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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

ON REGIONAL PROTECTION PROGRAMMES

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1. INTRODUCTION

1. The Commission Communication of 14 June 2004 *"Improving Access to Durable Solutions"* (COM(2004) 410) (the June 2004 Communication) made proposals for a new EU approach to the international protection regime. Regional Protection Programmes should be brought forward with the intention of enhancing the protection capacity of the regions involved and better protecting the refugee population there by providing Durable Solutions (the three Durable Solutions being repatriation, local integration or resettlement in a third country if the first two Durable Solutions are not possible[1]. The Communication also made proposals for the setting up of an EU-wide Resettlement scheme as a means of delivering protection to a greater number of refugees and ensuring a more orderly and managed entry in the EU.

2. In the Hague Programme of 4-5 November 2004, the European Council acknowledged the need for the EU to contribute, in a spirit of shared responsibility to a more accessible, equitable and effective international protection system in partnership with third countries and to provide access to protection and durable solutions at the earliest possible stage. A distinction was drawn between the differing needs of countries in regions of transit and countries in regions of origin. Countries in regions of origin and transit will be encouraged in their efforts to strengthen their capacity for the protection of refugees. On countries and regions of origin, the European Council further invited the Commission to develop EU Regional Protection Programmes in partnership with the third countries concerned and in close consultation and cooperation with UNHCR. These programmes should build on experience gained in pilot protection programmes to be launched before the end of 2005. These programmes will incorporate a variety of relevant instruments, primarily focused on capacity building, and include a joint resettlement programme for those Member States which may be ready to participate in such a programme on a voluntary basis. With regard to countries of transit, the European Council

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[1] ***Repatriation*** is the return of a person to their home country. In the context of Durable Solutions this return is effected in safety and dignity.
Local integration is the integration of a refugee into the community of a host country with prospects for legal residence and personal autonomy.
Resettlement involves the selection and transfer of refugees from a State in which they have sought protection to a third State where they enjoy guarantees of protection including residence and prospects for integration and autonomy. Resettlement can be used in situations where refugees cannot return to their country of origin nor can they be integrated into their country of first asylum. The *"Study on the Feasibility of Setting Up Resettlement Schemes in EU Member States or at EU Level, Against the Background of the Common European Asylum System and the Goal of a Common Asylum Procedure"* (published by the Commission in May 2004) gives a fuller examination of resettlement possibilities in an EU context.

emphasised the need for intensified cooperation and capacity building, both on the southern and eastern borders of the EU to enable those countries better to manage migration and to provide adequate protection for refugees.

3. This Communication is the Commission's response to the Council Conclusions of 2-3 November 2004 which invited the Commission to present an action plan for one or more pilot Regional Protection Programmes by July 2005 at the latest. The Council said that a pilot Regional Protection Programme should be situation specific and protection oriented. It should draw on a range of measures, such as assistance to third countries to comply with international obligations under the Geneva Convention and other relevant international instruments, to enhance protection capacity, better access to registration and local integration and assistance for improving the local infrastructure and migration management. The development and the implementation of these programmes should be taken forward in close cooperation with UNHCR and, where relevant, other international organisations. Possible EU and other funding sources should be indicated. Coherence with the Community approach towards the region and third countries concerned should be assured.

4. Regional Protection Programmes will be rooted in actions already existing, notably in the AENEAS and TACIS financial programmes, and will not be based on a new financing framework. This Communication outlines the general framework in which the pilot Regional Protection Programmes should operate, makes recommendations for geographic application and content and sets out a way forward for the inclusion of the Regional Protection Programme approach across the Community's relationship with the region and countries involved. The first section gives the wider policy background to the Communication; the second focuses on the possible content of the pilot Regional Protection Programmes; the third examines the selection of geographic areas for the application of the pilot Regional Protection Programmes and how this approach can be embedded in Community policy towards the countries and regions concerned; the fourth and fifth sections deal with the specific regions to which the first two pilot Regional Protection Programmes could apply; the last sections address how the pilot Regional Protection Programmes should be evaluated and sustainability assured and the steps to be taken next.

