

# North America and the Caribbean

## Major developments

The United States made positive efforts to strengthen its refugee protection capacity through the creation of a new Refugee Corps to guide overseas adjudications for the purposes of resettlement and the continuing improvement of its procedures for unaccompanied and separated children. With regard to its asylum policy and programmes, however, challenges remain which affect the ability of asylum-seekers to access protection, partly as a result of the continuing preoccupation with national security. Reflecting the global trend in 2005, the number of asylum claims in the United States continued to decrease (just under 49,000 compared to over 56,000 in 2004).

In Canada, the consolidation of the Canada Border Services Agency (CBSA) was completed in 2005. The division of responsibilities between Citizenship and Immigration Canada (CIC) and CBSA was also finalized. The Government provided CBSA with resources to handle refugee-related matters at ports of entry. CBSA officials have progressively cooperated with UNHCR on issues of mutual concern. Refugees and others of concern to UNHCR figured prominently in Canada's new foreign policy statement, which was released in the spring of 2005. An important aspect of this policy is the intention to help restore the stability and economic

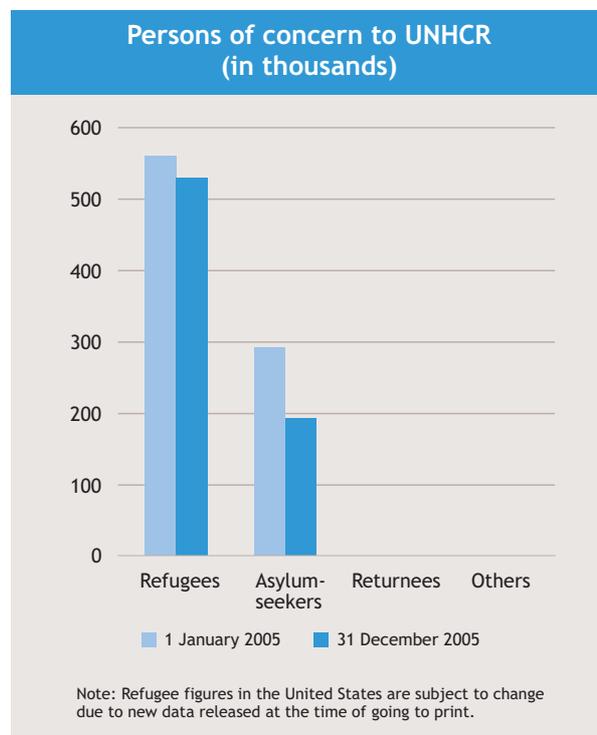
Antigua and Barbuda  
Bahamas  
Barbados  
Canada  
Cuba  
Dominica  
Dominican Republic  
Grenada  
Haiti  
Jamaica  
St. Kitts and Nevis  
St. Lucia  
St. Vincent and the Grenadines  
Trinidad and Tobago  
United States of America



development of States that are emerging from conflicts through an integrated diplomacy, development and defence policy framework.

Throughout 2005, UNHCR monitored the first year of implementation of the United States-Canada Safe Third Country Agreement, which entered into force on 29 December 2004. Based on a mutual understanding that each country will provide adequate refugee protection, the Agreement requires asylum-seekers who have transited through one country and lodged an asylum claim at the land border of the other to be returned to the “country of last presence”, unless one of the Agreement’s exceptions applies.

In 2005, the Caribbean suffered its most destructive hurricane season for many years. Governments were understandably preoccupied with contingency planning and relief efforts related to those events. Instability in Haiti and the threat of major population outflows due to political violence surrounding elections scheduled for 2005, continued to preoccupy UNHCR from the point of view of emergency preparedness. The elections were eventually rescheduled for early 2006, and no major outflows occurred. Significant numbers of Haitians arrived in Jamaica early in 2005, but the influx quickly declined over the course of the year. UNHCR provided advice to the Jamaican Government regarding the quick screening of such arrivals.



