

16 November 2006

**UNHCR Recommendations to the
EU-Africa Ministerial Conference
on Migration and Development**
(Libya, 22-23 November 2006)

Introduction

1. During the past decade, considerable attention has been given to the linkage between the movement of refugees and asylum-seekers and the broader phenomenon of international migration. It is widely recognized that patterns of human mobility have become increasingly complex in recent years. Refugee and migratory movements now intersect in a number of different ways. It is because of this intersection that UNHCR has found it both necessary and desirable to engage with issues arising in mixed migration flows that impact upon the Office's mandated functions of refugee protection and finding durable solutions. In the context of mixed migration movements, UNHCR's specific and primary interest is to ensure that protection is available to people entitled to it under international law.
2. The issue of migration is of great international interest, and this Conference will build upon the momentum of the General Assembly's High-Level Dialogue on International Migration and Development. UNHCR welcomes the opportunity to make these recommendations to the EU-Africa Ministerial Conference on Migration and Development, and hopes that the comments and recommendations presented below will be taken into account by the Ministers in the process of drafting the joint concluding Declaration on Migration and Development, and in subsequent activities. UNHCR's recommendations focus on protection aspects within the purview of its responsibilities, including the development dimension of hosting refugees, and of return movements.
3. Refugees are a distinct group, recognized and protected by international law¹. Discussion on mixed migratory movements must be sensitive to the fact that there are refugees and others in need of protection among those seeking to enter Europe from Africa, whether legally or illegally. The presence and impact of refugees in Africa is also an important focus. Africa continues to host the largest number of refugees of concern to UNHCR – some 2.57 million. There are over 14 major protracted refugee

¹ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as the 1969 OAU Convention governing specific aspects of refugee problems in Africa.

situations in Africa.² It is also the continent most affected by the phenomenon of internal displacement, with more than 12.1 million internally displaced persons in 20 countries. A coherent approach to migration and development is one which takes careful note of the protection and development dimensions of these facts.

Refugee protection and asylum in the context of mixed flows

4. Refugees and asylum-seekers constitute a small but present element of migratory flows within Africa and to Europe. While Africa has experienced many refugee movements, attention has recently focused on the phenomenon known as “mixed movements”, whereby migrants and refugees move alongside each other, usually in an irregular manner, making use of similar routes and modes of transport, both by sea and overland. Because of their mixed nature, these movements pose particular challenges for States.
5. During the Euro-African Ministerial Conference on Migration and Development held in Rabat in July 2006, UNHCR presented a *10-Point Plan of Action to Address Mixed Migratory Movements*, which describes how UNHCR’s mandate, competencies and the resources might be used to assist States, both in Europe and in Africa, in their efforts to address mixed migratory movements in an effective, equitable and protection-sensitive manner.
6. UNHCR encourages Member States of the European Union and the African Union:
 - To ensure that the measures taken to curb irregular migration do not prevent refugees from gaining the international protection which they need and to which they are entitled. In this context, there is a particular need to improve access to protection and durable solutions, including in areas close to their countries of origin so that no one is obliged to make hazardous and costly journeys from one continent to another, in order to find safety and security. At the same time, access to asylum in Europe must remain available for those in need of it.
 - To underline the need to continue to ensure access to international protection to those in need. In this context, UNHCR also encourages States of the European Union to devote specific resources to enhance the capacity of African countries to protect refugees and find durable solutions to their problems.
 - To explore actively with UNHCR and other partners ways in which the *10-Point Plan of Action*, might be incorporated in broader strategies of States employed to achieve their migration-related objectives.

² Refugees can be regarded as being in a protracted refugee situation when they have lived in exile for more than five years, and when they still have no immediate prospect of finding a durable solution to their plight by means of voluntary repatriation, local integration, or resettlement. Examples of major protracted refugee situations in Africa include over 220,000 Somali and Sudanese refugees in Kenya, and some 540,000 refugees from Burundi and the Democratic Republic of Congo in Tanzania.

