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#### NOTE ON INTERNATIONAL PROTECTION

##### I. INTRODUCTION

1. This year's Note on International Protection sets out the main challenges States and the international community have encountered during the year to June 2005 and action taken to address them and thereby secure international protection for those in need of it. The Note follows the pattern of recent years and takes as its framework the six goals of the Agenda for Protection.<sup>1</sup> Examples are illustrative and seek to show how the Agenda is being implemented operationally.

##### II. OVERVIEW OF DEVELOPMENTS

2. Significant numbers of refugees were able to return to their countries of origin during 2004, notably to Afghanistan. In Africa too, the peace accords of recent years in countries from Angola to Sierra Leone resulted in a "year of return" and significant progress in resolving some of the world's longest-running refugee situations. The January 2005 agreement ending decades of civil war in southern Sudan also hastened preparations for the return of some 550,000 refugees and an estimated 4,000,000 internally displaced persons (IDPs).

3. Provisional figures indicate that the number of refugees globally fell to 9,400,000 at the beginning of 2005. Where information on age and sex is available, this indicated that 50 per cent were female, while 47 per cent were children under 18 years old. The numbers of people seeking asylum in 38 industrialized countries for which statistics were available also fell for the third year in a row. At 368,000, this was 22 per cent lower than the previous year and the lowest since 1988. Overall, however, the number of persons of concern to UNHCR increased

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<sup>1</sup> A/AC.96/965/Add.1, 26 June 2002.

from 17,000,000 to 18,900,000 over the same period, reflecting not least an increased number of IDPs of concern to UNHCR. Where information on age and sex is available, this indicated that 49 per cent were female and 51 per cent were children.

4. Continuing conflict and human rights abuses in some countries prompted new or renewed flight. In Darfur, western Sudan, direct and systematic attacks on civilians, including murder and rape, provoked massive displacement from early 2003.<sup>2</sup> By April 2005, the number of conflict-affected persons had risen to 2,450,000, of whom 1,860,000 were internally displaced. Over 200,000 civilians had fled to Chad by the end of 2004, of whom 58 per cent were female and 62 per cent children. UNHCR responded to an October 2004 request by the Secretary-General that it take responsibility for the protection and voluntary return of IDPs in west Darfur in partnership with other UN agencies and non-governmental organizations (NGOs). Since then, UNHCR has sought to provide “protection by presence” there through regular monitoring missions to often isolated IDP communities and through programme delivery, with a particular focus on addressing physical security and gender violence. Ultimately, however, such initiatives cannot substitute for a wider political settlement to end the continuing generally volatile situation and the severe insecurity in certain areas, especially in south Darfur.

5. Elsewhere, ethnic violence provoked significant displacement, for instance, of some 300,000 people in and from North Kivu and Ituri in the Democratic Republic of Congo (DRC) when fighting broke out there in late 2004. In Togo, more than 30,000 people fled political uncertainty and serious violence by mid-2005. In other countries, such as Côte d’Ivoire, Somalia and Nepal, pervasive human rights abuses or generalized violence ran the risk of causing new or renewed displacement.

6. Nor were refugees necessarily safe in countries of asylum. In the most serious attack during the reporting period, 152 recently arrived Congolese refugees, mostly women and children, were killed and more than 100 injured in August 2004 in the Gatumba transit centre in Burundi, apparently because of their ethnicity.<sup>3</sup> Subsequently, the Burundi Government cooperated with UNHCR requests that more secure locations inside the country be prepared for the refugees.

7. In situations where developing States had hosted large numbers of refugees for many years, longstanding generosity sometimes showed signs of strain. A few countries on occasion refused refugees entry. For refugees in camps and settlements, conditions of stay were sometimes made more restrictive, with freedom of movement outside camps severely restricted, possibilities for income generation reduced, increased arrests and detention, and inadequate responses from the existing justice system. In many countries, the World Food Programme (WFP) was obliged to reduce food rations with severe protection consequences for refugees, including increased domestic violence, prostitution and other sexual and gender-based violence

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<sup>2</sup> See *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General*, 25 January 2005.

<sup>3</sup> S/2004/821, 5 October 2004.

(SGBV), as well as drop-out from school, child labour and exposure to trafficking. The voluntariness of repatriation was threatened through refugees no longer being able to meet their minimum survival needs in camps.

8. In Latin and Central America, 18 government representatives met in Mexico City in November 2004 to commemorate the 20<sup>th</sup> anniversary of the Cartagena Declaration on Refugees. Together, they reaffirmed their commitment to the Declaration and adopted a Plan of Action to improve refugee protection in the region and respond in particular to the humanitarian situation of Colombians needing protection. The resulting Plan seeks to boost the region's protection capacity through training and projects to help refugees in urban centres to become self-sufficient and integrate (a "Cities of solidarity" programme); to provide documentation, legal status and assistance to Colombians in need of protection in the border areas of neighbouring countries ("Borders of solidarity"); and to build regional resettlement programmes, mainly for Latin American refugees ("Resettlement in solidarity").

9. In industrialized countries more generally, some progress was made in reducing decision-making backlogs in some countries and in building capacity, notably in newer countries of asylum. These developments were, however, counter-balanced by the ongoing restrictive trend to tighten asylum procedures. In addition, the focus on anti-terrorism and security often dominated politics and was reflected in laws and policies negatively affecting non-citizens, including refugees and asylum-seekers. In a world of increasingly complex migratory movements and challenges to State authority, some politicians and elements of the media played on xenophobic fears and sought to reduce asylum-seekers and refugees to statistics which must be kept down. The result was an increasingly constrained environment for individuals fleeing persecution and violence, and for UNHCR seeking to secure their international protection.

