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The EU Enlargement Process and The External Dimension of The EU JHA Policy

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Chapter 1: The European Union Enlargement Process

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Chapter 1 Enlargement of the European Union

I. Introduction

Basic conditions for enlargement can be found in the EU Treaty Article 49 "Any European State which respects the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law may apply to become a Member of the Union". The country concerned lodges its application to join the EU with the Council which acts unanimously after consulting the Commission and securing the assent of the European Parliament (whose vote must be decided by an absolute majority).

The EU was originally founded by six States: Belgium, France, Germany, Italy, Luxembourg and the Netherlands. They were joined by Denmark, Ireland and the UK in 1973, Greece in 1981, and Spain and Portugal in 1986. (In 1990, the new East German Länder were incorporated.) In 1992, the Member States formed the European Union, which was enlarged in 1995 to include Austria, Finland and Sweden.

Official applications for EU membership were lodged by Turkey in 1987, Cyprus and Malta in 1990, and by all ten Central European and Baltic States (CEBS) in 1994, 1995 and 1996. In December 2002, the Copenhagen Summit completed accession negotiations with Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia. These countries were officially approved to enter the EU at the Summit of Athens in April 2003. Negotiations with Bulgaria and Romania are continuing with a view to accession in 2007. In December 2004, the EU will review whether Turkey meets the 1993 Copenhagen criteria (see below) and whether accession negotiations can begin.

In February 2003, Croatia lodged an official application for becoming a member of the European Union. In May 2003 the EU declared other Balkan countries - Serbia and Montenegro, Bosnia and Herzegovina, FYROM (Macedonia) and Albania - natural candidates for EU accession.

The enlargement of the EU - with the ten Central European and Baltic states and the two Mediterranean countries - is unprecedented in size. When these twelve states join the EU, the EU territory will increase by 34 % and its population by 105 million.

Of interest to UNHCR is the fact that many of these countries were, in the past, countries of origin and producers of refugees, while most of them were not party to the 1951 Refugee Convention or its Protocol and had no asylum system in place.

Accession criteria

In June 1993, the Copenhagen European Council took the historic and political decision to

open the door to EU membership to associated countries by setting up specific criteria. As a prerequisite for membership, a candidate country must fulfil the following conditions, known also as the “Copenhagen criteria”:

- stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

Preparations for future accession by candidate countries were launched at the closing of the Copenhagen Summit.

II. The pre-accession strategy

Following the 1993 Copenhagen Summit, Europe Agreements or Association Agreements were concluded with the candidate countries from Central Europe and the Baltic region. These form the legal framework for association with the EU, with a view to the gradual integration of these countries into the EU. The agreements cover trade-related issues, political dialogue, legal approximation, and co-operation in areas such as industry, environment, transport, customs, and justice and home affairs. Article 6 of the Agreements stipulates “respect for democratic principles and human rights established by the Helsinki Final Act and the Charter of Paris for a new Europe”.

It is interesting to note that the very first Association Agreements were signed with those countries whose applications for EU membership were accepted the latest, i.e. Turkey in 1963, Malta in 1970, Cyprus in 1973.

In December 1995, the Madrid European Council called on candidate countries to transpose the EU acquis into their national legislation and also to ensure that it is effectively implemented through appropriate administrative and judicial structures, as a requisite of EU membership (for an explanation of the acquis, see Part 1, chapter 2, A). The Council also called upon the Commission to provide an assessment of the candidates’ applications for membership and to prepare an analysis of what enlargement would mean for the EU. Moreover, the Commission was tasked with developing the pre-accession strategy for each candidate country, including short and medium term objectives for political dialogue and assistance measures in preparation for membership. Justice and home affairs figured increasingly in these strategies.

In June 1997, the Commission presented a blueprint for enlargement, Agenda 2000: For a Stronger and Wider European Union. The document outlined the impact of enlargement on the EU and the future financial framework beyond 2000, including a reinforced accession strategy composed of several new instruments. As part of the Agenda 2000, the Commission issued for the first time an Opinion on the progress made by candidate countries generally and individually towards meeting the Copenhagen criteria and reaching European standards. A chapter on justice and home affairs, including an assessment of asylum and migration sectors, was included, although it was not considered particularly critical at this stage. The Commission’s Opinion has since become an annual progress report, in which the extent to which the acquis has been adopted and implemented is scrutinised. Five regular reports have

been issued so far, consisting of a general report and one detailed document for each of the candidate countries.

In 1997 and 1998, the EU institutions and the Member States had already started promoting justice and home affairs issues in their accession dialogue with candidate countries. Emphasis was put on combating organised crime, border control and migration management rather than on legal admission and protection policies.

In its strategy paper of late 2000, the Commission concluded that all candidate countries – with the exception of Turkey which was accepted as a candidate country at the 1999 Helsinki Summit - fulfilled the Copenhagen political criteria, although judiciary reform, the prevalence of corruption, the increasing problem of trafficking in women and children, and the Roma remained issues of concern in some candidate countries.

In November 2001, the Commission published a new strategy paper which proposed ways of monitoring and assisting candidate countries, during the final stages of preparations for accession, in reaching an acceptable level of preparedness for effectively implementing the acquis in all fields. The Göteborg European Council, held in June 2001, indicated that accession would be possible for up to ten new Members by the end of 2003, so that they would be able to participate in the June 2004 European Parliament elections. At this stage, the focus had shifted strongly to candidate countries' capacity to implement and enforce the acquis. Particular attention was paid to candidates' administrative and judicial capacity to take on the obligations of membership. Negotiations on accession to the EU terminated at the Copenhagen European Council at the end of 2002. The accessions to the EU of Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia were thus officially approved at the Athens Summit in April 2003.

1. Instruments of the pre-accession process, including technical and financial assistance to candidate countries

In 1998, the Council launched an Accession Partnership (AP) as part of accession preparations for each of the candidate countries of Central Europe and the Baltic (CEBS). Accession Partnerships with Cyprus and Malta were concluded in 2000 and with Turkey in March 2001. The Accession Partnership can be regarded as a kind of road map in which priorities are identified for adaptation of domestic laws and practices to the EU acquis in the short term (one year) and medium term (two years). The instrument also highlights the main tools and financial resources available for achieving the goals set out in the Accession Partnership document. The Accession Partnership was revised for all candidate countries in 1999, 2001 and 2003, taking into account progress made. In 2003, additional Road Maps for accession were issued for Romania and Bulgaria.

As a complement to the AP, candidate countries formulated a National Programme for the Adoption of the Acquis (NPAA) setting time frames for achieving the priorities set out in the AP and presenting the country's strategy for integration into the EU. This document is regularly updated. In the early years of both the AP and the NPAA, asylum matters received less consideration than border security and management, migration control and organised crime.

The main instrument utilised by the EU to grant assistance to candidate countries in the CEBS region is the Phare programme, managed by the Commission's Directorate, DG Enlargement. Phare, which stands for Poland Hungary Assistance for the Reconstruction of the Economy, was established in 1989 to support the reforms taking place in Poland and Hungary, then

extended to cover all Central European Baltic States. Over 20 billion US Dollars have been invested in the Phare programme since its inception. Phare projects were initially economic in nature.

