of *non-refoulement*, UNHCR and

other agencies may play a supportive role and assist in the reinforcement of the government's capacity.

- Acknowledging the important role Yemen has in providing protection to refugees, countries neighboring Yemen and the international community at large were urged to provide increased support to Yemen.
- Fair and efficient refugee recognition procedures should be established and, where *prima facie* recognition is not appropriate, sufficient resources made available for individual determination.
- Governments of the region are encouraged to adopt a national asylum policy and to establish the necessary institutions and procedures.
- Refugees should be provided with temporary and more enduring solutions such as self-reliance and resettlement.

Providing legal migration options

- Governments are encouraged to develop comprehensive migration policies and integrate migration into national development plans (including UNDAFs).
- Governments are encouraged to replicate models pursued in West and North Africa with assistance from IOM and other agencies, including bilateral and/or multilateral agreements matching labor supply and demand, training opportunities for identified migrant worker skill gaps, and greater engagement by migrant and refugee diasporas.
- Possibilities for expanding temporary legal migration opportunities should be explored.
- Refugees should be integrated into labor migration opportunities.

Sharing information and improving understanding

Information about the mixed migration situation

- A regional study should be undertaken along the lines of the MMTF Somalia study shared with participants at the conference. The regional study should include, among other things, a mapping of agencies' current and planned activities, size of the migratory movement, main motivations, major push and pull factors. It should also provide further data on the size of the trafficking from the Horn to Yemen and other destination countries.
- The Somalia model of 'displaced population tracking,' an initiative begun in mid-2006 through which local NGOs (trained and supported by UNHCR) monitor key locations for IDPs and report regularly on their movement using a standardized form, could be replicated in other countries.

- Information-sharing mechanisms between agencies and Governments should be enhanced, possibly through joint participation in MMTF or similar consultative structures.

Improving access to information for refugees and migrants

- Interagency information campaigns should be developed for different target groups (communities in countries of origin; elderly, new arrivals and host communities). Key messages could, depending on the target group, include information about the dangers and difficulties encountered in each part of a migrant or refugee's travel and the situation in countries of transit and destination.
- Broader awareness-raising campaigns should be organized to combat the perception that migrants are criminals and to prevent and better address xenophobia and human rights violations.
- Enhanced partnership with media should be pursued to reinforce desired messaging and expand the audience(s).

REGIONAL CONFERENCE ON REFUGEE PROTECTION AND INTERNATIONAL MIGRATION IN THE GULF OF ADEN
SANA'A, YEMEN, 19-20 MAY 2008

SELECTED RECOMMENDATIONS

Working Together

- creation of national consultative platforms and strategies
- MMTF Somalia as a model for replication elsewhere in the region
- further regional coherence through expert workshops and roundtables

Determining Profiles and Needs

- training for reception workers on needs assessment of new arrivals
- establishment of 'integrated reception centers' at the coast of Yemen
- identifying specific needs of victims of SGBV or of unaccompanied minors

Preventing Crime and Protecting Victims

- more vigorous action by countries of origin, transit and destination to combat smuggling and trafficking
- ratification and implementation of the relevant legal frameworks

SELECTED FOLLOW-UP ACTIVITIES

Working Together

- Establishment of a Mixed Migration Task Force Yemen and Djibouti
- Establishment of a Regional Mixed Migration Secretariat (RMMS) under Danish Refugee Council (DRC) leadership
- One day consultation on mixed migration management among MMTF Yemen on 11 June 2011
- Follow-up meeting to the "Sana'a Conference" to be held in September 2011

Determining Profiles and Needs

- Establishment of one transit and one reception centre at the Yemeni coast
- Establishment of a Migration Response Centre in Bossasso, Puntland
- Special considerations and identification of persons with specific needs in the reception centers
- Training on identification of persons with specific needs planned in 2011 for reception staff
- Installation of a Migration Response Centre (IOM), a UNHCR field office for mixed migration in Obock, Djibouti
- Contingency plan for reception and transit centers along the Arabian/Red Sea
- Significant increase in capacity for joint screening and registration along the Djibouti/Somaliland border of Loyada; enhanced registration and RSD activities in Puntland, Somaliland and Haradh (Yemen)
- Training for immigration, police and security officers by UNHCR and Government of Djibouti

Preventing Crime and Protecting Victims

- Launch of a counter-trafficking programme in Yemen identifying and assisting vulnerable migrants (under IOM leadership)
- MMTFs are working on both sides of the Gulf of Aden to establish a joint

- prosecution of those responsible for criminal acts

Establishing Search and Rescue Facilities

- improvement and strengthening of search and rescue at sea capacities
- support for local coast guards by the international community
- technical assistance supplemented by IMO

Providing and Sharing Information

- enhanced information-sharing between agencies and governments on different target groups
- information-campaigns on risks of human rights abuse and dangers encountered in each part of the travel and in countries of destination
- providing information to the new arrivals

strategy on how to better address human trafficking in the region

Establishing Search and Rescue Facilities

- Expert Roundtable on “Rescue at Sea: Protecting Refugees amid Threats of Piracy” in Sana’a, Yemen; drafting of the “Yemen Protocol on Protecting Refugees amid Threats of Piracy” and establishment of a “Rescue at Sea Working Group”
- Increase of rescue at sea operations in the Gulf of Aden region
- Expert Meeting on Rescue at Sea relating to asylum-seekers and refugees to be held at the end of 2011

Providing and Sharing Information

- Monthly Regional Teleconferences including participants from Djibouti, Ethiopia, Kenya, Somalia, Yemen and UNHCR Geneva
- MMTF websites and newsletters
- Development of a database for the IOM-supported Migration Response Centers in Bossaso, Hargeisa and Obock
- Launch of information campaigns on risks and situations in third countries
- Pamphlets and video on the rights and duties of new arrivals in Yemen and on services available and where; systematic awareness sessions to new arrivals, adapted to changing situation in Yemen

**REGIONAL CONFERENCE ON REFUGEE PROTECTION AND
INTERNATIONAL MIGRATION IN WEST AFRICA**

DAKAR, SENEGAL, 13-14 NOVEMBER 2008

25 September 2008

Regional Conference on Refugee Protection and International Migration in West Africa

**Dakar, Senegal
13-14 November 2008**

1. Background

Photos of exhausted West Africans on the shores of the Canary Islands, shipwrecked pateras, ever higher fences around the Spanish enclaves in Morocco, stranded migrants in the shanty towns of West African cities all seem to tell the same story: West Africans in ever greater numbers are leaving their countries searching for better opportunities in North Africa, Europe and elsewhere.

The reality is more complicated. In absolute terms, more migrants may be leaving West Africa irregularly than previously was the case but in relative terms the numbers remain very modest. What is sometimes lost in the public discourse is that the movements out of West Africa are ten times less significant than the movements within the region. In addition to this considerable intra-regional migration, West Africa is receiving refugees and migrants from other regions of Africa and the wider world.

Motivations for movement within West Africa vary widely and show the complexity of illegal migration. Historical patterns of migration have been reinforced or altered based on pull factors such as economic opportunities and push factors such as the lack of economic opportunities and political upheaval. In addition, environmental degradation further aggravated the pressure for migration from poorer to relatively more prosperous regions within the sub-region.

The massive forced displacement of the 1990s and early 2000s however appears to have given way to increased stability throughout the region. Notwithstanding continuing difficulties in a few countries in the region, only a comparatively small proportion of individuals appears to have international protection needs. Protection considerations nevertheless represent an important factor to be taken into account. These range from ensuring adequate reintegration possibilities for previously displaced individuals choosing to return home, integration possibilities for individuals hoping to remain in their adopted countries, reducing the effects of the rising in xenophobia in receiving countries and protecting against the risk of trafficking.

West African states, fully conscious of the benefits that the free circulation of goods and persons would bring to the region, quickly followed the signing of the ECOWAS Treaty of 1975 with the 1979 Protocol relating to the Free Movement of Persons, Residence and Establishment. The 1979 Protocol and the four supplementary protocols¹ that followed it provide for the citizens of the 15 ECOWAS countries a legal framework for the progressive realization of the rights of entry, residence, work and establishment. Notwithstanding their specific rights under the Refugee Protection Regime, refugees from ECOWAS member States may additionally benefit from this specific legal framework.

Despite the enormous achievement represented by the ECOWAS free movement protocol, migration within West Africa has received much less attention than the migratory movements to North Africa and particularly to Europe. While a series of multilateral and bilateral initiatives have been or are being pursued to diminish irregular migration from West Africa to Europe², the opportunities of the ECOWAS protocol and its Common Approach on Migration have still to be fully exploited. The framework provides a range of possibilities for secure, legal, human rights-respecting migration in the region. These possibilities have not been sufficiently explored or where they have been explored and established, they have not been adequately promoted. Similarly with respect to various recommendations adopted by the ECOWAS member States within the framework of the Migration Dialogue for West Africa (MIDWA), there is scope for improved management of international migration.

The Dakar regional stakeholder conference on refugee protection and international migration will examine the possibilities for refugees and migrants to more fully utilize these regional frameworks and processes. Fuller and more harmonized implementation of the ECOWAS free movement protocols, in conjunction with established principles of refugee law, promises not only better management of migratory flows within the region but enhanced protection for those in need of it. Combined with an increased emphasis on livelihood opportunities, the ECOWAS free movement protocol may also have a positive effect on irregular onward migration from the region.

The Dakar conference, co-hosted by UNHCR, IOM and ECOWAS, in cooperation with OHCHR, will be supported by financing from the European Commission as part of its broader assistance to the development and implementation of the 10 Point Plan of Action on Refugee Protection and Mixed Migration³, and by the Government of USA, Department of State, Bureau for Population, Refugees and Migration.

¹ 1985 Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the implementation of the Protocol on Free Movement of Persons, Right of Residence and Establishment; 1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence) of the Protocol on Free Movement of Persons, Right of Residence and Establishment; 1989 Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of Article 7 of the Protocol on Free Movement of Persons, Right of Residence and Establishment; and 1990 Supplementary Protocol A/SP.2/5/90 on the implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, Right of Residence and Establishment.

² Such as for example the 'Rabat Process' established by the Euro-African Ministerial Conference on Migration and Development (Rabat, 10-11 July 2006); the EU-Africa Ministerial Conference on Migration and Development (Libya, 22-23 November 2006); or the European Pact on Immigration and Asylum (proposed on 7 July 2008).

³ UNHCR, *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*, Rev.1, January 2007, available at <http://www.unhcr.org/protect/PROTECTION/4742a30b4.pdf>. Further information about UNHCR's 10-Point Plan project is available at <http://www.unhcr.org/protect/483d0fb04.html>.

2. Objectives of the Conference

The principal objective of the conference is to enhance the response to mixed migration in West Africa through fuller utilization of the existing regional frameworks and processes, in particular the ECOWAS free movement protocols. Participants will take stock of achievements and identify gaps in the implementation of the protocols. Based on detailed discussion of current needs and activities, participants will identify and jointly recommend rights-based and protection sensitive responses to mixed migration consistent with and in furtherance of ECOWAS's Common Approach on Migration and UNHCR's Ten Point Plan of Action.

Significant emphasis will be placed on the exploration of the ECOWAS migratory framework as an opportunity, in conjunction with established principles of refugee law, to provide durable solutions to refugees and former refugees and to address issues of secondary movements, including of unsuccessful asylum-seekers. To assist participants in preparing for the discussions, a background paper on mixed migration within and from the region, with particular focus on the situations in Senegal and Ghana, will be shared prior to the meeting.

3. Conference Convenors and Participants

The convenors of the conference are UNHCR, IOM and ECOWAS. Participants will include organizations with specialized expertise in the subjects to be discussed. Representatives of these organizations and governments will also be invited to chair the Working Groups.

Participants will include:

- Senior level government representatives from ECOWAS's fifteen member states;
- Representatives from the African Union;
- Representatives of the European Union and the United States as the principal funder of the project, as well as other interested donors;
- Representatives of international agencies governmental and nongovernmental, with relevant mandates, including UNICEF, UNODC, UNOWA, OHCHR, ICRC, ILO;
- Representatives of civil society, including nongovernmental organizations, and affected communities.

4. Proposed Agenda for the Conference

Thursday 13 November 2008:

Morning: Plenary

Opening session:

Keynote speeches by:

- Dr. Mohamed Ibn Chambas, President of the ECOWAS Commission (tbc)
- Ambassador William Lacey Swing, Director General, IOM (tbc)
- Ms. Erika Feller, Assistant High Commissioner for Protection, UNHCR

Contextualizing the challenge:

- Refugee Protection and International Migration in West Africa – the example of Senegal and Ghana (presentation of the background study)
- Intra-West African migration –good practice country examples
- Plenary discussion

Afternoon: Working Groups

Searching for Solutions

- Enhancing border administration while ensuring protection
- Combating trafficking and implementing the Ouagadougou Plan of Action
- Developing information strategies to discourage irregular movements and combat xenophobia

Reporting back of Working Groups

Evening: Reception

Friday, 14 November 2008:

Morning:

Plenary

- The ECOWAS Free Movement Protocols – Opportunities and challenges for refugees and migrants from the ECOWAS region.
- Migration and development in the context of the West African region

Working Groups

Searching for Solutions (continued)

- Building local capacities for refugee status determination and the identification of other protection needs
- Solutions for refugees and migrants originating from ECOWAS Member States
- Solutions for refugees and migrants from outside the region
- Outbound migration: alternatives to dangerous irregular migration?

Reporting back of Working Groups

Afternoon

Synthesis, recommendations and next steps

Regional Conference on Refugee Protection and International Migration in West Africa

Dakar, Senegal, 13-14 November 2008

Summary Report

The Regional Conference on Refugee Protection and International Migration in West Africa took place in Dakar, Senegal on 13 and 14 November 2008. It is the second of four regional conferences¹ UNHCR has been organizing under a two year EC-funded project to sensitize key stakeholders in different regions to the protection challenges of mixed migration and to promote the 10 Point Plan of Action as a framework for the development of a “protection sensitive” migration strategy.²

The principal objective of the conference in Dakar was to enhance the protection response to mixed migration in West Africa through fuller utilization of existing regional frameworks and processes.³ The three topics at the centre of the conference were: (i) the implementation of the ECOWAS free movement protocols⁴, including in furtherance of local integration of refugees in the region; (ii) the enhancement of government capacities to identify and protect refugees; and (iii) possible improvements in the regional response to human trafficking.

In plenary and in working groups, participants acknowledged achievements and identified outstanding challenges in the implementation of the ECOWAS free movement protocols. It was recognized that a more harmonized implementation of the protocols, in conjunction with established principles of refugee law, promises not only better management of migratory movements within the region but can also enhance the protection space for those in need of it. Combined with an increased emphasis on the creation of livelihood opportunities, the framework may also diminish irregular onward migration from the sub region.

¹ The first of these regional conferences was held in Sana'a, Yemen in May 2008 and focused on the Gulf of Aden situation. Further information on the conference is available at <http://www.unhcr.org/protect/48722c992.html>.

² See information note on the project at <http://www.unhcr.org/protect/PROTECTION/483bca3a2.pdf>.

³ The concept note and all other conference documentation are available at <http://www.unhcr.org/protect/483d0fb04.html>.

⁴ For the purpose of this report, when cited alone, the *Protocol relating to Free Movement of Persons, Residence and Establishment* is referred to in the singular, i.e. the “Protocol”. When the Protocol is cited in connection with the four supplementary protocols described in footnote 8, the plural “protocols” is used to describe all five documents (i.e. the Protocol and four supplementary protocols).

The Conference was convened jointly by UNHCR, the International Organization for Migration (IOM) and the Economic Community Of West African States (ECOWAS), in cooperation with the Office of the High Commissioner for Human Rights (OHCHR).

Apart from the European Commission, the US Department of State, Bureau for Population, Refugees and Migration (BPRM) and the *Organisation Internationale de la Francophonie* (OIF) provided funding.

The meeting brought together over 200 representatives of the fifteen ECOWAS Member States as well as regional organizations including the European Union, the African Union, the East African Community, various donors, international agencies, local and international non-governmental organizations and refugees.

Participants discussed the key findings of the Conference background paper “West Africa as a Migration and Protection Area”⁵ and developed concrete recommendations on how best to improve cross-regional cooperation on mixed migration on the basis of ECOWAS free movement protocols and Common Approach on Migration, UNHCR’s 10-Point Plan of Action⁶ and IOM’s Migration Dialogue for West Africa (MIDWA).⁷

This report contains a summary of the key discussions and recommendations of the Conference. It is structured along the lines of the topics considered by the eight working groups. The conference agenda and list of participants are annexed.

1. Solutions through free movement of ECOWAS citizens within the ECOWAS region

The ECOWAS protocols entitle ECOWAS citizens to visa-free entry into all ECOWAS countries if in possession of a valid travel document. They are also entitled to work and reside in those countries provided they have a valid travel document and international health certificate and are not otherwise inadmissible. These entitlements apply both to migrants and refugees from the region.

Right to visa-free entry

The right to visa-free entry was part of the first phase of the implementation of the protocols. It has been transposed into the national laws of all ECOWAS Member States and is fully implemented. Remaining problems relate to under-resourced immigration ministries and border control departments, the absence of systematic entry and exit recording systems and widespread corruption by border officials (for further details and recommendations see chapter on border management).

⁵ Florianne Charrière et Marion Frésia: L’Afrique de l’ouest comme espace migratoire et espace de protection, novembre 2008.

⁶ The 10-Point Plan of Action is available at <http://www.unhcr.org/protect/PROTECTION/4742a30b4.pdf>.

⁷ The Migration Dialogue for West Africa (MIDWA) process, initiated by ECOWAS and IOM, was specifically designed to accelerate the regional integration process and encourage ECOWAS Member States to discuss common migration issues and concerns in a regional context.

Right of Residence and Establishment

The right to residence and income-earning employment and the right to establish enterprises in ECOWAS Member States are part of implementation phases II and III respectively. Neither phase II nor phase III has yet been completed.

Participants deplored that the full freedom of movement in the sub-region has not yet been fully realized. They underlined that the impediments to the implementation of residence and work entitlements are not the absence of appropriate laws but the relatively lesser challenge of harmonizing domestic laws with the norms established in the regional protocols and the slow implementation of the second and third phases of those protocols.

The procedure for obtaining residence permits still depends mainly on national laws and requirements are often demanding. Applicants who are citizens of ECOWAS Member States must at a minimum a) have a valid identity card, b) prove that they can cover their needs and those of their family, c) provide a birth certificate and a police record check, d) leave a repatriation deposit and sometimes even a medical certificate. Additionally, all ECOWAS states appear to levy fees with rates varying between countries.

Participants discussed how to redress these impediments and mentioned as a good practice example the national committees which monitor the implementation of the protocols in nine ECOWAS Member States.

The importance of the ECOWAS protocols for the local integration

Participants mentioned that the 1979 Protocol and the four supplementary protocols⁸ provide refugees who are ECOWAS citizens with the right to continue to reside and work in their host country after their refugee status ceased. A fuller implementation of the protocols would enable all refugees who do not want to return home to locally integrate in the sub-region.

A good practice example in this respect was the multipartite agreement which was signed in July 2007 between Liberia, Sierra Leone, Nigeria, ECOWAS and UNHCR, as well as UNHCR's recently developed framework for the local integration of Sierra Leonean and Liberian refugees in West Africa. According to this Agreement, Liberia and Sierra Leone have committed themselves to issue national passports to citizens who are registered as refugees in Nigeria; Nigeria to enable them to access the residence entitlements under the ECOWAS Protocols; and UNHCR to pay for the cost of the issuance of passport and residence permit.

⁸ 1985 Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment; 1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment; 1989 Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment; 1990 Supplementary Protocol A/SP.2/5/90 on the implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment.

The self-reliance strategy drawn by the National Refugee Agency (NaCSA) of Sierra Leone for Liberian refugees was also mentioned as a positive step towards the local integration of refugees from ECOWAS Member States.

Recommendations

At regional level

- ECOWAS Commission, with the support of relevant partners, could undertake a study of relevant ECOWAS legislation with a view to identifying gaps requiring clarification, and exploring the possibility of supplementary legislation:
 - Establishing a standard duration for residence entitlements and presumption of renewability.
 - Providing common standards on work and residence entitlement procedures and applicable fees.
- ECOWAS institutions, with the support of relevant actors should conduct broad-based and intensive information campaigns – including sensitization and awareness-raising campaigns - regarding the provisions of the ECOWAS protocols. These campaigns need to target Governments, responsible officials and the general public.
- ECOWAS institutions should be reinforced to better monitor States' performance with regard to the implementation of the ECOWAS protocols.
- ECOWAS Commission in cooperation with Member States and other partners should undertake a country-by-country review to assess the level of implementation of the protocols and to identify the remaining gaps.
- ECOWAS Commission should specifically promote the use of the protocols to facilitate the local integration of refugees.

At national level

- ECOWAS Member States should harmonize their domestic laws with provisions of the ECOWAS protocols.
- ECOWAS Member States which have not yet done so should consider following practices existing in some states and establish monitoring mechanisms to assess the enforcement of ECOWAS protocols.
- ECOWAS Member States, with the support of relevant partners, should carry out awareness training and capacity-building for officials responsible for implementing the protocols.

- ECOWAS Member States are encouraged to refer questions on the interpretation of rights and entitlements under the ECOWAS protocols to the ECOWAS Community Court of Justice.
- ECOWAS Member States are encouraged to apply the protocols to refugees who are ECOWAS citizens staying in an ECOWAS country in line with ECOWAS Memorandum on Equality of Treatment.⁹

2. Enhancing local capacities for refugee status determination and addressing secondary movements of asylum seekers and refugees

In all ECOWAS Member States, governments are responsible for the refugee status determination (RSD). Most Member States elaborated national refugee laws and mechanisms for the determination of claims. Participants acknowledged these achievements. They made suggestions on how UNHCR and other partners could assist governments in establishing fair and efficient refugee status determination procedures.

First instance asylum procedure

Registration

Participants observed that UNHCR still plays a central role in the registration process in many countries of the region, and encouraged states to take full ownership of the registration process as a component of the RSD functions.

Participants discussed the utility of partnerships with civil society in providing legal counsel to asylum seekers and refugees and called upon ECOWAS Member States to increase partnerships with, inter alia, universities and bar associations.

Profile of the members of national eligibility commissions

Some participants noted that the Government officials responsible for endorsing the RSD recommendations, whether at the first instance or at the appeal level, are often high ranking civil servants of different professional backgrounds. Due to their heavy time schedule, the national eligibility commissions in some countries have difficulties to organize regular RSD sessions. Participants called for a better interplay between the working and political levels and suggested structural changes: high ranking government officials should only be requested to endorse appeal decisions, while the responsibility for first instance decisions would generally rest with eligibility officers.

Participants repeatedly emphasized the importance of appropriate training and requested UNHCR's support in carrying out routine formal and on-the-job trainings in international human rights and refugee law and RSD procedural standards, in particular in countries that have not fully discharged their RSD functions yet.

⁹ Memorandum on Equality of Treatment for Refugees with other Citizens of Member States of ECOWAS in the Exercise of Free Movement, Right of Residence and Establishment, Meeting of the Committee on Trade, Customs, Immigration, Accra, 25-27 September 2007.

Quality of first instance RSD decisions

Another topic discussed was the quality of first instance RSD decisions and how it could be improved. Two issues were particularly mentioned:

Participants underscored the importance of providing unsuccessful applicants with the reasons for the rejection of their claim to permit them to assess the necessity to lodge and to adequately prepare an appeal application. The notification of negative decision also enables the government officials responsible for supervision and endorsement of the decisions to ensure that all substantive and procedural issues have been adequately addressed.

Secondly, attention was drawn to the fact that asylum applications are systematically rejected when the applicants have moved through other countries before. These rejections do not take into consideration whether their movement was invoked by protection reasons and whether the applicants were able to return to the first country of asylum. A more differentiated approach is necessary for these cases.

The review of the quality of first instance decisions is of particular importance whenever applicants whose claims are rejected in first instance are at risk of expulsion by the authorities of their host country before they have the opportunity to lodge an appeal application.

Participants mentioned the lack of reliable data on secondary or onward movements of refugees and asylum seekers in the West Africa region and the need for improved information-sharing mechanisms between asylum countries, in accordance with standard data protection principles.

Independent appeal

Participants acknowledged that most ECOWAS Member States have put in place appeal procedures. They noted, however, the lack of independence of appeal bodies in some countries. Participants also raised some concerns that, in some cases, the appeal review of RSD decisions is undertaken by eligibility officers who decided the claim in first instance. This may undermine the fairness of the appeal process.

Issuance of documents

Identity documents

Participants mentioned as problematic that the period for which identity documents for asylum-seekers are issued is often not sufficient to cover the assessment period of their applications.

They also noted that identity cards issued by ECOWAS Member States to recognized refugees are not systematically known and recognized by all authorities within the same country. This could undermine the protection of asylum seekers and refugees and increases the risk of detention and *refoulement*.

The lack of broadly recognized documents also creates practical constraints, such as the difficulties for refugees to open a bank account, to receive a parcel or money orders, to change civil status. To overcome these difficulties, many refugees feel forced to buy forged identity documents.

Travel documents

Participants mentioned that asylum countries do not systematically provide refugees with Convention Travel Documents (CTD) allowing them to travel abroad, although this is an obligation State parties generally have according to Article 28 of the 1951 Convention. In some countries of the region, refugees who want to obtain CTDs have to explain the reasons for their travel and produce an invitation letter as well as a return ticket. These heavy requirements often prompt people to leave irregularly.

Recommendations

At regional level

- Information-sharing mechanisms between ECOWAS Member States should be improved in order to better manage secondary movements in the sub-region.
- A regional network of RSD experts could be established and RSD-related information-sharing mechanisms should be developed throughout the region. The International Association of Refugee Law Judges (IARLJ)¹⁰ may offer assistance in this respect.

At national level

- The capacity of States to discharge RSD functions should be reinforced with the support of UNHCR, and possibly the IARLJ, to ensure all asylum seekers benefit from consistent standards of due process. The efficiency of the current structure of the asylum institutions should be reviewed and the quality of the decisions improved. Appeal procedures should be fair and independent.
- ECOWAS Member States should issue identity cards to all recognized refugees and ensure that these documents are recognized by all authorities of the asylum country.
- ECOWAS Member States are encouraged to simplify the issuance of CTDs to recognized refugees. In particular those who wish to travel within the ECOWAS region.
- Partnerships with civil society (e.g. universities, bar associations) in providing legal counsel should be increased.

¹⁰ Information on the IARLJ is available at <http://www.iarlj.org/general>.

3. Combating trafficking and implementing the Ouagadougou Plan of Action

Most of the ECOWAS Member States have ratified the 2000 *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons* and many of them have adopted a national legislation on counter-trafficking.

In December 2001, the ECOWAS issued a Political Declaration against Trafficking in Persons and adopted a Regional Plan of Action in the Fight against Trafficking in Persons. This initiative required ECOWAS Member States to implement specific measures to improve their capacities in relation to counter-trafficking, including the criminalization of trafficking in persons, the protection of and assistance to victims, research and awareness raising, the creation of specialized anti-trafficking units, enhanced data collection mechanisms and the establishment of national task forces. In addition, it called for enhanced cooperation among its Member States.

In July 2006, ECOWAS joined forces with the Economic Community of Central African States (ECCAS) to further develop inter-regional cooperation and offer tools to governments in Western and Central Africa regions to enhance their response to human trafficking.

These various legal instruments, together with the 2006 *Ouagadougou Action Plan to Combat Trafficking in Human Beings, especially Women and Children*, endorsed by both the African Union and the European Union set out a variety of concrete anti-trafficking measures and commit states to activities ranging from awareness raising to cooperation in criminal prosecution.

Participants acknowledged the challenges of combating trafficking and protecting victims, and discussed how governments in the region could enhance their efforts to reach a more vigorous implementation of the Ouagadougou Action Plan and to build a more robust and reliable regional response to human trafficking.

Inter-state cooperation was identified as a key element to improve the regional response to human trafficking and participants called upon ECOWAS Member States to enhance cooperation among themselves and with civil society, so as to improve regional responses to trafficking and ensuring protection to victims of trafficking.

They mentioned as a good practice example, the cross-border cooperation on the protection of victims of trafficking in Senegal, involving seven ECOWAS Member States (Senegal, Mali, Burkina Faso, Niger, Cote d'Ivoire, Guinea and Guinea-Bissau; Togo and Nigeria joining soon). Participants also welcomed bilateral cooperation agreements on the repatriation of victims of trafficking and prosecution of traffickers between Cote d'Ivoire and Mali; Benin and Gabon; Ghana, Togo, Benin and Nigeria.

Initiatives supporting such agreements include multidisciplinary cooperation and networking for law enforcement, judiciary, social protection officers and the civil society.

In this framework, IOM strives to create a coordinated network to support the operationalization of said bilateral cooperation agreements, through training and dissemination of best practices.

Identification of victims of trafficking

Participants discussed the difficulties of the identification of victims of trafficking, in particular in a mixed migration context, where trafficked persons are routinely identified from a pool of migrants that fall into a range of legal and practical categories, including irregular migrants, smuggled migrants, asylum seekers, unaccompanied migrant children, migrants with special needs - none of which are mutually exclusive.

For state law enforcement agencies, the identification of a trafficked person may have criminal justice implications. For state and non-state service providers, identification may determine the type of assistance that can be made available, and could have financial implications as well. For the trafficked person, identification may make the difference and enable access to a tailor-made protection scheme whereas non-identification may lead to detention or deportation.

In light of these challenges, participants discussed how governments in the region could increase capacity among national and regional stakeholders to improve identification and protection of trafficked persons, while strengthening cross-border data collection and sharing, and victim protection mechanisms.

The 2007 IOM-led regional seminars on assistance to victims of trafficking in West Africa were mentioned by participants as good practice example.

Child trafficking

Participants expressed serious concerns about the fact that children are especially at risk of being trafficked due to the greater vulnerability inherent in their dependency. They called for anti-trafficking programmes with a child focus in West African countries.

Participants mentioned as good practice examples the national campaigns against child trafficking and strengthening legislation on counter-trafficking and reintegration of victims that were launched by six countries in the region (Benin, Mali, Togo, Cote d'Ivoire, Gambia and Liberia). It was also noted that a much greater focus needed to be on inhibiting and preventing the demand for the products, whether goods or services, of trafficked labour.

Refugee victims of trafficking

Participants discussed the specific situation of refugees who are vulnerable targets for traffickers. Displacement and vulnerability linked to persecution and conflicts put refugees at greater risk of exploitation and abuse, as was pointed out in the background paper.

Participants deplored the lack of attention paid to this crucial issue and called upon ECOWAS Member States, in cooperation with UNHCR, to ensure that refugees, asylum-seekers, and other persons of concern are not victimized twice through trafficking.

Participants also pointed out that individuals who have been trafficked and who fear being subjected to persecution upon return to their country of origin, or individuals who fear being trafficked, may qualify for refugee status and receive the corresponding international protection. More attention is needed, including from UNHCR, to ensure that such international protection needs are identified and addressed.

Prosecution of traffickers

The prosecution of traffickers was identified by participants as a major challenge in the West Africa region. The rates of arrest and prosecution for trafficking-related offences remain very low in relation to the size of the problem. According to recent statistics, approximately 6,000 trafficking incidents are successfully prosecuted globally out of the estimated 600,000 to 4 million people trafficked every year. The reluctance of victims of trafficking to seek assistance for various reasons (e.g. post-traumatic stress disorder, fear of being compelled to testify against the trafficker, difficulty in producing material evidence against traffickers, etc.), is one of the main obstacles to a successful counter-trafficking legal framework aimed at the identification and protection of victims and the prosecution of traffickers.

Participants emphasized the need for specific anti-trafficking criminal legislation, including sentencing legislation, and legislation which encourages trafficked persons to seek compensation for the harm suffered.

Participants further urged states to integrate operational efforts to prevent trafficking in persons, protect victims of trafficking and prosecute traffickers. The UNODC program for reinforcing the capacity of the criminal justice systems to counter trafficking in North and West Africa was mentioned as a positive initiative.

Recommendations

Recognizing the difficulties in identification and protection of victims of trafficking in the context of mixed migration movements, participants agreed on the following recommendations to implement the Ouagadougou Plan of Action:

At regional level

- To standardize data collection and analytical tools and to set up information sharing mechanisms between the relevant stakeholders across borders.
- To increase the number of participants from ECOWAS Member States in the Annual Review Meeting on the implementation of the ECOWAS Plan of Action against Trafficking.

At national level

- ECOWAS Member States are called upon to translate international and regional legal obligations into national legislation, and to establish monitoring mechanisms to assess their enforcement.
- ECOWAS Member States, with the support of relevant partners, are encouraged to establish migration information centres, and to carry out awareness-raising and sensitization campaigns so as to enable potential migrants make informed migration decisions.
- ECOWAS Member States, in cooperation with key actors (including private sector actors, medical and educational service providers, religious communities and migrant communities), are encouraged to improve the protection of and assistance to victims of trafficking, through enhanced identification, referral and support mechanisms, including re/integration programmes that offer opportunities for trafficked persons to apply for and receive compensation for the harm they suffered.
- ECOWAS Member States, with the support of relevant partners, are encouraged to create an early alert mechanism for unaccompanied minors and separated children which would be triggered upon border crossing and throughout transit.
- ECOWAS Member States could consider the deployment of multifunctional teams to determine a solution in line with the best interest of the child.
- ECOWAS Member States are encouraged to seek the assistance of IOM in the identification of trafficked persons, and to build capacity among key stakeholders to identify and assist victims.
- ECOWAS Member States are encouraged to seek the assistance of UNHCR in the identification of international protection needs of victims of trafficking.

4. Enhancing Border Management while Ensuring Protection

Participants examined avenues to address the challenges to human rights and refugee protection at borders which the conference background study identified. They examined how the freedom of movement rights for ECOWAS citizens could be better implemented at borders, and interstate cooperation in border areas improved.

Participants also provided suggestions on how, more generally, protection-sensitive border systems could be established. Knowledge of the content of the ECOWAS protocols and harmonization of relevant domestic laws were considered by most participants to be conditions precedent to the broadly agreed goal of dismantling internal borders.

Participants acknowledged that border crossing within the ECOWAS region is easier for ECOWAS citizens. They also appreciated that *refoulement* rarely occurs. Participants, nevertheless, agreed that the background study has identified relevant gaps in the implementation of the ECOWAS protocols and human rights protection.

Some immigration officers and ECOWAS citizens appear to be unaware that ECOWAS nationals holding valid documents, such as passports or travel certificates, can enter any ECOWAS country freely. The lack of knowledge of the ECOWAS protocol provisions partly explains the uneven level of implementation of the protocols throughout the region.