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

10. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol are the primary global instruments of international refugee protection, with 145 States party to either one or both instruments, but there are still some regions of the world where few States have acceded to them. UNHCR continued its efforts during the reporting period to raise awareness of the value of accession and of the usefulness of the Convention and Protocol, when drafting legislation on the treatment of aliens, as tools to distinguish between refugees and other categories of aliens.

11. The 1951 Convention is undermined where people seeking international protection are unable to gain access to territory. Interception on land and at sea, security checks and other measures have made legal access to a territory where asylum can be claimed increasingly difficult. Resort to smugglers has increased, as has the exposure to trafficking of women and children moving on their own. There is clearly a need for States to address asylum abuse and people smuggling, but, in this process, asylum must be preserved. UNHCR continued to train border guards, police, and provincial, immigration and airport officials the world over to enhance awareness of their responsibilities, particularly as regards *non-refoulement*.

12. In many States, asylum-seekers and refugees who have gained entry do not have valid identity documents and are vulnerable to harassment, arrest, detention and deportation, in particular in the context of measures to combat illegal migration. Where relevant national legislation was not in place, UNHCR lobbied for the refugee definition to be included in legislation and for refugees and asylum-seekers to be exempted from penalties that might otherwise be imposed. In Malaysia, for instance, discussions with the police resulted in their agreeing to recognize the validity of UNHCR documentation and no longer arrest individuals with such documentation in connection with immigration offences. Elsewhere, the Office intervened successfully in numerous countries to ensure access to, and prevent deportations of, persons of concern to the Office who had been arrested, although these initiatives were not always able to prevent isolated incidents of *refoulement*.

13. The Office also worked to ensure that the authorities issued individual documentation to male and female refugees and asylum-seekers. Sometimes, UNHCR provided technical assistance or issued documentation jointly with the State concerned or, where the State was not prepared or able to do so, the Office issued it on its own. In addition, initiatives, for instance in Papua New Guinea and Ghana, helped ensure children born in exile were registered and received birth certificates, thus enabling those concerned to acquire residential permits, gain access to education and health care, and reducing statelessness.

14. Implementation of the 1951 Convention is strengthened in situations where there is an early and continuing process of registration, primary responsibility for which lies with the host State. UNHCR's *Handbook for Registration* is the Office's key source of standards for registration practices, population data management and documentation. During 2004, comprehensive training and new registration tools were provided in 19 country operations at 54 individual sites. In all, over 600 UNHCR staff were trained in best practices for registration and use of Project Profile's new registration database application, the Global Registration System ("proGres") and in applicable standards and procedures, including the fundamental principle of confidentiality. ProGres is already being used successfully to register new arrivals individually, manage refugee status determination, strengthen protection interventions and provision of assistance, streamline resettlement processing, plan and facilitate voluntary repatriation. By the end of 2005, 30 more country operations are scheduled to receive proGres, which will include a biometric capability to supplement digital photographs where necessary.

15. Adequate reception arrangements are essential to States' strengthened implementation of the 1951 Convention. Some countries continued to penalize asylum-seekers for unauthorized entry and to detain them, often for lengthy periods, and sometimes on a mandatory basis. Such practices prejudice fair process, as they can diminish access to legal assistance and interpretation services, and may exacerbate prior trauma. In response, UNHCR and its partners sought access to detention sites, reporting on conditions and exploring alternatives to detention. In a number of situations, this has resulted in access being granted, conditions being improved or in particular facilities no longer being used.

16. UNHCR continues to promote the adoption of a proper legislative framework for determining refugee status. Positive legislative developments during the reporting period included the abolition in Japan of the time limit for the submission of an asylum application and

the provision in the United States of improved access to free legal counsel for unaccompanied children seeking asylum. The general trend was more restrictive, however, with legislative amendments being viewed through a restrictive migration and/or counter-terrorism lens.

17. In terms of regional legislative developments, the now 25 member States of the European Union adopted the Hague programme in November 2004 with the aim of establishing a common European asylum system by 2010 and strengthening the capacity of countries in regions of origin and transit through “regional protection programmes”. UNHCR has encouraged member States, as they transpose the relevant Directives into national law, to adopt standards in line with international law and best practice, including where these are higher than the minimum standards in the Directives. In North America, a safe third country agreement between the United States and Canada entered into force in December 2004. The two governments are providing regular statistics to UNHCR and access to the process generally, thus assisting the monitoring of its application.

18. Access to asylum procedures was occasionally problematic during the reporting period. Sometimes screening or admissibility procedures effectively barred applicants from access to a substantive determination of their claim, including where a *prima facie* case appeared to exist. In some countries, reduced or lack of access to legal aid or to appropriate interpreters prevented or undermined effective presentation of cases. UNHCR and its partners worked with relevant counterparts to establish, reactivate and/or strengthen national eligibility procedures and improve decision-making.

19. There were a number of positive jurisprudential developments during the reporting period. For instance, refugee status was recognized, or complementary protection granted to, partners of forcibly sterilized individuals, women refusing to enter into forced marriages and victims of domestic violence. UNHCR’s Guidelines on International Protection are also increasingly being cited by tribunals and courts, including at the highest level. Areas of concern, however, include the summary dismissal of claims deemed manifestly unfounded on the basis of very broad criteria, unduly restrictive interpretations of the refugee definition, including very limited notions of what amounts to persecution, who are relevant agents of persecution, what constitutes effective State protection and inadequate appeal procedures.

20. The Office was involved in refugee status determination (RSD) decision making in one way or another in 87 countries during 2004. In a minority of these, UNHCR determined status only for resettlement purposes. Where a State was not party to either instrument and no national procedures existed, however, UNHCR undertook RSD to determine eligibility for Mandate protection and assistance and/or facilitate a durable solution. In State parties with developing national asylum systems, UNHCR sometimes also undertook RSD as part of efforts to strengthen national capacity. In all, UNHCR made RSD decisions affecting some 50,000 people in 2004. The challenge remains to pursue a timely and properly resourced transfer of responsibility for RSD to national refugee protection systems.

