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**ACTIVITIES OF THE UNHCR IN THE AREA OF INTERNATIONAL
MIGRATION AND DEVELOPMENT***

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The present note has been prepared by the Office of the United Nations High Commissioner for Refugees (UNHCR) for the Fourth Coordination Meeting on International Migration, organized by the Population Division of the United Nations Department of Economic and Social Affairs, in New York on 26 and 27 October 2005. It details UNHCR's recent work to further understanding of the effects of migration on economic and social development. Additionally, the note provides information on trafficking, as international cooperation to prevent and combat trafficking in persons is one the five roundtable topics proposed during the High-Level Dialogue on International Migration and Development in September 2006.

A. UNHCR'S INTEREST IN INTERNATIONAL MIGRATION AND DEVELOPMENT

1. *UNHCR's protection mandate*

UNHCR is not a “development agency” nor does it have a mandate regarding international migration. UNHCR's primary mandate is to provide protection and find durable solutions for *refugees* - as defined in the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol. UNHCR also exercises its mandate for protection and solutions in relation to other *persons of concern*, including: *asylum-seekers* (those who have submitted or intend to submit a claim to refugee status); *returnees* (former refugees who have returned to their country of origin) *stateless people* (those who lack an effective nationality and who have been deprived of the usual rights of citizenship in their country of habitual residence – though they may well remain in that country) and *internally displaced persons* (IDPs).

The majority of countries hosting large refugee and IDP populations rank at the lowest levels of the Human Development Index. Refugees are hosted in the poorest and most remote parts of many States, occasionally too close to international borders, and must often compete with local communities for the basics of life. UNHCR has been charged by the General Assembly and the Executive Committee of the High Commissioner's Programme with playing a catalytic role in seeking to encourage development-related investments in refugee and returnee-hosting areas, also benefiting local communities, as a means to encourage self-reliance while in exile and prepare for the durable solutions of voluntary repatriation, local integration and resettlement. Development issues are thus increasingly important for UNHCR's work.

2. *The link between asylum and migration – the “asylum-migration nexus”*

In recent years, UNHCR's interest in international migration and development has been reinforced by the emergence of a growing debate around the “asylum/migration nexus”. This concept is used to describe the phenomenon whereby refugees and other migrants move from the poorer and less stable parts of the world, usually by irregular or illegal means, so as to seek asylum and/or take up residence in more prosperous and secure regions. Given the lack of legal entry possibilities resulting from tighter migration and security-related controls, resort to people-smugglers is a growing feature. To ensure that refugees and asylum-seekers continue to enjoy the right to seek asylum set out in the 1951 Refugee Convention and its 1967 Protocol, and do not become entangled in the growing web of migratory controls and sanctions against those being smuggled, UNHCR has been obliged to focus sharper attention on the relationship between refugee protection, international migration and development.

a. Refugees are not migrants

Refugees are not “migrants” in the lay sense of the word. They move through compulsion, not on the basis of meaningful choice. Their immediate objective is to seek protection from persecution, or from generalized violence. They are not primarily seeking a “migration outcome”. Refugees are, because of their precarious security situation and because of the absence of national protection in their own countries, the recognized beneficiaries of a number of clearly articulated and internationally endorsed rights. States have gone further in supplementing this legal regime of principles and rights with a host of “soft law” guidelines to ensure the proper treatment of refugees. Refugees are also entitled to benefit from the services of a United Nations agency, UNHCR, specifically created to address their protection problems and work with States to facilitate lasting solutions to their problems. In this sense refugees are an acknowledged and specifically catered for group, with an independent legal personality internationally recognized by at least the 146 States which are party to the 1951 Convention and/or its 1967 Protocol. Looking at the causes of flight together with the framework of rights and responsibilities within which the flight has to be managed, a clear distinction can be drawn between migrants and refugees.

b. The Global Consultations on International Protection and the Agenda for Protection

The main outcome of the UNHCR-sponsored Global Consultations on International Protection (2001-2002) is the Agenda for Protection, which was welcomed by the General Assembly of the United Nations and endorsed by the Executive Committee of the High Commissioner’s Programme in 2002. The Agenda for Protection is an ambitious but practical programme of action designed to improve the climate for and the delivery of protection around the world. The Agenda’s six goals are interrelated and migration is one of several cross-cutting themes. Goal two, “protecting refugees within broader migration movements”, sets out a range of objectives and related activities to encourage better management of the interface between asylum and migration. The ultimate aim is to ensure that people in need of protection find it; people who wish to migrate have options other than improper resort to the asylum channel, and smugglers are prevented from reaping criminal profit from illegal and dangerous manipulation of the entry possibilities afforded by the asylum channel.

