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NOTE ON INTERNATIONAL PROTECTION

I. INTRODUCTION

1. The purpose of the Note on International Protection is to draw attention to the main refugee protection challenges which emerged over the preceding period. This year's Note takes as its basis the Agenda for Protection,¹ not only to highlight its relevance to these challenges, but also so as to provide an update on its implementation. Developments are grouped under six main headings which follow the six main goals of the Agenda. The intention is to provide examples of developments in different countries where these are indicative of broader trends and set out UNHCR's and States' actions in response to these protection challenges. The Note thereby presents a non-exhaustive, operational overview of how the Agenda is being translated into action.

II. BROAD OVERVIEW OF DEVELOPMENTS

2. In a major positive development, significant numbers of refugees were able to repatriate during the reporting period. In some cases, existing voluntary repatriation programmes could be consolidated. In others, they could be initiated as a result of positive changes in the country of origin. Overall, the refugee figure declined further to an estimated 10 million people. The number of people seeking asylum in industrialized countries also continued to drop during the reporting period, even though arrival rates in some countries showed an increase.

¹ "Agenda for Protection", endorsed by the Executive Committee at its fifty-third session, A/AC.96/973, paragraph 21; welcomed by the General Assembly, A/RES/57/187; and now available in Arabic, English, French, German, Russian and Spanish.

3. Yet, especially on the African continent, several new refugee outflows occurred. Of particular concern is the ongoing situation in the Darfur region of Sudan where large numbers of civilians have been forcibly displaced within that region and across the border into Chad. While there is a pressing need for a halt to reported atrocities, UNHCR is contributing to inter-agency efforts, which are under way to step up operations to bring life-saving assistance to the people of Darfur and undertake protection activities where possible.

4. Positive developments elsewhere, including moves towards peace in several countries, have been overshadowed by assaults on the physical security of refugees, ranging from attacks on refugee camps and the rape of refugee women, to instances of *refoulement*, non-admission to asylum procedures, refusal to grant UNHCR access to asylum-seekers, arbitrary detention, undue pressure on refugees to repatriate and increasing xenophobia in some countries. In the area of refugee and returnee security, progress was made in building closer working relations with the Department of Peace Keeping Operations (DPKO) at the United Nations Secretariat and several United Nations peace missions on the ground.

5. Of grave concern is the shrinking space for safe and unhindered humanitarian action as a result of direct attacks on the United Nations and on humanitarian personnel. Sergio Vieira de Mello, then the Special Representative of the Secretary-General in Iraq and a champion of humanitarian action, was assassinated alongside 21 colleagues and visitors in a terrorist attack on the United Nations office in Baghdad in August 2003. The bombing of the Baghdad headquarters of the International Committee of the Red Cross (ICRC) in October 2003, the killing that same month in Somalia of the Nansen Refugee Award winner, Dr Annalena Tonelli, the murder of UNHCR staff member Bettina Goislard in eastern Afghanistan in November 2003, and that of five Médecins sans Frontières colleagues in the same country in early June 2004, as well as similar attacks elsewhere, are stark reminders that United Nations and other humanitarian personnel are increasingly being targeted for political reasons, as they seek to deliver protection and assistance. Indeed, the institution of the United Nations itself, together with the emblems which for decades have symbolized non political, humanitarian action, are now themselves under attack in a deliberate effort to destabilize humanitarian work. Threats and insecurity have curtailed operations to assist refugees, returnees and internally displaced victims of persecution and conflict in several countries.

6. In a number of regions, notably in Latin America and Central Asia, the implementation of the 1951 Convention relating to the Status of Refugees was given impetus through the adoption of new legislation establishing asylum systems as well as the initiation of legal reforms to improve existing ones. Nonetheless, challenges remain due to non-existent or weak legal frameworks and measures taken which undermine the protection regime. Assisting States to receive asylum-seekers and refugees in proper conditions and increasing their capacity to undertake eligibility determinations by developing asylum laws and training remained a major focus of UNHCR activities. In the Central and Latin American context, planned initiatives this year to commemorate the 20th anniversary of the Cartagena Declaration on Refugees will hopefully boost the application of the broader refugee criteria contained in the Declaration, particularly in the 10 States which have adopted the definition in their national legislation.

7. The increasing volume and complexities of migratory flows, in the broader context of globalization, have continued to generate challenges to refugee protection. UNHCR contributed to discussions in a number of consultative fora during the reporting period, with a view to enhancing understanding of the asylum-migration nexus and the practical linkages between the two. In this respect, also, important work is proceeding in the context of the High Commissioner's Convention Plus process to improve understanding of the reasons for the irregular, secondary movement of refugees and asylum-seekers from one country to another and to address this phenomenon in a cooperative manner.

8. In relation to durable solutions, ensuring the sustainability of voluntary repatriation has proved a continuing challenge in countries emerging from conflict, especially when conditions have not yet stabilized and basic services still need to be restored. Enabling refugees to regain their own homes and land, through fair and effective property restitution mechanisms, is often a related challenge, in which UNHCR has become increasingly involved over the years. In a number of countries, such as in Central and South America, as well as in Asia, refugees have been enabled to benefit from self-reliance schemes. In some cases, local integration was facilitated through grant of citizenship. Resettlement has remained a vital tool of international protection and durable solutions, which is increasingly being incorporated into comprehensive protection strategies reflecting regional priorities.