21. The Office also intensified efforts to strengthen the knowledge and capacity of UNHCR staff and partners. *An Introduction to International Protection* was issued in January 2005, while more than 650 colleagues have now participated in the Protection Learning Programme (PLP). The Office piloted a parallel Protection Learning Programme for UNHCR

Partners in 2004 in which 50 colleagues from partner agencies participated. During the reporting period, UNHCR also relaunched the Thematic Protection Learning Programmes (TPLPs) for senior managers on protection strategies in areas affected by armed conflict and in the context of broader migration movements.

22. HIV and AIDS prevention and response are essential components in the protection of refugees, returnees and other persons of concern.<sup>4</sup> Refugees do not necessarily have high HIV prevalence rates, but they may become disproportionately vulnerable to HIV due to the environment in which they find themselves. Refugee women and adolescents are often more susceptible to HIV due to factors including inadequate knowledge, gender discrimination and violence, insufficient access to HIV prevention services and inability to negotiate safe sex. Refugee children exposed to HIV through rape or orphaned by AIDS are also more likely to suffer hardship, withdraw from school, become vulnerable to abuse or contract the virus themselves. In the resettlement context, where HIV testing is undertaken, protection problems also arose in camps where applicants who were rejected were often assumed to be HIV positive and faced ostracism and discrimination as a result.

23. Activities during the reporting period included efforts to promote provision of voluntary counselling and testing to refugees, to counter prejudice and discrimination and to integrate refugee concerns, including non-discriminatory access to antiretroviral therapy and prevention of mother-to-child transmission, into HIV/AIDS policies in host States. In one example, volunteers in one Botswana refugee camp trained fellow refugees, refugee men formed a community initiative called “Sex, Men and AIDS” and refugee women launched a “Peace Messengers” group to tackle sexual violence, HIV and AIDS. In Pakistan, UNHCR organized a cultural show on street children at risk of HIV at an NGO-run drop-in centre on World AIDS Day.

24. The need to promote greater awareness and understanding of refugees’ experiences and thereby enhance respect for refugees underpins efforts to strengthen implementation of the Convention. UNHCR worked to raise awareness of refugee concerns, to combat xenophobia and provide balanced briefings to the media, including through workshops targeting local media from Kazakhstan to Yemen. In Austria, a UNHCR billboard and internet campaign called “Fairness instead of prejudice” sought to debunk myths about asylum-seekers. In Lebanon, a local television channel produced a documentary about the lives of refugees there, why they had fled and the problems they now faced every day. In Sweden, UNHCR developed a web-based game called “Against all odds” giving secondary school pupils an insight into the experience of being forced to flee their country.

25. The Agenda for Protection calls for more resolute responses to root causes of refugee movements. Over the last year, a particular focus of UNHCR’s efforts in this respect has been protracted situations of statelessness, which are recognized as one cause of forced displacement. A number of protection officers have been posted to several countries to work with the authorities on statelessness issues. Citizenship legislation was also adopted in the DRC, while the Indonesian and Timor-Leste Governments agreed to grant either nationality to individuals from Timor-Leste currently residing in Indonesia.

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<sup>4</sup> See *Strategic Plan on HIV and AIDS for 2005–2007*, EC/55/SC/CRP. 8, 16 February 2005.

26. Uruguay and the Czech Republic acceded to the 1954 Convention relating to the Status of Stateless Persons during the reporting period, as did Lesotho and Liberia to the 1961 Convention on the Reduction of Statelessness, bringing the number of States party to these conventions to 57 and 29 respectively. The Office also welcomes agreement reached on a Council of Europe 2005 Protocol on the Avoidance of Statelessness in relation to State Succession which contains useful principles and rules on nationality applicable in such situations. The Commission on Human Rights issued a strong resolution condemning the arbitrary deprivation of nationality in April 2005.<sup>5</sup> A UNHCR–Inter-Parliamentary Union handbook on statelessness is to be published by the end of 2005.

#### IV. PROTECTING REFUGEES WITHIN BROADER MIGRATION MOVEMENTS

27. Migration movements are increasingly recognized as a transboundary issue requiring multilateral and international cooperative action. A more orderly system for migration can reinforce, in a complementary way, the separate and distinct regime for the protection of refugees and vice versa. It is nevertheless necessary to remain aware that the protection needs of the forcibly displaced and the protection responsibilities these place on States, UNHCR and other organizations cannot be managed in the same way as regular migration.

28. These issues came to the fore during the reporting period in the Mediterranean context as European States sought to respond to arrivals of migrants from Africa and the Middle East. UNHCR expressed deep concern about the fate of persons arriving in southern Europe to inadequate reception conditions and about precipitate deportations, including to unsafe situations, where there was no functioning asylum system and a real risk of return to persecution. Similar dilemmas were evident in other regions. Even where reception systems may be strained by large numbers of illegal arrivals, it remains essential that proper procedures are in place to assess status.

29. Political commitment is required to establish and implement adequate reception arrangements and procedures in such situations. International cooperation is also necessary within the EU, with countries along migration routes and with countries of origin. In this respect, the Hague Programme and its proposed “regional protection programmes” emphasizing partnerships with third countries on immigration and asylum offer positive avenues for development. UNHCR advocates the development of a multilateral approach to the management of protection on the high seas and is working to strengthen asylum institutions and capacity in North Africa.

