UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/AC.96/992/Add.1
2 September 2004

Original: ENGLISH

EXECUTIVE COMMITTEE OF THE
HIGH COMMISSIONER'S PROGRAMME

Fifty-fifth session

PROPOSAL TO ESTABLISH AN ASSISTANT HIGH COMMISSIONER (PROTECTION) POST IN UNHCR

I. INTRODUCTION

1. With the growing complexity of humanitarian operations and the increasingly difficult environment in which the Office is obliged to fulfil its related international protection function, the High Commissioner believes that UNHCR's capacity to promote and fulfil its protection mandate needs to be strengthened through the creation of an Assistant High Commissioner (Protection) post, at the Assistant Secretary-General level, in the Executive Direction and Management of UNHCR. In making this proposal, the High Commissioner has the support of the Secretary-General.

2. The establishment of the post needs to be seen in the broader context of the High Commissioner's efforts to address more effectively and strategically the current challenges to international protection. In this regard, it consolidates his recent efforts in relation to developing the Agenda for Protection (A/AC.96/965/Add.1) and his work to strengthen the capacity of the Office of the High Commissioner for Refugees to carry out its mandate, as set out in his recent Report to the General Assembly (A/AC.96/980).

II. RATIONALE FOR THE PROPOSAL

3. The Ministerial Meeting Declaration of States Parties issued at the time of the 50th anniversary of the 1951 Convention relating to the Status of Refugees provided a framework for the Agenda for Protection. States reaffirmed "the fundamental importance of UNHCR as the multilateral institution with the mandate to provide international protection to refugees and to promote durable solutions". The Agenda recognizes the enduring importance of the 1951 Convention as the primary refugee protection instrument and states that the refugee protection regime should be developed further, as appropriate, in a way that complements and strengthens the Convention. It calls on States and UNHCR to promote better responsibility-sharing and to

develop and implement concrete models to strengthen protection capacities. Importantly, it presents UNHCR with the task to strengthen partnerships for protection and awareness raising with governments, NGOs, and other actors of civil society. The global objectives and strategic goals that provide the foundation for UNHCR's budget priorities closely follow the affirmations and exhortations of the Agenda for Protection.

4. The protection function of the Office has evolved considerably. It is a heavy and multifaceted responsibility and entails a wide range of actions; protection interventions to ensure rights are respected and principles adhered to; development of the international legal framework which put these rights in place; promotion of more resolute implementation of the framework of rights and principles; the building of civil society constituencies in support of protection; the training of all "users" on protection concepts; and the realization of protection-sensitive and lasting solutions. Very important, too, is UNHCR's supervisory role for the 1951 Convention, which finds its authority directly in the text (Art.35) of the Convention and underlines the global significance of UNHCR's protection performance.

5. The fulfilment of these protection responsibilities has become an ever more difficult task in light of significant changes in the environment in which the organization operates. Disillusionment on the part of many governments, and at the highest levels, with the capacity of States to manage their asylum responsibilities has resulted in curtailment of protection opportunities and in asylum being offered on ever more unfavourable terms. Illegal migration, growth in people smuggling syndicates, and the post-September 11 fallout have compounded the problems by confusing refugees and asylum-seekers, in the public mind and the policies of some States, with abusers of the system, criminals and terrorists. All this is coupled with a strong sense on the part of major host States that there is no good system of burden-sharing in place and that they are too often left with a disproportionate share of responsibilities which, in light of the protracted nature of many situations, they are less and less inclined to meet.

6. These developments pose enormous protection challenges for UNHCR, whose central *raison d'être*, set out in its Statute, is the provision of international protection and facilitation of solutions for refugees. This was reaffirmed most recently through the General Assembly Resolution (GA Res. 58/153) in response to the "UNHCR 2004" process that was initiated by the High Commissioner to review how UNHCR is situated within the United Nations system. This process made abundantly clear that the management of UNHCR needs to be strengthened in the area of protection, in particular, to enable it to meet considerable and growing responsibilities in this ever more complicated environment.

