

COUNTRY OPERATIONS PLAN

Country: Cambodia

Planning Year: 2003

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Part I: Executive Committee Summary

(a) Context (Beneficiary Population(s) and Theme(s))

Cambodia is currently enjoying a period of peace which started in December 1998, after thirty years of internal war. The peace and relative political stability has opened opportunities for the Royal Government of Cambodia to focus on political reforms and economic development, driven to a large extent by the international community, which provides for more than 50 per cent of Government income. However, the still fragile rule of law and weak administration hampered development efforts and prevent sustainable private investments. After substantial delays, primarily caused by legislative efforts, the first ever communal elections were held in February 2002. The elections were concluded with the victory of the Cambodian People's Party (CPP), which has consolidated its rule throughout the country. Despite allegations of political intimidation and violence against activists from parties other than the ruling party, a vocal opposition exists and is, at least in Phnom Penh, free to express its views. General elections are again due late 2002.

Cambodia is still in the process of rebuilding its legal system and administrative structures. The Government continued to draft and adopt laws at a high pace, many of which many were of fundamental nature, though the implementation remained erratic. Within the broader Cambodian context, where basic structures are still to be established, some legal areas, such as refugee and asylum legislation were, until recently, considered less essential and consequently received limited attention.

Although the overall security situation in Cambodia has improved since 1998, land mines continue to pose a threat to the mainly rural population. However, demining and mine awareness efforts have had an impact, and a clear trend in the reduction of mine accidents is being observed. Despite attempts by the Government to combat crime, gunpoint robberies and immunity is widespread. Years of war left illegal weapons held in the hands of many. Concerted efforts by the Government to reduce the number of illegal guns did not result in a substantial reduction of crime.

A total of 83 urban cases (115 persons) seeking asylum approached the UNHCR Liaison Office in 2001, confirming an increase in the number of applicants which has been observed since 2000. While this increase may be attributed to the period of peace and stability that the country has enjoyed, many asylum seekers cite the country's liberal visa practice on arrival for non-Indochinese nationals. Most non-Indochinese asylum seekers arrive through Phnom Penh airport where they can easily obtain an entry visa, while those Vietnamese asylum seekers who do not make *sur place* applications often travel by road into Cambodia without travel documents. However, there is a growing concern by the Government that Cambodia could easily become a transit country for illegal migrants. In June 2001, the Cambodian police, receiving technical assistance from the Government of Australia, arrested 231 individuals who entered Cambodia legally by air and were attempting to leave the country and reach Australia by boat.

In February 2001, protests by ethnic minorities ("Montagnards") over land claims and religion in Viet Nam's central highlands led to an influx into Cambodia Northeast of several groups in search of protection. In April, a group of 38 Montagnards were resettled in the United States. Starting in May, other Montagnards crossed into Cambodia's Monduliri and Ratanakiri provinces. Despite Government pledges that the Montagnards would be granted asylum in the country until durable solutions had been found, deportations of several groups scattered in the two provinces were reported. UNHCR initiated simplified refugee status

determination procedures to ascertain asylum claims. In August 2001, it was determined that the cases qualified as UNHCR persons of concern.

Cambodia is a signatory to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, but the Government does not have procedures in place to undertake status determination, the means to provide assistance to refugees and asylum seekers, nor the capacity to identify and implement durable solutions. UNHCR is therefore carrying out refugee status determination for those individual cases who apply for asylum. Until the arrival of Montagnard asylum seekers, refugees recognised by UNHCR were allowed to remain temporarily in the country with the approval of the Ministry of Interior and were generally granted the right to obtain travel documents. The *refoulement* of refugees did not occur. The Government's permissive approach towards asylum has changed in the recent months, characterised by numerous restrictions on asylum.