III. STRENGTHENING IMPLEMENTATION OF THE 1951 CONVENTION AND THE 1967 PROTOCOL

9. A picture of strong but at times variable implementation of the 1951 Convention and 1967 Protocol was evident during the reporting period. Implementation has been affected in various ways by a range of factors including socio-economic concerns, where States hosting large refugee populations for long periods have felt constrained to reduce levels of protection and assistance afforded, or to argue for early return. The Convention framework has been challenged through national legislation and policy amendments in some countries of asylum which have served to erode well-established standards, reflecting preoccupations with security concerns, migration control and diverting asylum-seekers to other countries. Challenges have also been practical, for example where inefficient bureaucratic systems were poorly resourced and lacked trained staff to ensure effective implementation of international obligations. Finally, they have been political, as when irresponsible politicians and media in some countries have been only too ready to victimize and vilify asylum-seekers and refugees. Set against these developments, there were also advances, several of which are mentioned in the paragraphs that follow.

10. During the reporting period, the Agenda's objective of universal accession to the international refugee instruments took a step forward with the accession of Saint Vincent and the Grenadines to the 1967 Protocol on 3 November 2003, bringing the number of States Parties to the 1951 Convention and/or its 1967 Protocol to 145. In regions where the political interest to accede was lacking, UNHCR nurtured it through contacts and advocacy with civil society groups and regional bodies. As one outcome, for instance, the Eminent Persons Group of leading figures from five South Asian countries issued a Declaration on Refugees in January 2004 calling on regional governments to ratify the Convention and Protocol and enact national asylum legislation based on a model law.

11. Refugees continued to be granted admission to territory and safety during the reporting period, including in mass influx situations such as in Chad,² in full respect of the principle of *non-refoulement*. There were, however, also serious cases of rejection at borders or of forcible return of refugees and of asylum-seekers without a proper determination of their protection needs. In early 2004 in the Americas, for instance, UNHCR called on all relevant governments to suspend involuntary returns and provide temporary protection following the eruption of violence in one country, pending clarification of the situation. Practical initiatives by UNHCR included training border officials on identifying asylum-seekers among mixed populations and opening field offices in border regions in such countries as Mexico and Venezuela. In some other countries, however, especially in east Asia, the Office was prevented from having access to asylum-seekers in border regions.

12. Improving registration procedures and standards has been an important focus of recent years. The release and field testing of the provisional edition of the *Handbook for Registration* in September 2003 represents a tangible step implementing one of the Agenda's objectives. Gender-sensitive registration and documentation have been incorporated into standard registration procedures in countries from Uzbekistan to Yemen. UNHCR interventions in other countries, such as Côte d'Ivoire, El Salvador, Mexico, Pakistan and Turkmenistan, focussed on ensuring that obstacles were removed to refugees being issued identity documents, work permits, birth and marriage certificates and Convention travel documents.

13. In systems with individualized procedures, reception conditions for asylum-seekers were an area of concern where States resorted to arbitrary and/or widespread detention. UNHCR continued to monitor detention sites, lobby authorities to ensure conditions of detention met international standards and promote alternatives to detention, particularly for women, children and families. New types of alternatives to detention employed during the reporting period included the use of electronic monitoring devices and supervised release programmes, for instance into the responsibility of a local non-governmental organization (NGO), on the basis of guarantees provided by UNHCR, or through the transfer of asylum-seekers to a "migration house" run by local church groups.³

14. The process of introducing and reforming asylum systems continued during the reporting period. A number of States established processes to regulate asylum matters for the first time, while amendments to asylum laws were introduced in others. In many of these States, UNHCR provided comments and advice and assisted in the establishment of national eligibility commissions. A significant number of States, however, introduced more restrictive legislation, often citing security concerns. In certain countries, recognized

² Issues arising in mass influx situations are the subject of a comparative study on protection responses to such influxes which UNHCR intends to present to the Executive Committee later this year as requested in the Agenda. The study analyses responses in earlier mass influxes, sets out the applicable conceptual and legal framework and recommends mechanisms which could be put in place to bring together a range of actors to craft comprehensive plans of action and ensure burden and responsibility sharing and more predictable responses. See also EC/54/SC/CRP.11, 7 June 2004.

³ A study on alternatives to detention of asylum-seekers and refugees is also due to be published as part of UNHCR's Legal and Protection Policy Research Series.

refugees were only granted permission to stay for a limited period and had to reapply thereafter. By contrast, in a welcome positive development, authorities in South Africa allowed refugees to apply for permanent residence.

15. While the Office has welcomed European Union States' efforts to harmonize asylum law and policy in key instruments, it has expressed concern at the restrictive character of parts of these instruments, including as regards the refugee definition and several procedural devices which might lead to breaches of international standards in practice. UNHCR's work will now shift towards the provision of advice in the transposition phase.

16. UNHCR continued during the reporting period to promote further standard setting and harmonization of approaches to applying refugee law. In this connection, the Office issued new Guidelines on International Protection on important topics,⁴ as well as a series of research papers.⁵ In addition, in exercise of its supervisory role, UNHCR provided written advice on significant protection issues⁶ to decision-makers and courts in a number of countries, including Bulgaria, Canada, Germany, the United Kingdom and the United States. *Amicus curiae* briefs were filed in some cases.

17. A positive development concerned gender-related claims to refugee status which are being recognized in a growing number of countries. Women and girls who have been trafficked and victims of domestic violence have, for instance, been recognized as refugees. The need for gender-sensitive asylum procedures and practices, including the provision of female interviewers, was also reaffirmed by courts. For its part, UNHCR trained both male and female eligibility staff to enhance gender and age awareness in a number of countries. In this respect, the UNHCR *Gender Training Kit on Refugee Protection and Resource Handbook* issued in November 2003 represents a valuable tool.

