

**FRAMEWORK FOR VOLUNTARY REPATRIATION  
REFUGEES FROM MYANMAR IN THAILAND**

In Myanmar, since the formation of a civilian government in March 2011, the situation in the country has quickly evolved. Positive developments have taken place. Many prisoners of conscience and prominent figures have been released from detention. In addition, some legislative reforms (e.g. easing restrictions on political party registration and the activities of the media) have been adopted or are under consideration. Parliament is publicly debating the national budget, with proposals to increase spending in health and education. In addition, since September 2011 many ceasefire agreements have been signed between the Myanmar Government and the armed opposition groups; most of these have been along the Thailand-Myanmar border. Even though these developments have had a positive impact on a transition to democracy and peace in Myanmar, serious challenges continue to exist, evinced by the ongoing armed clashes since June 2011 in Kachin State for example.

While ceasefire agreements have been signed before and subsequently collapsed, they are now seen as an integral component of a larger peace process, and take place in the context of the positive socio-political developments within the country. Surprised by the speed of the political transition since the transfer of power to a civilian government, the international community has been responsive, and there has been a rush towards diplomatic re-engagement and actions aimed at recognizing the importance of the Government's reforms. While the European Union (EU) and the United States of America (USA) have already eased or suspended some of their sanctions against Myanmar, any further reduction in international sanctions appear linked to further positive political developments and progress made within the various peace negotiations. The unconditional release of all remaining political prisoners and a nationwide peace process are also key conditions. Meanwhile, the ASEAN position is that sanctions are detrimental to the livelihood of the people of Myanmar and should come to an end as soon as possible.

Placed within the above context, unprecedented opportunities are emerging that may bring about a durable peace process and, with it, greatly improved human rights in Myanmar. It is prudent, therefore, that the humanitarian community initiates measures in preparation for and support of an eventual voluntary repatriation of the refugees, albeit bearing in mind that much yet needs to be done in Myanmar - particularly in the places of origin - before the promotion and facilitation of voluntary repatriation could commence.

There remain a number of unanswered questions and undefined operational parameters with respect to the situation in Myanmar. The most critical of these being the restricted humanitarian access UNHCR and other humanitarian agencies face in many parts of Myanmar, and subsequently the limited range of humanitarian activities in potential areas of refugee return.

A Framework for Voluntary Repatriation and a more detailed Voluntary Operations Plan are seen as necessary and prudent steps by UNHCR to be undertaken in partnership with all stakeholders. Its purpose is to facilitate a forward planning process that can be elaborated upon as the situation in Myanmar evolves and as more information becomes available to the humanitarian community.

Any organized voluntary return to Myanmar involves a regional and diverse set of issues. The key countries affected include Thailand, Malaysia, Bangladesh and India. Most recent statistics indicate these countries host the largest Myanmar refugee and asylum-seeker populations, totalling over 425,000 persons. There are also some 3,000 refugees and asylum-seekers from Myanmar being hosted in other countries in the Asia-Pacific region, including Australia, Cambodia, China, Indonesia, Japan, Nepal, New Zealand, Pakistan, the Philippines, Singapore, the Republic of Korea and Sri Lanka.<sup>1</sup> In addition, there are some 339,200 people estimated to be internally displaced in Myanmar.<sup>2</sup> Moreover there are large numbers of Myanmar migrants throughout the region, and it cannot be excluded, given the profiles of these populations, that within them there will be also persons of concern to UNHCR, and possibly needing to be accommodated within a voluntary repatriation programme, for example, for reasons of family links or protection needs awaiting adjudication. A comprehensive solutions strategy would have to accommodate such persons including, as appropriate, through local stay solutions.

Given the multifaceted and regional nature of the displaced population, UNHCR as the refugee-mandated agency, needs to approach any voluntary return operation - if and when conditions warrant - comprehensively and in consultation with all stakeholders. This includes, in particular, the refugees and asylum-seekers, and those persons in the communities to which they will be returning.

As a foremost priority, UNHCR will be looking to ensure that all necessary safeguards are in place for people to return voluntarily, in safety and with dignity. It will be important that any voluntary return is organized accordingly so as to ensure the full protection of refugees, asylum-seekers, and others of concern to UNHCR.

This Framework for Voluntary Repatriation (UNHCR discussion paper) therefore sets out the protection principles and standards that need to be upheld and highlights the main protection and assistance aspects of an organized repatriation operation for refugees and asylum-seekers living in the nine temporary shelters<sup>3</sup> in Thailand. It does not determine or present the details of an actual operation.<sup>4</sup>

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<sup>1</sup> 2010 end-of-year statistical reports / UNHCR Statistical Online Population Database, data extracted: 23 March 2012. [www.unhcr.org/statistics/populationdatabase](http://www.unhcr.org/statistics/populationdatabase)

<sup>2</sup> 2011 end-of-year statistical reports / Field Information and Coordination Support Section, UNHCR Geneva

<sup>3</sup> 'Temporary shelters' is the Royal Thai Government term used to identify the refugee camps along the border.

<sup>4</sup> Oct 2004 UNHCR-NGO consultations resulted in the 'Durable Solutions for Myanmar Refugees in Thailand' document and UNHCR-led process towards a contingency plan; a similarly consultative process will be undertaken with concerned stakeholders in order to prepare a detailed Voluntary Repatriation Operations Plan.