At the Essen European Summit in 1994, when the pre-accession strategy for candidate countries was formally launched, it was decided that Phare would also focus on administrative and legislative support, including justice and home affairs and support for democratisation and civil society. Phare funds were therefore specifically allocated to institution and capacity building and this topic was also included within “structured dialogue”, the first multilateral framework for discussion between the EU institutions, the Member States and candidate countries.

There have been two main types of Phare programmes:

- Phare National Programmes (PNP): each year, candidate countries negotiate individually with the Commission to receive allocations under the Phare National Programme. Normally, a matching contribution from candidate countries is required.
- Phare Horizontal Programmes (PHP): horizontal projects are typically two to three year projects involving several or all candidate countries and a number of EU Member States. They generally focus on one or two main areas of co-operation and provide technical and financial support for the period of the project.

These programmes are explained in further detail on the following pages.

In addition to the Phare programme, two important new programmes were launched in 2000: ISPA helps finance investment in the fields of environment and transport with an annual amount of 1,04 billion Euro and SAPARD provides aid for agriculture and rural development with a yearly amount of 520 million Euro.

A. Phare National Programmes

The overall objective of the National Programmes is to help the candidate countries prepare for joining the EU. In 1997, the Commission fundamentally reorganised the PHARE programme. As part of its reinforced accession strategy, outlined in Agenda 2000, the Commission decided to double the financial assistance available for the period 2000–2006 (amounting to 3,12 billion Euro made available annually) and to direct it more specifically towards the objectives and the priorities set out in the Accession Partnerships. The Phare assistance programme has thus changed from a demand-driven instrument before 1998 to an accession-driven one which helps candidate countries to meet EU requirements for membership. As of 2000, Turkey, Malta and Cyprus benefited from similar tailor-made support schemes under the MEDA programme.

Under the Phare programme, a twinning mechanism was put in place in 1998 with a view to assisting candidate countries in developing modern and efficient administrations necessary to implement the *acquis communautaire*. Under this scheme, experts from Member States were sent to candidate countries for a period of one to two years to assist them in integrating and implementing the EU *acquis* in a particular field regulated by the EU. As of 2000, seven twinning arrangements in migration and asylum matters have taken place: two each in

Hungary and Slovakia, and one in Romania, Slovenia, and Bulgaria. Hungary, Romania, Slovakia and Bulgaria are the only countries to have benefited from a Phare twinning arrangement focused exclusively on asylum related issues.

From 1997 to 2002, the Commission approved some 15 Phare National Programmes in the field of migration and asylum. In asylum, these projects have focused on harmonising national asylum legislation with the acquis, providing equipment, software and advisory support, setting up country-of-origin documentation centres, strengthening the capacity of refugee agencies' staff, and the rehabilitation of reception centres. In many cases, UNHCR offices in the countries concerned supported governments in submitting Phare project proposals and lobbied for their approval at the EU Delegations and at the Commission in Brussels.

National Phare allocations for asylum related projects have remained relatively low. From 1997 until 2001, candidate countries received some 13 million Euro of Phare assistance for projects related to asylum, migration and visa policy, almost half of which was spent in 2001. This can be compared with total Phare spending of over 502 million Euro for all JHA projects in the ten Central European and Baltic States. The bulk of funds has been allocated to border control, customs, and the fight against organised crime.

B. Phare Horizontal Programmes

Horizontal Programmes involve the candidate countries and EU Member States in co-operation projects. There are several programmes in justice and home affairs covering asylum, migration, strengthening of external borders, police co-operation, and support for institutions fighting corruption.

From 1998-2000, UNHCR, in close co-operation with the German Federal Office for Refugees, was involved in the preparation and implementation of the Phare Horizontal Programme (PHP) on Asylum in the ten Central European and Baltic States, with the further collaboration of seven EU Member States. The programme aimed to identify and address the needs and priorities of each applicant country for setting up fair and efficient asylum systems in line with EU standards. On the basis of a gap analysis, each candidate country drew up a National Action Plan with the EU experts and UNHCR, indicating how they intended to fill the present gaps, and, thus, how their progress could be measured. The programme mainly included round tables, seminars for senior political staff and practitioners' training workshops on specific issues.

In 2000, the PHP on Asylum was evaluated and deemed to have raised awareness on asylum matters in candidate countries and to have helped the Commission to develop national support policies on the basis of need assessments and the National Action Plans. Expert missions, as well as the Commission's Directorates for Enlargement and for Justice and Home Affairs, have often referred to the results of the PHP as indicators for measuring the progress made by candidate countries in this field as well as the foundation for subsequent assistance measures.

France led the Phare Horizontal Programme on Migration in partnership with Austria, Denmark, Germany, the Netherlands and the UK. The International Organisation for Migration and the International Centre for Migration Policy Development, played important support roles. The Programme was broken down into the following modules: regular and irregular immigration (led by Denmark), external border control (France), visas (Austria), false documents (UK).

Additional horizontal programmes focused on the fight against corruption and organised crime (Octopus II, led by the Council of Europe), and on police (led by the European Association of Police Colleges). The aim of Octopus II was to identify, in a detailed manner, the gaps between the *acquis* and the legislation and practice of the CEBS and to put forward proposals for improvement. The police project aimed to draft a common training curriculum for the police force.

3. Other funding programmes

A. ODYSSEUS/ARGO

Several other EU initiatives have contributed to the promotion of co-operation and information exchange in asylum and migration matters. The Odysseus programme, launched in 1998, was focused on the training and exchange of public officials in the EU in the fields of asylum, migration and border enforcement. The programme also included candidate countries. In 2002, Odysseus was replaced under similar terms by the ARGO programme.

UNHCR, working with government officials, designed and implemented various asylum related projects, financed under Odysseus, in Hungary, Poland, Romania, Slovakia and Slovenia. In addition, UNHCR has supported project submissions to Odysseus by partner organisations such as the International Association of Refugee Law Judges.

B. EIDHR

UNHCR has also supported project submissions by some NGOs for funding from the European Initiative for Democracy and Human Rights Programme. EIDHR provides yearly support to institutions and NGOs for democratic development initiatives, including in candidate countries.

III. The negotiation process

Following the Luxembourg Summit in December 1997, accession negotiations were opened on 31 March 1998 with six countries: Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia (referred to also as the Luxembourg Group). In December 1999 at the Helsinki Summit, the European Council decided to open accession negotiations with six further candidates: Bulgaria, Latvia, Lithuania, Malta, Romania and the Slovak Republic (the Helsinki Group). Helsinki also confirmed that Turkey is a candidate for EU membership.

Since 1998, accession negotiations have taken place between the EU and the candidate countries to determine the conditions under which each candidate country will join the EU and the terms under which each candidate will adopt, implement and enforce the *acquis communautaire*.

Negotiations are based on the principle that each candidate country must adopt the entire set of existing EU rules and legislation. The *acquis* itself is not negotiable but there are negotiations about how and when to implement the *acquis*, and, in some areas, transitional arrangements may be agreed. For example, on the freedom of movement of persons, a period of up to seven years has been negotiated before citizens of acceding countries may freely go to work or settle in another Member State. In principle, accession negotiations are conducted individually and each candidate country is judged on its own merits.

Successive European Councils endorsed the principle of “catching up” by candidates that started negotiations in 2000. This meant that these countries could reach the level of the first applicants if they had made sufficient progress in their preparations.

