



COUNTRY OPERATIONS PLAN

OVERVIEW

Country: Vietnam

Planning Year: 2006

VIETNAM 2006 COUNTRY OPERATIONS PLAN

PART I - OVERVIEW

1. Protection and socio-economic operational environment

1. For more than 25 years, UNHCR and Vietnam have enjoyed a close working relationship thus, the hallmark under which the successful implementation of the Comprehensive Plan of Action (CPA) was created. In this context, a large number of micro-projects were implemented to assist in the re-integration of the returnees. As the CPA came to a close, UNHCR's operations and presence in Vietnam were scaled down. Vietnam is neither party to the 1951 Convention, nor to the Statelessness Conventions. There is no national asylum procedure or administrative focal point to process such requests. In general, UNHCR was also unable to process asylum cases under its mandate.
2. Some 2360 Cambodian refugees continue to live in 4 camps which were set up by UNHCR in the late 70's in southern Vietnam. These persons can neither repatriate nor be resettled, and they remain in a vulnerable situation due to their stateless situation. The total number of Cambodian refugees facing the same predicament is estimated at some 10,000. Some years ago Vietnam was leaning towards the naturalisation of this group however; the process did not earnestly progress. More recently, UNHCR has become committed to supporting naturalisation as a durable solution and is assisting the Ministry of Justice in this endeavour. Over the past two years, UNHCR has allocated an amount of \$50,000 in order to proceed with a naturalisation agreement with the Ministry, unfortunately, the agreement did not materialize. Nevertheless, an understanding was reached in early 2005 with the Ministry of Labour, Invalids and Social Affairs (MOLISA) to implement 4 micro-projects for the benefit of this group. It is hoped that the plight of these persons will assume a sharper focus in 2006 and that steps to remove present administrative obstacles would be taken.
3. In September 2001, some 1100 Montagnards from the Central Highlands fled to Cambodia. Thus presenting a difficult stage in the cooperation between Vietnam and UNHCR. Vietnam objected to the categorisation of these persons as asylum-seekers and argued that they were merely economic migrants. A tripartite agreement was concluded in early 2002, but serious difficulties were immediately faced in its implementation. Soon after, UNHCR had to withdraw from the agreement and the residual Montagnard caseload was subsequently resettled to a third country.
4. In early 2004, a small number of Montagnards fled into Cambodia and the trickle in this cross-border movement has since persisted. These asylum-seekers were processed for resettlement, since Cambodia clearly stated that their extended stay in the country of asylum was not an option. Vietnam strongly and publicly objected to UNHCR's involvement, thereby re-igniting relational difficulties with both Vietnam and Cambodia. The message that asylum is not an unfriendly act was quickly conveyed by UNHCR and efforts to expand possible negotiation options by advocating an orderly departure programme for family reunion cases was pursued. Supportive approaches to address the problem's root causes were sought from the international community and included

developmental and educational projects that would mitigate the causes of the flight. The interest generated by bilateral aid projects in the Central Highlands is encouraging. It has been made clear, that UNHCR is not in a position to address land tenure or restitution problems, often cited by asylum-seekers as the main reason for leaving Vietnam.