c. Achieving durable solutions – better targeting of development aid

UNHCR’s strategies and programmes relating to durable solutions have shifted markedly towards encouraging refugees to develop their own self reliance capacities and have a say in solutions to their own problems. Empirical work illustrates that self-reliance in exile supports refugees’ reintegration upon repatriation and that self-reliant refugees are the first to go home to participate in the rebuilding of their home country.¹ UNHCR has advocated with States, through the Convention Plus initiative launched in 2002 pursuant to the Agenda for Protection, to include refugees and the uprooted in broader development-based strategies both in countries of asylum and in countries of origin, after return. Processes, such as national poverty reduction strategies that focus on the active participation and community empowerment of groups who are vulnerable to poverty, can be used more effectively to achieve this goal. UNHCR is working with partners such as Japan, Denmark, UNDP and the World Bank, to bridge the gap between short term humanitarian programmes and longer term development initiatives.

Too often, however, the needs of refugees, returnees and IDPs continue to be seen solely as a “humanitarian” issue. Although the Millennium Declaration contains specific references to refugees and related burden-sharing arrangements, the Millennium Development Goals and their indicators, for

¹ Bakewell, Oliver (2000), ‘Repatriation and Self-Settled Refugees in Zambia: Bringing Solutions to the Wrong Problem’, *Journal of Refugee Studies*, Vol. 13, #4 2000, p. 371-372

example, give scant attention to people forcibly displaced within and across countries. Neither do the Common Country Assessment/UN Development Assistance Framework (CCA/UNDAF) systematically take into account the longer-term needs of forcibly displaced populations and of the host communities. Likewise in the transition from relief to development following conflict situations, the sustainability of the voluntary return of refugees and IDPs depends largely upon whether their needs are being included into the reconstruction efforts and self-sufficiency is promoted.

The search for durable solutions for refugees and other forcibly displaced people should commence at the outset of a crisis and should be incorporated more systematically into local, national and regional planning instruments. In recent years, considerable efforts have been made to link humanitarian and development partners more effectively. Whereas in the past, the focus was on ways in which to facilitate the transition from relief to development by 'handing-over' programmes, the emphasis is now on 'integrating' activities with development partners.

B. UNHCR'S ACTIVITIES IN RELATION TO INTERNATIONAL MIGRATION AND DEVELOPMENT

UNHCR joined the United Nations Development Group in early 2003 and seeks to be an active participant and contributor. UNHCR has continuously raised issues of displacement within the group. After undertaking a review of selected Common Country Assessments (CCA) and UN Development Assistance Frameworks (UNDAF) and on that basis concluding that durable solutions for displaced populations had been approached in an ad hoc manner, the undg finalized and approved a *Guidance Note on Durable Solutions for Displaced People* in late 2004². With the Guidance Note the UN development actors have for the first time adopted a common policy on durable solutions for displaced persons and on how to incorporate them into joint development planning and implementation strategies.

On an operational level and in close cooperation with its partners, UNHCR has developed the *Framework for Durable Solutions for Refugees and Persons of Concern*.³ The Framework consists of three tools: Development Assistance for Refugees (DAR); the 4Rs (Repatriation, Reintegration, Rehabilitation, and Reconstruction); and Development through Local Integration (DLI).

UNHCR is engaged in a variety of activities which address the relationship between international migration and development. These include:

- Promoting self-reliance (and, with host-country consent, local integration) amongst refugee populations in countries of asylum, in partnership with host governments, development actors and bilateral donors. The “Zambia Initiative” (in areas populated by Angolan refugees) and the Uganda Self-Reliance Strategy (in areas populated by Sudanese refugees) provide two examples of this approach.
- Facilitating the return and sustainable reintegration of refugees and internally displaced people who are going back to their country and communities of origin, and ensuring that UNHCR's relatively short-term reintegration programmes are linked to longer-term reconstruction and development efforts. UNHCR programmes of this nature can be found in countries such as Afghanistan, Eritrea, Sierra Leone and Sri Lanka.

² The Guidance Note is linked to the 2004 Guidelines on CCA and UNDAF

³ Executive Committee of the High Commissioner's Programme, Standing Committee, 28th meeting, EC/53/SC/INF.3, 16 September 2003.

