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**Update on UNHCR's operations in the Americas - 2011**

**A. Introduction – critical challenges**

*Reinforcement of refugee status determination (RSD) procedures and protection mechanisms in the region*

All countries in Latin America have now fully incorporated refugee protection within their national legal systems. In 2010, Chile and Mexico adopted breakthrough legislation, which includes the refugee definitions as per the 1951 Convention Relating to the Status of Refugees as well as the Cartagena Declaration. In addition, Mexico's legislation considers gender as a ground for persecution, and Mexico is the first country in Latin America to grant complementary forms of protection.

In North America, Canada has introduced the Balanced Refugee Reform Act, establishing the Refugee Appeal Division which will provide for an appeal "on the merits" to all claimants who receive a negative first instance decision. In the United States of America, the proposed Refugee Protection Act, while helping to improve protection for refugees and asylum-seekers, it also contains provisions which could provide a legal pathway to citizenship for certain stateless persons.

Despite the overall strengths of the region's refugee legislation, the implementation of fully effective refugee protection mechanisms continues to pose challenges, notably in relation to: very low recognition rates in several countries; the adoption of pre-admissibility procedures; procedures for manifestly unfounded or abusive claims, without appropriate protection safeguards; the functioning of national refugee commissions; backlogs in the processing of asylum claims; the implementation of second instance procedures; and inadequate mechanisms to avoid *refoulement* practices.

Positive moves include: the establishment in Costa Rica, and the reactivation in the Dominican Republic, of a national refugee commission, as well as commitments from both countries to deal with the backlog of asylum claims; in the Bolivarian Republic of Venezuela, efforts to align RSD procedures with international standards; and in Panama, a proposed change in legislation which, if approved, would provide permanent residency to Colombian nationals under "Temporary Humanitarian Protection" status.

*Colombia situation*

In December 2010, the High Commissioner visited Ecuador and Colombia.

In Colombia, UNHCR recognizes the positive actions of the new Government, and the complex dynamics of the conflict and internal displacement that continue to produce mixed scenarios, which require a variety of interventions ranging from the prevention of

displacement, and the provisions of assistance and protection for newly displaced, to exploring solutions for those who have been displaced for many years in some areas.

The new Government has announced a draft law on victims and land restitution, the implementation of which represents a major challenge as the country has yet to completely overcome the conflict.

In Ecuador, the protection of persons of concern continues to be essential, particularly in the border regions with Colombia. Efforts by Ecuador to continue ensuring the protection and local integration of persons of concern according to international standards need to be coupled with a strengthened solidarity arrangement from the international community.

#### *Natural disasters: Haiti situation*

A year after the earthquake in Haiti, internal displacement remains significant with more than a million individuals confronted with specific protection challenges.

UNHCR remains engaged in: the prevention of statelessness through birth registration and access to civil documentation; the mitigation of secondary forced displacement; and the protection of displaced women and girls from sexual and gender-based violence (SGBV).

The cholera outbreak of late 2010 and the political tensions and episodes of violence following the first electoral round, had a negative effect on the already precarious state of security in Haiti, aggravating the needs of the population.

The deportation and forced return of Haitian nationals back to their country and interception-at-sea practices continue to be a concern under the present circumstances.

#### *Durable solutions*

More than 70 per cent of the total refugee population in Latin America now reside in urban areas, where competition for scarce resources such as employment, housing and basic services is high.

As voluntary repatriation is not always a viable option in most refugee situations in the region, the main challenge remains to strengthen local integration efforts.

In October 2010, a meeting of “Open Cities” took place in Ecuador, where representatives of the “Cities of Solidarity” in the region were able to discuss the challenges of integration of refugees and migrants in urban areas.

In Costa Rica, the opening of a second “House of Rights” in Frailes followed the evaluation of the pilot phase of the implementation of UNHCR’s urban refugee policy in Desamparados. The conclusions highlighted the need to address, in a complementary and interlinked way, the challenges for urban refugees related to their legal integration (such as the provision of adequate legal status and the corresponding documentation, ensuring respect for their basic human rights); their socio-economic integration (such as access to an adequate income in order to be able to sustain the household, access to micro-credit, etc.); and their socio-cultural integration (e.g. access to health, housing facilities and education).