In contrast to the pre-accession strategy process which was mainly a technical exercise, the negotiation process was clearly a political exercise: negotiations took place between the ministers of EU Member States and the ministers of the candidate countries.

The negotiation process can be divided into two phases: a preparatory phase known as “screening”, and the negotiation as such. The screening exercise consisted of multilateral and bilateral meetings. In the former, a presentation of the complete EU acquis was given to the candidate countries. In the latter, the screening consisted of an “analytical examination” of the main pieces of the acquis in order to determine major gaps in terms of legislation and implementation capacity, as well as the potential difficulties the candidate countries would encounter in adopting and implementing the acquis. The results of the screening of a given chapter of the acquis helped in deciding whether this chapter could be opened for negotiation or whether further progress was still necessary.

For the purposes of these negotiations, the acquis or body of EU rules is divided into 31 chapters:

1. Free Movement of Goods
2. Free Movement of Persons
3. Freedom to Provide Services
4. Free Movement of Capital
5. Company Law
6. Competition Policy
7. Agriculture
8. Fisheries
9. Transport Policy
10. Taxation
11. Economic and Monetary Union
12. Statistics
13. Social Policy and Employment
14. Energy
15. Industrial Policy
16. Small- and Medium-sized Undertakings
17. Science and Research
18. Education and Training
19. Telecommunication and Information Technologies
20. Cultural and Audio-visual Policy
21. Regional Policy and Co-ordination of Structural Instruments
22. Environment
23. Consumer and Health Protection
24. Co-operation in the Field of JHA
25. Customs Union
26. External Relations
27. Common Foreign and Security Policy (CFSP)
28. Financial Control
29. Financial and Budgetary Provisions
30. Institutions
31. Others

After two to four rounds of high level negotiations, each followed by a series of bilateral

meetings at a more technical level, and once a country is considered to have reached the desired level of preparedness in a certain area, the chapter may be “closed”. All chapters, however, are only provisionally closed as, depending on policy and political developments in the EU or in a candidate country before effective accession takes place, a chapter may theoretically be reopened for further negotiations. This, however, has yet to occur.

At the end of 2002, the Copenhagen Summit accepted that Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia would accede to the EU by 01 May 2004, since all 31 chapters were closed with these candidate countries. Negotiations on many important chapters, including chapter 24, continue with Bulgaria and Romania while they have not yet begun with Turkey, as the situation there does not fulfil the pre-conditions for starting negotiations, i.e. the 1993 Copenhagen criteria.

The most controversial chapters to be negotiated were free movement of persons, agriculture, transport, financial control, regional policy and co-ordination of structural development, financial and budgetary provisions, and, importantly from UNHCR’s point of view, chapter 24, JHA.

Chapter 24, JHA

In 1998, the Council adopted a list fixing the *acquis* in the field of asylum. This document was made available to candidate countries and was the basis for a preliminary screening exercise. The exercise was led by the Commission’s DG JHA and the Presidency of the Council, and was carried out in co-operation with Member States because of the importance of justice and home affairs to the Member States.

In 2001, the Justice and Home Affairs chapter of the EU *acquis* was opened with all candidate countries, except for Romania with which it opened in April 2002, and Turkey. The EU issued a Common Position (a non-public document) for each of the eleven countries, on the basis of which official negotiations were started with a first group of countries at the end of the Swedish Presidency and a second group during the Belgian Presidency. Negotiations on the JHA chapter were closed by the end of 2001 for Hungary, Cyprus, Slovenia, Czech Republic and Estonia, and in 2002 for the remaining countries. Under this chapter, no transition period is required - with the exception of some parts of the Schengen *acquis* - as all criteria are supposed to be met and the level of preparedness should be high enough to ensure an effective implementation of all aspects of the JHA *acquis* directly upon accession.

IV. The monitoring process until accession

In many cases, chapter 24 was closed on the basis of commitments made by candidate countries to continue reforms and increase their administrative and judicial capacity to implement effectively the *acquis* upon their accession.

The closure of chapter 24 notwithstanding, the Commission has therefore adopted a thorough monitoring process in justice and home affairs which will continue until accession, and beyond for the implementation of the Schengen *acquis*. To that purpose, the Commission has developed monitoring tables which are reviewed every six months, and it sends peer review bodies, made up of experts from Member States, to monitor reform in specific and problematic areas.

V. Other actors in the pre-accession and negotiation processes

To complement the Commission's technical approach to accession, the Council has, as of 1999, also taken part in the assessment of the candidate countries' progress in preparations for EU membership. It has done this by setting up a mechanism for collective evaluation of the implementation of the JHA acquis. The information collected and analysed by the Council Collective Evaluation Group is essentially dependent upon Member States' input. However, the Council has lately opened up its process to external partners such as UNHCR and some NGOs. The evaluation group has drawn up its own assessment of the state of preparations which has resulted in bilateral assistance measures and the despatch of monitoring missions.

The European Parliament has also become increasingly involved in the dialogue with candidate countries. Its Committee on Citizens' Freedoms and Rights, Justice and Home Affairs holds joint meetings with parliamentary committees in candidate countries to discuss problems of organised crime, migration and asylum. In addition, the Committee of Foreign Affairs, Human Rights, Common Security and Defence Policy issues a yearly report and adopts resolutions on candidate countries' applications for membership and the state of negotiations.

Representatives of civil society are playing an increasing role in monitoring the accession process. In 2001, the Open Society Fund, representing a number of NGOs in each of the CEBS candidate countries, developed an EU accession monitoring programme and published reports on the protection of minorities and judicial independence for the EU to make use of in its evaluation of progress made by candidate countries.

VI. UNHCR and EU enlargement

UNHCR has worked closely with the European Union institutions on asylum related aspects of the enlargement process. It has sought to promote the establishment of fair and effective asylum systems in the candidate countries and to ensure that UNHCR concerns are taken into account in EU programmes and budgets for the region. UNHCR has tried to influence and participate in EU assistance programmes to applicant countries by providing expertise and by sharing experience. The aim, at all times, is to ensure that EU assistance gives precedence to the development of functioning asylum systems which meet the highest possible standards.

VII. Conclusions

Following widespread political upheaval in the region, candidate countries have started to put in place - virtually from scratch - the legislation and institutions to deal with asylum. This is a considerable task, not least because the Central European and Baltic States were still a refugee-producing region only a decade ago. Since 1990, UNHCR has played a major role in helping governments to develop preliminary asylum laws and institutions. It has also monitored operational practice and provided extensive training to those working in the asylum system.

Since the mid 1990s, the driving force behind developments in asylum has undoubtedly been the European Union's accession procedures. As in other legislative areas, the EU acquis has had to be incorporated into relevant domestic legislation, and the establishment of fair and efficient asylum procedures has been one of the conditions upon which accession has been predicated.

As of 1998, when the acquis on asylum acquired full status in accession negotiations, the EU institutions have assessed progress by candidate countries in reaching European and international asylum standards and in establishing appropriate procedures and institutions. One next step for the EU will be in assisting candidate countries to develop integration assistance mechanisms for recognised refugees and more favourable reception conditions for asylum seekers.