- Promoting the realization of the Millennium Development Goals: In the context of the Convention Plus initiative, UNHCR prepared a note entitled *Putting Refugees on the Development Agenda: how refugees and returnees can contribute to achieving the Millennium Development Goals*⁴. It seeks to illustrate how a targeted development approach towards areas and communities hosting refugees, returnees and internally displaced persons can enable those communities to make decisive contributions towards attaining the MDGs. The paper was welcomed by States, NGOs, UN agencies and the World Bank in meetings in April and May 2005 in Geneva. On the basis of the positive feedback received, UNHCR presented to its Standing Committee a revised version of the note, entitled *Relevance of UNHCR's Activities to the Millennium Development Goals*⁵
- Participation in the OECD's Development Assistance Committee: In 2003, UNHCR joined the OECD-DAC Network on Conflict, Peace and Development as an observer. As transition issues and targeting development assistance towards situations of forced displacement do not feature high on the DAC's agenda, UNHCR, in collaboration with the Japanese International Cooperation Agency (JICA), is presently drafting a 'tip sheet' on refugees, returnees and IDPs providing guidance on programming to field staff. Also, UNHCR is completing a study of the two sets of DAC Guidelines: *Helping Prevent Violent Conflict* and *Poverty Reduction*. The studies will examine the guidelines' inclusion of displaced populations and their perception of displaced populations. The preliminary findings indicate that the DAC Guidelines on *Helping Prevent Violent Conflict* thoroughly address the issue of returnees but that neither of the two guidelines sufficiently addresses the issue of refugees. While the *Helping Prevent Violent Conflict* consider returnees as an important factor for reconstruction and development in post-conflict situations, both sets of guidelines reflect the stereotypical perception of refugees as a burden and an obstacle for development and poverty reduction and they do not embrace refugees as development actors who have a potential to contribute to and maximize poverty reduction.
- Disseminating best practices when it comes to targeting development assistance: In the framework of its Convention Plus initiative, UNHCR has prepared an *Issues Paper on Targeting of Development Assistance* and a *Statement of Good Practice on Targeting Development Assistance for Durable Solutions to Forced Displacement*. The Statement was the subject of discussion in a meeting convened by UHCR in Geneva in April 2005 and again at a meeting of the High Commissioner's Forum in May 2005. UNHCR is now working with States participating in the Convention Plus initiative on an agreed text on best practices in targeting development assistance for durable solutions for the uprooted.
- Collecting, analyzing and disseminating trends on global forced displacement on a regular basis: The available data do not only allow for detailed monitoring from a host-country perspective (population size, movements, legal status, characteristics, etc.), but also present a global picture of displacement for each nationality. A unique picture of the locations, size and composition of refugee communities and other persons of concern is thus updated and made available on a regular basis. UNHCR's statistics can accessed through www.unhcr.org/statistics. The Office also continues to build capacities to collect, compile and analyze refugee and asylum statistics through registration support, statistical training, technical missions and participating in intergovernmental and expert meetings and conferences.
- Sponsoring surveys on the irregular movements of asylum-seekers and refugees: As part of the Convention Plus initiative, South Africa and Switzerland co-chaired a Core Group (of States, NGOs and international organizations) on the Irregular Secondary Movement of Asylum-Seekers and Refugees, which sought to identify the reasons for the onward movements of asylum-seekers and

⁴ FORUM/2005/4 [www.unhcr.ch]

⁵ EC/55/SC.INF 1 of 13 September 2005, available at UNHCR website on www.unhcr.org

refugees from first countries of asylum and possible State responses thereto. The Core Group's work was informed by a September 2005 survey of the irregular secondary movements of Somali refugees and asylum-seekers carried out by the Swiss Forum for Migration and Population Studies. One of the main conclusions of the study is that irregular secondary movement is a "rational coping mechanism" for asylum-seekers and refugees who cannot access effective protection in countries of first asylum. The study identified the following broad motivations for onward movement and recommended closer international cooperation specifically focusing on secondary movement to address the root causes thereof:

- ✓ lack of or inadequate knowledge about the availability of asylum, about asylum procedures and/or about the presence and role of UNHCR;
 - ✓ lack of access to UNHCR;
 - ✓ difficulties in accessing an asylum procedure that is fair, efficient and gender- and age-sensitive;
 - ✓ difficulties in accessing registration, either as an asylum-seeker or a refugee, and obtaining corresponding documentation, which is either not made available or not recognized systematically by the authorities;
 - ✓ difficulties for refugees in obtaining a secure legal status;
 - ✓ concerns regarding physical safety, stemming from a range of factors, including lack of security in camps or urban settings and sexual and gender-based violence;
 - ✓ harassment by law enforcement officials, including summary arrest and arbitrary detention, and the risk or threat of *refoulement*;
 - ✓ precarious living conditions (whether in camps or urban areas), when it comes to housing, subsistence support, and access to basic services such as health care;
 - ✓ limitations on freedom of movement, including confinement to camps and restrictions regarding the place of settlement, which in turn limit access to opportunities for employment, self-reliance activities and education;
 - ✓ prohibition of or restrictions on gainful employment;
 - ✓ absence of education, self-reliance and employment opportunities;
 - ✓ limited or no prospects of, as well as unequal access to durable solutions, particularly in protracted refugee situations;
 - ✓ deterioration of conditions of stay and treatment over time;
 - ✓ the desire of refugees and asylum-seekers to reunite with family members; and
 - ✓ the desire of refugees and asylum-seekers to improve their economic situation.
- Launch of the Geneva Migration Group: The High Commissioner has been instrumental in the creation of Geneva Migration Group, which brings together the Heads of five UN agencies (UNHCR, ILO, OHCHR, UNCTAD, and UNODC) and IOM, to exchange information; agree upon common positions, responses and actions; and promote greater policy coherence in their migration-related activities.

A number of lessons can be drawn from UNHCR's involvement in international migration and development. First, the international community's efforts to address the issue of international migration and development must take account of and further foster an appropriate normative and legal framework, building on existing instruments such as the 1951 Refugee Convention and key human rights instruments. Second, there is a continuing need to bridge the gap that has traditionally existed between short-term humanitarian programmes and longer-term development initiatives, both in refugee-hosting countries and in countries of origin. UNHCR's *Framework for Durable Solutions for Refugees and Persons of Concern* provides a basis upon which to forge closely links to development actors, especially in post-conflict situations. Third, to bridge this gap, joint planning and programming is required between humanitarian and development organizations. There is also a need to tap both transitional and complementary sources of funding. Fourth, every effort must be made to ensure that the refugees, returnees and other

international migrants can effectively exercise their productive capacities, thereby enabling them to contribute to the development of the countries and communities in which they reside.

C. INTERNATIONAL COOPERATION TO PREVENT AND COMBAT TRAFFICKING IN PERSONS

1. Linkages between asylum and trafficking

Trafficking in human beings has been a source of growing concern for UNHCR. Over the last few years trafficking has come to the fore as a serious human rights concern. As a result of measures taken by States to tighten their immigration controls and to reform their asylum systems, people may turn to smuggling channels as the only feasible means to find safety and in doing so they may find themselves falling prey to trafficking rings. UNHCR has consistently emphasized the importance of maintaining adequate legal channels of access as an important component of broader anti-trafficking and anti-smuggling strategies. It was in this context that the issue was highlighted and considered during the Global Consultations on International Protection and found its reflection in the Declaration of States Parties adopted by the Ministerial Meeting of States Parties to the 1951 Convention and its 1967 Protocol held on 12-13 December 2001.⁶ The objectives of the Agenda for Protection includes an encouragement to strengthen international efforts to combat trafficking and smuggling, notably through the promotion of accession to the 2000 UN Convention Against Transnational Crime and its Supplementary Protocols. In addition States are encouraged to ensure that their asylum processes are open to receiving claims from individuals who have been trafficked, especially women and girls who can base their claim to asylum on grounds which are not manifestly unfounded.

2. The rationale for UNHCR's interest in trafficking

The rationale for UNHCR's interest in the issue of trafficking is essentially two-fold. First, refugees, especially refugee women and children, are particularly vulnerable targets for trafficking rings. A lack of access to legal integration possibilities in host communities has seen refugee women agreeing to take low-paid jobs in the host community or opting for what appear to be more lucrative employment opportunities abroad only to fall victim to traffickers and exploitative situations, including being victims of forced prostitution and sexual slavery. It has also been observed that trafficking rings and their activities flourish in armed conflict and other situations of insecurity and chaos. Second, some trafficked women may, in fact, be considered refugees under the definition contained in the 1951 Convention and its 1967 Protocol, as a result of the trafficking experience and the inability or unwillingness of their country of origin to provide protection against such harm.

