

THE REFUGEE IN INTERNATIONAL LAW

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ONLINE RESOURCE CENTRE

Annexe 1

Basic Instruments

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1. 1946 Constitution of the International Refugee Organization – Extracts

Entry into force: 20 August 1948

Text: 18 *UNTS* 3

Preamble

The Governments accepting this Constitution, recognizing:

that genuine refugees and displaced persons constitute an urgent problem which is international in scope and character;

that as regards displaced persons, the main task to be performed is to encourage and assist in every way possible their early return to their country of origin;

that genuine refugees and displaced persons should be assisted by international action, either to return to their countries of nationality or former habitual residence, or to find new homes elsewhere, under the conditions provided for in this Constitution; or in the case of Spanish Republicans, to establish themselves temporarily in order to enable them to return to Spain when the present Falangist regime is succeeded by a democratic regime;

that resettlement and reestablishment of refugees and displaced persons be contemplated only in cases indicated clearly in the Constitution;

that genuine refugees and displaced persons, until such time as their repatriation or resettlement and reestablishment is effectively completed, should be protected in their rights and legitimate interests, should receive care and assistance and, as far as possible, should be put to useful employment in order to avoid the evil and anti-social consequences of continued idleness; and that the expenses of repatriation to the extent practicable should be charged to Germany and Japan for persons displaced by those Powers from countries occupied by them:

Have agreed, for the accomplishment of the foregoing purposes in the shortest possible time, to establish and do hereby establish, a non-permanent organization to be called the International Refugee Organization, a specialized agency to be brought into relationship with the United Nations...

ANNEX 1: DEFINITIONS

General Principles

1. The following general principles constitute an integral part of the definitions as laid down in Parts I and II of this Annex.

(a) The main object of the Organization will be to bring about a rapid and positive solution of the problem of bona fide refugees and displaced persons, which shall be just and equitable to all concerned.

(b) The main task concerning displaced persons is to encourage and assist in every way possible their early return to the countries of origin, having regard to the principles laid down in paragraph (c) (ii) of the resolution adopted by the General Assembly of the United Nations on 12 February 1946 regarding the problem of refugees (Annex III).

(c) As laid down in the resolution adopted by the Economic and Social Council on 16 February 1946, no international assistance should be given to traitors, quislings and war

criminals, and nothing should be done to prevent in any way their surrender and punishment.

(d) It should be the concern of the Organization to ensure that its assistance is not exploited in order to encourage subversive or hostile activities directed against the Government of any of the United Nations.

(e) It should be the concern of the Organization to ensure that its assistance is not exploited by persons in the case of whom it is clear that they are unwilling to return to their countries of origin because they prefer idleness to facing the hardships of helping in the reconstruction of their countries, or by persons who intend to settle in other countries for purely economic reasons, thus qualifying as emigrants.

(f) On the other hand it should equally be the concern of the Organization to ensure that no bona fide and deserving refugee or displaced person is deprived of such assistance as it may be in a position to offer.

(g) The Organization should endeavour to carry out its functions in such a way as to avoid disturbing friendly relations between nations. In the pursuit of this objective, the Organization should exercise special care in cases in which the re-establishment or resettlement of refugees or displaced persons might be contemplated, either in countries contiguous to their respective countries of origin or in non-self-governing countries. The Organization should give due weight, among other factors, to any evidence of genuine apprehension and concern felt in regard to such plans, in the former case, by the country of origin of the persons involved, or, in the latter case, by the indigenous population of the non-self-governing country in question.

2. To ensure the impartial and equitable application of the above principles and of the terms of the definition which follows, some special system of semi-judicial machinery should be created, with appropriate constitution, procedure and terms of reference.

Part I: Refugees and Displaced Persons within the Meaning of the Resolution adopted by the Economic and Social Council of the United Nations on 16 February 1946

Section A—Definition of Refugees

1. Subject to the provisions of sections C and D and of Part II of this Annex, the term ‘refugee’ applies to a person who has left, or who is outside of, his country of nationality or of former habitual residence, and who, whether or not he had retained his nationality, belongs to one of the following categories:

(a) victims of the Nazi or fascist regimes or of regimes which took part on their side in the second world war, or of the quisling or similar regimes which assisted them against the United Nations, whether enjoying international status as refugees or not;

(b) Spanish Republicans and other victims of the Falangist regime in Spain, whether enjoying international status as refugees or not;

(c) persons who were considered refugees before the outbreak of the second world war, for reasons of race, religion, nationality or political opinion.

2. Subject to the provisions of sections C and D and of Part II of this Annex regarding the exclusion of certain categories of persons, including war criminals, quislings and traitors, from the benefits of the Organization, the term ‘refugee’ also applies to a person, other than a displaced person as defined in section B of this Annex, who is outside of his country of nationality or former habitual residence, and who, as a result of

events subsequent to the outbreak of the second world war, is unable or unwilling to avail himself of the protection of the Government of his country of nationality or former nationality.

3. Subject to the provisions of Section D and of Part II of this Annex, the term 'refugee' also applies to persons who, having resided in Germany or Austria, and being of Jewish origin or foreigners or stateless persons, were victims of Nazi persecution and were detained in, or were obliged to flee from, and were subsequently returned to, one of those countries as a result of enemy action, or of war circumstances, and have not yet been firmly resettled therein.

4. The term 'refugee' also applies to unaccompanied children who are war orphans or whose parents have disappeared, and who are outside their countries of origin. Such children, 16 years of age or under, shall be given all possible priority assistance, including, normally, assistance in repatriation in the case of those whose nationality can be determined.

