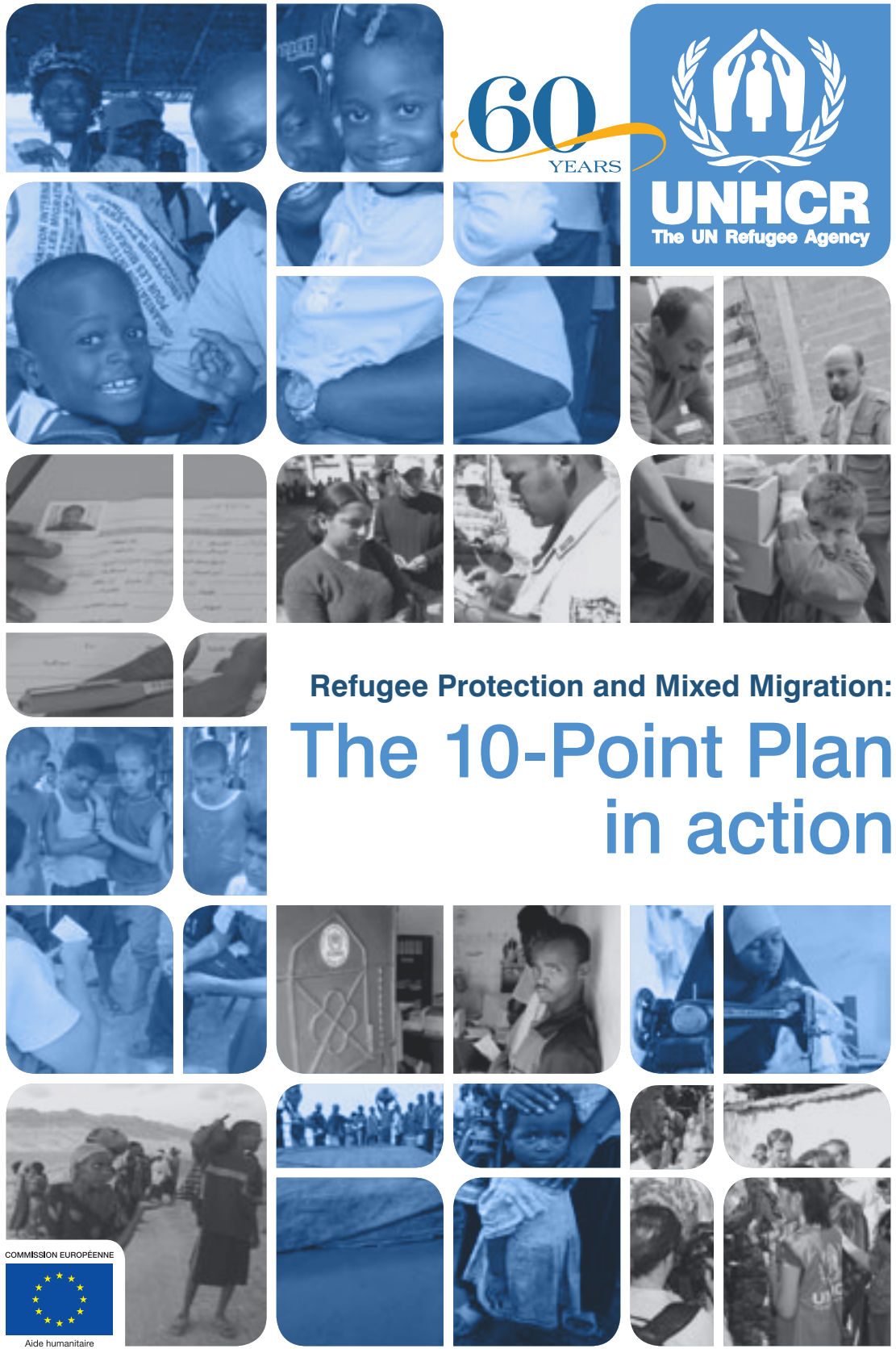


60
YEARS



UNHCR
The UN Refugee Agency

Refugee Protection and Mixed Migration:
The 10-Point Plan
in action



Aide humanitaire

Refugee Protection and Mixed Migration:

The 10-Point Plan in action

Contents

Foreword	5
Acknowledgements	6
List of Acronyms	7
Introduction	8
Refugee Protection and Mixed Migration: A 10-Point Plan of Action (2007)	10
Chapter 1: Cooperation among key partners	17
1.1. Cooperation at the national level	22
1.2. Cooperation at the regional level	29
1.3. Cooperation at the global level	41
Chapter 2: Data collection and analysis	47
2.1. Defining the objective(s), scope and methodology of the data collection	53
2.2. Data protection safeguards	55
2.3. Collecting data in collaboration with partners, analysing and using it for policy decisions	56
Chapter 3: Protection-sensitive entry systems	73
3.1. Communicating protection obligations to (first contact) entry officials	78
3.2. Assisting entry officials in identifying and referring asylum-seekers and other persons with specific needs to the responsible authorities	82
3.3. Training	86
3.4. Establishing dialogue and cooperation between entry officials and humanitarian actors	89
3.5. Including carriers and other private actors in the protection strategy	92
3.6. Ensuring cross-border cooperation on protection, including in the context of rescue at sea operations	93
3.7. Setting up independent monitoring mechanisms	95
Chapter 4: Reception arrangements	101
4.1. Reception arrangements provided in reception centres	106
4.2. Practical examples of reception arrangements	108
Chapter 5: Mechanisms for profiling and referral	123
5.1. Profiling	128
5.2. Referral	130
5.3. Practical suggestions for implementing profiling and referral mechanisms	132

Chapter 6: Differentiated processes and procedures	145
6.1. Child protection systems	152
6.2. Family tracing	159
6.3. Procedures for identifying women and girls at risk	161
6.4. Procedures to protect trafficked persons who are not refugees	163
6.5. Asylum procedures	168
Chapter 7: Solutions for refugees	183
7.1. Facilitating self-reliance pending a durable solution	188
7.2. Durable solutions	191
7.3. Solutions based on migration frameworks	200
Chapter 8: Addressing secondary movements	207
8.1. Assessing the scope and root causes of secondary movements	212
8.2. Strengthening protection capacities in countries of first asylum and informing persons about the risks of irregular onward movements	215
8.3. Developing regional and/or bilateral protection strategies	217
8.4. Supporting and monitoring re-admission of secondary movers to their first country of asylum	221
Chapter 9: Return arrangements for non-refugees and alternative migration options	225
9.1. Return	232
9.2. Migration options as an alternative to return	253
Chapter 10: Information strategy	261
10.1. Information campaigns to reduce irregular movements	267
10.2. Information and sensitization activities in host countries	271
10.3. Prevention of and awareness raising about human trafficking	279
General References	285
Glossary	287

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Foreword

From conflict and human rights violations to environmental catastrophes or poverty and lack of life prospects, the drivers of displacement are multiplying in an ever more mobile world. The impetus to migrate somewhere increasingly has its roots in a myriad of push and pull factors linked variously to security, human rights, socio-economic and geo-political push and pull factors. This is complicating seriously the environment in which refugee protection has to be realised. Disentangling refugees from migrants so as to ensure their proper protection is one aspect of this.

In response to the many challenges inherent in identifying and protecting refugees travelling within broader movements of persons, UNHCR developed a *10-Point Plan on Refugee Protection and Mixed Migration* in 2006. The 10-Point Plan provides a number of practical suggestions to assist States in developing and implementing protection-sensitive migration strategies, that is, strategies that take into account the needs of refugees and other specific groups of persons travelling within mixed flows.

Four years since it was first issued, the 10-Point Plan enjoys broad recognition in many regions. The Office, and an increasing number of States, use the 10-Point Plan as a strategic tool to support advocacy, liaison with and between government agencies, and work with other partners. The Plan's comprehensive approach, presenting refugee protection as a modest and manageable task, has helped to improve the legislative and institutional frameworks on refugee and asylum matters in countries confronted with mixed flows. The collaborative approach underpinning the Plan has proven essential for advancing practical protection responses in the context of mixed movements.