VIII. Chapter review

- Describe the main instruments of the accession process.
- Do you have any direct experience of the Phare programme?
- What are the main steps of the negotiation process?
- If you are from a candidate country, outline your organisation's involvement in the accession process.
- What do you anticipate are the main problems for candidate countries in establishing effective asylum procedures? How can UNHCR help?

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Chapter 2: External Dimension of the EU Asylum Policy

Chapter 2

The External Dimension of the Asylum and Migration Policy of the European Union

I. Introduction

The EU's evolving asylum and migration policy has gradually acquired an important role in the EU's external relations and development co-operation with third countries that are confronted with the movement of refugees and migrants. In order to ensure an adequate level of freedom and security within its territory, the European Union wants to protect itself from irregular immigration, migrant smuggling, human trafficking and other, sometimes criminal, forms of population movement. In this chapter, we intend to briefly analyse recent development in EU policy and assistance programmes aimed at enhancing capacities for a joint management with partner countries of migratory flows and joint efforts to combat irregular migration and human trafficking.

II. Background

The need to create the so-called external dimension of the common asylum and migration policy has been recognised since the beginning of its development. The 1999 Tampere Summit (see Part 2, chapter 5, C) emphasised that all competencies and instruments at the disposal of the Union in its external relations should be used to build the Area of Freedom, Security and Justice. Ever since the integration of migration, refugee and asylum issues in the Union's external relations, particularly in relations with the countries and regions neighbouring the enlarging Union, has received increasing attention, even if the main focus in asylum remained the harmonisation of Member States' domestic policies and practices. Political dialogue and co-operation, particularly with the countries of the Western Balkans and Eastern Europe and, to a lesser extent, the Mediterranean Basin, has been marked by growing attention to migration and refugee issues (see chapter 3)

The June 2002 Seville Summit gave a significant boost to the development of the external dimension of the EU asylum and migration policy through the adoption of an elaborate set of Conclusions. However, these mainly addressed concerted action to combat irregular migration and human trafficking, establish a programme for common border management, and a more effective policy for the readmission and return of irregular residents. The Summit concluded that economic co-operation, trade expansion, development assistance and conflict prevention should all be used to promote economic prosperity and stability in countries prone to forcible population displacement. It was agreed that future co-operation, association or partnership agreements between the EU and third states should include a standard clause on joint migration management and compulsory readmission in the event of irregular movement.

The Summit also asked that relations with selected partner countries be assessed on a systematic basis with a view to identifying needs for additional support in managing migration. The aim was to reduce irregular movement and combat smuggling and trafficking. These assessments were also intended to increase pressure on those countries which displayed a lack of political will in working with the EU in combating irregular movement, with

the threat of reduced assistance from the EU. There was little attention, if any, in the Seville Conclusions on the needs of partner countries in providing protection and assistance to refugees.

At the end of 2002, the European Commission issued a Communication on integrating the migration dimension in the Union's external relations. The document included a number of comments on the so-called "migration and development nexus". It called on the EU to develop a coherent policy for addressing the root causes of migratory flows through the eradication of poverty, institution building, conflict prevention, strengthening the rule of law, and promoting respect for human rights. The document also made a clear plea for extra EC funding to be allocated to better migration management by partner countries, with proposals which included ensuring the readmission and return of third country nationals.

The Communication was commented on by the Council in its Conclusions on the migration and development nexus in May 2003. These Conclusions called strongly for the targeted use of EU development aid in the search for durable solutions for refugees. Long-term EU intervention is required for sustainable improvements in the situation of refugees as well as to support local host communities in developing countries. Improving self-reliance and the local integration of refugees in their region of origin is considered an important EU contribution to the implementation of some of the core objectives of the UNHCR Agenda for Protection. These relate, in particular, to better access to protection, increased support for durable solutions, and fairer responsibility sharing with partner countries.

III. Main themes of the EU external migration and asylum policy

1. The priority: improved management of migratory flows

The main theme of the EU external policy on migration and asylum is the need for improved management of migratory flows, with a strong focus on combating secondary movements of migrants and refugees and the fight against smuggling and human trafficking. The EC increasingly provides partner countries with technical and financial support in establishing migration, asylum and visa policies and upgrading their border management. The EC also helps partner countries to develop the capacity of institutions and practitioners to intercept and return irregular movers and trafficked persons as well as, though to a much lesser extent, help with the admission and integration of refugees and economic migrants.

As part of this process, partner countries are invited to conclude agreements with the EC on the readmission and return of persons (nationals and third country nationals) who are present in EU Member States in an irregular situation, including unsuccessful asylum seekers. The Seville Conclusions of June 2002 provide the key elements and main orientations for this control-driven approach.

2. Focus on asylum system development

Building the capacity of third countries to deal with asylum is an increasingly recurring theme in the EU's co-operation with neighbouring countries. It has been prevalent in the EU's relations with candidates for EU membership and more recently with countries in Eastern

Europe and the Western Balkans. The focus on the development of effective asylum systems recognises the fact that refugees count for a substantial proportion of broader migratory movements. The EU is keen to develop the processing, reception and protection capacity of partner countries, even though its interests seem to be limited to those countries neighbouring the Union's external borders, in an effort to reduce secondary movement from these countries to EU Member States. However, attention for asylum matters has had to compete with the EU's priority of combating irregular migration, human trafficking and organised crime, strengthening police and judicial co-operation, and border management. The latter areas of co-operation have received considerably more attention in political dialogue and operational assistance.

Nevertheless, the EC has recently launched a number of asylum projects, to be implemented by UNHCR among others, in the Western Balkans and Eastern Europe. The focus of these projects is on establishing asylum legislation in line with international and European standards and principles, developing proper asylum procedures, building asylum institutions such as competent processing and review bodies, enhancing the capacity for hosting refugees and asylum seekers, and fostering the involvement of civil society and specialist NGOs in the asylum process.

3. Reception and protection in regions of origin

The EU has recently made policy proposals for increased support for the protection and reception of refugees in regions of origin. The aim is to use EU development funds more effectively in the search for durable solutions for refugees. The May 2003 Council Conclusions are an important document in this regard in so far as they call for EU development aid to target the return and reintegration of refugees as well as measures to increase the self-reliance of refugees and host communities in protracted refugee situations.

In June 2003, the Commission published a Communication 'Towards More Equitable, Accessible and Managed Asylum Systems'. This set out policy options for EU support for enhancing the capacity for effective protection in regions of origin. This should be complemented with an EU resettlement scheme, coupled with a programme of humanitarian visas ('protected entry procedures'), in an effort to achieve a more orderly and managed entry of refugees and asylum seekers into the EU. Other proposals concerned the establishment of processing facilities for asylum seekers in regions of origin and closer co-operation between the EU and countries of origin and first asylum in the return of rejected asylum seekers.

4. The High Level Working Group

In early 1999, a High Level Working Group on Migration and Asylum was established (see Part 1, chapter 2, B) in order to formulate comprehensive strategies and joint policies to address migration and refugee challenges in co-operation with selected countries of origin and transit. The HLWG developed Action Plans for Albania, Afghanistan, Iraq and the neighbouring region, Morocco, Somalia and Sri Lanka which incorporated instruments of foreign policy, development co-operation, economic relations, and justice and home affairs. These Action Plans were mainly concerned with eliminating the causes of flight and involuntary migration, strengthening the management and reception capacity of countries in the region, and facilitating the return of rejected cases and illegal immigrants from EU Member States.