5. Regional Protection Programmes should enhance the capacity of areas close to regions of origin to protect refugees. The aim should be to create the conditions for one of the three Durable Solutions to take place – repatriation, local integration or resettlement. The development of Regional Protection Programmes, in cooperation with UNHCR, in line with the Memorandum of Understanding between the Commission and UNHCR of 15 February 2005, and third countries in regions of origin, will necessitate the coordination of EU, refugee, humanitarian and development policies to address the full range of protection needs as well as the impacts of refugee populations on local communities to ensure that benefits are maximised for all. However, humanitarian aid operations in favour of refugees will not be as such part of the Regional Protection Programmes. Decisions to undertake humanitarian operations will continue to be made on the basis of needs assessments and operations will be implemented in full respect of the humanitarian principles. Maximising the impact of RPPs can be done by assessing where potential protection gaps may exist and ensuring that additional measures complement and add value to activities (in particular, humanitarian and development activities) which are already

taking place. In practical terms this will require coordination of policies and with actors concerned to deliver enhanced protection for refugees.

2. CONTENT OF REGIONAL PROTECTION PROGRAMMES

6. Regional Protection Programmes should be flexible and situation specific and ensure consistency with Community humanitarian and development policies and other relevant activities. The objective of RPPs is to enhance the protection capacity of third countries. Regional Protection Programmes should consist of practical actions that deliver real benefits both in terms of protection offered to refugees and in their support of existing arrangements with the relevant third country. They should also aim at bringing benefits to the host country. On the basis of these considerations, core constituent activities for a Regional Protection Programme should include:

   (1) Projects aimed at improving the general protection situation in the host country.

   (2) Projects which aim at the establishment of an effective Refugee Status Determination procedure which can help host countries better manage the migration implications of refugee situations thereby allowing them to better focus resources on the core refugee population.

   (3) Projects which give direct benefits to refugees in the refugee situation, by improving their reception conditions.

   (4) Projects which benefit the local community hosting the refugees, for example by addressing wider environmental concerns which affect both refugees and the host community and by disseminating information on the positive impact of refugees.

   (5) Projects aimed at providing training in protection issues for those dealing with refugees and migrants.

   (6) A registration component, building on UNHCR's Project Profile for persons of concern to UNHCR in the area, which could assist in measuring the impact of Regional Protection Programmes.

   (7) A resettlement commitment, whereby EU Member States undertake, on a voluntary basis, to provide durable solutions for refugees by offering resettlement places in their countries.

7. The resettlement of refugees from countries in regions of origin to EU Member States will be an important factor in demonstrating the partnership element of Regional Protection Programmes to third countries. The Commission notes that since the June 2004 Communication several Member States are considering setting up their own national resettlement schemes. The Commission expects that this change in approach will contribute to the wider success of Regional Protection Programmes, by adding substantially to the existing resettlement effort rather than simply re-packaging current schemes in the context of Regional Protection Programmes.

8. After the evaluation of the pilot Regional Protection Programmes, the Commission will examine the opportunity to bring forward a proposal for a more structured approach to resettlement activities. Such a proposal will have to take account of the operational and logistic needs of managing resettlement on an EU scale. However, in the short term and in line with the mandate of the Hague Programme, the Commission will come forward with a proposal to amend the Council Decision establishing the European Refugee Fund so that resettlement under Regional Protection Programmes can be substantially financed by the Community.

3. THE REGIONS FOR THE FIRST REGIONAL PROTECTION PROGRAMMES

9. The selection of the appropriate geographic regions for the pilot Regional Protection Programmes relies on a number of important factors, principally; the assessment of particular refugee situations in third countries; the financial opportunities available under existing Community funds; existing relationships and frameworks for cooperation between the Community and particular countries or regions. In 2003 UNHCR identified 38 refugee situations which could be considered protracted, in each case where 25,000 or more refugees had been living in exile for more than five years. There are also other refugee situations which could benefit from the concerted effort which Regional Protection Programmes could deliver. However, for the purposes of the pilot Regional Protection Programmes, it is important to focus on a clearly delimited area, building on already existing experience acquired on the basis of actions financed by other external relations and development instruments and taking account of the necessity to assure added value and the possibility for an evaluation mechanism in the measures taken.

10. There are also political considerations which need to be examined such as the need to recognise that while transit regions and regions of origin are different in nature and require different approaches, it is important for the EU to address both types of region. In respect of transit regions, the **Western Newly Independent States** featured strongly in Member States' considerations. Action in sub **Saharan Africa (Great Lakes/East Africa)** was also regarded as an important priority particularly in view of the possibilities for resettlement from that region and in terms of beginning a dialogue with a country or countries in a region of origin.