In addition, many reports confirm that border crossings are still subject to levies of informal taxes by border agents trying to ensure the daily operation of their service or to supplement their sometimes low wages. Although working conditions for border personnel are difficult, participants felt that it did not justify the corruption and extortion known to persist in many border areas.

Participants emphasized the need that all actors involved (immigration, police, security but also civil society, refugees and migrants) are fully aware of the ECOWAS protocols and their interaction with the international refugee regime. They mentioned as a good practice example the four workshops on “Protection and Mixed Migration” jointly organized by IOM and UNHCR in 2008 in Angola, sensitizing nearly 200 immigration, border and law enforcement officials to the challenges of mixed migration and the necessity of a humane handling of migration flows.

Some participants pointed out that bilateral agreements concluded between EU countries and ECOWAS states emphasizing control of irregular migration could prove as impediments to free movement within the ECOWAS area. Other participants contended that such agreements do not necessarily reflect EU policy which favours free circulation within ECOWAS but combined with better migration management and stepped up control at external (i.e. ECOWAS perimeter) borders.

Recommendations

At regional level

- ECOWAS institutions are encouraged to expand the monitoring of the implementation of the protocols through, for example, replication of the existing pilot monitoring project; and to ensure that monitoring actors reflect the broad range of interests in the protocols – e.g. security agencies, Government ministries, regional actors, humanitarian actors and civil society.
- ECOWAS institutions, with the support of relevant partners, could establish a regional training centre for training officials responsible for the enforcement of the ECOWAS protocols. The specialized training should be ongoing and thought should be given to the possibility of using existing regional structures such as the Kofi Annan Training Centre for Peacekeeping in Accra.

At national level

- ECOWAS Member States are encouraged to incorporate international human rights guarantees into national and regional migration management policies.
- ECOWAS Member States could facilitate border crossings of ECOWAS citizens, including through systematic issuance of National ECOWAS passports, the establishment of counters for ECOWAS citizens at border points and the adoption of common entrance and residence visas for non-ECOWAS citizens.
- ECOWAS Member States are encouraged to enhance capacities and improve working conditions for border personnel (through regular payment of salary, increased dialogue with border guards, training and provision of adequate equipment), but also prosecute acts of corruption by border personnel who impede the application of ECOWAS Protocols.
- ECOWAS Member States, corporate bodies and individuals could refer cases of grave violations of the free movement provisions by other ECOWAS Member States to the ECOWAS Community Court of Justice.

5. Addressing challenges to Human Rights protection

Participants agreed that migrants and refugees, especially when they travel irregularly, are particularly vulnerable and exposed to human rights violations and abuses. They are often victims of serious discriminations throughout their journeys and are subject to numerous risks linked to migration such as human trafficking, organized crime, etc. This debate echoed some of the points of the discussions on protection-sensitive entry points (see chapter 4).

Participants stressed that the management of mixed migration requires a 'comprehensive but differentiated' approach that would safeguard the legitimate access to asylum, the protection of refugees, and the identification and protection of victims of trafficking, while also ensuring effective respect for human rights of all other individuals.

Participants welcomed the ratification by the majority of the ECOWAS Member States of the *UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* and called upon them to incorporate its provisions in their national legislation and to reinforce the control mechanisms at national and regional levels. They noted that deficits rather existed on the implementation level.

Universal Periodical Review (UPR), a monitoring mechanism established by the UN Human Rights Council¹¹ was recognized as an essential instrument of monitoring and

¹¹ See UN General Assembly resolution 60/251 of 15 March 2006.

dialogue with States so that they abide by their international obligations especially with regard to the migration policies.

Recommendations

Participants reaffirmed that human rights should be enjoyed by all people without discrimination and made the following suggestions:

At regional level

- Regional cooperation on human rights protection among all stakeholders implicated in migration management policies and migrants' issues should be reinforced.
- OHCHR, together with relevant partners, should enhance its advocacy efforts to encourage the ratification of the *Convention on the Protection of the Rights of all Migrant Workers and Members of their Families* by not only those ECOWAS Member States which have not yet done so but also those of western European countries which are destination countries.

At national level

- ECOWAS Member States are called upon to ratify international human rights law instruments and translate their international obligations into national legislation.
- ECOWAS Member States should strengthen awareness of human rights of their law enforcement mechanisms, including through training in human rights law for law enforcement officials.
- ECOWAS Member States are called upon to establish or reinforce independent National Human Rights Institutions based on the Paris principles.
- ECOWAS Member States, corporate bodies, civil society and individuals could refer grave cases of human rights violations by other ECOWAS Member States to the ECOWAS Community Court of Justice.

6. Options for migrants who are not citizens of ECOWAS countries

Participants pointed out to the particular challenge of finding appropriate solutions for migrants from non-ECOWAS countries to whom the ECOWAS entitlements do not apply. Often, they have few possibilities to regularize their status, which contributes to their vulnerability.

The local integration opportunities made available by the Malian authorities and civil society to Congolese mandate refugees who had been expelled from Algeria were mentioned as a good practice example in this respect.

Participants also addressed the specific situation of asylum seekers found not to be in need of international protection. Unsuccessful asylum seekers fall into the general category of “irregular migrants” and, at the present time, there are very few initiatives which could facilitate the regularization of their residence status within ECOWAS region and/or assist them to return voluntarily to their country of origin or first country of asylum. Participants pointed to the possibility for unsuccessful asylum seekers to obtain residence permits in Cote d’Ivoire as a positive step towards creating integration opportunities for specific groups of migrants.

Participants discussed the lack of information on migratory movements within the West Africa region. The ECOWAS and IOM-led project to create a database on migration in selected pilot countries in the region was, therefore, seen as a positive initiative.

Recommendations

At regional level

- ECOWAS could conduct a regional review of the migration management framework, including relevant legislation, policies, and procedures at regional and national levels, to better address the specific needs of extra-regional migrants.

At national level

- Governments of the West Africa region are encouraged to design a strategy that would address the specific needs and explore options for the local integration of migrants who are not ECOWAS citizens.

7. Return of non-refugees

Unlike refugees who are assisted by UNHCR when they choose to return to their country of origin, the return of non-refugees (unsuccessful asylum seekers, irregular migrants, etc.) remains a major challenge in West Africa.

Participants discussed the social aspect of return and the fact that in Sahelian countries, returning home is viewed as a form of “shame” and cannot be considered unless “returnees” have accumulated enough money to deal with social redistribution requirements.

Participants also noted that in many cases, return is not a viable option due to lack of reintegration opportunities in the country of origin. They discussed existing reintegration programmes in the ECOWAS region and pointed out that these programmes are usually only available for migrants who have been expelled from European countries with which re-admission agreements exist. Participants mentioned the Return to Agriculture plan (REVA, *Plan Retour vers l’Agriculture*) that was set-up by the Senegalese Government, with the financial support of the Spanish authorities, to help former migrants invest in agricultural projects.

Participants also mentioned, as a good practice example, the three-year plan (2003-2005) that was established by the authorities of Burkina Faso to support the reintegration of migrants in their country.

The IOM-led project of a reintegration fund in Mali, Niger and Ghana for training and micro-projects assistance for migrants was also seen as a positive initiative.

Some participants also underlined that due to the identified gaps in some refugee status determination procedures, it could not always be excluded that unsuccessful asylum seekers could qualify for refugee status. This problem could be addressed best through improved refugee status determination procedures (see Chapter 2 above).

A further challenge raised by participants was the lack of cooperation and information-sharing mechanisms between countries of origin and countries of destination. Participants mentioned in particular the challenges some States are faced with for the treatment of unaccompanied migrant children.

Recommendations

At national level

- ECOWAS Member States, in collaboration with international organizations and the civil society, should develop a comprehensive voluntary return mechanism, including all aspects of the return process from identification to pre-departure counselling, psycho-social assistance services, transportation, reception assistance, reintegration counselling and appropriate socio-economic support for reintegration.
 - Such programme should be developed in all countries of the region, for all returned migrants, regardless of the existence of a re-admission agreement between the “returning country” and the country of origin.
 - This mechanism should include asylum seekers found in a fair and efficient procedure not to be in need of international protection, and not only migrants expelled from Europe or intercepted at sea.

8. Enhancing legal migration: alternatives to dangerous irregular migration?

In recent years, irregular migration from West Africa has increased substantially and has become a major challenge for West African States.

There was a general acceptance that the negative image of migrants and of irregular migrants in particular often leads to negative perceptions and diminishing public and political support for both refugee protection and immigration policies.

The destigmatization of irregular migrants in public discourse was therefore seen as an important element.

Legal migration within the ECOWAS region

Noting that increased legal labour migration opportunities could assist in diminishing irregular migration, participants discussed the expansion of such opportunities in and outside West Africa, particularly through increased use of existing regional frameworks and processes such as the ECOWAS free movement protocols. There was a general acceptance that the ECOWAS framework provides a range of possibilities for secure, legal, human rights-respecting migration in the region that have not been sufficiently explored and that need to be promoted.

Legal migration outside the ECOWAS region

Migration from West Africa to North Africa and Europe was also discussed and participants agreed on the need to foster and nurture mutually respectful and collaborative partnerships, as instruments for responsibility sharing between countries involved in or affected by migratory movements, be they countries of origin, transit or destination. While stressing the need for a common and coherent ECOWAS policy *vis a vis* the European Union, participants urged that bilateral labour migration agreements and MOUs be promoted in order to facilitate lawful migration between West African countries and EU Member States.

Participants mentioned as a good practice example the newly created EC-funded regional migration information centre in Mali (CIGEM) and the migration information centre in Cape Verde (CAMPO).

Protection of the rights of migrant workers

While discussing legal labour migration within and outside the ECOWAS region, participants acknowledged the need to strengthen the protection of the rights of migrant workers.

They called upon countries of departure and countries of destination which have not done so yet to ratify the *Convention on the Protection of the Rights of all Migrant Workers and Members of their Families* as well as the ILO conventions on migrant workers.

Participants also emphasized the need for enhancing efforts to inform migrant workers about their rights. In that respect, they mentioned as a good practice example the multilateral framework for lawful labour migration developed by ILO in five West African countries (Burkina Faso, Cape Verde, The Gambia, Mali and Senegal) to help governments and other partners manage labour migration while protecting the rights of migrant workers.

Recommendations

Legal migration within the ECOWAS region

- ECOWAS Member States are encouraged to harmonize their national migration legislations and policies.
- ECOWAS institutions should develop mechanisms to facilitate the recognition of diplomas and qualifications of labour migrants in all ECOWAS Member States.
- National structures involved in legal migration issues are encouraged to reinforce their coordination and information-sharing mechanisms. Relationships with actors such as trade unions, chambers of commerce in countries of origin and countries of destination should be expanded with the view to ensuring equality of treatment between migrant workers and citizens.

Legal migration outside the ECOWAS region

- Dialogue and cooperation between countries of origin, transit and destination should be strengthened, and bilateral agreements be promoted in order to facilitate legal migration.
- ECOWAS Member States, with the support of relevant actors, are encouraged to establish migration information centres, in order to inform migrants about legal migration opportunities as well as working and living conditions in countries of destination.
- ECOWAS Member States are encouraged to take the necessary steps to prevent “brain-drain” in countries of origin and ensure that low-skilled workers benefit from legal labour migration schemes.
- ECOWAS Member States are encouraged to involve social partners, civil society organizations, and other key actors (e.g. mothers, witch doctors...) in the design and implementation of intra-regional labour migration policies.

Protection of the rights of migrant workers

- ECOWAS Member States, with the support of relevant actors, are encouraged to carry out sensitization and awareness-raising campaigns on the rights of migrant workers.

UNHCR/ECOWAS/IOM/OHCHR, 5 March 2009

REGIONAL CONFERENCE ON REFUGEE PROTECTION AND INTERNATIONAL MIGRATION IN WEST AFRICA
DAKAR, SENEGAL, 13-14 NOVEMBER 2008

SELECTED RECOMMENDATIONS

Enhancing Border Management while Ensuring Protection

- Better monitoring of the implementation of the ECOWAS protocols
- Establishment of a regional training centre for officials responsible for ECOWAS protocols enforcement.

Data collection and analysis

- Standardization of data collection & analytical tools of ECOWAS Member States
- Reinforcement of coordination and information-sharing mechanisms of Member States

Working Together

- Harmonization of national migration legislations of Member States
- Facilitation of diplomas recognition of labor migrants in Member States

Mechanism for identification and referral

- Creation of a regional network of RSD experts between Member States

SELECTED FOLLOW-UP ACTIVITIES

Enhancing Border Management while Ensuring Protection

- Delivery of trainings for immigration & border officials
- Development of information pamphlets on asylum procedures
- Advocacy for legal & social counseling from early stage
- Advocacy for early identification & provision of essential services to persons with special needs

Data collection and analysis

- Development of standard template & set of questions guiding all offices
- Statistics sharing on refugees & asylum seekers in Cote d'Ivoire
- Statistics sharing on human trafficking in Nigeria

Working Together

- Establishment of a regional Follow up Group for Dakar Conference
- Review of the implementation of Dakar conference recommendations
- Organization of regional trainings in ECOWAS Member States on Protection of Refugees & other People on the Move in the ECOWAS Space
- Preparation of a joint publication 'Protection of Refugees & other People on the Move in the ECOWAS Space', for governments and other partners

Mechanism for identification and referral

- Organization of regional workshops by IOM & UNHCR, in coop. with ECOWAS, OHCHR & ILO
- Development of model profiling forms & referral mechanisms for new arrivals & coordination of protection response

- Organization of specific trainings for identification of different categories of persons fleeing Ivory Coast during crisis

Return arrangements and alternative migration options for non-refugees

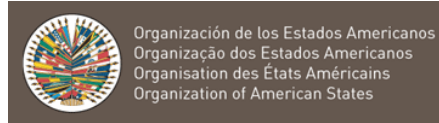
- Creation of a comprehensive voluntary return mechanism for the return of non-refugees

Return arrangements and alternative migration options for non-refugees

- Referral by UNHCR to IOM of persons not in need of international protection for assisted voluntary return and reintegration

**REGIONAL CONFERENCE ON REFUGEE PROTECTION AND
INTERNATIONAL MIGRATION IN THE AMERICAS—
PROTECTION CONSIDERATIONS IN THE CONTEXT OF MIXED
MIGRATION**

SAN JOSÉ, COSTA RICA, 19-20 NOVEMBER 2009



13 October 2009

Regional Conference on Refugee Protection and International Migration in the Americas Protection Considerations in the Context of Mixed Migration

San José, Costa Rica
19-20 November 2009

1. Background

Migratory movements in many regions, including in the Americas have become more complex in recent years and are increasingly ‘mixed’ in character. People travel together, use the same modes of transport, employ the services of the same smugglers and are exposed to the same risks and abuses, but their motivations for moving differ. For some, the reasons include protection concerns forcing people to flee their home countries for their own security or to protect the integrity and dignity of themselves and their families.

In 2006, the United Nations High Commissioner for Refugees (UNHCR) launched a 10-Point Plan of Action on Refugee Protection and Mixed Migration (10-Point Plan)¹ to assist States to develop comprehensive and protection-sensitive migration strategies. To implement the Plan at a regional level, four different regional stakeholder conferences are being organized, including one in the Americas.² The International Organization for Migration (IOM), as part of its commitment to the principle that humane and orderly migration benefits governments, migrants and society, has also recognized the importance of comprehensive migration policies which address the challenges of mixed migration effectively and in accordance with international law, including protection obligations under human rights and refugee law.³ The Office of the High Commissioner for Human Rights (OHCHR), as well as the UN human rights mechanisms, have highlighted the need for human rights-based migration laws and practices to ensure respect and protection of the rights of all people on the move.

¹ UNHCR’s 10-Point Plan of Action is available at <http://www.unhcr.org/4742a30b4.html>

² These conferences form part of an EC-funded project on the 10-Point Plan. Further information on this project is available at <http://www.unhcr.org/497730212.html>

³ See IOM discussion note to the 2008 International Dialogue on Migration, “The Challenges of Irregular Migration: Addressing Mixed Migration Flows” available at http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/96/MC_INF_294.pdf

The overall contribution of Latin America and the Caribbean to global migration movements amounts to some 25 million people, which is equivalent to more than 13%, according to estimates.⁴ Over the past few years, countries throughout the hemisphere have witnessed increasing irregular migratory movements as countries of origin, transit or destination or a combination thereof. These movements are largely intra-regional, with the United States hosting the highest number of migrants and refugees, but also take place to countries outside of the hemisphere (mainly to Europe)⁵. Besides traditional migratory patterns from the south to the north of the continent, increasing south-south migration has been documented, particularly in Latin America. The percentage of women and girls in these intraregional migration movements is particularly high.

Social exclusion, discrimination, inequality, poverty, unemployment, economic crisis, environmental disasters, and major structural reforms in many countries of Latin America and the Caribbean are the main reasons for these movements.

There is, though, a small but nonetheless significant percentage of men, women and children in search of international protection in the hemisphere. They are fleeing persecution in the form of human rights violations, armed conflict, and gang-related violence, often due to the acts of non-state actors.⁶ Others are victims of human trafficking and have been subjected to deception or coercion for the purposes of exploitation. Moreover, there are categories of undocumented migrants who merit special treatment from a human rights perspective, regardless of their migration status. These include, for example, unaccompanied migrant children and migrants who have been subjected to sexual violence, but other categories of persons may need to be considered.

UNHCR offices in Latin America and the Caribbean are also reporting small yet increasing numbers of asylum-seekers from refugee-producing countries in Africa (and to a lesser extent in Asia and the Middle East) who are arriving within much larger movements of migrants from those same regions. A few of these asylum-seekers had already been recognized as refugees in countries neighboring their own. They have traveled to the Americas in search of effective protection and durable solutions which were unattainable in their first countries of asylum.

Protection challenges arising in the context of maritime migration, such as distress situations or interception practices involving boats with migrants and refugees, add to the complex regional migratory picture.

⁴ Between 2000 and 2005, the number of Latin American and Caribbean migrants increased by 400,000. UNDESA, Population Division, Trends in Total Migrant Stock: See <http://esa.un.org/migration/index.asp?panel=1>

⁵ IOM World Migration Report 2008. "Managing Labor Mobility in the Evolving Global Economy"

⁶ The number of refugees in the Americas is estimated at 803,500, which represents 8 per cent of the refugee population worldwide. See UNHCR, 2008 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons. 16 June 2009, pp. 7 and 8, available at: <http://www.unhcr.org/4a375c426.html>

During the period of January 2008 to July 2009, there were at least 260 persons reported drowned or missing at sea in the northern Caribbean region⁷, including a small number of persons who were moving in search of refugee protection. As in other regions, human smuggling is another characteristic feature of irregular migration throughout the region, creating difficult challenges for states which have a legitimate interest in preventing and suppressing transnational organized crime.

Borders are a particularly sensitive area for migrants and refugees who do not have the required documentation for entry. Human rights violations and abuses often take place at or in the vicinity of borders.

Within this environment, UNHCR, IOM and States are confronting increasing difficulties in ensuring adequate protection safeguards for refugees and other categories of persons with protection needs, such as victims of trafficking. States have responded to the challenges of these irregular mixed migratory movements principally by increased control measures, oftentimes without incorporating sufficient protection safeguards. Such application of migratory control measures without protection safeguards can and does result in failures or gaps in protection – for example, cases of *refoulement* or prolonged detention of refugees, asylum-seekers or irregular migrants and denial of access, onward movements of refugees due to the lack of effective access to asylum procedures, lack of attention to increasing numbers of unaccompanied minors, and inadequate protection responses for victims of trafficking.

However, there are also some more encouraging developments, such as a number of innovative protection practices and projects which have been developed mainly within the framework of the 10-Point Plan. International agencies are increasingly joining efforts to address the challenges of mixed migration. One such example in the Americas is the annual seminar on mixed migration that IOM and UNHCR organize in the Caribbean. The identification and referral mechanisms for victims of trafficking in which different agencies participate is another example.

2. The work of regional migration *forum*

Sub-regional migratory *forum*, such as the Regional Conference on Migration (Puebla Process), the South American Conference on Migrations, and the joint IOM/UNHCR seminar series in the Caribbean, have made progress in mainstreaming protection issues in regional migration management policy discussions. For example, new refugee laws have been adopted in various countries, legislation to protect the victims of trafficking has been approved and some countries now grant migrants equal rights to nationals. Intra-regional, free movement agreements (MERCOSUR and CA-4) have also been put in place.

⁷ This figure refers only to the maritime tragedies reported by national authorities and/or Coast Guards as a result of rescue-at-sea operations, and may not reflect the true magnitude of the problem. The total number of deaths on the high seas remains unknown.

The Ibero-American Summit on Migration and Social Development, held in November 2007, in Montevideo, Uruguay⁸ underlined the importance of state respect for international refugee and human rights law when dealing with migration issues, in particular when exercising their right to regulate the entry and stay of aliens in their territories as well as when providing the special protection to be accorded to refugee children.

Despite the progress achieved⁹, the main focus of these migration *fora* has to date been on State coordination. While these *fora* have allowed for some consideration of protection issues, protection concerns and protection responsibilities have not always been at the core of their policy discussions. The sub-regional nature of these *fora* has also limited the sharing of information, state cooperation, and transfer of best practices between countries and across different sub-regions in the hemisphere.

3. The Regional Conference

At the December 2007 High Commissioner's Dialogue on Protection Challenges ("the Dialogue") hosted by UNHCR, High Commissioner António Guterres strongly emphasized the need to uphold the rights and protect the welfare of all people, whatever their reasons for moving. The Dialogue drew attention to the need for coherent, comprehensive and integrated approaches to migration challenges, reconciling the responsibility to protect refugees and other persons with specific needs with the legitimate tasks of law enforcement, border control and migration governance. The Dialogue also called for increased collaboration among the international organizations concerned.¹⁰

In follow-up to the Dialogue, UNHCR has been organizing a series of regional conferences on refugee protection and international migration. This third conference responds to the mixed migratory movements in the Americas. It is hosted by the Government of Costa Rica and organized jointly by UNHCR, the Organization of American State (OAS) and IOM, in cooperation with OHCHR. The conference is supported by the United Nations Children's Fund (UNICEF), the UN Office on Drugs and Crime (UNODC), the United Nations Economic Commission for Latin America and the Caribbean (ECLAC), the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights (IACHR) and the Inter-American Institute of Human Rights (IIHR).

⁸ Information on the Summit is available at <http://www.acnur.org/biblioteca/pdf/4604.pdf>

⁹ Member States of both the Regional Conference on Migration and the South American Conference on Migration have reiterated their commitment to refugee protection and the respect of human rights of migrants in their declarations, plans of action and regional guidelines. Protection safeguards for asylum-seekers and refugees in the case of the return of regional and extra-regional migrants as well as for the return of child victims of trafficking and the return of unaccompanied minors have been duly incorporated in the regional guidelines adopted by the Regional Conference on Migration (Puebla Process). Further information is available at http://www.acnur.org/paginas/index.php?id_pag=6253

¹⁰ Further information on the first High Commissioner's Dialogue on Protection Challenges is available at <http://www.unhcr.org/476146702.html>

This regional conference intends to raise the profile of protection considerations in the context of regional migration dynamics and to encourage management approaches which respect protection imperatives. The results of these discussions will be used *inter alia* by UNHCR to develop a region-specific implementation strategy based on the 10-Point Plan.

3.1 Objectives

The development of protection-sensitive migration strategies requires a holistic and collaborative approach built on strong partnership between States, international organizations, academia and civil society organizations. Taking stock of and building upon the work of the regional *forum* on migration, this Regional Conference will offer participants an opportunity to:

- Identify the main protection challenges in a mixed migratory context in the Americas, including those specifically relating to refugees;
- Gather good practices and lessons learned related to the identification and protection of refugees, victims of trafficking and migrants with specific needs;
- Develop recommendations related to protection safeguards in migration control measures and border management;
- Identify areas where States require more targeted support from UNHCR, IOM and other international and non-governmental organizations to develop and implement protection responses within the mixed migration context;
- Enhance information-sharing and dialogue between international organizations with complementary mandates, and identify new avenues of inter-agency cooperation at national and regional level; and
- Contribute to a regional perspective to the global development of UNHCR's policy framework on international protection and mixed migration (10-Point Plan of Action), and strengthen the 10-Point Plan as an instrument of joint action in the Americas region.

3.2 Participation

Representatives from 20 States, as well as some academics and civil society representatives from North America, Latin America and the Caribbean are invited. The selection of States has been made according to the following criteria: 1) countries most affected by the dynamics of mixed migratory flows; 2) main destination countries in the Americas, and 3) countries which currently hold the Presidency *pro tempore* of the main regional migration *fora*.

The organizers also invite national and regional organizations that have an interest in the refugee protection or broader protection dimensions of mixed migration, based on their complementary mandates and expertise.

3.3 Proposals for the agenda

Additional to a limited number of presentations in the plenary, thematic working groups will be set up to address the topics, so as to ensure an open dialogue among participants. The working groups will deliberate separately and report back to the plenary sessions. The main conclusions and recommendations of the Conference will be shared with all participants, and the presentations will be published.

Introductory sessions:

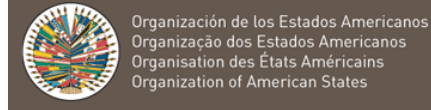
- Opening session
- Regional migration trends and patterns in the hemisphere
- Overview of key regional protection challenges
- Profile of refugee and asylum-seeking populations in the hemisphere
- The 10-Point Plan in Action in the Americas

Suggested topics for the Working groups / thematic sessions:

- **Protecting human rights of people on the move irrespective of status** (preventing abuses during travel and stay, ensuring rescue at sea, access to proper and non-discriminatory reception arrangements taking into account applicable international norms and standards).
- **Identification, profiling and referral mechanisms** (differentiation at entry points; access to territory, identification and profiling tools, cooperation of intergovernmental and non-governmental organizations).
- **Asylum-seekers and refugees** (access to asylum procedures, mixed motivations in the context of refugee movements, smuggled refugees and asylum seekers, onward/secondary movements of asylum-seekers and refugees, durable solutions).
- **Victims of human trafficking** (awareness campaigns; identification, protection, referral mechanisms, trafficking-asylum nexus, safe accommodation; legal, medical and psychological support; voluntary return to the country of origin, and reception and reintegration upon arrival).
- **Children** (protection, asylum-seeking children, child victims of trafficking, best interest determinations and solutions).
- **Victims of physical or sexual violence or trauma.**
- **Protection-sensitive entry systems** (risks of human smuggling, protection-sensitive control mechanisms).
- **Intra-regional cooperation** (sharing good practices and lessons learnt.)

Closing sessions:

- Reporting back of Working Groups
- Synthesis, recommendations and next steps



**Regional Conference on Refugee Protection and International
Migration in the Americas – Protection Considerations in the
Context of Mixed Migration
San José, Costa Rica
19-20 November 2009**

Summary Report



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Introduction:

On 19 and 20 November 2009, the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and the Organization of American States (OAS) in cooperation with the Office of the High Commissioner for Human Rights (OHCHR) and under the auspices of the Government of Costa Rica convened the *Regional Conference on Refugee Protection and International Migration in the Americas - Protection Considerations in the Context of Mixed Migration* in San José, Costa Rica. The principal objective of the Conference was to enhance the response to mixed movements in the Americas in a protection-sensitive manner, both on the national level, as well as through enhanced utilization of the existing regional migration processes and human rights mechanisms of the Inter-American System.¹

The Conference was the third of four regional conferences which UNHCR organized together with partners as part of a three year European Commission-funded project to sensitize key stakeholders in different regions about the protection challenges of mixed movements and to promote the 10-Point Plan of Action on Refugee Protection and Mixed Migration² as a framework for the development of comprehensive and protection-sensitive migration strategies. IOM, as part of its principle to uphold the human dignity and well-being of migrants, co-organized the last two conferences with the financial support of the United States Department of State, Bureau for Population, Refugees and Migration (BPRM).³

In plenary sessions and through active engagement in eight working groups, participants acknowledged achievements and identified outstanding challenges in the implementation of national and regional migration policies that respect the human rights of all people on the move and respond to the specific protection needs of *inter alia* refugees, trafficked persons and unaccompanied/separated children. The discussions were informed by a number of background documents including a UNHCR paper highlighting main migration trends, protection challenges and practical examples in the region.

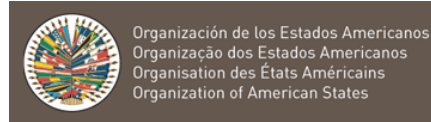
As a major challenge, the rise in irregular migration throughout the continent, including through human trafficking and migrant smuggling, has exposed an increasing number of people on the move to abuse, exploitation and violations of their human rights. The identification of refugees and migrants who have specific protection needs has proven to be a key challenge in such situations. Participants also used the Conference as a platform to discuss protection concerns relating to a steady increase of refugees and migrants originating from countries outside the region in the Americas (extra-continental movements).

This report contains a summary of the main discussions and recommendations of the Conference. It is structured around the principal themes that arose during the discussions. These include: 1) Respecting the human rights of people on the move irrespective of status, 2) Profiling and referral

¹ A complete documentation of the San José Conference, including its concept note, is available at <http://www.acnur.org/t3/el-acnur/eventos/conferencia-regional-2009>. Also see <http://www.iom.or.cr>.

² UN High Commissioner for Refugees, *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*, January 2007, Rev.1, available at: <http://www.unhcr.org/refworld/docid/45b0c09b2.html>.

³ For more information on the previous regional conferences under the framework of the 10-Point Plan of Action see <http://www.unhcr.org/pages/4a16aac66.html>.



mechanisms, 3) Differentiated processes and procedures for refugees, victims of human trafficking, unaccompanied/separated children and the specific needs of extra-continental refugees and migrants, 4) Durable solutions for refugees and migrants, and 5) Cooperation among key partners.

1. Respecting the human rights of people on the move irrespective of status

During the Conference, participants repeatedly underlined that the human rights of all people on the move should be respected, protected and fulfilled irrespective of their reasons for traveling and irrespective of their legal status. Individuals who enter States irregularly are often subject to abuse and violations of their human rights, including violence by smugglers and traffickers, labour and sexual exploitation and denial of access to justice. Another main challenge (affecting refugees and migrants alike) is what participants described as “the normalization of violence” in border regions, including the kidnapping of refugees and migrants in the border regions of Mexico for the purpose of extortion and persisting gang-related violence in several countries in Central America.

Participants expressed concern about the fact that refugees and migrants are not always fully informed about their rights, including their right to seek asylum. Citizens are often not sufficiently informed about the risks and dangers of irregular migration in their countries of origin. It was highlighted that trafficking and smuggling networks in the Americas have profited from the lack of awareness of the risks and dangers associated with irregular migration.

Participants also shared their concerns about patterns of discrimination and an increase of xenophobic attacks against migrants and refugees in countries of transit and destination. It was alleged that the press often augments these sentiments, rather than countering them. The positive contribution of refugees and migrants to hosting communities is also rarely portrayed in the media.

a. Ensuring protection while controlling entry to territory

Participants highlighted that the rise in irregular migration throughout the continent has led to a number of protection challenges, especially at points of entry. Some countries face difficulties controlling entry to their territories because they lack the resources to control borders, particularly in regions which are hard to access and/or are spread out. Lack of experienced border personnel and necessary oversight were found to account for instances where asylum-seekers were returned without determination of their international protection needs. There is also often an absence of adequate mechanisms in place to identify and address the specific protection needs of certain groups such as trafficked persons and unaccompanied/separated children. Participants mentioned that the high turnover of staff posted in border areas can pose additional challenges for the implementation of adequate protection safeguards.

Restrictive migration policies and an over-emphasis of national security concerns were identified by participants as factors contributing to the indiscriminate refusal of entry, including through interdiction at sea, irrespective of international protection needs. In some instances, this has led to violations of the principle of *non-refoulement*.⁴

⁴ The principle of *non-refoulement* under International Refugee Law and International Human Rights Law prohibits States from acting to ‘expel’ or ‘return’ individuals to situations where they may face persecution,



As a good example of State cooperation, participants highlighted the training of immigration, border and consular officials on the identification of fraudulent documents, jointly undertaken by the Governments of Canada, the United States of America (USA) and Mexico with the support of UNHCR under the framework of the Regional Conference on Migration (RCM) (see chapter on regional cooperation below).

b. Reception arrangements, detention and the necessity of alternatives to detention

Several participants recommended that all persons should be provided with care and assistance upon arrival, tailored according to their specific needs and in accordance with international human rights standards. A needs assessment should be conducted at an early stage upon arrival to address specific needs.

Participants reported that in some States, after being detained for irregular entry, persons are kept in detention facilities for prolonged periods of time or indefinitely without access to legal guarantees. Migrants are also detained for long periods pending deportation or determination of migratory status. Although under international refugee law, refugees are under certain conditions exempt from penalization for irregular entry (Article 31(1) of the 1951 Refugee Convention⁵), they are frequently automatically detained upon entry.

Concerns were raised that the conditions in some detention facilities fall short of the minimum standards set by international human rights law. Gaps relate to a shortage and/or bad quality of food, shortage of medical supplies and irregularities in due process. Overall, participants stressed that detention must not be arbitrary and should be applied as a measure of last resort. They called upon States to differentiate between detention imposed for immigration offenses and detention for criminal law offenses. Attention was drawn to the many cases in the Americas, where migrants were detained for irregular entry for prolonged periods, including periods of up to two years. Participants expressed concern that there remains a lack of alternatives to detention.

In all of the above-mentioned circumstances, participants recognized the role of the organs of the Inter-American System of Human Rights in the protection of the rights of migrants and refugees. They however stressed that there is a need to mobilize political support and to ensure allocation of resources to implement protection safeguards. Participants encouraged all stakeholders to make better use of the Inter-American Commission's Rapporteurships for the protection of the human rights of migrants, children, women and afro-descendants, as well as the advisory function of the Inter-American Court of Human Rights. Also, the research and advisory role of the Inter-American

torture, inhuman and degrading treatment or other irreparable harm. The most prominent expression of the principle in international refugee law is Art.33 of the 1951 Convention Relating to the Status of Refugees, 189 U.N.T.S. 137, *entered into force* 22 April 1954 [hereinafter: "The 1951 Refugee Convention"]. Art. 22 of the 1969 American Convention on Human Rights 1969 "Pact of San José, Costa Rica", 1144 U.N.T.S. 123, *entered into force* 18 July 1978, extends this protection to aliens in general.

⁵ Article 31 (1) states "The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."



Commission on Human Rights should be supported by States by providing adequate information to the Commission and by encouraging the undertaking of thematic reports and/or the inclusion of migrant and refugee issues into their annual reports.