3. UNHCR activities in relation to trafficking

Among examples of inter-agency cooperation relating to trafficking are the provision of consolidated comments and the adoption of a common negotiating position with respect to the Council of Europe Convention on Action against Trafficking in Human Beings, and support to the newly created mandate of the Special Rapporteur on the Human Rights of Victims of Trafficking, Especially Women and Children. This mandate was created by the Commission on Human Rights in 2004. UNHCR has subsequently offered practical support to the Special Rapporteur during her field missions to Bosnia and Herzegovina and to Lebanon.

⁶ The Declaration was adopted by consensus by 141 State parties participating in the Ministerial Meeting. A reference to trafficking and smuggling is found in preambular paragraph 6.

At a policy level, UNCHR has strived to make appropriate contributions to broader initiatives aimed at addressing trafficking by maintaining active participation in a number of relevant inter-agency fora. UNCHR is an active participant in the IGO Contact Group on Human Trafficking and Smuggling (co-ordinated by the OHCHR). This forum has allowed for regular exchange of information on trafficking and smuggling as it affects the individual mandates of the participating organisations and provides a platform for enhancing inter-agency cooperation on policy development and concrete actions such as the development of guidelines, training materials and other practical measures. UNHCR has also contributed to the drafting and follow up to the Action Plan to Combat Transnational Organised Crime, prepared by ODC and endorsed by the CEB.

Some practical activities carried out by different UNHCR offices in the field are mentioned below, to illustrate more concretely the array of issue around which the exercise of UNHCR's refugee protection mandate relates to trafficking and smuggling:

- Information campaigns undertaken independently or in conjunction with other concerned actors to raise awareness within refugee populations of the risks of irregular migration (including trafficking and smuggling);
- Efforts to improve the quality of protection in first countries of asylum as a means of reducing the pull factors that drive onward secondary movement which is often characterised by trafficking and smuggling, e.g. UNHCR's Convention Plus initiative which is exploring, inter alia, the dynamics of secondary movement of refugees. As part of this initiative, UNHCR is implementing a "Strengthening Protection Capacities Project" in selected African countries, with the support of the European Union and EU Member States, as a means to address the root causes of secondary movements, while improving protection, including assistance, provided to asylum-seekers and refugees;
- Commissioning of and/or funding support to research projects of direct relevance to trafficking in refugee settings;
- Advocacy with States, including through the provision of technical advice on related legislation and practice, to ensure access of trafficked and smuggled persons to refugee status determination procedures, as appropriate;
- Involvement, usually as part of broader inter-agency initiatives, in referral and support mechanisms designed to respond to the protection and assistance needs of victims, e.g. pre-screening and referral mechanisms established in Albania to address the differing needs of asylum-seekers, refugees, stranded migrants and victims of trafficking;
- Inclusion of trafficking and smuggling related materials in a range of internal training activities, to increase the capacity of UNHCR staff members to respond to these issues within the context of the Office's refugee protection mandate; and
- Active participation in a range of external training events to ensure that refugee protection concerns are given due weight and attention in the context of criminal justice responses designed to combat criminal activities associated with trafficking and smuggling.

D. INSTITUTIONAL MECHANISMS TO ENHANCE INTERNATIONAL COOPERATION FOR THE BENEFIT OF COUNTRIES AND MIGRANTS ALIKE

UNHCR believes that the United Nations can play a valuable role in addressing the issue of international migration by ensuring more effective coordination of the many United Nations agencies and other international actors that are active in this area. The United Nations should also seek to bridge the gap that exists between countries of emigration and immigration, and ensure that an informed public and political debate take place on issues relation to migration and development. The United Nations and its member agencies have a comparative advantage that they should exercise in relation to the collection, compilation and analysis of statistical and other data relating to international migration and development.

The October 2005 report of the Global Commission on International Migration provides a wide-ranging analysis of key migration issues. It stresses that migration and related policies must be based on shared objectives and a common vision. The report highlights key aspects of the linkages between migration and development, pointing out that migrants contribute to development and poverty reduction, through re-investment of their skills and through the scale of their remittances to developing economies. The report also highlights the challenges in achieving the integration of migrants, enabling them to contribute to their full potential within their host communities. The proposal that the Secretary-General establish an inter-agency Global Migration Facility to ensure greater co-ordination, efficiency and policy consistency among all relevant global bodies, fostering the sharing and pooling of institutional expertise is one which calls for the attention of all UN agencies. Increased efforts on the part of the UN will be required to consolidate and build upon the various initiatives of recent years and the 2006 General Assembly High Level Dialogue on International Migration will be an important milestone in this process.