



UNHCR

United Nations High Commissioner for Refugees

Haut Commissariat des Nations Unies pour les réfugiés

Country Operations Plan 2007

PEOPLE'S REPUBLIC OF CHINA
(covering Mainland China, Hong Kong SAR,
Macao SAR and Mongolia)

2007 COUNTRY OPERATIONS PLAN FOR MAINLAND CHINA, HONG KONG SAR, MACAO SAR AND MONGOLIA

Part I: OVERVIEW

I.1. Protection and operational environment

UNHCR established its presence in Hong Kong and China in 1975 and 1979 respectively, in response to the influx of Indo-Chinese refugees from Vietnam. UNHCR's activities changed gradually over the 1990s, when some 300,000 ethnic Chinese refugees from Vietnam were settled locally on the Mainland, while the Comprehensive Plan of Action (CPA) neared completion in Hong Kong. UNHCR's focus then shifted to other groups of concern from the region and beyond. The shift in focus rendered the relationship between UNHCR and the government of China more demanding.

The rationale for UNHCR's continuing presence in the People's Republic of China, comprising of Mainland China and Hong Kong Special Administrative Region (SAR), is not only motivated by the caseloads mentioned above. As a signatory to the 1951 Convention and its 1967 Protocol¹, a prominent member of the United Nations and an ever more influential actor in the region and beyond, China is an important interlocutor for UNHCR in the region notably on refugee-related issues.

Given this political context, the UNHCR's activities have multiple facets: it provides protection and assistance directly to individual asylum seekers and refugees; monitors and advocates for compliance with the obligations under the 1951 Convention; works towards the provision of a 'humanitarian space' for North Koreans in China; and seeks to build and/or strengthen national capacity on asylum issues by advising on the development of national refugee regulations.

UNHCR opened its Liaison Office in Mongolia in 2003 upon the request of the government. Mongolia is not a signatory to any of the refugee instruments and promoting accession to these instruments as well as developing appropriate national standards for the treatment of asylum seekers and refugees are the rationale for a UNHCR presence in Ulaan Baatar.

Hong Kong SAR continues to remain non-party to the 1951 Convention and the 1967 Protocol. There are (interim) asylum laws regulations while asylum seekers and refugees are considered illegal aliens. UNHCR, under its mandate, remains solely responsible for refugee status determination as well as the identification of durable solutions, in practice third country resettlement. UNHCR also provides assistance to the

¹ China acceded to these instruments on 24 September 1982, but has no national legislation that effectively implements the provisions of the 1951 Convention and the 1967 Protocol.

most vulnerable refugees which is costly given the high standard of living in Hong Kong.

During 2006, however, some positive developments have occurred. For the first time since the end of the CPA and following UNHCR's severe budgetary constraints in May 2006, the Hong Kong government is providing basic assistance on a case-by-case basis to the most vulnerable asylum seekers. Where possible, UNHCR will continue to provide basic financial assistance to refugees until the Hong Kong government is gradually able to assume full responsibility for the care and maintenance of refugees.

In Macao SAR, still very few asylum applications have been received and decided upon by the Commission for Refugees which was established in August 2004.

I.2. Goals and main objectives

The activities of the RO are structured around two beneficiary populations and two themes: a. individual asylum seekers and refugees; b. Indo-Chinese refugees; c. promotion of refugee law; and d. public awareness and private sector fundraising.

1.2.1 Beneficiary population #1: Individual asylum seekers and refugees

In Mainland China, UNHCR's goals are to enhance the protection of individual asylum seekers and refugees, and to find durable solutions. In the absence of national legislation, UNHCR's main objectives are to continue refugee status determination (RSD) under its mandate, and to work toward the identification of durable solutions.

UNHCR's focus has mostly been on directly providing protection and assistance to refugees, covering the costs for accommodation, care and maintenance, health care and, to the extent possible, education. In the years ahead, however, UNHCR will pursue a major shift in focus and strategy. Consistent with primary state responsibility, UNHCR will encourage the Chinese authorities to measure the importance of allowing local integration of refugees through the provision of a legal status. This should grant refugees at a minimum the (Convention) rights of engaging in wage-earning or self employment and access to elementary education similar as that of nationals. UNHCR will also request the government to assist in providing for (subsidized) health care and accommodation of refugees who are not self-sufficient.

