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OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

JOINT INSPECTION UNIT: REPORTS OF THE JOINT INSPECTION UNIT

Role of the Office of the United Nations High Commissioner
for Refugees in South-East Asia (1979-1983)

Comments of the Secretary-General

Addendum

The Secretary-General has the honour to submit to the General Assembly his comments on the report of the Joint Inspection Unit entitled "Role of the Office of the United Nations High Commissioner for Refugees in South-East Asia (1979-1983)" (A/40/135).

* A/40/50/Rev.1.

ANNEX

Comments of the Secretary-GeneralIntroduction

The report raises a number of relevant questions regarding the activities of the United Nations High Commissioner for Refugees (UNHCR) in South-East Asia. In general, it is seen as a constructive effort to make proposals for improvement in carrying out these activities. The following are the detailed comments on the major recommendations or proposals contained in the report.

The first part of the report (paras. 7-19) deals with the legal framework of UNHCR's activities in South-East Asia. a/ It should be stated in this context that UNHCR has faced some of its most serious protection problems ever in South-East Asia in recent years. Efforts to deal with these problems have clearly been hampered by the lack of legal infrastructure in the region for the protection of refugees and by the very few accessions to the international refugee instruments by States in South-East Asia. Nevertheless, problems have been approached on a regional basis by UNHCR both in terms of durable solutions and the international protection of refugees. Diplomatic contacts at a high level have continued for a number of years with countries of asylum and with countries of origin in an attempt to promote particularly solutions such as voluntary repatriation. Similarly, protection responses such as measures relating to pirate attacks on the high seas and promotion of measures to ensure better rescue at sea have been dealt with on a regional basis. Further regional support by Governments in South-East Asia, as suggested in paragraph 19 of the report, would certainly help this approach.

Specific comments

Paragraph 21: It should be clarified that Vietnamese leaving under the Orderly Departure Programme are not refugees. The projects referred to in China and Laos are local settlement projects for refugees from Viet Nam and Kampuchea respectively who arrived in those countries. UNHCR also assists Kampuchean refugees in Viet Nam as part of its assistance programme in South-East Asia.

Paragraphs 28 and 29: The Inspector recommends a more judicious deployment of regular budget resources by UNHCR in the performance of its field responsibilities. As recalled in the report, the question of the apportionment of UNHCR administrative expenditure between the regular programme budget and extrabudgetary resources available to UNHCR was jointly reviewed in 1982 by the Secretary-General and the High Commissioner. The results of the joint "Review of the financing of the administrative costs of the Office of the United Nations High Commissioner for Refugees" were embodied in General Assembly document A/C.5/37/1 of 29 July 1982. The key to the apportionment question is to be found in article 20 of the UNHCR Statute (General Assembly resolution 428 (V)), which read as follows:

"The Office of the High Commissioner shall be financed under the budget of the United Nations. Unless the General Assembly subsequently decides otherwise, no expenditure, other than administrative expenditures relating to the functioning of the Office of the High Commissioner, shall be borne on the budget of the United Nations, and all other expenditures relating to the activities of the High Commissioner shall be financed by voluntary contributions" (emphasis added).

As a result, the joint review concluded that, as regards UNHCR Regular Field Operations, only the posts - and related expenditures - of Representatives or Chargés de Mission (or the Heads of Sub-Offices serving an entire country), of Protection Officers and of one General Service staff member per Field Office, pertained to the "functioning" of the Office and were thus a proper charge on the regular programme budget. All other posts were considered to be operational in nature and thus a proper charge to extrabudgetary resources. This provides the Office with a minimum administrative structure under the regular programme budget and the necessary flexibility to deploy its extrabudgetary posts according to the scope and gravity of refugee situations.

The joint review did not address the question of the regular budget resources that it would be desirable to deploy in relation to the scope and gravity of a refugee situation. The basis for the joint review's work were the definitions of "administrative expenses" as opposed to "operational activities" offered by the Advisory Committee on Administrative and Budgetary Questions in 1952 and accepted by the Fifth Committee (A/C.5/37/1, paras. 10, 11 and 19). In other words, UNHCR staff are charged to regular programme budget or extrabudgetary posts, according to the source of funding of the post occupied, and not according to any particular experience the staff may have.