30. Against a backdrop of generally tighter migration regulation during the reporting period, more encouraging developments were noted. In Malaysia, for example, the Government agreed in late 2004 to grant temporary residence permits to a 10,000-strong vulnerable refugee group, although this decision still awaits implementation. In Ecuador, following UNHCR interventions, measures against illegal migration were accompanied by instructions from the Ministry of Labour regarding refugees’ right to work, even if the cost of the work permit presented a barrier to some.

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<sup>5</sup> E/CN. 4/2005/L. 58, 14 April 2005.

31. At the international level, numerous migration-related fora examined how to achieve better management of migration, including the development dimension. UNHCR follows these consultations closely, seeking to explore and reinforce the complementarity between any regime for migration management and the regime for international refugee protection.

32. The Geneva Migration Group (GMG) offers an informal mechanism bringing together the heads of six agencies,<sup>6</sup> each of which carries some responsibility for issues with a bearing on migration. The Global Commission in International Migration (GCIM) has, since beginning work in January 2004, held five regional hearings as part of a process of preparing a report on international migration to be submitted to Secretary-General in October 2005. UNHCR contributed to a series of GCIM-organized thematic meetings on topics ranging from migration and gender to the role of regional consultative processes. The Action Group on Asylum and Migration (AGAMI), which grew out of UNHCR's Global Consultations process, showed early progress but has yet to realize its potential. As for the "Berne Initiative" launched in 2001, delegates at a "Berne II" conference hosted by Switzerland in December 2004 finalized an "International Agenda for Migration Management".

33. UNHCR also participates actively in regional migration-related initiatives, including in the "Bali Process" in the Asia-Pacific, the Mercosur "Forum on Migratory Issues" in the Americas, the "Puebla Process" or Regional Conference on Migration in Central and North America, similar processes in South America and the Caribbean, as well as the Migration Dialogue for Southern Africa (MIDSA).

34. On the issue of trafficking, UNHCR has sought to highlight and clarify the relevance of asylum within broader protection initiatives to respond to the needs of victims of trafficking. Building upon the "saving clause" of the 2000 Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and provisions in the 2005 Council of Europe Convention on Action against Trafficking in Human Beings, UNHCR has sought to engage States in practical dialogue to ensure asylum processes are receptive to claims from victims of trafficking.

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

35. The Secretary-General's March 2005 report "In larger freedom: towards development, security and human rights for all" recognizes "the world of interconnected threats and challenges" which exists today and cautions that the "world must advance the causes of security, development and human rights together, otherwise none will succeed". Responses to forced displacement which is frequently caused by violations of these fundamental concerns can, like the "cause of larger freedom", "only be advanced by broad, deep and sustained global cooperation among States". As the report notes: "Such cooperation is possible if every country's policies take into account not only the needs of its own citizens but also the needs of others. This kind of cooperation not only advances everyone's interests but also recognizes our common humanity."<sup>7</sup> The Agenda's goal of sharing burdens and responsibilities more equitably fits very

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<sup>6</sup> These are UNHCR, ILO, UNHCHR, UNCTAD, UNODC and IOM.

<sup>7</sup> A/59/2005, 21 March 2005, paras. 17-18.

much within this framework of analysis. Action which tackles the lack of security, lack of development and lack of respect for human rights is mutually reinforcing, helps prevent the need for flight, resolve conflicts and enable durable solutions. The Executive Committee recognized the importance of such international cooperation and solidarity in October 2004.<sup>8</sup>

36. UNHCR worked within the UN system to strengthen its cooperation with relevant UN agencies during the reporting period. In the area of food assistance to refugees and returnees, for instance, the Office pursued its close partnership with WFP, working to tackle the many protection problems which arise as a result of food deficits. With the International Labour Organization (ILO), UNHCR strengthened collaboration by deploying ILO livelihood experts to UNHCR offices in nine largely African countries who worked to promote sustainable livelihoods and self-reliance for refugee and returnee women and men. Exceptionally and in a spirit of partnership, UNHCR provided time-limited humanitarian assistance in Sri Lanka and Indonesia in coordination with UN Country Teams in response to the December 2004 tsunami and a request by the Secretary-General.

37. The situation of the world's roughly 25 million internally displaced persons (IDPs) is one area where UN agencies are particularly seeking to strengthen cooperation and revitalize their collaborative response. A new IDP policy adopted by the UN Inter-Agency Standing Committee (IASC) in September 2004 seeks to clarify and streamline procedures implementing collaborative planning and action by UN Country Teams so as to enhance IDP protection.<sup>9</sup> Internally, UNHCR also revisited its procedures and guidelines for its involvement in IDP situations, notably in Afghanistan, Colombia, Sri Lanka and Sudan. It is hoped these measures can together answer the needs of IDPs more effectively and predictably and help mainstream the rights of IDPs throughout the UN system.

38. The effort to strengthen international cooperation underpins the Convention Plus initiative launched in mid-2003. Progress was made on each of the three main strands of the initiative during the reporting period, while two meetings of the Forum were held in October 2004 and May 2005. A Multilateral Framework of Understandings on Resettlement,<sup>10</sup> which promotes a more strategic use of resettlement, was completed in June 2004 and welcomed in October by the Executive Committee. On the question of irregular secondary movement, meetings focused on the human rights principles applicable to responsibility and burden sharing arrangements and the preliminary findings of a capacity-building survey relating to the onward movement of Somali refugees and asylum-seekers. A framework of understandings on this issue is being developed. In the third strand, a draft statement of good practice on targeting development assistance for durable solutions to forced displacement is under discussion.

39. The Agenda calls on States to strengthen protection capacities in refugee-receiving countries. Such capacity building goes beyond training in the basic concepts. It involves establishing processes respecting the dictates of due process and built on understandings with protection at their core. As such, it is longer term. A significant initiative has been the

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<sup>8</sup> Executive Committee Conclusion No. 100 (LV), 2004.