Differences between UNHCR and the government on the status, situation and treatment of North Koreans in China, continue to restrict the scope of UNHCR's protection activities beyond monitoring and advocacy. Thus, UNHCR's main objectives for 2007 are to maintain an accurate understanding of the situation and treatment of North Koreans in China; the prevention of forced deportations; and the creation of a humanitarian space in China for this beneficiary population. Building on the outcome of the visit of the High Commissioner to China in March 2006, and the meetings he held with Chinese interlocutors on that issue, UNHCR will also engage in further expert discussions between UNHCR and Chinese counterparts on the legal status of this population.

In Mongolia, UNHCR's main objectives are to maintain the current humanitarian policy for asylum seekers and to improve their standard of treatment through the provision of (technical) assistance and training on principles of refugee protection.

In Hong Kong SAR, UNHCR's goal is to continue to provide international protection and assistance to asylum seekers and refugees, and to find durable solutions. UNHCR will continue to conduct refugee status determination, to use resettlement as a durable solution, and to ensure that the most vulnerable refugees receive basic assistance (shelter, health care, food, social and legal counseling). Building on the positive developments of 2006, UNHCR will continue to promote a gradual transfer of the RSD process to the Hong Kong government.

1.2.2. Beneficiary population #2: Indo-Chinese refugees

In Mainland China, UNHCR's goal is to find a durable solution for China's Indo-Chinese refugees. Although their situation is one of full *de facto* local integration, UNHCR's main objectives are the promotion of full nationality, and the identification and prevention of statelessness of Indo-Chinese refugees and their children. With the completion of the transfer of the Revolving Fund Based Credit Scheme to the Chinese authorities by end of 2006, UNHCR's direct financial involvement with that group will be ended.

In Hong Kong SAR, the goal is confirming a durable solution for the residual ex-CPA Vietnamese refugees and to ensure the continued monitoring of the local integration process.

1.2.3. Theme #1: Promotion of refugee protection

In Mainland China, through the promotion of refugee law, UNHCR's goal is to enhance protection and to find durable solutions for persons of concern in China. Its main objectives are the building of national refugee regulations and the strengthening of national capacities, for example through the efforts of RO to help develop national refugee regulations that comply with international protection standards.

Under this theme, UNHCR will also explore the possibilities of developing joint mechanisms or arrangements between UNHCR and the government of China in order to achieve the objective of a reinforced and expanded emergency preparedness and response capacity in the region.

In Mongolia, UNHCR's main objective is to promote accession to the 1951 Convention and the 1967 Protocol and to contribute to the development of appropriate national standards of treatment for asylum seekers and refugees.

In Hong Kong SAR, UNHCR's main objective is the continued promotion of extending China's 1951 Convention signatory status to Hong Kong SAR. For streamlining purposes and so as to limit abusive utilisation of asylum channels, UNHCR will

continue to advocate for the establishment of a single procedure which would allow combining the treatment of asylum claims together with claims filed in the context of Hong Kong's obligations under the Convention against Torture (CAT). The Hong Kong government already has a procedure in place for assessing CAT claims.

1.2.4. Theme #2: Public awareness and private sector fund-raising

In Mainland China and Hong Kong SAR, UNHCR's main objective is the establishment of more awareness and support for refugee issues and for UNHCR's work.

In Hong Kong, the SO will initiate PSFR activities in 2007 which had to be deferred due to funding constraints in 2006. This will be done with support from HQ's Department of External Relations.

Part II: COMPREHENSIVE NEEDS AND PARTNERSHIP

II.1 Joint planning and gap management

In Mainland China as well as in Mongolia, UNHCR's main counterpart in dealing with the beneficiary populations is the government. No UN agencies or (international) non-governmental organizations are directly involved in UNHCR's protection activities. As a result, UNHCR is responsible for covering all refugees' needs. As this situation is neither desirable nor sustainable, UNHCR will advocate strongly for the government to allow the refugees to reduce their dependency, and to cover a considerable part of the remaining needs.

