

UNHCR Contributions Report of the Secretary General on Ocean Affairs and the Law of the Sea August 2014

A. BACKGROUND AND TRENDS

Recurrent tragedies at sea¹ in 2013 and 2014 have brought the longstanding phenomenon of refugees, asylum-seekers, stateless persons and migrants risking their lives to make perilous sea journeys sharply into focus. Despite the dangers involved, these movements continue across the globe: in the Mediterranean, the Gulf of Aden and the Red Sea, the Caribbean, the Bay of Bengal and throughout Southeast Asia and the South Pacific.

In many regions, the numbers of people fleeing by sea appear to have significantly increased in 2013 as compared to 2012 and these numbers are further on the rise as evidenced in the first half of 2014. However along some sea routes, numbers may have decreased compared to previous years, but the incidence of violence, exploitation, abduction and trafficking en route or on arrival appears to be rising as do incidents of deaths at sea. Increased numbers of women and unaccompanied or separated children travelling irregularly by sea in some parts of the world are also cause for concern.

There have been notable positive efforts by States and regions to limit loss of life at sea, but also examples of practices that recall the need to ensure that responses to irregular sea movements do not take a form that jeopardizes access to protection by those who need it (see below).

B. GLOBAL INITIATIVE ON PROTECTION AT SEA AND REGIONAL ACTION

The UN Refugee Agency is consulting with a wide variety of stakeholders on a Global Initiative on Protection at Sea, which aims to support action that:

- Prevents loss of life at sea by reinforcing search and rescue and providing alternatives to dangerous sea journeys; and
- Promotes responses to maritime flight and distress at sea that do not impact adversely on access to international protection by refugees and asylum-seekers.

The Global Initiative calls for cooperation and responsibility sharing between coastal and non-coastal states alike, recognizing that the policies, practices and capacities of countries of departure, “transit” and “destination” all play a significant part in shaping the dynamics and drivers of sea movements and the availability of protection for asylum-seekers, refugees, victims of trafficking and others.

In Europe, UNHCR’s Central Mediterranean Sea Initiative (CMSI) has proposed a 12-point plan of practical measures, aimed at avoiding further deaths at sea in the Mediterranean.² UNHCR along with partners has organized several regional conferences in 2013-14 dealing with rescue- and protection-at-sea issues, including in the Bahamas,³ Indonesia,⁴ Thailand,⁵ and Yemen.⁶ Additional consultations are underway also in the Asia-Pacific, Caribbean and in the Horn and East Africa.

¹ Disasters at sea result in significant loss of life, among many others, near Libya, the Italian island of Lampedusa; in the Aegean Sea; off the coasts of Libya, Somalia and Djibouti; near Myanmar and Bangladesh; in the Bahamas; and on Lake Albert in Uganda.

² UNHCR, *UNHCR Central Mediterranean Sea Initiative (CMSI): EU solidarity for rescue-at-sea and protection of refugees and migrants*, 13 May 2014, <http://www.refworld.org/docid/538d73704.html>

³ Caribbean Regional Conference on the Protection of Vulnerable Persons in Mixed Migration Flows, held in Nassau in May 2013 (Summary Report available at: <http://www.refworld.org/docid/51e3c0384.html>).

⁴ Regional Roundtable on Irregular Movements by Sea in the Asia-Pacific Region, held in Jakarta in March 2013 (Co-Chairs' Summary available at: <http://www.refworld.org/docid/51e3bcfe4.html>); Special Conference on the Irregular Movement of Persons, held in Jakarta in August 2013 (“Jakarta Declaration” available at: <http://www.refworld.org/docid/530db94f4.html>); International Workshop on the Protection of Irregular Movements of Persons at Sea, held in Jakarta in April 2014.

⁵ See UNHCR, *Co-Chairs' Summary: "Mapping Disembarkation Options: Towards Strengthening Cooperation in Managing Irregular Movements by Sea," 3-4 March 2014 Bangkok, Thailand*, 4 March 2014, <http://www.refworld.org/docid/5343abe64.html>.

C. HIGH COMMISSIONER'S DIALOGUE ON PROTECTION AT SEA⁷

The UNHCR High Commissioner's Dialogue on Protection Challenges – which takes place annually and brings together States, non-governmental and intergovernmental organizations, the academic community and other stakeholders – will be on the theme of *Protection at Sea* in December 2014, and will provide an opportunity to develop a broad consensus on rescue at sea, disembarkation arrangements and responsibility sharing, and to craft comprehensive approaches to the protection of asylum-seekers and refugees at sea.