Recommendations:

- i. *States are encouraged to harmonize their national legislation with their international obligations under international human rights and refugee law. Those States that have not ratified relevant conventions, including the 1990 Convention on Migrant Workers⁶, are encouraged to do so.*
- ii. *States are encouraged to adopt national and regional measures to combat xenophobia, discrimination against refugees and migrants and subsequent threats/attacks. Such measures could include public information campaigns on the positive contribution of migrants and refugees to the development of host societies, as well as close cooperation with the media.*
- iii. *States are encouraged to accept the jurisdiction of the Inter-American Court of Human Rights and to comply with recommendations and guidelines of regional and international human rights protection mechanisms. Civil society is encouraged to participate in the reporting process and the implementation of the recommendations of these mechanisms.*
- iv. *States are encouraged to pursue criminal offenses against offenders infringing upon the rights of refugees and migrants in their national courts to combat impunity.*
- v. *All stakeholders are encouraged to provide adequate information to refugees and migrants about their rights, as well as procedures for asylum application, mechanisms to report abuses and regular migration options. Regional information packages for refugees and migrants may be used to this end.*
- vi. *States and other key actors are encouraged to implement regional awareness campaigns highlighting the risks and potential dangers of irregular migration in countries of origin, transit and destination, and regular migration options. Specific attention should be paid to awareness campaigns addressing the vulnerability of unaccompanied/separated children, victims of human trafficking and migrant smuggling, and victims of sexual and physical abuse.*
- vii. *Detention should be a measure of last resort and experiences and initiatives on alternatives to immigration detention should be shared between States and other key actors in the region. Where detention is necessary, it should be applied in accordance with minimum standards under international human rights law.*

⁶ UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, 18 December 1990, A/RES/45/158.



- viii. *It is necessary to provide more resources to border personnel, to avoid the high turnover of staff and to equip border officials with clear guidelines on protection obligations in the form of a booklet or a manual which is easily accessible and readily available.*
- ix. *UNHCR and IOM are encouraged to carry out joint sub-regional training sessions of national authorities, including law enforcement officials on international refugee protection and human rights standards and how to implement them in practice. The joint training implemented by Canada, Mexico and USA with the support of UNHCR under the framework of the Regional Conference on Migration might be a useful guidance in this respect.*

2. Profiling and referral mechanisms

Participants mentioned that in some countries persons arriving within mixed movements are treated without differentiation, for example, they are *a priori* barred from accessing the asylum procedure due to irregular entry. In other countries, all arrivals are channelled into the asylum procedure. The latter contributes to the perception of overburdened asylum systems. Several participants recommended the introduction of profiling or pre-screening mechanisms to better identify and differentiate between categories of arrivals and to address different needs early upon entry. This would help to ensure referral to the most appropriate procedures tailored to the specific needs of the individual, following a rights-based approach. Such profiling mechanisms could also be used to obtain more information about extra-continental arrivals and to improve the management of these movements.

A number of States reported positively on their experiences with profiling and referral mechanisms. Other States mentioned that they have enhanced information gathering on new arrivals to better understand reasons for travelling and to effectively address the needs of persons arriving in mixed movements. The co-organisers shared a profiling questionnaire with participants which had been developed *inter alia* based on the discussions with experts at the 10-Point Plan of Action Expert Roundtable “Different people – different needs,” held in Tunis in 2009.⁷ IOM, furthermore, presented a form more specifically for the identification of victims of human trafficking.⁸

Participants positively acknowledged the added value of profiling and referral mechanisms. Experts, especially from some countries in Central America and the Caribbean, considered the development of such systems for the sub-region as an important operational priority.

Recommendations:

- i. *All stakeholders should engage in a needs assessment at an early stage to categorize different groups and use profiling or pre-screening mechanisms to tailor responses and referrals according to individual needs.*

⁷ For more information on the roundtable see <http://www.unhcr.org/4ae6cb069.html>.

⁸ *IOM Handbook on Direct Assistance for Victims of Trafficking*, Screening Interview Form, p. 50, http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/books/CT%20handbook.pdf, 2007.



- ii. *The exchange of best practices in the region should be strengthened with a view to integrate and harmonize existing profiling and referral mechanisms. UNHCR and IOM are called upon to convene a workshop and explore possibilities of elaborating a common regional or sub-regional profiling and referral questionnaire, which could also be used to better address extra-continental arrivals. National institutions for the promotion and protection of human rights, the Red Cross, and civil society organizations should be invited to participate and monitoring procedures should be discussed.*
- iii. *All stakeholders are encouraged to implement the recommendations of the regional political and migration platforms and processes on profiling and referral mechanisms and make use of already existing tools of, including the trafficking screening questionnaire elaborated under the Regional Conference on Migration (RCM).*

3. Differentiated processes and procedures for refugees and for migrants with specific protection needs

a. Refugees

States reconfirmed their international obligation to identify refugees and other persons in need of international protection and acknowledged that these persons are protected under international law including against *refoulement* to their country of origin because they may face persecution or serious threats to their physical security or integrity. Participants mentioned that although the number of refugees in the region has diminished, refugees both from within, as well as from outside the region continue to remain a component of the current migratory movements. In particular, the USA and Canada continue to rank among the major asylum countries in the world.

Participants noted that some asylum systems in the region do not have the capacity to adequately protect refugees. While almost all countries have implemented refugee legislation, weak operational structures impede effective implementation. Access to international protection is also frequently undermined by indiscriminate and security-oriented migration policies, which do not distinguish between those who are in need of international protection and those who are not.

Participants also expressed concern that international protection in the Americas is often provided on a too narrow basis. The interpretation of the refugee definition as enshrined in the 1951 Refugee Convention and its 1967 Protocol⁹ or the definition recommended by the 1984 Cartagena Declaration on Refugees¹⁰ (which has been incorporated into the national legislation of 14 countries in Latin America) is often too restrictive. It was also noted that victims of persistent gang-related violence are rarely recognized as refugees and often have no access to other (complementary) forms of protection.

Participants identified “onward” travel of asylum-seekers, mainly from the South to the North, as another key challenge. Even recognized refugees frequently travel from countries of first asylum to

⁹ The 1967 Protocol relating to the Status of Refugees, 606 U.N.T.S. 267, *entered into force* 4 October 1967.

¹⁰ Cartagena Declaration on Refugees, 22 November 1984, Annual Report of the Inter-American Commission on Human Rights, OAS Doc. OEA/Ser.L/V/II.66/doc.10, rev. 1, at 190-93 (1984-85).



their envisaged destination countries without the requisite documentation and/or by reliance on smuggler networks due to *inter alia* lack of adequate protection and/or in pursuit of better opportunities. It was noted in this respect that almost all of the recent extra-continental arrivals to the Americas were promised by transnational criminal networks to be smuggled into the USA or Canada.

Several positive examples were mentioned to illustrate how the protection of refugees in the Americas could be improved. The Immigration and Refugee Board of Canada, for example, has provided financial and technical support to and has cooperated with other countries, including Mexico and Costa Rica. In Argentina, the National Commission for Refugees (CONARE) with the support of UNHCR has established a database for individual profiles of asylum-seekers and refugees in order to facilitate determination procedures and find durable solutions. The Government of Brazil has improved its asylum system through a number of institutional reforms over the past years. It was also generally highlighted that the involvement of civil society organizations has positively impacted on refugee determination procedures and the provision of durable solutions for refugees in countries such as Argentina, Brazil, Uruguay, Panama and Nicaragua.

Recommendations:

- i. States are encouraged to allocate more resources for enhancing the capacities of national asylum procedures, and undertake trainings to ensure enhanced expertise of staff.*
- ii. All stakeholders are encouraged to promote twining projects and the exchange of good practices through international cooperation and north-south and south-south regional cooperation.*
- iii. States are encouraged to strengthen due process in asylum procedures in the region to address inter alia lack of access to legal representation, lack of access to adequate interpretation and lack of independent appeal procedures.*
- iv. States are encouraged to enhance cooperation with civil society organizations, including through tripartite agreements with NGOs and UNHCR, and to replicate good practices in the region, such as involving NGOs in the counseling of migrants and asylum-seekers, identification of vulnerable cases, monitoring of detention centers and border areas, and provision of legal aid and representation to asylum-seekers.*
- v. Asylum countries could benefit from enhanced information-sharing on migration trends and arrivals of asylum-seekers, as well as on policies and best practices in responding to arrivals.*
- vi. Access to protection for victims of gang-related violence could be strengthened by adopting eligibility guidelines and providing regular country of origin information.*



b. Trafficked persons

The phenomenon of human trafficking, affecting in particular refugees and migrants, remains on the rise in the Americas and there continues to be a lack of preventative measures, as well as practical tools to identify and address the needs of trafficked persons. Most trafficked persons require particular attention due to the serious impact of the abuses suffered, including lasting effects on their personal integrity. In addition, continuous threats may arise given that trafficking is linked to organized crime.

Participants cautioned that victims of human trafficking are often not identified as such, but instead treated as irregular migrants or even criminals leading frequently to re-victimization and lack of required protection. Furthermore, they noted that the links between trafficking and smuggling networks can lead to the risk of being trafficked for all migrants and refugees using smuggling networks.

The identification of trafficked persons can be a challenging barrier, not least because victims and witnesses of human trafficking are frequently reluctant to report traffickers. They may fear retaliation by the trafficker and in some cases return or detention by the host authority. Authorities need to be trained on how to undertake quick assessment interviews and how to identify trafficked persons among mixed migrant flows. The IOM guidelines for the identification of victims of trafficking were highlighted as a useful screening tool for the identification of trafficked persons.¹¹ Participants also mentioned that trafficked persons are not always properly informed about their rights and available assistance programmes, including the possibility of applying for a refugee status and/or repatriation. It was highlighted that while trafficked refugees require special protection as victims of human trafficking, they also continue to be entitled to refugee protection.

Participants noted the great challenge of providing effective protection to victims of human trafficking once they are identified. Considering the dynamics of violence and abuse that characterize the trafficking experience, a needs-based approach is crucial to ensure adequate care for trafficked persons, including a risk assessment to ensure security and protection from *refoulement*.¹²

Participants also drew attention to the broader context of the crime of human trafficking and its relationship to economic globalization and an increase in the irregular labour market. Participants referred to various forms of human trafficking, including, for example, trafficking for labour exploitation and internal trafficking which need to be clearly identified and addressed in legislation and public policies to ensure appropriate and differentiated responses. It was stressed that enhanced awareness of the nexus between human trafficking and gender and age issues, as well as masculine sex industries, is crucial to prevent the trafficking of women and children. Participants welcomed that the majority of American States have ratified the 2000 UN Protocol to Prevent and

¹¹ IOM Handbook on Direct Assistance for Victims of Trafficking, Screening Interview Form, p. 50, http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/books/CT%20handbook.pdf, 2007.

¹² See United Nations High Commissioner for Human Rights, *Principles and Guidelines on Human Rights and Trafficking*, E/2002/68/Add.1 (2002).



Combat Trafficking in Persons, Especially Women and Children¹³ and that a greater appreciation for the magnitude of human trafficking has evolved. As a consequence, there has been an increase in responses, including the establishment of national counter-trafficking coalitions, victim and witness protection initiatives, as well as cross-border cooperation to prosecute traffickers. Some countries in the region, such as México, the Dominican Republic, Guatemala and Costa Rica among others, have also designed and approved specific anti-trafficking legislation. Regional cooperation among public and private institutions on all levels is fundamental to combat the crime of trafficking and to provide for adequate protection safeguards. The Regional Guidelines for Special Protection in Cases of the Repatriation of Child Victims of Trafficking adopted by the Regional Conference on Migration was mentioned as a good example of regional cooperation.¹⁴

Participants noted that while there are increased efforts from various sectors to combat trafficking in persons, there is a need for coordination between these efforts in order to be able to coherently tackle the trafficking phenomenon.

Recommendations:

- i. A joint screening instrument should be elaborated by all stakeholders to better identify trafficked persons within mixed migration, and to ensure adequate and timely referrals to assistance and protection mechanisms.*
- ii. Existing cooperation mechanisms should be broadened to include more actors in counter-trafficking initiatives, in particular labour ministries and the private sector given the recognition of the existing nexus between trafficking in persons and the dynamics of labour markets.*
- iii. All stakeholders are encouraged to strengthen national coalitions against trafficking in persons and replicate good practices in countries that have not yet established such a coalition.*
- iv. States are encouraged to integrate counter-trafficking provisions into national legislation and policies concerning migration, labour, gender, children and security.*
- v. States are encouraged to develop common performance indicators in the framework of regional mechanisms and national counter-trafficking coalitions to facilitate the continual follow-up and evaluation of results of regional and national counter-trafficking plans of action.*
- vi. International/regional organizations and civil society organizations are encouraged to carry out a regional study to document the trends and characteristics of internal trafficking.*

¹³ UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000.

¹⁴ Regional Conference on Migration (RCM), *Regional Guidelines for Special Protection in Cases of the Repatriation of Child Victims of Trafficking*, adopted in New Orleans/USA, April 2007.



- vii. *States are encouraged to replicate the good practice of some States to recognize refugee status for those victims of trafficking who fulfill the refugee criteria.*
- viii. *Regional fora could be used to enhance awareness campaigns and to alert societies of the criminal nature of human trafficking and the protection needs of victims. The adoption of guidelines with proper safeguards for the protection of victims of human trafficking as adopted by the Regional Conference on Migration should be replicated in other regional migration fora.*
- ix. *All stakeholders engaged in mixed movement management need to be trained to identify trafficked persons, to appreciate the different forms of human trafficking and to be sensitive to the protection needs of women and unaccompanied/separated children in particular.*

c. Unaccompanied/separated children

Participants underlined that many of the protection challenges for refugees and migrants as identified throughout the Conference are aggravated in the case of children, particularly for unaccompanied/separated children. Children are frequent victims of the exploitative practices of trafficking and smuggling networks. They are particularly vulnerable to sexual abuse and gang-related violence in border regions and may also qualify for refugee protection.

Not all States have specific safeguards in place in their processes and procedures to ensure the full respect for the rights and needs of children and to conduct a proper determination of their best interests, particularly concerning unaccompanied/separated children.¹⁵ Border officials are often not equipped and trained to provide children with the required care and assistance in a child-friendly manner. Given the criminal and often violent activities of youth gangs in many regions, including Central America, juveniles are often treated harshly by border officials. Participants noted that juveniles who have broken the law should not be automatically refused access to the asylum procedures and should be treated in accordance with the applicable human rights standards.¹⁶

Concern was also expressed regarding the non-registration of births and/or difficulties experienced by children born to irregular migrant and refugee parents, particularly in border areas and its impact for the acquisition of a nationality.

In addition, participants referred to the need to protect children left behind by families that have decided to migrate.

It was welcomed that over the past years, Mexico, which is confronted with a particularly high number of unaccompanied/separated children, has sought to enhance protection for unaccompanied children. An Inter-institutional Dialogue on Unaccompanied Children in Mexico

¹⁵ Compare UN Committee on the Rights of the Child (CRC), *CRC General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, 1 September 2005, CRC/GC/2005/6.

¹⁶ See in particular the provisions of the 1989 UN Convention on the Rights of the Child. UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.



brings together different State departments, as well as various international agencies to exchange views and experiences. Child protection officers are trained to provide protection to unaccompanied children in accordance with their specific needs. Other encouraging practices from the region were also discussed: in Argentina, unaccompanied children are designated a legal guardian to help identify their best interests and assist them in all legal procedures. Costa Rica has a database in which all cases of unaccompanied children are systematically integrated, and arrangements are made to ensure that unaccompanied children are assisted by trained staff from the national child's welfare institution upon arrival at the border.

Recommendations:

- i. *A best interest determination for the child should be undertaken at all stages of the migration process and children should be recognized as rights-holders by involving them in decisions that concern them, according to their age and maturity.*
- ii. *States should guarantee the protection of children and access to their rights, regardless of their migration status, equal to nationals (including the right to education and health) in accordance with the 1989 UN Convention on the Rights of the Child.*
- iii. *States and other key actors are encouraged to design and implement specialized protection and assistance mechanisms for unaccompanied/separated children to ensure implementation of the following protection safeguards: systematic registration (migratory and civil registry), timely designation of a legal representative, the identification of specific protection needs, including those of asylum-seeking children or those who have been trafficked, and referral to special procedures. When return is determined to be in the best interest of the child, it is also essential to ensure consular protection and specific supporting measures.*
- iii. *States are encouraged to ensure that all authorities involved in the protection and assistance of unaccompanied/separated children are equipped with child protection experts. International organizations and specialized civil society organizations could be invited to provide technical support to authorities. Specifically, training on interviewing techniques, specific treatment and assistance for children should be provided to government officials, consular staff, migration and police officials, social assistants, lawyers and judges. Initiating a project to replicate the appointment of child protection officers in Mexico in other countries in Latin America and the Caribbean would be a good practice.*
- iv. *Inter-agency standards for the assistance of unaccompanied children in the region should be elaborated which include differentiated processes and procedures with due regard for the case-specific situation of the children.*
- v. *Joint sensitization activities, as well as prevention campaigns on the risks of unaccompanied/separated or undocumented children's exposure to human rights violations, trafficking and smuggling should be undertaken by all stakeholders to raise awareness.*
- vi. *The promotion of systematic registration of children born to migrant and refugee parents regardless of their legal status could help to avoid statelessness.*



- vii. *Where appropriate, States are encouraged to conclude specific bilateral or regional agreements to ensure safe, dignified and orderly returns. Reception by a parent or legal guardian upon arrival in the country of origin, as well as the existence of reintegration programmes and monitoring activities are important factors to consider prior to returning children.*

d. Extra-continental refugees and migrants

For several countries in the region, the arrival of refugees and migrants from countries outside the region (extra-continental movements) is a relatively new phenomenon. It was noted that extra-continental group arrivals are *mixed in nature*. They include migrants and refugees, amongst them unaccompanied/separated children and victims of human trafficking. Extra-continental arrivals present particular challenges for States because they often arrive in small groups and due to language barriers and the lack of consular representations in the region. Difficulties have included the provision of shelter, food, health care, assessment of needs, and consular attention. Furthermore, almost all of the recent extra-continental arrivals to the Americas were promised by smugglers to be taken to the USA or Canada. In order to reach their envisaged destination country, even recognized refugees frequently travel onward without requisite documentation and/or by reliance on smuggler networks operating throughout the continent.

Several participants expressed concern about the practice of some States to automatically detain such arrivals and to indiscriminately reject all asylum claims made by asylum-seekers from outside the region.

Addressing this phenomenon requires the involvement of different government and civil society actors, as well as international organizations, with complementary expertise. Participants noted that many States, in particular in the Caribbean, require further technical and financial assistance and support to create operational systems.

Participants noted the importance of voluntary assisted return programmes for those who wish to return to their country of origin. Yet, return arrangements for extra-continental migrants in the Americas are often impeded by the lack of resources and logistical difficulties such as the issuance of documents for travel. Participants alleged a lack of cooperation between countries of origin, host countries and transit countries in the Americas.

Recommendations:

- i. *National authorities and other key partners could nominate a focal point for the arrival of extra-continental refugees and migrants who can closely cooperate with their counterparts to share information on profiles.*
- ii. *Enhanced cooperation between all stakeholders, including international organizations and civil society partners with different types of expertise is needed, as well as support for the Caribbean States to improve their assistance and protection capacities.*



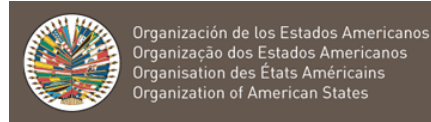
- iii. *UNHCR and IOM should undertake a joint study on the magnitude, trends and protection considerations of extra-continental refugees and migrants.*
- iv. *States in cooperation with international organisations are encouraged to develop profiling mechanisms that could be used to collect information and to refer extra-continental refugees and migrants to differentiated processes and procedures.*
- v. *States and other key actors are encouraged to create regional funds for voluntary return and reintegration programmes.*
- vi. *Stakeholders should promote cooperation with countries of origin to develop common strategies to prevent smuggling of extra-continental refugees and migrants, and to ensure that more decisive action is taken in the prosecution of smugglers.*

4. Durable Solutions for Refugees and Migrants

Participants agreed that a comprehensive approach to mixed migration includes sustainable solutions for both refugees and migrants. Participants drew attention to the fact that in most countries in the region, national asylum systems focus almost exclusively on identifying asylum-seekers and adjudicating their claims. Less attention is paid to *integrating refugees* and guaranteeing their effective enjoyment of rights after they have been recognized as refugees.

Participants also stressed that solutions must be found for migrants within mixed movements who do not qualify for refugee status and/or complementary forms of protection. Attention was drawn to the problem of “stranded” migrants in the Americas, many of whom have been held in prolonged detention. Return arrangements for non-refugees in the Americas are often impeded by the lack of resources and logistical difficulties such as the issuance of documents for travel through transit countries. This is particularly aggravated in the case of extra-continental migrants. Beyond such logistical and financial constraints, however, it was also acknowledged that some States could place more political priority on resolving situations of prolonged detention. Frequently it is not clear which State department is responsible for situations of prolonged detentions. Participants encouraged civil society organizations in the region to assist in identifying and resolving situations of prolonged detention. Participants stressed the need for States to provide for specific protection safeguards and reintegration measures for unaccompanied/separated children and victims of human trafficking when return is deemed to be the best solution.

Experience in the Americas suggests that people returned will often attempt to leave their country of origin again to travel to their envisaged destination country. Breaking this circle of irregular migration from which smuggling networks profit was identified as the main challenge. In this regard, participants remarked that finding solutions should also include opening channels for regular migration such as labour migration opportunities. Participants commented positively on regularization and amnesty programmes for irregular migrants which have been implemented over the past years by several Latin American countries, for example Argentina (Patria Grande Programme), Brazil, Chile, Uruguay and Venezuela (Identity Mission). Temporary labour migration programmes have also proven to promote regular labour migration and combat labour exploitation.



Recommendations:

- i. *All stakeholders are encouraged to develop programmes to support the local integration of refugees, particularly in areas relating to housing, employment and access to public facilities (health/education.)*
- ii. *States are encouraged to replicate successful regularization programmes for irregular migrants (such as those implemented in Argentina, Brazil and Uruguay).*
- iii. *If return is deemed to be the best solution for unaccompanied/separated children or victims of human trafficking, it is important to ensure proper coordination with the authorities of the country of origin. In addition, reintegration programmes should be promoted and strengthened.*
- iv. *Create funds for the voluntary return of rejected asylum seekers, in particular extra-continental migrants.*

5. Cooperation among key partners

a. Cooperation at the national level

Participants highlighted the need to strengthen cooperation between key partners at the national level, including relevant government authorities, international and regional organizations and civil society. Participants welcomed the variety of cooperation examples in various countries, but recommended to *institutionalize* cooperation with clearly defined referral *procedures*, be it on an intra-governmental level or on the level of State cooperation with civil society or international organizations present at the national level. It was also recommended to make more use of the specific expertise of civil society organizations. Participants agreed that the media should be more integrated in existing cooperation projects aiming at enhancing protection.

Some good practice examples were exchanged to illustrate how cooperation between key partners at the national level might be further enhanced: in Mexico, for example, the government has initiated a human rights plan of action for the identification of gaps in national human rights protection and to put in place concrete projects to address such gaps. Notably, the cooperation network not only comprises of all branches of government (executive, judicial and legislative), but also academia, civil society organizations and the Mexican Ombudsman.

Recommendations:

- i. *States are encouraged to strengthen cooperation on migration issues between all governmental institutions and departments to enhance protection and assistance for those in need of protection, for example through written procedures and regular meeting.*
- ii. *It is important to institutionalize tripartite cooperation between State actors, international organizations and NGOs at the national level, for example in the form of*



permanent national migration fora or in the form of a coalition for action such as in the case of Mexico.

- iii. *Stakeholders are encouraged to engage the press in existing protection networks and cooperation on mixed migration to ensure that the needs of refugees and other persons in need of protection are better communicated to the public.*

b. Regional mechanisms and dialogue

Participants expressed their hope that the OAS as one of the co-organizers of the conference will continue to serve as a regional focal point and key partner for States, international organizations, as well as civil society to develop and/or strengthen protection-sensitive migration strategies. Notably, the OAS in close cooperation with the IOM, the Organisation for Economic Cooperation and Development (OECD), the International Labour Organisation (ILO), the Economic Commission for Latin America and the Caribbean (ECLAC) have initiated a “Continuous Reporting System on Labour Migration” (Spanish acronym: SICREMI). The project is currently in its pilot phase and involves nine participating countries which have all designated national focal points for the implementation of the database. A challenge for this project remains in analyzing data to enhance effective protection strategies.¹⁷

It was acknowledged that the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights have already provided important guidelines for the treatment of undocumented migrants and refugees. Those States which have not yet ratified the regional human rights treaties and recognized the jurisdiction of the Court were encouraged to do so.

Participants also highlighted the important role of MERCOSUR, the common market of South American States. The Specialized Migratory Forum of MERCOSUR which regularly brings together the immigration directors of the Southern cone (Argentina, Brazil, Uruguay and Paraguay) and associated States is crucial for the development of protection-sensitive policies, as well as for capacity-building and training of key actors in the region. This forum has been a key platform for the adoption of policies to facilitate the movement and regularization of migrants, as well as for the protection of refugees.

Participants emphasized that the regional migration fora in the Americas have been instrumental to enhance sensitivity for protection and human rights considerations within mixed migration throughout the region. The Regional Conference on Migration (RCM) serves as a sub-regional forum in the Americas for the exchange of information and good practices of States in North America and Central America with regard to refugee and migrant protection. The RCM has recognized human rights and refugee protection as key objectives, has incorporated them in its Plan of Action and has adopted guidelines and developed specific frameworks to enhance protection and assistance to persons with specific needs. Yet, participants recognized that protection-sensitive migration

¹⁷ This database aims at obtaining a better picture of migration movements and sharing it with national policy makers. It will contain information on migratory trends in the region and monitor changes in the demographic profiles of migrants through indicators such as gender, age, education, countries of origin and destination, as well as on labour sectors and others.



strategies in line with human rights and refugee protection standards could be further advanced within the RCM.

The commitment for the respect of the human rights of migrants and refugee protection has also been underlined in the meetings and Declarations of the South American Conference on Migrations (SCM).

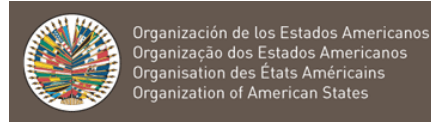
While there is no formal migration forum established in the Caribbean, UNHCR and IOM in cooperation with the Caribbean Community (CARICOM) have organized annual meetings of Caribbean States and territories to discuss migration and refugee issues, including protection considerations within mixed migration. Participants identified CARICOM as a key partner to further institutionalize cooperation between Caribbean States on mixed migration.

The cooperation among stakeholders at the regional level in the Americas is not limited to inter-State cooperation. The Regional Network of Civil Organizations on Migration (RNCOM) working under the framework of the RCM has brought together civil society organizations and has positively influenced its discussions. This open dialogue and cooperation with civil society should be enhanced and replicated in other regional migration fora.

Participants also recommended to utilize the 2004 Mexico Plan of Action to strengthen the International Protection of Refugees in Latin America as an important legal and operational framework for the protection of refugees and internally displaced persons in the region which brings together a variety of actors to fulfill these objectives.

Recommendations:

- i. The Co-organizers are encouraged to share the present report of the Regional Conference with the pro tempore presidencies of all regional migration fora. Stakeholders were encouraged to and include follow-up on relevant recommendations in the agenda of the next meetings.*
- ii. All stakeholders should enhance efforts to elaborate and promote the implementation of regional guidelines for the protection of migrants, refugees, victims of human trafficking and unaccompanied/separated children within the existing regional migration fora, most importantly within the South American Conference on Migrations, replicating the good experiences and lessons learned of the Regional Conference on Migration. Ensure effective follow-up and implementation of recommendations and agreements adopted within regional mechanisms.*
- iii. All stakeholders should exchange information on their specialized experience and expertise to provide technical support to the regional migration fora for the further advancement of initiatives and guidelines for the protection of migrants, refugees, victims of trafficking and unaccompanied/separated children.*
- iv. The role of regional mechanisms could be expanded to include capacity-building and sensitizing of national authorities, the media and the general public.*



- v. *The Specialized Migratory Forum of MERCOSUR could be further utilized for the promotion of harmonization and the exchange of good practices on issues such as the facilitation of free movement of persons, the protection of refugees, the regularization of migrants and the adoption of national policies and legislation on protection concerns.*
- vi. *Caribbean States and territories are encouraged to introduce the issue of protection considerations in mixed migration, including the issue of extra-continental and stranded migrants to the CARICOM agenda to identify common challenges of Caribbean States and to develop protection-sensitive strategies for the region.*
- vii. *Participation in regional mechanisms and processes by other branches of government (judicial and legislative) could be increased, as well as participation of other actors, including civil society and the media to strengthen dialogue between the governments and civil society.*
- viii. *States are encouraged to improve regional data-exchange and analysis regarding mixed migration, and to support the OAS database.*

REGIONAL CONFERENCE ON REFUGEE PROTECTION AND INTERNATIONAL MIGRATION IN THE AMERICAS:
PROTECTION CONSIDERATIONS IN THE CONTEXT OF MIXED MIGRATION
SAN JOSÉ, COSTA RICA, 19-20 NOVEMBER 2009

SELECTED RECOMMENDATIONS

Strengthening cooperation among key partners

- Include follow-up to the Regional Conference on the agenda of existing regional mechanisms
- Strengthen the participation of civil society organizations in activities, projects and related initiatives on protection and assistance concerns within mixed movements

Differentiated processes and procedures – Addressing the needs of trafficking victims

- Incorporate counter-trafficking provisions in national legislation
- Develop screening and profiling instruments to better identify trafficking victims within mixed movements
- Increase training of relevant stakeholders on human trafficking and protection and assistance considerations

Differentiated processes and procedures – Addressing the needs of unaccompanied minors

- Undertake best interest determination at all stages of the migration process

SELECTED FOLLOW-UP ACTIVITIES

Strengthening cooperation among key partners,

- OAS draft resolution on mixed migration flows (sponsored by Panama) currently being discussed at the OAS; an OAS Workshop on “Bilateral Cooperation on migration management” took place in April, 2011
- The *Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas*, adopted by 18 Latin American States in November, 2010 recommends the strategic use of the 2004 Mexico Plan of Action to address new protection challenges in the region such as mixed movements
- Several workshops and trainings for the Member States of the Regional Conference on Migration (*Puebla Process*), with the participation of NGOs

Differentiated processes and procedures – Addressing the needs of trafficking victims

- Legislative reforms undertaken in a number of countries to strengthen protection safeguards in immigration laws (i.e. Mexico and Nicaragua), including the introduction of humanitarian visa for trafficking victims in Costa Rica and Argentina; UNHCR provided technical advice for the drafting of anti-trafficking bills in Bolivia, Canada, Costa Rica, Panama and Venezuela and for the adoption of legislation in Chile
- Joint UNHCR/IOM training of staff in the Americas to enhance interagency coordination and cooperation on the identification and protection of trafficked persons

Differentiated processes and procedures – Addressing the needs of unaccompanied minors

- Mexican Child Protection Officers project replicated in Central American States (Guatemala, El Salvador and Honduras)

- Ensure that all authorities involved in the protection and assistance mechanisms for unaccompanied /separated children are equipped with child protection experts. Replicate the Mexican Child Protection Officers project

Addressing the needs of persons in extra-continental flows

- Develop profiling mechanisms that could be used to collect information and to refer extra-continental refugees and migrants to differentiated processes and procedures according to specific needs
- Undertake a study on the magnitude, trends and protection considerations of extra-continental refugees and migrants in the region
- Seek alternative measures to detention in order to exercise migratory control in respect of human rights obligations

- UNHCR conducted a Regional Workshop (training of trainers in best interest determination) in Mexico City in October 2010

Addressing the needs of persons in extra-continental flows

- OAS meeting in April 2010 to discuss extra-continental migration
- Study on the current situation, trends and protection and assistance needs of extra-continental migrants and refugees in Central America and Mexico, carried out by the Latin American School of Social Sciences (FLACSO) upon the request of UNHCR and IOM
- Internal UNHCR database on extra-continental arrivals to Central America under development

**REGIONAL CONFERENCE ON REFUGEE PROTECTION AND
INTERNATIONAL MIGRATION:
MIXED MOVEMENTS AND IRREGULAR MIGRATION FROM
THE EAST AND HORN OF AFRICA AND GREAT LAKES REGION
TO SOUTHERN AFRICA**

DAR ES SALAAM, TANZANIA, 6-7 SEPTEMBER 2010



CONCEPT NOTE

Regional Conference on Refugee Protection and International Migration:

Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa

Dar es Salaam, Tanzania, 6–7 September, 2010

1. Introduction

This Concept Paper provides a synopsis of the proposed Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa which will be hosted by the Government of the United Republic of Tanzania from 6-7 September 2010, under the auspices of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM).

The Conference will cover the challenges that arise in mixed migratory movements involving irregular migrants, refugees and asylum-seekers and in the case of the latter two, the particular international protection concerns in those countries in East and Southern Africa sub-regions facing the same aspects of south-bound migratory flows emanating primarily from the Horn of Africa and gravitating southwards to South Africa and beyond. These countries have been identified as Burundi, the Democratic Republic of the Congo, Ethiopia, Kenya, Malawi, Mozambique, Rwanda, Somalia, South Africa, Tanzania, Uganda, Zambia and Zimbabwe.

1.1. The Growth of the Phenomenon of Mixed Migratory Movements

International migratory movements in Africa have become more complex in recent years and are increasingly mixed in character. These movements include women, men and children leaving their own country and seeking to take up residence in another country for a variety of reasons and at times using the same modes of transport; employing the services of the same people smugglers and are exposed to the same risks and abuses. While the majority of people in this category move in order to establish new livelihoods, join family members or for educational purposes, others do so due to protection concerns which force them to flee their home countries for their own security or to protect their integrity and dignity and that of their families.

Mixed movements when they take place irregularly evidently pose challenges for the individuals concerned but also for governments, international and civil society organizations. Persons traveling in mixed movements are exposed to risks and often need assistance to ensure that their human rights are protected and their basic material needs are met in countries of transit and destination. Mixed movements often place people in vulnerable situations and expose them to economic exploitation, abuse, physical violence, including gender-based violence, detention, destitution and even loss of life. For States, mixed and irregular movements raise legitimate questions concerning the sovereign prerogative and duty to regulate the entry and sojourn or stay of aliens in a country. Such movements may also give rise to actual or perceived threats to national security.