In March 2006, as a part of the AGDM roll-out, participatory assessment meetings were held with all individual refugees in Beijing, divided by age, gender and diversity (nationality and/or religion). Although the relatively small case-load allows UNHCR staff to meet with asylum seekers and refugees regularly, the meeting proved tremendously useful in comprehensively mapping the needs and capacities of refugees and identifying solutions protection-related concerns.

In Hong Kong SAR, UNHCR worked with both government and NGO counterparts. In its 2007 COP consultations UNHCR stressed that it bore the overall responsibility to protect and assist asylum seekers and refugees in Hong Kong, as the government remained hesitant to establish an asylum procedure. The limited involvement of the government and NGO partners, the increased number of asylum seekers and refugees in need of assistance, and the decreased funding of UNHCR operations globally, has led to the decision to discontinue all assistance to all (vulnerable) asylum seekers as of May 2006. An additional concern is that UNHCR's capacity to conduct RSD is limited due to severe budgetary constraints while numbers of asylum seekers are increasing.

In Macao SAR, the authorities remain involved in protection and assistance to asylum seekers and refugees.

II.2 Comprehensive needs and contributions

II.2.1. Beneficiary population #1: Individual asylum seekers and refugees

In Mainland China, the actual involvement of the government authorities in assisting UNHCR's activities is mostly focused on allowing (informally) the Office to carry out its mandated functions. The government does not grant asylum seekers and refugees a formal legal status or the means to become self-sufficient.

With the significant exception of the North Koreans, the informal framework meets the basic protection needs of asylum seekers and refugees, i.e. protection against refoulement. However, without any means of self-sufficiency, asylum seekers and refugees are in need of shelter, care and maintenance, health care and education. Accommodation is relatively costly as the local Chinese public security authorities require many refugees to stay in two designated hotels. UNHCR currently covers these gaps by providing direct financial assistance to refugees as well as to the most vulnerable asylum seekers. Facing a rising number of refugees and budgetary restrictions, UNHCR has been looking for additional funding for the remainder of 2006 and 2007 so as to prevent the decrease of living standards below sustainability levels thereby affecting the physical well-being of these persons of concern. At the same time, more efforts need to be made so that the primary state responsibility for ensuring an adequate standard of treatment of refugees is acknowledged. While promoting local integration or measures aimed at refugee self-reliance, UNHCR will also continue to explore the strategic use of resettlement as a durable solution.

In Mongolia, without any means of self-sufficiency, the needs of asylum seekers and refugees for shelter, care and maintenance (i.e. food, transport, household support and sanitation), health care and education are covered by UNHCR.

In Hong Kong SAR, although the framework in place meets the basic protection needs of asylum seekers and refugees, i.e. protection against refoulement, asylum seekers and refugees are in need of shelter, care and maintenance, health care and education. In order to identify the international protection needs of refugees, and to reduce the vulnerability of asylum applicants through a timely processing of their claims, it is essential that UNHCR, while continuing to engage the government in the RSD process, continues to strengthen its ability to produce timely and good quality RSD decisions. The UNV project for registration and RSD will be maintained during 2007. UNHCR will continue its efforts to submit resettlement requests in order to provide timely durable solutions for refugees, as well as to reduce the costs of care and maintenance.²

Subject to availability of funds, UNHCR will continue to financially assist the most vulnerable refugees but can only do so for a limited number given budgetary constraints.³ Thus, UNHCR will start to gradually refer those newly recognized refugees

² In 2005, the SO (re)submitted 87 cases (117 persons) for resettlement; 36 cases (39 persons) actually departed; and 80 cases (115 persons) were pending resettlement.

³ The projected number of refugees is 146 per month, while only 110 can be assisted.

it cannot assist to the Social Welfare Department of the Hong Kong government who started in 2006, to provide in-kind assistance on a case-by-case basis for torture claimants, asylum seekers and refugees. It is expected though that gaps will remain between the needs of the increasing number of persons of concern and the assistance arrangements currently in place, either with UNHCR or with the national authorities.