The implementation of the above Action Plans, however, has been hampered by many obstacles and internal disagreements. There have been considerable delays in implementing the Action Plans, due to problems with embryonic co-ordination between Member States, the absence of substantial funding commitments (a separate EU budget line - B7-667 - was created following a recommendation of the European Parliament), and the reluctance of the beneficiary/target countries to enter into a dialogue on migration and refugee matters (e.g. on readmission). There has also been a lack of agreement between Member States on integrating migration issues into foreign policy and development assistance. Furthermore, the protection dimension of the Group's activities has been given relatively little weight in comparison to measures aimed at combating irregular immigration, readmission and return of irregular residents.

It therefore remains to be seen whether a proper balance will be struck between protection and control measures and between the priorities of partner countries and those of the EU. The mandate of the HLWG was expanded in 2003 to allow for a more strategic, flexible approach without geographical limitation in its actions. This could include the potential for regional approaches, an analysis of the relationship between the Union's migration management and trade, aid policy and foreign relations, and a stronger emphasis on partnership with third countries and international organisations in joint migration management.

IV. Conclusion

UNHCR believes that solutions to refugee problems should be found first and foremost in regions of origin. Measures to strengthen partnership with countries of origin and first asylum in the management of broader migratory flows are to be welcomed, in so far as these include a distinct focus on asylum and refugee issues. The Agenda for Protection promotes better responsibility sharing arrangements to shoulder the burdens of first asylum countries. Enhancement of capacities to offer effective protection and durable solutions in regions of origin - through asylum capacity-building, local integration of refugees, repatriation and resettlement - requires increased and targeted use of technical assistance and development aid. States should consider including refugee issues in their national development strategies. Resettlement of refugees from poor developing countries to industrialised countries could be more effectively used as a tool of burden sharing. In all these activities the EU's contribution is paramount.

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Chapter 3: Regional approaches of the EU external JHA policy

Chapter 3: Regional approaches

A - The EU's Justice and Home Affairs Policy in Eastern Europe and Central Asia

I. Introduction

This chapter focuses on the EU's relations with the countries of Eastern Europe and Central Asia in the area of justice and home affairs (JHA).

Since the collapse of the Soviet Union, the EU has been supportive of the transition of the thirteen Newly Independent States (NIS) towards democratic society and a market economy. The NIS states are Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. With the EU enlargement process east, the number of EU countries sharing a border with NIS countries will soon increase and this fact has substantially influenced the dialogue between the European Union and countries from Eastern Europe and Central Asia.

Following the conclusion of Agreements on Trade and Co-operation in the early 1990s, a Partnership and Co-operation Process between the EU and Eastern European and Central Asian countries was launched towards the end of the 1990s focusing on the promotion of co-operation in selected policy areas. The priorities were environment, transport, energy and telecommunication networks, and justice and home affairs, including cross border issues. Partnership and Co-operation Agreements (PCAs) with Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Ukraine and Uzbekistan were signed and entered into force in 1998 and 1999. These agreements have not yet entered into force for Belarus, Turkmenistan, Tajikistan and Mongolia.

PCAs provide for wide-ranging co-operation in the field of justice and home affairs, and this has become increasingly important for the EU. Organised crime and illegal activities such as trafficking in human beings, drugs and corruption, are considered to be a threat to stability and security in the NIS and, given the trans-national nature of these activities, a threat to the internal security of the EU. In addition, since Member States pay increasing attention to migrant and refugee flows from and through this region, EU assistance for NIS countries in the field of border, migration and asylum management has needed to be reinforced (see TACIS programme below).

II. Western NIS: Russia, Ukraine, Moldova and Belarus

Co-operation on justice and home affairs by the EU and the Western part of the Eastern European region has increased in the past few years, focusing on combating illegal immigration and organised crime, including human trafficking. This is reflected in bilateral relationships concluded between the EU and individual countries.

With Russia, in 1999, the EU developed an Action Plan on the implementation of the EU Common Strategy in which the fight against terrorism and organised crime, and co-operation on JHA matters were highlighted. A first JHA ministerial meeting took place in April 2001, a

second in April 2002. In addition, regular meetings of the EU-Russia Council (Heads of States and Governments) address JHA matters, including the issue of the status of Kaliningrad, and, more importantly, the right of free movement of persons, once Lithuania becomes an EU member. In 2001, discussions were launched on the possible conclusion of an EC readmission agreement with Russia and the exchange of expertise in combating illegal immigration.

The EU considers co-operation with Ukraine in the JHA sphere as equally vital. As with Russia, the EU adopted a Common Strategy for co-operation between the EU and Ukraine in 1999. This document established a framework for co-operation in which JHA plays an important part. This was followed by the adoption in December 2001 of an EU Action Plan on Justice and Home Affairs and a subsequent Scoreboard for the implementation of the Action Plan. The Scoreboard lists institution and capacity building in the areas of asylum and migration as high priorities. Due to Ukraine's location bordering the future EU external frontier, the prospect for concluding a readmission agreement with Ukraine appear to be more promising than for Russia. In fact, concluding such agreement is listed as a top priority in the EU JHA Action Plan.

Relations might be more tense, but Belarus is still an important partner for the EU as it too will be one of the future neighbours of an enlarged Union, sharing common borders with Poland, Lithuania and Latvia. The EU envisages a structured dialogue with Belarus in JHA especially in combating organised crime, smuggling migrants and trafficking human beings.

Once Romania joins the EU, Moldova will also be a future neighbour of the enlarged Union. The EU is increasing its focus on JHA issues in Moldova although to a lesser extent than with other countries.

III. TACIS Programme

TACIS is the EU's main financial instrument for supporting the implementation of Partnership and Co-operation Agreements, thereby assisting all NIS countries in their transition process. In planning assistance, the EU enters into a dialogue with each partner country on two or three main areas of co-operation. Where applicable, the area related to JHA is called 'Institutional, Legal and Administrative Reform'.

TACIS has both a regional and a national approach. At both levels, TACIS develops Indicative Programmes, which set out priorities and areas of co-operation on a multi-annual basis, and Action Programmes, which develop operational projects and allocate funds on an annual basis, within the guidelines defined by the Indicative Programme.

Assistance for justice and home affairs at a national level has, until 2002, focused on fighting organised crime and drug trafficking. In plans for 2003 and beyond, Russia, Moldova and Ukraine will receive funds for improving their border, migration and asylum management.

At the regional level, the TACIS Regional Action Programme 2002-2003 has allocated 2 million Euro for an asylum management project in the Western NIS region, benefiting Ukraine and Moldova. This project aims to support, through UNHCR, the capacity building of the nascent asylum systems in these three countries. It focuses on improving legislation, helping the authorities to upgrade reception facilities, creating relevant databases, and training practitioners.

The Regional Indicative Programme 2004-2006 foresees a continued and enhanced co-

operation at regional level in the field of asylum and migration with a view to better managing migratory movements through the NIS.

IV. Central Asia

The EU's focus on Central Asia increased in 2001, even before the events of 11 September. The December 2001 General Affairs Council reaffirmed the EU's commitment towards the region and welcomed the region's support in the international coalition against terrorism and for the transport of humanitarian aid to Afghanistan. The Council indicated a number of areas in which it wanted to step up co-operation with the region, including justice and home affairs.