Section B—Definition of Displaced Persons

The term 'displaced person' applies to a person who, as a result of the actions of the authorities of the regimes mentioned in Part I, section A, paragraph 1 (a) of this Annex has been deported from, or has been obliged to leave his country of nationality or of former habitual residence, such as persons who were compelled to undertake forced labour or who were deported for racial, religious or political reasons. Displaced persons will only fall within the mandate of the Organization subject to the provisions of sections C and D of Part I and to the provisions of Part II of this Annex. If the reasons for their displacement have ceased to exist, they should be repatriated as soon as possible in accordance with article 2, paragraph 1 (a) of this Constitution, and subject to the provision of paragraph (c), sub-paragraphs (ii) and (iii) of the General Assembly resolution of 12 February 1946 regarding the problem of refugees...¹

Section C—Conditions under which 'Refugees' and 'Displaced Persons' will become the Concern of the Organization

1. In the case of all the above categories except those mentioned in section A, paragraphs 1 (b) and 3 of this Annex, persons will become the concern of the

¹ In the resolution referred to, UNGA res. 8(I) on the question of refugees, the General Assembly decided to refer the problem to the Economic and Social Council for thorough examination, recommending that it establish a special committee to this end, and that it take the following principles into consideration (para. (c)): '(i) this problem is international in scope and nature; (ii) no refugees or displaced persons who have finally and definitely, in complete freedom, and after receiving full knowledge of the facts, including adequate information from the governments of their countries of origin, expressed valid objection to returning to their country of origin...shall be compelled to return to their country of origin. The future of such refugees or displaced persons shall become the concern of whatever international body may be recognized or established... (iii) the main task concerning displaced persons is to encourage and assist in every way possible their early return to their countries of origin. Such assistance may take the form of promoting the conclusion of bilateral arrangements for mutual assistance in the repatriation of such persons having regard to the principles laid down in paragraph (c)(ii)...' Paragraph (d) provided that 'no action taken as a result of this resolution shall be of such a character as to interfere with the surrender and punishment of war criminals, quislings and traitors...'

Organization in the sense of the resolution adopted by the Economic and Social Council on 16 February 1946 if they can be repatriated, and the help of the Organization is required in order to provide for their repatriation, or if they have definitely, in complete freedom and after receiving full knowledge of the facts, including adequate information from the Governments of their countries of nationality or former habitual residence, expressed valid objections to returning to those countries.

(a) The following shall be considered as valid objections:

(i) persecution, or fear, based on reasonable grounds of persecution because of race, religion, nationality or political opinions, provided these opinions are not in conflict with the principles of the United Nations, as laid down in the Preamble of the Charter of the United Nations;

(ii) objections of a political nature judged by the Organization to be ‘valid’, as contemplated in paragraph 8 (a)² of the report of the Third Committee of the General Assembly as adopted by the Assembly on 12 February 1946.

(iii) in the case of persons falling within the category mentioned in section A, paragraphs 1 (a) and 1 (c) compelling family reasons arising out of previous persecution, or, compelling reasons of infirmity or illness.

(b) The following shall normally be considered ‘adequate information’: information regarding conditions in the countries of nationality of the refugees and displaced persons concerned, communicated to them directly by representatives of the Governments of these countries, who shall be given every facility for visiting camps and assembly centres of refugees and displaced persons in order to place such information before them.

2. In the case of all refugees falling within the terms of Section A paragraph 1 (b) of this Annex, persons will become the concern of the Organization in the sense of the resolution adopted by the Economic and Social Council of the United Nations on 16 February 1946, so long as the Falangist regime in Spain continues. Should that regime be replaced by a democratic regime they will have to produce valid objections against returning to Spain corresponding to those indicated in paragraph 1 (a) of this section.

Section D—Circumstances in which Refugees and Displaced Persons will cease to be the Concern of the Organization

Refugees or displaced persons will cease to be the concern of the Organization:

(a) when they have returned to the countries of their nationality in United Nations territory, unless their former habitual residence to which they wish to return is outside their country of nationality; or

(b) when they have acquired a new nationality; or

(c) when they have, in the determination of the Organization become otherwise firmly established; or

(d) when they have unreasonably refused to accept the proposals of the Organization for their resettlement or repatriation; or

² Paragraph 8 (a). ‘In answering the representative of Belgium, the Chairman stated that it was implied that the international body would judge what were, or what were not, “valid objections”; and that such objections clearly might be of a “political nature”.’

(e) when they are making no substantial effort towards earning their living when it is possible for them to do so, or when they are exploiting the assistance of the Organization.

Part II: Persons who will not be the Concern of the Organization

1. War criminals, quislings and traitors.
 2. Any other persons who can be shown:
 - (a) to have assisted the enemy in persecuting civil populations of countries, Members of the United Nations; or
 - (b) to have voluntarily assisted the enemy forces since the outbreak of the second world war in their operations against the United Nations.³
 3. Ordinary criminals who are extraditable by treaty.
 4. Persons of German ethnic origin, whether German nationals or members of German minorities in other countries, who:
 - (a) have been or may be transferred to Germany from other countries;
 - (b) have been, during the second world war, evacuated from Germany to other countries;
 - (c) have fled from, or into, Germany, or from their places of residence into countries other than Germany in order to avoid falling into the hands of Allied armies.
 5. Persons who are in receipt of financial support and protection from their country of nationality, unless their country of nationality requests international assistance for them.
 6. Persons who, since the end of hostilities in the second world war:
 - (a) have participated in any organization having as one of its purposes the overthrow by armed force of the Government of their country of origin, being a Member of the United Nations; or the overthrow by armed force of the Government of any other Member of the United Nations, or have participated in any terrorist organization;
 - (b) have become leaders of movements hostile to the Government of their country of origin being a Member of the United Nations or sponsors of movements encouraging refugees not to return to their country of origin;
 - (c) at the time of application for assistance, are in the military or civil service of a foreign State.
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³ Mere continuance of normal and peaceful duties, not performed with the specific purpose of aiding the enemy against the Allies or against the civil population of territory in enemy occupation, shall not be considered to constitute 'voluntary assistance'. Nor shall acts of general humanity, such as care of wounded or dying, be so considered except in cases where help of this nature given to enemy nationals could equally well have been given to Allied nationals and was purposely withheld from them.