Paragraph 30: Programmes in South-East Asia have been obliged to concentrate on relief assistance, pending resettlement in third countries, the only large-scale solution, as the preferred solution of voluntary repatriation has not been available in any large measure. The conditions necessary to promote this solution are still not present in the region. There has however been some local settlement in the region which has benefited approximately 280,000 persons from Indo-China. In these circumstances, UNHCR has no choice but to continue relief activities, pending permanent solutions being available. On the other hand, UNHCR expenditure in the countries of Indo-China has been almost exclusively to promote permanent solutions.

Paragraph 31: Experience has shown that staff numbers in a Branch Office or a Sub-Office cannot be strictly proportional either to the volume of the material assistance programme or to the refugee numbers: international protection activities, public information, liaison with United Nations or other regional organs and the complexity of each situation are elements which may account for considerable differences in this proportion. Implementation conditions for the material assistance programme itself in a given country and the nature of the programmes may also have a bearing on the number of personnel required. In addition, with progress of a solution such as resettlement, the refugees left behind are usually the most difficult to place and need additional measures,

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including vocational training and counselling. Hence, in some countries in South-East Asia where staff reductions have indeed taken place as solutions were being implemented, the volume of staff required has remained comparatively high.

Paragraph 32: As a principle, in accordance with article 10 of the Statute of UNHCR "The High Commissioner shall administer any funds, public or private, which he receives for assistance to refugees, and shall distribute them among the private and, as appropriate, public agencies which he deems best qualified to administer such assistance". Consequently, a certain degree of dependence on government and voluntary agencies is necessary. To face a refugee situation of considerable magnitude, such as the one faced in South-East Asia, UNHCR must make a choice from among the large number of agencies operating in order to have its programme implemented. The choice is made on such factors as reputation of agency, past association with UNHCR in a given country or elsewhere in the world, knowledge of the area, specific qualifications and, of course, overall competence. From time to time urgent operations may demand arrangements with a less well-equipped agency which is the only one available for a specific task or in a specific area. As a programme gains momentum UNHCR can co-ordinate in general, and more specifically as regards the use of its own funds (agreements with implementing partners and monitoring of implementation). There are always, however, some aspects of agency work which pertain to their own domain, in which they apply their own policies, and report to their own headquarters. Therefore, UNHCR, without being "excessively dependent", does find some limitations in its relationship with agencies.

Paragraph 37: Though day-to-day financial operations are performed by General Service staff, supervision and essential financial functions are exercised by professional officers (programme officers or administrative officers). The posts of programme offices have existed for a long time. The posts of administrative officers were gradually created in all regional offices or branch offices with substantial staff. In Bangkok, a post of Assistant Representative responsible for programme and administration was created recently. The Secretary-General agrees with JIU on the importance of these functions next to the two basic functions of the Office (international protection and the search for durable solutions for refugees), and every effort is made so that the necessary posts exist and are filled by qualified incumbents. In South-East Asia experienced local and qualified administrative staff are present in all Offices in the region and regular training courses for such staff are held both in Geneva and in South-East Asia. In addition, the overall responsibility of UNHCR Representatives in matters of financial control has remained a basic principle and all General Service staff are directly supervised by international professionals.

Paragraph 38: At the start of 1975, except for a small office in Hong Kong, there was virtually no UNHCR presence in South-East Asia. Following the massive arrival of refugees throughout the region subsequently (with a peak in 1979 when in one month 60,000 boat people arrived in the area) a presence was established in all ASEAN countries where the increase in UNHCR staff (Programme Support and Administrative, as well as project ("L") staff) was larger than anywhere else in the world. After 1979, staff increased at a slower pace in view of the evolution of the problem and sizeable staff demands elsewhere to face new situations (e.g. Central America, Pakistan, the Horn of Africa and the Sudan). In the face of

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growing refugee problems and new crises, human resources of UNHCR are considerably strained at a time of budgetary limitations. For the specific cases of Hong Kong and Singapore, the staff is considered adequate to face the nature and magnitude of the problem.