## LEGAL STANDARDS AND CORE PRINCIPLES OF VOLUNTARY REPATRIATION

The voluntary repatriation of refugees from Myanmar may range from the return of individuals to the mass movement of significant groups of persons, together with their belongings. Repatriation may be organized or spontaneously initiated by the refugees themselves. It is universally recognized, however, that the voluntary repatriation of refugees needs to be governed by the following basic and common principles.<sup>5</sup>

- i. Refugees have a right to return voluntarily to their country of origin.
- ii. Tangible efforts - by all parties to the conflict - are undertaken to address and remove the root causes of cross-border refugee movement and internal population displacement.
- iii. The repatriation of refugees takes place only upon the freely expressed wish of the refugees themselves. The voluntary and individual character of repatriation must be respected.
- iv. Voluntary repatriation must be carried out under conditions of safety and with dignity, preferably to the refugee's place of residence or place of choice in the country of origin.

UNHCR's mandate is to provide protection to refugees and to seek durable solutions for them. Voluntary repatriation in conditions of safety and with dignity remains the preferred durable solution for refugees (Goal 5 of the Agenda for Protection), and UNHCR's Statute and a number of UNHCR Executive Committee Conclusions provide the legal framework for its lead role in voluntary repatriation operations.<sup>6</sup>

UNHCR's Statute identifies two principal protection activities as "promoting ... with Governments the execution of any measures calculated to improve the situation of refugees and reduce [their] number", as well as "assisting governmental and other efforts to promote voluntary repatriation". To that end, a tri-partite agreement will be sought in order that any voluntary repatriation operation is conducted within a legal framework, thus further enhancing the protection of those opting to return home.

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<sup>5</sup> UNHCR Handbook for Repatriation and Reintegration Activities, May, 2004. Also refer to Annex II as attached.

<sup>6</sup> Executive Committee Conclusion 29 of 1983, called upon governments to facilitate the work of UNHCR "in creating conditions favourable to and promoting voluntary repatriation, which whenever appropriate and feasible is the most desirable solution for refugee problems." Executive Committee Conclusion 58 of 1989 restated the same principle, requesting governments, in close cooperation with UNHCR, to "promote appropriate durable solutions, with particular emphasis firstly on voluntary repatriation and, when this is not possible, local integration and the provision of adequate resettlement opportunities." Executive Committee Conclusion 101 of 2004 made clear the voluntary nature of return by "reaffirming the voluntary character of refugee repatriation, which involves the individual making a free and informed choice through, inter alia, the availability of complete, accurate and objective information on the situation in the country of origin."

## GENERAL CONDITIONS FOR A SUSTAINABLE VOLUNTARY REPATRIATION

Should the positive socio, political and security developments within Myanmar continue, resulting in improved human rights and human security conditions, and when humanitarian access and activities in return areas is assured, then the voluntary repatriation of refugees may become a realistic durable solution.

A sustainable repatriation to Myanmar is essentially dependent on the content and durability of the ceasefire agreements and the ongoing peace process between the parties. This must include a notable reduction in the presence of armed elements and weapons of war. In the absence of a general peace agreement and corresponding changes to the overall security environment, refugees are unlikely to return.

For a repatriation to be voluntary there needs to be a meaningful dialogue with the refugees on the situation in Myanmar; and the success of any voluntary repatriation operation will depend on the psychological readiness of persons to return to places from where they had felt forced to flee. Even given the desirability of repatriation, premature return cannot be considered a durable solution if it results in renewed displacement or if the refugees are asked to return to areas of temporary internal displacement.

Significant investment in creating the socio-economic conditions in the areas of refugee and IDP return is required. The majority of the refugees come from an agriculture-based subsistence economy, characterised by relevant skills and a dependence on farm income with a limited market and few cash transactions and savings. Many of the refugees' villages have been destroyed and their productive assets lost. The infrastructure in these places of origin will need rehabilitation.

Public health issues need to be considered. Malaria is endemic in prospective return areas, while malaria transmission has almost disappeared inside the temporary shelters. Without having developed immunity to the parasite, returnees will be particularly vulnerable to developing the most severe forms of the disease. Securing returnees' access to medical diagnosis and effective treatment will be critical to avoiding increased mortality. Health services should be readily available to ensure the range of care, support and treatment to people with specific medical needs, such as tuberculosis patients or persons living with HIV (PLHIV). Therefore, the presence of essential health services will greatly assist the sustainable reintegration of the refugees.

One of the key challenges will be how to best ensure that the refugees are provided with accurate and up-to-date information that is objectively presented and consistent with humanitarian protection and human rights principles. Information provided to refugees must be carefully coordinated and entirely consistent. In this regard, agreements to allow refugee representatives to visit their places of origin so as to inform themselves of the real-time situation may be useful; as might other forms of

information-sharing and consultations such as regular open-dialogue meetings, the use of public radio, and other forms of mass media.

The widespread use of landmines during the conflict will require transparency - from all parties to the conflict - as to where they are located. A demarcation and de-mining programme of significant proportions will be required. UNHCR and its partners will continue to impress upon the Government of Myanmar the importance of addressing the problem of landmines as an early priority, and this is increasingly recognised by them as such.