18. In keeping with the Agenda's objective of improving the quality and consistency of UNHCR's mandate refugee status determination (RSD) procedures, the Office issued *Procedural Standards for Refugee Status Determination under UNHCR's Mandate* in late 2003. These provide UNHCR offices with guidance on determining eligibility for mandate refugee status on an individual basis. Over 16 qualified international consultants and 25 national eligibility officers were deployed to assist UNHCR field offices and governments to undertake RSD in several countries from Africa to South America, Asia and the Middle East. UNHCR's RSD Deployment Scheme made this possible and has become an increasingly important and sought-after function in many field offices.

19. UNHCR also revived its provision of country of origin information to RSD decision-makers and of advice to governments setting up their own country of origin

⁴ In addition to those on gender-related persecution, membership of a particular social group and cessation already issued, Guidelines on International Protection were issued during the reporting period on internal flight or relocation, exclusion and religion-based refugee claims.

⁵ Legal and Protection Policy Research Series issued by the Protection Policy and Legal Advice Section of the Department of International Protection, available on www.unhcr.org.

⁶ For example on criminal prosecution of asylum-seekers for unlawful entry; gender-related persecution; conscientious objection; internal flight or relocation; agents of persecution; provision of competent interpretation in asylum proceedings; confidentiality of asylum claims; application of the exclusion clauses; extradition; expulsion; cancellation of refugee status; cessation; and application of Article 1E of the 1951 Convention.

information units. In this context, the Protection Information Section within the Department of International Protection launched a special capacity-building programme allowing civil servants and NGO officers in States with newly developing asylum systems to work in UNHCR's headquarters on producing new editions of the Refworld CD-Rom. The Section also advised the authorities in several countries as well as the EURASIL network chaired by the European Commission on standards related to the production and usage of country of origin information.

20. As part of efforts to promote the human rights of refugees during the reporting period, UNHCR *inter alia* strengthened its working relations with the United Nations human rights machinery.⁷ At the regional level, UNHCR and the African Commission on Human and Peoples' Rights concluded a Memorandum of Understanding in December 2003 to enhance cooperation on matters of common concern. The entry into force in January 2004 of the Protocol establishing the African Court on Human and Peoples' Rights is particularly welcome in view of the many linkages between human rights and refugee issues.

21. In the contemporary climate of apprehensiveness and even hostility towards asylum-seekers and refugees in societies and the media in some countries worldwide, efforts to enhance respect for refugees are a particularly important element of the Agenda. During the reporting period, UNHCR worked in many countries to provide teaching materials for schools and to enhance public awareness and understanding of refugee issues, including by explaining refugee issues to journalists. In the United Kingdom, for instance, UNHCR cooperated with the Press Complaints Commission, which issued guidance urging journalists and editors to ensure the style and content of reporting did not encourage xenophobia. Recently, UNHCR launched "Return Afghanistan", an exhibition by Swiss photographer Zalmai who is also a former Afghan refugee. The exhibition opened in Geneva and will tour a number of other countries, including Afghanistan itself. It is a moving testimonial to the plight of refugees, using powerful images to generate public sympathy.

22. Problems associated with HIV/AIDS can seriously restrict refugees' enjoyment of international protection. To help address issues arising in emergency situations, the Inter-Agency Standing Committee issued "Guidelines for HIV/AIDS Interventions in Emergency Settings" in late 2003. The Office worked with some resettlement States to promote the provision of counselling before and after HIV-testing in the context of resettlement procedures and to ensure respect for confidentiality. Efforts to create awareness and stimulate community discussion on discrimination and the stigma related to HIV/AIDS included a photographic exhibition entitled "positive lives", jointly organized by UNHCR and the UN Population Fund (UNFPA), which began a tour of Southern African refugee camps in October 2003.

23. To promote more resolute responses to root causes of refugee movements and in furtherance of its mandate on statelessness issues, UNHCR presented the final report of the global survey on statelessness to the Standing Committee in March 2004.⁸ This report brings together and analyses the responses of 74 States on this little understood and little publicized

⁷ See also, Executive Committee, General Conclusion No. 95 (LIV), 2003, paragraph k.

⁸ UNHCR, "Final Report Concerning the Questionnaire on Statelessness Pursuant to the Agenda for Protection", March 2004.

problem. UNHCR welcomes Albania's accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness in mid-2003, as well as the approval of new or amended citizenship legislation in a number of countries from the Russian Federation to Sri Lanka. Both help reduce cases of statelessness and facilitate the naturalization of refugees. In its moves to address cases of *de facto* statelessness among refugees, UNHCR has had mixed successes in securing citizenship through the courts in some countries in the Commonwealth of Independent States (CIS) and has welcomed offers of resettlement for those for whom a durable solution has proved impossible there.

24. Within UNHCR, efforts were stepped up by the Department of International Protection to enhance protection knowledge and skills. More than 550 staff members have participated in the Protection Learning Programme (PLP). In addition, two Thematic Protection Learning Programmes (TPLP), on protection strategies in the context of armed conflict and of broader migration movements respectively, were launched in 2003. Some 60 senior managers have benefited from them. The Department also continued its Protection Management Workshops in the field to improve the management of UNHCR's international protection function, including resettlement, and strengthen managerial accountability. Funded by the Ford Foundation, work has begun on a practical reference guide to improving the delivery of protection in camp settings.