Paragraphs 39, 40 and 41: It is true that, in view of serious constraints explained above, field offices could not have acted as effectively without the services of the "L" staff. However, efforts were made to use "L" staff essentially for operational activities, and not as a palliative to meet overall staffing needs. In order to increase the field establishment to an extent commensurate with urgent needs, efforts are made to redeploy posts from Headquarters. Headquarters, nevertheless, has an important function to fulfil, which should not be minimized. As regards incumbents, there was no deliberate attempt to keep qualified and experienced staff at Headquarters. Efforts were and are pursued, in the framework of training activities and of the improved rotation policy, to increasingly send qualified and experienced staff to the field.

The definition of project personnel exists and had been communicated to all staff members in an internal memorandum in 1981 which stated:

"PAD staff (project administration staff whose salaries, common staff costs and related administrative expenses including travel are charged against an operational project) shall mean individuals employed for a period not exceeding the duration of the project for service:

(1) at the professional level under the 200 series of the United Nations Rules;

1.1 in a technical or other specialized area of work which falls outside the work performed by regular UNHCR staff;

1.2 in the field for the operational implementation of UNHCR assistance programmes where such services are either not or are only inadequately available from an implementing agency;

1.3 in order to assume administrative functions directly related to the employment of PAD staff.

(2) at the general (local) service level under the 100 series of the United Nations Staff Rules, provided such staff is required in direct support of project personnel recruited at the professional level or who individually performs one or more of the functions indicated in paragraphs 1.1 through 1.3 above."

With regard to the organization and staffing of field offices, a standard pattern is somewhat difficult to develop but, as far as possible, the functions of international protection, assistance, and administration/finance, are reflected in the office structure and the staff composition. The office in Bangkok is being reorganized to reflect better these requirements as slightly adjusted to local needs: three Assistant Representatives are responsible respectively for legal

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matters, durable solutions and programme/administration. Training and an improved rotation system now under way should also improve the possibilities of getting the right incumbents.

Paragraphs 42 and 43: Decentralization - or rather, delegation to the field - is a matter being given careful attention. The trend has been, these last years, to give more authority to the field and this is reflected in a comprehensive UNHCR Manual prepared and issued - starting in 1982 - designed to strengthen the management of the office and assist the decision makers. Emphasis has been placed on increased delegation of authority, including financial, to the field. Among his terms of reference, the Director for Field Affairs monitors the "implementation and effectiveness of existing and newly delegated authority to the field establishment". Greater delegation to the field is indeed an objective of the Office; "flexible staff deployment policy designed to strengthen ... field establishment" is constantly kept in mind and staff redeployment to the field, or within the field, according to the evolution of needs, is taking place. The danger of too great a "decentralization" is the creation of an additional layer of decision-making or communication between individual field offices and headquarters. This we consider would imply the establishment of a new heavy regional structure and should be avoided.

In response to emerging refugee situations, reassignment or, as required, creation of new posts, has taken place in the past and will continue. A few years ago, in Pakistan and Somalia, for example, UNHCR presence was limited to one single professional officer (Chargé de Mission), with a few General Service staff. Today, in a five-year span, these offices have grown considerably and are among the largest UNHCR offices in the world. Though there remains room for improvement, assignment or reassignment of staff at short notice to face emerging situations in the field has thus proved possible.

Paragraph 44: UNHCR makes every effort to take the regional context into account. When the refugee problems in South-East Asia were at their highest degree of complexity and urgency, the High Commissioner appointed a Senior Regional Co-ordinator for the area, whose task was precisely to seek durable solutions through a regional approach. The regional dimension was similarly taken into account in the Horn of Africa and the Sudan. When the situation warranted, these functions reverted to the Regional Bureaux at Headquarters.

Paragraph 45: In addition to the Head of a Regional Bureau acting as regional co-ordinator, there have been a number of other regional approaches by UNHCR in South-East Asia. The Unit of the Legal Adviser in Asia, established in 1981, covers promotional protection activities in the region and acts also in a trouble-shooting capacity. It has conducted regular protection training seminars for all UNHCR field staff in South-East Asia. There is also a regional Social Services Officer based in Bangkok who co-ordinates social services activities in all countries, and the Anti-piracy Co-ordinator in Bangkok is likewise responsible for all anti-piracy activities in the region. Regional meetings and training sessions for UNHCR staff in South-East Asia are also held on a regular basis. The two refugee processing centres (in Bataan and Galang) are also regional centres designed specifically to accommodate refugees from all countries of asylum in the region who have been accepted for resettlement.