## Challenges and concerns

National security concerns tended to dominate the political debate in the United States, accounting to some extent for the somewhat limited interest shown in the special protection needs of refugees. Legislators called

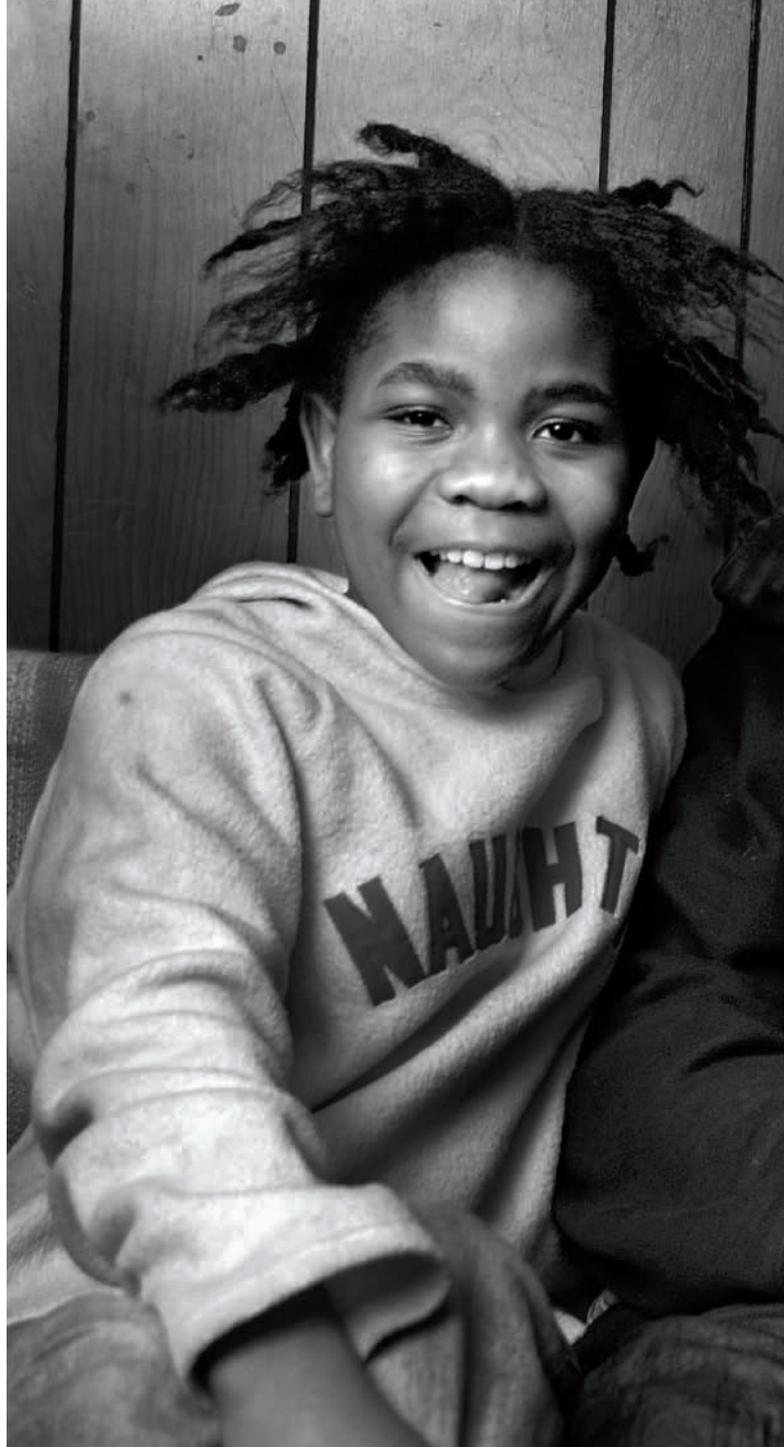
for improved border security measures and increasingly restrictive immigration laws. In this context, and because of concerns that the asylum system was vulnerable to abuse by terrorists, Congress passed legislation that further restricted access to United States asylum procedures. This legislation raised the burden of proof for asylum applicants and expanded automatic bars to asylum by further broadening the definition of terrorism and terrorist-related activity. The lack of clear guidance on the interpretation and application of this legislation led to unexpected delays and deferrals of a large number of UNHCR-referred resettlement cases to the United States, most notably among refugees from Myanmar and Colombia.

