



Supporting Durable Solutions in South-East Myanmar

A framework for UNHCR engagement

1. INTRODUCTION

Myanmar is currently undergoing a process of significant and rapid change, which has already generated a series of political, social and economic reforms affecting all aspects of life in the country. The reforms launched by the president Thein Sein and largely supported by the opposition leader Aung San Suu Kyi have received strong and positive encouragements from abroad with the most immediate outcome reflected in increased foreign aid and the temporary suspension of a number of economic sanctions. Key legal amendments have been adopted to ease restrictions on foreign investments, national media and political parties while, in addition, hundreds of political prisoners have been released from detention.

In late 2011, President Thein Sein's Government pledged to make the ethnic issue a national priority, offering dialogue with all armed groups and dropping preconditions for talks. By early 2012, cease-fires were agreed between the Government and a number of non-state armed opposition groups, including the Democratic Karen Buddhist Army (DKBA), the Karen National Union (KNU), and the Karenni National Progressive Party (KNPP).

However, two serious internal conflicts still remain. Following two waves of inter-communal violence in the western state of Rakhine in 2012, over 150 persons were killed and over 115,000 people were displaced. In the northern states of Kachin and Shan, the conflict with the Kachin Independence Army continues; fighting flared up in June 2011 breaking a cease-fire that held for 17 years. Despite repeated attempts to negotiate a new cease-fire agreement, no peace solution has been reached between the parties and the fighting has so far resulted in the displacement of an estimated of about 85,000 persons scattered in more than 194 locations.

Although the cease-fire agreements have not led yet to durable peace accords, the situation in the South-East, where the number of Internally Displaced People (IDPs) in UNHCR's area of operation¹ is estimated to be about 230,400 people, has started seeing changing dynamics. From the moment when the new civilian Government started to

¹ UNHCR's area of operation in the South-East currently consists of Kayin, Kayah, and Mon States, and Tanintharyi and Bago Regions.

make efforts towards an internal peace process with armed groups in the border areas, parallel debates emerged about the opportunity to return for over a hundred thousand refugees from the “temporary shelters”² in Thailand.

While the present and immediately expected environment in Myanmar does not meet all the conditions or safeguards for an organized return, the changing environment makes it prudent that measures are initiated to prepare for any possible voluntary repatriation of refugees as well as the return, local integration or voluntary resettlement to another part of the country of IDPs in Myanmar. Any preparations, however, should be initiated with due caution so as not to send the wrong “message” to the Government, non-state armed groups, IDPs, refugees or partners that return is being encouraged or promoted at this stage.

This Discussion Paper seeks to articulate a broad framework which should guide UNHCR’s engagement in the South-East in 2013-2015, and in particular, to define the parameters of UNHCR’s role in supporting:

- i. durable solutions for IDPs; and
- ii. the sustainable reintegration of returning refugees.

It builds upon a separate discussion paper dated 1 October 2012, which sets out a framework for voluntary repatriation for Myanmar refugees from Thailand. The papers should form the basis of a more detailed operational strategy for 2013-2015, and should also serve as the first step towards a consultative multi-stakeholder process, engaging Government, civil society, UN and NGO partners, donors and refugees and IDPs themselves, to elaborate a shared vision and strategy for support to durable solutions in the South-East. The document outlines UNHCR’s general principles and standards as well as context-specific objectives and activities.

2. CONTEXT

2.1. Political environment

Despite the positive developments outlined above, considerable uncertainty remains around whether the cease-fire agreements will lead to durable peace accords. There were a number of clashes between armed groups and the Myanmar army reported in 2012 in Shan, Kayah and Kayin. Trust in the Government is yet to be built in cease-fire areas, after a long history of human rights abuses. Developments in relation to the conflict in Kachin will also play a role in influencing the prospects for peace elsewhere. Peace agreements will involve decisions on how best to share revenues from the natural resources in cease-fire areas, how much to devolve political and economic authority to the regional level, as well as how to maintain ethnic culture and language. Negotiations have been and will continue to be extremely complex and the trajectory of the process therefore remains uncertain.

While all the conditions and safeguards for an organized voluntary return to South-East Myanmar are not yet in place, positive political and economic reforms and security developments have increased momentum for preparing for a possible voluntary return of refugees from Thailand and durable solutions for people internally displaced as a result of protracted conflict. A small number of refugees are reported to have returned

² “Temporary shelters” is the Royal Thai Government term used to identify the refugee camps along the border.

from the temporary shelters in Thailand to their place of origin, the majority of whom are single males who stated that they had returned to assess the security situation and start re-establishing their livelihood before the return of other family members. The dimensions of this spontaneous return movement have been, so far, negligible.