Subsequently, the TACIS programme reoriented its regional strategy approach for 2002-2006. In the Regional Indicative Programme for 2004-2006, the EU is willing to develop a co-operation programme designed to promote good relations in areas where the EU has strategic interests. One area of support will be justice and home affairs focusing mainly on strengthening border management through the reform and training of border guards. UNHCR appreciates that asylum management is an integral part of this programme.

V. Regional Co-operation Processes

The EU has shown increasing interest in the 1996 Geneva Conference Follow Up Activities (former "Commonwealth of Independent States - CIS Conference Process") and its related regional and sub-regional activities. The objective of the CIS Process was to provide a forum for the countries of the region to discuss problems of population displacement, review population movements in the region, and reach an understanding on persons of concern. The aim was also to devise an integrated strategy, enabling the countries of the CIS to cope better with and prevent population displacement, as well as to manage and regulate other types of migratory movements taking place on their territories. The CIS Conference Process has had a considerable impact on the resolution of problems related to the displacement of populations in the region, which, if left unattended, could have led to serious inter-state conflict. This applies, for example to the regularisation of the legal status of formerly deported people and, subsequently, the reduction of statelessness. As regards non-CIS nationals, the CIS Conference Process has also greatly contributed to the creation of national institutions in line with international standards, including, for example, asylum systems.

The EU has also participated in some regional Conferences and seminars of the Cross-Border Co-operation Process (CBCP or "Soderkoping" process). These seminars focus on bilateral and multilateral co-operation among those Western NIS countries that will, in future, border EU Member States. In 2003, the EU committed funding for a Cross Border Co-operation Process Secretariat based in Kiev, Ukraine. The Secretariat's main tasks are to serve as an information center and to run and coordinate all CBCP's activities including those of the three sub-regional clusters along the future external border of the EU. Cluster I, based on the original Soderkoping process, is composed of Belarus, Ukraine, Poland, Lithuania, Latvia and Estonia. Cluster II or the Uzghorod process is composed of Ukraine, Slovakia and Hungary. Cluster III is composed of Ukraine, Romania and Moldova.

VI. Co-operation with UNHCR

UNHCR works closely with the Commission's DG Relex (External Relations) and EC Delegations in capitals to develop joint projects aimed at setting up effective asylum systems in Eastern Europe and Central Asia. Such assistance focuses on the capacity building of authorities in order that they can implement relevant international and European standards for migration and refugee issues. This includes upgrading the infrastructure for a modern migration and asylum management system, improving reception conditions for migrants and asylum seekers, developing training programmes and partnership arrangements with the counterpart administrations of EU Member States.

B - The EU's Justice and Home Affairs Policy in the Balkans and the Stability Pact

I. The European Union Stabilisation and Association Process

1. Background

In May 1999, the European Commission launched the Stabilisation and Association Process (Sap) for the five countries of the Western Balkans – Croatia, Bosnia and Herzegovina, the Federal Republic of Yugoslavia, the Former Yugoslav Republic of Macedonia and Albania - as a means to associate these countries closely with the European Union and offer them a clear prospect for future EU membership through the development of privileged political and economic relations. The process is supported by a substantial financial assistance programme, Community Assistance for Reconstruction, Development and Stabilisation - CARDS. This chapter outlines the Sap process, the CARDS programme and the Stability Pact for the Western Balkans.

The Sap is a long-term commitment to the region both in terms of political effort and financial and human resources. It is based on the recognition that the main motivation for the needed reforms - the consolidation of democracy, the strengthening of the rule of law, the promotion of human rights, the stabilisation of institutions and the introduction of a free-market economy - would be a credible prospect of EU membership. This prospect was offered explicitly at the Feira European Council in June 2000 and reaffirmed at the December 2002 Copenhagen Summit. In the Communication 'The Western Balkans and European Integration' of May 2003, the Commission states that 'the unification of Europe will not be complete until these countries join the European Union'.

2. Stabilisation and Association Agreements

The November 2000 Zagreb Summit formally sealed the Sap process as the way ahead for the region. The Ministerial Justice and Home Affairs meeting in Sarajevo in March 2001 adopted a Declaration on Asylum and Immigration and a meeting of senior officials took place in November 2001 as a follow-up. In June 2003, the Tessaaloniki Summit adopted an agenda for a deepened and extended co-operation. The Sap process was reconfirmed as the basic framework for the future integration of the Western Balkan countries into the European Union. In effect, the Sap draws heavily on the Europe Agreements with the candidate countries and the experience of the enlargement process. So far, Stabilisation and Association Agreements (SAA) have been signed with the Former Yugoslav Republic of Macedonia in April 2001 and Croatia in October 2001. An agreement with Albania is under negotiations. For Bosnia and Herzegovina and the Federal Republic of Yugoslavia, Consultative Task Forces have been established to prepare for reforms with a view to negotiating a SAA agreement in the future.

The SAA agreements with the EU are the basis for the implementation of reforms in the institutional, political and economic sector. They include provisions on justice and home affairs, with reference inter alia to the need to adopt and implement asylum legislation, co-operate in migration management, conclude readmission agreements and take effective

measures to combat migrant smuggling and human trafficking. Under the SAA agreements, mechanisms for political dialogue and technical assistance are established for implementing the objectives and provisions of the agreements.

A. Country reports

Implementing the Sap for each of the five countries is guided by the publication of an annual general report and individual country reports. A first series was issued by the Commission in April 2002. Each of the country reports includes paragraphs on minority rights and refugees (within the chapter on human rights), as well as on asylum and migration (within the chapter on co-operation in justice and home affairs).

B. Refugee return

The only country papers (and related financial allocations) in which issues to do with refugees and internally displaced persons are organic to the strategy developed are those for Bosnia and Herzegovina and Croatia. In other papers, the emphasis is more on economic development in areas of return, which should be to the benefit of the local population, and not on durable solutions for returnees. As of 2003, CARDS (see below) is progressively phasing out its assistance for refugee return.

3. The CARDS programme

The CARDS programme is the single Community aid programme for the five Western Balkan countries participating in the Sap. It is endowed with 4.65 billion Euro over the period 2000-2006. The programme supports the democratic, economic and institutional reforms needed in the five countries concerned. The programme is based on a regional strategy and a country-by-country strategy. Both regional and national annual strategies are first designed in multi-annual indicative programmes, indicating budgetary provisions.

A. Regional programme

The CARDS programme has an important regional component aimed at improving regional co-operation through the establishment of contractual relationships, including bilateral free trade agreements, the gradual re-integration of the Western Balkans region into European infrastructure networks in transport and energy, and co-operation in border management, visa policy, illegal immigration, and organised crime. The regional programme counts for ten per cent of the total of the CARDS budget.

The regional priorities - in line with those of the Sap - are to promote integrated border management, institutional capacity building, democratic stabilisation and regional infrastructure development. Some 117 million Euro of the total of 197 million Euro for regional programmes for the period 2002-2004 is allocated to the heading "integrated border management". Under the regional priority of institution-building, justice and home affairs is one of the areas mentioned. In preparing the programmes for 2003, CARDS has made use of the field missions of the asylum experts of EU Member States. The contents of their reports have influenced the 2003 regional CARDS programme in which an asylum, migration and visa policy has been included. This programme should aim for the development of a regional strategy based upon common benchmarks that translate the commonly accepted EU standards and practices into national law and practice in each of the Western Balkan countries. The programme also envisages regional co-operation and networking in order to exchange information and analysis, undertake joint training and improve practices in asylum, migration and visa policy.