<sup>9</sup> IASC, *Implementing the Collaborative Response to Situations of Internal Displacement: Guidance for UN Humanitarian and/or Resident Coordinators and Country Teams*, September 2004.

<sup>10</sup> FORUM/2004/6, 16 September 2004.

Strengthening Protection Capacity Project (SPCP). This is undertaking a comprehensive analysis of “protection gaps” in four African countries, which will in turn lead through an extensive consultative process to the elaboration of strategies to bridge those gaps.

40. Capacity-building strategies depend upon strong partnerships at all levels, not only with UN agencies as outlined above, but also with regional organizations, governments, ministries, the judiciary and implementing partners, including different civil society actors from NGOs to academics. The examples below are representative, but by no means exhaustive.

41. At regional level, the Office promoted “north-south” sharing of expertise and experience in the Americas through civil society partnerships and twinning arrangements in the fields of RSD, reception and resettlement. In the Middle East, a joint plan of action with the League of Arab States included training on refugee issues, promotional activities and advocacy. In Eastern Europe and Central Asia, UNHCR was actively involved in developing reception facilities and strengthening capacity in partnership with other actors, in particular through the European Commission’s programme of Technical Assistance to the countries of the Commonwealth of Independent States (TACIS).

42. At national level, the Office worked with governments and ministries the world over to strengthen their capacities to deliver protection and solutions for refugees. In Iraq, many of UNHCR’s activities focused on enabling the Ministry for Migration and Displacement to respond effectively to the major displacement issues in Iraq and pave the way for the drafting of new refugee legislation. UNHCR also included in its activities other institutions, such as the Iraqi Property Claims Commission and the Kurdistan Regional Government, as well as NGOs and other partners. In other countries, UNHCR sought to build national capacities and strengthen partnerships, for instance, through the partnership agreement signed in February 2005 with the Afghan Independent Human Rights Commission. This seeks to strengthen the Commission’s capacity to monitor, document and intervene to address human rights violations, amongst other things to identify and resolve protection problems encountered by returnees, thereby facilitating return in safety and dignity.

43. Among the many examples of collaboration with civil society to promote understanding of refugee concerns and strengthen international protection is UNHCR’s well-established partnership with the honorary liaison network in the Caribbean. A protection network of Belizean civil society organizations, private human rights attorneys and academics called the Association for the Rights of Migrants including asylum-seekers and refugees was also created in December 2004. The Office continues to support the International Association of Refugee Law Judges, including at its annual meeting in Stockholm in April 2005.

44. UNHCR supported partnerships with academic institutions, for instance to create posts in memory of Sergio Vieira de Mello at a number of Latin American universities to enhance knowledge and understanding of international refugee law and related disciplines. In Benin, UNHCR, UNESCO and the International Committee of the Red Cross (ICRC) cooperated to inaugurate a summer course on international refugee and humanitarian law for government officials and NGO professionals at the university in Cotonou in mid-2005. Such programmes

provide an important knowledge base for advice and legal aid centres for refugees in many countries. In Pakistan, UNHCR supported 13 NGO-run centres to provide assistance to refugees needing to secure personal documentation or resolve tenancy or rent disputes hampering return.

45. NGOs continue to be vital partners in UNHCR's work. In West Africa, for instance, the Office continued work with NGOs to combat and respond to cases of SGBV through referral systems and judicial support to victims. In the Gulf region, it supported the creation of a regional NGO network to strengthen civil society partnerships on refugee issues.

46. Under UNHCR's Protection Surge Capacity Project, by the end of May 2005, 131 deployees had been sent to 35 countries to respond to sudden temporary protection staffing needs since the scheme began in January 2002. A gender sub-roster was established during the reporting period and a number of deployments made to address gender concerns and situations of statelessness and internal displacement.

## VI. ADDRESSING SECURITY-RELATED CONCERNS MORE EFFECTIVELY

47. Security issues continued to be a primary UNHCR concern and to present complex challenges – for the displaced, for UNHCR staff, other humanitarian personnel and for States seeking to deliver protection and assistance. Lack of security was frequently a factor prompting flight during the reporting period in situations from Darfur to Colombia. A number of camps remained vulnerable to infiltration and/or pillage by rebel forces seeking food, medical supplies and labour, and who raped or abducted refugees and IDPs, including children. Outside camps, displaced women, children and men too often faced hostility and physical danger from host communities, for instance as a result of ethnic or other tensions or competition for local resources.

48. In such situations, UNHCR sought to relocate camps away from volatile border areas, as in Panama, where refugees were moved away from the border with Colombia and an enhanced police presence was established. In Chad, camps were moved further from the Sudanese border and refugees still settled along the border counselled to move to the camps. The Office there intervened repeatedly to resolve disputes among refugees and with locals and reached agreement with Chadian authorities to provide a regular police presence, including of female officers, around the camps. In other situations, UNHCR negotiated a "security package" with the authorities, as in Sierra Leone, where internment areas for armed elements, voluntary refugee patrols inside camps and greater security around camps thanks to local enforcement agencies improved security, allowing the Office to focus on peace education, mediation and conflict resolution as ways of pre-empting and peacefully resolving disputes in camps.

49. For UNHCR and other humanitarian staff, the increasingly difficult security conditions in which they were obliged to work during the reporting period seriously curtailed efforts to provide protection and assistance where they were most needed, sometimes preventing access altogether, as in parts of Iraq, Colombia, DRC or Côte d'Ivoire. United Nations and other humanitarian workers were attacked, ambushed, kidnapped and sometimes murdered, for example, in Afghanistan, Iraq and Sudan. NGO staff were often particularly exposed and vulnerable.