After many years in the temporary shelters, the refugees' hope for peace has been severely tested and their confidence in the ceasefire agreements is, at best, limited. And, so, all the parties must assure them that they will be protected against all forms of harassment and that their human rights will be fully respected upon their return. Efforts to work with the Government and local authorities in the re-establishment of law and order, judicial systems and local governance mechanisms will be important.

It is first and foremost the primary responsibility of the Government of Myanmar to ensure a safe, sustainable and dignified reintegration of returning refugees and IDPs. Likewise, the Myanmar authorities are responsible for all security measures at the border crossings, the reception centres, and en-route to the places of origin and returnee destinations.

Before any voluntary repatriation operation is initiated, refugees must be allowed to express freely, and without any form of coercion, their will to repatriate. UNHCR and the non-governmental community will continue to advocate for the principle of individual determination and will monitor the situation to confirm the voluntary nature, particularly during the completion of a UNHCR Voluntary Repatriation Form (VRF) to ensure that no refugee is returned against his or her will.

#### POSSIBLE TRIGGERING EVENTS TO RETURN

As noted above, before any return of refugees can be facilitated or organized, it needs to abide by international standards for return; namely, that people have a right to return voluntarily and based on their individual and freely-expressed wish to return, and that the return is carried out in conditions of physical, legal and material safety and dignity. Any involuntary or forced return would be considered a violation of the cornerstone refugee law principle of *non-refoulement*. Humanitarian access and presence in the areas of IDP and refugee return will help in ascertaining the voluntary and sustainable nature of the repatriation.

Triggering events that could encourage groups or individuals to decide to return are listed below. The degree of progress towards completion of each of these events could individually or together serve to influence the number of voluntary returns:

- The 1 April by-elections, which were seen to be held in a relatively inclusive and transparent manner, will lead to continued positive and durable political developments at the provincial and national levels.
- Ceasefire agreements between the Government and armed opposition groups continue to be signed and lead to peace talks, and the signing of comprehensive peace accords and genuine reconciliation.
- Dialogue concerning reconciliation is undertaken or continued with pro-democracy groups and current groups listed as unlawful organizations such as the Federation of Trade Unions of Burma (FTUB), National League for Democracy – Liberated Area (NLD-LA), Burma Lawyers' Council (BLC).
- All remaining political activists, journalists, ethnic group leaders and other prisoners of conscience are released.
- The establishment of an amnesty programme for exiles wishing to return.
- The Government offers amnesty and assistance to reintegrate combatants who agree to lay down their arms.
- Reintegration programme for child soldiers from non-State armed groups as well as child soldiers from the military.
- The Government establishes a system of property restitution or remuneration for lost property.
- Humanitarian and development actors are granted full access to return areas, particularly allowing the opening of offices with international staff and regular monitoring capacity.
- Implementation of an agreement with ILO to end forced labour by 2015, which was signed in March 2012 between the Myanmar Government and ILO.
- Completion of development and construction projects to the point of the creation of significant new economic opportunities and which are implemented in consultation with affected populations with a view to further their economic and social well-being, and takes environmental degradation into consideration.
- Access in areas of return to basic services such as health and education.
- In the specific case of Muslims from northern Rakhine State (NRS), change in government policy and/or laws regarding their legal status; ease of restrictions on freedom of movement and other human rights in NRS (elimination of forced labour, extortion, restrictions on contracting marriage, and non-registration of children).
- Access to civil documentation such as CSCs (Citizen Scrutiny Cards) and birth certificates.
- Specific legislative reforms are put in place, that repeal oppressive laws.
- Implement proposed revisions to the 2008 Constitution.

## REPATRIATION SCENARIOS

Conditions in potential areas of return present a series of challenges to sustainable repatriation. The areas from where most of the refugees originate were abandoned and it appears that these locations offer limited life-sustaining activities. Some refugees, who had land prior to their flight to Thailand, have expressed the desire of going back to their places of origin. Others, including political leaders, may favour a return to temporary resettlement sites (something that UNHCR would not support). The younger generation may favour going to urban centres where they can pursue education and employment. There is also the possibility that refugees would want to return to economically developed areas. Who controls the areas is an important determinant in the decision-making process. Some refugees have suggested that they would prefer to go to areas under the control of non-state actors. Additionally, some have suggested that UNHCR and the non-governmental organizations (NGOs) in Thailand should also be present in the areas of return in order to assist with community-based assistance projects and also to monitor the reintegration process.

The preference of refugees regarding areas of return and the requirements for a sustainable reintegration needs to be researched. To that end, UNHCR will support a process of profiling of both the registered and unregistered refugees in the nine temporary shelters that, among other things, will help produce valuable data and analysis as to where refugees would like to return. Following this, UNHCR will also facilitate the collation of information on the communities identified and the concerns of the refugees so as to better ascertain what the overall living conditions are currently in areas of return and what reintegration assistance activities should be prioritized.

There are many possible scenarios for the repatriation of refugees to Myanmar, but two key issues will be the areas to which refugees are allowed to return and what peace agreements are reached. Similarly, the areas to which refugees will be able to return - and to which the humanitarian community will be allowed access to deliver reintegration assistance - may well depend on these peace agreements.