11. In order to obtain the necessary political support at EU level for action taken however, and gain the confidence of the third countries involved, it is important to select a region which will allow for rapid and measurable results. Given the above, the Commission envisages first making the necessary arrangements to assist the authorities of the **Western Newly Independent States** (Ukraine/Moldova/Belarus) to develop a pilot Regional Protection Programme[2] in a region of transit.

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[2] Actions in Belarus will focus on building protection capacity through NGOs' and contacts with government authorities will be limited to what it is strictly necessary to the efficient implementation of the projects. However, state authorities may benefit from the programme if they agree to cooperate on refugee related human rights aspects such as subsidiary protection, legal and medical services, development of refugee integration programmes etc.

4. REGIONAL PROTECTION PROGRAMME FOR THE WESTERN NIS COUNTRIES

12. The **Western Newly Independent States** (Ukraine, Moldova, Belarus) emerged as a clear priority in discussions with Member States. This region already constitutes a strong priority across Community external relations policy and financial assistance which includes ongoing work on protection issues financed by the Community and individual Member States. Since the early 1990s, UNHCR has worked with governments and other relevant parties to help them develop asylum legislation and infrastructure, which will require further work and support, as well as new measures in the reception, integration and resettlement fields.

13. A pilot Regional Protection Programme for this region would seek to build on and complement the work already begun with the cooperation of the authorities in the Western NIS countries. The main focus of action should be on strengthening already existing protection capacity. This could include the reinforcement of subsidiary protection, integration and registration as well as core protection activities relating to case consideration and reception. Proposals for activities in these areas should be brought forward in the AENEAS Call for Proposals 2005 and TACIS 2006 Regional Action Programmes and other available financial opportunities. Existing structures should be modified to support the additionality offered by the pilot Regional Protection Programme. AENEAS allocates an indicative € 2 million for asylum and international protection in this region.

5. FURTHER REGIONAL PROTECTION PROGRAMMES

14. In respect of developing a pilot Regional Protection Programme with a country or countries in a region of origin, the prospect of taking further action to better protect refugees from the **Great Lakes** region presents an opportunity that can correspond to the programming of the available financial instruments, the centrality of resettlement as a possible durable solution and the political priorities expressed by Member States. The opportunity for the EU here lies in the possibility of developing well coordinated and strategic action on protection and resettlement with relevant third countries and in full respect of the principles of ownership[3]. This is in line with what is envisaged by UNHCR in their *Convention Plus* initiative[4].

15. Of course there are serious challenges in this region for a first, smaller scale Regional Protection Programme. Such is the scale of the refugee situations pertaining here that

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[3] The UK Presidency seminar on Resettlement which took place in London on 4 and 5 July 2005 confirmed the importance of the strategic use of resettlement as a tool to enhance protection capacity in third countries.

[4] In *Convention Plus*, the UN High Commissioner for Refugees called for new agreements to supplement the Refugee Convention and help protect refugees and achieve durable solutions in regions of origin. The aim is to use understandings and commitments by States in multilateral agreements that address specific caseloads, including through comprehensive plans of action. UNHCR envisages that these new arrangements, in the form of multi-lateral "special arrangements" could consist of comprehensive plans of action to ensure more effective and predictable responses to large-scale refugee situations, including additional development assistance targeted to achieve more equitable burden sharing and to promote the self reliance of refugees and returnees in countries hosting large numbers of refugees; multilateral commitments for the resettlement of refugees; and the agreement of roles and responsibilities of countries of origin, transit and destination in irregular secondary movement situations.

it may be difficult to see how a Regional Protection Programme with the limited funds available under AENEAS would have any lasting impact. It would therefore be necessary therefore to select a focus for the pilot Regional Protection Programme that builds on the work already in hand, makes a difference to refugees on the ground and utilises the greater willingness of Member States to launch a resettlement effort from this region. This may mean selecting a particular and smaller geographic locus within the region as a whole, for the pilot Regional Protection Programme. Here, a series of targeted activities under AENEAS can be initiated and a greater impact achieved than if activities were spread around the region as a whole. **Regionality** would be assured because the refugees who could benefit from the application of the pilot Regional Protection Programme are from across the Great Lakes region. This smaller scale Regional Protection Programme could serve as a catalyst for further actions and a basis for a wider, more comprehensive Regional Protection Programme to follow.