IV. PROTECTING REFUGEES WITHIN BROADER MIGRATION MOVEMENTS

25. The migration debate – often with asylum issues at its heart – has taken on a dimension of its own. Refugees are increasingly part of movements including both forced and voluntary departures and may resort to migrant smugglers to leave. Refugees may also move on to other countries either because they do not enjoy effective protection or for other reasons. At the same time, people not in need of international protection and lacking legal migration options may resort to asylum channels in the hope of gaining temporary or permanent stay abroad. As a result, the line between migrants and refugees blurs in the public mind, as does the distinction between migration control and refugee protection in the policies of many States. Yet refugees do not lose their protection needs and entitlements just because they are part of a mixed flow. What changes is the context in which protection and solutions have to be realized. It is therefore important for all partners to be sensitive to the inter-linkages between migration and asylum flows, so that the management of this “asylum-migration nexus” respects the differences between the various groups and interests at stake and approaches are adopted which recognize these differences.

26. The High Commissioner was instrumental in the creation in August 2003 of a new consultative group in Geneva, the Geneva Migration Group. This brings together the Heads of five United Nations agencies⁹ and the International Organization for Migration (IOM) to exchange information and promote greater policy coherence in their migration-related activities. UNHCR has also contributed to the work of the Global Commission on

⁹ UNHCR, the International Labour Organization (ILO), the Office of the High Commissioner for Human Rights (OHCHR), the UN Conference on Trade and Development (UNCTAD) and the UN Office on Drugs and Crime (UNODC).

International Migration established in December 2003, which has as one of its objectives analyzing gaps in current approaches to migration and examining interlinkages between issues.

27. At the regional level, a more particularized picture of trends and challenges is emerging from the numerous migration-related processes in which UNHCR is involved. For instance, in the Americas, the Office participated in the “Puebla process” and contributed a protection focus to discussions at the fourth South American conference on migration in Uruguay in November 2003. A December 2003 joint IOM/UNHCR regional seminar in Barbados focussed on responses to mixed migratory flows in the Caribbean. Expert meetings as part of the “Bali process” were held in the Republic of Korea in September 2003 on the prevention of international trafficking and in Malaysia in November 2003 on people smuggling, trafficking in persons and related transnational crime. In addition, UNHCR and the Government of Fiji hosted a meeting in April 2004 on reconciling legitimate State interests to control borders with refugee protection. In India, an international seminar organized by UNHCR and the Asian-African Legal Consultative Organization (AALCO) in September 2003 focused on strengthening refugee protection in migratory movements in Asia and Africa.

28. Whilst these regional events represent fora within which to discuss refugee protection in the broader migration context, UNHCR has noted that many of these processes place considerable weight on the control, criminality and security dimensions of migration and much less on the human rights and protection aspects. At the same time, these processes sometimes treat refugees and asylum-seekers as a mere subset of migrants wherein the protection perspective is diluted.

29. UNHCR’s close cooperation with IOM has been taken further in several operations, as well as through discussions within the Action Group on Asylum and Migration (AGAMI). These have provided opportunities for the two organizations to clarify responsibilities both in specific programmes and more conceptually, including with regard to “rejected” asylum-seekers from countries of origin where security and other conditions have deteriorated after the final decision was taken. In such cases, protection and humanitarian considerations need to come into play. UNHCR has provided States with advice in this regard in several evolving situations, such as Iraq. At the same time, bearing in mind the importance of the return of persons found not to be in need of international protection for the international protection system as a whole,¹⁰ the Office has also taken positions on the acceptability of such return in certain other situations.

30. Another aspect of the complex interface between migration management and refugee protection was evidenced during the reporting period in protracted situations, where the context of displacement has changed and economic migration needs are surfacing alongside, or mixed with, continuing international protection needs. In the case of Afghanistan, this has led UNHCR to examine possible arrangements for temporary economic migration and thus

¹⁰ Executive Committee, Conclusion No. 96 (LIV), 2003, on the return of persons found not to be in need of international protection.

address non-protection-related movements of Afghans. The International Labour Organization (ILO) and IOM supported this initiative and helped advance the process with the Governments of the Islamic Republic of Iran, Pakistan and Afghanistan.

31. UNHCR is an active participant in the IGO Contact Group of Geneva-based agencies on Human Trafficking and Smuggling. The Office welcomed the entry into force of the two supplementary protocols to the UN Convention against Transnational Organized Crime.¹¹ They help establish a clearer international regulatory framework and include important saving clauses referring to the 1951 Convention and other international protection obligations. A number of States' interest in enhancing resettlement and in so-called "protected entry procedures" represents a development which could strengthen protection and may well complement anti-trafficking and anti-smuggling programmes by enabling refugees to find safety without having to rely on smugglers and traffickers. Furthermore, in addition to the by now established programme in Albania,¹² UNHCR offices in other locations are becoming more involved in anti-trafficking and anti-smuggling issues. Specific cooperation has been developed with the International Maritime Organization, in the context of addressing protection needs of refugee seamen and asylum-seeking stowaways.

V. SHARING BURDENS AND RESPONSIBILITIES MORE EQUITABLY AND BUILDING CAPACITIES TO RECEIVE AND PROTECT REFUGEES

32. The provision of international refugee protection is a common trust. It involves varying sets of responsibilities which need to be shared widely if the regime in its entirety is to be effective. Primary responsibility for providing protection lies with States. Governments need to work in partnership with each other and with other actors to devise the legal and practical arrangements necessary to respond properly to contemporary protection problems in a spirit of international solidarity.

33. In recognition of this fact, which was a cross-cutting theme of the Agenda for Protection, the High Commissioner launched his Convention Plus initiative in 2003, aimed at establishing a more predictable and principled framework for action. The objective is to develop new multilateral arrangements, both generic and situation-specific, covering several issues which are deemed susceptible to multilateral approaches. These issues include expanding the potential of resettlement as a burden- and responsibility-sharing tool; targeting development assistance to facilitate solutions to refugee problems; and improving protection in regions of origin closer to the source of the need.

