



# **COUNTRY OPERATIONS PLAN**

**Executive Committee Summary**

**Country: Timor-Leste**

**Planning Year: 2005**

## Timor-Leste 2005 Country Operations Plan

### Part I: Executive Committee Summary

#### (a) Context and Beneficiary Population

##### Political context

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 some 925,000, 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. 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.

##### 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. Intelligence reports indicate that ex-militia members from within the former refugee population in West Timor were involved in these incidents.

These events demonstrated the scope of problems that might still emerge and the possible inadequacy of the Government's capacity and means to address them. Hence, in April 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. Furthermore, throughout the year, consensus strengthened on 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. At the time of writing, it appeared highly likely that the Security Council would approve an extension of the mandate, thereby ensuring a continued (albeit reduced) presence of international security elements.

In the meantime, West Timor continued to be designated by UNSECOORD as a Security Phase V area, thereby complicating access to the former refugees still remaining there. Timor-Leste itself remains in Security Phase I.

##### 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. Throughout the remainder of 2004, UNHCR will therefore 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 in 2005.

#### *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. However, only 452 persons returned during 2003, indicating that the majority of this caseload has opted to stay in Indonesia. In the meantime, the UNHCR Regional Office in Jakarta initiated a comprehensive strategy for the East Timorese in West Timor and continues to pursue a number of other initiatives aimed at finding durable solutions for this remaining caseload, currently estimated to number around 16,000.

Throughout 2004, UNHCR Dili will continue to monitor previous returnees to Timor-Leste deemed to be potentially at risk. It is intended that this activity will be phased out by December 2004. Cases that may be brought to UNHCR's attention beyond that date will have to be dealt with within the reduced structure being proposed, i.e. there will no longer be a dedicated capacity for this type of activity.

#### *Separated children*

As at 31 December 2003, 4,538 separated children had been registered, of whom 2,302 had been reunited with their parents, and 1,851 cases had been closed for other reasons. Of the 385 remaining open cases, 53 were in Timor-Leste, 174 in West Timor and 123 elsewhere in Indonesia. In 35 cases, the location of the children remained unknown.

It is currently estimated that some 145 cases may remain unresolved by the end of 2004. Open cases at that point will be handed over and dealt with bilaterally between Timor-Leste and Indonesia, with monitoring and occasional intervention by UNHCR within the reduced structure being proposed.

### **UNHCR's role**

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. UNHCR's interventions in these areas will have been mostly completed by the end of 2004. However, a number of residual matters will need to be dealt with by a downsized office during 2005.

In view of Timor-Leste's accession to the 1951 Convention and given the entry into force of the national asylum law, the office will henceforth abstain from taking autonomous decisions on refugee status under UNHCR's mandate for newly arrived cases, as long as the authorities make serious efforts to provide adequate legal protection. Thus, the office will continue to work with the national authorities so that fair and effective decisions can be ensured in each case. Also, UNHCR and IOM are likely to continue assuming limited assistance

responsibilities for asylum seekers (eight at the time of writing) and recognized refugees (three at the time of writing) for a transitional period. In 2005, the office will therefore continue to work for the adoption of regulations on asylum and the creation of asylum institutions, and will also continue to play an active role in the capacity building of such institutions. Training activities 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 are expected to cease towards the end of 2004 when the last of some 600 cases having been identified as being in potential need of protection assistance will have been followed-up on. In the meantime, close links are being maintained with the UNMISSET Human Rights Unit to assist in cases of reconciliation difficulties. Returnee issues will be dealt with on an ad-hoc basis, with the same applying to any remaining separated children issues.

### Overview of each beneficiary population

As noted above, during 2005, there are not expected to be any "direct" beneficiary populations in Timor-Leste, except for a few recognized refugees who will probably continue to require financial assistance.

### Linkages to other countries within a defined "situation"

In an effort to find solutions for the remaining caseload of 28,000 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.

### Capacity and presence of implementing partners and UN agencies

At the time of writing, it appeared highly likely that the UN Security Council would approve an extension of the UNMISSET mandate beyond 20 May 2004. UNHCR would thus continue to work with relevant entities within the "new" UNMISSET, i.e. the human rights, political, police, military observer, etc., units.

Outside the ongoing collaboration with other UN agencies in Timor-Leste, the importance of working with the Government of Timor-Leste will continue to be a UNHCR priority. Further UNHCR phasing-down will only be successful if there is an effective national structure in place capable of dealing with issues previously handled by UNHCR.

## (b) Selected Programme Goals and Objectives

<b>(i) Name of Theme:</b> Protection of refugees and assistance to asylum seekers	
<b>Main Goal:</b> To ensure that any asylum seekers arriving in Timor-Leste are dealt with by the authorities in accordance with national and international standards.	
<b>Principal Objectives</b>	<b>Related Outputs</b>
<ul style="list-style-type: none"> <li>• To ensure that implementation of refugee status determination (RSD) by the Government of Timor-Leste is undertaken properly according to international standards and national legislation.</li> <li>• To ensure that asylum seekers and refugees are treated in accordance with the standards of treatment spelled out in the 1951 Convention.</li> </ul>	<ul style="list-style-type: none"> <li>• National legislation is implemented.</li> <li>• The provision of training and legal and practical advice to governmental authorities when requested.</li> <li>• Appropriate intervention on behalf of asylum seekers when it is believed that RSD is not conducted according to international standards.</li> <li>• Ensuring that all the relevant legal instruments, including the citizenship and migration laws, and</li> </ul>

	their practice, do not hinder the rights of asylum seekers and refugees.
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