



COUNTRY OPERATIONS PLAN

OVERVIEW

Country: Timor-Leste

Planning Year: 2006

TIMOR LESTE COUNTRY OPERATIONS PLAN FOR 2006

Part I: OVERVIEW

1. Protection and socio-economic operational environment

East Timor experienced substantial social, political and economic upheaval after its population voted for independence from Indonesia in a referendum held in August 1999. Over two thirds of the population was displaced in the weeks following the ballot results, an estimated 260,000 persons fled to West Timor (Indonesia), and over 70 per cent of the infrastructure was destroyed. Soon after the violence ceased, voluntary repatriation commenced, and East Timor began rebuilding itself with the support of the international donor community, the United Nations and NGOs. On 20 May 2002, after a quarter of a century of conflict, the Democratic Republic of Timor-Leste became the first new nation of this millennium.

While Timor-Leste has achieved progress in the rehabilitation of the economy, the reconstruction of infrastructure and the building of a state in conformity with essential democratic rules and principles, the political, economic and security situation in the country remains fragile. Despite having benefited, in the context of a small country with a population of less than one million people, from substantial bilateral and UN assistance, most economic and humanitarian indicators remain discouraging. On the political side, disaffected elements in the society continue to cause problems for the Government, and questions related to justice and reconciliation remain unresolved. On the economic side, low income, literacy and life expectancy levels, high unemployment and infant mortality rates, as well as an economy based on the US dollar, continue to cause problems in the country and provide the potential for further civil disturbances. Due to a lack of a proper legislative framework, especially as concerns land ownership, and high wages, foreign investment is negligible. Expected revenue from oil and gas is dwindling as negotiations with Australia become more protracted, leading, inter alia, to higher than originally projected budget deficits and further disenchantment amongst a population expecting to reap the perceived benefits of independence. Elections to be held during 2006 may be accompanied by civil unrest. The lack of employment and inadequate public services may provide an opportunity for political rivals to reverse the reconciliation the East Timorese have fought so diligently to foster. There is also a fear that former militia leaders could re-emerge as dangerous local power brokers. Hence, certain returnee areas may, in future, experience political disturbances and possible violence.

Security Situation

As of late 2002, there was a significant increase in the frequency and magnitude of security related incidents. Disturbances in Baucau in November 2002 were followed by riots in Dili in December. In early 2003,

groups of men armed with automatic weapons carried out several attacks in the western parts of the country. During the fourth quarter of 2004 violence perpetrated by individuals crossing the border, including the murder of civilians linked to criminal and political activities, perpetuated fears of destabilization which continue in 2005. Intelligence reports indicate that ex-militia members from within the former refugee population in West Timor were involved in some of these incidents.

These events demonstrated the type of problems that might still emerge and the possible inadequacy of the Government's capacity and means to address them. Annually from 2003, based on the Secretary-General's finding of a "significant deterioration" in Timor-Leste's security environment, the UN Security Council agreed to delay the planned reductions in UN military and police forces. Based upon a consensus regarding the need for a continued UN presence beyond the end of the United Nations Mission of Support in East Timor (UNMISSET) mandate on 20 May 2004, extensions of the mission have continued. In 2005, for the first time in independent Timor-Leste's history, the USA and Australia, two key actors for the country, called for a discontinuation of the military component of UN presence. It appears likely at the time of writing that the Security Council will approve an extension of the UNMISSET mandate in some form, but one that focuses on political assistance and State building rather than peacekeeping. Timor-Leste remains Security Phase I. West Timor has to be designated by UNSECOORD as a Security Phase III area at the end of 2004.

The presence of some 26,000 remaining former East Timorese refugees just on the other side of the border continued to be seen in some quarters as a potentially destabilizing factor for Timor-Leste, and the low rates of return since the end of 2002 would indicate that the majority of this caseload has opted to stay in Indonesia.