Hospitals provide specialized medical care upon referral by UNHCR, while costs are generally waived by the Hong Kong Hospital Authority. The Hong Kong government waived tuition fees for the enrolment of refugee children in public schools in 2005, but children have to pay for textbooks and uniforms. UNHCR will continue to lobby for access to education for the children of the asylum seekers.

Implementing partners do meet part of the asylum seekers' and refugees' needs. Caritas and UNHCR still provide asylum seekers with basic medical care and social counseling. Caritas will further continue to provide shelter in its two hostels and to waive part of its clinics' medical fees for asylum seekers and refugees. Caritas will also contribute additional food and non-food items. International Social Services (ISS) will continue to operate a shelter for vulnerable refugees and minors. Christian Action (CA) will continue taking referrals to provide food for asylum seekers. Local NGO "International Boundless Dreams Come True Foundation" contributed towards the costs of uniforms, textbooks and transportation for children in 2006. The SO aims to get the same arrangements for 2007.

In Macao SAR, the government provides for care and maintenance of asylum seekers and refugees and allows children to enroll in local public schools.

II.2.2. Beneficiary population #3: Indo-Chinese refugees

In Mainland China, the government is actively engaged in assisting the Indo-Chinese refugees. The Ministry of Civil Affairs and the provincial Offices for the Reception and Settlement of Indo-Chinese Refugees have assisted and continue to assist the Indo-Chinese refugees with housing and access to employment and schooling, enabling them to live in a situation of *de facto* local integration. The needs of the poorest Indo-Chinese refugees are addressed by vocational training, aimed to increase their chances of gainful employment. In previous years, UNHCR provided direct financial assistance to provincial authorities for this purpose. In 2007, the funds for the vocational training will be taken through the Revolving Fund-Based Credit Scheme (RFBSC) which will be transferred by UNHCR to the Chinese authorities by the end of 2006.

The withholding of full citizenship means that children of Indo-Chinese refugees born in China may be stateless and the matter needs to be examined, eg. through the commissioning of an expert study into relevant Chinese nationality laws, and raised with the Chinese government as appropriate.

II.2.3. Theme #1: Promotion of refugee protection

In Mainland China, there is currently no national legislation to implement the provisions of the 1951 Convention or its 1967 Protocol to which China is a signatory. In order to

assist the Chinese government in developing, adopting and implementing national refugee regulations, the RO will organize capacity building activities, such as trainings, workshops and a study-tour for government officials closely involved in the drafting and implementation of the national refugee regulations.

As the national refugee regulations are on the legislative agenda of the State Council in 2006 and will be under discussion and review at least until 2007, consistent UNHCR input is crucial in safeguarding that the regulations are according to international protection standards. Building and strengthening national capacities on asylum would eventually allow UNHCR to develop a progressive disengagement from direct refugee status determination.

The government of Mongolia has not acceded to the 1951 Convention and/or its 1967 Protocol. To institutionalize and strengthen the current humanitarian policies on asylum, the RO will organize and perform advocacy and capacity building activities, such as training of Border Troop officials and of key officials in the most relevant Ministries.

In Hong Kong SAR, UNHCR will continue to work towards encouraging the authorities to adopt refugee regulations. University researchers and lawyers who have been involved in the 'Accession study' will use it as a tool to further encourage the adoption of these regulations and the extension of the 1951 Convention to Hong Kong SAR.

II.2.4. Theme #2: Public awareness/private sector fund-raising

In Mainland China, public awareness of UNHCR's work is relatively low. To create more awareness and support, the RO will need to carry out public information activities, such as the organization of a public event relating to World Refugee Day.

Depending on the outcome of a mission from UNHCR HQs Emergency Section, as proposed by the High Commissioner during his visit in March 2006, UNHCR would also explore the possibilities of setting up standby arrangements for the stockpiling of key relief items and other arrangements related to emergency response and disaster relief.

In Hong Kong SAR, UNHCR needs to put in place a strong PSFR strategy and increase its engagement in public awareness and public information. In April 2005, a Private Sector Fund Raising (PSFR) mission from HQ had assessed that there was good potential for results and that a PSFR project could quickly build up a sustainable income base and attract a critical mass of donors. The planned start of the PSFR testing was postponed in 2006 due to UNHCR's funding constraints.