2. 1948 Universal Declaration of Human Rights – Extracts
Adopted by the United Nations General Assembly on 10 December 1948
Text: UNGA resolution 217 A(III)

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

3. 1950 Statute of the Office of the United Nations High Commissioner
for Refugees

UN General Assembly Resolution 428(V) of 14 December 1950

The General Assembly,

In view of its resolution 319 A (IV) of 3 December 1949,

1. Adopts the Annex to the present resolution, being the Statute of the Office of the United Nations High Commissioner for Refugees;
2. Calls upon Governments to co-operate with the United Nations High Commissioner for Refugees in the performance of his functions concerning refugees falling under the competence of his office, especially by:
 - (a) Becoming parties to international conventions providing for the protection of refugees, and taking the necessary steps of implementation under such conventions;
 - (b) Entering into special agreements with the High Commissioner for the execution of measures calculated to improve the situation of refugees and to reduce the number requiring protection;
 - (c) Admitting refugees to their territories, not excluding those in the most destitute categories;

- (d) Assisting the High Commissioner in his efforts to promote the voluntary repatriation of refugees;
 - (e) Promoting the assimilation of refugees, especially by facilitating their naturalization;
 - (f) Providing refugees with travel and other documents such as would normally be provided to other aliens by their national authorities, especially documents which would facilitate their resettlement;
 - (g) Permitting refugees to transfer their assets and especially those necessary for their resettlement;
 - (h) Providing the High Commissioner with information concerning the number and condition of refugees, and laws and regulations concerning them;
3. Requests the Secretary-General to transmit the present resolution, together with the Annex attached thereto, also to States non-members of the United Nations, with a view to obtaining their co-operation in its implementation.

ANNEX: STATUTE OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

Chapter I — General Provisions

1. The United Nations High Commissioner for Refugees, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and of seeking permanent solutions for the problem of refugees by assisting Governments and, subject to the approval of the Governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities.

In the exercise of his functions, more particularly when difficulties arise, and for instance with regard to any controversy concerning the international status of these persons, the High Commissioner shall request the opinion of the advisory committee on refugees if it is created.

2. The work of the High Commissioner shall be of an entirely non-political character; it shall be humanitarian and social and shall relate, as a rule, to groups and categories of refugees.

3. The High Commissioner shall follow policy directives given him by the General Assembly or the Economic and Social Council.

4. The Economic and Social Council may decide, after hearing the views of the High Commissioner on the subject, to establish an advisory committee on refugees, which shall consist of representatives of States Members and States non-members of the United Nations, to be selected by the Council on the basis of their demonstrated interest in and devotion to the solution of the refugee problem.

5. The General Assembly shall review, not later than at its eighth regular session, the arrangements for the Office of the High Commissioner with a view to determining whether the Office should be continued beyond 31 December 1953.

Chapter II—Functions of the High Commissioner

6. The competence of the High Commissioner shall extend to:

A. (i) Any person who has been considered a refugee under the Arrangements of 12 May 1926 and of 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the constitution of the International Refugee Organization.

(ii) Any person who, as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it.

Decisions as to eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of the present paragraph;

The competence of the High Commissioner shall cease to apply to any person defined in section A above if:

- (a) He has voluntarily re-availed himself of the protection of the country of his nationality; or
- (b) Having lost his nationality, he has voluntarily re-acquired it; or
- (c) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
- (d) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
- (e) He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, claim grounds other than those of personal convenience for continuing to refuse to avail himself of the protection of the country of his nationality. Reasons of a purely economic character may not be invoked; or
- (f) Being a person who has no nationality, he can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist and he is able to return to the country of his former habitual residence, claim grounds other than those of personal convenience for continuing to refuse to return to that country;

B. Any other person who is outside the country of his nationality, or if he has no nationality, the country of his former habitual residence, because he has or had well-founded fear of persecution by reason of his race, religion, nationality or political opinion and is unable or, because of such fear, is unwilling to avail himself of the protection of the government of the country of his nationality, or, if he has no nationality, to return to the country of his former habitual residence.

7. Provided that the competence of the High Commissioner as defined in paragraph 6 above shall not extend to a person:

- (a) Who is a national of more than one country unless he satisfies the provisions of the preceding paragraph in relation to each of the countries of which he is a national; or
- (b) Who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country; or
- (c) Who continues to receive from other organs or agencies of the United Nations protection or assistance; or

(d) In respect of whom there are serious reasons for considering that he has committed a crime covered by the provisions of treaties of extradition or a crime mentioned in article VI of the London Charter of the International Military Tribunal or by the provisions of article 14, paragraph 2, of the Universal Declaration of Human Rights.

8. The High Commissioner shall provide for the protection of refugees falling under the competence of his Office by:

(a) Promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto;

(b) Promoting through special agreements with Governments the execution of any measures calculated to improve the situation of refugees and to reduce the number requiring protection;

(c) Assisting governmental and private efforts to promote voluntary repatriation or assimilation within new national communities;

(d) Promoting the admission of refugees, not excluding those in the most destitute categories, to the territories of States;

(e) Endeavouring to obtain permission for refugees to transfer their assets and especially those necessary for their resettlement;

(f) Obtaining from Governments information concerning the number and conditions of refugees in their territories and the laws and regulations concerning them;

(g) Keeping in close touch with the Governments and inter-governmental organizations concerned;

(h) Establishing contact in such manner as he may think best with private organizations dealing with refugee questions;

(i) Facilitating the co-ordination of the efforts of private organizations concerned with the welfare of refugees.

9. The High Commissioner shall engage in such additional activities, including repatriation and resettlement, as the General Assembly may determine, within the limits of the resources placed at his disposal.