In an effort to find solutions for the remaining caseload of 26,000 former East Timorese refugees in West Timor, UNHCR, in April 2003, proposed a comprehensive strategy which received the political support of both governments concerned. Combined with an Indonesian presidential decree providing for the possibility of Indonesian citizenship for those who were not yet registered as Indonesian citizens, the strategy included the reassignment of civil servants, army, and police who worked for the Indonesian government, resettlement to other islands in Indonesia, settlement in West Timor, return to Timor-Leste, and an improved cross-border approach involving both governments. By the end of 2003, some 12,000 persons had benefited from these measures, leaving a residual caseload of some 16,000. UNHCR will remain engaged in support for the movement of individuals through ad hoc returnee operations, as necessary with regard to this population, should anyone among them seek to return.

Asylum seekers and refugees choose to reside in Dili. While high unemployment and petty crime remain a concern, there is no specific security risk for them.

Thus, since late 1999, UNHCR has been instrumental in repatriating some 225,000 East Timorese, undertaking a large shelter programme, finding durable solutions in the best interest of separated children, capacity building, and dealing with asylum issues. A number of matters will need to be addressed through a much reduced but ongoing UNHCR presence, including developing the capacity of Timor-Leste to adequately address reception and protection of asylum seekers, and develop durable local solutions for refugees, and monitoring the implementation of the 1951 Convention.

Protection issues

Asylum legislation/status determination

In December 2002, the Parliament of Timor-Leste ratified the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, and instruments of accession for both were deposited with the UN Secretary-General in May 2003.

An Immigration and Asylum law was promulgated in October 2003. In general terms, the asylum chapter of the law is not considered as being in violation of the 1951 Convention, although it establishes a complex and somewhat unwieldy mechanism for the adjudication of asylum claims. On the other hand, the Constitution provides that ratified international treaties, such as the 1951 Convention, are directly applicable and have precedence over national law. Furthermore, the new law assigns statutory oversight functions to UNHCR.

In early 2004, UNHCR Dili started supporting the process of drafting implementing regulations for the new law, inter alia in order to allow for the creation of an operational government asylum unit. In the meantime, ad hoc procedures are implemented by national authorities conducting refugee status determination, with a strong UNHCR capacity building and monitoring role incorporated into these. UNHCR will continue to play an important role in capacitating a group of officials from the Immigration Department to gradually acquire the knowledge and experience needed to carry out refugee reception and status determination functions according to national and international standards. This is an ongoing process that will have to be continued.

East Timorese returnees

Between October 1999 and 31 December 2002, UNHCR and IOM assisted some 175,000 East Timorese to return from Indonesia, and a further 50,000 repatriated spontaneously, leaving a remaining caseload of some 28,000 in

West Timor. While UNHCR had decided that, effective 31 December 2002, the “ceased circumstances” clauses contained in the UNHCR Statute and in the 1951 Convention would be applicable to refugees from East Timor, mechanisms for return remained in place. At present some 26,000 East Timorese ex-refugees remain in Indonesia. 452 persons returned during 2003, 445 persons returned during 2004, and the limited volume of returns in 2005 follows this trend, suggesting that few individuals remaining abroad wish to return to their country of origin, opting instead to stay in Indonesia.

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UNHCR monitors returnees to Timor-Leste deemed to be potentially at risk based upon their former political affiliations, gender issues and other vulnerability criteria. Cases that may be brought to UNHCR’s attention are dealt with within a much reduced office structure and there is no longer a dedicated capacity for this type of activity.

Separated children

Beginning in 2001 UNHCR began focus upon the issue of children separated from their parents as a result of violence in 1999, identifying some 4,500 cases. It is currently estimated that some 107 cases may remain unresolved. Subsequent to a MOU between the Governments of Indonesia and Timor-Leste signed in November, 2004, UNHCR has assumed a supporting role for Social Welfare authorities who have agreed to accept primary responsibility for developing lasting solutions for the remaining children. UNHCR continues monitoring and occasional intervention within the reduced country office structure.