34. A number of "core groups" were formed during the reporting period to address these different generic topics. Two meetings of the High Commissioner's Forum were also held in June 2003 and March 2004. The core group led by Canada is working on a multilateral framework of understandings on commitments needed for plans of action with a resettlement component. The core group on irregular secondary movement is jointly facilitated by South

¹¹ 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (in force December 2003) and 2000 Protocol Against the Smuggling of Migrants by Land, Sea and Air (in force January 2004), both supplementing the 2000 UN Convention against Transnational Organized Crime (in force September 2003).

¹² Note on International Protection, 11 September 2002, A/AC.96/965, paragraph 25.

Africa and Switzerland, with strong support from the Netherlands. It has agreed to conduct a first group-specific survey on the scope and causes of irregular secondary movement of Somali refugees and asylum-seekers and State responses to these movements, while also considering the responsibility-sharing issues linked to the phenomenon of irregular secondary movements. The third core group is chaired by Denmark and Japan and first met in May 2004 to discuss ways of anchoring support for refugees, returnees and their host communities in the development agenda of aid donors and recipient countries alike.

35. Capacity building can make an important contribution to better burden and responsibility sharing. Initiatives in this respect, for example the Strengthening Protection Capacity Project funded by the European Union and three Member States, are also a sound investment in better management of asylum systems. This is not least the case in the context of mixed movements and migration-related dilemmas. It is important here that capacity-building initiatives in both transit countries and regions of origin are driven by the objective of securing effective protection.

36. The training of government officials, including immigration and asylum officers, and the judiciary in refugee and human rights law continued to be one central focus of UNHCR capacity-building activities on all continents. Contemporary security and migration concerns also meant the Office directed its training efforts to border and security services in numerous countries. In addition, UNHCR continued to facilitate regional inter-State technical cooperation between national eligibility commissions, for instance in the Americas. A Danish refugee status determination expert was deployed to the Kyrgyzstan eligibility commission for three months under a joint Danish/UNHCR programme to provide on-the-job training. In order to raise awareness of humanitarian law and refugee protection in conflict situations, UNHCR training efforts have also targeted the military and peacekeeping forces in a number of settings.

37. Strengthening partnerships with civil society represents another important capacity-building tool. One good example has been the project with the Norwegian Refugee Council to develop a camp management toolkit, which has been largely driven by the humanitarian community in Sierra Leone. A prototype was field-tested in late 2003 in Angola, Liberia and Sierra Leone, and testing has now been extended to other continents. In many countries, the law and human rights departments of universities have represented important allies in promoting refugee protection. Legal clinics run by NGOs and/or students have often provided vital support to asylum-seekers and refugees in their interaction with the authorities, while UNHCR's capacity-building work and collaboration through the Honorary Liaison network, for instance, in Trinidad and Tobago resulted in the establishment of an *ad hoc* status determination procedure.

38. At the international level, the founding of an American chapter of the International Association of Refugee Law Judges should help to strengthen capacity in that region. UNHCR deepened its close cooperation with the Inter-Parliamentary Union (IPU) and initiated closer cooperation with the African Parliamentary Union and the Arabic Parliamentary Union. The UNHCR-IPU *Handbook for Parliamentarians on Refugee Protection: A Guide to International Refugee Law* is available or is in the process of being translated in a total of 29 languages. In many cases, the new language versions have

provided occasions for formal launches in national parliaments aimed at deepening awareness of international protection of refugees. UNHCR attended the IPU's Parliamentary Assemblies in Chile (2003) and Mexico (2004), distributing materials and delivering substantive statements addressing points of concern to the Office. In Mexico, it was agreed that UNHCR and IPU would collaborate on a new handbook focusing on statelessness and citizenship issues. In June 2004, the Office assisted the African Parliamentary Union in holding the first ever regional parliamentary conference on "Refugees in Africa: The Challenges of Protection and Solutions". Hosted by the National Assembly of Benin in Cotonou, the conference adopted an important declaration and plan of action to improve refugee protection.

39. UNHCR's Protection Surge Capacity Project designed to respond to sudden temporary protection staffing needs expanded during the reporting period, providing crucial protection support for field offices. Some 75 deployments to 22 countries have now been made since the project became operational in January 2002.

VI. ADDRESSING SECURITY-RELATED CONCERNS MORE EFFECTIVELY

40. Security issues became infinitely more complex over the past year, both for refugees and for humanitarian personnel. Humanitarian agencies themselves became a clear target of attacks as reported in Chapter II of this Note. Coming to terms with the direct targeting of United Nations and other humanitarian actors is fraught with dilemmas, including how to balance staff security considerations with cogent needs for humanitarian action. In a number of situations of uncertain peace, a certain space for impartial humanitarian action could be maintained. In others, however, such as in refugee camps in several countries in West Africa and South East Asia, the security situation and precautions needed to fulfil the United Nations' minimum operating security standards (MOSS) meant that the organization could not maintain a regular presence. In one South Asian country, even police had to withdraw from refugee camps after their office premises were attacked by insurgents.

