

## **II. Methodology and Monitoring**

Both governments were determined to establish an active, credible and transparent oversight mechanism in order to maintain high protection standards. The review is based on comprehensive quantitative information gathered by both governments, strong cooperation with the UNHCR, effective binational and domestic partnerships and coordination, and an open and honest dialogue with NGOs.

This layered methodological approach, which relies on the complementary efforts of binational, national, United Nations and NGO actors, strengthens the review process and reinforces the ultimate objective of ensuring that both countries' internationally recognized standards of protection remain uncompromised.

### **Statistical Monitoring and Reports**

In order to promote transparency and quantitatively capture a global portrait, both governments gather and analyse comprehensive statistical information related to the implementation of the Agreement. Detailed reports providing data broken down by category, including POE, country of origin, age and gender, were to be generated on a regular monthly basis and shared with the UNHCR and NGOs. These statistical reports assist the UNHCR in its monitoring activities. In order to ensure consistency of information, statistical reporting is centralized through national headquarters.

In Canada, Citizenship and Immigration Canada (CIC) and the Canada Border Services Agency (CBSA) endeavoured to provide statistics, to the extent available, in a timely fashion. Initially, due to limitations of the current information technology systems, the desired reports were not always available on time. The UNHCR was kept apprised of the problems being experienced by the government on an ongoing basis. This problem was solved and since July 2005, statistical reports have been provided to the UNHCR on a monthly basis.

In the U.S., statistical information has been collected from individual threshold screening determination packets submitted to the U.S. Citizenship and Immigration Services (USCIS) Headquarters Asylum Division (HQASM) for quality assurance review of the decision. This information has been provided to the UNHCR on a periodic basis. Initially, the Asylum Division did not have the capability to record cases subject to the Agreement in its Asylum Pre-Screening System (APSS) database. However, at the time of writing, necessary updates have been made to APSS, which should improve the speed and reliability of data collection in the future.

### **The Role of the UNHCR**

The UNHCR monitoring function is to independently assess whether implementation is consistent with the terms and principles of the Agreement as well as with international refugee law. The UNHCR Monitoring Plan (see Appendix B) detailing commitments made by all partners was jointly agreed to in August 2004. UNHCR Ottawa and UNHCR

Washington each hired a Protection Consultant funded by the respective host governments in order to carry out monitoring activities. As per the Plan, the UNHCR provided an oral report to Canadian and U.S. government officials in July 2005, and submitted a year-end written report to both governments in July 2006.

In its role as monitor, the UNHCR had access to POEs and detention facilities in Canada and the U.S. During frequent visits, UNHCR representatives interviewed asylum seekers subject to the Agreement, observed eligibility determination interviews/TSIs, consulted with local border NGOs, and met with local and regional government officials. In total, UNHCR Washington conducted 16 monitoring missions and UNHCR Ottawa conducted 26. Four of these were joint Canada-U.S. UNHCR missions that visited POE operations on both sides of the land border.

The UNHCR's monitoring role has been invaluable and will continue with the support of both governments.

### **Working Group Meetings**

In order to foster cooperation and facilitate communication between the UNHCR and government officials on matters related to implementation and monitoring of the Agreement, working groups were established in both countries.

In Canada, a working group comprising representatives from CIC, the CBSA, the Department of Justice (DOJ) and the UNHCR was established. The group meets on a regular monthly basis to exchange feedback and ideas on operational and procedural challenges, to hear UNHCR views and recommendations based on their monitoring activities and field visits, and to discuss general issues related to the implementation of the Agreement.

In the U.S., a group of officials from the three Department of Homeland Security (DHS) agencies responsible for implementing the Agreement—USCIS, ICE and U.S. Customs and Border Protection (CBP)—as well as representatives from the U.S. Department of Justice Executive Office for Immigration Review (EOIR) and the U.S. Department of State have met with the UNHCR on an as-needed basis. The U.S. working group discusses the various challenges and procedures to the implementation of the Agreement, feedback from the UNHCR, and the responses to the UNHCR observations.

### **Binational and National Coordination**

The Canada-U.S. Asylum Working Group is the working level binational forum responsible for general oversight of the Agreement. Through this group, officials from both countries maintain a regular and open dialogue on issues related to the Agreement.

To implement the Agreement in both countries, several federal departments and agencies work together in a collaborative and consultative manner.

In Canada, CIC and the CBSA share custody of the Agreement with CIC holding jurisdiction over refugee protection policy and the CBSA managing POE operations. Officials from both organizations keep in regular contact to inform each other of matters related to the administration of the Agreement, to discuss emerging issues and to consult interdepartmentally in advance of providing functional guidance to the POE offices.

It should be noted that since the creation of the CBSA in December 2003, both CIC and the CBSA have been engaged in restructuring their organizations while defining their respective roles and responsibilities. Despite this challenging environment, CIC and CBSA officials at National Headquarters and in the field diligently collaborated to ensure that the Agreement was implemented smoothly and that no gaps were created as a result of organizational restructuring.

In the U.S., the three legacy Immigration and Naturalization Service (INS) agencies within DHS—USCIS, CBP and ICE—share responsibility for implementing the Agreement. CBP is responsible for identifying individuals subject to the Agreement, USCIS is responsible for conducting a threshold screening determination to determine if an exception to the Agreement applies, and ICE is responsible for the physical custody of individuals subject to the Agreement, as well as the return to Canada of individuals who fail to establish an exception to the Agreement.

### **Consultations with Non-Governmental Organizations**

The transparent and consultative process that characterized the development of this Agreement continued after implementation. In accordance with Article 8.3, both governments sought the input of NGOs throughout the course of the year.

Two multipartite meetings were held with binational participation from NGOs, the UNHCR and the two governments. The first meeting was held in Niagara Falls, Ontario, on December 16, 2004, and the second in London, Ontario, on November 16, 2005. In these meetings, NGO representatives from Canada and the U.S. commented on the Agreement, provided views on its implementation and recommended changes in the areas of both policy and operations. NGOs were also routinely consulted during the UNHCR's monitoring visits.

In Canada, roundtable consultations between the Canadian Council for Refugees (CCR), CIC and the CBSA were held on February 21, 2005, and September 12, 2005. The Agreement was on the agenda for both meetings.

In August 2005, the CCR published a mid-term assessment of the Agreement and in December 2005, it published a report on the anniversary of the implementation of the Agreement.

The strong dialogue and open communication with NGOs and stakeholders have been a crucial component of successful implementation. This ongoing collaboration has made an

important contribution to the success of the Agreement and has in turn contributed to securing public confidence in the fairness and merits of the Agreement.