2. Operational goals and potential for durable solutions

Following are the goals for the UNHCR Representation in Timor-Leste in 2006 (with reference to corresponding Agenda for Protection Goals, which have been incorporated into the RBAP regional Goals):

- Advocacy and support for development of implementation mechanisms for asylum law, including finalization and implementation of regulations, the creation of standard operating procedures, and dissemination and training relating to these. (Goal 1)
- Assistance for government and NGOs with creation of infrastructure to implement asylum law, including the development of “international zone” locations which have facilities necessary for reception of asylum seekers pending their admission to territory and procedures, improvement of facilities for processing asylum claims, shelter and safe houses for asylum seekers and refugees, particularly those with heightened vulnerabilities. (Goal 3)
- Advocacy and facilitation for bilateral co-operation between states and Timor-Leste to promote bilateral assistance and sharing of expertise with national authorities in support of building an asylum system. (Goal 3)
- Support for NGO and civil society protection network to address gaps in protection and assistance provided to persons of concern to UNHCR by national authorities, which result in part from reservations to relevant international instruments, particularly those relating to subsistence needs of asylum seekers and integration opportunities for refugees. (Goal 3)
- Advocacy for withdrawal of reservations to the 1951 Convention Relating to the Status of Refugees, and accession to relevant international instruments, including the Statelessness Conventions, and support to government to encourage registration and issuance of citizenship documentation to former refugee returnees and refugees recognized by Timor-Leste. (Goal 1)
- Where gaps remain in national assistance, UNHCR direct provision of assistance to vulnerable asylum seekers and refugees. (Goal 1)
- Support to government and protection network to address residual separated children issues remaining subsequent to the signing of an MOU between Indonesia and Timor-Leste regarding this issue in November, 2004. (Goal 6)
- Direct assistance, within available resources, to former refugee returnees, providing protection monitoring during transit from Indonesia to their areas of origin, and subsequent to return during follow up monitoring visits. (Goal 5)
- In co-operation with the High Commissioner for Human Rights, Asia Foundation, UNFPA and other organizations focusing on related issues, provision of training and expertise to authorities, NGOs, educational institutions and other civil society entities regarding refugee, humanitarian and human rights law and practice, in order to develop and expand a protection

network, encourage admission and reception of refugees, continue. UNHCR engagement regarding SGBV and gender issues, prevention of displacement activities, early warning mechanisms, as well as to develop printed and media tools and a pool of local expertise to establish Timor-Leste specific capacities to disseminate information in local languages. (Goal 4, Goal 1)

- Develop capacity of selected institutions and organizations to support local advocacy and intervention needs regarding trafficking and smuggling issues, in co-operation with and supporting the work of UN sister agencies with a primary focus on these issues and IOM. This work will also be linked to Bali Process follow up. (Goal 2)

In view of Timor-Leste's accession to the 1951 Convention and given the entry into force of the national asylum law, the office has, since 2003 abstained from taking autonomous decisions on refugee status under UNHCR's mandate for newly arrived cases, where the authorities make serious efforts to provide adequate legal protection. UNHCR's priority will be to ensure that implementation of refugee status determination by the Government of Timor-Leste is properly done according to international standards and according to national legislation, and to ensure that asylum seekers and refugees are treated in accordance with the standards of treatment contained in the 1951 Convention. In doing this, the office will seek to ensure that policies on age and gender are incorporated into the activities of the governmental asylum institutions. UNHCR continues to work with the national authorities so that fair and effective decisions can be ensured in each case.

Given reservations to international instruments made by Timor-Leste which limit national obligations to provide social welfare and other assistance to asylum seekers and refugees, UNHCR continues to assume limited assistance responsibilities for asylum seekers and recognized refugees until such time as an alternative mechanism exists. The office continues to work for the adoption of regulations on asylum and the creation of asylum institutions, and also plays an active role in the capacity building of such institutions. Training and public information activities to encourage a positive protection bias throughout society and the provision of financial assistance to recognized refugees will also be continued, as required.

In view of cessation having been declared as of 31 December 2002, UNHCR's direct protection monitoring responsibilities with regard to returnees have largely ceased, with the last of some 600 cases identified as being in potential need of protection assistance having been monitored. In future, returnee issues will be dealt with on an ad-hoc basis, with the same applying to any remaining separated children issues.