Recent discussions between UNHCR and central and regional-level officials in Myanmar suggest that the Government supports the return of refugees to their places of origin, wherever this is possible.

Most of the refugees living in Thailand come from the states and regions of Myanmar immediately adjacent to the Thai border. Given a choice, most refugees will probably choose to go home or, alternatively, to somewhere near their previous homes. These areas, however, have been fought over for decades and their former homes are now under the following forms of administration: relocation sites, urban areas, partial administration areas, special administration areas, uncontrolled areas, and ceasefire areas. The so-called "uncontrolled areas" may have sophisticated social services administered through non-state armed groups, and these capacities may need to be engaged and built upon.

In general terms, the types of administrative areas listed above represent, in order, decreasing levels of Government representation ranging from complete control in the urban areas and most relocation sites to no direct access in the ceasefire areas. The ideal repatriation situation is that refugees are allowed to make a free choice between different types of areas and that they should not be forced to return to any particular area, subject to such constraints as the presence of landmines.

It is crucial for a sustainable return that, within any of the following scenarios, the presence of the international community, the provision of reintegration assistance, and the monitoring of the protection and human rights of returnees is provided for under a voluntary repatriation and reintegration framework. The lack of a returnee protection and reintegration monitoring mechanism (to be put in place by UNHCR and/or in conjunction with another respected international human rights-based organization) would seriously jeopardize the sustainable repatriation process.

Currently, there are three likely - but not mutually exclusive - scenarios for repatriation (and places of return) that would need to be detailed within the Voluntary Repatriation Operations Plan.

*Scenario 1: Free choice of areas of return*

The first and most likely scenario envisions refugees returning to their places of origin in cases where this is a viable and sustainable option and, where it is not, to a location close by. This scenario sees refugees returning to rural areas with little in the way of basic infrastructure, the absence of basic essential services such as schools and health centres as well as livelihood opportunities. All of these gaps will need to be addressed as part of an initial reintegration programme.

This scenario will require providing accurate and comprehensive information to the refugees of conditions upon return, and is likely to be guided by the returnees' desire to pursue life-sustaining and economic activities where they would like in the whole of the country. A significant proportion of the younger population in the temporary shelters has expressed the desire of pursuing higher education and employment in urban centres and this scenario would provide the required opportunities. The older generation is likely to return to their original villages.

*Scenario 2: Repatriation to last place of habitual residence or place of origin*

This may be considered to be the preferred scenario from the point of view of some non-state and/or ethnic political actors. Refugees in Thailand have repeatedly expressed fear of returning to areas of Government control. Years of fighting has led to high levels of mistrust between the various parties. This scenario may be applicable if there is a protracted peace process during which territory is demarcated and government troop movements are contained.



Senior-level Myanmar government officials have stated that refugees will be able to return to their places of origin where that is a viable and sustainable option (although this notion must be fully elaborated from the perspective of the Myanmar Government). However, given the free choice of returnees and the principle of voluntary return, the international community should support the areas where refugees feel confident to enjoy a peaceful life. This will also ensure that refugees return to areas close to their places of origin and would keep better contact with their former villages.

### *Scenario 3: Repatriation to government-designated areas*

Refugees would be reluctant to accept this option without guarantees that they would not be subjected to mistreatment and human rights violations. Similarly, UNHCR will not support activities or efforts of any party that result in the return of refugees to continued displacement.

This scenario would require agreements with the Government of Myanmar and the main ethnic armed groups to put in place a returnee monitoring mechanism that will provide protection assurances and thereby satisfy international standards. More fundamentally, this scenario would also require political agreements, constitutional amendments, rights-based legislative reforms, a strengthened and impartial judiciary, etc. Given that returnee monitoring would certainly be recommended under all scenarios, the international community will need to share the responsibility of protecting the human rights and well-being of the returnees.

The sustainable return of refugees within the above scenarios and any other scenario that might yet emerge will require a significant investment of resources by the donor community, international agencies and organisations and the Government of Myanmar. It also requires early access for UNHCR and partner agencies to areas of internal displacement in Myanmar, most of which are close to the locations refugees will return to.

If the political and economic reform processes in Myanmar are sustained, which many analysts now agree will be the case, the peace process with the ethnic groups is likely to remain one of the Government's main priorities. Most sides agree, however, that ceasefire agreements are only the initial step in the complex process and that the peace negotiations will take time.

Given the complex and diverse composition of refugees and asylum-seekers in the region, with numerous ethnic groups comprising the potential returnee population, any organized return will likely be conducted in phases and in light of the operational context of each host country. Annex I to this discussion paper, summarize the key operational aspects and the main elements of an organized return of refugees from Thailand to Myanmar.

## Annex I

### ELEMENTS OF AN ORGANIZED VOLUNTARY RETURN

Thailand currently hosts some 140,000 Myanmar nationals in nine temporary shelters along the Thailand-Myanmar border. Of this number, some 85,000 are officially registered as refugees. Among the registered population, some 84 per cent are ethnic Karen and some 12 per cent are ethnic Karenni. The remaining 4 per cent are of various ethnicities. UNHCR and the Thai Ministry of Interior (MoI) have residence information for each individual at the district level. This is sufficient information for planning a framework for return, but more precise data is needed for an organized return to take place, including the refugees' intended place of return at the village level. The remaining estimated 55,000 refugees are yet to be registered, many of whom arrived after 2005. The ethnic breakdown of this group is similar to the registered population, but basic data on these individuals is limited. Consequently, the Royal Thai Government and UNHCR have agreed to arrange for the completion of a profiling exercise in the temporary shelters to collect important data regarding the refugee population, most importantly to determine their intentions for durable solutions. The survey will cover registered as well as unregistered populations, and will also summarize areas of origin and preference for return at the village level.