B. National CARDS programmes

National programmes are based on country strategy papers and multi-annual indicative programmes for each of the five countries. These were formally adopted in December 2001 (early January 2002 for the Federal Republic of Yugoslavia –FRY-, now ‘Serbia and Montenegro’). Justice and home affairs is one of five priorities for each of the countries - with the exception of FRY - with specific focus on strengthening the rule of law, the independence of the judiciary, border management, combating organised crime and policing. The only country strategy paper which mentions asylum issues in detail under the justice and home affairs priority is the paper on Albania. In 2003, a financial allocation of 1 million Euros was granted to UNHCR in Bosnia and Herzegovina for the management of legal aid centres. Bosnia and Herzegovina is expected to be granted assistance for infrastructure support, improvement of asylum procedures, institution and capacity building including the training of staff, judges and lawyers, improvement of reception conditions for asylum seekers, and upgrading national legislative standards in line with the European and international asylum acquis.

4. The European Agency for Reconstruction (EAR)

The EAR came into existence in February 2000. It emerged from a previous EC commitment - made towards the end of the crisis in Kosovo in June 1999 - to assist in the reconstruction of Kosovo. From the outset the EAR focused its assistance on the rehabilitation and repair of Kosovo’s infrastructure and public utilities (energy, housing, transport and water supply). Following changes in Serbia in late 2000, the EAR extended its activities to the whole of FRY and obtained its mandate for this extension in January 2001. In December 2001, the mandate was further extended to cover FYROM where it is responsible for the reconstruction of areas affected by the conflict in early 2001 there and for support for confidence building measures.

II. The Stability Pact for South-Eastern Europe and the Migration and Asylum Initiative

1. Background

The Stability Pact for South-Eastern Europe was launched at a major international summit in Sarajevo in July 1999. It represents a political commitment by the countries and organisations concerned to ensure the stability of South-Eastern Europe. This includes the whole region and was not limited to the five Western Balkan countries. The Pact is aimed at promoting human rights and democratisation, creating vibrant market economies and fostering economic co-operation, and combating organised crime, corruption and all criminal and illegal activities. The Pact runs in parallel to the EU Stabilisation and Association process and shares to a large extent the objectives and priorities of the Sap.

Under the Pact, a conference for donors was held in March 2000, which brought together representatives of donor governments, the countries of the region, international organisations and financial institutions. The conference identified how the Pact’s activities would be financed and brought donor pledges together but did not generate fresh contributions. The Pact also organises annual regional conferences.

2. Membership

In addition to the 15 EU Member States and the countries of South-Eastern Europe, participants in the Pact are the USA, Russia, Turkey, the European Commission, the Chairman in Office of the Organisation for Security and Co-operation in Europe (OSCE), and the Council of Europe. There are eleven facilitators, and five regional initiatives supporting the aims of the Pact and taking part in its structures, including Canada, Japan, the UN, UNHCR, NATO, the IMF, World Bank, and the European Bank for Reconstruction and Development. A number of countries participate as observers, such as the Czech Republic, Switzerland, Norway, Ukraine, as well as guests of the chair (Montenegro, UNMIK –UN force in Kosovo -, Office of the EU High Representative, and the European Parliament).

3. Structures

The Special Co-ordinator is appointed by the European Union and his or her mandate is renewed once a year, after consultation with the OSCE Chairman in Office and other participants. The Pact is run under the auspices of the OSCE. To realise its objectives, the Stability Pact is co-ordinated by a Regional Table and three Working Tables.

The Regional Table brings together all participants, facilitators and observers once a year to review progress and provide strategic guidance for future work. It acts as a clearing-house for all questions of principle related to the substance and application of the Pact. It also ensures co-ordination of the activities of the three Working Tables and gives them advice.

At the end of 2002, following the arrival of the new Special Co-ordinator, the Regional Table endorsed the Pact's new policy objectives for 2003 in the following areas: media, local democracy and cross border co-operation, infrastructure/energy, trade and investment, managing population movements (migration and asylum/refugees), and organised crime. In addition, the Pact has an important role to play in a number of other areas such as social cohesion, corruption, reconciliation and increased inter-parliamentary co-operation.

UNHCR's engagement in the process is reflected in its role within each of the three Working Groups:

- in Working Table I (democratisation and human rights):
UNHCR is supporting Regional Return Initiative - Agenda for Regional Action (AREA);
- in Working Table II (economic reconstruction and development):
UNHCR has attempted to link the reintegration of refugees and internally displaced persons to the wider effort of development and reconstruction assistance;
- in Working Table III (security – sub-table justice and home affairs):
UNHCR is sponsoring asylum capacity building activities.

4. Refugee return and asylum capacity building

The Sarajevo Summit Declaration also reaffirmed the right of all refugees and displaced persons to return freely and safely to their homes. Moreover, the Pact has identified institution and capacity building in asylum and migration matters as one of its priority areas within the justice and home affairs chapter .

While return matters were first the responsibility of the Regional Return Initiative (RRI) under Working Table I, migration and asylum fell under JHA in the Migration and Asylum Initiative (MAI) under Working Table III. In December 2002, at the Pact regional meeting in Tirana, Albania, these two initiatives were merged into a regional initiative to manage and stabilise population movements in South-Eastern Europe, referred to as the Migration, Asylum and Refugee Return Initiative (MARRI). A Programme of Action was adopted with the aim of contributing to the creation of national and regional systems for managed migration, suppressing irregular flows, and ensuring protection for all those in need.

As for asylum, an asylum element of the programme will be implemented during a four year period in each of the countries concerned. This should result in the establishment of a sound legal and institutional framework, enhancement of practitioner capacities and skills, introduction of asylum procedures for applications lodged at the border and in-country, improvement of reception and integration facilities, support for refugees and asylum seekers in society, and the establishment of sustainable asylum policies supported by sufficient human and financial resources.

With regard to return, the foundations for this can be found in the Agenda for Regional Action for Return (AREA II) which lists specific actions in the area of housing, including winding up accommodation centres, and property related information exchange aimed at ensuring the sustainability of return and reintegration.

III. UNHCR's co-operation with the EU Sap and the Stability Pact for South-Eastern Europe

UNHCR provides inputs into the various activities undertaken within the EU Sap process in relation to refugee return and asylum capacity building. This is done through the provision of situational assessments, policy recommendations and co-operation with the CARDS framework, both at national and regional level.

In regard to the Stability pact, UNHCR was instrumental in ensuring that the Pact took up a clear responsibility on refugee issues from the outset. From the early days of the Pact, UNHCR has been active in providing expert advice as regards refugee protection and return in the region, securing financial resources for refugee return, and putting forward proposals for asylum and refugee related initiatives. UNHCR seconded two of its staff to the Pact, one based in Brussels at the Co-ordinator's office, the other in the Pact's Vienna-based support unit for inter alia asylum matters.