41. In Iraq, UNHCR's scope for action remains limited, with reduced numbers of national staff operating within the country and international staff supporting them from Jordan and Kuwait. Nonetheless, despite the security situation, UNHCR managed to assist returnees in Iraq, as well as internally displaced persons (IDPs) fleeing violence in April following which repatriation convoys from the Islamic Republic of Iran had to be temporarily suspended. UNHCR's operations were also curtailed in Afghanistan, where attacks on local government offices and NGOs culminated in the United Nations suspending some operations in parts of the country. Following the murder of UNHCR staff member Bettina Goislard, voluntary repatriation from Pakistan to eastern Afghanistan had to be suspended until March 2004. Instability in the northwest in particular also had a negative impact on the number of IDPs volunteering to return to provinces there, despite progress made by UNHCR in building contacts with local communities.

42. These security concerns are often intrinsically linked to the security environment for refugees themselves. During the reporting period, guerrilla groups attacked refugees and displaced persons in a number of countries in different parts of the world. For instance, in northern Uganda in February 2004 some 250 displaced persons were killed in an attack on

their camp, while cross-border raids by armed elements, rape and forced recruitment of Sudanese refugees were reported in eastern Chad in early 2004. In the latter case, UNHCR and its partners had by early June 2004 relocated over 80,000 refugees as a protection measure to seven camps further inland, away from the volatile border region.

43. The particular vulnerability of refugees in such situations was acknowledged by the Security Council in its first open meeting on the protection of civilians in armed conflict in December 2003. Through its office in New York, UNHCR has in close cooperation with the Office for the Coordination of Humanitarian Affairs (OCHA) and DPKO contributed to reports on the topic and has sought to advise on the drafting of relevant parts of Security Council resolutions insofar as these are related to persons and issues of concern to the Office.

44. UNHCR also worked to assist States in separating armed elements from refugee populations;¹³ is working with DPKO to define appropriate roles and enhance cooperation on this issue; and will hold a roundtable meeting of experts on maintaining the civilian and humanitarian character of asylum in June 2004. The Office has supported various United Nations endeavours in the area of disarmament, demobilization and reintegration. Linking up with other actors, such as the UN Children's Fund (UNICEF), the UN Development Programme (UNDP) and ICRC, cooperation has been extended, for example to the United Nations missions in Liberia (UNMIL) and in the Democratic Republic of Congo (MONUC), to ensure the safe repatriation of family members of combatants and monitor their return and reintegration.

VII. REDOUBLING THE SEARCH FOR DURABLE SOLUTIONS

45. Renewed efforts were made during the reporting period to resolve long-running conflicts. Political initiatives and developments, especially in Africa, have opened up possibilities for the voluntary return of considerable numbers of refugees and IDPs after years and sometimes decades. The largest return movements took place in Afghanistan, however, where the situation has begun to improve since the end of 2001 and more than three million refugees and internally displaced Afghans have meanwhile returned home. Although in 2003 the number of returns to and within Afghanistan (646,000 refugees and 82,000 IDPs) decreased as compared with 2002, the Office has consolidated its operation and voluntary returns continue, in cooperation especially with the Governments of the Islamic Republic of Iran and Pakistan on whose territory large numbers of Afghans continue to reside.

46. Provisional figures for other operations during 2003 include returns to Angola (133,000), Bosnia and Herzegovina (11,000 plus 40,000 returning IDPs), Burundi (82,000), Côte d'Ivoire (17,000), Croatia (10,000 plus 4,000 returning IDPs), Iraq (55,000), Liberia (8,000), Rwanda (23,000), Sierra Leone (41,000) and Somalia (10,000). In addition, 77,000 IDPs returned to their regions of origin in Sri Lanka, as did 20,000 IDPs in the Russian Federation.

¹³ See Executive Committee Conclusion No. 94 (LIII), 2002, on the civilian and humanitarian character of asylum.

47. In Africa, it is hoped that peace-making, reconciliation and reconstruction efforts in countries such as Burundi, the Democratic Republic of the Congo, Sudan and Liberia could, over the next few years, lead to the voluntary repatriation of significant numbers of displaced persons. The recently concluded framework peace agreement to end the long-running armed conflict in southern Sudan is a major positive development in this regard. Given the potential for ending protracted refugee situations, UNHCR hosted a ministerial-level Dialogue on Voluntary Repatriation and Sustainable Reintegration in Africa in March 2004. The meeting agreed on the need for international political and financial support to underpin African peace-building initiatives, on the importance of demobilization of combatants and of early and sustained partnership among all actors on repatriation and reintegration. An informal high-level working group was also launched to follow-up on the meeting.

48. Especially when countries of origin are emerging from long-running armed conflict, voluntary repatriation is often hampered by residual or fresh security concerns, lack of basic services, the slow pace of reconstruction and insufficient possibilities for income generation. A phased or differentiated approach to voluntary repatriation, as is, for example, being applied in Angola, may often be needed in order to secure sustainable return. Even where peace is formally concluded, the risks of relapsing into violence can be significant and sufficient and ongoing support from the international community is therefore crucial. In Liberia, for instance, the presence of United Nations peacekeeping troops from September 2003 was a key factor prompting an increasing number of spontaneous returns from early 2004, despite the still uncertain security situation there.

49. UNHCR has been investing in closer ties with a variety of partners, including DPKO, on rule of law and justice issues. Experience has shown that the successful reintegration of returnees is closely linked to the re-establishment and proper functioning of national protection mechanisms. Fair judicial systems and effective law enforcement are not only necessary for preventing the recurrence of past abuses, but also to address various legal issues that can seriously complicate the repatriation and reintegration process. In several operations, UNHCR activities to promote the “legal safety” of returning refugees have included the provision of expert advice on draft legislation related to citizenship and property restitution, the setting up of legal aid centres, as well as interventions in individual cases aimed at documenting changes in personal status.