I have promised for some time that UNHCR would make available a compilation of practices relevant to the implementation of the Plan across its various subject areas. Generous funding from the European Commission has helped us to realize this project. The collection of practical examples contained in this Compilation is largely based on input from our field offices, government and non-governmental partners around the world. The series of regional stakeholder conferences on refugee protection and international migration which UNHCR has convened together with partners in the course of the past few years has provided further contributions.

The examples in this Compilation have not been selected as "best practices" as such, not least because some of them, while overall positive, do contain less positive aspects from a protection perspective. They have, though, been included as together they illustrate how States and other actors are endeavouring to grapple with the difficult and manifold challenges posed by mixed movements, while seeking to find the proper balance between national interests and international responsibilities. This Compilation is a living document. Our expectation is that we will add to it or subtract from it practices which either have proved their worth or have been deemed ineffective.

I invite all readers to use this Compilation as a source of guidance to develop new projects and initiatives in the area of refugee protection and mixed movements.

Geneva, 15 December 2010

Erika Feller

Assistant High Commissioner (Protection)

Acknowledgements

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The Compilation is the product of a collaborative effort and draws on contributions from UNHCR staff and partners. It is based on the provisional release issued in June 2009 for consultation purposes and incorporates feedback received.

The Division of International Protection (DIP) particularly wishes to thank the many colleagues in headquarters and the field who contributed to this Compilation by providing information about interesting practical examples or comments on draft chapters. In addition, we wish to thank IOM for their helpful comments and input, especially on Chapter 9 (Return of Non-Refugees). Finally, we would also like to draw attention to the substantive contribution to this Compilation made by several DIP consultants and interns.

First edition, February 2011

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List of Acronyms

10-Point Plan (or “the Plan”)	10-Point Plan on Refugee Protection and Mixed Migration
1951 Convention	1951 Convention relating to the Status of Refugees, 189 U.N.T.S. 137, <i>entered into force</i> 22 April 1954
1967 Protocol	1967 Protocol to the Convention relating to the Status of Refugees, 606 U.N.T.S. 267, <i>entered into force</i> 4 October 1967
2000 Palermo Protocols	Supplementary protocols to the Convention against Transnational Organized Crime (2000): Protocol against the Smuggling of Migrants by Land, Sea and Air (2000); Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000); and Protocol against the Manufacturing of and Trafficking in Illicit Firearms, Ammunition and Related Materials (2001)
EC	European Commission
EU	European Union
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
ILO	International Labour Organization
IOM	International Organization for Migration
MOU	Memorandum of Understanding
NGO	Non-governmental Organization
OECD	Organisation for Economic Co-Operation and Development
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Co-Operation in Europe
RSD	Refugee Status Determination
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children’s Fund
UNIFEM	United Nations Development Fund for Women
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
United States/USA	United States of America
UK	United Kingdom of Great Britain and Northern Ireland
WFP	World Food Programme

Introduction

The growing scope and complexity of population movements have multiplied the points of intersection between refugee protection and international migration. “Mixed movements”, in which persons with different objectives move alongside each other using the same routes and means of transport or engaging the services of the same smugglers, can create challenges for States as well as risks for individuals travelling as part of such movements. Travel, where it takes place without the requisite documentation, is often dangerous, exposing individuals to exploitation and abuse by smugglers and traffickers or placing their lives at risk. Many persons who travel in an irregular manner have specific needs that require urgent attention. Identifying refugees within broader irregular mixed flows can be challenging, especially where individuals themselves have various motives for moving. Once identified, refugees require protection against *refoulement*, the possibility to become self-reliant, and access to durable solutions.

