A. JOHNSON, UNHCR

Mr President, Ladies and Gentlemen,

The ultimate responsibility for protecting refugees on a day-to-day basis lies with states. It is on their territory that refugees find themselves (or to which they seek entry); it is their laws and regulations which set the immediate standards for protection; and it is their officials who have the task to implement them.

This means that UNHCR has an enduring interest in the development of national policies, laws and regulations, and in ensuring that governments establish strong and efficient institutions for their implementation.

But early on it was seen that protection often had to be provided without cooperation from states, which were either unable or unwilling to protect refugees. In fact, the main threat to the protection of refugees often emanated from states themselves. As a result, UNHCR had to assume an operational protection role. The examples are multiple: determining refugee status of individual applicants on behalf of states or unilaterally; providing entry and arranging for sanctuary; developing and implementing refugee protection programmes; providing physical security; establishing civil registers of refugees (including registering births, deaths and marriages).

Since protection relates to the safety and well-being of refugees, providing emergency assistance to keep refugees alive is also an eminent protection task. So is the running of feeding centres for infant refugees. There are even protection aspects in what would appear to be pure assistance activities. For example, while the establishment of camps may be important in order to ensure effective distribution of relief supplies, their physical location and design can have serious repercussions on the safety and well-being of refugees.

The focus of the international refugee protection regime is exile and integration. But this is not to say that protection cannot occur in the countries of origin.

Although the return of refugees took place under international arrangement in the early 1920s and again after World War II, it was not until 1980 that the international community, faced with the soaring costs of refugee programmes, began to re-focus on the issue of repatriation. That year, and again five years later, UNHCR's Executive
Committee adopted recommendations which would formalize a protection function for UNHCR in countries of origin. In essence, it consists of monitoring the fulfilment of amnesties or other forms of guarantees that may have been offered to induce the return of the refugees.

Thus, over the last decade, UNHCR has gradually assumed a more systematic protection role in countries of origin. Teams have been set up in countries of origin which, in collaboration with national authorities and voluntary agencies, seek to ensure that effective protection is provided upon return and that no one is made to suffer retribution on account of previous political activities or for simply having sought asylum elsewhere. The practice has, however, by no means been uniform and much remains to be done to ensure impartial action and avoid the application of different standards in largely identical situations.

Welcome though it may be, extending UNHCR’s protection function to countries of origin has paradoxically also introduced an element of instability in the international protection regime. Not only has “protection” been provided there to persons who were never refugees in the first place but, based on the dictum that prevention is better than cure, activities have also been directed at displaced persons in their countries of origin.

Among the multitude of questions to which this development has given rise, at least two deserve attention from a protection perspective. First, assistance to displaced persons in their own country, although necessary, does not amount to protection. Thus the danger of viewing such activities as a substitute for asylum in other countries. Second, these types of operations require separate authorizations which have the effect of severely diminishing the control which UNHCR can exercise. This should be a cause of major concern since independence has so far been a main precondition for successful protection action.