In Canada, the Government postponed its plans to overhaul the refugee system and to implement a legislative provision that would have set up the Refugee Appeal Division of the Immigration and Refugee Board. A series of negative media reports in early 2005 focused on problems in Canada's refugee system, including the failure to remove rejected asylum-seekers. Stories of abuse of the asylum system led to a hardening of public attitudes, according to research undertaken in the fall of 2005 by the Centre for Research and Information on Canada. Nonetheless, an opinion survey also conducted by the Centre around the same time indicated that there is still a powerful sense of openness in Canada toward immigrants, and by extension to refugees. The challenge for UNHCR and refugee advocates is to find ways to promote a more balanced view of asylum-seekers, and counteract their negative portrayal as "bogus" refugees or criminals.

While the Safe Third Country Agreement is generally being implemented in a satisfactory way, UNHCR has expressed concern on several occasions to government counterparts regarding the policy and the practice of "direct backs", which require asylum-seekers to return to the United States with an appointment for an eligibility interview at a later date, without determining whether or not they qualify for an exception under the Agreement. This practice could place asylum-seekers at risk of detention and removal from the United States.

## Progress towards solutions

Despite the challenges posed by measures related to national security concerns in the United States, there were a number of positive developments regarding legal aid and durable solutions. The United States Congress increased its funding of the Legal Orientation Programme for detained immigrants, which included refugees and asylum-seekers, from USD 1 million to USD 2 million. In another positive development, the United States Congress abolished limitations on the numbers of people granted



asylum who could become eligible each year for permanent residency. With funding from UNHCR's Goodwill Ambassador Angelina Jolie, the National Centre for Refugee and Immigrant Children was established to create a referral network of *pro bono* attorneys, to ensure legal representation for unaccompanied children. In 2005, the Centre recruited and trained over 400 attorneys, who have already represented over 100 children.

Support for UNHCR's resettlement priorities and programmes in the United States remained strong. With supplementary resettlement funding allocated by the United States Government, UNHCR exceeded its target of 20,500 refugee referrals to the United States. In total, UNHCR referred more than 25,000 refugees to the United States for resettlement consideration. This



USA: Somali Bantu refugees resettled in Utica, New York State. *UNHCR / V. Winter*

represents the highest number of UNHCR referrals to the country since the late 1980s. Moreover, the quick and positive response by the United States to UNHCR's emergency resettlement request for 450 Uzbeks facing serious protection problems in Kyrgyzstan was instrumental in finding a solution to this complex situation. Continued United States support for UNHCR's programmes was reflected in an additional contribution of USD 4.5 million for strengthening UNHCR's resettlement and related refugee status determination programmes. These efforts were complemented by the creation of a new Refugee Corps of officials who will be responsible for the adjudication of refugee claims overseas.

Canada achieved its overall government-assisted resettlement target for the year. In addition, a number of

dependent refugee family members were reunited through a variety of Canadian programmes with the assistance of UNHCR. The Government and UNHCR worked together to ensure that the resettlement programme reflected the highest standards in the referral and resettlement of refugees. In response to specific individual and group resettlement requests, Canada collaborated closely with UNHCR in determining appropriate protection and durable solution strategies.

Throughout 2005, UNHCR made several recommendations to the Government of Canada on various management and operational issues relating to asylum-seekers at land ports of entry. There were encouraging results in the coordination of refugee-related issues between UNHCR and the Government. UNHCR and several other

stakeholders were invited to provide advice to the newly created Canada Border Services Advisory Committee on matters that fall within their respective mandates and fields of experience. UNHCR also worked together with Canadian authorities to ensure that UNHCR guidelines on detention and other relevant international instruments and norms were followed. Regular visits to Canadian detention centres were made throughout the year and detention conditions were improved for immigration detainees, particularly in provincial jails.

In the Caribbean, UNHCR continued to develop its system of honorary liaison representatives, who play a key role in helping to maintain the right of individuals to seek asylum. Jamaica instituted an *ad hoc* refugee appeals tribunal to consider the appeals of a significant number of Haitians who had arrived in 2004 seeking asylum, but whose claims had been denied at first instance. In 2005, Trinidad and Tobago registered an increase in the number of asylum-seekers. UNHCR successfully completed refugee protection and refugee status determination missions and training sessions, and held a joint conference with the International Organization for Migration (IOM) to improve capacity-building efforts in the Caribbean.

## Operations

UNHCR's main activities and objectives in North America and the Caribbean fall broadly within three overlapping areas: maintaining high standards of refugee protection; contributing to the operation of large refugee resettlement programmes; and mobilizing public and governmental support for refugees as well as the work of UNHCR. During 2005, these objectives were pursued by working collaboratively with governmental and non-governmental counterparts and by engaging in public advocacy. During the year, UNHCR's offices in Canada and the United States also collaborated extensively on protection matters, in particular in the context of the Safe Third Country Agreement.