While the dimensions of IDP return movements remain extremely difficult to assess, some 37,000 IDPs are estimated by the The Border Consortium (TBC) to have returned home or resettled in surrounding areas between August 2011 and July 2012³.

If the current trend of political and socio-economic reforms continues and as larger political events draw closer, such as the ASEAN/AEC agenda with Myanmar as Chair in 2014, a national census in 2014, and national elections in 2015, then the momentum to translate cease-fire negotiations into peace agreements may increase. This may lead to an increase in the number of spontaneous returns and the possibility of sudden demands upon UNHCR to facilitate the voluntary repatriation of refugees.

2.2. Protection environment

Displaced people and their host communities in South-East Myanmar currently face a number of protection-related risks and problems such as the lack of civil documentation (including birth registration, family lists and identity documentation in remote areas), landmines, access to land and livelihoods, forced labour, forced recruitment, forced contribution or taxation, trafficking, gender-based violence and, in some cases, restrictions of movement. The protection concerns are often exacerbated for IDPs and, potentially, refugees upon return.

Many people do not possess a Citizenship Scrutiny Card (or “CSC”) either because they live or used to live in conflict areas controlled by ethnic armed groups with no Government representation, or simply because they do not have access to the administrative mechanisms that issue these documents. Furthermore, the Government in the past limited distribution of CSCs in border areas to contain movement of people linked to ethnic armed groups. Very few IDPs held CSCs before their displacement, and it may be extremely difficult for people who have been displaced as refugees or IDPs, particularly from areas controlled by ethnic armed groups, to provide the necessary documentation to obtain CSCs. Additionally, persons not belonging to one of the officially recognized “ethnic groups” face difficulty in acquiring CSCs, despite the fact that there are relevant provisions available for them under the Myanmar Citizenship Law. In July 2011, the Immigration and National Registration Department of the Ministry of Immigration and Population initiated the Moe Pwint Operation, which is an accelerated procedure to issue CSCs, especially in areas that were remote and/or difficult to access in the past because of the presence of non-state armed groups.

There are no mine maps currently available and the extent of the threat is impossible to accurately assess. However, it is suspected that Myanmar is one of the most highly landmine-contaminated countries in the world, with these devices continuing to claim several hundred civilian victims each year. Myanmar has not acceded to the Mine Ban Treaty but has recently set up a Myanmar Mine Action Centre, under the Myanmar Peace Centre (MPC)⁴ to co-ordinate and oversee the implementation of a national

³ *Changing Realities, Poverty and Displacement In South East Burma/Myanmar*, The Border Consortium, 31 October 2012, <http://www.tbcc.org/resources>).

⁴ The Myanmar Peace Centre (MPC) was established in October 2012 by a Presidential Decree to serve as the Secretariat to the Union Peace-making Central Committee and the Union Peace-making Work

humanitarian mine action programme with local and international humanitarian agencies. Despite these positive developments there are still no activities related to survey and clearance, marking, or fencing being undertaken. Mine risk education programmes and assistance to mine victims remain still limited in scope.

Land registration documents are held by township authorities in Myanmar. Land tenure documents and deeds are not always recorded or respected and there are frequent reports of land expropriation (or “land grabbing”) by the Government, the Myanmar Army, non-state armed groups, and private companies, often resulting in internal displacement without appropriate guarantees of compensation. Although the reforms introduced by the Government in 2008 provide some additional security of land tenure, they still fail to adequately recognise widely used customary rights.

The ongoing presence of armed actors in places of displacement and potential return remains a key concern. Communities have been subject to protection risks associated with the presence of military units including forced labour, forced recruitment and the payment of “taxes.” In addition, Myanmar is believed to have a large number of children in armed conflict, including child soldiers, with both the Government and various non-state armed actors having been responsible for the recruitment of minors. On 27th June 2012, the United Nations Country Task Force on Monitoring and Reporting (CTFMR) and the Government signed a Plan of Action with regards to underage recruitment in the Myanmar Army. Procedures are underway for the systematic identification and discharge of verified minors from the national forces. However, plans of action with non-state armed groups in the South-East have not yet been agreed and it remains to be seen whether the Plan of Action with the Government will be comprehensively implemented.

Individuals and families often have no means to retain legal services and are often unaware of their rights to seek legal remedies under Myanmar law. Services, security and the rule of law are weak, and effective protection and response mechanisms to address sexual and gender-based violence (SGBV) or the specific needs of extremely vulnerable individuals (EVIs), are still rudimentary with a lack of appropriate core mechanisms and services available.