UNHCR is consulting refugees living in the temporary shelters, and will continue to meet with Royal Thai Government counterparts to review the necessary conditions for any return. The Royal Thai Government has indicated its appreciation of UNHCR's mandate, and as such, expects it to coordinate the broader consultations with stakeholders regarding the preparedness and planning for the eventual voluntary return of the refugees. The Royal Thai Government has not set any deadline for refugee returns, acknowledging that conditions need to be in place first.

As indicated, a Voluntary Repatriation Operations Plan will be elaborated, and the October 2004 'Report of the UNHCR-NGO Consultations Process: Durable Solutions for Myanmar Refugees in Thailand' will serve as a resource. At the appropriate time and juncture, UNHCR will convene a series of high-level consultations and working-level meetings with all stakeholders concerned with the welfare of the refugees, with the purpose of preparing a detailed planning and preparedness document. It will reflect the latest developments in Myanmar (as they impact the possibilities for refugee repatriation) and ensure that the humanitarian community on both sides of the border can engage in and influence the process.

- Refugee numbers and place-of-origin information

The refugee population based in the nine temporary shelters along the Thailand Myanmar border is currently estimated to be 140,000 persons. (The nine shelters comprise Tham Hin, Ban Don Yang, Nu Po, Umpiem, Mae La, Mae La Oon, Mae Ra Ma Luang, Ban Mae Surin, and Ban Mai Nai Soi). Of the 140,000 some 85,000 were

officially registered as refugees prior to 2005 and are included in UNHCR's proGres database. UNHCR, in conjunction with the Ministry of Interior, has a breakdown of place-of-origin and/or place-of-birth (POB) data for this group of refugees at the district level only. While this is sufficient for the framework planning at this stage, much more precise data will have to be collected at the time of voluntary repatriation data collection on both the place of origin and the intended location of return (which may or may not be the same), which should be specified up to the village level. This data does not include refugees who were registered but have subsequently been resettled to a third country.

The registered population in the temporary shelters is composed of some 84% ethnic Karen and 12% ethnic Karenni refugees. The remaining 4% are of Burman, Shan and Mon descent and Muslims from NRS. The majority comes from rural settings and has agrarian backgrounds; and many have only known life in a camp setting. The ethnic breakdown of the unregistered refugee population is quite similar, and it is hoped that the more specific data that is available on both groups can be aggregated.

The remaining estimated 55,000 refugees are as yet unregistered, many of whom arrived after 2005. POB data of these refugees are dispersed, including data provided by the Thailand Burma Border Consortium (TBBC) as it regards their programme of food and shelter assistance to the beneficiary population. Between 2010 and 2011, UNHCR conducted a sample survey of so-called "new arrivals" (i.e. the unregistered population) interviewing over 880 households (representing 3,500 individuals). POB for this sample group was considered so as to allow a comparison with the proGres data. For the registered population, POB by State/Division in Myanmar is as follows: majority of registered refugees originate from Kayin State, i.e. 66% of the total registered population or 57,405 persons; followed by Kayah State with 12,856 (15%); Tanintharyi Region with 6,235 (75%); and Bago and Mon with 4,783 and 4,487 respectively (each with 5%). When compared against the new arrivals survey data for unregistered refugees, the same top four states/regions of origin appear, confirming Kayin State as the primary area of likely repatriation.

- Refugee registration

The number and profile of the registered refugee population has been determined through a comparison of the UNHCR and MOI respective databases; and the registration exercise jointly conducted by UNHCR/MOI each month provides for an elaborate record of identification, family size, and number of male/female family members, children and the elderly in each family. This official record would serve as the basis for any repatriation planning.

There is an estimated but as yet undetermined number of unregistered refugees living in the temporary shelters accounting for as much as 41% of the current total population. The Royal Thai Government issued instructions in July 2003 to provinces/districts to list the unregistered population living in the temporary shelters; however, there were no consistent or co-ordinated official efforts to systematically account for the unregistered refugee population residing in the nine

temporary shelters. Pending a policy decision regarding the unregistered population, a re-registration exercise should be undertaken in all the temporary shelters in order to more precisely determine the population in the context of repatriation. Included in this population are some 3,506 students and unaccompanied minors who live in boarding houses, and tracing of this population will need to be undertaken to facilitate their return. In addition, as part of the re-registration, efforts will be made to improve registration information for those with special needs; particularly the unaccompanied minors and separated children (UASCs), persons with mental and physical disabilities, and the elderly.

All stakeholders are in agreement that the population that will be eligible for facilitated voluntary repatriation includes both the MOI-UNHCR registered population and the unregistered population living in the temporary shelters (based on data from the TBBC food distribution) without distinction.