At the same time, increasing awareness of the broader phenomenon of migration and the ongoing development of migration laws and policies by States can offer new opportunities for refugee protection, as well as assistance for other persons travelling as part of mixed movements including victims of trafficking and unaccompanied/separated children. Regional liberalization and migration programmes to meet labour demands, for instance, have broadened the protection space available to refugees in some countries.

The 10-Point Plan is a tool developed by UNHCR to assist governments and other stakeholders to incorporate refugee protection considerations into migration policies. The 10-Point Plan consists of 10 action points, each proposing practical, protection-sensitive tools and strategies that could be adopted as part of effective and coherent responses to mixed movements. The focus of the 10-Point Plan is on activities in countries of transit and destination, based on a foundation of cooperation and burden sharing between interested States and other stakeholders. It incorporates both traditional protection activities as well as specific proposals to protect refugees and asylum-seekers travelling as part of mixed movements. In particular, the 10-Point Plan recommends establishing entry systems that contain mechanisms to identify new arrivals with protection needs and to meet the needs of other categories of persons involved in mixed movements.

The 10-Point Plan does not specifically address the root causes of mixed movements. It does, however, recognize the need for longer-term engagement and sustainable development geared towards peacebuilding, democratization and the creation of livelihood opportunities as part of a comprehensive and collaborative approach.

The development of the 10-Point Plan has benefited from protection initiatives that governments, UNHCR and its partners have developed in various regions. Since its publication in 2006, the 10-Point Plan has also inspired new projects. This publication presents a selection of both these more established and more recent projects, with a view to providing practical guidance on the implementation of the 10-Point Plan to governments, UNHCR staff and other stakeholders.

Nearly 200 practical examples from approximately 110 different countries were chosen for the specific contribution they make towards achieving the objectives of the 10-Point Plan: developing migration strategies that address the sovereignty and security concerns of States, but that also consider the needs and rights of all persons involved in mixed movements. Many of the examples

involve various stakeholders, both governmental and non-governmental, demonstrating the importance and value of cooperative efforts.

The examples in this compilation have been chosen for their added value, notwithstanding implementation challenges. Some of the challenges have been highlighted in the relevant description of the project; other projects have only recently been initiated and their impact cannot yet be definitively assessed. Hence, classifications such as “best practice” or “good practice” have been avoided.

While UNHCR and its partners have been working on issues related to refugee protection and international migration for some time, it is a relatively new topic in some regions. As a consequence, some regions are more often represented in the examples than others. However, it is expected that the compilation of examples will quickly expand to include other regions in view of the growing number of initiatives.

Structure of this Compilation and Explanation of the Symbols Used

This Compilation is structured according to the 10 action points of the 10-Point Plan, with an emphasis on presenting practical examples. Each chapter begins with an introduction, followed by a list of suggestions for stakeholders and support that UNHCR may provide to partners. This is followed by relevant practical examples. The examples are primarily organized in each chapter by country or region. Although the examples are not listed in a particular order of preference, a few examples have been highlighted to emphasize particularly effective practical implementation. Supporting documentation is provided for most examples in the annexes, which are available in the attached CD-ROM. Many examples also contain weblinks where further information about the project can be obtained. Each chapter concludes with a list of selected references.

The following symbols are used throughout this publication:



Particularly effective practical implementation



A useful operational tool

This publication is designed to be a living document. An online version is available on the UNHCR public website and will be updated periodically.

UNHCR welcomes comments, suggestions and information about projects and initiatives that could further enrich the compilation of examples. Please send any such information to the following email address: HQPR07@unhcr.org.

UNHCR
Division of International Protection
February 2011



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Refugee Protection and Mixed Migration: A 10-Point Plan of Action

Contents

Introduction

- 1. Cooperation among key partners**
- 2. Data collection and analysis**
- 3. Protection-sensitive entry systems**
- 4. Reception arrangements**
- 5. Mechanisms for profiling and referral**
- 6. Differentiated processes and procedures**
- 7. Solutions for refugees**
- 8. Addressing secondary movements**
- 9. Return arrangements for non-refugees and alternative migration options**
- 10. Information strategy**

Introduction

While refugees and asylum-seekers account for a relatively small portion of the global movement of people, they increasingly move from one country or continent to another alongside other people whose reasons for moving are different and not protection-related.