Cases of arbitrary arrest and detention in Myanmar continue to be reported. Pervasive problems with the rule of law in Myanmar are well documented and detention and prison conditions remain extremely problematic.

In addition, under the 1947 Immigration (Emergency Provisions) Act (as amended), illegal departure or entry is punishable by a fine or imprisonment of up to five years. UNHCR is not aware of any prosecutions brought under this law, and the President has also stated publically that he welcomes back Myanmar people who ‘for various reasons’ left the country. However there have not been any changes or amnesties pronounced in relation to this law, and this would therefore need to be addressed prior to any organised voluntary repatriation of refugees.

2.3. Socio-economic environment

The health infrastructure in the South-East remains substantially underserved with a

Committee. The Myanmar Peace Centre is tasked to provide policy advice and strategic guidance as well as co-ordinating Government activities in the key areas of: cease-fire negotiations and implementation; peace negotiations and political dialogue; co-ordination of assistance in conflict affected areas and outreach and public diplomacy.

lack of skilled personnel, facilities, basic equipment and supplies, including in terms of potentially life-saving reproductive health, malaria prevention and control and HIV services.

The education sector is also substantially underserved and not of adequate standards, with a shortage of teachers and an inadequate number of primary schools within reasonable distance of many communities. Regular school attendance is hampered by education costs, distances, illness, work requirements, insecurity in conflict-affected areas and, for ethnic minority children, “language barrier”. Most children have limited opportunity to continue their education beyond primary school.

Access to safe drinking water, particularly in rural areas and during the dry season is uneven and in many locations insufficient, with those water sources available during the dry season located far away from human dwellings. Standards of sanitation are very low, with open defecation common and household latrines less than international standards.

The sustainability of IDP (and potentially, refugee) returns is also still hampered by limited access to livelihood opportunities. At present, access to livelihood resources and training opportunities are scarce. Returning IDPs and refugees may have lost the productive assets needed to restart agriculture, while homes have been destroyed by the conflict or have fallen into disrepair.

Additionally, distances are substantial between the temporary shelters in Thailand and potential return areas. Many of the places of origin of registered refugees in Thailand are particularly isolated and have received little investment in infrastructure. Investment in repatriation infrastructure, including transit centres or way stations, will be required in case of an organized repatriation movement.

3. POPULATION OF CONCERN IN SOUTH-EAST MYANMAR

3.1. Refugees in Thailand

UNHCR’s current area of operations in South-East Myanmar covers Kayin, Kayah, and Mon States, and Taninthayri Regions. These are the primary places of origin of the estimated 128,876 Myanmar refugees residing in the temporary shelters along the border in Thailand, and are assumed to be the primary potential areas of return.

UNHCR ProGres data on the 83,044 registered refugees in Thailand indicates an estimated 84 per cent are ethnic Karen and 12 per cent are ethnic Karenni. The remaining 4 per cent are of Burman, Shan, and Mon descent, and other groups. The majority of registered refugees come from Kayin State (65.3 per cent), followed by Kayah (14.6 per cent), Tanintharyi (7.3 per cent), Bago (5.2 per cent) and Mon (5 per cent). (Annex: Myanmar Thailand Border – Refugee Overview, as of end of March 2013)

A profiling exercise covering both the registered and unregistered refugee population residing in the temporary shelters in Thailand, will be carried out by the Mae Fah Luang Foundation on behalf of UNHCR in 2013-2014. The exercise will permit updating of data on areas of origin (Regions/States, districts and townships, and village tracts/villages) and will assess the intentions of refugees, whether that would be for eventual voluntary return, resettlement to a third country or other durable solution possibilities. For those refugees that intend to return, information about their desired or intended destination will be captured in the survey (this may include places of origin or prior habitual residence, or other locations in Myanmar). The major focus of the survey is about future

livelihoods, household and family security issues, as well as about past, present and possibly future skill-sets that will help the refugees to return to a normal life outside the camp. This information will also help in identifying both the major return areas and all other locations along with indications of the possible number of refugees intending to return to those areas, and required programmatic interventions to help in preparing the conditions that would support a sustainable voluntary return and reintegration.

3.2. Internally Displaced Persons

In its October 2012 report, TBC estimated that a total of about 400,000 individuals are still internally displaced in the rural areas of 36 townships in South-East Myanmar in Kayin, Kayah, South and East Shan and Mon States, and Bago and Tanintharyi Regions. Of these, the number located in Kayin, Kayah, Tanintharyi and Mon combined is estimated at 230,400 individuals (89,150 or 38.7% in Kayin; 71,650 or 31.1% in Tanintharyi; 35,000 or 15.1% in Mon and 34,600 or 15% in Kayah)⁵.

