



# **COUNTRY OPERATIONS PLAN**

**Country: Cambodia**

**Planning Year: 2004**

## Part I: Executive Committee Summary

### (a) Context (Beneficiary Population(s) and Theme(s))

Cambodia is currently enjoying a period of peace since December 1998, after thirty years of internal war. This current situation has given opportunities for the Royal Government of Cambodia to focus on political stability, administrative reforms and economic development, driven to a large extent by the international community, which provides for more than 50 per cent of the government income. However, the yet fragile rule of law and weak administration hampered development efforts and prevent sustainable private investments. The country is still in the process of rebuilding its legal system and administrative structure. The Government continued to draft and adopt laws at a high pace, of which many were fundamental in nature, though the implementation remained erratic. Within the broader Cambodian context, where fundamental structures are still to be established, some legal areas, such as refugee and asylum legislation were still considered less essential and consequently received limited attention.

Although the general security situation in Cambodia has much improved since the end of the conflict in 1998, land mines continue to pose a threat to Cambodian mainly rural population. However, demining and mine awareness efforts appear to have an impact, and a clear trend in the reduction of mine accidents is being observed. Despite attempts by the government to combat crime, gunpoint robberies and immunity is widespread. Years of war have left many illegally held weapons in the country, and concerted efforts from the government to reduce the number of those illegally held weapons did not result in a substantial reduction of crime.

As of 31 December 2002, 200 refugees and 81 asylum seekers were of concern to UNHCR office in Phnom Penh, including 144 Montagnards awaiting resettlement to the USA. Decisions concerning 259 individuals were taken during the year, comprising of 36 individuals who were recognized as refugees, 122 individuals who were rejected and 101 individuals whose cases were closed.

In 2002, 194 individuals (including family members) applied for refugee status with UNHCR Phnom Penh. The number of new urban cases remains relatively constant from last year. It is noteworthy that many asylum seekers cite Cambodia's porous borders, easily attainable visa on arrival and/or failed smuggling schemes as the reason for finding themselves in Cambodia, while those Vietnamese asylum seekers who do not make *sur place* applications often travel by road into Cambodia without travel documents.

The Montagnard demonstration in February 2001, on land and religion in Vietnam's Central Highlands, preceded the flight of more than one thousand Montagnard asylum seekers into Ratanakiri and Mondolkiri provinces in northeastern Cambodia. With the permission of the Royal Government of Cambodia (RGC), UNHCR Cambodia established two sites in the two provinces in order to house and assist them. Due to the absence of asylum/refugee legislation, UNHCR took the main responsibility for assuring that protection was extended in a manner consistent with Cambodia's obligations under international law. In addition, because of the explicit wishes of the Government to limit the number of actors involved with the issue, UNHCR also assumed all responsibilities regarding material and social assistance.

Although Cambodia is a signatory to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, there is no domestic legislation or administration procedures pertaining to refugees and asylum seekers. During 2002, UNHCR noted that there was no political will within the Government to enact national refugee legislation. Asylum in Cambodia is a concept defined by practice. It could be described as the right of a refugee recognized by UNHCR to remain temporarily in Cambodia with the approval of the Ministry of Interior.

However, in 2002, it was noted that the authorities did not fully respect the above practice. During the year, the Government deported two asylum seekers whose case was pending with UNHCR. The individuals had in their possession temporary protection letters issued by UNHCR, which should provide adequate protection against deportation. Another violation of the right of protection against refoulement occurred when a recognized refugee suddenly disappeared from his residence in Phnom Penh. UNHCR made inquiries with the Government, which denied having any knowledge of the whereabouts of the refugee. The RGC never responded to any of the official letters sent by UNHCR concerning a request for a full investigation into the disappearance.