In the **United States**, UNHCR continued to coordinate with Government counterparts to conduct monitoring missions to detention facilities and ports of entry, working with the Government to improve certain detention facilities and border practices. The Office collaborated with a wide range of NGO partners to elicit information from the Field and advocate for an appropriate refugee policy and drafted advisory opinions on issues impacting refugee protection in the United States, such as exclusion from refugee status based on the "material support to a terrorist organization" bar to asylum and evolving asylum claims based on a particular social group. Other activities included training sessions on international refugee law for government officials, NGOs, *pro bono* attorneys

representing asylum-seekers and others; and liaison with key interlocutors in Congress and the Departments of State, Justice, Homeland Security, and Health and Human Services to promote international protection standards. To ensure increased awareness of international protection standards, UNHCR participated in the training of the United States Asylum Corps and the newly established United States Refugee Corps and sponsored a workshop for NGO resettlement deployees.

In **Canada**, UNHCR staff undertook monitoring visits to major ports of entry, particularly to land border-crossing points, to ensure compliance with international refugee law standards. According to official statistics, more than 99 per cent of asylum-seekers were admitted to the territory and to refugee status determination procedures. UNHCR observed dozens of Immigration and Refugee Board hearings throughout 2005 and provided findings and recommendations to the board in mid-December. In order to promote and improve cooperation on resettlement, the Office worked with Citizen and Immigration Canada in delivering a course for foreign service officers. The Office assisted the Refugee Sponsorship Training Programme through a national training forum for sponsorship agreement holders held in order to strengthen understanding, enable private sponsors to engage UNHCR more constructively and identify more effectively refugees for resettlement to Canada.

In the **Caribbean**, UNHCR launched a major contingency planning effort in States neighbouring Haiti. The launch of a biweekly briefing for key interlocutors in the Caribbean, and within UNHCR itself, contributed to a heightened awareness of the issues facing the region, notably with regard to Haiti. UNHCR continued to focus on protection capacity building with States in the Caribbean, including encouragement to accede to the international refugee instruments; adopt refugee status determination procedures which are fair and efficient; adopt domestic refugee legislation, setting out procedures and prescribing appropriate treatment for refugees; and ensure the development and constant updating of strategies to deal with potential mass arrivals.

## Funding

UNHCR was able to secure its coverage in the Caribbean through a minimum presence in Miami and Washington. However, the funding situation did not allow for the implementation of a systematic protection strategy that could maximize the impact of such presence. For instance, UNHCR was not able to offer training requested by immigration authorities in the Cayman Islands or undertake other capacity-building activities that would have contributed to opening the asylum space in this part of the region.

In the United States, USA for UNHCR raised more than USD 6,370,000 through a variety of sources including direct marketing, in-kind donations and corporate and foundation gifts. In Canada, the private sector fundraising initiative continued to grow. By the end of 2005,

more than 14,000 private donors had contributed to UNHCR since the initiative began in 2002. Income from these private sector donors was some USD 1 million in 2005.

Restricted voluntary contributions (USD)		
Earmarking <sup>1</sup>	Donor	Annual programme budget
<b>North America and the Caribbean</b>		
	Canada	74,380
	United States	1,780,000
<b>Sub-total</b>		<b>1,854,380</b>
<b>United States</b>		
	United States	99,820
	USA for UNHCR	250,000
<b>Sub-total</b>		<b>349,820</b>
<b>Total</b>		<b>2,204,200</b>

<sup>1</sup> For more information on the earmarking, please refer to the donor profiles.

Budget and expenditure (USD)		
Country	Final budget	Expenditure
	Annual programme budget	
Canada	1,472,481	1,327,559
Cuba	403,912	315,741
United States	3,323,845	3,296,749
UNHCR Office in New York <sup>1</sup>	2,509,519	2,509,519
Regional projects <sup>2</sup>	435,000	344,405
<b>Total</b>	<b>8,144,757</b>	<b>7,793,973</b>

<sup>1</sup> For a description of activities relating to the Office in New York, please refer to the Headquarters chapter under Executive Direction and Management.

<sup>2</sup> Includes refugee protection and capacity-building activities in the Caribbean.