10. The High Commissioner shall administer any funds, public or private, which he receives for assistance to refugees, and shall distribute them among the private and, as appropriate, public agencies which he deems best qualified to administer such assistance. The High Commissioner may reject any offers which he does not consider appropriate or which cannot be utilized. The High Commissioner shall not appeal to Governments for funds or make a general appeal, without the prior approval of the General Assembly. The High Commissioner shall include in his annual report a statement of his activities in this field.

11. The High Commissioner shall be entitled to present his views before the General Assembly, the Economic and Social Council and their subsidiary bodies.

The High Commissioner shall report annually to the General Assembly through the Economic and Social Council; his report shall be considered as a separate item on the agenda of the General Assembly.

12. The High Commissioner may invite the co-operation of the various specialized agencies.

Chapter III — Organization and Finances

13. The High Commissioner shall be elected by the General Assembly on the nomination of the Secretary-General. The terms of appointment of the High Commissioner shall be proposed by the Secretary-General and approved by the General Assembly. The High Commissioner shall be elected for a term of three years, from 1 January 1951.

14. The High Commissioner shall appoint, for the same term, a Deputy High Commissioner of a nationality other than his own.

15. (a) Within the limits of the budgetary appropriations provided, the staff of the Office of the High Commissioner shall be appointed by the High Commissioner and shall be responsible to him in the exercise of their functions.

(b) Such staff shall be chosen from persons devoted to the purposes of the Office of the High Commissioner.

(c) Their conditions of employment shall be those provided under the staff regulations adopted by the General Assembly and the rules promulgated thereunder by the Secretary-General.

(d) Provision may also be made to permit the employment of personnel without compensation.

16. The High Commissioner shall consult the Government of the countries of residence of refugees as to the need for appointing representatives therein. In any country recognizing such need, there may be appointed a representative approved by the Government of that country. Subject to the foregoing, the same representative may serve in more than one country.

17. The High Commissioner and the Secretary-General shall make appropriate arrangements for liaison and consultation on matters of mutual interest.

18. The Secretary-General shall provide the High Commissioner with all necessary facilities within budgetary limitations.

19. The Office of the High Commissioner shall be located in Geneva, Switzerland.

20. The Office of the High Commissioner shall be financed under the budget of the United Nations. Unless the General Assembly subsequently decides otherwise, no expenditure other than administrative expenditures relating to the functioning of the Office of the High Commissioner shall be borne on the budget of the United Nations and all other expenditures relating to the activities of the High Commissioner shall be financed by voluntary contributions.

21. The administration of the Office of the High Commissioner shall be subject to the Financial Regulations of the United Nations and to the financial rules promulgated thereunder by the Secretary-General.

22. Transactions relating to the High Commissioner's funds shall be subject to audit by the United Nations Board of Auditors, provided that the Board may accept audited accounts from the agencies to which funds have been allocated. Administrative arrangements for the custody of such funds and their allocation shall be agreed between the High Commissioner and the Secretary-General in accordance with the Financial Regulations of the United Nations and rules promulgated thereunder by the Secretary-General.

4. 1951 Convention relating to the Status of Refugees

Text: 189 *UNTS* 150

Entry into force: 22 April 1954

FINAL ACT OF THE UNITED NATIONS CONFERENCE OF PLENIPOTENTIARIES ON THE STATUS OF REFUGEES AND STATELESS PERSONS

I

The General Assembly of the United Nations, by Resolution 429 (V) of 14 December 1950, decided to convene in Geneva a Conference of Plenipotentiaries to complete the drafting of, and to sign, a Convention relating to the Status of Refugees and a Protocol relating to the Status of Stateless Persons.

The Conference met at the European Office of the United Nations in Geneva from 2 to 25 July 1951.

The Governments of the following twenty-six States were represented by delegates who all submitted satisfactory credentials or other communications of appointment authorizing them to participate in the Conference:

Australia	Italy
Austria	Luxembourg
Belgium	Monaco
Brazil	Netherlands
Canada	Norway
Colombia	Sweden
Denmark	Switzerland (the Swiss delegation also represented Liechtenstein)
Egypt	Turkey
France	United Kingdom of Great Britain and Northern Ireland
Federal Republic of Germany	United States of America
Greece	Venezuela
Holy See	Yugoslavia

The Governments of the following two States were represented by observers:

Cuba
Iran

Pursuant to the request of the General Assembly, the United Nations High Commissioner for Refugees participated, without the right to vote, in the deliberations of the Conference.

The International Labour Organization and the International Refugee Organization were represented at the Conference without the right to vote.

The Conference invited a representative of the Council of Europe to be represented at the Conference without the right to vote.

Representatives of ... Non-Governmental Organizations in Consultative relationship with the Economic and Social Council were also present as observers...
[List of Non-Governmental Organizations omitted]

Representatives of Non-Governmental Organizations which have been granted consultative status by the Economic and Social Council as well as those entered by the Secretary-General on the Register referred to in Resolution 288 B (X) of the Economic and Social Council, paragraph 17, had under the rules of procedure adopted by the Conference the right to submit written or oral statements to the Conference.

The Conference elected Mr. Knud Larsen, of Denmark, as President, and Mr. A. Herment, of Belgium, and Mr. Talat Miras, of Turkey, as Vice-Presidents.

At its second meeting, the Conference, acting on a proposal of the representative of Egypt, unanimously decided to address an invitation to the Holy See to designate a plenipotentiary representative to participate in its work. A representative of the Holy See took his place at the Conference on 10 July 1951.

The Conference adopted as its agenda the Provisional Agenda drawn up by the Secretary-General (A/CONF.2/2/Rev.1). It also adopted the Provisional Rules of Procedure drawn up by the Secretary-General, with the addition of a provision which authorized a representative of the Council of Europe to be present at the Conference without the right to vote and to submit proposals (A/CONF.2/3/Rev.1).

In accordance with the Rules of Procedure of the Conference, the President and Vice-Presidents examined the credentials of representatives and on 17 July 1951 reported to the Conference the results of such examination, the Conference adopting the report.