As outlined above, the government traditionally had an informal and permissive approach towards asylum, characterised by an absence of interference and perhaps, due to other most urgent priorities, a lack of interest in UNHCR's work with a small group of urban asylum seekers and refugees which, from a Cambodian perspective, were not controversial. Conversely, the government was compelled by external factors to become directly involved with the Montagnards who fled Vietnam in 2001.

On 21 January 2002 an agreement was finally reached between Cambodia, Vietnam and UNHCR during a second tripartite meeting arranged by UNHCR in Phnom Penh. Under this agreement UNHCR facilitated the voluntary repatriation of 15 persons. However, the early and speedy return of the entire group appeared to be the priority above all for the other two parties. Under an increasingly evident pressure, a total of 179 persons, decided to spontaneously return with the assistance of Cambodian and Vietnamese governments. The pressure from the two governments to return all Montagnards by 30 April of 2002 increased, disregarding UNHCR's insistence on the voluntary nature of return under the modalities of the tripartite agreement. The situation worsened in February 2002. Relations between UNHCR staff and the provincial authorities had become increasingly strained, as officials on both sides of the border organized family visits to the two sites - busloads of officials and family member, who tried to persuade the group to return spontaneously. Cambodian officials, both at the national and provincial levels, were under increasing pressure from the Vietnamese government to discontinue asylum to the Montagnards, which resulted in the closure of the border and UNHCR being prevented from having continued access to border and new arrivals.

With the further deterioration of the situation despite the demarches from High Commissioner for parties to respect the tripartite agreement, UNHCR withdrew from the Tripartite agreement on 22 March 2002. The breakdown of the tripartite agreement prompted renewed negotiations for resettlement of the 905 people remaining in the two sites. An agreement was reached bilaterally, and finally announced to UNHCR in early April 2002, with the announcement of the Cambodian Government of the closure of its borders to any new arrivals. The Government enlisted L.O. Phnom Penh's assistance in transporting the group to Phnom Penh for resettlement screening and processing to the US.

Shortly after the arrival of the Montagnards and the site team on 16 April, the resettlement processes were conducted. The US Department of State from the Refugee Resettlement Unit (RRU) in Bangkok, US Immigration and Naturalization interviewers (INS), and International Organization for Migration (IOM), were involved in the processes. A combination of problems—time required by voluntary agencies in the US to find appropriate sponsorships, lack of available airline bookings and unexpected delays in approvals for some of the cases—turned the original estimation of the 6-8 week timeframe for resettlement into a much longer one.

Most of the care and maintenance activities had been under UNHCR's direct responsibility, including procurement of weekly deliveries of food and supplies, sanitation services, and general maintenance of the site. Medecins du Monde (MDM) provided on-site treatment of simple maladies until July 2002; other hospitals and clinics in the immediate area were used

for those requiring hospitalization. After 12 July 2002, health care was also under UNHCR's direct responsibility. A private clinic had been contracted with UNHCR for medical referral

cases and one doctor has been hired to work part time at the site. UNHCR had also signed a Sub-agreement with the Ministry of Interior to provide security at the site and for the transport/transfer to Phnom Penh.

Although UNHCR anticipates that most of the Montagnards of the original caseload will be cleared for travel in early 2003, it is possible that there will be a small number of cases not accepted by the US, and for whom UNHCR would have to seek other durable solutions—presumably, resettlement in other countries. There is no sign of big influx of Montagnards occurring in 2004. However, there might be some of them who would manage to approach UNHCR office in Phnom Penh.

The agreement between on resettlement came at the cost of first asylum for subsequent Montagnard asylum seekers as the Government had announced that it would close its border and that any new arrivals will be deported as illegal immigrants. When the group was moved to Phnom Penh, UNHCR had to scale down presence in the provinces. Protection was in practice preserved at the site operated by UNHCR, while others were reportedly to be deported. It had been difficult to get accurate information on refoulement, but UNHCR received fairly credible reports of over 600 new arrivals between mid-April and the end of June 2002. The Office plans to pursue the discussion on asylum again with the Government following the final departures of the Montagnards from the site in Phnom Penh.