## **B. Analysis of challenges and response strategies**

#### *Reinforcement of RSD procedures and protection mechanisms in the region*

UNHCR continues to promote the Mexico Plan of Action as a regional framework for protection. In this regard, in November 2010, 18 Latin American States adopted the landmark Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas, at an international meeting that launched UNHCR’s anniversary commemorations in the Americas. This Declaration includes recommendations on: (i) the implementation of the Mexico Plan of Action as a regional response to new challenges,

such as protection in the context of mixed migratory movements; (ii) the adoption of mechanisms not foreseen by the international instruments for the protection of refugees, giving due consideration to the protection needs of migrants and victims of trafficking, including whether or not they are in need of international protection as refugees; (iii) giving consideration to acceding to the international instruments on statelessness and to reviewing national legislation to prevent and reduce situations of statelessness.

UNHCR will work with countries in the region on preparing State pledges for the Ministerial Meeting in December 2011. In this context, priority focus will be given to encouraging accession to the statelessness conventions; the development of a regional framework to address protection in mixed migratory movements; and the reinforcement of refugee status determination procedures and other protection mechanisms.

#### *Colombia situation*

UNHCR will continue to support the Government of Colombia in strengthening protection responses to the protracted IDP situation, with the objective of finding durable solutions when conditions permit. In neighbouring countries, UNHCR will continue to work with Governments in support of comprehensive approaches to ensure that persons of concern have access to protection and solutions. In this respect, UNHCR will also reinforce its protection presence in Ecuador.

#### *Natural disasters: Haiti situation*

UNHCR will continue to work with other agencies and Governments in the Americas to reinforce the understanding of protection concerns in the context of natural disasters.

In Haiti, UNHCR will concentrate its efforts on the following areas of intervention: (i) assistance to the most vulnerable IDPs in border areas; (ii) protection against statelessness; (iii) protection against secondary forced displacement (evictions); (iv) protection against SGBV; (v) returnee monitoring and reintegration; and (vi) family reunification.

UNHCR continues to welcome the granting by host States of adequate protection solutions for displaced Haitian nationals and urges that international protection needs are assessed in relation to return.

#### *Durable solutions*

Although UNHCR offices in the Americas have developed new initiatives for the integration of urban refugees, additional funds are required to consolidate them and ensure their long-term sustainability. UNHCR is working to enhance inter-agency and inter-institutional cooperation to advocate for the inclusion of persons of concern in the existing protection mechanisms and to ensure the protection of all vulnerable groups under an age, gender and diversity mainstreaming perspective.

Participatory assessments throughout the region such as those in Argentina, Panama and Uruguay will continue to be undertaken to better address and understand the necessities and challenges of integration in the urban context. In Argentina, UNHCR is working to develop standard operating procedures for the prevention of and response to SGBV and the protection of unaccompanied minors.

Resettlement programmes in Argentina, Brazil, Canada, Chile, Paraguay, Uruguay, and the United States of America, will continue to be an indispensable tool for the effective protection of persons of concern in the region.

UNHCR will continue to work on reducing discrimination and xenophobic attitudes by promoting the successful multimedia campaign, “*Put yourself in the shoes of a refugee*” launched in 2010.

## **C: Financial information**

The ExCom approved 2011 Global Needs Assessment (GNA) for field operations in the Americas was \$97.4 million. In order to implement essential protection activities related to the Haiti operation, and after a rigorous assessment and wide consultation with different stakeholders (Government, UN agencies, local and international NGOs) as well as local communities, UNHCR increased the original GNA for Haiti by \$3 million. The Office has thus established a total 2011 GNA of \$7.2 million for its Haiti operation (this includes the Dominican Republic). After incorporation of this additional amount, the 2011 Revised GNA for the Americas was modified to \$100.4 million.

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