IV. Outlook

In early 2002, the EU reviewed its involvement in the Stability Pact. The EU agreed that the Pact's activities should be refocused on a manageable number of issues. The EU called for the Pact to support the Stabilisation and Association process by emphasising five or six priority objectives with a regional dimension. For 2002 these priority areas are trade and investment, infrastructure (including energy), refugee issues (to provide sustainable solutions for at least 100,000 refugees and internally displaced persons - with a focus on housing and employment), cross-border co-operation, reduction of trafficking in small arms and light weapons, and organised crime.

The EU Council also emphasised that the main value of the Pact lay in its ability to promote greater regional co-operation and thereby contribute to the prevention of conflict and destabilisation. The Pact should therefore focus on complementing the EU accession process (Bulgaria, Romania) and Sap process (Western Balkans) by prioritising cross-border and regional issues. In order to ensure the best co-ordination between the Pact and the Sap, an informal Consultative Committee was set up.

C - The EU's Justice and Home Affairs Policy in the Mediterranean Basin

This brief chapter looks at the EU's relationship with the countries of the Mediterranean Basin in relation to justice and home affairs.

I – Multilateral framework of co-operation: the EUROMED Partnership

1. Introduction

The EU policy in the Mediterranean basin focus on: Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Palestinian Authority, Syria, Tunisia and Turkey. The European Union has been pursuing regional co-operation with these twelve Mediterranean partner countries through the Euro-Mediterranean Partnership (also referred to as the "Barcelona Process") launched in 1995 at the Barcelona Conference. Libya, Mauritania, the Arab Maghreb Union and the Arab League enjoy an observer or guest status.

Under this process, the countries concerned have been invited to set up an Euro-Mediterranean free trade area by 2010. The Barcelona Process aims in particular to create an area of dialogue, exchange and co-operation guaranteeing peace and stability, and partnership in the political, economic, financial, cultural, social and human fields. It is judged that this framework will serve as an important instrument of conflict prevention - both in the difficult context of the Middle East peace process and in relation to actual and potential tensions in the region.

In May 2003, the Commission issued a Communication setting up strategic guidelines for 'Reinvigorating EU actions on human rights and democratisation with Mediterranean partners'.

2. The EUROMED process

Since 1995, EUROMED Conferences take place at the level of Foreign Ministers, sectoral ministers and government experts. An EUROMED Committee follows the regional aspects of the process. It meets at senior official levels on a quarterly basis.

Following the adoption of the EU Common Strategy for the Mediterranean in June 2000 and the first Euro-Mediterranean Conference in Marseilles in November 2000, the fourth ministerial conference took place in November 2001. This Conference discussed for the first time migration and asylum matters although no agreement could be reached at this stage on the place and significance of asylum in the forthcoming Euro-Mediterranean co-operation programme in justice and home affairs.

In preparation for the Euro-Mediterranean Ministerial session in April 2002 in Valencia, Spain, the European Commission published in February 2002 a Communication on the Euro-

Mediterranean Partnership. This drew up a balance sheet of progress achieved, and proposed new ideas. In Valencia, EU Mediterranean ministers adopted an Action Plan specifying the many different initiatives and commitments, evolving around three areas of partnerships : 1) Political and Security Partnership, 2) Economic and Financial Partnership and 3) the Social, Cultural and Human Partnership. Within the latter partnership, Ministers agreed to a Regional Programme for Freedom, Justice and Governance, also referred to as the 'regional programme on justice, combating drugs, organised crime and terrorism and the social integration of migrants, migration and the movement of people' or more commonly, the regional JHA programme. This framework document includes a reference to asylum capacity building as an element of mutual interest and co-operation. It should be followed by operational projects developed under the auspices of the MEDA programme (see below).

As a result of the situation in the Middle East, Syria and Lebanon did not attend the Valencia conference and hence did not sign up to the various texts adopted. Both countries are expected, however, to continue their co-operation within the framework of the Barcelona Process.

In May 2003 ministers met for a mid-term review in Crete, Greece. For the first time, this meeting was attended by the eight future Member States (the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia - Cyprus and Malta are already included in the process). Prospects for strengthening the partnership between a Union at 25 members and Mediterranean countries were examined. In this meeting it was agreed that the forthcoming Ministerial meeting on migration and the social integration of migrants scheduled for late 2003 will represent an opportunity to develop further a balance approach to the management of migratory flows and the integration of migrants.

3. EU-Mediterranean Parliamentary relationship

An EU Mediterranean parliamentary forum was organised in Bari, Italy in June 2002, where Members of the European Parliament, members of parliament in Mediterranean partner countries, and members of national parliaments in EU Member States adopted a non-binding Resolution on migration. This Resolution included a number of observations aimed at a more balanced and reciprocal approach to migration management between the EU and the Mediterranean Basin. However, with the exception of one of the preliminary paragraphs, the text does not include specific asylum related observations. The text does refer to the need to find solutions to population movements in the region through sound partnership with countries of origin and transit and shared responsibility. It also calls for the use of development aid to promote economic and social development in those countries and regions with the potential for high migration levels.

It is expected that this parliamentary forum will turn itself into a Parliamentary Assembly, similar to the EU-ACP Joint Parliamentary Assembly (established under the Cotonou agreement). A further session of the Forum took place in Greece during the Greek EU Presidency in 2003.

II - Bilateral relations

At a bilateral level, the European Union has concluded Association or Co-operation Agreements with Algeria, Egypt, Jordan, Lebanon and Syria, Tunisia, Israel, Morocco and the

Palestinian Authority. Under the framework of the Association Agreements, a dialogue on migration issues has started with Morocco and Tunisia.

III. MEDA Programme

The EU programme of financial assistance for implementing the EUROMED partnership is called MEDA. A first MEDA programme, MEDA I, covered the period 1996-1999 and MEDA II covers the period 2000-2006. It is endowed with 5.35 billion Euro. MEDA assistance programme has a regional and a bilateral dimension. Regional programmes are meant to reinforce and complement bilateral programmes. They cover a wide range of issues relating to the three Partnerships of the EUROMED process (Political and Security Partnership, Economic and Financial Partnership and the Social, Cultural and Human Partnership - in which is found the above-referred JHA Programme -). Migration is given special attention in the regional programme with a focus on developing co-operation in joint migration management, in particular in combating illegal immigration and human trafficking.

UNHCR has established a dialogue with the Commission's Directorates DG Justice and Home Affairs and DG External Relations on the implementation of the migration and asylum chapters of the JHA Programme. UNHCR has called for a progressive co-operation programme on asylum starting with awareness raising activities followed by an analysis of existing gaps in asylum systems, including training and information exchange, NGO capacity building, and a regional dialogue among all partners concerned.

IV. High Level Working Group's focus on some of the Mediterranean countries

Following the November 2002 Council Conclusions on strengthening co-operation in the management of migration flows with third countries, the HLWG held meetings in 2003 on improving dialogue and co-operation with selected Mediterranean countries such as Morocco, Tunisia, Libya and Turkey. With these countries being both countries of origin and countries of transit, the issues are sensitive and complex. In the case of Morocco, the Commission has set aside some 40 million Euros to strengthen the country's border management, provided Morocco is ready to sign a readmission agreement with the EC. Although negotiations have opened recently to that effect, Morocco insists on linking this point to the issue of free movement and the position of Moroccans in the EU.