50. During the reporting period, UNHCR and the Department of Peacekeeping Operations (DPKO) strengthened cooperation, especially in areas where DPKO had a clear mandate to protect refugees, IDPs and returnees, as in operations in Liberia or Burundi. Efforts focused on disarmament, demobilization, reintegration and rehabilitation (DDRR), peace building and conflict prevention, mine clearance, small arms and light weapons. DPKO participated in UNHCR's workshops on emergency management in June 2004 and a staff exchange between respective headquarters began in April 2005.

51. SGBV against women and girls in particular continued to prompt flight and to take place in insecure situations after displacement. UNHCR worked with implementing partners both to prevent and respond more effectively to this challenge in many countries. In Liberia, for instance, a troupe of young returnees and IDPs used weekly theatre performances in the community to raise awareness of SGBV in an accessible way. A Kenyan initiative launched in February 2005 sought to standardize reporting on and investigation into cases of abuse or exploitation by training government officials, NGO and refugee representatives in interview techniques and complaint investigation. Educational materials and videos were also to be produced telling refugees about their rights and the importance of zero tolerance towards sexual exploitation and abuse. The establishment of women's centres in locations from Darfur to Ecuador helped provide a safe space for women and girls to minimize the risks they and their children faced and find peer support.

52. UNHCR initiatives during the reporting period designed to feed into the UN Study on violence against children due for completion in 2006 included research workshops with refugee and returnee children on their views and experiences of violence in Luena (Angola), Cape Town and Johannesburg (South Africa) and Mayukwayukwa (Zambia). The Office also worked during the reporting period to address concerns that refugee children no longer registering in schools in Rwanda had been recruited by military elements from neighbouring DRC and to assess and coordinate responses to reports of child recruitment in camps along the Thai border with Myanmar.

53. Within UNHCR, five regional training sessions to enhance the prevention of and response to SGBV were held in 2004, reaching some 100 UNHCR staff and 80 implementing partners. Country-specific workshops on SGBV prevention and response took place in Thailand and the United Republic of Tanzania, while a "train-the-trainers" workshop on SGBV was held in Geneva. Systematic reporting by Offices on SGBV incidents, especially in Asia, greatly enhanced identification of vulnerable groups and affirmed the importance in this respect of strong links with local communities and NGOs with a proactive field presence.

## VII. REDOUBLING THE SEARCH FOR DURABLE SOLUTIONS

54. A particular focus of the search for durable solutions during the reporting period was on comprehensive approaches to situations of sometimes prolonged displacement. Where negotiations were under way to resolve conflict, it proved critical for refugee concerns to be incorporated at an early stage, so that issues such as property, infrastructure reconstruction or landmine clearance, which need to be resolved to enable repatriation and return to normal life,

could be addressed. Where large-scale voluntary repatriation was either planned or already under way, there was a clear need to ensure that such returns took place not only in safety and dignity<sup>11</sup> but also on a sustainable basis.

55. One approach to address a protracted refugee situation during the reporting period concerned the Convention Plus initiative to establish a comprehensive plan of action (CPA) for Somali refugees launched in July 2004. A first phase involved UNHCR collecting data, consulting stakeholders and analysing protection and assistance “gaps”. The resulting CPA should include political undertakings and projects to address these gaps and enhance durable solutions and is intended to be presented to an international conference for adoption and funding. In another longstanding situation, UNHCR facilitated a successful first phase of confidence-building measures allowing person-to-person contact between Saharawi communities in exile in Algeria and in their place of origin through telephone contacts and family visits. At regional level, UNHCR, the Economic Community of West African States (ECOWAS) and the Government of Ghana also held a regional experts meeting on durable solutions in West Africa in early June 2005 to document challenges faced and progress made towards durable solutions for displaced populations, develop an action plan and foster and/or strengthen partnerships among stakeholders.

56. Strategies to promote self-reliance continued to prove an important tool assisting the realization of all three durable solutions, enabling refugees to achieve greater economic and social independence and assisting the transition from relief to development. Efforts focused on building partnerships with local communities so as also to strengthen their development and enhance acceptance of the refugee community. More generally, efforts to include refugees and returnees in development programmes included UNHCR’s Development Assistance for Refugees (DAR) initiative.<sup>12</sup> Self-reliance strategies for Angolan refugees in Zambia, for Sudanese in Uganda, for Congolese in Gabon and for Sierra Leoneans in Guinea represented good examples of DAR.

57. As in recent years, the largest numbers of voluntary returns globally in 2004 were to and within Afghanistan. Some 940,000 refugees returned mainly from the Islamic Republics of Iran and Pakistan, representing a significant increase over 2003 and bringing the total number of returns since December 2001 to 3,500,000. In addition, some 27,000 IDPs returned to their homes during 2004. The increase in returns was attributable to improved stability and security in certain areas, the formation of a government following presidential elections in October 2004, the progressive establishment of a national army and police force, accelerated demobilization and disarmament and continued economic improvements. There was also pressure on Afghans to leave host countries, which in some cases called into question the voluntary nature of repatriation. Security, economic and social conditions in some parts of Afghanistan remained obstacles to return, with the threat from extremist elements continuing and the government and public institutions facing formidable challenges in combating lawlessness and addressing human rights issues.

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<sup>11</sup> See Executive Committee Conclusion No. 101 (LV), 2004.

<sup>12</sup> UNHCR, *Handbook for Planning and Implementing Development Assistance for Refugees (DAR) Programmes*, January 2005. A *Handbook for Self-Reliance* is shortly to be issued.

