

**Bullet point summary of the Strategic Presentation on
UNHCR's Operations in Asia and the Pacific**

**26th meeting of the Standing Committee
4-6 March 2003**

- The past twelve months have yielded both achievements and continued challenges for UNHCR in the region. While the Office welcomes positive developments in Timor Leste (formerly East Timor), Sri Lanka and with respect to the Bhutan-Nepal issue, significant work remains to be done with respect to protection objectives in Asia and the Pacific. The challenges include a low rate of accessions to the 1951 Convention and 1967 Protocol; instances of *refoulement*; denial of access to asylum; and low recognition rates.
- The comments below are formulated within the framework of UNHCR's global strategy as laid out in the Agenda for Protection.

Strengthening implementation of the 1951 Convention and 1967 Protocol (Goal 1)

- While some countries continue to provide asylum to large numbers of refugees, most States in the region have yet to accede to international refugee instruments. Access to protection has been through a *de facto* local tradition of hospitality rather than through formalised procedures. Among States that have acceded, many have still to implement fundamental principles of these instruments, including the enactment of relevant national legislation.
- UNHCR felt compelled to withdraw, in March 2002, from a tripartite agreement with **Cambodia** and **Viet nam**, after concluding that the agreement was insufficient in practice for UNHCR to fulfil its statutory functions. Cambodia allowed UNHCR to resettle 905 Vietnamese Montagnards to the United States of America, at the latter's request. The subsequent closure of the Cambodian border has imposed a serious limitation on access to international protection for individuals who may be in such need. Moreover, UNHCR has received further reports of forcible return of individual asylum-seekers and refugees.
- In the **People's Republic of China**, UNHCR has raised with the authorities the question of the humanitarian situation of North Koreans entering the country. UNHCR believes that among them are persons deserving international protection, and that consequently there is need for access by UNHCR in order to ascertain the situation. UNHCR has proposed practical solutions that take into account the need to avoid measures that would create a pull factor, and would welcome the heightened level of discussion which this pressing issue requires.
- In December 2002, the Parliament of Timor Leste signed the 1951 Convention and 1967 Protocol. However, technical difficulties have delayed ratification of these instruments, now expected to take place in early 2003.
- In spite of concerted efforts to promote accession, South Asian countries have yet to accede to the 1951 Convention or the 1967 Protocol. Recently, **Sri Lanka** expressed interest in accession. UNHCR continues to focus on the adoption of national legislation in these countries to secure a more conducive protection environment for refugees and asylum seekers. In this regard, the **Eminent Persons Group (EPG)** process continues to be tapped as a source of ideas on improving refugee protection, promoting durable solutions to protracted situations and helping to promulgate domestic legislation on refugees.

Protecting refugees within broader migration movements (Goal 2:)

- UNHCR continues to work with regional governments in the context of the **Asia Pacific Consultations** and the **Bali Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime**. In contribution to the latter process, UNHCR prepared a concept paper on *A Comprehensive Approach to Secondary Movement in the Asia-Pacific Region*. UNHCR has also been actively engaged in follow-up work to the Bali Conference through the provision of training on refugee protection to officials in the region. The Asia-Pacific Consultations process, which was created to address refugee and displacement issues, is increasingly concentrating on illegal migration and border controls.
- In South Asia, mixed migratory flows coupled with fears of cross-border movements by suspected terrorists, people smugglers and traffickers present a major challenge to UNHCR and the international community. Efforts have been made, especially through the **EPG** process, to highlight the need to protect refugees in mixed migratory movements. It is of particular importance that States in the region adopt special measures to identify, protect and recognise refugees while dealing with other categories of migrants under relevant laws. To this end, UNHCR will continue to promote the adoption of domestic legislation on refugees in South Asian countries and contribute, as may be requested to the drafting of such legislation to ensure the protection of asylum-seekers and refugees and uphold the principle of *non-refoulement*.
- In **Indonesia, Malaysia, Thailand, Hong Kong SAR** and elsewhere in Southeast Asia, UNHCR has been working to ensure that adequate protection safeguards facilitate the differentiation between refugees and persons not in need of protection. Such safeguards are aimed at allowing protection to be provided within an agreed international framework. As part of this effort, UNHCR responded, on an exceptional basis, by assisting with refugee status determination and processing of 530 asylum-seekers who had sought entry to **Australia**. UNHCR will continue to work with governments in the region to ensure that refugee protection remains at the forefront of discussions concerning mixed migratory flows.

Sharing burdens and responsibilities more equitably and building capacities to receive and protect refugees (Goal 3)

- UNHCR continues to work with national authorities, NGOs and civil society to pursue resettlement as part of burden-sharing to assist countries of first asylum. In **Japan** and the **Republic of Korea**, which are parties to the Convention and Protocol and have relevant national legislation, while some progress has recently been noted, recognition rates remain low.
- UNHCR continues to support countries in the region faced with population displacement concerns, the strengthening emergency preparedness and response capabilities of governments, NGOs, and the UN through the **e-Centre** project.
- Solutions to protracted refugee situations have been particularly difficult to achieve based exclusively on a bilateral basis between the origin and host countries. In this regard, there is need for the international community to assist countries such as **Bhutan** and **Nepal** resolve the issue between them. To this end, UNHCR will encourage States to consider ways of bolstering bilateral processes.