- Refugee profiling

It has been agreed between the Royal Thai Government and UNHCR to conduct a profiling exercise in the temporary shelters to collect important data regarding the refugee population, including ascertaining their intentions for durable solutions. The profiling will include both registered and unregistered refugees living in the temporary shelters. This survey will capture information regarding areas of origin showing provinces/states, districts and townships, and village tracts/villages in addition to the preference to return to original places, designated areas or any other locations in Myanmar. Humanitarian agencies working in the temporary shelters will be consulted about the planning and the implementation methodology of the survey, and will receive the final analysis. The information obtained in the survey will serve as a tool to better structure the operation and to make full use of the available resources. The information will also help in identifying major return areas and the number of people intending to return. The profiling of residents in the nine temporary shelters is not, and should not be viewed as, a registration exercise.

- Protection of people with specific needs

Under the UNHCR classification of people with specific needs, made in conjunction with NGO partners, there are more than 17,000 persons residing in the temporary shelters who are in need of specialised protection support. The two largest groups consist of unaccompanied minors and the elderly (aged 55 years and above) who account for 63% of the total number of those with specific needs. Other groups include people with physical and mental disabilities, single-parent families, and victims of abuse.

People with specific needs may be inherently disadvantaged in terms of their access to resources and services available within the temporary shelters, and require special assistance on a regular basis to help them meet their basic needs. The disadvantages will likely increase during repatriation. For some, the challenges of repatriation and reintegration back home may become insurmountable, particularly in the absence of

a support network. It is, therefore, vital to get information identifying them at the registration stage, so that efforts can be made to ensure that there is appropriate support for them prior to and following repatriation. It is equally important that the NGOs that have been providing support to refugees with special needs are encouraged and allowed to work in the areas of refugee return.

A number of NGOs and community-based organizations (CBOs) operate special programmes to assist those with specific needs and their work will be instrumental in developing appropriate strategies for the various groups in the lead-up to and during any repatriation operation. Of equal importance will be the types and levels of support that can be offered at the place of return. As such, the organizations will receive the prioritized support of UNHCR to ensure the protection of those with specific needs throughout the repatriation process. In consultation with the NGO and CBO community, UNHCR will prepare Standard Operating Procedures (SOPs) in respect of groups and individuals with specific needs.

Resettlement to a third country may remain an option for a small number of refugees with specific needs and where voluntary repatriation or local integration may not be a viable option towards a durable solution.

- Advocacy and information campaigns

To help make a voluntary return operation sustainable it must be ensured that refugees are regularly provided relevant information to make an informed decision about whether to return and where to return to. UNHCR will take the lead in the information campaign and seek the support of the NGO and CBO communities. The role of the two governments as well as the non-state armed groups will be a critical factor in ensuring the international standards and principles of voluntary repatriation; and, as such, this must be evident throughout their own advocacy and information campaigns directed towards the refugee community.

It is understood that refugees have contact with the population still living in or near the areas of origin and are generally aware of the conditions prevailing there. However, given the lack of communication facilities and the infrequency of contact, it is essential that additional information is provided. To that extent, information needs to be compiled about the conditions in the areas of potential return and disseminated among refugees before any repatriation operation can commence. The refugee population will need to receive regular updates on the conditions in the places of return, which includes information about education and health facilities, community services, economic opportunities, and property and land rights. Information related to economic and infrastructure development, general security (e.g. presence of landmines), refugee/returnee rights, and assistance provided during the repatriation and reintegration processes should also be shared.

The two common languages in seven of the nine temporary shelters are Karen and Burmese. In the two Karenni temporary shelters (Ban Mai Nai Soi and Ban Mae Surin)

the common languages are Kayah and Burmese. Communications will need to be made in all three languages.

- Border-crossing formalities

The governments of Thailand and Myanmar together with UNHCR, ideally as part of a tripartite arrangement or alternatively of separate bilateral agreements, must agree on border-crossing formalities and identification papers to be held by the refugees during the return movement. This may include the UNHCR-issued Voluntary Repatriation Form (VRF).

The pace and number of refugees who choose to voluntarily repatriate to specific areas of return should be subject to prior agreement so that effective logistics planning is undertaken and to avoid overstressing the absorption capacity at the specific place and within the general areas of return.

Procedures for border-crossing - if not waived altogether - should be clear and simple. Repatriation procedures should, if possible, be carried out at the departure points (in the temporary shelters) or, in some cases, at en-route transit centres in order to avoid delays and complications during the movement. It should be made clear as to what kind of household goods and other items (such as livestock) refugees will be allowed to take with them to Myanmar. Refugees should be exempted from customs duties, tariffs, etc. These procedures and other activities (to be detailed in the Voluntary Repatriation Operations Plan) that facilitate the return movement, and the reception, provision of assistance and reintegration of the refugees back home, should be contained within a tripartite (or bilateral) agreement.

- Return data entry

Registration teams, under the supervision of a UNHCR Protection Officer, will work in the nine temporary shelters completing individual registration forms. The teams will assist the family and/or individual to complete a VRF after verifying the identification of the family/individual from the registration record provided by the Ministry of Interior and district authorities in Thailand, and cross-referencing against the UNHCR proGres protection database and the TBBC assistance database. Neither proGres nor the TBBC database contains biometric information of the refugees. Cross-referencing will have to be done based on names, photographs, and possession of Household Registration Forms for the registered population. Details of the data to be collected will be elaborated in the operations plan. However, the principle will be that the same data will be collected about the registered and unregistered populations and that, ultimately, the two will not be distinguishable once voluntary repatriation is underway and when the refugees arrive in Myanmar.