UNHCR and IOM, together with their partners, have recognized the need to work cooperatively in addressing the nexus between refugee protection and international migration. UNHCR's involvement with mixed movements is principally linked to the need to ensure due adherence to the protection of refugees and other persons of concern to UNHCR who are caught up in such movements. In 2006, UNHCR launched the 10-Point Plan of Action on Refugee Protection and Mixed Migration (10-Point Plan).¹ The 10-Point Plan provides a framework to assist States in developing comprehensive and protection-sensitive strategies to address these movements. Within the sub regions covered by the Tanzania Conference, UNHCR and IOM² systematically partner with states to attain a comprehensive protection approach to the specific needs of asylum-seekers and refugees involved in mixed migratory movements. To this end, UNHCR's work based on the 10-Point Plan and progress made nationally on implementation of the 10-Point Plans will be relied upon in the deliberations of the upcoming Conference.

UNHCR's first High Commissioner's Dialogue on Protection Challenges in December 2007 focused on the theme: "Refugee protection, durable solutions and international migration." The Dialogue highlighted the critical importance of addressing the different protection needs of people on the move. The government, civil society and expert participants called upon the international community, including UNHCR and IOM, to coordinate actions and work in close partnership with states to create synergies and fill the critical gaps in legal and institutional arrangements for protection and the delivery of essential services affecting those involved in mixed movements.³ As a follow up to this Dialogue, UNHCR has along with IOM and other partners undertaken a comprehensive review of the nexus between refugee protection and mixed movements and has come up

¹ UNHCR's 10 Point Plan of Action is available at <http://www.unhcr.org/4742a30b4.html>

² A concrete example being the Immigration and Border Procedure Manuals (Guidelines on Policies and Procedures for Immigration Officers) being developed for the sub-region under the Capacity Building in Migration Management for East Africa (CBMMP) by the International Organization for Migration which contain elaborate sections on "Refugee status claimants"; individual country's obligations under the Refugee Conventions; the handling of claims for refugee status at points of entry; as well as summaries of the refugee definitions.

³ Information on the High Commissioner's Dialogue on Protection Challenges is available at <http://www.unhcr.org/pages/4a12a6286.html>

with suggestions on how these could be best addressed, notably by convening a series of Regional Conferences on Refugee Protection and Mixed Migration.⁴

IOM has similarly promoted the adoption of comprehensive policies to address the challenges of managing migration, while retaining its inherent benefits. The essential objective is to uphold obligations under human rights and refugee law, while also ensuring due respect for the sovereign prerogative to regulate the entry and stay of foreign nationals on a State's territory.⁵ IOM in the countries covered under the Conference purview, is liaising with concerned governments and other partners to strengthen the response to these mixed migratory flows in a way which is respectful of the human rights of migrants. The interventions have included emergency voluntary repatriation and capacity building for national immigration institutions. In 2008 IOM conducted a comprehensive research documenting the mixed migration flows of Somalis and Ethiopians from their home countries and towards South Africa. The research findings raise serious concerns around the abuse and exploitation of these irregular migrants and potential asylum-seekers during their long and irregular journey. As a result of the research published in 2009⁶, IOM partnered with the Government of Malawi to hold a Bi-regional Conference on Mixed Migratory Flows from the Horn and East to Southern Africa which brought together a wide range of stakeholders including government representatives from Burundi, Ethiopia, Kenya, Malawi, Mozambique, Rwanda, South Africa, Tanzania, Zambia and Zimbabwe, along with COMESA, UNODC, UNHCR, UNOHCHR, Interpol, SADC, SAMP and some embassies participating as observers. The conference created an intergovernmental forum for discussion on how to deal with the challenge of mixed migratory flows. The Conference produced a set of recommendations regarding regional collaboration on such issues as identification of specific vulnerabilities of migrants, their admission and protection as well as the return of migrants in an irregular situation.

Jointly, UNHCR and IOM are also co-chairing a Mixed Migration Task Force for the Gulf of Aden, coordinating responses for protection of refugees and irregular migrants, which constitutes a concrete example of effective inter-agency collaboration and reply to mixed migration flows.

⁴ These include the Regional Conference on Refugee Protection and International Migration in West Africa, Dakar, Senegal, 13-14 November 2008; the Regional Conference on Refugee Protection and International Migration in the Gulf of Aden, held in Sana'a, Yemen, 19-20 May 2009 and Protection Considerations in the Context of Mixed Migration, San Jose, Costa Rica, 19-20 November 2009. Further information on these conferences is available on the UNHCR website.

⁵ IOM Discussion Note to the 2008 International Dialogue on Migration, "The challenges of Irregular Migration: Addressing Mixed Migration Flows" is available at <http://www.iom.int/jahia/Jahia/pid/2034>

⁶ International Organization for Migration, "In Pursuit of the Southern Dream: Victims of Necessity-Assessment of the irregular movement of men from East Africa and the Horn to South Africa", (April 2009).

The proposed Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa in Tanzania, will build on these Agency-specific initiatives, as well as efforts of governments from participating countries, with an overall aim of deepening the understanding of the scope and extent of the southward migration and reaching comprehensive, collaborative and well-coordinated protection-sensitive strategies to address this phenomenon.

1.2 Mixed Migratory Flows from the East, Horn, and Great Lakes Sub Regions of Africa towards Southern Africa

Over the last two decades, mixed movements from the East, Horn and Great Lakes sub-regions to other parts of the continent and beyond have steadily increased. These movements, which originate mainly in Somalia, Ethiopia and Eritrea, and to a lesser numerical extent from the Great Lakes, involve various categories of people, including refugees and asylum-seekers. They follow a southbound route from the Horn of Africa and the Great Lakes region into the East Africa, notably Kenya or Tanzania, and onward through Southern Africa, including Malawi, Mozambique, Zambia and Zimbabwe, to South Africa and beyond using a variety of ever changing routes.

Although extensive hard data regarding these southward movements is limited, a 2009 IOM study⁷ found that some 17,000 to 20,000 Somali and Ethiopian men are on the move along this route each year. Apart from individuals originating from South-Central Somalia, who presumptively have valid refugee claims, a small per centage of these people have protection-related reasons as evidenced by the asylum claims they present in the various countries of transit and their residency, temporarily or longer term, in UNHCR-supported refugee reception centres and camps. The same study found that smuggled people involved in these movements, including people in need of international protection, are at the risk of serious violations of their most basic human rights and are often intercepted, detained, stripped of personal possessions and, at times, deported back into countries they have transited through.⁸

While the mixed movements towards Southern Africa have similar parallels to those widely reported in other regions of the world, they have captured little attention in the international media. Internationally, reporting on mixed migration has tended to focus principally on movements out of Africa to Europe and the Middle East. The personal tragedies and protection challenges faced by smuggled people on the southbound movements require international attention and support and the upcoming Conference will be an opportunity to draw such attention and at the same time offer a useful platform for discussions on how to systematically gather, analyze, share and publicize information on the southbound migratory movements.

2. Objectives of the Conference

⁷ *Ibid* footnote number 5 *supra*

⁸ *Ibid.*

The Conference will pursue the following objectives:

1. Increase understanding on the nature, scale and reasons for south-bound mixed migratory movements from the East, Horn, and Great Lakes sub regions of Africa.
2. Examine the challenges to responding to the phenomenon of mixed movements from a human rights-based approach including the adequacy and effectiveness of the respective legal, policy, institutional, operational and management frameworks and exploring ways of enhancing such frameworks.
3. To achieve consensus on recommendations to address the challenges related to mixed migration movements with the final aim to agree on an Action Plan, as well as on a Road-Map, spelling out how to implement the Action Plan and achieve these recommendations, with special focus on regional co-operation

To promote a deeper understanding and a common analysis, the Conference will consider the origins and profiles of persons involved in this south-bound mixed migration, the main migratory routes, the factors motivating them and the role of smugglers in facilitating their movement, as well as the challenges they face in accessing refugee and human rights protection mechanisms. To support these discussions, UNHCR and IOM will prepare a joint Background Paper which will be shared with participants later.

The Conference will review and benefit from the experience gained and positive models of collaboration developed in similar regional conferences in Africa and globally. The Conference will also seek to move forward in a very concrete way by developing specific proposals for activities at the regional and national level. The discussions will consider such positive practical examples as the Tanzanian Government and IOM joint African Capacity Building Centre (ACBC/TRITA), which provides capacity-building and training in border management for immigration officials from the partner States of the East Africa Community. UNHCR will also share experience gained through its 10-Point Plan of Action Conferences⁹ and Expert Round Tables,¹⁰ as well as a compilation of best practices with regard to the implementation of the 10-Point Action Plan¹¹. Positive models of inter-agency collaboration will be presented and discussed: the inter-agency work developed by UNHCR, IOM and partners regarding Standard Operating Procedures for victims of trafficking, as well as the highly operational Mixed Migration Task Force,

⁹ These include the Regional Conferences referenced under Footnote 3, above.

¹⁰ These include the expert roundtables on “Controlling borders while ensuring protection” held in Geneva, Switzerland 20-21 November 2008; on “Different People-Different Needs” held in Tunis, Tunisia, 6-8 June 2009 and “The return of non-refugees and alternative migration options” held in Geneva, Switzerland 30 November – 1 December 2009. Further information on the roundtables is available on the UNHCR website.

¹¹ Published as *Refugee Protection and Mixed Migration: The 10-Point Plan in Action*, June 2009, Provisional release, available at: <http://www.unhcr.org/refworld/docid/4aca0af82.html>

established in 2006 and co-chaired by IOM and UNHCR, addressing the challenges of mixed migration from Ethiopia and Somalia through the Gulf of Aden to Yemen and beyond.

To have real significance and impact, the Conference must produce a clear and realistic Plan of Action and Roadmap to which the participating governments and partner agencies can subscribe and which will draw the support and solidarity of the broader international community.

Conference methodology/status of discussions and outcomes

The Conference methodology will couple presentations in plenary with working group sessions that will promote active participation and allow the broadest range of perspectives and experience to come forward. Recommendations developed in the working groups will serve as the basis for the Action Plan and Roadmap for follow-up with measures comprehensively addressing international protection principles in favour of refugees as well as the rights of irregular migrants within mixed migration movements.

3. Conference Convenors and Participants

The Government of the United Republic of Tanzania will convene the Conference, in collaboration with UNHCR and IOM.

The participants will include:

- Senior level government representatives from Burundi, the Democratic Republic of Congo, Ethiopia, Kenya, Malawi, Mozambique, Rwanda, Somalia, South Africa, Tanzania, Uganda, Zambia and Zimbabwe representing the relevant ministries;
- Representatives of the African Union (AU), the East African Community (EAC), COMESA, the Southern African Development Community (SADC), and the Inter-Governmental Authority on Development (IGAD);
- Representatives of development partners;
- Representatives of international organizations, including UNHCR, IOM, ILO, OHCHR, UNICEF, UNODC, and Interpol;
- Civil society representatives involved with refugee protection and irregular migration in the context of mixed migration issues in the Horn, Eastern and Southern Africa.



Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa

Dar es Salaam, Tanzania, 6-7 September, 2010

Summary Report

Introduction

Background

On 6 and 7 September 2010, the Government of the United Republic of Tanzania, with the support of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), hosted the *Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa* in Dar es Salaam, Tanzania. The conference brought together over 120 participants, including government officials from Burundi, the Democratic Republic of the Congo, Ethiopia, Kenya, Malawi, Mozambique, Rwanda, Somalia, South Africa, Tanzania, Uganda, Zambia and Zimbabwe, and representatives of civil society organisations, international and regional organizations, development partners and the diplomatic community in Dar es Salaam.

The Government of Tanzania convened this conference to discuss the growing phenomenon of mixed movements and irregular migration from the East, Horn, and Great Lakes sub-regions to Southern Africa, an issue of increasing concern to States. The objectives of the conference were to better understand the nature, underlying causes and scale of these southbound movements of refugees and migrants; to examine the main challenges in responding to these flows in a protection-sensitive manner, both with regard to individual protection needs and rights under international refugee and human rights law; and to identify actions that can be taken to address these challenges at both the national and regional levels.¹

This meeting followed three previous regional conferences organized by UNHCR, two of them in partnership with IOM, on the issue of refugee protection and international migration in San José, Costa Rica, Dakar, Senegal and Sana'a, Yemen. These gatherings proved to be an important forum

¹ See Concept Note: *Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa* (Annex 1).

for States and other stakeholders to discuss mixed migratory movements in their regions and to identify the approaches and partners needed to respond to them. A key tool in this regard has been UNHCR's 10 Point Plan of Action on Refugee Protection and Mixed Migration, which has provided a practical framework for the development of protection-sensitive migration strategies.

The Regional Conference also benefited from a conference organized by IOM and the Government of Malawi in February 2009 on the issue of mixed migratory flows from the East and Horn of Africa to Southern Africa. That conference brought together a wide range of stakeholders, including delegates from ten states to discuss issues of mutual concern and to seek common solutions with regard to the complex nature of these movements.

National consultations

Prior to the Regional Conference in Dar es Salaam, national consultations were convened in most of the participating countries to discuss the key themes and issues for discussion at the Regional Conference. These consultations were organized to allow a broader gathering of government officials, members of civil society and representatives of regional and international organizations to exchange views on the main conference themes from a national perspective and to discuss their expectations from the conference itself. The meetings at the national level allowed for focused, fruitful and substantive discussions at the Regional Conference. They also created, in some countries, a potential platform for further discussions on mixed migration matters at the national level. The outcomes of the national consultations informed the final agenda of the Regional Conference and were compiled into thematic guidelines for the various conference working groups.

Conference programme

The Regional Conference was opened with statements from Irena Vojackova-Sollorano, Director, Migration Management Services, IOM, Erika Feller, Assistant High Commissioner for Refugees (Protection), UNHCR and the Honourable Lawrence K. Masha, Minister of Home Affairs, Government of the United Republic of Tanzania. In his remarks, Minister Masha acknowledged that mixed movements from the East, the Horn and the Great Lakes region are both complex and growing and pose challenges to both the individuals and countries that are involved. Minister Masha set the tone for the Conference by reminding participants of the potential for better identification and protection of persons with different needs through enhanced cooperation amongst all relevant stakeholders. He emphasized the need to ensure that the right to seek asylum and the principle of *non-refoulement* are respected. Minister Masha also stressed that migrants can be an engine of development, both in host countries, as a source of labor, and in countries of origin, as a source of remittances.

The conference itself comprised a series of plenary and working group sessions. Plenary sessions included opening addresses, a presentation and discussion of the conference background paper, discussions of national, regional and extra-regional efforts to address mixed migration movements, and discussions of working group findings and recommendations.

Working groups were broken down into eight themes, generally corresponding to the themes discussed during the national consultations. These included: (1) respecting the human rights of

people on the move, irrespective of legal status; (2) enhancing legal migration as an alternative to irregular migration; (3) ensuring protection of refugees within mixed migratory movements; (4) managing borders and addressing security concerns while ensuring protection; (5) establishing differentiated processes and procedures and defining roles and responsibilities; (6) addressing the return of persons not in need of international protection; (7) identifying and filling gaps in data collection and analysis; and, (8) enhancing cooperation and coordination at national and regional levels. For each working group, a thematic background document was prepared to help guide the discussions, with each working group tasked to return to the plenary with specific recommendations for discussion by the larger group.

Conference outcomes

The following sections of this report provide details on the main issues that were discussed during the conference and the recommendations that were proposed. In general, four main themes emerged from the two days of conference discussions. First, there was a clear call for strengthened national, bi-lateral and regional cooperation on refugee protection, mixed migration and irregular migration issues. At the national level, many noted the need for the establishment of inter-ministerial task forces to ensure communication between different government agencies, as well as “mixed migration task forces” to bring together government officials, civil society and international organizations. At the regional level, the role of the African Union (AU) and the Regional Economic Communities as platforms for coordination was emphasized. Second, many of the discussions pointed to the need for improved national policy and legal frameworks to address the challenges of mixed migration flows, in particular on such issues as national asylum procedures, detention of irregular migrants and asylum seekers, and local integration/livelihoods opportunities for refugees and migrants. Third, participants reiterated the need to strengthen national capacity, in particular with regard to border management, to respond to the challenges of mixed migratory movements in a human rights and protection-sensitive manner. This included, for example, the need for integrated training among different government departments and external stakeholders at both the capital level and in border areas. Finally, there was a general recognition that more accurate refugee and migration data and improved data analysis was needed to ensure the development of evidence-based policies. Suggested actions included joint studies at the national level on mixed migratory movements, as well as an analysis of data gaps at the regional level and concerted efforts to fill those gaps where possible.

Next steps

During the conference, a number of delegates stressed that the Regional Conference should be viewed not only as a forum for discussion, but also as a catalyst for action. To this end, the UNHCR and IOM conference secretariat was tasked with developing in addition to the conference report, an Action Plan that would set out activities to be undertaken at the national and regional level. Some delegates recommended that the national consultations be re-convened to allow for a broader discussion of the conference outcomes and to create a platform for moving the Action Plan forward. The possibility of a "stock-taking" conference in two years time to assess progress in fulfilling the action plan was also discussed.

This report contains a summary of the main discussion points and recommendations that emerged from the Regional Conference. It is structured around the themes of the eight working groups and synthesizes the discussions that took place both during the working groups and during the plenary sessions. Where issues were discussed under more than one conference theme, efforts have been made to consolidate the substantive discussions under the most relevant thematic area, while noting the relevance of the issue to other themes areas as necessary.

I. Respecting human rights of people on the move, irrespective of status

Irrespective of legal status, all persons, be they asylum-seekers, refugees or migrants, are entitled to be treated with dignity and respect and in accordance with applicable human right standards. A body of international and regional human rights instruments, and their translation into national law, guarantee these rights. Yet, despite these guarantees, migrants and refugees often find themselves victims of abuse and discrimination. Women and children are at particular risk of sexual exploitation and violence, especially those who are caught up in human smuggling and trafficking. Indiscriminate “blanket policies” for all irregular arrivals often neglect the rights of persons in need of international protection and those with specific needs. In many countries, migrants and refugees face arbitrary and prolonged detention in isolated places, often commingled with persons serving criminal sentences. Xenophobic attacks and discrimination are not uncommon.

In responding to these realities, participants at the Regional Conference emphasized the need for States to have in place the necessary legal frameworks to prevent and respond to human right abuses. Participants called on States in the region to ratify the main regional and international human rights treaties that codify the rights of refugees and migrants, including the *1990 International Convention on the Rights of Migrant Workers and their families*², and to translate their provisions into national law as necessary. Noting that issues related to mixed migration fall under the jurisdiction of a variety of different government agencies, participants underlined the need for States to ensure that human rights protections are mainstreamed into all laws affecting persons on the move.

Complementing this legal framework, participants noted the need for State institutions with a mandate to monitor and enforce human rights laws to be established and adequately capacitated. The role of the judiciary was seen as particularly crucial in this regard, with participants calling for increased training for judges, prosecutors and other judiciary staff on issues related to human rights and mixed migration. The importance of judicial independence was also noted, especially when government officials or interests are implicated in cases of abuse. In addition to the judiciary, States in the region were encouraged to consider engaging their national human rights institutions in monitoring the situation of migrants and refugees in their countries and to take necessary and appropriate action in response to reported abuses.

It was also recognized, however, that States cannot effectively address these problems alone. Civil society, regional organizations and international agencies are key partners in efforts to realize human rights standards at the national and regional level. Participants noted the particular role

² UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, 18 December 1990, A/RES/45/158.

played by civil society in undertaking a range of human rights-related activities, including identifying and exposing human rights violations, providing care and assistance to victims of abuse and discrimination, especially victims of trafficking, and implementing awareness campaigns in host communities. The absence, or relative weakness, of civil society networks in many countries was noted as a particular challenge in this regard. Diaspora communities in host countries, as well as journalists, were noted as important partners in these human rights efforts.

The participants agreed on the need for all stakeholders to enhance efforts to create a favourable and enabling environment for migrants and refugees to enjoy their human rights in countries of transit and destination, particularly with a view to easing barriers to integration. Information campaigns advising refugees and migrants of their rights and sensitizing host communities of the same were recognized as particularly important activities. Increased training for government officials on refugee and migrant rights was also seen as a means of decreasing instances of police abuse and corruption. Government stakeholders were encouraged to avoid negative imagery and messages in relation to foreigners that could then feed negative sentiment and xenophobia. Indeed, participants called on all stakeholders to emphasize the positive impact of migrants on host societies and on national development.

A number of positive examples were mentioned during the Regional Conference that demonstrated the shared commitment of States, international organizations and civil society organizations in combating xenophobia and racism. One notable example that was mentioned was the establishment of a Protection Working Group in South Africa in the aftermath of the 2008 xenophobic attacks. Under the lead of UNHCR, this working group has helped to support and reinforce the broader counter-xenophobia efforts led by the South African government, with a broad range of international agencies and civil society actors working together in a coordinated and more effective manner on prevention efforts and in responding to the violence that occurred. Additional activities that participants considered important to note in preventing and responding to human rights violations included increased prosecution of smugglers and traffickers, establishment of safe and reliable reporting mechanisms for victims of abuse and discrimination, enhanced efforts to regularize the status of those who moved irregularly, including through registration and issuance of documents, and increased attention to due process guarantees for refugees and migrants who were detained.

Participants acknowledged that infringements of human rights of migrants, asylum seekers and refugees might happen in every phase of the mixed movement, - meaning pre-departure, during the journey and upon arrival - and that policies on human rights protection within mixed migratory movements need to consider all three phases accordingly.

Recommendations:

- i. States are encouraged to review their national laws to ensure that they adequately implement their international human rights obligations. Those States that have not yet ratified relevant human rights conventions are encouraged to do so.*

- ii. *States are encouraged to ensure greater coherence in their national legal systems by mainstreaming human rights protection into all laws applicable to people arriving within mixed migratory movements.*
- iii. *The capacity of national judicial systems to adequately address human rights violations of refugees and migrants should be strengthened through increased training of judges, prosecutors and the practicing bar.*
- iv. *States are encouraged to engage national human rights institutions in monitoring human rights violations and in responding effectively to reports of abuse. Mechanisms for refugees and migrants to report abuses to government authorities should be established.*
- v. *Civil society organizations should be supported in their efforts to monitor the situation of refugees and migrants. States and international organizations are encouraged to strengthen civil society networks where possible.*
- vi. *The detention of refugees and migrants should be avoided. Where detention is necessary, States should adhere to basic due process standards and ensure that conditions of detention comply with international standards.*
- vii. *States are encouraged to decriminalize irregular migration and to increase criminal prosecutions of human smugglers and traffickers.*
- viii. *All stakeholders should jointly enhance efforts to fight xenophobia and discrimination, for example through awareness campaigns on human rights issues. These efforts should include the local press and diaspora communities in host countries.*

II. Enhancing legal migration: alternatives to irregular migration

Irregular migration is a major challenge and a matter of serious concern for many governments, both at the national and regional levels. Collaborative regional policies and approaches, as well as strengthened technical and operational capacities of governments, are needed for more effective migration and border management.

Enhanced legal migration opportunities can play an important role in responding to irregular migration. The need for individuals to use smugglers and other irregular channels to move, which places them at risk of violence and abuse, would decrease if greater legal migration options were available. These options could include, for example, labour migration programs, family reunification, and study options.

Participants at the Regional Conference validated the importance of responding to irregular migration in the region³ through increased use of legal migration channels. The benefits of increased legal migration were noted by many, including the economic benefits of a strengthened workforce in key sectors of the economy, the security benefits of States knowing the profile and intentions of those entering the country, and the humanitarian benefits of individuals not being subject to abuse and exploitation when they move irregularly.

³ The term “region” in this report refers to the East, Horn, Great Lakes and Southern Africa sub-regions of Africa.

The establishment of legal migration frameworks, at the national, bi-lateral and regional levels, was viewed as critical to the expansion of such opportunities. At the national level, participants noted the usefulness of the 2006 ILO Multilateral Framework on Labour Migration, which provides non-binding principles and guidelines for the development of a rights-based approach to labour migration. Reference was also made to the number of bilateral agreements on legal migration that had been signed by States in the region and which had resulted in a more regulated flow of persons between them.

A number of participants voiced the need for greater and more effective coordination at the regional level on legal migration matters. Regional consultative processes (RCPs), such as the Migration Dialogue for Southern Africa (MIDSA) and the IGAD-RCP, were seen as important fora for enhanced inter-state dialogue and cooperation, although it was noted that such processes did not exist in all sub-regions. The importance of regional migration agreements, such as the EAC Common Market Protocol, which came into force in July 2010, and the SADC protocol on free movement, which has yet to be finalized, was also noted. These agreements provide the necessary legal and political frameworks for increased migration between States. More concerted efforts are needed, however, to finalize these agreements and/or to implement them at the national level.

Finally, at the international level, States were encouraged to sign and ratify those international instruments that codify the rights of migrant workers, including foremost the International Convention on the Rights of Migrant Workers and their Families.⁴

An important observation by participants was that even where legal migration frameworks have been established, potential migrants are not always aware of them, such that they still turn to smuggling networks to travel by irregular means, or they are unable to access them, and the job opportunities they present, due to heavy bureaucratic processes and high application costs. Awareness-raising campaigns and counselling on the dangers of irregular migration, as well as simplified application procedures and reduced application costs, were noted as potential responses to these problems.

The issue of irregular stay was also addressed by participants, in addition to that of irregular movement. Participants noted that regularization programs can not only play an important role in breaking the links between migrants and criminal networks, but can also have a positive impact on national and local economies. A number of States have successfully implemented regularization programmes, granting legal status to long-staying undocumented migrants and bringing them into the legal labour market.

The potential economic benefits of legal migration were raised on a number of occasions. States and other stakeholders, including the private sector, were encouraged to map the profiles of migrants, both in their countries of origin and in their countries of destination, to match available skills with labour demands and development needs. The need to license and regulate employment agencies in both countries of origin and destination was also seen as necessary to reduce instances of exploitation.

⁴ UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, 18 December 1990, A/RES/45/158.

Recommendations:

- i. *States should consider signing international instruments addressing the rights of migrant workers, most notably the International Convention on the Rights of Migrant Workers and their Families, and translating their provisions into national law.*
- ii. *Efforts should be made to strengthen the role and capacities of regional organizations to enhance legal migration between States. Greater coordination between regional bodies is encouraged, as well as more harmonized approaches to legal migration issues.*
- iii. *Regional Economic Communities should be encouraged to establish Regional Consultative Processes (RCPs) where they do not already exist to enhance inter-state dialogue and intra-regional cooperation.*
- iv. *Greater opportunities for legal migration should be pursued. States are encouraged to sign regional protocols for the free movement of people and to conclude bi-lateral and regional agreement allowing for the circular migration of labor. Efforts should be made to ensure that legal migration options are accessible to individuals, both in term of process and cost.*
- v. *In drafting or revising labour migration policies, States are encouraged to implement the guidelines of the 2005 Multilateral ILO Framework on Labour Migration and to replicate good practices mentioned therein.*
- vi. *Stakeholders should increase activities to better inform migrants and refugees about legal migration options and to alert them to the risks and dangers of irregular migration. Employment agencies in countries of origin and destination should be established and regulated to avoid exploitation of potential migrants.*
- vii. *States should further explore regularization programs for long-staying irregular migrants.*
- viii. *States are encouraged to integrate migration into national development policies and poverty reduction strategies to enhance the development impact of migration.*
- ix. *States should formulate national migration policies in accordance with the Africa Union continental migration policy frameworks for policy coherence and effective migration management.*

III. Ensuring protection for refugees arriving in mixed migratory movements

The protection of refugees in the context of mixed migratory movements is a growing challenge for States and other stakeholders in the region. The 1951 Refugee Convention,⁵ its 1967 Protocol⁶ and the 1969 OAU Refugee Convention⁷ set out the legal obligations of States in ensuring that refugees are able to find safety from persecution and armed conflict. Ensuring that those obligations are respected, however, can be difficult, especially when there are not only refugees, but also other people who are crossing borders for a variety of reasons.

Participants highlighted positively the long tradition of refugee protection in many countries in the region, some of which have hosted refugees for decades. Yet, it was noted that the increase of mixed and irregular movements in the regions has stretched the capacities of some asylum systems, undermining their perceived legitimacy and placing at risk the rights of refugees, including the right to seek asylum and the fundamental principle of *non-refoulement*.

Participants repeatedly noted the need to integrate and mainstream refugee protection within broader State migration management policies. It was acknowledged that the two issues could no longer be addressed separately. Some participants noted, for example, that the lack of avenues for legal migration in South Africa often compels people to apply for asylum to regularize their stay, thus burdening the asylum process with unfounded claims and making it more difficult for those in need of protection to access it. Many participants recognized the need to review asylum legislation and policies in light of new migration realities. Malawi's decision to embark on a review of its refugee legislation was noted positively in this regard, as was the South African government's stated intention to proceed with its own thoroughgoing review exercise.

Reception and identification of refugees

A number of participants noted concerns about the detention of asylum-seekers and refugees, especially in local prisons, due to their irregular arrival in a host country. There was general consensus that the detention of asylum-seekers and refugees should be avoided and that alternatives to detention should be identified where possible. If detention is deemed necessary, it was agreed that asylum-seekers and refugees should have access to UNHCR, legal representatives and civil.

Participants noted the particular difficulties in identifying persons in need of refugee protection among mixed migratory flows. The need for differentiated screening procedures at the time of arrival was noted in this regard, as was the use of reception centres in border regions. These issues are discussed further under "*Different people, different needs*", *infra*, at section V.

The adequacy and effectiveness of procedures to determine the refugee status of individual applicants was also discussed. Concerns were expressed that national refugee status determination (RSD) procedures often take too much time, that the quality of decisions require improvement, and that institutions are not adequately equipped to deal with large numbers of applications. Lack of

⁵ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137.

⁶ UN General Assembly, *Protocol Relating to the Status of Refugees*, 30 January 1967, United Nations, Treaty Series, vol. 606, p. 267.

⁷ Organization of African Unity, *Convention Governing the Specific Aspects of Refugee Problems in Africa* ("OAU Convention"), 10 September 1969, 1001 U.N.T.S. 45.

translation services and the absence of appeal procedures were also identified as weaknesses in some asylum systems. The granting of refugee status on a *prima facie* basis for those nationalities where protection needs were evident, most notably for asylum-seekers from south-central Somalia, was also noted as a means of alleviating pressure on over-burdened asylum systems and to focus resources on more complex individual cases.

Secondary movements and durable solutions for refugees

The nature and underlying reasons for secondary movements of refugees within the region prompted significant discussion. The use of refugee camps as transit “way stations” to destinations further south, as documented recently in Malawi and Mozambique, was noted with particular concern. It was noted that such movements deplete scarce public resources and undermine public and government support for the institution of asylum.

It was generally acknowledged that the reasons for secondary movements are complex and require further study. A number of participants, however, drew attention to the linkage between secondary movements and the quality of asylum and availability of durable solutions. Once recognized as refugees, it was noted, individuals require access to documentation, employment, income-generating opportunities and freedom of movement to become self-sufficient and to more fully realize their human rights. Absent such opportunities, many will decide to move on. Many States maintain reservations to the 1951 Convention on the Status of Refugees restricting freedom of movement and access to employment for refugees, thereby diminishing the quality of asylum in those countries.

In this context, government encampment policies for refugees received extensive discussion. Several participants encouraged States with encampment policies to re-assess whether alternatives existed that could allow for greater freedom of movement, especially to urban areas. South Africa’s approach of allowing refugees and asylum-seekers freedom of movement and access to the employment market and public services was noted. One State reported that it was moving towards a system of allowing certain refugees access to urban areas, such as those who are able to become self-sufficient, while maintaining camp settings for those with particular protection or assistance needs. The experience of Mozambique, where refugees who achieve self-sufficiency are allowed to move out of the camp and settle in towns, was also noted. Here, refugees practically live with the local community, which in turn benefits from services made available in the camps, such as health and education programmes.

In responding to the phenomenon of secondary movement, participants noted the need for comprehensive strategies to be developed with the involvement of all key partners, including affected States, local populations and refugees themselves. Several participants pointed to the importance of informing recognized refugees about the risks and dangers of onward movement to the south. The creation of greater legal migration options for refugees could be one way of reducing irregular secondary movement in the region.

Training and capacity-building

Throughout the discussions on refugee protection and mixed movements, participants reiterated the importance of capacity-building and training of key national and regional stakeholders. It was

mentioned that UNHCR's expertise and technical assistance has been instrumental in addressing the challenges of refugee protection in the context of mixed migratory flows, with UNHCR's 10-Point Plan of Action on Refugee Protection and Mixed Migration mentioned as a particularly useful tool.

Given the complexities of mixed movements and the number of stakeholders involved, participants recommended that training measures be extended to a wider range of actors, including not only those government departments with an explicit refugee portfolio, but also those persons that come into contact with refugees and asylum-seekers on a regular basis, such as immigration, border and police officials, as well as civil society partners.

Recommendations:

- i. States should review and strengthen their national asylum policies and procedures to ensure that they are fair and efficient and adequately respond to the nature of mixed migratory movements.*
- ii. Capacity-building efforts should be increased, with a focus not only on those institutions and government officials with specific refugee portfolios, but on all officials and civil society partners that come into contact with refugees and asylum-seekers, in particular "first contact" officials at national border points.*
- iii. While States have the primary responsibility to identify and provide protection to refugees, UNHCR and other partners should continue to play a supportive role in these efforts.*
- iv. The granting of refugee status on a prima facie basis to persons fleeing generalized violence should be considered so as to reduce delays in asylum adjudications and allow for the more strategic use of asylum resources.*
- v. States are encouraged to re-visit existing encampment policies and to offer greater opportunities for self-reliance and freedom of movement outside of refugee camps where possible. States are encouraged to lift related reservations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.*
- vi. The detention of asylum-seekers and refugees should be avoided. If detained, asylum-seekers and refugees shall have access to UNHCR, civil society and legal representatives should be ensured.*
- vii. Regional strategies on secondary movements should be developed based on principles of cooperation and burden-sharing and informed by research and consultation on the nature and underlying reasons for the onward movement of refugees.*

IV. Managing borders and addressing security concerns while ensuring protection

Several countries in the region have vast and porous borders with numerous entry points, both official and unofficial, by land, sea and air. These borders can be difficult to manage, with governments tasked to not only facilitate the legal movement of goods and people, but also to prevent and respond to potential cross-border criminal activities, such as human trafficking and smuggling and terrorism. In undertaking these efforts, States are obliged to ensure that international protection standards are maintained and that persons in need of protection can effectively access the territory.