Due to the size and remoteness of the operational area, compounded by access limitation and sensitivities, reliable and disaggregated information on the profile and needs of displaced populations remains scarce. UNHCR has recently strengthened its information management capacities with a view to working towards obtaining a more systematic understanding of the locations and characteristics of populations of concern, and the protection risks affecting them. Additionally, the Joint IDP Profiling Service (JIPS), has recently completed a scoping mission aiming at assessing whether it is feasible and desirable to conduct an IDP profiling that would inform the design of an effective strategy for support to IDPs durable solutions, as well as targeting, improved advocacy and fundraising.

4. UNHCR'S CURRENT OPERATIONS IN THE SOUTH-EAST

UNHCR first established an operational presence in South-Eastern Myanmar in 2004 with the objective of assisting communities affected by armed conflict in Kayin and Mon States and in Tanintharyi Region. Between 2004 and 2012, UNHCR, in partnership with local and international organizations, has delivered over 3,000 humanitarian projects to ensure that displaced and host families in affected areas have access to proper sanitation, primary health care facilities, safe and clean water, livelihood activities and other training including technical support to community management capacities, particularly in relation to small infrastructure management.

UNHCR also undertakes protection assessment, legal awareness training, and provides assistance to extremely vulnerable individuals (including land mine victims and survivors of sexual and gender-based violence). The extent and capacity of protection monitoring and referral networks in the South-East nonetheless remain extremely limited.

In 2012 the programme expanded to cover capacity building of government officials and other partners in relation to IDP and refugee protection and the role and mandate of UNHCR. Additionally, support has been provided by UNHCR to the Moe Pwint Operation through a pilot project as well as the production of leaflets in the local language to increase the Ministry of Immigration efforts in enhancing awareness of the Operation within the communities.

⁵ TBC 2012, see note 3 above.

Also in 2012 UNHCR received authorization to open offices in Hpa-an in Kayin State and Loikaw in Kayah State, although this is still to be formalised. Access remains restricted in certain areas and is dependent on Government authorization and restrictive advance clearance procedures, especially for international staff. However, there have been incremental improvements in access in areas close to the Thai border, particularly as the cease-fire process has become embedded. Nonetheless, humanitarian access, and the degree to which UNHCR is free to assess needs and to effectively target its support to the most vulnerable displaced and host communities varies considerably from state to state.

5. LEGAL, INSTITUTIONAL AND POLICY FRAMEWORKS, AND KEY PRINCIPLES

International Refugee Law governs the protection of refugees, including the realisation of solutions to their plight. UNHCR's mandate is to provide protection to refugees and seek durable solutions for them and UNHCR's Statute and numerous Executive Committee Conclusions provide the legal framework for its lead role in voluntary repatriation operations⁶. UNHCR's Statute provides for key activities in this regard, including promoting with Governments measures to improve the situation of refugees and to assist Governmental and other efforts to promote voluntary repatriation.

In its involvement with durable solutions for IDPs UNHCR is committed to contributing to an inter-agency approach framed by the standards set out in the Guiding Principles on Internal Displacement and the Framework for Durable Solutions⁷.

Voluntary return is guided by internationally recognized standards, which inter alia provide that refugees have the right to return voluntarily, in safety and dignity, to their own countries. A freely expressed wish to return by those displaced is a pre-condition to any voluntary return. Recognized principles also include: taking measures to address any root causes of displacement (cross-border and internal) by all parties to the past conflict; that refugees and IDPs have the right to freedom of movement and the right to return to their place of former residence or another place of their choice in the country of origin; and that UNHCR and partners have access to returnee areas in order to monitor their return.

While UNHCR has been present and operational in South-East Myanmar since 2004, the UNHCR framework for co-operation with the Government of the Union of Myanmar in the South-East is defined by a draft Letter of Understanding (LOU) with its line Ministry, the Ministry of Border Affairs (NaTaLa). The LOU articulates UNHCR and NaTaLa's responsibilities in regard to the implementation of programmes aimed at improving livelihoods in communities affected by displacement, reducing the risk of further displacement, and specifically creating the appropriate conditions for return for IDPs and refugees. The current LOU, which includes Kayin, Mon, Kayah, Shan and Chin States, and Bago and Tanintharyi Regions, was signed on 10 June 2013.

Once the required safeguards are in place for the return of refugees and an organized programme is to be launched, a tripartite agreement between Myanmar, Thailand and UNHCR should form the main legal framework for the voluntary repatriation and

⁶ Executive Committee Conclusion 29 of 1983 calls 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." Also refer to Executive Committee Conclusions 58 (1089) and 101 (2004).