More often than not such movements are irregular, in the sense that they take place without the requisite documentation and frequently involve human smugglers and traffickers. The people who move in this manner often place their lives at risk, are obliged to travel in inhumane conditions and may be exposed to exploitation and abuse. States regard such movements as a threat to their sovereignty and security.

It has become imperative for the international community to address this phenomenon in a more coherent and comprehensive manner. States have assumed protection responsibilities for refugees under international instruments which it is in their collective interest to honour.

More specifically, steps must be taken to establish entry systems that are able to identify new arrivals with international protection needs and which provide appropriate and differentiated solutions for them, side by side with such other solutions as need to be pursued for other groups involved in mixed movements. UNHCR is especially mindful of the need to ensure that the provision of protection and asylum to refugees and other people of concern to the Office does not compound the difficulties that states experience in controlling more generally the arrival and residence of foreign nationals and in combating international crime.

This paper sets out ten key areas in which UNHCR has an interest and a potential role to play, and where the Office believe initiatives are called for and could make a positive impact. The Plan of Action provided in the paper is especially relevant to situations where refugees are at risk of *refoulement*, human rights violations and hazardous onward movements.

The paper does not purport to be comprehensive in relation to matters that are beyond the competence and responsibility of UNHCR. Nor does it contain a detailed blueprint for the implementation of each component of the Plan of Action.

The matrix in Annex I sets out the goals that the Plan of Action is intended to achieve and contains suggestions for activities that might be undertaken under each of the ten component parts.¹ The Plan of Action is global in nature and its implementation would evidently have to be adapted to specific regional and national contexts.

1 Cooperation among key partners

Effective approaches to the dilemmas of mixed movements will inevitably depend upon full cooperation amongst the key actors concerned: affected states, governmental bodies, regional and international organizations with relevant mandates (e.g. UNHCR, OHCHR, UNICEF and IOM) as well as local and international NGOs.

Hence, a first step is to identify and convene such actors in an appropriate forum so that they can exchange information and establish terms and conditions for cooperation and coordination. The convenor of such a forum would preferably be one or more of the affected states but an international organization can also play a 'good offices' role in this respect.

2 Data collection and analysis

A key to any coherent and comprehensive strategy is the collection, analysis and exchange of data about the characteristics of the movement and those groups which make it up. Such data should typically include information relating to conditions in countries of origin, motivations for movement, modes of transport, transit routes and entry points. An international or regional organization may be well placed to offer support for this function.

3 Protection-sensitive entry systems

The establishment of a functioning entry system is an important element in any strategy relating to mixed movements. Border control is essential for the purposes of combating international crime, including smuggling and trafficking, and averting security threats.

Practical protection safeguards are required to ensure that such measures are not applied in an indiscriminate or disproportionate manner and that they do not lead to *refoulement*.

¹ Annex I: Ten Point Plan of Action Checklist for UNHCR is available on the enclosed CD-Rom.

In this respect, border guards and immigration officials would benefit from training and clear instructions on how to respond to asylum applications and how to handle the needs of separated children, victims of trafficking and other groups with specific needs.

With regard to irregular maritime migration, a particular range of considerations arise, including safeguarding lives at sea, respecting the obligations of maritime law, maintaining the integrity of the search and rescue regime and ensuring the smooth flow of maritime traffic.

4 Reception arrangements

Appropriate reception arrangements are needed to ensure that the basic human needs of people involved in mixed movements can be met. Such reception arrangements should also enable new arrivals to be registered and provided with temporary documentation. Especially in situations where a high percentage of the new arrivals are refugees or asylumseekers, UNHCR could facilitate the putting in place of appropriate arrangements, or be otherwise involved on a temporary basis, together with the principally responsible party.