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Paragraph 46: The Executive Committee of the High Commissioner's Programme has recently approved, within the context of the Professional Job Classification exercise, the introduction in UNHCR of the National Officer scheme. It is expected that this decision will be implemented as of 1 January 1986.

Paragraphs 47 and 48: UNHCR has consistently endeavoured to keep the level of Programme Support and Administration expenditure as low as possible, compatible with proper management and financial control, in order to devote the maximum of its resources to refugee needs. UNHCR is conscious of the fact that progress in management and financial control can still be achieved. As already stated, proper training and staff rotation are given careful attention. A special effort is being made to improve financial control in the field, and the High Commissioner has continued to emphasize to UNHCR Representatives their responsibility in this area.

Paragraph 51: UNHCR fully agrees with the need for the support and co-operation of Member States if its statutory protection functions are to be carried out. There has been exceptional international solidarity in providing resettlement and asylum opportunities for refugees in South-East Asia. Further support of all States for UNHCR in meeting its international protection responsibilities in the region would be most welcome.

Paragraph 54: No determination procedures were established by Governments in South-East Asia for Indo-Chinese refugees during the period under review.

Paragraph 55: UNHCR has not been involved in the situation of Kampuchean along the Thai/Kampuchean border, who have been the responsibility of the United Nations Border Relief Operation. UNHCR, throughout the period, has undertaken full responsibility for Kampucheans in UNHCR holding centres.

Paragraph 56: UNHCR's information on refugees in South-East Asia, as elsewhere, is obtained mainly from the refugees themselves. UNHCR interviews of all new arrivals continued throughout the period under review. Such reports are verified by cross-checking accounts given and from objective material available on countries of origin.

The High Commissioner has adopted a prima facie responsibility for all Indo-Chinese asylum-seekers in accordance with relevant General Assembly resolutions (see, for example, resolutions 3455 (XXX), 35/41 and 36/125). Screening of individual claims by UNHCR can only be done with the agreement of countries of asylum in the region, and when there is a possibility for rejected cases to be returned in an orderly and safe manner to the countries of origin. During the period under review, neither of these conditions existed.

Paragraph 57: With reference to the statement that thousands of refugees have perished in the South China Sea in recent years, this is presumably a reference to those who reportedly were lost at sea because of unseaworthy boats or weather conditions. Reported deaths of refugees as a result of piracy during this period are some 700.

Paragraph 58: The link between rescue at sea and anti-piracy is at best a contentious one as the area of most pirate attacks is the area of least international shipping. Increased rescue would not therefore necessarily reduce the incidence of pirate attacks unless this were taken to include rescue by local fishing boats.

Paragraph 60: Disembarkation procedures for rescued refugees generally functions satisfactorily, and it is debatable whether the asylum conditions for boat refugees are generally worse than for those who arrive by land.

Paragraph 61: Some 30,000 persons left Viet Nam under the Orderly Departure Programme in 1984. It is debatable whether there is a direct link between the Orderly Departure Programme and boat departures in that the characteristics of those using the two alternatives are quite different.

Paragraph 62: (see also response to paragraph 30) In addition to resettlement, there has also been substantial local integration in the region, including some 270,000 refugees integrated in China and several thousand other Indo-Chinese who have been allowed to remain in the region. The High Commissioner has for many years intervened at the highest levels with Governments in order to promote alternative solutions, particularly that of voluntary repatriation for Indo-Chinese refugees. Regrettably, until the necessary conditions are present to allow this solution to proceed, there is little likelihood of major progress. A regional conference would have to encompass political as well as humanitarian considerations, given the nature of the refugee problem in South-East Asia. Such a conference should therefore more properly be convened by other organs of the United Nations.

Paragraph 69: UNHCR maintained a leading role from the outset in responding to the refugee problem in South-East Asia, including in Thailand, subject to the usual staffing and resources constraints.

Paragraphs 78 and 79: UNHCR Field Activities are co-ordinated both within countries and regionally by UNHCR headquarters acting through the branch offices concerned. In Thailand there is close co-ordination between UNHCR and Thai authorities and all agencies concerned in assistance to refugees. There is also close liaison between UNHCR, UNBRO, ICRC, ICM and other international agencies working in the refugee field.