⁷ See also Policy Framework and Implementation Strategy: UNHCR's role in the support of the return and reintegration of displaced persons, 2008.

reintegration of refugees as is the norm in repatriation operations across the world. The agreement would govern the procedures for entry into Myanmar and modalities for reception, registration, immediate humanitarian assistance, and travel to places of destination. Another key aspect will be access and monitoring of returnee areas, as well as the immediately needed support to the reintegration process.

UNHCR's 2008 Policy on Return and Reintegration defines reintegration as the reduction and ultimately the disappearance of any factors that differentiate returnees from other members of their community in terms of both their legal and socio-economic status. Therefore, reintegration is a comprehensive, gradual and dynamic effort that involves the establishment of conditions which enable returnees and their communities to exercise their social, economic, civil, political and cultural rights, and on that basis to enjoy peaceful, productive and dignified lives.

The definition of a comprehensive, multi-year strategy for return and reintegration should therefore be framed by and support development plans. Strategic plans should cover all key relevant sectors: legal, economic, social, and environmental, and guide the division of roles and responsibilities between relief, development, public and private stakeholders.

Securing durable solutions for displaced populations should be an integral component of the peace process, and the engagement of UNHCR and other actors in support to durable solutions should be located within a broader peace-building framework. In addition to advocating for the participation of IDPs and refugees in the peace negotiations, activities in support of durable solutions should be grounded in sound conflict analysis. The provision of assistance should be conflict-sensitive, minimizing unintended negative impact while maximising its peace-building impact, and use "Do No Harm" approaches to contribute at building trust and supporting the peace-building process. Co-existence projects and other activities should be prioritised in support of reintegration. Activities such as peace education and conflict resolution training may be undertaken even prior to an organised voluntary return.

Refugees and IDPs will frequently opt to spread risk and to cushion the impact of return by having some family members remaining outside the country, or move elsewhere within the country to pursue migration strategies. This should be facilitated and not viewed as a failure of the reintegration process.

6. NATIONAL OWNERSHIP AND CO-ORDINATION

Securing durable solutions is fundamentally linked to the restoration of national capacity to provide for the protection and welfare of formerly displaced communities, and UNHCR's role should be designed to support such an outcome, through systematic engagement with key Government counterparts, civil society and other national stakeholders.

National authorities have primary responsibility to secure durable solutions for those who have been formerly displaced, while UNHCR and other humanitarian and development actors have a complementary role.

Co-ordination and multi-sector engagement is also critical to the sustainable reintegration of refugees and durable solutions for IDPs⁸. Therefore, mobilising the

⁸ See UNHCR's 2008 Policy on the Return and Reintegration of Refugees and IDPs, and the 2011 Secretary-General's Policy Committee Decision on Durable Solutions.

engagement of key partners, including relevant development actors and the private sector since the early stage will be a crucial component of UNHCR's strategy.

Current co-ordination fora include the South-East Consultation Platform, led by UNHCR, consisting of UN, NGO, donors, Government and other partners, including the Myanmar Peace Centre (MPC)⁹. This currently meets every 2-3 months in Yangon. The objective of the Platform is to maintain a common understanding of the operational environment and challenges in the South-East and to forge strategic partnerships. UNHCR also chairs the National Protection Working Group.

Monthly inter-agency co-ordination meetings, chaired by UNHCR and attended by humanitarian partners, are currently held in Mawlamyine (Mon State), Taungoo (Bago Region), and Myeik and Dawei (Tanintharyi Region). Inter-agency meetings also take place in Loikaw (Kayah State), chaired on a rotational basis amongst agencies.

In January 2013, UNHCR also initiated cross-border meetings between UNHCR Myanmar and UNHCR Thailand.

The number of UN organisations and international and national NGOs as well as the scale of humanitarian and development activities in the South-East are currently expanding. At present UNHCR is reviewing, together with partners, how leadership and co-ordination in support of durable solutions in the South-East can be strengthened and centred around a shared vision and strategy located within a broader protection framework incorporating key standards. UNHCR, in accordance with its mandate obligations, will play an active role in this process and in enhancing inter-agency co-ordination on durable solutions at regional and State/Region levels.

One mechanism might be the establishment of a Working Group on Durable Solutions for IDPs and Refugees to serve as a platform to co-ordinate durable solutions related activities from the preparatory phase. The working group could be co-led by representatives from the Government and UNHCR, and might consist of relevant UN agencies, NGOs, donors, civil society and representatives of parties involved in the peace process. In cease-fire areas, all activities will have to be undertaken in close consultation with non-state armed groups operating in those areas.