58. Provisional figures for other refugee returns during 2004 included those to Burundi (90,000), Angola (90,000), Iraq (59,000), Liberia (57,000), Sierra Leone (26,000), Somalia (18,000), Rwanda (14,000), Sri Lanka (10,000), Eritrea (10,000). Major IDP returns, in addition to those within Afghanistan, were in Sri Lanka (34,000), Liberia (33,000), Russian Federation (19,000) and Bosnia and Herzegovina (18,000). The significant repatriations to countries in Africa followed the signing of various peace accords and ceasefire agreements in recent years. In West Africa, for instance, the voluntary repatriation operation for Sierra Leonean refugees ended in July 2004, some 270,000 refugees having returned over the preceding four years. A three-year programme to enable the return of up to 340,000 refugees and a similar number of IDPs began in Liberia in October 2004. In addition, the political and security situation in much of Burundi improved and a new constitution was approved in February 2005. In southern Africa, more than 300,000 refugees had returned to Angola by the end of 2004 since the 2002 peace accord.

59. The preferred methodology for such voluntary repatriation operations is a memorandum of understanding which ensures a framework for safe and sustainable return. One example during the reporting period was a tripartite memorandum of understanding signed in January 2005 confirming the temporary protection in Cambodia of some 760 Vietnamese Montagnards and providing a framework for the resolution of their situation, mainly through return or resettlement. The memorandum sought to make the asylum process and protection delivery in Cambodia more predictable and included a Vietnamese commitment that returnees would not be prosecuted or discriminated against as a result of their illegal departure. The majority opted for resettlement in the United States where there is a strong Montagnard community.

60. Essential to the sustainability of return were ongoing programmes of repatriation, reintegration, rehabilitation and reconstruction (termed collectively the “4Rs”).<sup>13</sup> Such programmes were being implemented in Afghanistan, Angola, Burundi, Liberia and Sierra Leone. They required close partnership between humanitarian and development actors, coupled with strong leadership by the country of origin. Increased funding for basic infrastructure and longer-term development programmes was also needed to ensure all refugees, including vulnerable groups such as female-headed households and the elderly, could go home and rebuild their lives in dignity. The importance of these types of programmes was recognized by the High-level Panel on Threats, Challenges and Change. It warned that peace building and demobilization of combatants “will be ineffective without the provision of resources for reintegration and rehabilitation” and saw this “larger peace building task” as being to build “effective public institutions that can establish a consensual framework for governing within the rule of law”.<sup>14</sup> In October 2004 the Security Council stressed the importance and the urgency, not only to come to terms with past abuses, but also to promote national reconciliation and help prevent a return to conflict,<sup>15</sup> which could in turn provoke renewed displacement.

61. Local integration is the end product of a process with interrelated legal, economic, social and cultural dimensions and has a proper place in comprehensive durable solutions strategies. At the legal level, secure and durable residency rights, followed in due course by citizenship, are

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<sup>13</sup> See also, UNHCR, *Handbook for Repatriation and Reintegration Activities*, May 2004.

<sup>14</sup> A/59/565, 2 December 2004, paras. 224–230.

<sup>15</sup> S/2004/616, 23 August 2004; S/PRST/2004/34, 6 October 2004.

central. One example of the latter was in Kyrgyzstan, where over 1,000 Tajik refugees had been granted citizenship by the end of February 2005 under legislation in force since August 2003. In Turkmenistan, the government agreed in April 2005 in principle to grant citizenship to up to 9,700 mostly Tajik refugees. In the United Republic of Tanzania, the Government accepted 182 Somali Bantu refugees for naturalization in 2004, the fee normally payable being significantly reduced.

62. One example among many economic, social and cultural integration initiatives for refugees on all continents during the reporting period was in Ecuador, where UNHCR organized a community support and local integration programme in cooperation with ministries, other UN organizations and civil society to strengthen the protection, self-sufficiency and socio-cultural integration of persons of concern and ensure their access to public health and education services. In Bosnia and Herzegovina and in Serbia and Montenegro, UNHCR and the Council of Europe Development Bank signed an accord in March 2005 under which the Bank would provide grants and loans to build independent housing for some 2,300 displaced people who had been living for years in collective centres. Micro-finance projects often provided a critical start-up for refugees, enabling them to improve their own situation and make a productive contribution to the local economy. One welcome development in this respect was a ruling by the Costa Rica Constitutional Court in May 2005 recognizing refugees as entitled to receive loans from national banks.

63. Enhancing resettlement as a protection tool for individual refugees, as a durable solution for larger numbers of refugees and as a global burden and responsibility-sharing mechanism continued to be a priority during the reporting period. States' commitment to its expanded and diversified use was reflected, *inter alia*, in increased resettlement quotas announced by Australia, Norway and Sweden; increased interest in resettling new refugee caseloads, especially from Asia; the Mexico Plan of Action's commitment to strengthened regional resettlement; Argentina's decision to join UNHCR's resettlement programme in that region; and the voluntary EU resettlement scheme proposed in the Hague Programme's "regional protection programmes". UNHCR and its resettlement partners also sought to use resettlement more strategically, to maximize benefits for resettled refugees, facilitate comprehensive solutions to protracted refugee situations, improve the asylum space in countries of asylum and share burdens and responsibilities more equitably. There were 35,008 UNHCR-assisted resettlement departures in 2004, as against a final figure for 2003 of 27,338 departures. In addition to individual resettlement, groups of refugees in Africa (e. g. Liberians in West Africa, Somalis in East Africa and the Horn of Africa) and the Middle East (e. g. Iranian Kurds in Jordan/Iraq, Ethiopians in Yemen) were processed or were presented for resettlement using the "group methodology".