During the Regional Conference, participants expressed concerns that efforts to increase border control and security and to improve access to international protection have been approached along separate tracks by governments and others, with their objectives often portrayed as mutually exclusive. Such an approach was seen by participants as increasingly untenable given the nature of mixed movements and human mobility patterns in the region in general. Participants emphasized the need to approach border management in a more holistic way, linking together stakeholders with both security and protection perspectives to ensure that a proper balance between these two imperatives is struck.

Participants called on States and other stakeholders to more closely examine the linkages between security and protection measures at the legislative, policy and operational levels. Enhancing legal migration opportunities was seen as an important response to irregular migration and the security and protection issues that flow from it. State ratification of regional protocols for the free movement of persons, as well as the conclusion of regional and bi-lateral agreements for circular migration policies, for example in the agricultural sector, were seen as important steps in this regard. (See, “Enhancing legal migration,” *infra*, at section II.) Participants also noted the need to ensure that legal frameworks to human trafficking and smuggling addressed both the criminal and protection/assistance elements of these activities and urged States to ratify and implement the 2000 UN Protocol Against the Smuggling of Migrants, by Land, Sea and Air⁸ and the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.⁹

At the operational level, participants noted a number of areas where greater synergies between security and protection objectives could be forged effectively. In general, participants noted the need for border officials to have better procedures and tools to identify those who are engaged in criminal activities and those who are in need of international protection and assistance. Increased training for border and immigration officials on the possible protection needs of those who move irregularly would allow for more informed and focused law enforcement responses to mixed migration movements. Complementing efforts at the legislative/policy level, enhanced training for government officials and civil society partners on trafficking and smuggling would also better enable law enforcement personnel to apprehend and prosecute those who profit from such activities while responding to those who have been victims of exploitation and abuse.

⁸ UN General Assembly, *Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000.

⁹ UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000.

One positive example that was identified of a law enforcement training programme with a clear protection component was the Tanzania Regional Immigration Training Academy (TRITA) in Moshi, which is jointly financed and operated by the Tanzanian Government and IOM. Within the TRITA, IOM, in cooperation with the Tanzanian government, has also established the African Capacity Building Centre (ACBC), which has been instrumental in providing training and technical assistance on migration management to law enforcement officials, including immigration, police and border officials, and consular officials from a number of countries in the region. The ACBC also provides in-country training for governments, regional institutions and NGOs in Africa as a whole.

Overall, participants highlighted the need for greater coordination and cooperation between the range of actors involved in border management and protection activities, both at the national and regional level. Some participants suggested the need for the “collective management of borders,” with a specific proposal for the establishment of “multi-stakeholder border management teams” at the national level. At a minimum, these teams would bring together different government ministries with an interest in border management and protection issues. These teams could also, however, include government actors, international organizations and civil society, establishing a more expansive coordination mechanism. At the regional level, greater information-sharing between States was viewed as critical to border management and protection efforts. Participants emphasized the need for States to work together in managing borders and called on regional organizations to play a facilitating role in increased State coordination. (See also, “Enhancing coordination and cooperation,” *infra*, at section VIII.)

Recommendations:

- i. *States are encouraged to consider developing “multi-stakeholder border management teams,” either between different government ministries or between government, civil society and international agencies, as an approach at the national level to ensure a coordinated response to border management and protection activities.*
- ii. *All stakeholders, including civil society organizations, should enhance cooperation in critical border areas, improve coordination of activities and facilitate the exchange of information and expertise.*
- iii. *Increased training for all key stakeholders, including border officials and law enforcement personnel, on the possible protection and assistance needs of persons who move irregularly should be provided.*
- iv. *States are encouraged to ratify the UN Protocol Against Smuggling of Migrants by Air, Sea or Land and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, if they have not already done so.*
- v. *State efforts to respond to trafficking and smuggling should be enhanced, both from a law enforcement and protection perspective. Legislation and policy should be reviewed to ensure that those who profit from trafficking and smuggling are subject to criminal penalties, while*

those who are victims of exploitation and abuse receive protection and assistance as needed. Training should be provided to law enforcement personnel and civil society on the legal and practical aspects of trafficking and smuggling.

- vi. States are encouraged to utilize the Tanzania Regional Immigration Training Academy (TRITA) and the African Capacity Building Centre (ACBC) in Moshi, Tanzania, to meet their training needs.*
- vii. Regional or sub-regional working groups could be established to assess country situations and make concrete recommendations on how both security and protection standards can be fulfilled.*

V. Different people different needs: determining profiles and responsibilities

A challenge for States and other stakeholders in responding to mixed migratory movements is determining the profile of those who are crossing their borders irregularly and responding to their different needs upon arrival. Those travelling may be refugees or asylum-seekers, fleeing armed conflict or persecution; victims of trafficking, escaping their exploiters and trying to find safety; unaccompanied or separated children; or persons who have escaped exploitation and are simply trying to return home. Others may be moving primarily to improve their economic situation, some hiring smugglers to transport them to their intended destination where they had planned to seek employment, but then becoming victims of abuse and violence while *en route*. States require the tools and mechanisms necessary to identify these individuals and to ensure that their specific protection needs are addressed.

Reception arrangements, profiling and referral mechanism

Several participants underlined the importance of having proper screening mechanisms in place at border crossings and ports of entry to identify after arrival the assistance and protection needs of those entering the country. Once identified, these individuals should be referred to specialised agencies and procedures to manage their cases and to meet these needs. In the view of participants, effective profiling and referral mechanisms are the “backbone” of any State’s protection response to mixed migration flows. The practice in Uganda of referring victims of torture to civil society organizations that provide care and counselling was cited as an example of an effective referral mechanism.

The need for proper reception arrangements for arriving refugees and migrants was also noted. Several participants suggested that reception centres¹⁰ be established where governments and civil society partners could profile arriving individuals, address any immediate needs for assistance and care, and initiate refugee status determination procedures for those seeking international protection. When locating and designing reception centres, protection considerations should be taken into account, for example, through the inclusion of child-friendly spaces and family

¹⁰ The term “reception centre” has also been used to describe facilities that receive and assist migrants upon return to their home countries following either a voluntary departure or deportation from their host countries, as well as facilities that assist in the processing of migrants in the host country prior to their return home.

accommodations and measures that take into account any safety risks for women and former victims of trafficking. Post-arrival counselling was seen as a crucial element in identifying specific protection and assistance needs.

While there was general acknowledgment of the usefulness of reception centres, a variety of practical questions and caution points were also raised. For example, issues such as who would finance the reception centre and who would operate it would need to be addressed, as these factors could affect the character and functions of the centre. Some participants also cautioned that reception centres may serve as a magnet for smugglers and traffickers or evolve into “rest and recuperation” facilities for those who intend to move onward further south, as has occurred with some refugee camps and other facilities in the region.

Participants also emphasized the need to increase the capacity of government officials and civil society partners to recognize and respond to the potential protection and assistance needs of those who move irregularly. Training programs should be established, if not already done so, to sensitize police and immigration officials on the rights of refugees and migrants and the specific protection needs they might have (e.g., children, victims of sexual and gender-based violence and torture survivors). They should be made aware of the tools and mechanisms in place for identifying these individuals and for referring them to specialized agencies and procedures for further action.

Finally, the importance of coordination between different stakeholders, including foremost the different ministries within a government, was also underlined. It was suggested to develop joint standard operating procedures (SOPs) among government ministries to ensure clear divisions of responsibility and cooperation. Participants acknowledged the important role non-governmental organizations play in the identification and delivery of services to asylum-seekers and irregular migrants and called on States, development partners and international and regional organizations to further empower NGOs to undertake this work. Networks among NGOs, both within their own countries and across borders, could further strengthen response mechanisms.

Refugees and Asylum-Seekers

Several participants at the Regional Conference underlined the importance of ensuring that refugees and asylum-seekers are referred to the asylum authorities for a proper examination of their refugee claims. A speedy identification of refugees and other persons in need of international protection can also help to prevent those without international protection needs from using the asylum system to legalize their stay, resulting in a loss of public confidence in the asylum system. (For further discussion, see, “Ensuring protection of refugees arriving in mixed migratory movements,” *infra*, at section III.)

Children

Participants at the Regional Conference underscored the particular risks faced by children in mixed movements, especially if they are unaccompanied or separated, and the need to ensure that protection responses accommodate these needs. Exploitation, abuse, and sexual violence, especially towards girls, occur frequently. Recruitment into armed groups and forces is also not uncommon.

The detention of unaccompanied and separated children, sometimes only for lack of better alternatives, was an issue of particular concern for participants. Participants urged the establishment

of specific shelters for children, equipped with persons with expertise in child protection who can register and identify the children, address their most urgent needs, and undertake a Best Interest Determination (BID) as soon as possible.

Family reunification was identified as a key aspect of any protection response for separated and unaccompanied children. It was noted that the separation of children from parents, families and communities can have devastating effects on children and may lead to a loss of cultural links and identity. The sooner a child is identified and family tracing can begin, the better are the chances of successful family reunification. That said, participants noted that, in some circumstances, parents do not or cannot fulfil their responsibilities towards their children. In such cases, return to the family may not be in the best interest of the child and alternative arrangements should be found.

Finally, participants reiterated the obligations of States with regard to children as codified in the 1989 Convention on the Rights of the Child¹¹ and the 1990 African Charter on the Rights and Welfare of the Child.¹² Other stakeholders, such as civil society, international organizations, should support the State in the implementation of these obligations.

Trafficked persons

Participants expressed particular concern during the Regional Conference about the trafficking of women and children. When discovered, they are often detained in jail, adding to the trauma and abuse they may have already experienced in the trafficking process. There was a call to all States to ratify the 2000 *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*.¹³ Participants pointed out that a proper legal framework for combating human trafficking can help to prevent or prosecute this crime. It was suggested that States analyze whether existing legal frameworks need to be amended in this regard. It was also noted that the opening of more legal migration channels would reduce the number of people falling victim to human trafficking and smuggling and further efforts were encouraged to this end. (See, “Enhancing legal migration,” *infra*, at section II.) Finally, participants noted that States should grant refugee status to trafficked persons if they satisfy the refugee definition and encouraged States to consider regularizing the stay of persons who have been trafficked through the issuance of special visas for trafficking victims.

Recommendations:

- i. *States, in cooperation with other stakeholders, are encouraged to establish profiling and referral mechanisms at border points to identify as soon as possible the specific needs of those arriving, the delivery of protection and assistance, and the proper management of their cases. Joint Standard Operating Procedures for all relevant actors should be established to ensure coordinated response and referrals. International agencies should provide technical expertise in this process.*

¹¹ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p.3.

¹² Organization of African Unity, *African Charter on the Rights and Welfare of the Child*, 11 July 1990, CAB/LEG/24.9/49 (1990).

¹³ UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000.

- ii. *States are encouraged to establish reception arrangements, including, where appropriate, reception centres, that provide an appropriate space to interview and process individual cases. Detention of asylum-seekers and irregular migrants should be avoided.*
- iii. *Counselling should be provided to asylum-seekers and irregular migrants soon after arrival. Civil society organizations are encouraged to provide their specific expertise in this regard.*
- iv. *States should open mechanisms that already exist for nationals with specific needs (such as mechanisms for children or victims of sexual violence) for migrants and refugees with similar needs. Good practice examples here are the Kenyan children officers, child friendly spaces etc.*

Children

- v. *All stakeholders should be aware of heightened risks for children on the move, especially for those who are unaccompanied and separated. Capacity building and training of responsible government officials and other stakeholders is recommended to ensure specific expertise on children's issues.*
- vi. *States should avoid the detention of children and provide alternatives to detention whenever possible.*
- vii. *States should undertake best interest determinations for separated and unaccompanied children after arrival. Family reunification should be pursued as soon as possible after identification, unless not deemed appropriate.*

Trafficked persons

- viii. *States are encouraged to ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children if they have not already done so.*
- ix. *States are encouraged to review their national legislation to determine whether adequate protection safeguards are in place for victims of trafficking and whether measures for the deterrence of trafficking and the prosecution of traffickers are included. Victims of trafficking should be identified and referred for assistance and protection and should not be criminalized.*
- x. *States are encouraged to consider the granting of permits to victims of trafficking to allow them to remain in host countries and to access assistance and protection as needed. Should a trafficking victim satisfy the refugee definition, States should grant him or her refugee status accordingly.*
- xi. *All stakeholders should work together to improve reception arrangements for victims of trafficking. Specific reception centres for women and children, staffed by persons with expertise on trauma and abuse, are recommended in this regard.*

VI. Return of persons not in need of international protection

The return of persons not in need of international protection poses significant challenges for States, both at a policy and operational level. The profiles of those subject to return vary and include rejected asylum-seekers, irregular migrants, and others. Coordinating and financing returns can be difficult and the safety and dignity of those returned is not always maintained.

Participants at the Regional Conference agreed that the issue of return is one which requires close coordination and cooperation among affected States, including countries of origin, countries of transit and destination countries. The conference Background Paper drew attention to the problems, for example, of unilateral returns to countries of transit. Oftentimes, those deported simply re-cross the border at a later date to continue their journey southwards, again using the services of smugglers and transnational criminal networks and again subjecting themselves to possible abuse and exploitation. Bilateral and/or sub-regional return and re-admission agreements for persons found not to be in need of international protection would provide greater predictability and due process guarantees in the return process, and possibly yield greater success in stemming southwards flows.

The importance of re-integration assistance was highlighted by participants as critical to the success of any return process. Countries of origin need to develop re-integration strategies to ensure that those returned are able to sustain themselves and access social services that they may need. Participants highlighted positive examples of re-integration assistance that have been developed in certain countries, including, for example, the establishment of re-integration centres for women in Ethiopia. Centres such as these may be particularly important for victims of trafficking, who may fear being identified and targeted by their traffickers upon return.

Participants highlighted the important role to be played by all stakeholders in return and reintegration efforts. IOM's role and assistance in returning persons not in need of international protection was mentioned very positively by participants. IOM has, for example, assisted the government of Tanzania by providing assistance to over 1,000 smuggled migrants with voluntary return in a safe and dignified manner to their countries of origin. Greater financial assistance by donor countries for these return programmes is needed and should be included in national development assistance plans. Financial and technical assistance for reintegration efforts is needed from donor countries and international organizations to better ensure that return efforts are successful.

Participants also noted the need for international organizations to cooperate more closely among themselves, as well as with other national stakeholders. The importance of civil society organizations, including diaspora communities in host countries, was also highlighted given the different needs that may arise during the return process. Participants further emphasized the need to capacitate individual returnees themselves, for example, through pre-departure and post-arrival counselling.

Finally, participants at the Regional Conference stressed the need to look at the issue of return holistically, ensuring, for example, that return decisions are correctly made and determining

whether options other than return might exist. Participants stressed in particular the need to ensure that asylum-seekers are identified before removal is effected and that their refugee claims are properly considered so as to ensure that the principle of *non-refoulement* is respected. The importance of enhancing legal migration options for all migrants and asylum seekers was also highlighted as an alternative to return.

Recommendations:

- i. *States are encouraged to sign bilateral and sub-regional agreements with other affected States on return and readmission of persons found not to be in need of international protection, with appropriate safeguards included.*
- ii. *While States are primarily responsible for the humane return of rejected asylum seekers and those migrants with deportation orders, international organisations can assist States in cases of voluntary return. Funds for voluntary returns should be allocated within national development assistance plans of each country in need.*
- iii. *Countries of origin, transit and destination should establish mechanisms to consult regularly on return arrangements. States affected by southerly mixed migration flows are encouraged to develop a joint strategy for the return of persons not in need of international protection. Other stakeholders, such as international organizations and civil society organizations, may assist in the development of such a strategy to ensure a comprehensive approach to the issue.*
- iv. *All stakeholders should work closely together to develop and finance reintegration strategies for returnees. Good practice examples such as the reintegration centre for women in Ethiopia should be replicated.*
- v. *All stakeholders should enhance information-sharing to intending migrants on conditions in countries of transit and destination. For those subject to return, pre-return counselling should be provided to facilitate the reintegration process.*

VII. Data collection and information gaps

Accurate and timely refugee and migration data collection and analysis and dissemination are essential for an effective understanding of and response to mixed migratory movements in the region. This requires, however, a significant investment of time and resources. Clear data collection objectives must be established, well-defined methodologies put in place, and rigorous data analyses undertaken, before reliable and meaningful data can be used by policy-makers.

The need for improved data collection was a cross-cutting theme that ran throughout a number of the Regional Conference working groups. Participants repeatedly noted that there was relatively little information available on either the quantitative or qualitative dimensions of mixed movements from the East and Horn of Africa and Great Lakes region towards Southern Africa. Various reasons for this lack of information were identified, including the inherently clandestine nature of mixed migratory flows, the failure to prioritize data collection and analysis among government

programmes, the lack of resources to invest in data collection efforts, and an absence of coordination and information-sharing between data-holders.

As an initial step in addressing this information deficit, participants noted the need to better understand what data and information is already being collected in the area of mixed migration and what research capacities exist to analyze it. Mapping exercises, both at the national and regional levels, would help to determine what issues are being studied by whom and where information and capacity gaps exist. Similarly, a comprehensive review should be undertaken of the range of raw data that is being collected by government agencies and other stakeholders as part of their ongoing operations.

Participants agreed that government agencies, international and regional agencies and civil society organizations would benefit from better instruction, training and practical tools on data collection. Research institutions and international agencies are important actors in this regard. In general, the critical role of research institutions and universities in better understanding mixed migration in the region was repeatedly noted. Participants urged governments and development partners to provide greater financial support to these institutions to undertake the necessary research to fill the information gaps that exist on different aspects of mixed migratory movements in the region.

Participants also noted the need for greater access to, and sharing of, mixed migration data and information. While different actors have in the past collected data on mixed movements in the region, participants saw opportunities for more comprehensive and coordinated data collection and analysis. Participants urged all stakeholders to better define their respective data collection roles and to facilitate the exchange of information between them. Proposals were made to establish national and regional databases on specific aspects of mixed movements, with regional organizations potentially playing an important role in this regard. Factors such as capacity, sustainability and funding would need to be considered before undertaking such an initiative.

The challenges of data sharing between different actors were also noted. Participants noted the importance of establishing clear guidelines before undertaking data-sharing in a more systematic manner between stakeholders. The concern that data on migration can be manipulated was noted. In terms of guidelines, participants emphasized the need to ensure that the confidentiality of personal data, especially for asylum-seekers, refugees, trafficked persons and others who may be at risk of harm if individually identified, was maintained. Participants urged stakeholders to use aggregate and trend data wherever possible so as to avoid exposing individual identities. Participants called for the development of standardized procedures and protocols that would address these ethical and data protection concerns.

The important role of international organizations in the area of data collection and analysis was also noted. IOM's 2009 field study, *"In Pursuit of the Southern Dream: Victims of Necessity,"* was noted as one of the few comprehensive studies on mixed migratory movements from the Horn of Africa, particularly Ethiopia and Somalia, to South Africa. It was noted that follow-up studies should be undertaken to shed further light on travel routes used in these movements, the motivations and needs of persons on the move and the practices of smuggling networks in the regions. Participants also positively commented on the conference Background Paper, jointly prepared by UNHCR and IOM, which served as the basis for discussions during the Conference. Participants encouraged

international organizations to use their differentiated technical expertise to work more closely together to gather and analyze data on mixed movements.

Participants of the Regional Conference also identified various areas of research requiring greater attention. While a fair amount of research has been undertaken on mixed migration patterns to and within South Africa, there has been relatively little research on these patterns in the major transit countries, such as Malawi and Mozambique, as well as on to destinations beyond South Africa. Similarly, the conference Background Paper highlighted the dearth of research regarding mixed migratory movements in the Great Lakes region.

Throughout these discussions, participants identified the development of common standards and criteria for the collection and analysis of data on mixed movements as a key challenge. Participants repeatedly stressed that a high level of technical expertise, integrity and sensitivity is required for such a comprehensive exercise.

Recommendations:

- i. Mapping exercises should be undertaken at the national and regional levels to identify existing data and research sources on mixed migration in the region, as well as existing research capacities. Information and capacity gaps should be identified as part of this exercise.*
- ii. All stakeholders are encouraged to follow-up on the main findings of already existing research and studies and to consider implementing relevant and appropriate recommendations as necessary.*
- iii. Stakeholders are encouraged to develop common standards and criteria for the collection and analysis of data on mixed movements. Technical assistance and training should be provided to government agencies and other stakeholders on how to collect data and to ensure its reliability.*
- iv. All stakeholders are encouraged to enhance cooperation on data collection and information sharing. Data-sharing protocols should be developed at the national and regional level to ensure that individual data is protected and that confidentiality of personal information is maintained.*
- v. States and development partners are encouraged to prioritize funding for universities and academic institutions to undertake research on mixed movements. International organizations should support these efforts through the provision of technical expertise.*
- vi. State and national research institutions are encouraged to coordinate and collaborate on research projects to maximize resources and allow for increased regional analyses. International and regional organizations should facilitate regional linkages to avoid duplication of efforts.*
- vii. All stakeholders should strengthen the capacities of regional organizations to collect and analyze data on mixed movements. The feasibility of creating regional or sub-regional data bases on mixed movements should be explored.*

- viii. *Research on mixed movements should be broadened beyond the situation of South Africa, with particular attention paid to the situation of transit countries, the dynamics of mixed migration in the Great Lakes region, and the nature of mixed movements beyond South Africa, such as toward Australia, Europe and North America.*

VIII. Enhancing cooperation and coordination among States, and with other actors, in responding to mixed migratory flows

Cooperation and coordination, both at the national level and regional levels, figured prominently in all of the discussions during the Regional Conference. Participants noted that refugee protection and mixed migration issues fall under the mandates and workplans of a number of national and regional actors, albeit in varying degrees and from different perspectives. There was general consensus that the efforts of these diverse actors could be more effectively harnessed in addressing both the protection and border management challenges of mixed migration in the region.

At the national level, participants at the Regional Conference noted certain institutional and policy gaps in the area of cooperation and coordination on mixed migration issues. The absence of a single ministry charged with migration management and refugee protection was identified as a primary challenge for governments in responding to mixed migration flows. Greater coordination was seen as needed among the different government ministries and departments that have an interest in this issue, be it from an immigration, law enforcement or services perspective. Inter-ministerial task forces were identified as one effective mechanism to address this coordination gap.

Participants also noted the need for greater coordination and cooperation between State and non-State actors, including international agencies and civil society organizations. The establishment in some countries of Mixed Migration Task Forces or equivalent coordination bodies were cited as good examples of how coordination at the national level could be accomplished. A number of participants also underlined the usefulness of the national consultations that preceded the Regional Conference in bringing together different stakeholders to discuss the challenges of mixed migration in a national context. In the absence of other coordination platforms, participants encouraged stakeholders to reconvene these consultations to discuss the recommendations that would emerge from the Regional Conference and the proposed Action Plan that would be developed.

At the regional level, participants noted that existing coordination fora, such as the regional organizations (COMESA, SADC, EAC and IGAD) and the Migration Dialogue for Southern Africa (MIDSA), would be appropriate vehicles for discussions and action on issues related to refugee protection and mixed migration. Parallel frameworks would complicate coordination efforts and should not be established. That said, it was remarked that regional organizations have not sufficiently prioritized issues related to mixed migration. Participants noted the critical role that regional organizations could play in facilitating regional approaches to refugee protection and mixed movements and in enhancing the exchange of information, data and best practices between countries. Participants called on the Member States of these organizations to ensure that mixed migration issues feature prominently on the regional organizations' agendas. Participants noted as well that sub-regional efforts could be complemented by bi-lateral arrangements between States on specific mixed migration matters, such as return arrangements and secondary movement of refugees.

The added value of the Regional Conference in facilitating coordination and cooperation at the regional level was highlighted by a number of participants, who urged States and other stakeholders to maintain the momentum of dialogue between them and to jointly implement the conference's recommendations and Action Plan. The proposal was made to reconvene the Regional Conference after two years to take stock of progress during that period and to determine next steps going forward.

Finally, while participants acknowledged the important role that international organizations have played in facilitating coordination and cooperation at the national and regional levels on refugee protection and mixed migration issues, they emphasized the need for States to take greater ownership of these efforts. Only through active engagement by States, in cooperation with each other and with other stakeholders, would effective responses to the challenges of mixed migratory movements be designed and implemented.

Recommendations:

At the national level

- i. States are encouraged to strengthen inter-ministerial cooperation. Where appropriate, States are encouraged to establish Task Forces to ensure communication and information-sharing between government agencies involved in refugee and migration issues. These Task Forces should meet on a regular basis.*
- ii. Key stakeholders at the national level, including representatives of government, civil society and international organizations, are encouraged to strengthen existing forms of cooperation, including through regular meetings and joint activities. The establishment of Mixed Migration Task Forces that meet on a regular basis could facilitate greater coordination and cooperation between governmental and non-governmental partners.*
- iii. The proposed Action Plan from the Regional Conference should be reviewed and discussed by all relevant stakeholders at the national level. In the absence of existing platforms for dialogue, the pre-conference national consultations should be reconvened to identify specific follow-up activities at the national level and the mechanisms to move the Action Plan forward.*

At the bi-lateral, sub-regional and regional levels

- iv. States are encouraged to foster greater cross-border cooperation on issues related to refugee protection and mixed migration. Initiatives such as joint trainings, increased information-sharing, and bi-lateral agreements on returns and re-admission, would better ensure the orderly and humane management of common borders.*
- v. Existing regional platforms, most notably the AU, the Regional Economic Communities and other regional bodies and forums, such as MIDSA, should be used as the fora for increased regional cooperation on refugee protection and mixed migration issues.*

- vi. *Regional organizations are urged to prioritize refugee protection and migration issues on their agendas and to dedicate the necessary human and financial resources to these issues, with the support of international organizations and development partners.*
- vii. *States are encouraged to establish, perhaps under the auspices of the regional organizations, a Regional Advisory Committee on Mixed Movements which would assist States and other stakeholders in exchanging best practices on refugee protection and mixed migration issues from the national and regional levels.*
- viii. *International organizations (such as UNHCR and IOM) should continue to build capacity of states and regional organizations and to provide technical expertise to support national and regional initiatives.*
- ix. *A “stock-taking” conference should be convened in 2012 to measure progress in the implementation of the recommendations emerging from the Regional Conference.*

Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa

Dar es Salaam, Tanzania, 6-7 September, 2010

Action Plan

Introduction

On 6 and 7 September 2010, the Government of the United Republic of Tanzania, with the support of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), hosted the *Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa* in Dar es Salaam, Tanzania. This conference was convened to discuss the growing phenomenon of mixed movements and irregular migration from the East, Horn, and Great Lakes sub-regions to Southern Africa, an issue that was becoming of increasing concern to States and other stakeholders. During the Regional Conference, a number of concrete recommendations were made as to how States, civil society, and international and regional organizations could jointly address the main challenges presented by these movements. These recommendations, and a summary of the discussions that surrounded them, can be found in the Conference Summary Report.

The Regional Conference was the culmination of a process that began *before* the conference, most notably through national consultations that were convened in most of the participating countries to discuss the key themes and issues for discussion. During the Regional Conference, however, the participants stressed that the meeting should not only serve as a forum for discussion, but also as a catalyst for concrete action *after* the Conference, both at the regional and the national level. The participants agreed that an Action Plan was needed as a complement to the Summary Report, in order to guide and assist stakeholders in planning and implementation of concrete follow-up activities.

The Action Plan is structured around six main areas that emerged from discussions during the Regional Conference: (1) Legislative reform and review of policy, (2) Capacity-building, (3) Operations, (4) Outreach, (5) Data Collection and Analysis and (6) Cooperation and Coordination. General targets are recommended in relation to each area, in order to provide a basis for evaluating progress, when the Regional Conference reconvenes, as proposed, in two years.

The Action Plan provides a flexible framework for pursuing implementation of the key recommendations from the Regional Conference, as reflected in the Summary Report. The Plan proposes a non-exhaustive “menu of actions” in relation to each main theme, which reflects the richness of the discussions in Dar es Salaam. It is not expected that each country will undertake each of the activities, but rather will identify those activities that can be adapted to the national context in a meaningful and effective way. It is understood that some of these activities may be contingent on the availability of external funding. The proposed targets are meant to set realistic benchmarks encouraging and inspiring concrete actions by all stakeholders. They may, however, be reviewed and adjusted while moving along with discussions at national and regional levels.

The Action Plan is addressed primarily to the participating governments, but the role and contributions of other key stakeholders, such as international and regional organizations, civil society organisations, the academic community and development and humanitarian partners, should also be clear.

Implementation of the recommendations emanating from the Regional Conference will require effective and continuing cooperation, coordination and partnership among key stakeholders, both at the national and regional levels. During the Regional Conference, participants recognized the value of the national consultations as a platform for dialogue at the national level and suggested that governments consider reconvening national stakeholder meetings to discuss the outcomes of the Regional Conference and to define national priorities and targets, within the framework provided by the Action Plan. Specific recommendations

were made to ensure follow-up mechanisms on the Conference Action Plan, both at the national and regional levels. It was also agreed that the regional conference was a crucial opportunity for states to meet, discuss and cooperate as the mixed migration movements require multilateral approaches and solutions.

At the regional level, the African Union (AU) and the Regional Economic Communities (RECs), including the EAC, SADC, IGAD and COMESA, will be important partners in moving the Action Plan forward, providing a platform for continued dialogue and collaboration. Member States to these bodies are encouraged to ensure that issues related to refugee protection and mixed migration are appropriately prioritized and resourced. For their part, UNHCR and IOM remain committed to working closely with States and non-State partners in the implementation of the Action Plan and to assist in the coordination of follow-up activities. UNHCR and IOM have agreed to undertake a number of joint regional activities that were recommended during the conference, including the organization of regional workshops, the development of a training module on refugee protection, mixed migration and irregular migration, and targeted research on mixed migration flows in the region. UNHCR and IOM have also agreed to establish a working group in the region to facilitate coordination of Action Plan activities at the national and regional level, to support the development of UNHCR/IOM joint activities and to monitor progress on the proposed targets.

I. Legislative and policy reform

During the Regional Conference, many of the discussions pointed to the need for improved national policy and legal frameworks to address the challenges of refugee protection and mixed migration flows. A number of specific areas for action were identified. These included ratification of relevant international instruments, elaboration of bi-lateral and regional migration frameworks, and formulation of legislative and policy reforms on such issues as refugee protection, counter-trafficking/smuggling, legal migration and child protection. It was recognized that where efforts should be focused would depend on the national context and, as such, should be discussed among national stakeholders. UNHCR and IOM indicated their preparedness to provide technical assistance as necessary in undertaking these activities.

Targets

By 2012

- ⇒ *Implementation of comprehensive legislative review* in at least four countries with technical assistance from UNHCR and IOM.
- ⇒ *Initiation/implementation of legislative/policy reform* in at least two of the priority areas identified below in at least six countries.

Menu of Actions

International and regional instruments	<i>Conference Recommendation(s)</i>
➤ Sign and ratify main international and regional human rights treaties (e.g., ICCPR, CAT, ICESCR, CRC Optional Protocol, CEDAW, Kampala IDP Convention, 1954 and 1961 statelessness conventions).	I (i), (ii) II (i)
➤ Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.	II (i)
➤ Sign and ratify the UN Protocol Against Smuggling of Migrants by Air, Sea or Land and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.	IV (iv)
➤ Lift reservations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.	III (v)
Bilateral and regional frameworks for legal migration	
➤ Elaborate bi-lateral and regional agreements allowing for circular labor migration.	II (iv)
➤ Sign, ratify and/or implement regional protocols for the free movement of persons (e.g. the 2010 EAC Common Market Protocol and the SADC Protocol on the Facilitation of Movement of Persons).	II (iv)
Refugee protection	
➤ Review and reform, as necessary, national asylum policies and procedures to ensure that they are fair and efficient and adequately respond to the nature of mixed migratory movements.	III (i)
➤ Re-visit existing encampment policies and offer greater opportunities for self-reliance and freedom of movement outside of refugee camps where possible.	III (v)
➤ Grant refugee status on a <i>prima facie</i> basis to persons fleeing generalized violence so as to reduce delays in asylum adjudications and allow for the more strategic use of asylum resources.	III (iv)
➤ Establish mechanisms for refugees and migrants to report abuses to government authorities.	I (iv)

Counter-trafficking & counter-smuggling

➤ Review and reform national legislation to ensure that those who engage in human trafficking and human smuggling, and not those who are victims of these activities, are subject to criminal penalties, in accordance with international standards.	I (iii)
➤ Create effective procedures for granting permits to victims of trafficking to allow them to remain in host countries and to ensure access to assistance and protection as needed.	V (x)
➤ Ensure that domestic legislation and guidelines provided to national RSD adjudicators recognize the link between human trafficking and possible international protection needs.	V (x)

Legal migration

➤ Implement the guidelines of the 2005 Multilateral ILO Framework on Labour Migration.	II (v)
➤ Implement regularization programs for long-staying irregular migrants.	I (vii)
➤ Integrate migration into national development policies and poverty reduction strategies to enhance the development impact of migration.	II (viii)
➤ License and regulate employment agencies in countries of origin and destination to avoid exploitation of potential migrants.	VI (v)
➤ Formulate national migration policies in accordance with the African Union continental migration policy frameworks.	III (ix)

Child protection

➤ Review and modify as necessary national policies to ensure that best interest determinations (BIDs) for separated and unaccompanied children are undertaken as soon as possible after arrival.	V (viii)
➤ Review and modify as necessary national policies to ensure that family reunification is pursued as soon as possible after identification of separated or unaccompanied children, unless not deemed in the best interest of the child.	V (viii)

Detention

➤ Where restrictions of movement are deemed necessary, provide for alternatives to detention under relevant national legislation and policy, in particular for asylum-seekers, families with children, and unaccompanied or separated children.	I (iv) III (vi) V (vi)
➤ Where detention is deemed necessary, ensure that persons convicted for an administrative offence are not detained alongside persons for criminal offences. Ensure that basic due process standards and conditions of detention comply with international standards, both under applicable law and policy and in practice.	I (iv) III (vi) V (vi)

II. Capacity-building

Participants at the Regional Conference repeatedly noted the need to strengthen national and regional capacities to respond to the challenges of mixed movements in a human rights and protection-sensitive manner. From the various recommendations that emerged during the conference, different types of trainings could be identified, ranging from broad-based trainings that provide an overview of key refugee protection, migrants' rights and mixed migration issues to inter-connected stakeholders, to more targeted trainings that focus on specific aspects of mixed movements as they impact officials and practitioners in those fields. The Tanzania Regional Immigration Training Academy (TRITA) and the African Capacity Building Centre (ACBC) in Moshi, Tanzania, are valuable resources to be utilized in capacity-building efforts.