Systematic engagement with key actors facilitating and supporting the peace process, such as MPC, is also required. This will ensure that issues affecting the rights and welfare of IDPs and returning refugees are appropriately addressed in peace negotiations and peace-building programmes and initiatives such as the MPC-led Joint Peace-building Need Assessment (JPNA), and that displaced populations, including women, have the opportunity to participate in these processes.

Efforts will also be required to ensure that durable solutions are mainstreamed in the implementation of the UN Strategic Framework for Myanmar for 2013 to 2015, and national development plans and programmes as means of catalysing interventions by development agencies. Relevant funding opportunities, such as the Peace Building Fund (PBF), should also be pursued.

⁹ The Myanmar Government draft Framework for Economic and Social Reform 2012-2015 tasks the Myanmar Peace Centre with the drafting of a Strategic Framework for Support to Peace-building in Myanmar that will guide the socio-economic assistance to conflict-affected areas, including the definition of standards and protocols related to IDPs and returning refugees and the demobilization of militias.

7. OPERATIONAL FRAMEWORK

While positive developments already undertaken by the Government point to an eventual return of refugees from Thailand, the timing of the return remains difficult to predict. The Government of Myanmar has indicated that its initial priority will be to commence facilitating solutions for IDPs, followed by the voluntary repatriation of refugees. The strategy for the South-East shall therefore be phased in its approach starting by strengthening involvement in IDP operations to be better positioned to receive returning refugees under organized repatriation in the future. Beyond the planned phases UNHCR and partners shall however remain alert to sudden changes in the political environment and being ready to respond.

The decision to shift between phases will be dictated by the operational context, particularly changes in peace and security, access, conditions in return areas, and indications of readiness of IDPs and refugees to return. It is expected that UNHCR and partners' presence and activities in one phase could also contribute, for instance, to improvements in return conditions, thereby catalysing a shift to the next phase.

The proposed five phases reflect different stages in IDP operations, and in the refugee repatriation and reintegration process, with each corresponding to incrementally increasing resource requirements for UNHCR and its operational partners.

- Phase 1: Strengthening of IDP operations and preparation for refugee return while providing integrated assistance to spontaneous returnees;
- Phase 2: Expansion of integrated support to spontaneous returnees and their communities while enhancing preparedness;
- Phase 3: Refugee repatriation and initial reintegration operations;
- Phase 4: Consolidation of reintegration operations; and
- Phase 5: Reintegration operations are scaled down and phased out.

8. OBJECTIVES

General operational objectives are:

1. Refugees are empowered to make an informed choice on whether to return, and if so, when and to where, including through the provision of accurate and up to date information on the situation in areas of potential return.
2. Refugees and IDPs have the opportunity to determine which solution(s) are most appropriate for them, and to participate fully in the assessment, design and delivery of durable solutions programmes, using an age, gender and diversity mainstreaming approach.
3. Legal frameworks are in place that guarantee the rights of IDPs and returning refugees, in particular in relation to civil documentation, land tenure and the need for amnesties.
4. The physical safety of IDPs and returnees is ensured, in particular through the implementation of a humanitarian landmine action strategy, and effective systems for prevention and response to sexual and gender-based violence.

5. Returning refugees and IDPs and receiving/hosting communities have opportunities to (re-)establish meaningful and productive lives, through access to livelihoods opportunities.
6. IDPs and returned refugee, together with the communities receiving or hosting them enjoy key socio-economic rights, including access to shelter, education and health and other services and infrastructure.

9. KEY ASSUMPTIONS AND RISKS

With the understanding that a more in-depth analysis is needed, the following is a list of key assumptions and risks that need to be taken into consideration prior to planning durable solutions programming in the South-East:

- The peace process remains one of the Government's main priorities including adequately addressing the current situations in Kachin and Rakhine. Much will also depend on the agreements that are reached with the different armed groups and the level of political, economic and cultural autonomy they could retain. Any on-going armed clashes and/or protection incidents could derail progress made so far.
- The Government will abide by international standards for return namely, that people have a right to return voluntarily to places of choice, based on their individual and freely-expressed wish to return, and that return and reintegration is carried out in conditions of physical, legal and material safety and dignity.
- The Government and non-state armed groups engage in addressing the problem of landmines as an early priority. Landmines are a particular threat in the South-East and a serious impediment to any possible return.
- Land reform, including restoration of land rights and compensation, remains at the centre of the country's political debate and reform agenda. The current laws allow expropriation of land not utilised for a specific period of time. In addition, abandonment, widespread destruction and "land grabbing" may mean that some villages of origin may not exist anymore, or may not be accessible.
- Humanitarian and development actors are granted full access to return areas, particularly allowing the opening of offices and regular monitoring capacity. Direct access to key areas of origin is still limited for many humanitarian and development actors in particular in conflict-affected areas.
- Refugees and IDPs are provided with accurate and up-to-date information that is objectively presented and consistent with humanitarian protection and human rights principles and a wide range of representatives are allowed to visit places of origin or intended return.
- All stakeholders at all level have a clear understanding and commitment to the principles and standards underpinning durable solutions.
- The Government includes local integration/reintegration needs of IDPs and returning refugees in its long term development plans.
- Sufficient resources are available to increase UNHCR and partners' operational capacity in the immediate to longer term. Investments are made by development actors in long-term reconstruction and development projects. Many places of origin of refugees are isolated and have received little investment in infrastructures or in the creation of livelihood opportunities that can support the sustainability of the return process.