D. DISTRESS AND RESCUE AT SEA

The strong seafaring tradition and international legal obligations of rescue at sea command wide respect among shipmasters and States. However, the continued high rates of death and disappearances at sea globally indicate that more needs to be done to reinforce search-and-rescue capacity and to enable data gathering and analysis for improved understanding of the scale of the issue.

Nearly 43,000 asylum-seekers, refugees and migrants made the dangerous crossing to Italy in 2013. At least 700 never made it, perishing or missing at sea. In 2014 until July alone, half the arrivals of nearly 100,000 persons in Italy include refugees from Syria and Eritrea while a total of 124,380 persons have arrived irregularly by sea across the Mediterranean to Greece, Italy, Spain and Malta. In South-East Asia 87,000 estimated irregular maritime departures have taken place from the Bangladesh-Myanmar border in the past two years with over 200 possible deaths at sea in 2014 alone⁸, in addition to the 600 deaths during risky boat journeys in the Asia-Pacific region in 2013. In the Gulf of Aden nearly 40,000 persons have arrived through the seas in Yemen in the first half of 2014 with over 130 reported dead during the sea journey.

2014 has seen even higher numbers of Mediterranean crossings and has been similarly beset by tragedies at sea, with at least 1880⁹ people thought to have lost their lives in the Mediterranean and Aegean Seas, with 1600 deaths between June and August 2014. Italy's "Mare Nostrum" operation, which reinforces patrols and rescue capacity in the Mediterranean Sea in order to prevent loss of life, has led to the rescue of around 109,277¹⁰ people since its inception in October 2013, following the Lampedusa tragedy in which some 360 people lost their lives.

Stable and predictable post-rescue arrangements for safe disembarkation, processing and securing long-term solutions for people with protection needs are fundamental for ensuring timely rescue. The resettlement and burden-sharing efforts of non-coastal states play a vital role in protection at sea, in the Mediterranean and elsewhere. The Model Framework for Cooperation following Rescue-at-Sea Operations, adopted at the 2011 Djibouti roundtable,¹¹ provides a useful model for technical cooperation at the regional level. UNHCR has worked consistently to support states in the development of national, regional and global initiatives that enhance protection at sea.

E. INTERCEPTIONS

There are concerns at the continuing and in some instances increased use of "pushbacks", "tow backs" or other forms of maritime interdiction by some States in the Asia-Pacific, the Mediterranean and Aegean Seas, and the Caribbean. These practices risk endangering life at sea or result in the return

⁶ Regional Conference on Asylum and Migration, held in Sana'a in November 2013 ("Sana'a Declaration" available at <http://www.refworld.org/docid/530483644.html>).

⁷ For the High Commissioner's Dialogue on Protection at Sea (December 2014) see <http://www.unhcr.org/pages/5357caed6.html>

⁸ South-East Asia: Irregular Maritime Movements (Jan-June 2014) at <http://www.unhcr.org/53f1c5fc9.html>

⁹ Figures are as of 26 August 2014

¹⁰ Figures are as of 29 August 2014

¹¹ See Annex 1 of UNHCR, *Refugees and Asylum-Seekers in Distress at Sea - how best to respond? Summary Conclusions*, 5 December 2011, <http://www.refworld.org/docid/4ede0d392.html>.

of people travelling by sea to places where their lives or freedom may be threatened, in breach of the *non-refoulement* principle. The use of interceptions to shift burdens or frustrate the ability of asylum-seekers, refugees and stateless persons to seek safety and protection are also concerning.

F. UNHCR POLICY GUIDANCE AND OTHER DEVELOPMENTS

UNHCR has recently issued policy guidelines on “temporary protection or stay arrangements”¹² and on inter-State arrangements for the transfer of asylum-seekers¹³. Both of these are relevant to certain rescue-at-sea situations. Some recent external reception and processing arrangements for asylum-seekers travelling irregularly by sea in the Asia-Pacific are of concern, falling below the international standards that UNHCR has set out for such arrangements.¹⁴

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¹² UNHCR, *Guidelines on Temporary Protection or Stay Arrangements*, February 2014, <http://www.refworld.org/docid/52fba2404.html>.

¹³ UNHCR, *Guidance Note on bilateral and/or multilateral transfer arrangements of asylum-seekers*, May 2013, <http://www.refworld.org/docid/51af82794.html>.

¹⁴ *Ibid.*