50. In order to strengthen the international community’s support and commitment to countries emerging from conflict, the High Commissioner consolidated support for his “4Rs” initiative (promoting repatriation, reintegration, rehabilitation and reconstruction) during the reporting period.¹⁴ Piloted in Afghanistan, Eritrea, Sierra Leone and Sri Lanka, this approach is now also being applied in Burundi and Liberia.

51. When refugees are enabled to achieve self-reliance, prospects for realization of their ability to benefit from one or other of the three durable solutions are notably enhanced. In this respect, the decision of the South African authorities to allow asylum-seekers to work and study while claims are assessed is a welcome development. Self-reliance can further be enhanced by situating support for refugees in the broader development-based strategies of

¹⁴ See also Note on International Protection, 2 July 2003, A/AC.96/975, paragraph 34.

both countries of asylum and origin, as the development assistance for refugees (DAR) initiative promoted by the High Commissioner advocates.¹⁵ National poverty reduction strategies, which focus on the active participation and community empowerment of groups vulnerable to poverty, now include refugees, IDPs and/or returnees in such countries as Armenia, Serbia and Montenegro, Uganda and Zambia.¹⁶

52. Turning to the multi-faceted challenges of local integration, one example representative of many during the reporting period concerned Belarus. UNHCR provided funding there to accommodate refugees, gave technical assistance to schools and medical clinics so refugees could benefit from these services, supported employment initiatives, helped set up a committee involving all actors to coordinate integration efforts and assisted the three main refugee communities there to establish formal community associations. Other initiatives by UNHCR included the provision of homes for refugees in locations from West Timor (Indonesia) to Uganda, while construction materials were given to refugees, for instance, in Serbia and Montenegro, to enable them to build their own homes. The Office also intervened with the authorities in various States to ensure recognized refugees were given documentation, thus assisting access to employment, education, health and social services.

53. Ultimately, it is often naturalization which formally concludes the integration process. To take some positive examples, in Armenia, by the end of January 2004, over 65,000 ethnic Armenians among those who fled to the country in 1988–93 had been granted Armenian citizenship. In Kyrgyzstan, over 4,500 Tajik refugees have also been naturalized since 2001, assisted in part by UNHCR funding and technical assistance to the agencies administering the process. In India, UNHCR assisted well-integrated Afghan mandate refugees to become naturalized through individual applications.

54. On resettlement, the Agenda for Protection calls for its more strategic use. In practice, this means enabling resettlement to continue to serve its individual protection purposes, while also expanding its scope to reach more beneficiaries and programmes. The aim is to maximize its benefits as a tool facilitating other durable solutions in protracted refugee situations, enhancing the asylum space in countries of asylum and achieving more equitable burden and responsibility sharing. As part of the recent increased focus on group resettlement, UNHCR issued a methodology in October 2003 for identifying and processing refugee groups. In close cooperation with especially Australia, Canada and the United States, new approaches have already benefited refugees staying in camps in Côte d'Ivoire and Kenya.

55. In order to strengthen UNHCR's capacity to process resettlement in the field, regular resettlement officer posts were created at the two regional resettlement hubs in Accra and Nairobi established in 2003. UNHCR also created additional posts in Indonesia, Guinea and Lebanon. Further funding for temporary resettlement posts was provided by the United States in both 2003 and 2004, while staff were seconded by Norway and funds provided for

¹⁵ See UNHCR "Framework for Durable Solutions for Refugees and Persons of Concern", May 2003, reported to Standing Committee in EC/53/SC/INF.3, 16 September 2003.

¹⁶ UNHCR, "Economic and Social Impact of Massive Refugee Populations on Host Developing Countries, as well as other Countries", EC/54/SC/CRP.5, 18 February 2004, paragraph 26.

the deployment scheme by the United States and Canada. Support to UNHCR field operations was also extended through the RSD Resettlement Learning Programme, aimed at enhancing field staff capacity to perform quality resettlement. In the context of fraud prevention, steps have been taken to devise an action plan in cooperation with field offices, which draws on the expertise of resettlement countries to consolidate the organization's work on standard operating procedures.

56. There were 28,255 UNHCR-assisted resettlement departures in 2003, as against 21,037 in 2002, an increase of 34 per cent, indicating that the resettlement process has picked up again after September 2001. As part of continuing efforts to enlarge the pool of resettlement countries, bilateral "twinning" programmes between established and newer resettlement countries, such as between Finland and Ireland, have been facilitated.

VIII. MEETING THE PROTECTION NEEDS OF REFUGEE WOMEN AND REFUGEE CHILDREN

57. The international protection needs of refugee women and refugee children span the spectrum of international protection activities, from registration and preventing sexual violence to victim/survivor support activities and resettlement of at-risk groups. Particularly troubling during the reporting period were numerous incidents of violence against displaced women and children, including in situations where such attacks represented tools of war, as was the case in the Democratic Republic of Congo, western Sudan, northern Uganda, Burundi, Côte d'Ivoire and other locations.