7. UNHCR's current senior management structure which directs a workforce of 6000 staff is firstly made up of two positions foreseen in the Statute of the Office, namely the High Commissioner and the Deputy High Commissioner; since 1995, the senior management structure has been expanded to include an Assistant High Commissioner (Operations; both of these last two positions are at the Assistant Secretary-General level. While the centrality of protection in the organization's mandate is reflected in the responsibilities of every UNHCR staff member, including senior management, the High Commissioner feels that this should be expressed more tangibly in the senior management structure. This point has also been raised on numerous occasions by government representatives, both through their statements to UNHCR's Executive Committee, as well as directly in bilateral contexts. In addition, the advocacy community does

not hesitate to express its view that UNHCR's protection voice would be considerably strengthened by bringing protection into the most senior levels of management. The establishment of a protection position at the ASG level would achieve this strengthening.

8. More specifically, the post of an Assistant High Commissioner (Protection), at the ASG level, would bring tangible benefits to UNHCR by:

- strengthening the voice and authority of UNHCR on protection, at a crucial time when the principles and the practice are both seriously under threat;
- ensuring that the office is an accepted and credible interlocutor at the most senior levels of political leadership, which is increasingly where decisions on asylum policy development are taken; this is particularly, but not exclusively, the case in Europe, as the European Union moves towards a harmonized and eventually common asylum system for Member States, and as the African Union assumes a greater role in relation to protection issues;
- allowing for the momentum on protection created by the Global Consultations process and the adoption of the Agenda for Protection to be capitalized upon, through some specific re-crafting of the international protection system around better burden sharing, more timely solutions and, in the interim, effective protection closer to the source of need;
- re-aligning the place of protection in the overall priorities of UNHCR and sharpening the focus on protection in operational planning;
- ensuring that the protection aspects of UNHCR's global objectives and strategic goals which direct the Office's budget prioritization process are pursued consistently throughout the organization.

III. EXECUTIVE OFFICE STRUCTURE

9. In seeking to give a more prominent place to the international protection function of the Office, the High Commissioner feels he has only one option, namely the creation of a post of Assistant High Commissioner (Protection) at the ASG level, which reports directly to him. In making this proposal, he is giving effect, in a slightly different form, to something that was also considered by the previous High Commissioner at the time of the last review of the Headquarters structure in 1999.[1] The difference in the present High Commissioner's proposal is that it situates protection in the heart of the Office's Executive Direction and Management.

10. It will be recalled that Chapter III of the Statute of the Office of the United Nations High Commissioner for Refugees (GA resolution 428(V), Annex) deals with the organization of the Office. In addition to the High Commissioner, it provides for one Deputy High Commissioner appointed by the High Commissioner; these posts are at the Under-Secretary-General (USG) and

[1] *UNHCR's New Headquarters Structure* (Briefing Paper, Geneva, 8 February 1999) para. 19: "with its [new] direct reporting line to the High Commissioner, the Department of International Protection will be well placed to influence the organization's policy-making and decision-making processes, ensuring that protection concerns are given the highest degree of priority in every UNHCR programme. To reinforce the importance placed on the protection function in the new headquarters structure, and in recognition of the responsibilities associated with the function, consideration is being given to pursuing a proposal that the post of the Director of International Protection be upgraded to the level of Assistant Secretary-General".

Assistant Secretary-General (ASG) levels respectively. The post of the Deputy High Commissioner, in addition to the normal functions that being Deputy implies, has assumed particular responsibility for those departments of UNHCR related to management. In the absence of the High Commissioner, the Assistant High Commissioners would report to the Deputy.

11. With the evolution of the work of the Office, and growth in the range and complexity of field operations, the then High Commissioner proposed the creation of a post of Assistant High Commissioner (Operations), at the ASG level, at the forty-sixth session of the Executive Committee.