Targets

By 2012

- ⇒ *Review existing training curricula for border enforcement and immigration officials in all countries to ensure that mixed migration and refugee protection considerations are addressed.*
- ⇒ *UNHCR and IOM joint training curriculum on refugee protection and mixed migration developed at regional level.*
- ⇒ *Two joint UNHCR/IOM cross-sectoral or focused regional trainings delivered on protection and assistance needs of persons who move irregularly.*
- ⇒ *Cross-sectoral or focused national trainings on protection and assistance needs of persons who move irregularly organized in all countries.*

Menu of Actions

Delivery of Training	<i>Conference Recommendation(s)</i>
➤ Convene cross-sectoral and focused trainings for key stakeholders at national & regional levels on protection and assistance needs of persons who move irregularly.	I (iii), III (ii) IV (iii), V (v) VII (iii)

Training material

➤ Review and/ or develop national training in key sectors to ensure that mixed migration and refugee protection considerations are addressed.	III (iii)
➤ Develop joint UNHCR-IOM training curriculum on refugee protection and mixed migration for use at regional and national levels, in collaboration with partner agencies as appropriate.	VII (viii)

Key topics for training:

- *General protection and assistance needs of persons who move irregularly*
- *Refugee protection*
- *Enhancing legal migration options*
- *Information and outreach campaigns*
- *Reception conditions*
- *Trafficking and smuggling, including victim protection*
- *Data collection and analysis*
- *Meeting needs of victims of trafficking, torture and trauma*
- *Role of legal service providers*
- *Unaccompanied & separated children*

Key target groups for training:

- *Border officials and law enforcement personnel*
- *Judges, prosecutors and the practicing bar*
- *Regional organizations*
- *Direct service providers*
- *Journalists and other public information actors*
- *Civil society organizations*
- *Human rights organizations*

III. Operations

A number of recommendations that emerged from the Regional Conference had clear operational implications, especially at the national level. To implement these recommendations, action is required in such areas as border management, reception arrangements, profiling and referral mechanisms, counseling, return and re-admission arrangements, and effective complaint mechanisms. Efforts must be undertaken to establish the identified operational programmes where they do not already exist and, if they do exist, to strengthen them and make them more effective.

Targets
By 2012
⇒ <i>Pilot project initiated for the establishment of multi-stakeholder border management teams in at least two critical border regions.</i>
⇒ <i>Reception arrangements established in at least one country, including, where appropriate, reception centres, to process persons arriving in mixed movements.</i>
⇒ <i>Profiling and referral mechanisms between key stakeholders reviewed and established or enhanced in at least four countries in the region.</i>
⇒ <i>Pilot project implemented with a national human rights institution in one country to monitor the human rights of refugees and migrants and to establish reporting mechanism for cases of abuse and human rights violations.</i>
⇒ <i>Counseling program established for recent arrivals in at least two countries in the region.</i>

Menu of Actions

Profiling and referral mechanisms	<i>Conference Recommendation(s)</i>
➤ Establish profiling and referral mechanisms at border points to identify as soon as possible the specific needs of those arriving, including asylum-seekers, trafficked persons, unaccompanied minors and others, the delivery of protection and assistance, and the proper management of cases. Establish Joint Standard Operating Procedures for all relevant actors to ensure coordinated responses and referrals.	V (i)
➤ Develop “multi-stakeholder border management teams”, either between different government ministries or between government, civil society and international agencies to ensure a coordinated response to border management and protection activities.	IV(i), (ii)
Reception arrangements	
➤ Establish reception arrangements, including, where appropriate, reception centres, to ensure proper processing of individual cases upon arrival.	V (ii), (vi), (xi)
Counselling	
➤ Provide counselling to arrivals on legal migration options and on the right to seek asylum and their human rights.	VI (v) VI (v)
➤ For those subject to return, provide pre-departure counseling to facilitate their return and the reintegration process.	V (iii)
Return and re-integration arrangements <i>(see Chapter VI for cross-border and regional cooperation on return)</i>	
➤ Develop national frameworks to enhance possibilities for voluntary return, including the requirements for assisted voluntary return in national development plans and mobilizing resources from development partners.	VI (ii)
➤ Provide reintegration assistance for returnees, in particular women and children.	IV (iv)
National Human Rights Institutions	
➤ Engage national human rights institutions in monitoring human rights of refugees and migrants and in responding effectively to reports of abuse.	I (iv)

IV. Communication and outreach

Participants during the Regional Conference stressed the importance of communication and outreach in reducing irregular migration and in sensitizing host communities on the issue of mixed migration and the protection needs of those in their midst. Specific action is required by the media and other public information outlets given the potential breadth and impact of their coverage. The Action Points below seek to focus the relevant stakeholders in the field of communication and outreach on the creation or strengthening of programmes that educate both potential migrants and host communities and foster greater understanding between communities.

Targets

By 2012

- ⇒ *Pilot awareness campaigns initiated* or existing campaigns reinforced or replicated, as appropriate, in at least one country of origin, to advise potential migrants of risks and dangers of irregular migration.
- ⇒ *Pilot press campaign developed and implemented* in at least one country of the region on the positive contributions of refugees and migrants to host communities and their potential protection and/or assistance needs.
- ⇒ *One sub-regional workshop convened for journalists and public information relevant stakeholders to discuss/strategize on refugee protection and mixed migration and role of media in providing protection and assistance.* (UNHCR-IOM)

Menu of Actions

Information campaigns	<i>Conference Recommendation(s)</i>
➤ Inform potential migrants on conditions in countries of transit and destination and the risks and dangers of irregular migration, including human trafficking.	II (vi) VI (v)
➤ Inform refugees and asylum-seekers in camps and urban settings on the risks of irregular secondary movements.	II (vi)
➤ Implement national and local awareness campaigns on the positive contributions of refugees and migrants to host communities and their potential protection and assistance needs.	I (viii)
Public information workshop	
➤ Deliver national and regional workshops to journalists and other public information stakeholders to discuss/strategize on refugee protection and mixed migration and the role of media in providing protection and assistance.	I (viii) II (vi) IV (III)

V. Data collection and analysis

Participants at the Regional Conference expressed repeated concern about the lack of accurate and reliable data and data analysis on refugee protection and mixed migration issues in the region. Research at the national and regional level was seen as minimal and data-sharing, both at the national and regional levels, was considered largely absent. The Action Points below implement the conference recommendations through initiatives and programmes to map existing research findings and to fill research gaps, to increase information-sharing and joint data analyses between government agencies and other stakeholders, and to invest in research institutions at the national level to generate the data that is required to make sound policy decisions.

Targets

By 2012

- ⇒ *Mapping exercise on existing data and research undertaken and made available to all stakeholders. (IOM-UNHCR)*
- ⇒ *At least two research projects implemented that address existing geographical and/or substantive gaps in data analysis. Main findings presented to national and regional stakeholder fora.*
- ⇒ *Research study implemented on secondary movements of refugees in the region.*
- ⇒ *Pilot project initiated on systematic and comprehensive data collection and analysis at the national level in at least one country (including the development of data-sharing protocols).*
- ⇒ *National Migration Profiles developed in at least two countries in the region.*

Menu of Actions

	<i>Conference Recommendation(s)</i>
Mapping exercise	
➤ Follow-up on main findings of already existing research and studies and consider implementing relevant and appropriate recommendations.	VII (ii)
➤ Undertake research studies to identify existing data and research sources on mixed migration at the national and regional levels, as well as existing research capacities.	VII (i)
➤ Identify information and capacity gaps as part of this exercise.	VII (i)
Research priorities	
➤ Commission research beyond the situation of South Africa, with particular attention paid to the situation of transit countries, the dynamics of mixed migration in the Great Lakes region, and the nature of mixed movements beyond South Africa, such as towards Australia, Europe and North America.	VII (viii)
Collaboration with research institutions and civil society organizations	
➤ Collaborate with and mobilize increased funding for universities and academic institutions to undertake research on mixed movements.	VII (v)
➤ Collaborate with and mobilize increased funding for research activities undertaken by civil society organizations that work in strategic locations along migration routes and have specific expertise and experience on mixed movements.	VII (iv)
➤ Form national and/or regional working group to improve coordination between key partners and to facilitate the development of joint tools and training packages on data collection and analysis.	VII (iv)

Data collection and information-sharing

➤ Develop common standards and criteria for the collection and analysis of data on mixed movements at the national and regional levels with view to facilitating the sharing of data between relevant stakeholders.	VII (iii)
➤ Develop data-sharing protocols at the national and regional levels to ensure that individual data is protected and that confidentiality of personal information is maintained	VII (iii) VII (iv)
➤ Develop programmes with regional organizations on the collection and analysis of mixed movement data at the sub-regional level.	VII (vii)

VI. Cooperation and coordination

The predominant theme throughout the Regional Conference was the call by participants for strengthened national, bi-lateral and regional cooperation on refugee protection, mixed migration and irregular migration issues. At the national level, many noted the need for the establishment of inter-ministerial task forces to ensure communication between different government agencies, as well as “mixed migration task forces” to bring together government officials, civil society and international organizations. At the regional level, the role of the African Union (AU) and the Regional Economic Communities as platforms for coordination was emphasized. Specific recommendations were made to ensure follow-up mechanisms on the Conference Action Plan, both at the national and regional levels. The below Action Points seek to operationalize these recommendations in a coordinated and holistic manner.

Targets

By 2012

- ⇒ *Action Plan reviewed and discussed* by stakeholders at the national level in all countries; national action points identified and agreed upon.
- ⇒ *Inter-ministerial task forces on mixed migration established* in at least three countries.
- ⇒ *Intra-Regional Coordination mechanism on Mixed Migration established among concerned governments and the RECs (e.g. IGAD, EAC, COMESA and SADC).*
- ⇒ *Refugee protection, mixed migration and irregular migration mainstreamed into the work agendas of regional organizations.*
- ⇒ *Joint border training implemented* in at least one border region.
- ⇒ *Second Regional Conference convened* towards the end of 2012 to assess progress made on the Action Plan implementation.

Menu of Actions

	<i>Conference Recommendation(s)</i>
Cooperation at the national level	
➤ Convene meeting at national level to review and discuss Summary Conference Report and proposed Action Plan, identify specific activities to be implemented at the national level and identify mechanisms to move the Action Plan forward. In the absence of existing platforms for dialogue, re-convene pre-conference national consultations.	VIII (iii)
➤ Establish Inter-Ministerial Task Forces, to ensure communication and information-sharing between government agencies involved in refugee and migration issues.	VIII (i)
➤ Establish Mixed Migration Task Forces with relevant national stakeholders to discuss refugee protection and mixed migration issues and ensure that they meet on a regular basis.	VIII (ii)
Bi-lateral and cross-border cooperation	
➤ Organize joint cross-border trainings between immigration officials and other relevant stakeholders in critical border regions.	VIII (iv)
➤ Develop bi-lateral information-sharing protocols.	
➤ Arrange regular meetings between countries of origin, transit and destination to discuss the issue of return arrangements. Develop a joint strategy for the return of persons not in need of international protection.	VI (iii)
➤ Sign bilateral and sub-regional agreements with other affected States on return and readmission of persons found not to be in need of international protection, with appropriate safeguards included.	VI (i)
Regional cooperation	
➤ Mixed migration and refugee protection mainstreamed into the work agendas and policy documents of the regional organizations, including political and technical meetings and regional activities.	VIII (vi) VII (vi) VIII (ii)

➤ Establish and/or enhance existing Regional Consultative Processes to improve inter-state dialogue and intra-regional cooperation on mixed migration issues.	II (iii)
➤ Establish regional or sub-regional working groups to assess country situations and make more concrete recommendations on how both security and protection standards can be fulfilled.	IV (vii) VIII (vii)
➤ Convene regional conference in late 2012 to take stock of implementation of the Action Plan.	VIII (ix)

REGIONAL CONFERENCE ON REFUGEE PROTECTION AND INTERNATIONAL MIGRATION: MIXED MOVEMENTS AND IRREGULAR MIGRATION FROM THE EAST
AND HORN OF AFRICA AND GREAT LAKES REGION TO SOUTHERN AFRICA
DAR ES SALAAM, TANZANIA, 6-7 SEPTEMBER 2010

SELECTED RECOMMENDATIONS

Legislative and policy reform

- Mainstream human rights protection into all laws applicable to people arriving within mixed migratory movements
- Review and strengthen national asylum policies and procedures to ensure that they adequately respond to the nature of mixed movements

Strengthening national capacities

- Review existing training curricula and increase training on refugee protection and international migration
- Increase training for stakeholders, in particular for “first contact” officials at national border points

Data collection and analysis

- Undertake mapping exercises at the national and regional levels to identify both available data and research capacities on mixed migration and gaps that need to be filled

SELECTED FOLLOW-UP ACTIVITIES

AS ENVISAGED IN DAR ES SALAAM ACTION PLAN (2011)¹

Legislative and policy reform (*Targets set in Action Plan*)

- Comprehensive legislative reviews undertaken in at least four participating countries, with technical assistance from UNHCR and IOM
- Legislative or policy reforms initiated or implemented in at least six countries in such areas as refugee protection, legal migration, counter-trafficking/counter-smuggling, child protection and/or detention

Strengthening national capacities (*Targets set in Action Plan*)

- Existing training curricula for border enforcement and immigration officials reviewed in all participating countries
- Two joint UNHCR/IOM regional workshops delivered on protection and assistance needs of people who move irregularly

Data collection and analysis (*Targets set in Action Plan*)

- Mapping exercise on existing data and research conducted by UNHCR and IOM and made available to relevant stakeholders
- At least two research projects implemented addressing existing geographical and/or substantive gaps in data analysis

¹ In addition to the adoption of a conference Summary Report, participants to the Regional Conference also called for the development of an Action Plan to provide guidance to stakeholders on the implementation of conference recommendations, as well as a framework for monitoring progress. The Dar es Salaam Action Plan was finalized in February 2011, following issuance of the Summary Report and consultations with conference participants as to the Action Plan’s content and structure. As it is too early to undertake a comprehensive analysis of activities undertaken pursuant to the Action Plan, the column below lists some of the key targets that were established and the conference recommendations to which they correspond.

Cooperation and coordination

- Establish Task Forces at the ministerial level to ensure communication and information-sharing between government agencies involved in refugee and migration issues
- Reconvene national consultations to develop national work plans for the implementation of the main conference recommendations and the Action Plan, with technical assistance by UNHCR and IOM
- Strengthen the role of regional organizations on refugee protection and international migration

Cooperation and coordination (*Targets set in Action Plan*)

- Action Plan reviewed and discussed by stakeholders at the national level in all countries; national action points identified and agreed upon
- Inter-ministerial task forces on mixed migration established in at least three participating countries
- Refugee protection and international migration mainstreamed into the work agendas of regional organizations
- Second Regional Conference convened towards the end of 2012 to assess progress made on implementation of the Action Plan

**REGIONAL CONFERENCE ON REFUGEE PROTECTION AND
INTERNATIONAL MIGRATION IN CENTRAL ASIA**

AMALTY, KAZAKHSTAN, 15-16 MARCH 2011

Regional Conference on Refugee Protection and International Migration in Central Asia Almaty, Kazakhstan 15-16 March 2011

1. Introduction

Migration dynamics in many regions, including in Central Asia, are often complex and include people with different profiles, needs and motivations for moving. While some people may be forced to flee their home countries for their own security, others leave for purposes such as to search for livelihood opportunities or reunification with family members. Irrespective of the reasons, such movements - especially if they take place in an irregular manner - can place people in vulnerable situations and some may need support upon arrival in their destination country. In addition to refugees and stateless persons, other categories of persons, for example, unaccompanied/separated children, trafficked persons, stranded migrants who have suffered violence during the migration process or female labour migrants in an irregular situation may need particular attention.

In 2006, UNHCR launched a 10-Point Plan of Action on Refugee Protection and Mixed Migration (10-Point Plan)¹ to assist States in developing comprehensive and protection-sensitive migration policies that address both legitimate border control concerns, as well as the protection needs of persons involved in mixed movements. To implement the 10-Point Plan at a regional level, UNHCR, the International Organization for Migration (IOM) and other partners have organized regional stakeholder conferences in different regions.²

IOM is committed to the principle that humane and orderly migration benefits governments, migrants and society. In its discussion note to the 2008 International Dialogue on Migration, IOM re-iterated the importance of comprehensive migration policies which address the challenges of mixed migration effectively and in accordance with international law, including protection obligations under human rights and refugee law.³

¹ The 10-Point Plan of Action on Refugee Protection and Mixed Migration, rev.1 January 2007, is available at <http://www.unhcr.org/4742a30b4.html>.

² These conferences form part of an European Commission (EC) funded project on the 10-Point Plan. Further activities under the project include the organization of a series of expert roundtables and the issuance of a compilation of practical examples on the implementation of the 10-Point Plan. Further information about UNHCR's 10-Point Plan project is available at <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=497730212&query=10%20point%20plan%20project>.

³ IOM: International Dialogue on Migration 2008. The Challenges of Irregular Migration: Addressing Mixed Migration Flows. Discussion Note. MC/INF/294 available at: http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/96/MC_INF_294.pdf and Human Rights of Migrants. IOM Policy and Activities, Doc. MC/INF/298 (19 November 2009), available at <http://www.iom.int/jahia/Jahia/about-iom/governing-bodies/council/98th-session>

Since 2005 the Organization for Security and Co-operation in Europe (OSCE) has promoted a comprehensive approach to labour migration management. This includes a balanced combination of policy instruments and control mechanisms and emphasizes the need for cooperation between countries as well as with relevant stakeholders such as social partners, business community, civil society and academia.⁴ OSCE together with partners has produced a number of tools⁵ to assist States in developing a comprehensive approach to labour migration management. OSCE places a particular emphasis on and raises awareness about the gender dimension of labour migration.

This conference is the fifth in a series of conferences on refugee protection and international migration.⁶ It will focus on mixed movements in Central Asia. It is hosted by the Government of Kazakhstan and co-organised by UNHCR and IOM with the United Nations Regional Center for Preventive Diplomacy for Central Asia (UNRCCA). The conference is funded by the European Commission.

2. Background

Migratory movements are not a new phenomenon in Central Asia, but form part of the region's history. The large population movements during the Stalin Era also affected Central Asia. Ethnic groups from other regions of the Soviet Union were forcibly relocated to Central Asia. Throughout the Soviet period, the region also saw an influx of citizens from other Soviet Republics of Russian ethnicity, mostly for work related purposes.

Since the dissolution of the Soviet Union and the independence of the Central Asian States, migratory movements have been reversed. Following the adoption of ethnicity-based immigration policies in a large number of Central Asian countries, many people who originated from the region have returned. In Kazakhstan, for example, more than 600 000 ethnic Kasakhs (also referred to as 'Oralmans') have moved to Kazakhstan and have been naturalized. At the same time, large numbers of Russians and members of other ethnic minorities in Central Asia, some of whom had been forcibly deported to Central Asia, have moved back to Russia, Ukraine and other countries. These migratory movements before and in the immediate aftermath of the dissolution of the Soviet Union left many persons stateless because the citizenship legislation of the successor States regularly determined criteria for citizenship on the basis of permanent residence (*propiska*).

In addition to return movements following the aftermath of the Soviet era, migration to the region, within the region, and towards other regions is prompted by a multitude of factors. Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan are countries of origin and transit but also, to varying degrees, destination countries. The search for work and other livelihood opportunities is the major driver of migration

⁴ See OSCE: Ministerial Decision on Migration Management No. 5/09, MC.DEC/5/09 of 2 December 2009, available at http://www.osce.org/documents/cio/2009/12/41866_en.pdf.

⁵ The OSCE-IOM-ILO Handbooks on Establishing Effective Labour Migration Policies (CIS and Mediterranean editions) are available at <http://www.osce.org/eea/29017.html>; OSCE Guide on Gender-Sensitive Labour Migration Policies and OSCE Trainer's Manual on Gender and Labour Migration are available at <http://www.osce.org/eea/29017.html>.

⁶ The previous conferences took place in Yemen May 2008, Senegal November 2008, Costa Rica November 2009. The fourth conference will take place in Tanzania September 2010. Further information about the previous conferences is available at <http://www.unhcr.org/pages/4a16aac66.html>.

within the region and to neighbouring countries, particularly the Russian Federation. The importance of labour migration to some economies in Central Asia is underscored by recent World Bank remittance data, indicating that in 2008 remittances comprised 28 and 50 per cent of Gross Domestic Product (GDP) in Kyrgyzstan and Tajikistan respectively.⁷ An increasing number of women form part of these labour migration movements, but not enough information is available on the size and particular challenges of female labour migration.

The economic crisis which many countries in the region have been facing may also have contributed to migration within and beyond the region and from the region to other destinations. Social exclusion, harassment and sometimes even violence and persecution of some groups, notably ethnic minorities, have also been contributing factors. Additionally, in some regions environmental degradation such as the desertification of the Aral Sea region has forced an estimated 100 000 people to move to neighbouring countries during the 20th century, including to other Commonwealth of Independent States (CIS) countries. Human trafficking is reported to take place internally in each country, across borders within Central Asia, and out of Central Asia, notably to other areas of Asia, the Middle East, the Russian Federation and Western Europe.

A significant percentage of the movement to and through the region consists of men and women fleeing armed conflict, persecution and/or violations of their human rights. Central Asia hosted some 10 000 refugees and asylum-seekers, originating mostly from Afghanistan. Many have been in a protracted [refugee or displacement] situation, and given the precarious stability and security situation in their country of origin, prospects for repatriation remain slim. Although the long-term impact of the June 2010 outbreak of violent clashes in southern Kyrgyzstan on population displacement within the region is yet to be assessed, initial estimates indicated internal displacement of thousands of people, with an additional 75 000 persons having taken refuge in Uzbekistan.

The various migratory movements outlined above raise a number of economic, social and security challenges for governments in Central Asia. However, they could also offer important opportunities. The long and porous borders in the region make it difficult for governments to combat crimes such as human trafficking and smuggling and to set in place reception arrangements with procedures to identify refugees, trafficked persons or persons who have other specific needs. Further, some countries are disproportionately affected by refugee movements and may need more solidarity and support both from within the region, as well as internationally. Targeted measures to address the immediate needs of all arrivals regardless of their status and to facilitate the (re)integration of refugees, returnees⁸ and marginalized groups such as stateless persons and ethnic minorities are needed. Legal migration options may benefit those wishing to migrate from the region to other countries and could help to reduce

⁷ See D. Ratha et al., “Outlook for Remittance Flows 2010-11”, Migration and Development Brief 12, 23 April 2010, World Bank, Washington D.C., p. 2 (Box 1), available at <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/MigrationAndDevelopmentBrief12.pdf>.

⁸ This term refers to persons who return to a Central Asian country with whom they have an ethnic link.

irregular movements.⁹ Statelessness is a continuing problem in the region. Citizenship legislation needs to be adjusted to reflect migration realities and to reduce statelessness.¹⁰

Cooperative, comprehensive and cross-dimensional approaches to migration management and addressing the migration dynamics of the region in all their aspects could contribute to strengthening the region's political security and be an important component of broader stabilization strategies. Developing such approaches and establishing platforms for discussion and exchange of good practices is an important policy priority for governments in the region. In addition to the discussions within the OSCE mentioned above, comprehensive approaches to mixed movements in the Central Asia region are also being discussed in other fora such as the Commonwealth of Independent States (CIS), Eurasian Economic Community (EurAsEC) or the Shanghai Cooperation Organisation (SCO).

Further, at the initiative of the governments of the five Central Asian countries, a special political mission of the United Nations Regional Center for Preventive Diplomacy for Central Asia (UNRCCA) was established to explore the multiple challenges experienced in Central Asia, including those associated with migration, and to promote preventive development strategies and humanitarian assistance.

3. Objectives of the Conference

Against this background and building on existing policies, initiatives and fora, this conference aims to:

- Develop suggestions for the integrated and comprehensive implementation of the 10-Point Plan in the region. This would be based on a collaborative approach and build on strong partnerships between States in the region, as well as inter-agency cooperation between regional and international organizations. Recommendations will address, in particular:
 - The establishment of protection sensitive entry systems, i.e. the incorporation of protection safeguards and assistance measures into migration and border management (10-Point Plan, chapter III: protection-sensitive entry systems, chapter IV: reception arrangements and chapter V: mechanisms for profiling and referral);
 - The stabilization of population movements through the integration and reintegration of refugees, returnees, marginalized groups (e.g. stateless persons, ethnic minorities) and labour migrants (especially female migrants) and the provision of alternatives to irregular movements, including onward movements (10-Point Plan, chapter VII: solutions for

⁹ To enhance labour migration opportunity IOM and OSCE have been supporting the establishment of Migrant Information Centres in Kyrgyzstan and Tajikistan.

¹⁰ A regional conference on the prevention and reduction of statelessness and protection of stateless persons in Central Asia was organized by UNHCR and OSCE in Ashgabat, Turkmenistan in December 2009. The conference conclusions contain several recommendations of concrete measures governments can undertake to resolve statelessness problems which largely have resulted from migration and complex citizenship legislation and residence registration procedures in the region.

refugees, chapter VIII: addressing secondary movements and chapter X: information strategies); and

- The establishment of legal migration alternatives, including through the utilization of existing regional legal frameworks and bilateral arrangements (10-Point Plan, chapter IX: alternative migration options).
- Identify areas where States require more targeted support from the OSCE, UNHCR, IOM, UNRCCA, and other organizations to develop and implement their protection responses within the mixed migration context.
- Share best practices for the identification, referral and reception of persons in need of protection and assistance in accordance with the different needs of persons within mixed migratory movements.
- Improve data collection and exchange.

4. Preparation for the conference

UNHCR will undertake a regional study on refugee protection and international migration in Central Asia which will examine migration trends and protection challenges for people on the move. More specifically, it will outline particular protection challenges for asylum-seekers and other groups with specific needs. The study will also identify the key actors involved in the management of migration, and analyze applicable laws and practices. The results of the study will serve as a platform for discussion during the conference.

OSCE and IOM will make available the preliminary results of a joint project aimed at gathering disaggregated migration data in EurAsEC countries and the results of a regional seminar on gender and labour migration.

5. Participation

The conference will bring together Representatives of the five Central Asian Republics of Kazakhstan, Kyrgistan, Tajikistan, Turkmenistan and Uzbekistan as well as Afghanistan, Azerbaijan, People's Republic of China, Iran, the Russian Federation, and Turkey. International agencies such as the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF), the United Nations Office for Drugs and Crime (UNODC), the International Labour Organization (ILO), academic experts, civil society representatives and other experts from the region will also be invited.

6. Proposals for the agenda

In addition to presentations in the plenary sessions, thematic working groups will be set up to address specific topics, so as to ensure an open dialogue among participants. The working groups will deliberate separately and report back to the plenary sessions. The main conclusions and recommendations of the conference will be shared with all participants and the conference documents will be published.

Introductory sessions:

- Opening session
- Regional migration trends and patterns
- Overview of key regional protection challenges
- Presentations by representatives from governments, international agencies and civil society on topics such as migration and child protection, migration caused by environmental degradation, migration and development, labour migration.

Suggested topics for the Working Groups:

- **Managing borders while ensuring refugee protection** (dissemination of protection information, capacity-building for officials to ensure adequate expertise in refugee and asylum law);
- **Profiling and referral mechanisms** (differentiation at entry points, access to territory, profiling tools, cooperation of inter-governmental and non-governmental organizations);
- **Strengthening integration of refugees, stateless persons and minorities in host countries**
- **Strengthening reintegration of returnees and returning migrants in countries of origin**
- **Preventing trafficking and protecting the victims – with specific attention to child trafficking;**
- **Developing legal migration opportunities and gender-sensitive migration policies** (mobility opportunities within the region on the basis of bilateral arrangements and regional migration frameworks, legal migration to other CIS countries, legal migration to and out of the region);
- **Reinforcing partnerships** (strengthening data and information sharing, and streamlining refugee protection in existing regional processes);
- **Developing information and awareness-raising strategies** (developing information strategies to discourage irregular movements and combat xenophobia).

Closing session: synthesis, recommendations and next steps, and closing remarks

December 2010





Regional Conference on Refugee Protection and International Migration in Central Asia

Almaty, Kazakhstan
15-16 March 2011

Summary Report



This conference has been funded by the European Union  and the United States Department of State, Bureau for Population, Refugees and Migration 

Introduction

Background

On 15-16 March 2011, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), in cooperation with the Organization for Security and Co-operation in Europe (OSCE) and the United Nations Regional Center for Preventive Diplomacy for Central Asia (UNRCCA) co-organized the *Regional Conference on Refugee Protection and International Migration in Central Asia*. The conference was convened under the auspices of the Government of the Republic of Kazakhstan, with financial support provided by the European Union (EU), the Bureau of Population, Refugees and Migration of the U.S. Department of State, IOM and UNHCR.

The Conference brought together more than 120 participants, including Ministers, Deputy Ministers and other senior level government officials from Afghanistan, Azerbaijan, Iran, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Turkey, as well as representatives of regional and international organizations, civil society, academia and the diplomatic community.¹

The objectives of the Regional Conference were to increase the understanding of the nature, scale and reasons for mixed migratory movements in Central Asia and the wider region, and to agree on the development of a comprehensive and cooperative regional strategy on how to address this phenomenon in a protection sensitive manner. Discussions evolved around three priority areas including: 1) establishment of protection sensitive entry systems, 2) stabilization of population movements through the integration and reintegration of refugees, returnees, labour migrants and marginalized groups and the provision of alternatives to irregular movements, and 3) establishment of legal migration alternatives.²

This meeting was the last in a series of five regional conferences³ organized by UNHCR in cooperation with Governments and other key partners as part of a three year EU funded project to sensitize key stakeholders in different regions about the protection challenges of mixed movements and to promote UNHCR's 10-Point Plan of Action on Refugee Protection and Mixed Migration as a framework for the development of comprehensive and protection sensitive migration policies.⁴ IOM, in

¹ See the List of Participants, available at <http://www.unhcr.org/4d7a2cf49.html>.

² See Concept Note: Regional Conference on Refugee Protection and International Migration in Central Asia, Almaty, Kazakhstan, 15-16 March 2011, available at: <http://www.unhcr.org/4d7a2cf49.html>.

³ The previous conferences took place in Yemen (May 2008), Senegal (November 2008), Costa Rica (November 2009) and Tanzania (September 2010). Further information about the previous conferences is available at <http://www.unhcr.org/pages/4a16aac66.html>.

⁴ See "Refugee Protection and Mixed Migration: A 10-Point Plan of Action," Revision 1, January 2007, available at: <http://www.unhcr.org/4742a30b4.html>. Further information on the implementation of

line with its commitment to the principle of upholding the human dignity and well-being of migrants embodied, inter alia, in its 2007 Strategic Focus,⁵ co-organized the last four of these five conferences.

National Consultations

Prior to the Regional Conference, national consultations and information meetings were held in all participating Central Asian countries in order to review the key themes and issues for discussion at the Regional Conference. The main objective of these preparatory meetings was to bring together a broad spectrum of government officials, representatives of civil society and regional and international organizations to enable them to share their views on the main conference themes from a national perspective with a view to allowing for more focused and substantive discussions at the conference itself. The outcomes of these meetings⁶ further informed the conference background paper and its final agenda.

Conference outcomes

The following sections of this report summarize discussions during the plenary and working group sessions.⁷ They are structured along the themes of the seven working groups. Each section concludes with the recommendations on specific themes made by participants.

The Almaty Declaration which was adopted in the closing session of the conference is attached as an Annex.⁸ It provides the broader framework within which the conference recommendations will be implemented.

the 10-Point Plan of Action in various regions is available at <http://www.unhcr.org/pages/4a16aac66.html>.

⁵ See "IOM's Strategic Focus," available at <http://www.iom.int/jahia/jahia/about-iom/lang/en>.

⁶ See the outcomes of national consultations, available at <http://www.unhcr.org/4d7a2cf49.html>.

⁷ For more information on the plenary and working groups sessions, see the Conference Agenda, available at <http://www.unhcr.org/4d7a2cf49.html>.

⁸ See Almaty Declaration, available at <http://www.unhcr.org/4d7a2cf49.html>.

Managing borders, ensuring national security while ensuring protection

Participants at the Regional Conference emphasized the sovereign right of States to ensure national security and protect their territories. They drew attention to the particular challenges of border management in the region given the long and porous borders of Central Asian States. Participants expressed concern over growing irregular migration, trafficking in drugs and in persons, and international terrorism in the region. They highlighted the need to harmonize relevant legislation and to strengthen cooperation between law enforcement agencies across the wider region.⁹ Lack of equipment and infrastructure at the border, as well as insufficient training and a shortage of skilled staff were noted as major shortcomings in efforts to enhance border management and respond to cross-border crime.

Participants noted that any efforts to address current challenges need to be undertaken in line with international standards and with respect for the rights of migrants and refugees as provided under international human rights and refugee law and principles. Participants called on States to shift focus from the current system of strict border controls to an 'integrated border management approach' balancing enhanced border security with respect for the rights of people on the move, including the right to seek asylum.

Participants further encouraged States and other concerned stakeholders to examine more closely the linkages between security and protection measures. The establishment of mechanisms for profiling of persons crossing the international borders does not only help to identify and address specific protection needs of those on the move. It can also facilitate the collation of information on the profile and intentions of all persons entering the territory of a given State thus helping to mitigate security threats and strengthen national security.

Throughout discussions it was observed that the establishment of effective reporting and referral mechanisms between border management officials and migration and asylum authorities can facilitate prompt exchange of information and ensure that persons who may be in need of international protection (asylum-seekers) are identified in a timely manner and referred to competent authorities. Joint trainings and seminars of border management officials and asylum and migration authorities would enhance their capacities and help to ensure that referral mechanisms function effectively. International organizations and other interested stakeholders with relevant experience could support border authorities to streamline elements of human rights education and refugee protection into relevant training curricula. Within the broader border management context, participants also suggested conducting specific trainings on conflict prevention mechanisms with a view to averting massive cross-border movements.

⁹ Wider region refers to the Central Asian States and neighboring countries that participated in the conference.

In terms of enhancing training and capacity building, participants identified a number of good practices across the region, including joint trainings for Tajik and Afghan border management officials conducted by IOM, the Border Management Programme in Central Asia (BOMCA) project funded by the European Union or specialized courses and seminars provided by the OSCE Border Management Staff College.