58. During the reporting period, the Office made sustained efforts to address concerns related to sexual and gender-based violence (SGBV), including by capacitating UNHCR staff, authorities and other actors concerned. Implementation of existing policies and guidelines and "frontloading" gender and age awareness nevertheless remain ongoing challenges. They are recognized and treated in UNHCR as the responsibility of all actors involved.¹⁷ UNHCR has distributed the revised UNHCR *Guidelines for Prevention and Response to Sexual and Gender-based Violence in Refugee Settings* issued in May 2003 to field offices and partners and translated them into over a dozen languages. Training workshops to guide implementation of SGBV prevention activities were also held involving offices regionally in Africa, Asia and Europe, with a headquarters-based session for UNHCR staff, NGO partners and donors in November 2003. Operations such as those in West Africa and Timor Leste gave renewed emphasis to strengthening the involvement of men (both refugees and staff) as advocates for SGBV prevention. Many offices now have in place smooth processes for referral of health, psychosocial, security and legal support to victims/survivors. Several operations have also established drop-in centres to enhance the functioning of the referral process and provide integrated support. A pilot project in South Africa, establishing a directory of services for SGBV victims/survivors to enhance urban refugees' access to services available in the wider community, is being promoted for replication elsewhere. Another good practice example, directed at enhancing the functioning of the judicial system in these areas, was the involvement of magistrates and police in SGBV coordination meetings in Tanzania.

¹⁷ See also, Executive Committee, Conclusion No. 98 (LIV) 2003, on protection from sexual abuse and exploitation.

59. Nonetheless, gaps remained in the legal framework of some countries of asylum for addressing SGBV and ensuring due justice. These included outdated laws which did not acknowledge certain types of SGBV, lengthy judicial processes, limited witness support provisions and refugees' use of traditional dispute mechanisms to arbitrate SGBV crimes which can seriously breach survivors' rights. Other challenges included the lack of legal follow-up support for repatriating victims/survivors of SGBV, while the escape of alleged perpetrators back to their countries of origin highlighted the need for enhanced cross-border collaboration among staff and partners.

60. In addition to these measures to tackle SGBV, further progress was made during the reporting period with the implementation of the other four of the High Commissioner's five commitments to refugee women. To promote achieving 50 per cent participation by refugee women in refugee leadership and management committees, many offices instituted training and other activities to help build the skills of women for public participation and decision-making and to ensure men provided the space required for women's participation. In some situations, election rules were even revised to include explicit provisions on the participation of refugee women. This issue had some prominence in the context of return to Afghanistan, where UNHCR and its implementing partners worked successfully during 2003 to establish 119 *shuras* or community councils, which amongst other things helped bring about a visible change in women's and men's attitudes to gender issues, including domestic violence and access to health care.

61. Progress was also achieved in the area of registration where, in several operations, it was possible to reach agreement with the government on the principle of issuing photo identity cards to all adult women as well as men. In other operations, the names of all adults in the family were included on the family ration card, rather than a single "head of family" as in the past. UNHCR cooperated closely with the World Food Programme to promote women's equal participation in the distribution of food and non-food items. Finally, the establishment of a budget line for sanitary materials for refugees in UNHCR's budget enables programme staff not only to allocate funds, but to protect the allocation more easily.

62. As for refugee children, serious challenges remain. Security concerns, insufficient human and financial resources, inadequate law enforcement systems to redress child rights violations and, in certain cases, States' unwillingness to comply with international standards continue to hamper the protection and safeguarding of the rights of refugee children, including those who are unaccompanied or separated.¹⁸ Efforts to strengthen inter-agency cooperation led to an Agreement on Common Guiding Principles on Unaccompanied and Separated Children which was formally launched in February 2004. Inter-agency collaboration on the ground was directed significantly at situations where refugee children had been recruited into armed forces or rebel groups. Here, UNHCR entered into a number of activities with UNICEF and regional and national child protection committees. Community-based training sessions on the prevention of military recruitment and of sexual exploitation were, for instance, held in the United Republic of Tanzania and Uganda, along with reintegration projects in Guinea and family reunification of demobilized children in

¹⁸ See "Assistance to Unaccompanied Refugee Minors: Report of the Secretary-General", 20 August 2003, A/58/299.

Sierra Leone. Among other initiatives, a series of radio programmes on child rights was launched in Côte d'Ivoire. More broadly, the Action for the Rights of Children (ARC) training initiative was expanded further in 2003 with regional workshops held in Jordan and Lebanon.

63. Education of both refugee children and adults is key in many respects. One example of UNHCR's efforts during the reporting period included bringing together the Ministries of Education in Côte d'Ivoire and Liberia to set up an accelerated learning programme for Liberian refugee children in Cote d'Ivoire to compensate for disrupted education opportunities. A similar project in Kyrgyzstan for Tajik refugee children assisted their integration into local government schools. Efforts to improve refugee girls' school attendance recorded successes from Asia to Africa, for example, in Afghanistan, Bangladesh, Guinea and Mozambique.

IX. CONCLUDING REMARKS

64. This Note outlines key international protection challenges that arose during the reporting period and highlights a number of initiatives States, UNHCR and other humanitarian actors took to tackle them. It is not exhaustive. The six goals of the Agenda for Protection provided a useful framework within which to structure approaches to address these issues. As is clear from this year's Note, protection responses are intrinsically interlinked, since the successful implementation of each element of the Agenda contributes to the reinforcement of the international protection regime as a whole. The strength and effectiveness of this regime will grow proportionately with:

- the political and operational commitment of a range of States and other actors to resolving long-standing refugee situations through comprehensive durable solutions arrangements;
- the extent to which the international community demonstrates its commitment in practice to responsibility and burden sharing in a spirit of international cooperation;
- improvement of the conditions on which humanitarian action depends, in particular staff safety and access, as well as reinforcement of its impartial and non-political nature;
- “frontloading” of gender and age guidelines and standards to protect and empower refugee women and refugee children;
- institution of migration policies that take due account of international protection needs and rights of refugees and asylum-seekers, in tandem with solid and forward-looking migration management strategies;
- investing in “best practice” based regulation of asylum matters to determine fairly and promptly those in need of international protection; and
- strengthened cooperative partnerships on international protection.