5 Mechanisms for profiling and referral

Once new arrivals have been registered and provided with temporary documentation, an initial determination will have to be made with regard to who they are, why they have left their own country and where their intended destination is. Counselling provides an opportunity to establish whether they wish to seek asylum and to identify other options available to them, including return, regularization or regular onward migration. This channelling arrangement would not constitute a refugee status determination. Rather its role is to give a good indication of a person's motives for departure and to ensure the person's situation is met with the most appropriate response. Annex II to this note provides a schematic representation of how such a profiling and referral mechanism might work.²

6 Differentiated processes and procedures

With respect to asylum claims, those which appear to be relatively simple (because they are well founded or manifestly unfounded) could be assessed in an expedited procedure. Other and more complex claims normally will require a more detailed assessment. Different processes outside the asylum arrangements should address the situation of people with specific needs which are not refugee related, including victims of trafficking not in need of international protection, as well as persons who are seeking to migrate (see Chapter 9 below).

While UNHCR is likely to be a principal partner for states in relation to refugee status determination procedures, NGOs, lawyers and civil society institutions should also have a role to play in this component of the Plan of Action. In relation to other processes, UNHCR will only be minimally involved, if at all. The likely partners will depend on the situation in the specific country and on which organisations are present and willing to act as partner.

² Annex II: Schematic Representation of a Profiling and Referral Mechanism in the Context of Addressing Mixed Migratory Movements is available on the enclosed CD-Rom.

7 Solutions for refugees

People who are recognized as refugees or as otherwise being in need of international protection require a protection-based response that includes a durable solution, the nature of which will depend on the opportunities and constraints inherent in each situation.

A comprehensive approach involving a mix of solutions will often offer the best chances for success. Beyond the classic durable solutions, legal migration opportunities may open up a complementary avenue for some refugees.

Refugee-receiving countries may benefit from international assistance to strengthen national protection capacities.

8 Addressing secondary movements

Addressing the situation of refugees and asylum seekers who have moved on from countries where they had already found adequate protection requires a more defined strategy. This strategy should take into account both the legitimate concerns of states about irregular onward movement and the rights and well-being of the people concerned. To date efforts to articulate such a strategy have failed to muster international consensus. UNHCR is committed to continuing the effort in this regard.

9 Return of non-refugees and alternative migration options

For people who are found not to be refugees, and for those who do not wish to seek asylum, expeditious return in safety and dignity is usually the preferred response of states. UNHCR may, on a good offices basis, assist states in the return of people who are not in need of international protection where this is the most appropriate and agreed solution. The manner in which UNHCR could be of assistance deserves closer examination by all interested parties.

There will be circumstances where people who do not meet the criteria for refugee status may nevertheless be in a position to access alternative temporary migration options. These could variously allow them to stay legally in the country of arrival, or to move to a third country for humanitarian reasons, or for the purposes of work, education or family reunion. Efforts to address mixed population movements should also explore a place for regular migration options, temporary or even longer term.

10 Information strategy

All of the measures described above should be complemented by information campaigns in countries of origin, transit and destination. People need to be alerted to the dangers of irregular movement and the difficulties they might face upon arrival, as well as to any alternatives to irregular migration which might also meet their circumstances.

Such information campaigns will likely not curb irregular movements entirely but, if combined with the other action points and supported by longer term measures to tackle the root causes of such movements, they may have a positive impact.

While information campaigns are primarily a task for agencies with a migration or information related mandate such as IOM, UNHCR may also play a role in such initiatives. UNHCR also has capacity and interest to initiate public awareness activities about the plight of refugees, in order to promote tolerance and to combat racism and xenophobia.

UNHCR

January 2007

Refugee Protection and Mixed Migration: A 10-Point Plan of action



1

Cooperation
among key partners



2

Data collection and analysis



3

Protection sensitive
entry systems



4

Reception arrangements



5

Mechanisms for profiling
and referral



6

Differentiated processes
and procedures



7

Solutions for refugees



8

Addressing
secondary movements



9

Return arrangements for
non-refugees & alternative
migration options



10

Information strategy