Recommendations:

- i. States are encouraged to uphold principles and standards embodied in relevant international treaties, such as the 1951 Convention Relating to the Status of Refugees, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as relevant OSCE commitments relating to refugees and internally displaced persons. In line with the existing international migration and asylum management standards and principles, and based on available good practices, States are encouraged to shift focus from strict border controls to an ‘integrated border management approach.’
- ii. States are encouraged to establish profiling and referral mechanisms to identify asylum-seekers and people who may need specific assistance. Such mechanisms may also contribute to State efforts to address legitimate security concerns.
- iii. Regional cooperation on border management needs to be enhanced, including through the development of mechanisms for exchange of data and information on migration flows, as well as through joint capacity building initiatives and trainings for staff from border and migration services. International organizations with relevant expertise may provide assistance in incorporating human rights and refugee law education into relevant training curricula.
- iv. All relevant stakeholders are encouraged to conduct specific trainings on conflict prevention mechanisms, with a view to averting massive cross-border movements.
- v. Increased infrastructural capacity and support is necessary in order to enhance national border management initiatives with a view of facilitating orderly movement of persons.

Strengthening integration of refugees, stateless persons and minorities in host countries

Countries in Central Asia and the wider region have considerable experience with integration of refugees, stateless persons and minorities. Participants noted that some of the core conditions for successful integration include the provision of

appropriate legal and social status, creation of opportunities to seek legal employment and become self-reliant, and provision of access to education, healthcare and other services.

Throughout the Conference, participants emphasized that integration is a key prerequisite to harmonious community relations. It can safeguard against unrest, tensions and conflict that are often the byproducts or results of marginalization of certain groups. It is also a key factor in reducing regional instability and tensions among States. It further ensures that the potential of refugees, stateless persons, migrants and minorities for the growth and development of host communities is fully realized to the benefit of all. The absence of integration prospects and means to develop sustainable livelihoods can fuel irregular population movements, which in turn create fertile ground for smuggling and trafficking in human beings and other crimes.

Participants at the Regional Conference drew attention to the fact that most asylum systems in the region focus primarily on refugee status determination, with less emphasis on the subsequent integration of refugees and effective realisation and enjoyment of their rights.

Participants drew attention to different good practices developed to integrate different categories of persons, including refugees and stateless persons. Even though statelessness remains a challenge in the Central Asian region, several examples of simplified naturalization procedures have led to a reduction of statelessness across the region. The naturalization of former Soviet Union citizens through legislative amendments in Kyrgyzstan, for example, enabled many vulnerable persons to gain citizenship. Social and legal integration of refugees who fled the civil war in Tajikistan, including granting citizenship to thousands of refugees by a single presidential decree in Turkmenistan were also among the commendable practices identified by participants at the Regional Conference.

Participants highlighted the need to establish and/or strengthen mechanisms for the documentation of asylum-seekers, refugees and stateless persons. Provision of adequate documentation was seen as a major prerequisite for the enjoyment of rights with respect to employment, housing, education and healthcare services. Freedom of movement and choice of place of residency was likewise seen as crucial for increasing prospects for integration into host communities. Participants also noted that community mobilization and opportunities for self-reliance of refugees and stateless persons should be enhanced with a view to enabling these persons and their families to access sustainable livelihoods and foster their ability to positively contribute to the economic and social development of host communities. Adoption of simplified naturalization procedures for refugees, in accordance with the provisions of the 1951 Convention, was highlighted as a particularly positive example of efforts to facilitate the legal integration of refugees.

Participants expressed concern over shortcomings in the statelessness status determination procedures and called on States to harmonize their national policies, introduce necessary legislative changes and enhance bilateral cooperation in this regard. Several participants referred to the findings and outcomes of the Regional Conference on Statelessness, convened in December 2009 in Ashgabat, and encouraged participating States and other stakeholders to follow-up on the recommendations of that meeting. States should likewise engage competent stakeholders in designing, regularly reviewing and implementing national action plans on the reduction and prevention of statelessness.

Recommendations:

- i. The establishment and strengthening of mechanisms for the documentation of asylum-seekers, refugees and stateless persons is an important first step towards creating prospects for their integration in host countries.
- ii. States and other stakeholders are encouraged to develop and implement programmes aimed at facilitating the access of refugees and stateless persons to legal employment opportunities, housing, medical services and education. Freedom of movement is likewise crucial for integration of persons of concern.
- iii. All stakeholders are encouraged to support and strengthen community mobilization and self-reliance of refugees and stateless persons with a view of enabling them and their families to secure livelihoods for themselves and contribute to the development of host communities.
- iv. States are encouraged to incorporate provisions allowing for local integration of refugees into their national legal frameworks.
- v. In line with the provisions of the 1951 Convention, States in the region are encouraged to adopt simplified and accelerated naturalization procedures for refugees, so as to facilitate local integration and apply a comprehensive and strategic approach in light of available durable solutions.
- vi. States are encouraged to strengthen their cooperation in the realm of statelessness status determination procedures and to consider legislative changes to their legal frameworks on citizenship/statelessness where necessary.
- vii. In cooperation with other concerned stakeholders, States should adopt, regularly review and implement national action plans on the reduction and prevention of statelessness. The outcomes and follow-up to the

Regional Conference on Statelessness, convened in Ashgabat in December 2009, can provide useful guidance in this regard.

Strengthening reintegration of returnees and returning migrants in countries of origin

Several countries of the Central Asian region have considerable experience with the reintegration of returning refugees (returnees) and returning migrant workers which could be shared and replicated elsewhere. Reintegration is not only important for the individuals themselves, but also for preventing irregular onward movements.

Participants agreed that lack of documentation, inability to exercise property rights and insufficient access to basic services, including medical care, housing and education were among the major obstacles to reintegration. Many persons including exploited labour migrants or victims of trafficking suffered serious psychological harm and trauma during their journey to or stay in another country. There is a need for more professional psychological counseling and rehabilitation services for affected persons and their families. Access to medical care, including free medical check ups for transmittable diseases, such as tuberculosis and HIV/AIDS is crucial not only with respect to realizing the basic rights of returning persons, but also to safeguard public health through effective prevention and management of transmittable diseases.

Participants highlighted the positive contribution that returning migrants and refugees can make to their countries of origin. They stressed the need to establish mechanisms and channels enabling returned persons to realize their potential to the fullest extent possible, including through the utilization of their working experiences, skills acquired abroad and financial investment. States, civil society and other actors were encouraged to explore new approaches to help returning migrants and refugees to effectively manage their savings, access investment opportunities and use their skills. Participants suggested to establish specialized centers where returning migrants and returnees could be provided with information and training.

Recommendations:

- i. States are strongly encouraged to develop and implement comprehensive national policies on reintegration of returnees. Such policies have to address different aspects of life upon return to the country of origin, including access to healthcare, housing, education and income generating programmes and activities.
- ii. To better utilize the (newly acquired) skills and/or optimize the financial investment potential of returning migrants and refugees, States and other stakeholders could consider developing programmes aimed at provision

of specialized (vocational) trainings as well as micro-credit schemes and other banking products and financial services encouraging migrant savings and investment.

- iii. States could consider establishment of specialized centers for returning migrants and refugees. These centers would be entrusted with providing information and counseling in the areas of education, healthcare, welfare systems, business development investment and employment.
- iv. To facilitate the prompt reintegration of returned persons and to ensure the realization and enjoyment of basic rights and access to services, States could simplify and expedite existing procedures for restoration of documentation and exercise of property rights.
- v. Recognizing the particular vulnerability of returnees, States and other concerned stakeholders are encouraged to provide facilities for addressing psycho-social problems of returnees, with particular attention to women and children.
- vi. States are encouraged to facilitate access to voluntary, confidential and free-of-charge medical check-ups.

Preventing trafficking and protecting the victims – with specific attention to child trafficking

Participants acknowledged that trafficking in human beings is increasing in the wider region and discussed how the current anti-trafficking initiatives of state and non-state actors can be further strengthened. The absence of effective prevention measures, as well as shortcomings in the practical implementation of mechanisms aimed at the identification of victims and provision of adequate assistance to them, were noted as major challenges. Participants called upon States to enhance cooperation with other States and with civil society, in particular in the areas of awareness-raising, identification and provision of assistance to victims and prosecution of offenders.

Identification of trafficked persons was seen as particularly challenging in the context of mixed movements. Participants noted that mechanisms for adequate and effective identification of victims of trafficking are crucial for ensuring their protection and referral to appropriate assistance channels, and for the prosecution of traffickers. Moreover, failure to identify victims may lead to their criminalization, detention, deportation and re-victimization. Increased capacity building and targeted training of law enforcement officials were seen as important measures. Enhanced awareness-raising and active engagement of employers and labour inspectors could further help to identify cases of trafficking and labour exploitation. It was suggested that revision of relevant labour legislation could allow labour

inspectors to conduct unannounced and ad-hoc visits to places where potential victims of trafficking or of forced labour may be held.

Participants emphasized the need to pay specific attention to the identification of trafficked children. Unaccompanied, separated and migrant children were singled out as most at risk. Strengthened care and protection mechanisms for all children were suggested as important prevention measures. In this regard, the lack of access of some migrant children to education, especially those whose parents work as seasonal workers, as well as the low capacity of teachers, were identified as major challenges. Participants underlined the need to ensure that all actors likely to encounter trafficked children, in particular teachers and medical personnel, are trained and aware of their roles and responsibilities, and are actively engaged in strategies aimed at identification and prevention of trafficking.

Participants further explored ways in which coordination between relevant stakeholders, including across the borders, could be enhanced in order to ensure the referral of trafficked persons to the most appropriate follow-up procedures. They recommended that particular emphasis is placed on establishing procedures aimed at identification of trafficked persons who may be in need of international protection and their referral to competent asylum authorities. States were encouraged to consider and replicate best practices on granting refugee status to trafficked persons fearing persecution in their countries of origin, including for reasons relating to their trafficking experience. Likewise, referral mechanisms would be necessary to ensure that asylum-seekers whose asylum applications have been rejected but who need protection and assistance because they have been trafficked, are referred to competent authorities.

Participants repeatedly underlined the important role played by civil society and its active contribution to the provision of protection and assistance to victims of trafficking. It was noted that local non-governmental organizations perform a variety of protection and assistance related functions, including through the operation of shelters and hotlines and provision of psychological and legal assistance to victims. Participants appealed to States to enhance their cooperation with civil society actors, and to extend all necessary support in order to empower them to exercise their functions effectively. Establishment of outreach services and hotlines were noted as particularly important tools for establishing contact with potential victims and for empowering them to seek redress and protection from trafficking and exploitation.

In addition, States were also encouraged to enhance cooperation among each other and with international organizations, in particular in the area of prosecution of traffickers. To enhance their capacities to investigate and prosecute trafficking-related crimes, States were encouraged to consider employing the assistance of Interpol and other entities with specialized expertise in the process of investigation and prosecution of perpetrators.

Participants further noted that increased transnational cooperation and coordination are essential elements of effective trafficking prevention strategies. Joint capacity building initiatives and coordinated information and awareness raising campaigns can be important tools to harmonize and strengthen anti-trafficking prevention efforts.

Recommendations:

- i. States and other stakeholders are encouraged to promote full and effective implementation of international standards on combating trafficking and providing protection and assistance to victims.
- ii. All stakeholders are encouraged to strengthen capacity building efforts targeting national law enforcement officials, in particular in the area of identification of victims of trafficking. Labour inspectors should be engaged in joint efforts to identify cases of trafficking and labour exploitation. States are encouraged to consider introducing amendments to applicable labour legislation, so as to allow labour inspectors to conduct unannounced and ad-hoc visits.
- iii. Professionals likely to encounter potential victims of trafficking or exploitation, such as teachers or medical personnel, should receive adequate training and be actively engaged in efforts and strategies aimed at the identification of victims and prevention of trafficking.
- iv. States could consider inviting Interpol and other entities with specialized expertise to provide advice and participate in trafficking investigations including the prosecution of perpetrators.
- v. States are encouraged to establish, in cooperation with other stakeholders, mechanisms for the identification of trafficked persons who may be in need of international protection and for their referral to competent asylum authorities. In this regard, States are invited to replicate best practices on granting refugee status to victims of trafficking fearing persecution upon return to their countries of origin.
- vi. States are likewise encouraged to ensure that rejected asylum seekers who have been trafficked are referred to appropriate support mechanisms.
- vii. States are encouraged to take measures to improve the integration prospects of refugees as one of the key components of their strategies aimed at prevention of human trafficking.
- viii. All stakeholders should jointly develop awareness-raising strategies and invest in capacity building of organizations active in the fields of asylum and anti-trafficking.

- ix. States are encouraged to seek and implement safe solutions for victims of trafficking, based on the best interest determination and individual case assessment.
- x. States should ensure that all children on the move, regardless of their status, receive immediate and unconditional assistance and enjoy access to education. Specific attention should be paid to guaranteeing access to education for children of seasonal labour migrants.
- xi. Strengthened child protection mechanisms are an important component of any effective strategy to prevent trafficking in human beings. States are encouraged to enhance care and protection measures for all children, and in particular the most vulnerable ones, such as undocumented, unaccompanied, separated or asylum-seeking children and children of migrant workers.
- xii. All stakeholders are encouraged to jointly establish a unified anti-trafficking hotline for the Central Asian region.

Developing legal migration opportunities and gender-sensitive migration policies

Growing irregular migration constitutes a serious challenge for States and exposes migrants to considerable risks, including exploitation, abuse, human trafficking and smuggling. Enhanced legal migration opportunities can play an important role in addressing irregular migration. Greater opportunities to move legally reduce the tendency of individuals to resort to irregular channels and employ the services of smugglers. Efforts to expand the channels for legal entry and stay can include, for example, temporary or circular labour migration programmes including bilateral labour agreements, family reunification measures, study options and regularization programmes.

Conference participants noted that migration was inevitable as long as there was a demand for labour in countries of destination and push factors, such as poor economic and social conditions or political instability, in countries of origin compelled people to move. They acknowledged a growth in irregular migration in the wider region and stressed the need to respond through creating or expanding legal migration opportunities. The importance of recognizing the benefits of legal labour migration was emphasized on several occasions. Participants noted that it has the potential to serve as an engine for growth and development in countries of origin and destination and a means to economic betterment for labour migrants and their families. Enhanced legal migration channels help to reduce unemployment and provide survival means for family members remaining in countries of origin and can contribute to strengthening the workforce and meeting labour market demands in countries of destination. By being able to access legal migration channels, labour

migrants are better protected from abuse, exploitation or the risk of falling victim to traffickers.

Participants encouraged States to establish or strengthen existing national, bilateral and regional legal migration frameworks. In terms of national frameworks, participants pointed out that the lack of migration statistics and insufficient data sharing among various agencies at national level pose obstacles to the development of adequate migration policies. In order to address particular challenges related to the growing feminization of migration, participants emphasized the need to properly incorporate gender sensitive provisions into migration laws, policies and programmes, and to conduct gender impact assessments whenever new policies are developed and laws adopted in order to establish whether they have different impact on men and women. The protection and assistance needs of asylum-seekers and refugees need to be properly reflected in all migration strategies and policies.

Participants highlighted the importance of developing and implementing bilateral and/or multilateral agreements with neighboring countries, as well as those countries that are likely to attract labour migration. In terms of bilateral cooperation it was observed that migration policies in countries of origin and destination need to be harmonized and complemented by labour market analysis enabling to match labour supply with the needs of the labour markets in countries of destination. Reference was also made to a number of regional mechanisms and instruments on legal migration, such as the CIS Convention on Legal Status of Migrant Workers and Members of their Families. States were likewise encouraged to ratify and implement international instruments relating to protection of migrants, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, or ILO Conventions No.97 and No.143. Participants regretted that migration discussions on bilateral and regional levels are often too theoretical and based on political and national security considerations rather than on legal expertise and practice. When drafting bilateral and multilateral agreements on migration, it was recommended that a less declarative and more pragmatic approach be adopted.

Participants stressed the need to assist migrants at all stages of the migration cycle, including pre-departure and return. States were encouraged to consider launching gender-sensitive information and awareness-raising campaigns regarding, for example, employment and professional and educational requirements abroad, as well as rights and obligations of migrants in countries of destination. These information campaigns should be targeted to specific groups and coordinated between countries of origin and destination. Active involvement of civil actors, such as the Private Recruitment Agencies (PRAs), in facilitating organized legal migration abroad was noted as particularly important. States were encouraged to develop legal frameworks and establish clear procedures for registration, licensing and regulation of PRAs, in order to create conditions conducive to their effective operation.

Participants observed that even migrants who enter a country legally may find themselves in an irregular situation if they end up overstaying. Some participants proposed to apply a diversified approach to different categories of migrants, depending on their qualifications, skills and domestic labour market needs. Simplified procedures for issuing work permits to highly skilled labour migrants, as well as patent system aimed at legalization of low skilled workers (particularly domestic workers), were noted as efficient regularization tools.

Participants stressed the need to address any negative impacts of migration on family life in countries of origin, including with respect to the situation of separated families or children being brought up without parents. In parallel, in the context of increasing feminization of migration, a growing tendency was noted of migrant workers moving with their entire families. This creates the need to provide appropriate services to diverse migrant groups, including women and children, such as for example adequate health and social welfare conditions or education for migrant children.

Recommendations:

- i. States are encouraged to strengthen legal migration channels and mechanisms at national, bilateral and regional levels. Bilateral and multilateral agreements are one way of providing for legal and orderly migration. However, more generally, permanent and temporary migrant admission schemes should be pragmatic and reflect the particular context in which migration takes place.
- ii. States are encouraged to take all necessary measures to reduce irregular migration, combat human trafficking and smuggling and take a human rights approach in protecting all persons on the move, including migrants, asylum-seekers and refugees.
- iii. States are encouraged to conduct regional labour market assessments in both countries of origin and destination, to be used as the basis for the development of more targeted migration programs that match labour market demand and supply.
- iv. The role of civil society actors in providing services to migrants and conducting information and awareness-raising campaigns should be strengthened. Private recruitment agencies should be engaged in developing circular migration programmes that provide opportunities for all to participate on the basis of equality.
- v. States are encouraged to design or strengthen mechanisms for gender-disaggregated data collection, as a pre-requisite for developing gender-sensitive migration policies. Gender expertise and gender mainstreaming should be made an integral part of migration policy analyses,

development and implementation to ensure more gender just policies and programmes.

Reinforcing partnerships

The need for strong partnerships and enhanced cooperation and coordination was echoed by all. Participants emphasized that inter-institutional and inter-state collaboration and coordination needs to be strengthened at national, bilateral, regional and international levels in order to address the multilayered challenges of asylum and migration management.

At the national level, participants noted certain shortcomings in the area of cooperation and coordination on migration issues among different government institutions and called for greater cross-sectoral cooperation. They further emphasized the need to involve stakeholders such as social and employment agencies, trade unions, civil society actors, representatives of the private sector and migrant communities. National authorities were also encouraged to strengthen dialogue with regional and local authorities to increase their capacity to react to emergency situations. In return, national authorities can benefit from information gathered by local authorities to design well informed strategies. Participants also proposed to include migrants and refugees, as well as representatives of receiving communities in debates relating to resolution of specific problems.

Participants observed that bilateral cooperation in the context of migration should focus on partnerships between neighboring countries, and between sending and receiving countries.

Participants noted that in the wider region, a number of regional and international organizations are active in the field of migration management. They agreed on the importance of better coordination of different activities by organizations with similar mandates and fields of operations, as well as enhanced cooperation within existing regional frameworks. Established thematic working groups should be operationalized through capacity building initiatives and more effective use of the opportunities for dialogue they provide. Enhanced cooperation and coordination of activities among regional forums could further strengthen regional dialogue, contribute to information exchange and sharing of good practices and expertise, which would in turn allow for more targeted assistance. Cooperation between States and international organizations should be carried out at the highest level and to the fullest extent possible to allow for the effective implementation of international standards and good practices.

Participants identified several critical areas for cooperation, one of them is data collection and exchange. States and international and regional organizations were encouraged to develop common standards for the collection, analysis and exchange of data on mixed migratory movements. Another area that requires enhanced cooperation are information strategies to inform people of the risks associated with

irregular migration, and the availability of legal migration and employment opportunities.

Recommendations:

- i. States are encouraged to strengthen cooperation and coordination between all relevant government institutions, including but not restricted to those dealing with different aspects of refugee protection and migration management. Other interested stakeholders, such as civil society actors, trade unions, employment agencies and representatives of private sectors and academia should also be included in discussions.
- ii. National-level institutions are encouraged to strengthen and expand their interactions with regional and local bodies through enhancing their capacity to act on migration related issues and to react to emergency situations.
- iii. Refugee and migrant communities should be empowered to participate in migration debates and decision making processes that have an impact on their lives and future.
- iv. Enhanced cooperation on migration related issues should be pursued at bilateral level, in particular between neighboring countries and between countries of origin and destination.
- v. Existing regional mechanisms and frameworks could be better utilized to facilitate dialogue on cross-cutting issues related to asylum and migration, in particular through enhancing the capacity of already established thematic working groups, such as those created within the Commonwealth of Independent States, the Collective Security Treaty Organization, the Eurasian Economic Community or other regional organizations. Cooperation at regional level could also be strengthened by expanding the content and geographical scope of ongoing projects.
- vi. Initiatives and activities undertaken by various international and regional organizations active in the field of mixed migration should be better coordinated and harmonized to avoid duplication and maximize impact.
- vii. Strengthened cooperation among all stakeholders is required in particular in the field of data collection and exchange. Regional and international organizations are encouraged to work with States in developing common standards and criteria for the collection, analysis and exchange of data on mixed migratory movements.

- viii. National consultations, convened in some countries in preparation for the Regional Conference, can serve as useful platforms for further discussion of the conference recommendations and follow-up at national level.
- ix. States in the wider region could consider the establishment of a regional Task Force on Mixed Migration, with the participation of all relevant stakeholders, including the countries of origin, transit and destination, international organizations and civil society. Such a regional body could be tasked, inter alia, with the follow-up and implementation of the outcomes of the Regional Conference at regional level.

Developing information and awareness-raising strategies

Developing targeted information and awareness-raising campaigns is an important component of any strategy to address mixed movements. The content and objectives of such campaigns would differ depending on specific situations and target groups. Comprehensive information campaigns on the general situation, employment opportunities, integration prospects and assistance available in countries of destination can enable potential migrants to make informed decisions on whether to migrate or not. Targeted awareness-raising initiatives alerting people about the dangers of irregular movement or the specific practices of criminal organizations can also contribute to diminishing the risk of persons falling victims to trafficking networks, abuse and exploitation.

Participants agreed that many migrants and asylum seekers find themselves in situations of vulnerability and risk of abuse or exploitation due to their lack of knowledge of applicable legislation, including both their rights and responsibilities in host countries. It was suggested to explore ways on how these information gaps could be filled.

To increase the effectiveness of awareness-raising initiatives, participants emphasized the need to involve all relevant stakeholders, including governments, civil society actors, representatives of religious and community institutions, as well as refugees and migrants in disseminating and sharing necessary information. They also highlighted the potential of information campaigns in countering racism, xenophobia or any negative public perceptions of asylum-seekers, refugees and migrant workers, therefore promoting tolerance and harmonious community relations.

Recommendations:

- i. States and other stakeholders are encouraged to undertake comprehensive information campaigns aimed at the promotion and protection of the rights of migrant workers, asylum-seekers and refugees.

- ii. Such information campaigns should include updated information on the situation, employment and integration opportunities and rights and obligations in countries of destination, as well as on potential dangers associated with irregular migration.
- iii. To increase the effectiveness of awareness-raising initiatives, all relevant actors, including government entities, civil society, representatives of religious and community institutions, as well as refugees and migrants should be involved in information dissemination efforts.
- iv. States and other competent stakeholders should support the establishment and operation of hot line services aimed at the provision of prompt and updated information and assistance to migrants, asylum-seekers and refugees.
- v. All concerned stakeholders are encouraged to invest in capacity building, education programmes and other trainings of government officials, mass media and community leaders on issues related to mixed migration.
- vi. All stakeholders should jointly strengthen their efforts to promote tolerance and take all necessary measures to combat racism, exclusion and xenophobia against migrant workers, asylum-seekers and refugees, for example through awareness-raising campaigns or specialized educational programmes.

Original version

Almaty Declaration

Adopted by Participating States at the Regional Conference on Refugee Protection and International Migration held in Almaty, Kazakhstan, 16 March 2011

1. The Central Asian region has a long history of complex and multi-layered migratory movements, which continue to shape current migration dynamics. Today's movements include people with different profiles, motivations, and protection needs. While some of them are people driven by the search for better economic and social opportunities, others are forced to leave their homes in order to seek and find asylum. Environmental degradation can be in certain circumstances an additional factor which may impact the movement of people. Irrespective of their underlying causes, such population movements can give rise to protection and assistance needs, particularly if they take place in an irregular manner.
2. Irregular migration is a common concern for all Governments in the region. It can create a number of problems, lead to migrant smuggling, human trafficking, render people stateless or place them in other high risk situations. Participants reiterate the importance of enhancing cooperation to control irregular migration, secure borders, and stem terrorist threats. However, they also draw attention to the importance of border security measures being implemented in a manner which preserves the asylum space and is consistent with international law, notably the principle of *non-refoulement*.
3. Participants recognize that, when possible, timely differentiation between various categories of persons on the move is important and can help to identify individuals who may pose security risks as well as those who need support - such as asylum-seekers, refugees, stateless persons, trafficked persons or people with specific needs. Participants underline the necessity of developing national migration policies which should be in line with international standards as well as bilateral and regional agreements, including fair and efficient asylum procedures and establishing sustainable frameworks to assist countries in need to manage mixed migration on their territories.
4. Participants also underline the importance of establishing appropriate national legal frameworks to assist and/or protect people forming part of mixed movements. Relevant international legal instruments which could provide guidance include the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, the 1951 Convention relating to the Status of

Refugees and its 1967 Protocol, the International Statelessness Conventions, and the 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families. The ratification of or accession to these instruments and their incorporation into national law can promote the development of national legal frameworks to address mixed movements.

5. In accordance with the 2000 United Nations Convention against Transnational Organized Crime and its Supplementary Protocols¹ (for those countries which are signatory) and in cooperation with relevant international organizations, Participants call for measures to prevent and combat trafficking in persons. They also call for measures to provide effective protection to the victims of this crime, including, where appropriate, through the granting of refugee protection. Participants also called for ensuring that smuggled migrants shall not become liable to criminal prosecution.
6. Participants draw attention to the importance of finding solutions to mixed population movements, including through addressing the root causes of irregular migration, the stabilization of populations, the re-integration of returning migrant workers and measures to facilitate durable solutions for refugees and stateless persons. In this regard, and in order to assist to prevent irregular movements, Participants may also consider the creation of legal migration opportunities.
7. Building on the recommendations of this Regional Conference and with a view to establishing enhanced regional cooperation, Participants deem it appropriate to consider creating a regional cooperation framework on mixed migration with the aim of harmonization. This framework would be based on the participation of all stakeholders, including countries of origin, transit and destination, international organizations, and civil society. It could be a starting point for further dialogue between interested States, provide a platform for the establishment of cooperative mechanisms to facilitate better data collection and exchange of information on population movements and invite the active support of UNHCR, IOM, and other relevant organizations. UNHCR's 10-Point Plan of Action on Refugee Protection and Mixed Migration adopted in 2006 and the IOM Strategy adopted in 2007 could provide guidance for the development of such a framework.

¹ The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and The Protocol against the Smuggling of Migrants by Land, Sea and Air

REGIONAL CONFERENCE ON REFUGEE PROTECTION AND
INTERNATIONAL MIGRATION IN CENTRAL ASIA
AMALTY, KAZAKHSTAN, 15-16 MARCH 2011

SELECTED RECOMMENDATIONS

Managing Borders and Ensuring National Security While Guaranteeing Protection

- shift focus from strict border controls to an integrated border management approach
- establish profiling and referral mechanisms to identify asylum-seekers and people who may need specific assistance
- conduct joint regional capacity building initiatives and trainings of border and migration services

Enhancing Integration Prospects

- facilitate access of refugees and stateless persons to legal employment opportunities, housing, medical services and education
- adopt simplified and accelerated naturalization procedures for refugees

Preventing and Reducing Statelessness

- strengthen cooperation among States in the area of statelessness status determination procedures
- adopt national action plans on reduction and prevention of statelessness

Preventing Trafficking and Protecting the Victims

- Establish mechanisms for identification and referral of victims, including to competent asylum authorities
- Increase capacity building in the area of identification of victims
- Establish a unified anti-trafficking hotline for the Central Asian region

Regional Cooperation and Coordination

- Better utilize existing regional mechanisms for dialogue on cross-cutting issues related to asylum and migration
- Develop common standards and criteria for the collection, analysis and exchange of data on mixed migratory movements
- Undertake joint information campaigns and raise awareness on the rights and obligations of refugees and migrants, as well as on potential dangers associated with irregular migration

OUTCOME OF THE CONFERENCE

- Convinced that more engagement and cooperation in resolving the region's particular problems could avert humanitarian crisis situations such as the internal conflict erupted in 2010 in Kyrgyzstan, participants adopted the "Almaty Declaration" a framework for further cooperation, dialogue and follow-up action on national, regional and international level.

PLANNED FOLLOW-UP ACTIVITIES

- Draft a regional Action Plan based on the *Almaty Declaration* and the recommendations of the conference
- Reconvene national consultations to develop plans for the implementation of the key conference recommendations and the regional Action Plan
- Explore possibilities to create a regional mixed migration consultative process

**WORKSHOP ON REGIONAL COOPERATION ON REFUGEES AND
IRREGULAR MOVEMENTS**

MANILA, PHILIPPINES, 22-23 NOVEMBER 2010

Regional Cooperation on Refugees and Irregular Movements

Workshop

Manila, Philippines 22 to 23 November 2010

Introduction

Migratory movements in the Asia-Pacific region are complex, with people coming into and moving within the region for a variety of reasons. Some are driven by economic factors such as a lack of employment opportunities at home and the demand for foreign labour in emerging as well as established economies in the region. Others hope to reunite with family members abroad or to pursue educational opportunities. And still others are forced to leave due to armed conflict, persecution or dire human rights situations in their countries. Complicating the phenomenon further, some people may have economic and social motivations but may also be driven at the core by humanitarian needs.

Whatever their motivations, many people travel clandestinely, relying on people smugglers and passing irregularly through several countries before reaching their intended destination. The means of transport used is often dangerous and degrading. At any point people on the move, especially women and children, are vulnerable to people traffickers.

These irregular movements raise common concerns shared by all States, which include:

- Transnational crime and national security;
- Orderly management of migration and borders;
- Humanitarian issues for and human security of people taking part in these movements (e.g. victims of trafficking, women, children, refugees, stateless people and others with special needs); and
- Impact on bilateral and multilateral diplomatic relations.

States have a sovereign right to develop and enact migration policies and to protect their borders as a matter of national security. They also have a right and responsibility to take measures to combat people smuggling and trafficking and to prosecute criminals who engage in these activities. However, experience has shown that unilateral border control

and counter-smuggling and trafficking measures alone are not effective, inter alia because they:

- address the symptoms of irregular movements and forced displacement without addressing the root causes; and
- tend to shift burdens to other State(s) affected by irregular movements, which fuels unnecessary diplomatic tensions or misunderstandings.

In recognition of these realities, countries in the region have increasingly been situating responses to people smuggling and trafficking within a broader context, including initiatives to address the root causes of irregular movements through effective information campaigns in countries of origin and host countries. States have also increasingly recognized the need to develop regional approaches in response to complex mixed movements, which provide sustainable and practical solutions on the basis of genuine engagement, cooperation and burden sharing between affected States.

Purpose of the Workshop

The Bali Process Third Ministerial Conference in April 2009 revived its Ad Hoc Group mechanism to develop practical responses at the regional level to assist countries to mitigate increased irregular movements and to enhance information sharing between affected countries. In June 2010, the Bali Process Ad Hoc Group held a Workshop on Protection, Resettlement and Repatriation to examine further the important issue of responding to refugees and asylum-seekers travelling as part of broader irregular movements of people.¹ Following the June workshop, the Co-Chairs of the Ad Hoc Group reiterated the recommendation to convene a workshop on and to develop a coordinated and comprehensive regional approach to refugees and irregular movements, including secondary movement, and they approached UNHCR in this respect.

This Workshop, co-hosted by the Philippines and UNHCR, takes up the recommendation of the Co-Chairs of the Ad Hoc Group. It will bring together concerned stakeholders to identify critical issues of common concern in the region and develop practical responses. Discussion may draw on experiences from UNHCR's "10-Point Plan of Action on Refugee Protection and Mixed Migration", which has been a helpful tool to address similar issues in other regions.²

Dates and venue

The Regional Cooperation on Refugees and Irregular Movements Workshop will take place in Manila, Philippines from 22 to 23 November 2010. The Workshop will be

¹ Third Meeting of Ad Hoc Group Senior Officials, *Co-Chairs' Statement*, para. 11, June 2010, <http://www.baliprocess.net/files/Co-Chairs%20statement%20AHG%20SOM%2010%20to%2011%20June%202010.doc> [accessed 20 September 2010].

² UNHCR, *Refugee Protection and Mixed Migration: a 10-Point Plan of Action*, www.unhcr.org/protect/PROTECTION/4742a30b4.pdf [accessed 20 September 2010].

immediately followed by an IOM-hosted Workshop on Repatriation and Reintegration Assistance.

Participants

Invitations have been extended to members of the Bali Process Ad Hoc Group. Additional participants may be identified by the Co-Chairs of the Ad Hoc Group. It is expected that the invited countries will be represented by foreign and immigration ministries at senior level.

Objectives and outcomes

The Workshop is expected to launch further discussion for the establishment of a coordinated and comprehensive regional approach as called for by the Ad-Hoc Group members in June 2010 to inform the work of the Bali Process. The results of the Workshop may also be useful for the upcoming Ministerial Meeting of the Bali Process.

The Workshop will first focus on identification of some general issues of common concern for all States in the region. It will aim at developing a common understanding on the elements of a regional response. This will be followed by discussions on two specific situations that arise in the context of irregular movements and practical solutions to address them:

- movements of small, manageable groups for whom there are viable return options; and
- movements by sea.

In particular, discussion will centre on ways in which enhanced cooperation and better support mechanisms could improve responses to these situations in a predictable and practical way.