The Conference used as the basis of its discussions the draft Convention relating to the Status of Refugees and the draft Protocol relating to the Status of Stateless Persons prepared by the *ad hoc* Committee on Refugees and Stateless Persons at its second session held in Geneva from 14 to 25 August 1950, with the exception of the preamble and article 1 (Definition of the term 'refugee') of the draft Convention. The text of the preamble before the Conference was that which was adopted by the Economic and Social Council on 11 August 1950 in Resolution 319 B II (XI). The text of article 1 before the Conference was that recommended by the General Assembly on 14 December 1950 and contained in the Annex to Resolution 429 (V). The latter was a modification of the text as it had been adopted by the Economic and Social Council in Resolution 319 B II (XI).⁴

The Conference adopted the Convention relating to the Status of Refugees in two readings. Prior to its second reading it established a Style Committee composed of the President and the representatives of Belgium, France, Israel, Italy, the United Kingdom of Great Britain and Northern Ireland and the United States of America, together with the High Commissioner for Refugees, which elected as its Chairman Mr. G. Warren, of the United States of America. The Style Committee re-drafted the text which had been adopted by the Conference on first reading, particularly from the point of view of language and of concordance between the English and French texts.

⁴ The texts referred to in the paragraph above are contained in document A/CONF.2/1.

The Convention was adopted on 25 July by 24 votes to none with no abstentions and opened for signature at the European Office of the United Nations from 28 July to 31 August 1951. It will be re-opened for signature at the permanent headquarters of the United Nations in New York from 17 September 1951 to 31 December 1952.

The English and French texts of the Convention, which are equally authentic, are appended to this Final Act.

II

The Conference decided, by 17 votes to 3 with 3 abstentions, that the titles of the chapters and of the articles of the Convention are included for practical purposes and do not constitute an element of interpretation.

III

With respect to the draft Protocol relating to the Status of Stateless Persons, the Conference adopted the following resolution:

'The Conference,

'Having considered the draft Protocol relating to the Status of Stateless Persons,

'Considering that the subject still requires more detailed study,

'Decides not to take a decision on the subject at the present Conference and refers the draft Protocol back to the appropriate organs of the United Nations for further study.'

IV

The Conference adopted unanimously the following recommendations:

A

'The Conference,

'Considering that the issue and recognition of travel documents is necessary to facilitate the movement of refugees, and in particular their resettlement,

'Urges Governments which are parties to the Inter-Governmental Agreement on Refugee Travel Documents signed in London on 15 October 1946, or which recognize travel documents issued in accordance with the Agreement, to continue to issue or to recognize such travel documents, and to extend the issue of such documents to refugees as defined in article 1 of the Convention relating to the Status of Refugees or to recognize the travel documents so issued to such persons, until they shall have undertaken obligations under article 28 of the said Convention.'

B

'The Conference,

'Considering that the unity of the family, the natural and fundamental group unit of society, is an essential right of the refugee, and that such unity is constantly threatened, and

Noting with satisfaction that, according to the official commentary of the *ad hoc* Committee on Statelessness and Related Problems (E/1618, p. 40), the rights granted to a refugee are extended to members of his family,

Recommends Governments to take the necessary measures for the protection of the refugee's family especially with a view to:

'(1) Ensuring that the unity of the refugee's family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country,

'(2) The protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption.'

C

The Conference,

Considering that, in the moral, legal and material spheres, refugees need the help of suitable welfare services, especially that of appropriate non-governmental organizations,

Recommends Governments and inter-governmental bodies to facilitate, encourage and sustain the efforts of properly qualified organizations.'

D

The Conference,

Considering that many persons still leave their country of origin for reasons of persecution and are entitled to special protection on account of their position,

Recommends that Governments continue to receive refugees in their territories and that they act in concert in a true spirit of international co-operation in order that these refugees may find asylum and the possibility of resettlement.'

E

The Conference,

Expresses the hope that the Convention relating to the Status of Refugees will have value as an example exceeding its contractual scope and that all nations will be guided by it in granting so far as possible to persons in their territory as refugees and who would not be covered by the terms of the Convention, the treatment for which it provides.'

In Witness Whereof the President, Vice Presidents and the Executive Secretary of the Conference have signed this Final Act.

Done at Geneva this twenty-eighth day of July one thousand nine hundred and fifty-one in a single copy in the English and French languages, each text being equally authentic. Translations of this Final Act into Chinese, Russian and Spanish will be prepared by the Secretary-General of the United Nations, who will, on request, send copies thereof to each of the Governments invited to attend the Conference.

The President of the Conference:

Knud Larsen

The Vice Presidents of the Conference:
The Executive Secretary of the Conference:

A. Herment. Talat Miras
John P. Humphrey

CONVENTION RELATING TO THE STATUS OF REFUGEES

Preamble

The High Contracting Parties,

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

Considering that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and protection accorded by such instruments by means of a new agreement,

Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation,

Expressing the wish that all States, recognizing the social and humanitarian nature of the problem of refugees will do everything within their power to prevent this problem from becoming a cause of tension between States,

Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

Have agreed as follows:

Chapter I—General Provisions

Article 1

Definition of the term ‘Refugee’

A. For the purposes of the present Convention, the term ‘refugee’ shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a

particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term 'the country of his nationality' shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words 'events occurring before 1 January 1951' in Article 1, Section A, shall be understood to mean either

(a) 'events occurring in Europe before 1 January 1951'; or

(b) 'events occurring in Europe or elsewhere before 1 January 1951', and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of Section A if:

(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily re-acquired it, or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under Section A(1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

(6) Being a person who has no nationality he is, because of the circumstances in connection with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 2 General obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3 Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4 Religion

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

Article 5 Rights granted apart from this Convention

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

Article 6 The term 'in the same circumstances'

For the purposes of this Convention, the term ‘in the same circumstances’ implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7

Exemption from reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.
2. After a period of three years’ residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.
3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.
4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.
5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in Articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8

Exemption from exceptional measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this Article, shall, in appropriate cases, grant exemptions in favour of such refugees.