12. In making the new proposal to create another ASG post for an Assistant High Commissioner for International Protection, the High Commissioner wishes to have in his senior management structure a position that, given the increasingly difficult environment in which the Office is obliged to work, will enhance UNHCR's capacity to promote and fulfil its protection mandate and its related advocacy function.

13. The High Commissioner is aware of, but does not concur with, the proposal of the JIU in its Report (JIU/REP/2004/4, Recommendation 1) that UNHCR should have two Deputies (by converting the existing Assistant High Commissioner to a Deputy post), and the JIU suggestion (para. 11 of the same Report) that there would be merits in having the Department of International Protection (DIP) under the new Deputy High Commissioner in charge of Programmes /Operations, instead of reporting directly to the High Commissioner.

14. The High Commissioner believes strongly that there are organizational benefits to having only one Deputy, as foreseen by the Statute. He has consulted with agencies similar to UNHCR and is convinced that a double deputy structure will result in an ambiguous chain of command and make it difficult to establish clear lines of accountability at the level of senior management. He proposes to present to the Executive Committee a senior management structure consisting of a Deputy High Commissioner and two Assistant High Commissioners, namely the Assistant High Commissioner (Operations) and the Assistant High Commissioner (Protection). It is his aim to create a unified and efficient management structure. The proposal that is being put forward has the support of the Secretary-General.

IV. TERMS OF REFERENCE

15. The post of Assistant High Commissioner (Protection), as part of the Executive Direction and Management of UNHCR, together with the Deputy High Commissioner and the Assistant High Commissioner (Operations), would assist the High Commissioner in the discharge of the Office's protection mandate.

16. The responsibilities of Assistant High Commissioner (Protection) would first and foremost be centred on raising the profile of the organization's protection mandate and capacity, externally as well as internally, and on setting policy parameters and guiding decision-making processes to ensure consistency therewith. The position would hence be vested with important external promotional responsibilities as well as with a policy direction and oversight function for better internal management of UNHCR's protection performance.

17. More specifically, the Assistant High Commissioner (Protection) would, within the Executive Office, advise and assist in the formulation of policy and strategies to realize the Office's protection mandate consistently and effectively. Thereby, the new position should help to ensure that protection principles and priorities are appropriately reflected in strategic planning, programme implementation, and evaluation at all levels and across the board in the Office's operations.

18. Externally, the Assistant High Commissioner (Protection) would represent the High Commissioner in pursuing and reinvigorating effective partnerships and strategic alliances in support of implementation of the Agenda for Protection, including within the United Nations system, with other international organizations, with NGOs and with civil society.

19. The Assistant High Commissioner (Protection) would directly supervise the Director of the Department of International Protection. In terms of division of responsibilities, the Director of the Department of International Protection would concentrate on the (time-consuming and human resource-intensive) day-to-day management of the Department of International Protection, in its responsibilities to develop legal doctrine, provide legal advice and day-to-day protection guidance for UNHCR operations, furnish protection information and ensure staff training and capacity-building efforts. The Assistant High Commissioner (Protection) post, for its part, would have the responsibility for policy development and "mainstreaming" the culture of protection externally and internally, ensuring that UNHCR performs effectively and with coherence, from a protection viewpoint, in all its endeavours.

20. By reconfiguring and restructuring existing resources, the High Commissioner would, simultaneous with the creation of the post of Assistant High Commissioner (Protection), create a small Policy Protection Unit directly under the new Assistant High Commissioner, and have the Resettlement function report directly to the same post.

V. RESOURCES

21. The establishment of an ASG-level position for protection would carry with it some additional resource requirements amounting to US$ 300,000 which would cover the post and related support costs (travel). Support staff, consisting of an Executive Assistant at the P4 level and a Secretary at the G6 level, would be drawn from existing resources.

UNHCR Headquarters as at 1 January 2005

