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Update to the International Protection Response to Asylum-Seekers From Iraq

1. On 31 October 2003, following earlier advice of 29 July, 26 June, 20 March, and 7 March 2003, UNHCR requested a continued ban on forced returns to Iraq as well as on the return of Iraqi asylum-seekers to countries in the region, regardless of their prior stay or transit in these countries. It further recommended that States continue to grant a form of temporary protection to Iraqi asylum-seekers (including to new arrivals), and advised those governments wishing to resume individual processing of asylum claims to take into consideration compelling reasons arising out of past persecution, as well as new international protection needs.
2. Despite the arrest of former leader Saddam Hussein in late November 2003, as well as the timetable for the restoration of full Iraqi sovereignty agreed upon by the Iraqi Governing Council (IGC) and the Coalition Provisional Authority (CPA) on 15 November 2003, a generalized climate of instability and insecurity continues in Iraq. Security incidents targeting both Coalition forces and, increasingly, Iraqis perceived to be supporting or collaborating with the CPA (including policemen, religious and community leaders, national UN and CPA staff, as well as the PUK and KDP administrations in Northern Iraq) continue with alarming frequency. These incidents frequently result in the death or serious injury of the targeted individuals as well as other civilians. The last few months have also seen an increase in reported kidnappings, especially of women and children.
3. Further, a climate of political uncertainty prevails linked to the restoration of sovereignty, scheduled for 1 July 2004. There is potential for increased violence given the persistence of extremist elements and tensions among Iraq's various ethnic and religious groups. These risks are exacerbated by the current debate surrounding the modalities of the constitutional process and the establishment of a representative government as well as the broader question of Iraq's state structure (including especially the degree of autonomy for the Kurdish populated areas). The on-going tensions in the Mosul area as well as the most recent attacks in Erbil are also indicative of extremist violence in Northern Iraq.
4. In addition to the security situation, life in Iraq continues to be characterized by a severe lack of housing, particularly in central and northern Iraq; the irregular provision of basic services, including electricity and access to telecommunications; the lack of an effective judicial system; the absence of properly functioning financial institutions; and a 60-70% unemployment rate.
5. Although the UN is reviewing the possibility of re-deploying international staff to Iraq, it is unlikely, in light of continued security concerns, that any type of sustained

* This document has been issued to UNHCR offices, which have been requested to share it with governmental and non-governmental counterparts. It has also been placed on UNHCR's Intranet and is included on the Refworld 2004 CD-Rom.

international deployment will take place in the near future. UNHCR's ability as well as that of its partners to engage in any type of protection, returnee monitoring, and/or re-integration activities towards sustainable return in Iraq thus remains severely limited. Further, although in principle the responsibility for regulating returns to Iraq lies with the CPA and the IGC, no type of returnee reception facilities have, to date, been put in place by the Iraqi authorities. Even though some voluntary repatriation movements have taken place, the Minister of Displacement and Migration of Iraq, Mohammed J. Khodair, has specifically requested UNHCR to urge host countries not to rush or force refugees to return to Iraq until such time when conditions for their organised and smooth return are more acceptable and do not constitute additional burdens on Iraq at this stage.

6. Against the aforementioned background, UNHCR maintains its advice as follows:

- UNHCR recommends that States continue to grant some form of temporary protection[†] to all Iraqi asylum-seekers, including those who have been rejected.
- As regards those governments who have decided to resume processing of asylum claims, UNHCR continues to encourage them to take into consideration both compelling reasons for non-return arising out of past persecution as well as current international protection needs, including in particular persecution emanating from non-state agents active in Iraq.
- Developing earlier advice further, please note that in countries where temporary protection or complementary forms of protection are either not available or not implemented in practice or dependent on an examination of the claim, refugee status determination should be resumed, including by UNHCR offices in case of mandate RSD, and be based on currently available country of origin information. This would in particular apply to individuals who, as a result of the suspension of asylum processing, are in an uncertain, precarious situation (e.g. at risk of detention or *refoulement*) as well as those deemed to be particularly vulnerable (e.g. single female headed households without support or medical cases). In those country situations or cases where the suspension of refugee status determination is maintained, Iraqi asylum-seekers should, as feasible, continue to be registered in accordance with ExCom Conclusion No. 91, as mentioned in UNHCR's memorandum of 20 March 2003. The provision of material assistance will be based on needs and available resources.
- UNHCR requests a continuation of the ban on forced returns to all parts of Iraq until further notice. This request also applies in relation to Northern Iraq, in consideration of the on-going sectarian tension in this region concerning the extent of political autonomy as well as land ownership, the latter a consequence of forced displacement by the former regime's "Arabization" campaign.
- UNHCR reiterates its request that, within the framework of international solidarity and burden-sharing, asylum-seekers from Iraq should not be

[†] Outside the context of mass influx this would mean a complementary form of protection.

returned to countries in the region, regardless of their prior stay or transit.

7. In view of the situation in Iraq, UNHCR is clearly not yet promoting voluntary returns and requests States not to adopt any measures which are intended to encourage voluntary returns, including of rejected cases. The Office will, however, continue to facilitate, in close co-ordination with host governments and upon clearance by the CPA, the return of individuals who express their wish to UNHCR to return voluntarily to Iraq in spite of current conditions. To this end, and where feasible, UNHCR shall continue to use its Voluntary Repatriation Form while at the same time ensuring that potential returnees are fully informed of the situation in Iraq and of the fact that, due to the lack of staff on the ground, UNHCR can neither monitor returnees, nor provide them with any assistance in Iraq. At this stage, facilitation of return may consist of submitting requests for clearance to the CPA, as well as other types of assistance such as transport and exit formalities as explained in UNHCR/IOM/74/03 and UNHCR/FOM/74/03 of 31 October 2003 (Assistance for voluntary returns to Iraq).
8. UNHCR will review this advice after the restoration of full sovereignty in Iraq, by mid-2004, or earlier when circumstances so justify.

UNHCR, 1 March 2004