- Assistance is co-ordinated and complies with principles of neutrality and impartiality as well as humanitarian standards. Donor support also converges with co-ordination efforts.
- A valid Letter of Understanding (LOU) between UNHCR and appropriate line ministries will remain in effect for the duration of UNHCR's activities and could be amended as necessary should an organized voluntary repatriation operation be launched.

10. PROPOSED ACTIVITIES

Recognizing and emphasizing the need for all durable solutions decisions to be designed and implemented with affected communities, and in consultation with relevant authorities and non-state actors, UNHCR will ensure that displaced populations as well as communities of origin and return are equipped to participate fully in the assessment, design and implementation of all interventions in support of durable solutions, using an age, gender and diversity mainstreaming approach.

Activities – whether delivered by UNHCR or partners- should be conflict-sensitive and address key issues of concern of both returning refugees and IDPs and their communities. A community-based programme that builds on existing systems and structures and supports local development plans should be planned and implemented based upon comprehensive needs assessments and consultations with the populations concerned as well as government and non-government actors.

Activities and project delivery should be flexible and context-specific so as to accommodate complexities and respond to any changes that may occur throughout the process. Activities range from food assistance to essential health care facilities and services, primary and secondary education support, and community-level infrastructure rehabilitation or construction and livelihoods. Livelihood opportunities will be a key component in ensuring the sustainability of the reintegration process and cash and voucher modalities to boost the local economy should be actively considered where these are appropriate and effective ways of meeting identified needs.

UNHCR will seek innovative solutions, in particular for self-reliance, education, shelter, and domestic energy solutions. Poverty graduation models will be explored, combining relief assistance with capacity building measures, to enable the poorest individuals and households to move out of poverty.

Considering that decades of conflict, displacement and poverty have weakened traditional community support and leadership structures will be important that the capacities of communities, as well as local partners such as local NGOs, CBOs and border-based groups working out of Thailand, are effectively harnessed in support of durable solutions. In particular border-based organisations represent critical assets that are complementary to the traditional agencies. The networks and working relationships that Thai-based organisations, which have been working with the refugee and IDP communities for about 30 years, have developed with displaced communities will be invaluable in building trust and providing services.

The scope of activities required is likely to be significant and will require prioritized attention and significant donor support. Early support to kick-start the reintegration process that will address immediate needs (initial phases) should transition to medium and longer term development projects (consolidation phase) to ensure the achievement of sustainable reintegration and eventually lead to a measurable UNHCR disengagement.

A set of standards and qualitative and quantitative indicators should be developed to measure progress toward the achievement of the reintegration objectives.

This section proposes various activities that should be considered to address immediate as well as longer-term needs. UNHCR could take the lead on these activities or provide a co-ordination or advocacy role, depending on the specific activity.

10.1. Phase 1 (current phase): Strengthening of IDP operations and preparation for refugee return while providing integrated assistance to spontaneous returnees