Refugee assistance and development

7. UNHCR encourages Member States of the European Union and the African Union to recognize that the notion of development should be interpreted in a broad and inclusive sense – going beyond economic growth – in line with the UN Declaration on the Right to Development, which posits the right to development as “an inalienable right, by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”³
8. African States will be keenly aware of the development challenges faced by countries and communities hosting large numbers of refugees, especially when the refugee population is concentrated in specific rural or urban locations. These include damage to the environment, and placing a strain on local infrastructures. By the same token, refugees make valuable contributions to the economies of host communities, as teachers, farmers, traders or craftsmen. They often, for example, provide and attract new services, contribute to more and more varied food production and considerably boost market economies in their host areas.
9. The potential of refugees and asylum-seekers in the European Union and other industrialised countries to contribute to the economy of their host countries as well as to the development of their countries of origin is often underestimated or neglected. This is particularly the case when they are allowed to participate in the labour market.
10. UNHCR encourages:
 - The European Union to supplement emergency and humanitarian assistance to refugees in Africa with funds directed towards early recovery and development.
 - The European Union’s funding policies and programmes to take more clearly into account the relationship between migration and development, including by providing for development assistance to be made available to refugee- and internally displaced person (IDP)-populated areas – assistance that should be additional to that which the countries in question would normally receive.
 - The European Union, consistent with its efforts to mainstream migration into its relations with African countries, and into development planning in particular, to ensure that the needs of refugees, returnees (and internally displaced) are clearly reflected in Country Strategy Papers that constitute the framework for development programming.
 - The European Union to recognize that education and vocational training for refugees in the Union are an indirect investment in development and stability of the regions from which they originate, when they are able to return.

³ Article 1, G.A. res. 41/128 of 4 December 1986

- The European Union countries to facilitate access by refugees they host to employment, in line with their qualifications, since many refugees and asylum-seekers have skills which go to waste, in some cases because they are not given access to the labour market and in others because their qualifications are not recognized by the authorities of third host countries; and also to facilitate access to skills training aimed at validating professional qualifications.
- Member States of the European Union to enable refugees returning from the EU to transfer or take with them assets acquired during their stay in Europe, including such acquired rights as contributions to Member State pension funds.
- Refugee-hosting countries in Africa to ease strict encampment policies and to provide more opportunities for refugees to become self-reliant, including by accessing the labour market and, as appropriate, credit facilities.
- Refugee-hosting countries in Africa to incorporate refugee-populated areas into the development planning process and national Poverty Reduction Strategies (PRSPs) or other national development or co-development strategies, in a manner that supports the livelihood strategies of refugees.

Refugees, repatriation and peace building

11. Following voluntary repatriation, former refugees have an important role to play in the reconstruction and peace building process in conflict-affected countries. In recent armed conflicts in Angola, Liberia, Sierra Leone and southern Sudan, to name a few, a very high proportion of the population was displaced by fighting, many of them crossing the border to seek refuge in neighbouring and nearby States. As conflicts have come to an end or diminished in intensity, refugees and displaced persons have returned home. For many, this has meant return to lack of jobs, inadequate shelter, lack of access to land, and competition for scarce resources and public services. Beyond the potential for fuelling unrest, this could result in further displacement.

12. UNHCR encourages:

- Member States of the European Union and the African Union to ensure the early involvement of the development community in planning for return and reintegration, so that short-term humanitarian aid is linked more effectively to longer-term development initiatives in returnee-populated areas.
- The European Union to support reintegration and reconstruction initiatives specifically targeting returnee areas, with the aim of making sustainable the return of refugees and internally displaced persons.
- Member States of the European Union and African Union to agree to promote development programmes in returnee areas that revive or establish new livelihood

opportunities, reconstruct shattered infrastructures, contribute to reconciliation among different groups of citizens, and underpin the transition to peace and democratic forms of government.

- Member States of the African Union to use existing provisions in ECOWAS and other sub-regional cooperative arrangements to underpin, wherever possible, the local integration of refugees for whom voluntary repatriation is not an option.

Persons who are not in need of international protection

13. Substantial numbers of persons who have been found not to be in need of international protection are required to leave EU territory every year.

14. UNHCR encourages:

- Countries of origin that are Member States of the African Union to readmit their nationals, as required under international law, and to facilitate their reintegration into society.
- Member States of the European Union and the African Union to take all steps, in effecting return, to ensure that the rights and dignity of such individuals are respected and that they are provided with appropriate travel documents.

Addressing the root causes of forced migration

15. The Brussels Declaration on Asylum, Migration and Mobility⁴ adopted by Ministers from the African, Caribbean and Pacific (ACP) group of States, meeting in Brussels in April 2006, reiterated that “policies aimed at asylum, migration and mobility are currently dealing mostly with the results and not the causes of migration.” A coherent approach to the issue of mixed movements must address the circumstances that force people to abandon their homes, to leave their own countries and to seek refuge in other States. UNHCR recognizes that reactive responses alone to refugee movements are incomplete. A truly comprehensive and coherent approach to the issue of forced migration must also seek to address the armed conflicts, the governance failures and human rights violations that prompt people to leave their own country and seek protection in another State.

⁴ ACP/28/025/06 Final