Despite the Government's assurances that asylum would be extended to Montagnards in Cambodia, protection was in practice limited to two sites operated by UNHCR while about 250 Montagnard asylum seekers were deported in 2001, including a family of seven in possession of documents confirming that they were persons of UNHCR's concern. In January and February 2002, UNHCR received credible reports regarding the deportation of a group of 34 Montagnards and was able to witness the deportation of another group of 63 asylum seekers from Viet Nam's central highlands.

After the signature of a Tripartite Agreement in Phnom Penh between UNHCR, the Vietnamese and Cambodian Governments in January 2002, initial hopes of facilitating the voluntary repatriation of some 1,000 Montagnards were dashed when agreement could not be reached with the Vietnamese authorities on continued access by UNHCR to the areas of return following the first voluntary return of 15 refugees. The tripartite agreement between Cambodia, Viet Nam and UNHCR was suspended in March 2002 by UNHCR following a number of threats to refugees, UNHCR staff and continuing refoulement. Following the breakdown of the tripartite agreement, Cambodian authorities subsequently allowed for the resettlement of the 905 Montagnards still in Cambodia to the United States. While a solution was found for this group, it came at the cost of first asylum for subsequent Montagnard asylum seekers, as the Cambodian Government decided to close its border to any new arrivals from Viet Nam's Central Highlands. The Office also received credible reports of numerous instances of refoulement of new arrivals attempting to reach Cambodia. More recently, several arrests and deportation of recognised refugees were brought to the attention of UNHCR, confirming a general deterioration of the institution of asylum in the country.

In the past few years UNHCR pursued the local integration of Cambodian returnees and provided protection and material assistance for those cases seeking asylum in Phnom Penh. UNHCR reintegration activities were completed during 2001, when the UNHCR Liaison Office in Phnom Penh was preoccupied with the Montagnard situation. It is clear that the Montagnard experience will continue to have a major impact on UNHCR operations in the country.

In 2003, UNHCR will pursue two goals. The first goal in Cambodia will be to safeguard asylum. UNHCR Liaison Office in Phnom Penh will continue to discharge its mandate responsibilities and undertake refugee status determination. It will also provide international protection, material assistance and pursue durable solutions for refugees. The main challenge will be to ensure that the new Montagnard asylum seekers, who will most likely attempt to seek asylum in Cambodia, are identified and protected from forcible return to Viet Nam. The second goal will be to encourage and assist the Government to pass a national legislation and to establish a functioning asylum system in the country.

(b) Main Programme Goal(s) and Principle Objectives

Name of Beneficiary Population/Theme: Refugees, asylum seekers and other persons of UNHCR's concern	
Main Goal(s): Safeguard asylum in Cambodia	
Principal Objectives	Related outputs
<ul style="list-style-type: none"> • Asylum seekers have access to fair, efficient and effective asylum procedures • UNHCR has unhindered access to asylum seekers and refugees • The basic needs of refugees and other persons of concern to UNHCR are met without discrimination • Achieve durable solutions 	<ul style="list-style-type: none"> • Timely and high quality of decisions provided by RSD staff • Cambodian officials adhere to the principle of <i>non-refoulement</i> for all categories of asylum seekers. Officials discharge Cambodian obligations as a signatory to the Refugee Convention • Needs assessments are carried out and timely assistance is provided • Resettlement is promoted when required and in accordance with UNHCR standards; voluntary repatriation remains a valid option for the refugees

Name of Beneficiary Population/Theme: Refugees, asylum seekers and other persons of UNHCR's concern	
Main Goal(s): Asylum seekers and recognised refugees benefit from national legislation conforming to international standards	
Principal Objectives	Related outputs

<ul style="list-style-type: none">• Encourage the Government to pass national legislation on asylum • Assist the Government establish a legal framework for refugee protection and asylum	<ul style="list-style-type: none">• Key senior officials and parliamentarians lobbied• Organise visit to Geneva of senior Ministry of Interior officials and other Cambodian authorities• Technical assistance in reviewing draft national legislation is provided by UNHCR• Cambodian Refugee and asylum unit within the Ministry of interior is established• First instance decisions are taken by January 2004.
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