- Build on previously established co-ordination mechanisms - such as monthly inter-agency meetings at state level, the South-East Consultation and cross-border meetings - to strengthen co-ordination on durable solutions. Co-ordination systems shall facilitate respect for key protection and assistance standards and enable the development of a strategic vision for durable solutions.
- Strengthen information management and analysis capacities, including the development of tools to capture and analyse patterns of spontaneous returns and carry out protection assessments and monitoring. Information products will also aim at supporting informed decision-making by refugees in Thailand.
- Enhance awareness, developing trust among stakeholders and building capacities of central and local authorities, implementing and operational partners, civil society and local communities to support and deliver protection and assistance, including investing in support to community self-management structures and community mobilisation through training, awareness campaigns, and support to community committees.
- Follow up and advocate with Immigration and National Registration Department on expedited procedures for the issuance of CSCs for IDPs and returnees, including measures to prevent statelessness which properly address the specific situation of refugees. Support authorities to ensure that internally displaced persons and returning refugees as well as former child soldiers do not miss the opportunity of obtaining CSCs.
- Initiate negotiations for the removal of administrative and legal impediments which might inhibit sustainable return, such as taxation-related issues.
- Support a comprehensive evaluation of property laws and provide concrete proposals for revisions that will ensure the restoration or repossession of land rights by returnees.
- Provide access to legal services through advocacy interventions and training in serving the legal needs of returnees and offering appropriate legal assistance.
- Provide assistance to mine victims and support Mine Risk Education (MRE) while following up and advocate for the implementation of humanitarian mine action including survey, mapping, marking and clearance of contaminated areas, especially in areas of potential and current return. Develop key advocacy messages and co-ordination mechanisms to ensure that displaced communities are aware of any landmine contamination in places of origin and transit.
- Advocate for the recognition of education certificates received in country of asylum and the development of bi-lingual educational programmes.
- Conducting awareness-raising on SGBV prevention and response, assisting SGBV victims through established referral mechanisms for treatment and psycho-social support, and supporting community-based protection solutions.
- Establish community based mechanisms for identifying EVIs and provide tailored assistance.

- Contribute to the CTFMR efforts in documenting, verifying, reporting and responding to grave child rights violations, including recruiting and using children in armed conflict.
- Conduct multi-sector baseline assessments and identify proxy indicators for self-reliance; establish monitoring and evaluation system in order to track progress made on key indicators over the framework period.
- Support and participate to multi-sector need assessments and planning process, in particular in areas of current or potential return.
- Provide an initial light rapid response to spontaneous IDP and refugee returnees, identified through returnee monitoring, by providing NFIs and relevant protection interventions on a needs basis, as well as community-based assistance to receiving communities, with a view to building confidence in the return process.
- Advocate with Government, donors and private sector in regard to rehabilitation of main roads to key potential returnee areas and establishment of facilities that could eventually support an organised return.

10.2. Phase 2: Expansion of integrated support to spontaneous returnees and their communities

Preparedness activities will continue and will be strengthened, including assistance to spontaneous return. As patterns of spontaneous returns to specific locations emerge, in particular with the return of entire households, UNHCR will enhance its assistance to returnees and their communities through an integrated multi-sector package of interventions with the aim of building confidence without creating an artificial 'pull' factor. UNHCR will aim to play a leading role in bringing partners together to address the identified needs, in the area of legal, physical and material safety, collectively and in an integrated manner.

10.3. Phase 3: Refugee repatriation and initial reintegration operations

Previous phases activities will be further strengthened and operationalized with a focus on providing immediate relief assistance to newly returned refugees while enhancing early recovery and development partnerships. Activities specific to this phase will include:

- Provision of immediate relief assistance such as food, non-food items and shelter in accordance with international standards and any nationally agreed humanitarian standards. Particular support will be provided to the most vulnerable previously identified through a referral mechanism with the country of asylum.
- Co-existence activities in areas of return, including through working with CBOs for the identification of key points of current/potential tensions, designing of joint reintegration projects, and conducting cultural activities that foster traditional values of consideration and peace.
- Constructing/rehabilitating basic facilities, such as health, safe drinking water systems and sanitation as well as improving/expanding services.

- Contribute towards a comprehensive livelihood support programme. As per local needs and opportunities, this may include skills and employment promotion; support to productive assets and community infrastructure; enterprise development; microfinance promotion.
- Ensure the provision of mine risk education before return and upon arrival, ensure the prioritization of mine marking of contaminated areas in areas of return and advocate and support, if required, punctual clearance of critical areas such as access roads to basic services (schools, hospitals, etc).
- Capitalize on the experience and expertise developed by committees in the camps, such as the GBV committees, and re-mobilize their members in places of return to strengthen prevention and response networks.

10.4. Phase 4: Consolidation of reintegration operations

UNHCR will facilitate and support the reintegration process increasingly involving specialized development organisations implementing long-term area-based programmes in support to the Government and in the framework of national development plans, ensuring appropriate delegation and follow up on commitments.

10.5. Phase 5: Reintegration operations are scaled down and phased out

UNHCR will gradually phase down its direct assistance reviewing, together with stakeholders progress achieved on repatriation and reintegration, including analysing prospects for durable solutions and efforts to mainstream reintegration needs in national policies and programmes. As key benchmarks are met, UNHCR will review and refine its disengagement plan, including the timing and degree of phasing out from specific projects and activities. A communication strategy will be designed to inform stakeholders of UNHCR progressive disengagement. The reintegration operation will be regularly reviewed and evaluated and lessons gathered for future application in other operations.

UNHCR Myanmar
15 June 2013