64. As part of initiatives to prevent fraud and malfeasance in the resettlement process, a UNHCR Resettlement Anti-Fraud Plan of Action was presented at the Annual Tripartite Consultations on Resettlement in June 2004 and is being implemented. The management and planning of resettlement was improved by the early preparation of projected resettlement needs for 2005 and the holding of an "Indications Conference" for the first time in June 2004, a process repeated in June 2005 for 2006. This resulted in the development of global resettlement planning tables to match resettlement needs with resettlement country targets or quotas.

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

65. Efforts to enhance the protection of refugee women, men, girls and boys were strengthened during the reporting period through an age and gender mainstreaming pilot project, launched in February 2004 and implemented in 14 countries. In each, multi-functional age and gender mainstreaming teams led by the representative were established. These consulted with groups of displaced men and women of different ages and with boys and girls, thereby strengthening the participatory assessment of refugee and internally displaced communities' needs and enhancing awareness of their concerns, identification of protection risks by age and gender and development of protection strategies and programmes. Overall, an evaluation found that the project brought UNHCR staff, and in some cases implementing partners, closer to people of concern to the Office; led to a better understanding of their issues; provided a structured approach which helped prioritize action, strengthen cooperation between UNHCR staff and between UNHCR and partners; and engaged leadership in becoming more accountable for age and gender mainstreaming.<sup>16</sup>

66. In addition to the measures undertaken to promote individual registration of, and documentation for, refugee women and men and to tackle SGBV outlined in sections III and VI above, progress was made in meeting the other three of the "five commitments" to refugee women made by the former High Commissioner in 2001.<sup>17</sup>

67. Five global protection concerns for refugee children during the reporting period were separation, sexual exploitation, abuse and violence, military recruitment, education and the specific concerns of adolescents. The process of pursuing the best interests of unaccompanied and separated children, for instance, through reunification with their families in cooperation with implementing partners and the ICRC, continued to be integral to UNHCR's work, particularly bearing in mind the further protection problems to which such children are more vulnerable.

68. A number of initiatives to tackle SGBV and violence against children are outlined in section VI above. Other efforts included projects to provide increased recreational activities for children and adolescents, which helped realize their right to play and at the same time raise awareness of other rights and issues such as SGBV, early marriage, trafficking, military recruitment and HIV and AIDS prevention and response. In Afghanistan, UNHCR and its implementing partners launched two projects in late 2004 to provide returnee and IDP street children in Kabul with health care at a mobile clinic and support their attendance at school. In Colombia, many projects promoted greater awareness of IDP children's and adolescents' rights and sought to combat forced recruitment, domestic violence, drug addiction and prostitution.

69. Enabling refugees to access education even in emergencies presents particular challenges. The launch in December 2004 of Minimum Standards and Indicators on Education in Emergencies by the Interagency Network on Education in Emergencies, in which UNHCR is an

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<sup>16</sup> UNHCR's *Age and Gender Mainstreaming Pilot Project 2004*, Evaluation and Policy Analysis Unit, April 2005, p. 2.

<sup>17</sup> See *Report on the High Commissioner's Five Commitments to Refugee Women*, EC/55/SC/CRP.17, 7 June 2005.

active participant, provide an important framework for action on this issue.<sup>18</sup> More generally, UNHCR worked with other agencies to strengthen Innovative and Strategic Partnerships in Refugee Education (known as INSPIRE) in Ghana, Kenya, Pakistan and Uganda. UNHCR-funded projects during the year included a teacher training and a “back-to-school” initiative in Ghana, vocational training for Afghan refugees in Uzbekistan and support for girls’ education in the DRC, Republic of the Congo and North Caucasus/Russian Federation. Refugees’ access to secondary education was assisted by scholarships in three African countries from the Houphouet-Boigny Peace Prize Trust Fund, while the Albert Einstein German Academic Refugee Initiative (DAFI) awarded university scholarships to some 1,200 refugees from 45 mostly African countries. UNHCR also worked with two private companies to secure sponsorship for initiatives to establish a community technology learning centre in Dadaab camp (Kenya) and support girls’ education.

70. One example of a project to address the concerns of older refugees was that in Ghana to improve their physical, social and psychological wellbeing by providing equipment to enhance mobility, renovating shelters and encouraging their self-sufficiency and participation in community activities.

## IX. CONCLUDING REMARKS

71. The challenges faced by States, UNHCR and other actors over the past year and the initiatives they have taken to tackle them outlined briefly in this Note provide examples of how the Agenda for Protection is being implemented at the operational level. Implementing the Agenda and thereby strengthening international protection has always been a multi-year programme. The challenge is how to maintain its momentum in the prevailing environment of “asylum fatigue”. One approach could be to make reporting on implementation a genuinely joint undertaking, not least because the Agenda is a common undertaking. A number of States have in the past reported on their implementation of the Agenda to the Executive Committee, whether on paper or orally. Building on this, a comprehensive progress report, for instance five years after the Agenda’s endorsement by the Executive Committee, could be drafted jointly, with UNHCR, States and NGOs producing a common overview of gaps, challenges and future directions.

72. The developments reported above can also be viewed in the context of the wider ongoing debate in the United Nations on threats, challenges and change.<sup>19</sup> Indeed, several of the Secretary-General’s recent recommendations for reform could significantly enhance the protection of the displaced. He has, for instance, urged States to “recommit themselves to supporting the rule of law, human rights and democracy”, to “embrace the ‘responsibility to protect’ as a basis for collective action against genocide, ethnic cleansing and crimes against humanity, and agree to act on this responsibly”, and to “commit themselves to protecting humanitarian space and ensuring humanitarian actors have safe and unimpeded access to vulnerable populations”. Such initiatives bear serious scrutiny by all interested in the protection of refugees and other persons of concern to UNHCR.

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<sup>18</sup> See <http://www.ineesite.org/standards/default.asp>.

<sup>19</sup> A/59/2005, Annex.