In the past few years UNHCR pursued the local integration of Cambodian returnees and provided protection and material assistance for those cases seeking asylum in Phnom Penh. UNHCR reintegration activities were completed during 2001 and all reintegration projects were handed over to the authorities, whilst most of UNHCR's former implementing partners continued to work in the areas of return.

In 2004, UNHCR will pursue three goals. The first goal in Cambodia will be to safeguard the practice of asylum. UNHCR Liaison Office in Phnom Penh will continue with its mandate responsibility and undertake refugee status determination, as well as providing international protection and material assistance for refugees. For UNHCR the challenge will continue to be to ensure that any new asylum seekers from the region, who will attempt to seek asylum in Cambodia, are identified and protected from forcible return. The second goal will be to encourage and assist the government to pass a national legislation and to establish a functioning asylum system in the country and the third goal will be to find appropriate durable solution for refugees seeking asylum in Cambodia.

**(b) Main Programme Goal(s) and Principle Objectives**

For each major beneficiary population summarise the main goal and principal objectives for the protection of refugees, together with related major outputs necessary to achieve them.

Name of Beneficiary Population/Theme: Refugees, asylum seekers and other persons of UNHCR's concern (POCs)	
Main Goal(s): Safeguard the practice of asylum in Cambodia	
Principal Objectives	Related outputs
<ul style="list-style-type: none"> <li>Asylum seekers have access to fair, efficient and effective asylum procedures</li> <li>Site residents enjoy personal security and safety</li> <li>The basic needs of refugees and other Persons of UNHCR Concern are met without discrimination</li> </ul>	<ul style="list-style-type: none"> <li>Timely and high quality of RSD decisions provided by RSD staff in accordance with UNHCR standard for RSD Procedural Operation and UNHCR Protection Manual.</li> <li>Cambodian officials adhere to the principle of non refoulement for all categories of asylum seekers</li> <li>Government to provide security to the site population.</li> <li>Police officers trained and adhere to the obligations of their country as a signatory to the Refugee Convention</li> <li>Refugees/POCs' basic needs in terms of food, health and education are met</li> </ul>

Name of Beneficiary Population/Theme: Refugees, asylum seekers and other persons of UNHCR's concern	
Main Goal(s): Asylum seekers and recognised refugees benefit from national legislation conforming to international standards	
Principal Objectives	Related outputs
<ul style="list-style-type: none"> <li>Encourage the government to pass a national legislation on asylum</li> <li>Assist the government in establishing a legal framework for refugee protection and asylum</li> </ul>	<ul style="list-style-type: none"> <li>Key senior officials and Parliamentary members lobbied</li> <li>Visit to Geneva of senior Ministry of Interior officials and other Cambodian authorities organised</li> <li>Technical assistance in reviewing draft national legislation is provided by UNHCR</li> <li>Cambodian Refugee Office is established</li> </ul>

Name of Beneficiary Population/Theme: Refugees, asylum seekers and other persons of UNHCR's concern	
Main Goal(s): Broadening and implementing durable solutions.	
Principal Objectives	Related outputs
<ul style="list-style-type: none"> <li>• Voluntary repatriation is organized effectively.</li> <li>• Resettlement is applied as an integral tool of protection and solutions</li> <li>• Local integration is permitted and refugees become fully participating members of society</li> </ul>	<ul style="list-style-type: none"> <li>• Information on their country of origin is collected and provided.</li> <li>• LOPP liaises with Government counterparts, IOM and other partners involved in voluntary repatriation and resettlement</li> <li>• Well-documented and well-argued RRFs submitted to HQ.</li> <li>• Exit visa fees are waived.</li> <li>• LOPP encourages the government to fully support efforts to integrate refugees through acquisition of travel document and other benefits.</li> <li>• Travel documents and work permits to refugees issued</li> </ul>