16. **Tanzania** could represent such a geographic locus with large numbers of refugees from Burundi and Democratic Republic of Congo. The Country Strategy Paper and National Indicative Programme (CSP) for the period 2001 – 2007 between Tanzania and the Community recognises that Tanzania hosts the largest refugee populations in Africa and consequently benefits from one of ECHO's largest programmes of emergency relief. The Community will continue to support the peace process in Burundi and in the Democratic Republic of Congo to create the conditions for a return of refugees. The Regional Strategy for the Region of Eastern and Southern Africa and Indian Ocean, which includes Tanzania, identifies institutional capacity building as of particular importance, notably to enable regional organisations to contribute to the promotion of good governance, human rights and dispute settlement among member countries.

17. Within the framework of development cooperation with ACP countries, the Commission envisages embarking on a dialogue with the Tanzanian authorities to discuss the opportunities for and the appropriateness of a Regional Protection Programme in the country, addressing the refugees from the Great Lakes region. Subsequent to these discussions, an outline of possible project areas could be presented for information to the AENEAS Committee Activities could therefore be proposed as projects under AENEAS. The indicative budget for action towards durable solutions for refugees in sub Saharan Africa for 2005 is € 4 million. A further € 5 million is indicated for actions linked to migration management.

18. Other possibilities to be explored, in terms of the further development of Regional Protection Programmes, notably include **North Africa**, **Afghanistan region** and **Horn of Africa.** These regions have been evoked in detail in discussions between Member States. The **Afghanistan region** has been the focus of much Community and individual Member State action, with actions emphasising the return of Afghan nationals to their country in safety. In the **Horn of Africa**, UNHCR is engaged in a preparatory project for a Comprehensive Plan of Action for Somali refugees. The results of these ongoing activities could prove essential for assessing the need for assisting the relevant third countries in devising a possible future Regional Protection Programme for this region. **North Africa** is also clearly a preoccupation of Member States and is already the focus of much Community sponsored action. However, the more complex nature of the migration situation from North Africa countries means a wider approach may be required. An important factor in the consideration of these

and other regions for Regional Protection Programmes will be the identification of possible resettlement caseloads by UNHCR.

6. EVALUATION, SUSTAINABILITY AND TIMING

19. Pilot Regional Protection Programmes will constitute an additional effort in our commitment to refugee protection and will require accurate monitoring and evaluation during the initial phase of this new approach. The Commission foresees an independent, external evaluation to be carried out by 2007 which will mainly focus on the effects and results of the programmes.

20. On the basis of that assessment, the Commission will evaluate and report on the impact of pilot Regional Protection Programmes. The Commission will examine the need to provide a more systematic approach for Regional Protection Programmes, including the possibility for structured partnerships with the relevant international organisations charged with implementing the associated activities. On that basis the Commission will decide on the necessary initiatives to follow.

21. In order to effectively monitor and evaluate Regional Protection Programmes the Commission will ensure that projects proposed under the AENEAS Call for Proposals, which will constitute the Regional Protection Programmes, are coordinated to deliver results in broadly the same time period so that through using interim reporting and frequent monitoring interventions, continuity can be assured between the initial programmes and the necessary follow-up work.

7. CONCLUSION

22. Regional Protection Programmes are a first step in a strengthened approach towards international protection. They also represent an opportunity for the EU to deliver a series of operational outcomes with the objective of better protecting refugees on the ground. Their added value lies in the responsibility sharing basis provided by resettlement and the commitment to deliver an additional complementary effort on changing refugee situations for the better. This initiative, even if limited in scale, should also push refugee and protection issues up the political agenda to the advantage of refugees, the third countries involved and EU Member States.

23. The Commission will ensure proper coordination between the Member States and countries of origin, transit and first asylum concerned in the delivery and monitoring of the pilot Regional Protection mechanisms, in consultation with other relevant stakeholders including the UNHCR.

24. The Commission invites the Council and the European Parliament to take note of the Commission's strategy for Regional Protection Programmes in this Communication.