Article 9

Provisional measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

Article 10

Continuity of residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.
2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11
Refugee seamen

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

Chapter II—Juridical Status

Article 12
Personal status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.
2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

Article 13
Movable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14
Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic, and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other

Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 15
Right of association

As regards non-political and non-profit making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 16
Access to courts

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.
2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatum solvi*.
3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

Chapter III—Gainful Employment

Article 17
Wage-earning employment

1. The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.
2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:
 - (a) He has completed three years' residence in the country;
 - (b) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse;
 - (c) He has one or more children possessing the nationality of the country of residence.
3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 18
Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19
Liberal professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.
2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

Chapter IV—Welfare

Article 20
Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

Article 21
Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22
Public education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in

particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 23
Public relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24
Labour legislation and social security

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

(a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;

(b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.

Chapter V—Administrative measures

Article 25

Administrative assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.
2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.
3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.
4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.
5. The provisions of this Article shall be without prejudice to Articles 27 and 28.

Article 26

Freedom of movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

Article 27

Identity papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

Article 28

Travel documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.
2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 29
Fiscal charges

1. The Contracting States shall not impose upon refugee duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.
2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Article 30
Transfer of assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.
2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 31
Refugees unlawfully in the country of refuge

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.
2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Article 32
Expulsion

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.
2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.
3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 33

Prohibition of expulsion or return ('refoulement')

1. No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

Article 34

Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

Chapter VI—Executory and transitory provisions

Article 35

Co-operation of the national authorities with the United Nations

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.
2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:
 - (a) the condition of refugees,
 - (b) the implementation of this Convention, and
 - (c) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article 36

Information on national legislation

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

Article 37

Relation to previous Conventions

Without prejudice to Article 28, paragraph 2, of this Convention, this Convention replaces, as between parties to it, the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946.

Chapter VII—Final clauses

Article 38

Settlement of disputes

Any dispute between parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article 39

Signature, ratification and accession

1. This Convention shall be opened for signature at Geneva on 28 July 1951 and shall hereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from 28 July to 31 August 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 17 September 1951 to 31 December 1952.

2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open from 28 July 1951 for accession by the States referred to in paragraph 2 of this Article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 40

Territorial application clause

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this

notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the governments of such territories.

Article 41
Federal clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

(a) With respect to those Articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States,

(b) With respect to those Articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such Articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment.

(c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

Article 42
Reservations

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to Articles 1, 3, 4, 16(1), 33, 36-46 inclusive.

2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 43
Entry into force

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 44
Denunciation

1. Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.
2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.
3. Any State which has made a declaration or notification under Article 40 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 45
Revision

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

Article 46
Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in Article 39:

- (a) of declarations and notifications in accordance with Section B of Article 1;
- (b) of signatures, ratifications and accessions in accordance with Article 39;
- (c) of declarations and notifications in accordance with Article 40;
- (d) of reservations and withdrawals in accordance with Article 42;
- (e) of the date on which this Convention will come into force in accordance with Article 43;
- (f) of denunciations and notifications in accordance with Article 44;
- (g) of requests for revision in accordance with Article 45.

IN FAITH WHEREOF the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments,

DONE at GENEVA, this twenty-eighth day of July, one thousand nine hundred and fifty-one, in a single copy, of which the English and French texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in Article 39.

Schedule⁵

Paragraph 1

1. The travel document referred to in Article 28 of this Convention shall be similar to the specimen annexed hereto.
2. The document shall be made out in at least two languages, one of which shall be English or French.

Paragraph 2

Subject to the regulations obtaining in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

Paragraph 3

The fees charged for issue of the document shall not exceed the lowest scale of charges for national passports.

Paragraph 4

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

Paragraph 5

The document shall have a validity of either one or two years, at the discretion of the issuing authority.

Paragraph 6

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.
2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.
3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents or issuing new documents to refugees no longer lawfully resident in their territory who are unable to obtain a travel document from the country of their lawful residence.

⁵ The Annex with details of the Specimen Travel Document is omitted.

Paragraph 7

The Contracting States shall recognize the validity of the documents issued in accordance with the provisions of Article 28 of this Convention.

Paragraph 8

The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.

Paragraph 9

1. The Contracting States undertake to issue transit visas to refugees who have obtained visas for a territory of final destination.
2. The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien.

Paragraph 10

The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.

Paragraph 11

When a refugee has lawfully taken up residence in the territory of another Contracting State, the responsibility for the issue of a new document, under the terms and conditions of Article 28, shall be that of the competent authority of that territory, to which the refugee shall be entitled to apply.

Paragraph 12

The authority issuing a new document shall withdraw the old document and shall return it to the country of issue, if it is stated in the document that it should be so returned; otherwise it shall withdraw and cancel the document.

Paragraph 13

1. Each Contracting State undertakes that the holder of a travel document issued by it in accordance with Article 28 of this Convention shall be re-admitted to its territory at any time during the period of its validity.
2. Subject to the provisions of the preceding sub-paragraph, a Contracting State may require the holder of the document to comply with such formalities as may be prescribed in regard to exit from or return to its territory.
3. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee's stay is authorized for a specific period, when issuing the document, to limit

the period during which the refugee may return to a period of not less than three months.

Paragraph 14

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

Paragraph 15

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particularly as regards nationality.

Paragraph 16

The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.

5. 1967 Protocol relating to the Status of Refugees

Entry into force: 4 October 1967

Text: 606 UNTS 267

Preamble

The States Parties to the present Protocol,

Considering that the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 (hereinafter referred to as the Convention) covers only those persons who have become refugees as a result of events occurring before 1 January 1951,

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951,

Have agreed as follows:

Article I

General provision

1. The States Parties to the present Protocol undertake to apply Articles 2 to 34 inclusive of the Convention to refugees as hereinafter defined.