Regional Cooperation on Refugees and Irregular Movements

Workshop

Manila, Philippines 22 to 23 November 2010

****Suggested Draft Agenda****

Sunday, 21 November 2010

- 16:30-18:30 Registration (Hotel Lobby)
- 18:30-20:30 Welcome Reception hosted by UNHCR

Monday, 22 November 2010

- 8.00-8.45 Registration (continued)
- 9.00-9.15 Welcome, introduction and overview by
- Philippines
 - UNHCR

9.15-12.30 Plenary: Issues of common concern in the region

Participants will explore issues of common concern, with a view towards promoting regional cooperation. Areas of focus will be:

- 9.15-10.30 Challenges of population movements - presentations by Australia and Indonesia as the Co-Chairs of the Bali Process, followed by discussion
- 10.30-11.15 Coffee break (including group photo session)**

11.15-12.30 Conditions for success of a proper management of population movements - discussion

12.30-14.00 Lunch break

14.00-18.00 Working Groups

Based on the morning discussion, participants will divide into two working groups with the aim of elaborating on how regional cooperation could be enhanced, taking into account such issues as coordination, case management and refugee status determination support, support for hosting asylum-seekers and refugees, resettlement processing and return.

Working Group One will focus on small, manageable groups on the move where there are viable return solutions expected.

Working Group Two will examine the special challenges arising from irregular movements by sea.

15.45-16.15 Coffee break

19.00 Dinner hosted by the Philippines

Tuesday 23 November 2010

9.00-13.00 Plenary: Findings and Recommendations

9.00-11.30 *Presentation of findings by the rapporteur of each working group, discussion on basic frameworks for addressing each of the two situations proposed by the working groups, and agreement on general conclusions for moving forward.*

11.30-11.45 Coffee break

11.45-12.30 Conclusions/Recommendations

**12.30-13.00 Closing remarks by Co-Chairs of the Bali Process
Closing remarks by UNHCR
Closing remarks by the Philippines**



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés



Regional Cooperation on Refugees and Irregular Movements

Workshop

Manila, Philippines 22 - 23 November 2010

Co-Hosts' Summary

1. The Philippines and UNHCR co-hosted a workshop on *Regional Cooperation on Refugees and Irregular Movements* in Manila on 22 and 23 November 2010 following a recommendation of the Bali Process Third Meeting of Ad Hoc Group Senior Officials held in Bali, Indonesia on 10 and 11 June 2010.
2. The workshop was attended by 46 delegates, representing the governments of Afghanistan, Australia, Bangladesh, Indonesia, Malaysia, the Maldives, Myanmar, New Zealand, Sri Lanka, Thailand and the Philippines as well as IOM and UNHCR. Canada, the European Union and the United States of America attended the workshop as observers.
3. The workshop was informed by the UNHCR discussion paper *Regional Cooperative Approach to address Refugees, Asylum-Seekers and Irregular Movement*. Presentations by Australia and Indonesia, as Co-Chairs of the Bali Process, the Philippines and UNHCR also provided useful input into the discussion in plenary. This was followed by two working groups, which examined regional cooperation in the context of two different scenarios: a) small, manageable groups on the move where there are viable return solutions and b) irregular movements by sea.
4. This summary reflects the main points of the discussion.

Common tradition, challenges and commitment to cooperation

5. Participants referred to the region's long tradition of receiving refugees and finding solutions for them. Today, the Asia Pacific region is hosting more than 3.5 million refugees, many of them in situations of protracted displacement.
6. At the same time, there was concern about the growing regional and global dimension of mixed movements which include refugees and other people with specific needs as well as those who move for non-protection related reasons. Such movements raise common challenges for States which include, inter alia, irregular secondary movements, human trafficking, smuggling and national security concerns.

7. Participants mentioned that countries in the region are faced with sea arrivals and complex maritime issues. These range from law enforcement issues, to complex legal questions and humanitarian imperatives.

8. There was clear recognition that affected countries cannot resolve these issues in isolation and that a multi-lateral and cooperative approach would be beneficial for all. The need to address divergence in State practices was well recognised as was the need for a coordinated regional approach.

Regional Cooperation Framework

9. Participants saw value in complementing national responses and addressing existing gaps through an inclusive, but **non-binding regional cooperative framework** to respond to complex population and refugee movements in the region in a more predictable manner. This framework would follow an approach that is:

- **Comprehensive**, complementing law enforcement measures by also addressing the humanitarian dimension of refugee and population movements. There was general recognition that enforcement and crime prevention alone could not address the problem effectively.
- **Collaborative**, involving all stakeholders, including countries of origin, host and destination countries; countries that are party to the 1951 Convention and those who are not. This would offer the opportunity to accommodate the interests of all States concerned.
- **Differentiated** and takes account of the various categories of people on the move, including, inter alia, asylum-seekers, refugees, people who have been displaced by natural disaster and climate change, individuals with specific needs and people who can return.
- **Harmonised and addresses secondary movements**, based on common approaches and timely responses to reception, identification, registration, determination and solutions.

10. Participants highlighted the following elements of the framework:

- Increased **information exchange** among States on irregular movements, bearing in mind confidentiality principles. The increased engagement of States with regard to identification, registration and documentation was noted as a means of enhancing knowledge as to who is on the territory and to address security concerns. Other relevant international organizations could increase information sharing on rejected asylum-seekers, bearing in mind data protection principles.
- Measures to address **causes** of irregular movements. Strategies to combat human smuggling and trafficking in persons, information campaigns on the dangers of

irregular movement as well as development assistance in source countries were viewed as key elements in this respect. The overarching concern is the prevention of loss of life at sea.

- Measures for **processing and case management**, including relevant procedures from the arrival or apprehension of a person with irregular status through to the determination of their status.
- Practical measures to **facilitate sustainable return, in safety and dignity, preferably on a voluntary basis**, of those people who are not or no longer in need of international protection. Temporary permission to stay in host countries for those who cannot return immediately could contribute to the sustainability of return.
- Measures to enhance **burden-sharing and resettlement options**, including through support from third countries.

11. Participants emphasized that such measures will need to be developed in such a way as not to create additional pull factors.

12. Participants welcomed the **UNHCR discussion paper** *Regional Cooperative Approach to address Refugees, Asylum-Seekers and Irregular Movement* as attached to this summary. The areas of common understandings developed in the paper were considered to be relevant to and provide a useful reference point to address irregular movements. They could form the basis of workable arrangements among different stakeholders. Such arrangements would be informed by the range of tools set out in the paper. There was also general interest that the three regional support functions could provide valuable practical support to States.

13. Participants also suggested practical elements in regional cooperation arrangements that might include national/regional **Standard Operating Procedures (SOPs)** on when and how to intervene with regard to boat arrivals; a possible regional processing centre or centres; **institutionalized channels of dialogue** among affected countries; sharing of **good practices** between States both within the region and beyond.

Next steps

14. Participants recommended that the results of this meeting be presented to the next meeting of the Bali Process Ad Hoc Group Senior Officials for submission to the Ministerial Conference scheduled to take place in 2011.

15. Participants recognized that it was a useful approach to explore different scenarios. They suggested convening a workshop to explore how the regional cooperation framework could be applied to other relevant scenarios.



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Regional Cooperative Approach to address Refugees, Asylum-Seekers and Irregular Movement

UNHCR Discussion Paper

1. Background and Context

Population movements in the Asia-Pacific region are complex and multi-layered with people coming into, as well as moving within, the region for a variety of reasons. Economic and social factors are at times a driving force, particularly given the demand by emerging economies for foreign labour. The region includes a mix of labour producing and labour receiving countries; with some countries simultaneously experiencing both types of labour migration. Conversely, some population movements are triggered by human rights situations or humanitarian crises. And still other movements, while largely protection motivated, also contain economic dimensions.

In this context, States in the Asia-Pacific region have recognized the need to address mixed and irregular movements of people in the region more effectively. The Bali Process Third Ministerial Conference in April 2009 revived its Ad Hoc Group mechanism precisely to develop practical responses at the regional level to assist countries to respond to increased irregular movements and to enhance information sharing between affected countries.¹

Most recently in June of 2010, the Bali Process Ad Hoc Group held a Protection Workshop to examine more closely the important issue of protection within the broader context of the irregular movement of people. In the Bali Process Senior Officials Meeting that directly followed, participants endorsed and agreed “to immediately commence work to take forward a UNHCR co-hosted workshop to develop a coordinated and comprehensive regional approach to refugees and irregular movements, including secondary movements”.²

2. Challenges and Benefits of Closer Regional Cooperation

The forced and voluntary movement of people into and through the Asia-Pacific region is not a new phenomenon. It raises a number of common concerns that affect all States in the region:

- national security and orderly management of migration/borders;
- human security for people affected (especially refugees, asylum-seekers, women, children, trafficked persons and other groups with specific needs);
- transnational crime;
- unnecessary tensions in relations between States.

¹ Third Regional Ministerial Conference, *Co-Chairs’ Statement*, para. 28, April 2009, available at: http://www.baliprocess.net/files/Co%20chairs%20statement%20BRMC%20III_FINAL.doc.

² Third Meeting of Ad Hoc Group Senior Officials, *Co-Chairs’ Statement*, para. 11, June 2010, available at: <http://www.baliprocess.net/files/Co-Chairs%20statement%20AHG%20SOM%2010%20to%2011%20June%202010.doc>.

States have a legitimate right and, indeed, responsibility, to define their own migration policies and to protect their borders as a matter of national security. One practical aspect of this is the right to combat smuggling and trafficking in persons. While ensuring that perpetrators of smuggling and trafficking are detained and prosecuted, mechanisms are required, not only from a legal but also from a humanitarian perspective, to address the needs of the victims. Such mechanisms can be designed in a way that they are compatible with national security concerns.

However, experience suggests that, on their own, border control or counter-smuggling efforts are not effective because they:

- tend to deflect/divert the problem to other State(s), which can lead to tensions and misunderstandings between States;
- allow the situation to be exploited by people smugglers and trafficking rings;
- do not address the root causes of irregular movement, which are complex and multidimensional and which have both a ‘State security’ and a ‘human security’ dimension;
- do not recognize that refugee movements are, almost by definition, disorderly and irregular;
- do not address the situation of victims of smuggling and trafficking to whom all States and the international community have special responsibilities.

In addressing complex mixed movements, practical cooperative solutions are needed that consider the phenomenon comprehensively, and at every stage of movement. This includes ensuring access to international protection for those in need, as well as providing appropriate and effective outcomes for others. It is important that this not be done in any manner which would inadvertently encourage onward movements or create pull factors. With this in mind, the sustainable, timely return of persons found not to be in need of international protection is a priority. A common regional cooperation framework which addresses key elements identified as being to the benefit for all (“win-win”) could accordingly complement and reinforce comprehensive national policies in this area.

3. Proposal for a “Regional Cooperation Framework”

In response to the request of the Ad Hoc Group of the Bali Process, and to provide participants at the forthcoming workshop in Manila with a framework within which ideas for practical cooperation might be discussed, UNHCR proposes the development of elements of a **Regional Cooperation Framework (RCF)**. This would provide a more predictable yet flexible way in which States, UNHCR, IOM and other stakeholders might come together to develop practical arrangements that would respond to, and manage, specific situations of mixed movement. An inclusive but non-binding framework could:

- assist States to develop more coherent and predictable responses to refugees and irregular movements in the region;
- provide a reference point through which support from States outside the region could be engaged; as well as for more targeted, “value-added” support from UNHCR, IOM and other relevant stakeholders;

- support the development of a set of focused, practical cooperative measures which could, over time, ensure a clearer and fairer distribution of responsibilities among States for refugees, asylum-seekers and irregular movements in the region.

Such an approach would have the valuable benefit of:

- focusing on practical concerns of and solutions for States which are currently hosting refugees and asylum-seekers;
- providing a more supportive environment for the protection of people in need;
- assisting to decrease disparities of treatment of persons in need through harmonization;
- providing real disincentives for human smuggling and trafficking.

The RCF would be a package of inter-linked mechanisms and initiatives which together would achieve the goals set out above. As a starting point, the RCF could contain a set of **Common Understandings** that would provide the broad underpinnings of good practices and sound collaboration between States. These common understandings could be supplemented by **situation-specific practical cooperative arrangements**, as well as **regional support functions** to assist States on an operational level. Further detail on these possible elements of the RCF is provided in Parts 4 and 5, below.

4. Areas for Common Understandings

As a broad “umbrella” for any discussions on closer regional cooperation, a starting point might be for participating States to identify general, or common, considerations that they all share, over and above the specificities of their own national context. These Common Understandings would be developed and “owned” by States, targeted towards regional specificities and respectful of the legitimate national concerns of each State, as well as international refugee and human rights law. They would be developed in a spirit of equitable burden and responsibility sharing between participating States.

Based on UNHCR’s experience with the 10-Point Plan of Action for Refugee Protection and Mixed Migration,³ and similar collaborative strategies developed by States around the world,⁴ a series of Common Understandings might cover the following areas.

4.1 Developing practical cooperation among partners

As indicated above, comprehensive approaches based on cooperation between States and other partners can offer a better range of options and solutions to address complex issues relating to refugees, asylum-seekers and irregular movements as compared to bilateral and unilateral action.

³ UNHCR, “Refugee Protection and Mixed Migration: A 10-Point Plan of Action”, 1 January 2007, available at: <http://www.unhcr.org/protect/PROTECTION/4742a30b4.pdf>.

⁴ See outcomes from Regional Conferences on Refugee Protection and International Migration in Sana’a, Yemen (May, 2008); Dakar, Senegal (November, 2008); San José, Costa Rica (November, 2009); and Dar es Salaam, Tanzania (September, 2010). Further information available at: <http://www.unhcr.org/pages/4a16aac66.html>.

Inter alia, cooperative approaches can:

- ensure more coherence and consistency in approaches between different States – in particular, harmonized approaches can reduce incentives for irregular onward movement (and, correspondingly, limit smuggling and trafficking);
- encourage engagement from national partners, civil society and their regional counterparts, including to mitigate the impact of migration on local communities, and prevent actual or perceived “special treatment” for refugees and asylum-seekers;
- provide a channel for the pooling of resources both to develop effective responses within the region; as well as for States and stakeholders outside the region to provide support (political/diplomatic, humanitarian, financial, aid, logistic, etc);
- provide an ongoing platform for States to discuss and develop practical responses to specific issues of common concern.

4.2 “Protection sensitive” migration management practices

- *Identification, registration, documentation, profiling and referral*

States have a right and responsibility to identify, register and track (through appropriate documentation) persons on their territory. Indeed, robust migratory policies, coupled with national and regional security concerns, require accurate knowledge of who is on one’s territory, who is allowed to remain and who should be requested to leave.

Cooperative approaches could ensure that common information is collected by partners in the region in a way that facilitates data and information exchange for purposes of enhancing national/regional security, effective migration management and developing targeted responses. Practical protocols could be developed to allow participating States to share information wherever possible, while respecting confidentiality concerns. UNHCR is committed to sharing its specific expertise on data collection and analysis for the purpose of enhancing the protection of persons of concern to the Office.

Establishing non-binding profiling and referral mechanisms to identify and differentiate between different categories of persons soon after arrival in host States can enable States to immediately identify and refer (to the appropriate procedures/channels), persons seeking asylum, as well as those not needing international protection and others with specific needs.

- *Differentiated processes and procedures*

While States have responsibilities under international law towards persons in need of international protection, not everybody who arrives irregularly in a State will have such needs. By developing differentiated processes and procedures for various categories of people, States can ensure effective and fair access to asylum for those with claims for international protection, while providing efficient and timely outcomes to others, including return as appropriate.

Each State has differing priorities and concerns that will require procedures adapted to its national context. However, the establishment of similar or standardized procedures for

different categories of persons throughout the region could limit push and pull factors that feed onward movements, ensure fairer distributions of responsibilities between States and mobilize support from States and other partners outside the region.

- *Addressing disparities in standards of treatment for refugees and asylum seekers*

The prospect of detention, expulsion, indefinite delays, poor standards of reception and inadequate conditions of living are principal drivers of onward secondary movements for refugees and asylum-seekers. These factors can also create safety and security issues for host countries, and tensions with local communities. Both secondary movement and such security concerns can be reduced if refugees and asylum-seekers have access to conditions of safety and dignity at all stages of their stay and while they await clarity on their future. Secondary movement will also be less likely if regional understandings are developed that ensure that standards of treatment for specific groups are reasonably comparable. Such agreements, particularly where they explicitly abide by established international standards, could also help in mobilizing international support and assistance, which can in turn alleviate the burden on host communities.

- *Addressing Irregular Onward Movements*

A key objective of cooperation between participating States in the region is to reduce irregular onward movement by asylum-seekers and refugees from one participating State to another. This will also necessarily undermine the exploitative practices of people smuggling and human trafficking.

Suggestions for reducing irregular onward movement, drawing on the elements already outlined in this discussion paper, include:

- better information exchange of data and analysis between States to prevent identity abuse;
- more uniform and consistent asylum procedures to reduce “forum” or “venue” shopping;
- more uniform and consistent standards of treatment for asylum-seekers;
- timely solutions that ease the burden on host States and their local communities and provide practical and principled outcomes for people affected.

Once regionally consistent and coherent processes and practices have been established, then States can better determine, in practical ways, where the responsibility lies for the processing of individual cases under these arrangements. Under certain circumstances, which would need to be further defined, this might involve practical cooperation on issues such as readmission or transfer from the territory of one participating State to that of another.

Given the high incidence of irregular maritime movements within parts of the region and the complexity of issues involved, the issue of *people moving irregularly by sea* may form a sub-category of onward movers with a special set of needs and requirements that could merit a dedicated regional understanding. Whereas differentiated procedures for sea

arrivals have strong merit, the impact of such processes on each State and on the region as a whole would need to be carefully analyzed to avoid inadvertently contributing to increased secondary movements by shifting responsibilities.

4.3 Developing Realistic Solutions and Stabilizing Populations

Better cooperation between States, in a spirit of regional burden and responsibility sharing, could ensure that effective and timely solutions/outcomes are provided for individuals involved in irregular mixed movements. Realistic and comprehensive solutions to various situations of mixed movement involve different processes, to be undertaken simultaneously, with a long-term perspective and commitment:

- Increased support from third countries to resettle refugees in a timely fashion so they are not left 'in limbo' and in the sole care and responsibility of host States.
- Closer cooperation on the return/removal of people found not to be in need of international protection - perhaps supported by return incentives, development aid packages and humanitarian reintegration assistance to places/regions of return.
- Exploring in-country solutions for selected groups or individuals. These might include refugee protection systems, labour migration schemes, family reunion or other local opportunities that benefit both the host State and the individuals concerned.
- Addressing root causes through "in-country" support for national initiatives in countries/regions of origin.

For countries that are experiencing difficulties that are leading to large-scale population movements, progress on return is likely to take time. The first stage in moving toward conditions for return is stabilization of the population both in the country of origin and in countries of asylum, in conditions that will not fuel onward movements. Focusing on stabilization of populations is an essential component of managing situations of mixed movements on a regional basis.

It is also important to avoid creating conditions in countries of asylum that attract people who otherwise would remain at home to leave their country. The prospect of resettlement to a third State can be one such factor. Used in a strategic, targeted way for well-defined groups resettlement can, however, be an important protection tool.

5. Conclusions

5.1 International support and burden sharing, including appropriate roles for UNHCR, IOM and other stakeholders

The foundation of any effective cooperation in the region is the ownership, commitment and active engagement of participating States, based on mutual respect for their sovereignty and security.

In the short- to medium-term, support and assistance from the international community, including UNHCR, IOM, States with developed asylum and migration management

systems, and other entities, will be both desirable and necessary. This could include, as appropriate, providing advice, technical support, financial and human resources, and guidance as to how collaborative arrangements could best be implemented. However, such international support would be on a transitional basis in the sense that it would aim to strengthen the capacity of sovereign States.

5.2 *Situation-specific cooperative arrangements*

A RCF would provide a basis for interested States to come together to establish targeted, practical cooperative arrangements to address specific situations of mixed movements, with the support from UNHCR, IOM and other relevant stakeholders.

Consistent with the goals of the RCF, such cooperative arrangements would be developed on the basis of mutual respect for the sovereignty of participating States. They would be designed to achieve an equitable and principled distribution of responsibilities between each participating State, as well as fair and effective outcomes for the individuals concerned.

Two scenarios that are currently being faced by States in the region and where practical regional cooperation could initially be considered are outlined in **Annex 1**.

5.3 *Regional Support Functions*

In addition to identifying common understandings that most States in the region would recognise as relevant to their national situation, a RCF could provide a basis for interested States to come together to develop Regional Support Functions. These would provide support and pooled resources for certain practical aspects of State responses to mixed movements.

In particular, the Regional Support Functions could provide support for three broad areas of engagement and cooperation:

- (1) Regional efforts to differentiate those needing international protection from those who do not (Regional support for processing and case management).
- (2) Regional efforts to find solutions (both within and beyond the region) for those found to be in need international protection (Regional support for resettlement and burden sharing).
- (3) Regional efforts to return persons found not to be in need of international protection to their countries of origin (Regional support for return to countries of origin).

Further information on the proposed Regional Support Functions is provided in **Annex 2**.

ANNEX 1

Regional Cooperative Arrangements for Specific Groups of Refugees, Asylum-Seekers and Migrants in an Irregular Situation

Under the “umbrella” of the Regional Cooperation Framework (RCF), interested States, working together and with support from the Regional Support Functions (see Annex 2) as appropriate, could develop targeted, practical cooperative arrangements to better manage and find solutions for specific groups of refugees, asylum-seekers and migrants in an irregular situation.

Cooperative arrangements would be developed on the basis of mutual respect for the sovereignty of participating States. These arrangements would be designed to achieve both fair and effective outcomes for the individuals involved, as well as an equitable and principled distribution of responsibilities between participating States.

This document outlines two scenarios where practical regional cooperation could initially be considered:

Scenario A: Identifying solutions/outcomes for specific groups of a manageable size, for the majority of whom return or voluntary repatriation is viable

Scenario B: Identifying solutions/outcomes for people moving irregularly by sea

SCENARIO A:

Identifying solutions/outcomes for specific groups of a manageable size, for the majority of whom return or voluntary repatriation is viable

Cooperative arrangements could be developed to provide solutions/outcomes for specific, manageable groups of refugees, asylum-seekers and migrants in an irregular situation on the territory of several participating States. They could particularly address the situation of people who are from a country that is stabilizing following conflict or another humanitarian crisis, and where return or voluntary repatriation will accordingly be viable options for the majority. Cooperative arrangements, supported by the Regional Support Functions as appropriate, could ensure that responses to these groups are harmonized across the region, minimizing incentives for those without international protection needs to leave their countries of origin and/or for “forum shopping” between participating States. They could also ensure effective and humane return of persons not in need of international protection.

Assumptions and Pre-Conditions for Cooperation

- (i) *The number of people from one country of origin present on the territory of each participating State is sufficiently manageable to allow for individualised processing to be carried out (i.e. not a mass influx situation); and*
- (ii) *persons from that particular country of origin are present in more than one of the participating States; and*
- (iii) *the situation in the country of origin shows visible signs of improvement and stabilization; and*
- (iv) *the sustainable return of persons who are not in need of international protection to their country of origin is feasible; and*
- (v) *many refugees are expected to voluntarily return to their country of origin within a foreseeable period; and*
- (vi) *the number of people who will not be able to return home is likely to be small.*

Cooperative arrangements, supported by the Regional Support Functions as appropriate, might be considered in the following areas:

- 1 Developing a consistent, coherent and effective system of identification, registration and documentation, as well as standardized procedures for differentiation between groups according to varying needs (with support from the Regional Support Function for processing and case management as appropriate).

2 Subsequently:

- Developing sustainable return arrangements for persons found not to be in need international protection to their countries of origin (with support from the Regional Support Function for return to countries of origin as appropriate).
- Developing a common arrangement on organized interim stay for individuals who cannot return to their country of origin until a more durable solution can be achieved.
- Facilitating voluntary repatriation for refugees once conditions in the country of origin permit, in line with international standards and including support for reintegration into the country of origin.
- Burden sharing with the support of resettlement countries for people who cannot return home (with support from the Regional Support Function for resettlement and burden sharing as appropriate).

SCENARIO B:

Identifying solutions/outcomes for people moving irregularly 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 as appropriate, could assist to develop coherent and predictable responses tailored to the special circumstances of these movements.

Four possible situations falling under the broad category of “people moving irregularly by sea” can be anticipated, each requiring different responses by participating States and engaged stakeholders:

- Distress at sea and rescue at sea operations;
- Maritime interception operations;
- Discovery of stowaways on commercial vessels; and
- Irregular sea arrivals at the territory of participating States.

Assumptions, Challenges and Pre-Conditions for Cooperation:

- (i) *Each of the four situations (rescue at sea, interception, stowaways, and irregular sea arrivals) is different and requires a tailored response;*
- (ii) *people who travel irregularly by sea may have humanitarian needs arising from the risk and danger to human life and security involved;*
- (iii) *State responsibility for disembarkation and processing may need clarification;*
- (iv) *disembarkation of persons in places of safety raises complex operational and logistical questions which may need clarification;*
- (v) *the profiles and needs of people moving irregularly by sea may vary substantially and require differentiated responses.*

Cooperative arrangements, supported by the Regional Support Functions as appropriate, might be considered in the following areas:

- 1 Combating human smuggling and trafficking by sea.
- 2 Preserving the integrity and effectiveness of maritime search and rescue (SAR) services.
- 3 Ensuring that interception operations, where carried out, respect the principle of *non-refoulement* and are protection-sensitive.

- 4 Developing effective disembarkation agreements/procedures following rescue at sea and/or for interception operations where there is ambiguity about which State has responsibility.
- 5 Developing a consistent, coherent and effective system of identification, registration and documentation, as well as standardized procedures for differentiation between irregular maritime arrivals according to varying needs (with support from the Regional Support Function for processing and case management as appropriate).
- 6 Subsequently:
 - Developing sustainable return arrangements for irregular maritime arrivals found not to be in need international protection to their countries of origin (with support from the Regional Support Function for return to countries of origin as appropriate).
 - Ensuring timely and effective solutions are provided to irregular maritime arrivals who cannot return home (with support from the Regional Support Function for resettlement and burden sharing as appropriate).
 - Developing common understandings and practical cooperative arrangements for addressing secondary movements in a context of more equitable burden sharing.

ANNEX 2

Regional Support Functions

To support the effective implementation of the Regional Cooperation Framework (RCF), and to assist participating States to develop consistent and coherent responses to refugees, asylum-seekers and irregular movements, UNHCR proposes the establishment of three Regional Support Functions:

1. Regional support for processing and case management. This Support Function would provide support to participating States for the development of in-country processing and case management with a view to greater harmonization by eliminating disparities. Support would also be provided to States with existing national processing and case management procedures. Activities would include information sharing, training and capacity building, developing harmonized processes and procedures, and pooling resources (e.g. interpreters, country of origin information).
2. Regional support for resettlement and burden sharing. This Support Function would provide a channel for discussion and consensus building between participating States on resettlement and burden sharing. It is envisaged that this function would provide information, advice and necessary technical support to enable the effective processing and management of certain cases requiring resettlement under the RCF. It would also provide operational support for the resettlement of targeted, pre-defined groups of refugees, possibly through a processing centre for a limited number of refugees e.g. on an emergency basis for those who are unable to stay in the host country while their resettlement claim is processed.
3. Regional support for return to countries of origin. This Support Function would provide operational support to States for the return of rejected asylum-seekers and others who are not in need of international protection to their countries of origin.

The establishment of these Regional Support Functions would not preclude continued and enhanced bilateral or multilateral support from members of the international community to countries of origin or host countries.

Role of UNHCR

The Regional Support Functions would be developed by and for participating States in a spirit of collaborative partnership. UNHCR would be a key stakeholder and partner, continuing to provide its support and expertise as appropriate and consistent with its mandate and supervisory responsibility.

1. Regional support for processing and case management

This Support Function would assist with all relevant procedures from the arrival or apprehension of a person in irregular status on the territory of a participating State through to final determination of their status in the host country. This could include e.g. registration, identification and documentation, profiling and referral procedures, asylum procedures or other substantive procedures for persons with specific needs.

- Terms of Reference:**
- Provide support to develop the in-country processing and case management capacities of participating States, including, e.g., information sharing, workshops, training, joint exercises involving UNHCR and government officials from various participating States
 - Provide training, capacity-building and mentoring for existing national processing and case management systems in the areas of, e.g.:
 - Registration
 - Profiling and pre-screening
 - Interviewing techniques
 - Gathering and analysing country of origin information
 - Adjudication of asylum claims, including at the first instance and appeals levels
 - Other processes and procedures for identifying and assisting those with specific needs and risks, including women, children, trafficked persons
 - Provide a network for and coordinate pooled resources to be deployed to requesting countries, e.g.:
 - Interpreters
 - Country of origin information
 - Counselling and representational services, both legal and social
 - Jurisprudence of asylum States and regional bodies, as well as UNHCR guidelines
 - Propose harmonized standards for processing and case management that could be discussed, developed and agreed upon by participating States
 - In the event of emergencies, and upon request of the concerned States, coordinate the deployment of pooled resources to assist with significant and urgent demands on their processing and case management systems
 - Provide specific guidance and technical support on processing and case management following rescue at sea and maritime arrivals
- Location:**
- Could be a virtual entity, supported by a secretariat and/or
 - Staff located in one or more States who endorse the RCF
- Partners:**
- States within the region who endorse the RCF
 - UNHCR
 - Specialised NGOs and service providers
- Required Resources:**
- Qualified experts and adjudicators
 - Support staff
 - Funding from partner States; additional funds, personnel or in-kind contributions from other States as needed

2. Regional support for resettlement and burden sharing

This Support Function would be additional to existing resettlement processes currently being undertaken in the region. It would be targeted towards limited caseloads only: namely, small groups of refugees for whom coordinated assistance to process and allocate resettlement places would be of added value.

- Terms of Reference:**
- Provide a channel for discussion and consensus building among host countries and resettlement States on resettlement and burden sharing, including on resettlement possibilities for certain groups of refugees
 - Provide support for the processing of resettlement cases for certain groups of refugees in the region as appropriate, including:
 - Preparation and submission of resettlement referrals
 - Deploying resettlement expert teams to host countries to interview refugees who may be appropriate for resettlement
 - Completing medical clearance procedures
 - Coordinating transport logistics for departures
 - Propose harmonized standards for strategic resettlement as part of burden sharing between States. These could then be discussed, developed and agreed upon by partner States
 - Depending on needs and interest from States, the establishment of a physical processing centre(s) could be considered for **certain specific, small groups** of refugees pending resettlement. In this case (and in circumstances that would need further development):
 - Ensuring that timely resettlement places would be available for all refugees transferred to the centre would be essential
 - Transfer to the centre would only be considered for certain, defined groups of refugees, e.g., on an emergency basis for refugees who cannot stay in their current host country during processing of their resettlement claim
 - The centre would be open, and meet international standards with regards to, e.g., privacy, hygiene and security
 - Opportunities for self-reliance would be made available, depending on length of stay in the centre
- Location:**
- Could be a virtual entity, supported a secretariat and/or
 - Staff located in one or more States who endorse the RCF
 - If there is a physical structure(s), these would be located in one or more 1951 Convention States in the Asia-Pacific Region
- Partners:**
- States within the region who endorse the RCF
 - Resettlement countries within and outside the region
 - IOM
 - UNHCR
 - Specialised NGOs and service providers
- Required Resources:**
- Staff with resettlement expertise
 - Support staff
 - Funding from regional partner States and other interested States
 - Availability of resettlement places

3. Regional support for return to countries of origin

The principal goal of this Support Function would be to provide for a pooling of logistical resources to facilitate return of persons without international protection needs to their countries of origin by participating States. It could also improve the support provided to countries of origin receiving returning citizens, including enhancing reintegration and development assistance provided both to returnees and their local communities.

- Terms of Reference:**
- Liaise with countries of origin on issues such as amnesty for illegal departures, provision of documentation (e.g. travel), readmission agreements and reintegration packages
 - Prepare information on countries of origin to be used to counsel persons who wish to return, as well as for information campaigns in host countries and countries of origin
 - Organise cost-effective pooling of logistical resources for group returns to a given country of origin (flights, etc)
 - Advocate for international support to provide reintegration and development assistance to countries of origin
 - Encourage voluntary return, including through development of assisted voluntary return programmes
 - Propose harmonized standards for the return of persons not in need of international protection, in line with international law, that could be discussed, developed and agreed upon by partner States
- Location:**
- Could be a virtual entity, supported by a secretariat and/or
 - Staff located in one or more States who endorse the RCF
 - In the event of particularly large numbers of returns to one country of origin from several participating States, logistics and operations could be centralized at a temporary site specifically created for this (e.g. at an airport)
- Partners:**
- States within the region who endorse the RCF
 - UN country teams in countries of origin to encourage linkage with development assistance
 - IOM
 - UNHCR
 - Specialised local NGOs and service providers, such as for transport
- Required Resources:**
- Logistical experts
 - Senior officials to conduct diplomatic negotiations including in countries of origin
 - Funding from partner States and interested States from outside the region
 - Staff with expertise on development assistance

WORKSHOP ON REGIONAL COOPERATION ON REFUGEES AND IRREGULAR MOVEMENTS
MANILA, PHILIPPINES, 22-23 NOVEMBER 2010

SELECTED CONCLUSIONS

Working Together

- Common challenges raised by mixed movements need a multi-lateral and cooperative approach.
- An inclusive, but non-binding regional cooperative framework is needed to respond to complex population and refugee movements in the region in a more predictable manner.

Providing and Sharing Information

- Increased information exchange among States on irregular movements is necessary bearing in mind confidentiality principles.

Preventing Loss of Life at Sea

- Preventing loss of life at sea requires strategies to combat human smuggling and trafficking in persons through building capacity, information campaigns on the dangers of irregular movement; and development assistance in source countries

Burden Sharing and Resettlement

- Measures are needed to enhance burden sharing and resettlement options including through support from third countries

ENVISAGED FOLLOW-UP ACTIVITIES

Working Together

- UNHCR Discussion Paper seen as a useful foundation for operationalising the Regional Cooperation Framework (RCF) agreed at the 4th Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, in March 2011 (Ministerial Conference).

Providing and Sharing Information

- UNHCR is discussing with governments in the Asia-Pacific region the development of a Regional Support Office to *inter alia* support the development of systems for information exchange and analysis

Preventing Loss of Life at Sea

- Regional participation in the UNHCR Global Workshop on the protection of refugees and asylum seekers at sea scheduled for the second half of 2011

Burden Sharing and Resettlement

- Ministerial Conference supported UNHCR proposal for a Regional Support Function on resettlement and burden sharing to provide support and pooled resources for certain practical aspects of State responses to mixed migration.
- Regional participation in the UNHCR Global Workshop on International Cooperation to share Burdens and Responsibilities scheduled for June 2011

Facilitating Sustainable Return

- Practical measures for the sustainable return in safety and dignity of persons who are not or no longer in need of international protection.

Facilitating Sustainable Return

- Ministerial Conference supported UNHCR proposal for a Regional Support Function to facilitate the return to countries of origin of persons found not to be in need of international protection.