Voluntary repatriation data will also form the baseline data for UNHCR for future protection monitoring in Myanmar and will, as such, be transmitted to UNHCR in Myanmar. During the protection interview and the completion of a VRF, further details on the requirements of those with specific needs will be gathered.

- Information management

UNHCR will assume a primary role in information and data management in preparation for and the implementation of any voluntary repatriation operation, and will seek partnership with and the support of specialised agencies and the NGO community.

The UNHCR Geographic Information System (GIS) will help turn data into essential, well-presented information and serve as the knowledge resource base for both planning and conducting a repatriation and reintegration programme. Usually tied to geographical locations, it will encompass, *inter alia*, topographic, geographic, socio-economic, infrastructure, road and logistical information.

UNHCR, through consultations with a wide range of actors, including NGOs, local authorities, refugees, villagers, and technical experts, will collect information on the refugee population - especially through the information gathered during the refugee profiling exercise - and the potential areas of return. The information fed into a GIS database and linked with the registration database of populations in the temporary shelters in Thailand will be a useful tool available to governments, UN agencies, NGOs and donors. The system will produce maps, graphs and tables, and cross-cutting information; and it will be used to assist in planning the logistics of return. It will also represent reintegration needs and strengths of returnees, specific vulnerabilities of the returnee population and the local host population in various areas.

- Coordination mechanism

UNHCR stands ready to coordinate any voluntary repatriation operation in respect of the refugees wishing to return to Myanmar. In partnership and in consultation with all of the main actors and various stakeholders on both sides of the border, UNHCR will develop an appropriate coordination mechanism both at the capital and provincial levels. To that end, UNHCR offices in Bangkok and Yangon will ensure the coordination mechanisms with their respective partners at the country level for return planning, and needs assessments for reintegration support and post-return monitoring procedures.

- Principle actors and key stakeholders

In Thailand, the principle government partners will be the Ministry of Interior, the Ministry of Foreign Affairs, the National Security Council, provincial and district authorities, and the Royal Thai Army.

All members of the Committee for the Coordination of Services to Displaced Persons in Thailand (CCSDPT) and other NGO and CBO actors are equally important.

UNHCR's engagement with both the Karen and the Karenni refugee committees, with ethnic group representation in Myanmar, and with the refugees themselves, will be a vital aspect of the planning, preparedness and implementation process.

In Myanmar, the principal government partner is the Ministry of Border Affairs. Additionally, the Ministry of Immigration and Population in Myanmar will also play an important role in the return process, particularly in the critical protection issue of documentation, and the Ministry of Immigration and Population is familiar with UNHCR both as a counterpart in the northern Rakhine State and as a partner on the issue of documentation for IDPs in other parts of the country. The Ministry of Social Welfare and Relief and Resettlement may well also have a role to play, as is the case currently in Kachin State. Although the newly-established regional governance structures in south-eastern Myanmar are only peripherally involved in the ceasefire and peace negotiations with the ethnic groups and will not set policy direction on the return and reintegration of refugees, they will play an important role in the reintegration of refugees in the areas of health, education and housing. UNHCR's government counterpart for operations in south-eastern Myanmar, the Ministry of Border Affairs, will likely be the coordinating government agency for repatriation,. It is also possible that, with any devolution of power from Nay Pyi Taw to the State Assemblies, the State Chief Ministers will be the key interlocutors for UNHCR and the humanitarian community.

The importance of building new partnerships and strengthening existing ones with local NGOs cannot be overstated. UNHCR's partners in the south-east border areas are primarily international NGOs and, while they bring capacity and technical expertise in key areas of reintegration support and should be engaged in the process from early on, more attention needs to be paid to building local partnerships with the direct support of international NGOs. Civil society groups, ethnic groups and their leaders, and critical actors on the national scene, such as the governing Union Solidarity and Development Party (USDP) and National League for Democracy (NLD) and their leadership, will need to be engaged and kept informed.

- Residual population

At the end of the voluntary repatriation operation, it is expected that there will be a residual caseload of refugees who do not wish to return to Myanmar at that point in time. UNHCR will advocate with the Royal Thai Government for a mechanism to regularize the status of the unregistered among the residual population, including reviving the Provincial Admission Boards (PABs) to determine their international protection needs. UNHCR will also advocate with the Royal Thai Government to ensure that those registered among the residual population are able to retain their status and remain in the temporary shelters in Thailand while appropriate solutions are sought in accordance with their needs.

## REINTEGRATION SUPPORT STRATEGY

In consultation with the Government of Myanmar and governments in the countries of asylum, NGOs and CBOs, the donor community, refugees, local communities and other stakeholders, UNHCR will prepare a detailed Reintegration Strategy in order to support the successful return of refugees. A community-based program of activities



will be promoted and implemented based upon comprehensive needs assessments and consultations within the areas of return. Reintegration activities and project delivery will be flexible so as to accommodate the complexities and any changes that may occur throughout the return and reintegration processes. The scope of activities will be significant, ranging from food assistance to essential health care facilities and services, primary and secondary education support, and community-level infrastructure rehabilitation (such as access to potable water) and agriculture-based initiatives. Livelihood opportunities will be a key activity towards ensuring sustainable IDP and refugee returns. Resolving land and property issues will be critical as will the implementation of a humanitarian landmine action strategy. These and other activities to support the sustainable return of refugees and IDPs will require prioritized attention and significant donor support.