2. For the purpose of the present Protocol, the term 'refugee' shall, except as regards the application of paragraph 3 of this Article, mean any person within the definition of Article 1 of the Convention as if the words 'As a result of events occurring before 1 January 1951 and ...' and the words '... a result of such events', in Article 1 A (2) were omitted.

3. The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with Article 1 B (1)(a) of the Convention, shall, unless extended under Article 1 B (2) thereof, apply also under the present Protocol.

Article II

Co-operation of the national authorities with the United Nations

1. The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.

2. In order to enable the Office of the High Commissioner, or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning:

- (a) The condition of refugees;
- (b) The implementation of the present Protocol;
- (c) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article III

Information on national legislation

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

Article IV

Settlement of disputes

Any dispute between States Parties to the present Protocol which relates to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article V

Accession

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of

the specialized agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article VI
Federal clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

(a) With respect to those articles of the Convention to be applied in accordance with Article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of States Parties which are not Federal States.

(b) With respect to those articles of the Convention to be applied in accordance with Article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;

(c) A Federal State Party to the present Protocol shall, at the request of any other State Party hereto transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention to be applied in accordance with Article I, paragraph 1, of the present Protocol, showing the extent to which effect has been given to that provision by legislative or other action.

Article VII
Reservations and declarations

1. At the time of accession, any State may make reservations in respect of Article IV of the present Protocol and in respect of the application in accordance with Article I of the present Protocol of any provisions of the Convention other than those contained in Articles 1, 3, 4, 16 (1) and 33 thereof, provided that in the case of a State Party to the Convention reservations made under this Article shall not extend to refugees in respect of whom the Convention applies.

2. Reservations made by States Parties to the Convention in accordance with Article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.

3. Any State making a reservation in accordance with paragraph 1 of this Article may at any time withdraw such reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

4. Declarations made under Article 40, paragraphs 1 and 2, of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol, unless upon accession a notification to the contrary is addressed by the State Party concerned to the Secretary-General of the United Nations. The

provisions of Article 40, paragraphs 2 and 3, and of Article 44, paragraph 3, of the Convention shall be deemed to apply *mutatis mutandis* to the present Protocol.

Article VIII

Entry into force

1. The present Protocol shall come into force on the day of deposit of the sixth instrument of accession.
2. For each State acceding to the Protocol after the deposit of the sixth instrument of accession, the Protocol shall come into force on the date of deposit by such State of its instrument of accession.

Article IX

Denunciation

1. Any State Party hereto may denounce this Protocol at any time by a notification addressed to the Secretary-General of the United Nations.
2. Such denunciation shall take effect for the State Party concerned one year from the date on which it is received by the Secretary-General of the United Nations.

Article X

Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform the States referred to in Article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto.

Article XI

Deposit in the archives of the Secretariat of the United Nations

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and by the Secretary-General of the United Nations, shall be deposited in the archives of the Secretariat of the United Nations. The Secretary-General will transmit certified copies thereof to all States Members of the United Nations and to the other States referred to in Article V above.

GENERAL ASSEMBLY RESOLUTION 2198 (XXI) OF 16 DECEMBER 1966

Protocol relating to the Status of Refugees

The General Assembly,

Considering that the Convention relating to the Status of Refugees, signed at Geneva on 28 July 1951, covers only those persons who have become refugees as a result of events occurring before 1 January 1951,

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention, irrespective of the date-line of 1 January 1951,

Taking note of the recommendation of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees that the draft Protocol relating to the Status of Refugees should be submitted to the General Assembly after consideration by the Economic and Social Council, in order that the Secretary-General might be authorized to open the Protocol for accession by Governments within the shortest possible time,

Considering that the Economic and Social Council, in its resolution 1186 (XLI) of 18 November 1966, took note with approval of the draft Protocol contained in the addendum to the report of the United Nations High Commissioner for Refugees and concerning measures to extend the personal scope of the Convention and transmitted the addendum to the General Assembly,

1. *Takes note* of the Protocol relating to the Status of Refugees, the text of which is contained in the addendum to the report of the United Nations High Commissioner for Refugees;
2. *Requests* the Secretary-General to transmit the text of the Protocol to the States mentioned in article V thereof, with a view to enabling them to accede to the Protocol.⁶

6. 1967 United Nations Declaration on Territorial Asylum

Adopted by the General Assembly of the United Nations on 14 December 1967

Text: UNGA resolution 2312 (XXII)

The General Assembly,

Recalling its resolutions 1839 (XVII) of 19 December 1962, 2100 (XX) of 20 December 1965 and 2203 (XXI) of 16 December 1966 concerning a declaration on the right of asylum,

Considering the work of codification to be undertaken by the International Law Commission in accordance with General Assembly resolution 1400 (XIV) of 21 November 1959,

Adopts the following Declaration:

DECLARATION ON TERRITORIAL ASYLUM

The General Assembly,

⁶ The Protocol was signed by the President of the General Assembly and by the Secretary-General on 31 January 1967.

Noting that the purposes proclaimed in the Charter of the United Nations are to maintain international peace and security, to develop friendly relations among all nations and to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion,

Mindful of the Universal Declaration of Human Rights, which declares in article 14 that:

‘1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.’

‘2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.’

Recalling also article 13, paragraph 2, of the Universal Declaration of Human Rights, which states: ‘Everyone has the right to leave any country, including his own, and to return to his country’,

Recognizing that the grant of asylum by a State to persons entitled to invoke article 14 of the Universal Declaration of Human Rights is a peaceful and humanitarian act and that, as such, it cannot be regarded as unfriendly by any other State,

Recommends that, without prejudice to existing instruments dealing with asylum and the status of refugees and stateless persons, States should base themselves in their practices relating to territorial asylum on the following principles:

Article 1

1. Asylum granted by a State, in the exercise of its sovereignty, to persons entitled to invoke article 14 of the Universal Declaration of Human Rights, including persons struggling against colonialism, shall be respected by all other States.
2. The right to seek and to enjoy asylum may not be invoked by any person with respect to whom there are serious reasons for considering that he has committed a crime against peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes.
3. It shall rest with the State granting asylum to evaluate the grounds for the grant of asylum.