5. During 2004, communication channels with Vietnam were kept open through regular visits to Hanoi. UNHCR continued advocating to all stakeholders the need for a comprehensive solution and expanded dialogue. However, political sensitivities surrounding the problem offered little scope for a multilateral or CPA-type approach. In July 2004, 13 Montagnards indicated their readiness to repatriate to Vietnam. The ensuing negotiation to arrange for their organized return lasted 3 months until a definitive impasse was reached. Ultimately, these persons returned at their own accord. During this phase, Vietnam's position revolved around two main principles. Firstly that repatriation to Vietnam will only be considered when the resettlement of the Montagnards presently in Phnom Penh has been completed. Secondly, any future agreement should focus on a "one-time operation" which leads to site closure in Phnom Penh and implicitly brings UNHCR's Montagnard involvement to an end. As the number of Montagnards sheltered in Phnom Penh steadily approached 800, it was also clear that the asylum space in Cambodia was coming under strain.
6. By the end of 2004, a consensus was gradually building among stakeholders that the way forward would be in the revival of the tripartite consultations. The proposal submitted by UNHCR elicited a very rapid and positive reply from both Cambodia and Vietnam. This led to the conclusion, on 25 January 2005, of a tripartite Memorandum of Understanding (MOU). While the MOU deals primarily with the group of 750 Montagnards in Phnom Penh, it recognizes that similar principles will apply to new arrivals. The Agreement institutionalizes temporary protection in Cambodia; determines the parameters for return; offers protection-based solutions and a predictable operational framework; opens for the future the possibility of access to the Central highlands; sets realistic timeframes for resettlement and formally recognizes the latter as a durable solution; acknowledges that more Montagnards are likely to come to Cambodia and includes a written commitment from Vietnam that returnees will not be prosecuted or discriminated on account of their illegal departure. The MOU is an important step towards the removal of a counterproductive deadlock and generates a much needed confidence-building process. The MOU stipulates that the Vietnamese Government and UNHCR "will consult and cooperate on visits to returnees". It also leaves open the possibility for future assistance projects in the Central Highlands. Although encouraging, the challenge will be to turn this statement of intentions into a tangible reality.
7. The MOU represents a determined effort by UNHCR to promote durable solutions, i.e. voluntary repatriation or resettlement. It also aims at involving the country of origin in the attainment of these solutions and carries the expectation that the root causes of displacement can also be addressed.
8. If a constructive relationship is established, Vietnam may offer a fertile ground for the exercise of UNHCR's mandate on statelessness. In regards to the naturalisation of Cambodian refugees, previously mentioned, the problem remains twofold. First, applicants need to secure a certificate confirming that they have renounced their former nationality (which appears difficult to obtain from the Cambodian authorities). Secondly, applicants have to pay a fee of \$50 to be eligible for Vietnamese nationality, an unaffordable amount to most of the refugees. This problem has long been neglected and

is one which UNHCR can play an influential role, not least in promoting a tripartite dialogue.

9. In addition to these refugees, there are other groups in Vietnam which remain stateless and have thus far attracted little attention. As a case in point, there are some 13,000 Cambodians and ethnic Vietnamese who were living in Cambodia for generations but had to flee to Vietnam during the Khmer rouge era. They were mainly fishermen from the Tongsleap Lake and have thus far been unable to prove their nationality, primarily due to a lack of documentation. In addition, thousands of Vietnamese women have become stateless, due to conflict in the application of nationality laws, i.e. being unable to acquire a new nationality after having renounced their Vietnamese citizenship. These are largely overlooked issues, but by no means undeserving ones. Besides its technical expertise, UNHCR could play a mediation role between States. This has been done effectively in other situations to solve similar problems. However, progress in this important area is predicated on three conditions, i.e. the establishment of a cooperative climate with Vietnam; the latter's receptiveness to UNHCR's mandate and recognition of its added value and last but not least, a determined approach by UNHCR to seize opportunities that its statelessness mandate may provide in this region.

2. Operational goals and potential for durable solutions

Considering the socio-economic and political environment in Vietnam, following are the strategic goals of UNHCR in Vietnam in 2005-06:

- Ensure smooth implementation of the Memorandum of Understanding signed between Vietnam, Cambodia and UNHCR in January 2005. This mechanism has the potential to help restore the excellent working arrangements that had existed previously between UNHCR and Vietnam until the failure of the first tripartite agreement in 2002. The success of this endeavor is expected to lead to the start of normalized operations in Vietnam and will enable UNHCR to better exercise its protection mandate. This will entail UNHCR enjoying access to the Montagnard returnee areas in the Central Highlands of Vietnam and conducting refugee status determination procedures for asylum-seekers approaching the office. In addition, refugees who feel insecure in Vietnam will be resettled. UNHCR will also seek to capacitate concerned government officials by providing training on international standards applicable to refugees and in refugee status determination procedures.
- Ensure the naturalization of the 2,360 Cambodian refugees. The Government of Vietnam has already approved the naturalization of this group of refugees. The delay in implementation has been of an administrative or bureaucratic nature. UNHCR's intervention will be designed to expedite the naturalization process.
- Agree on a mechanism to collaborate with the Government to assess the number of the stateless persons living in Vietnam in order to develop a comprehensive strategy for the reduction of statelessness.
- Promote better understanding of refugee law and rights including UNHCR's mandate amongst key decision makers in order to enable UNHCR to function effectively in Vietnam.

- Strengthen partnerships with decision-makers, the donor community and UN agencies in Vietnam to ensure broad based support for the protection of persons of concern to UNHCR.
- Coordinate with the host country and countries concerned to set up a mechanism to facilitate resettlement of refugees from Vietnam.