Currently, there are only a few international or national NGOs implementing community-level activities and livelihood support programmes in the areas of return. As such, it will be important that the capacities of informal community-based responses are utilised and included in the overall coordination efforts. In particular, humanitarian relief agencies and social service providers affiliated with the non-state ethnic groups and channelling aid across the border from Thailand represent critical assets that are complementary to the traditional agencies. Thai-based NGOs have been working with the refugee/IDP communities for 28 years. The networks and working relationships that they have developed with the displaced communities will be invaluable in building trust and establishing services.

Donor support is vital, but may hinge on greatly improved humanitarian access. Furthermore, the UNHCR programme and the humanitarian activities of the NGO partner community will need to be significantly scaled up in order to support a successful return operation. This should precede the voluntary return of IDPs and refugees. Currently, UNHCR's programme and protection activities are located in 29 townships in the Kayin and Mon States and Tanintharyi Region, and the locations of existing projects and monitoring do not include returnee areas. It is important, therefore, that UNHCR and NGO partners are able to operate in Kayah State (from where some 15% of the refugee population originate) to support a sustainable return process as well as in Kayin State through local presence in the state capitals of Loikaw and Hpa-An.

Likewise, and as mentioned above, it is important to consider the possibilities of a cross-border operation wherein the activities of the NGO partners currently working in the nine temporary shelters, are also able to contribute to the sustainable return and reintegration of the refugees.

## Annex II

### STANDARDS AND PRINCIPLES IN VOLUNTARY REPATRIATION FROM THAILAND TO MYANMAR

The protection benchmarks that guide planning for voluntary repatriation are presented in a variety of international instruments, including the Universal Declaration of Human Rights, the UNHCR Statute and UN General Assembly Resolutions, the 1951 UN Convention on the Status of Refugees, and conclusions of UNHCR's Executive Committee. These instruments set out the following important basic principles.

- Repatriation needs to be voluntary.
- Return will take place under conditions of safety and with dignity.
- Voluntary repatriation may be “promoted” or “facilitated”.
- UNHCR, governments, NGOs, CBOs and refugees -with the support of the donor community - have a joint role to play in voluntary repatriation.

#### I. Voluntariness

The principle of voluntariness is the cornerstone of international protection with respect to the return of refugees. An involuntary return of refugees - whether on a group or individual basis - would amount to refoulement. The principle of voluntariness must be viewed in relation to:

- conditions in the country of origin; and
- the situation in the country of asylum

Voluntariness is important because it ensures the free choice of individuals and contributes to a sustainable return. The requirement of voluntariness is, therefore, a pragmatic and sensible approach towards finding a truly lasting solution to refugee situations. The issue of voluntariness as implying an absence of any physical, psychological or material pressure is sometimes clouded by the fact that for many refugees a decision to return is dictated by a combination of pressures due to political factors, security problems and material needs.

#### II. Return in safety and dignity

Return in safety means return in conditions of:

- legal safety (such as amnesties, public assurances of safety, non-discrimination and freedom from fear of persecution or punishment upon return);
- physical security (including protection from armed attacks, landmine-free routes or at least demarcated settlement sites); and

- material security (access to land and/or a means of livelihood; and support from the Government, humanitarian organizations, and the donor community for sustainable reintegration activities).

Return in dignity needs to ensure that refugees are not harassed; that they can return unconditionally; that they are not arbitrarily separated from their family members; that they are treated with respect by the national authorities of Myanmar, including a full restoration of their human rights; and the more complex issue of their civil rights.

### III. Promotion, facilitation, and UNHCR's Role

Two levels at which UNHCR can be involved in voluntary repatriation (and that may occur concurrently) are:

- promoting voluntary repatriation; and
- facilitating voluntary repatriation.

The promotion of voluntary repatriation means actively undertaking broad and wide-ranging measures to advocate the return of refugees. Promotion of repatriation can take place when a careful assessment of the situation shows that the conditions of "safety and dignity" can be met. In order for UNHCR to promote repatriation, the following conditions must be satisfied.

- There must be an overall, general improvement in the situation in Myanmar, including in the areas of return, so that return in safety and dignity becomes possible for the large majority of refugees.
- All parties must be committed to fully respect its voluntary character.
- Myanmar provides a formal guarantee or adequate assurances for the safety of repatriating refugees.
- UNHCR retains free and unhindered access to refugees and returnees.

UNHCR may facilitate repatriation as long as it is based upon informed decisions at the individual refugee level and that it is conducted through a voluntary process. This may also be the case if UNHCR does not objectively consider the conditions in places of return to be adequate, but if it is satisfied that the refugees' wish to return is indeed voluntary and not driven by coercion. UNHCR respects the rights of all refugees to return to Myanmar at any time, whether it is of a spontaneous and/or self-assisted nature, or whether it is conducted through a formally organized operation.