Field offices in the region are adequately staffed in proportion to the refugee situation and have a pool of experienced administrative and financial officers. This has been built up over a number of years and in South-East Asia in particular, local administrative staff are generally highly qualified and well experienced for their functions.

Paragraph 80: While voluntary repatriation is clearly a major solution for many refugees, especially in Thailand, for reasons already mentioned, it is unlikely that it will become a "wholesale durable solution" in the near future.

Paragraph 81: The improvement of basic social infrastructure in countries of origin is in general a development activity which is beyond the competence or mandate of UNHCR. UNHCR's reintegration assistance to returnees is confined to immediate relief assistance and some measure of rehabilitation assistance of a limited nature.

Paragraph 82: In addition to the Orderly Departure Programme and assistance to Kampucheans in Viet Nam, UNHCR also has had regular contacts with the Vietnamese authorities on the question of voluntary repatriation to Viet Nam since 1975.

Paragraph 83: UNHCR has for many years continued its diplomatic contacts with the countries directly concerned with the repatriation of Kampuchean refugees, to date with limited results.

Paragraph 85: As mentioned, there has been some local assimilation in South-East Asia, including large numbers in China and smaller groups in Thailand, Malaysia, Hong Kong and Japan.

Paragraph 86: Promotion of the principles of international refugee law in South-East Asia is the precise mandate of the regional Unit of the Legal Adviser in Asia based in Bangkok. All Governments in the region have been contacted by the Unit on this subject and such contacts are continuing. Efforts have also been made for some years to encourage Governments in the region to develop appropriate refugee legislation or regional instruments. UNHCR in addition has had public information officers in various offices in South-East Asia for some years whose role is the distribution of general information on refugees and the creation of public awareness with regard to refugees in the region.

Paragraph 91: There were previously some 60 agencies in Thailand involved with refugees. Currently some 40 agencies are involved.

Paragraph 93: The Committee for Co-ordination of Services to Displaced Persons in Thailand (CCSDPT) is a forum for non-governmental organizations in Thailand rather than an operational organization. Its secretariat consists of four persons and it has not sought to be recognized as an international organization. UNHCR has appreciated highly the work of CCSDPT and has no indication that it would impede UNHCR's activities. UNHCR has had a formal agreement with CCSDPT since 1980.

Recommendations 1 to 6 are covered by responses above.

Recommendation 7. ~~The Secretary-General whole-heartedly supports and, in fact, is currently implementing this recommendation more fully than at any time in its past. In recent years, UNHCR has instituted an Emergency Unit and has published an Emergency Handbook which sets out practical guidelines and procedures for dealing with emergency situations. It must be emphasized, however, that in cases of extreme urgency where refugee lives may be at risk, assistance activities often have to be undertaken within a very short time, which may preclude an immediate "thorough assessment" before such activities can be commenced. In such instances, the Emergency Handbook provides immediate direction to urgently required assistance which is subsequently followed by a more thorough needs assessment.~~

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Recommendation 8. As a result of briefings, orientation session and regional programming workshops, UNHCR has significantly improved awareness of the monitoring and control responsibilities which are incumbent upon both newly-recruited and experienced field staff members. Moreover, the UNHCR Manual contains detailed and practical information with regard to programme funding as well as to project management and administration. Consequently, the organization, through both its headquarters and field staff, is better equipped to provide a higher level of monitoring of all implementing agencies in order to be assured that the specific requirements as embodied in project agreements are being fully observed.

Recommendation 9. The Secretary-General agrees with the recommendation. Unfortunately, because of the closed nature of most of the camps for Indo-Chinese refugees in Asia, opportunities for gainful employment and other remunerative activities are extremely limited. Where implementation of the principle is possible, UNHCR pursues every possibility, as it is of utmost importance to reduce the feeling of dependency on the part of refugees, which can be minimized by direct participation in the specific refugee community/camp. As an example, refugees who have an opportunity to work in Hong Kong contribute financially to the cost of the utilities they consume.

Recommendation 10. See comments on paragraph 93.

Notes

a/ UNHCR's activities in favour of Indo-Chinese refugees were endorsed by the General Assembly, especially in resolutions 3455 (XXX), 35/41 and 36/125.