Redoubling the search for durable solutions (Goal 5)

- Following the successful repatriation of 236,000 Muslim refugees to Myanmar's Northern Rakhine State in the past ten years, pursuing solutions for the 21,000 refugees remaining in **Bangladesh** has been the primary focus of UNHCR operations. Recently, the Government agreed to end the major phase of the repatriation programme by 30 June 2003 and conclude UNHCR's assistance programme by 31 December. After this latter date, UNHCR, together with UN and other development agencies, will implement projects for local residents and the remaining refugees. Until 30 June, UNHCR will intensify its efforts with the Governments of Bangladesh and Myanmar to expedite voluntary repatriation of eligible refugees.
- In **Timor Leste**, UNHCR has repatriated and assisted with the local reintegration of 225,000 former refugees. In the aftermath of the country's independence and following a detailed review of the prevailing protection environment, the cessation of refugee status for refugees from former East Timor has been invoked as from January 2003. To ensure the sustainability of repatriation and reintegration, UNHCR continues to monitor areas of return and promote reconciliation activities. However, UNHCR remains concerned about the relief-to-development gap in East Timor and has again called on aid and donor agencies to increase their support of development programmes.
- In **Indonesia** UNHCR is continuing to work closely with the authorities to implement local settlement programmes and to avoid a situation of potential statelessness for 30,000 former East Timorese refugees who are still in West Timor. Implementation of local settlement programmes in 2002 was hampered by continued difficulties in identifying suitable sites outside of West Timor, prioritisation by the Indonesian authorities of voluntary repatriation over local integration and reluctance by many former refugees to be relocated away from the island of Timor. Agreement between the UN and the Government on security arrangements in West Timor pursuant to Security Council Resolution 1319 was also not reached in 2002. This resulted in the continuation of UN Security Phase V, which limited UNHCR's access to refugees, progress on local settlement schemes and intervention on behalf of separated children.
- UNHCR continues to monitor the reintegration of returnees in **Myanmar's** Northern Rakhine State. Efforts to safeguard improvements achieved in the past eight years are ongoing. While the overall frequency of compulsory labour and compulsory contributions has declined significantly over the years, there are areas close to the border where high labour requirements and contributions are still reported. Restrictions on the freedom of movement for the concerned population remain in place. The Office's interventions with the authorities continue.
- After a delay of more than one year, Ministerial-level discussions were resumed recently between the Governments of **Bhutan** and **Nepal** to address the long-standing issue of the camps in the latter country. The results of the joint verification exercise conducted in 2001, which involved 12,000 persons in one of seven camps, are to be announced shortly. In the past few months, UNHCR has stepped up efforts with both Governments to bring this protracted situation to an end. An increasingly precarious security situation in Nepal affecting camp residents has accentuated the need for a solution to this situation. UNHCR has proposed the development of a comprehensive, solutions-based approach to complement and expedite the current bilateral process.
- The peace process in **Sri Lanka** has progressed steadily following the conclusion of a cease-fire agreement in February 2002 between the Government and LTTE. Since then, the spontaneous return of IDPs (more than 300,000 at present) has reinforced public confidence in the process. In support of these developments, the High Commissioner launched an initiative to ensure a smooth transition between repatriation, reintegration, rehabilitation and reconstruction, also known as the 4Rs initiative. Sri Lanka offers an exceptional opportunity to pilot this endeavour as both humanitarian and development agencies are present in the country and are actively engaged in addressing

growing needs. UNHCR remains the lead UN agency in providing protection, emergency shelter and non-food relief items to the concerned population, filling existing gaps before the 4Rs initiative can be fully implemented. UNHCR's interventions are also aimed at creating conditions for large-scale refugee return from southern India.

- The lack of access to potential areas of return in Myanmar for refugees from that country in **Thailand** has been an obstacle in promoting voluntary repatriation. As relations between Thailand and Myanmar continue to improve during the course of 2003, so will the potential for repatriation. To facilitate return and sustainable reintegration, UNHCR is supporting vocational skills training among refugees to make them self-sufficient.

Meeting the protection needs of refugee women and children (Goals 6)

- UNHCR has worked with partners in the region to highlight the need to fully implement its Guidelines on the Protection of Refugee Women and on Prevention and Response to Sexual Violence Against Refugee Women. Field testing of the revised guidelines on Sexual and Gender-Based Violence (SGBV) took place in **Thailand** and **Indonesia** in the latter part of 2002. Additional workshops are scheduled to take place in 2003.
- UNHCR is concerned that SGBV issues are becoming increasingly prevalent. A systematic approach focusing on awareness raising and the incorporation of measures to guard against SGBV and other forms of violence in the planning and implementation of UNHCR protection and assistance projects are being pursued in the field. Regional and country-specific workshops are to take place shortly in **Nepal** and **Sri Lanka**. A UNHCR investigation to address an increase in the incidence of SGBV in **Nepal** was carried out in October 2002. Remedial actions were immediately instituted to address the medical needs of victims, establish protection and preventive procedures and assist victims bring suspects and alleged perpetrators to justice.
- UNHCR has been working closely with the authorities in **Indonesia** and **Timor** Leste as well as with NGOs to resolve the issue of East Timorese children separated from their families during the events of 1999. As of 31 December 2002, 819 cases remained outstanding. While UNHCR declared the cessation of refugee status on a group basis as of 31 December 2002, the Office retains a protection responsibility as persons from former East Timor still have the right to claim refugee status on an individual basis if they can demonstrate a valid fear of persecution.
- In **Australia**, UNHCR has expressed concerns about the policy of mandatory and indefinite detention of asylum-seekers. A recent Government statement indicating a change in this policy insofar as women and children are concerned is a welcome development. UNHCR is also particularly concerned with the ongoing detention, pending their resettlement, of mandate and Convention refugees in Manus (Papua New Guinea) and Nauru.