Article 2

1. The situation of persons referred to in article 1, paragraph 1, is, without prejudice to the sovereignty of States and the purposes and principles of the United Nations, of concern to the international community.
2. Where a State finds difficulty in granting or continuing to grant asylum, States individually or jointly or through the United Nations shall consider, in a spirit of international solidarity, appropriate measures to lighten the burden on that State.

Article 3

1. No person referred to in article 1, paragraph 1, shall be subjected to measures such as rejection at the frontier or, if he has already entered the territory in which he seeks asylum, expulsion or compulsory return to any State where he may be subjected to persecution.
2. Exception may be made to the foregoing principle only for overriding reasons of national security or in order to safeguard the population, as in the case of a mass influx of persons.
3. Should a State decide in any case that exception to the principle stated in paragraph 1 of this article would be justified, it shall consider the possibility of granting to the person concerned, under such conditions as it may deem appropriate, an opportunity, whether by way of provisional asylum or otherwise, of going to another State.

Article 4

States granting asylum shall not permit persons who have received asylum to engage in activities contrary to the purposes and principles of the United Nations.

7. 1984 United Nations Convention against Torture and Other Cruel,
Inhuman or Degrading Treatment Or Punishment – Extracts

Entry into force: 26 June 1987

Text: UNGA resolution 39/46, 10 December 1984; 1465 *UNTS* 85

Article 1

1. For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.
- ...

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

...

8. 1989 United Nations Convention on the Rights of the Child—Extracts

Entry into force: 20 September 1990

Text: UNGA resolution 44/25, 20 November 1989; 1577 UNTS 3

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

...

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

...

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s), or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, *inter alia*, foster placement, *kafalah* of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informal consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations

to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

9. 1987 Constitution of the International Organization for Migration⁷

Preamble

The High Contracting Parties,

Recalling the Resolution adopted on 5 December 1951 by the Migration Conference in Brussels,

Recognizing that the provision of migration services at an international level is often required to ensure the orderly flow of migration movements throughout the world and to facilitate, under the most favourable conditions, the settlement and integration of the migrants into the economic and social structure of the country of reception,

that similar migration services may also be required for temporary migration, return migration and intra-regional migration,

that international migration also includes that of refugees, displaced persons and other individuals compelled to leave their homelands, and who are in need of international migration services,

that there is a need to promote the co-operation of States and international organizations with a view to facilitating the emigration of persons who desire to migrate to countries where they may achieve self-dependence through their employment and live with their families in dignity and self-respect,

that migration may stimulate the creation of new economic opportunities in receiving countries and that a relationship exists between migration and the economic, social and cultural conditions in developing countries,

that in the co-operation and other international activities for migration the needs of developing countries should be taken into account,

that there is a need to promote the co-operation of States and international organizations, governmental and non-governmental, for research and consultation on migration issues, not only in regard to the migration process but also the specific situation and needs of the migrant as an individual human being,

that the movement of migrants should, to the extent possible, be carried out with normal transport services but that, on occasion, there is a need for additional or other facilities,

⁷ The present text incorporates into the Constitution of the Intergovernmental Committee for European Migration (former designation of the Organization; original Constitution of 19 October 1953 in force 30 November 1954) the amendments adopted on 20 May 1987, which in turn entered into force on 14 November 1989.

that there should be close co-operation and co-ordination among States, international organizations, governmental and non-governmental, on migration and refugee matters,

that there is a need for the international financing of activities related to international migration,

Do hereby establish the International Organization for Migration, hereinafter called the Organization, and

Accept this Constitution.

Chapter I—Purposes and Functions

Article 1

1. The purposes and functions of the Organization shall be:

- (a) to make arrangements for the organized transfer of migrants, for whom existing facilities are inadequate or who would not otherwise be able to move without special assistance, to countries offering opportunities for orderly migration;
- (b) to concern itself with the organized transfer of refugees, displaced persons and other individuals in need of international migration services for whom arrangements may be made between the Organization and the States concerned, including those States undertaking to receive them;
- (c) to provide, at the request of and in agreement with the States concerned, migration services such as recruitment, selection, processing, language training, orientation activities, medical examination, placement, activities facilitating reception and integration, advisory services on migration questions, and other assistance as is in accord with the aims of the Organization;
- (d) to provide similar services as requested by States, or in co-operation with other interested international organizations, for voluntary return migration, including voluntary repatriation;
- (e) to provide a forum to States as well as international and other organizations for the exchange of views and experiences, and the promotion of co-operation and co-ordination of efforts on international migration issues, including studies on such issues in order to develop practical solutions.

2. In carrying out its functions, the Organization shall co-operate closely with international organizations, governmental and non-governmental, concerned with migration, refugees and human resources in order, *inter alia*, to facilitate the co-ordination of international activities in these fields. Such co-operation shall be carried out in the mutual respect of the competences of the organizations concerned.

3. The Organization shall recognize the fact that control of standards of admission and the number of immigrants to be admitted are matters within the domestic jurisdiction of States, and, in carrying out its functions, shall conform to the laws, regulations and policies of the States concerned.

Chapter II—Membership

Article 2

The Members of the Organization shall be:

- (a) the States being Members of the Organization which have accepted this Constitution according to Article 34, or to which the terms of Article 35 apply;
- (b) other States with a demonstrated interest in the principle of free movement of persons which undertake to make a financial contribution at least to the administrative requirements of the Organization, the rate of which will be agreed to by the Council and by the State concerned, subject to a two-thirds majority vote of the Council and upon acceptance by the State of this Constitution.

Article 3

Any Member State may give notice of withdrawal from the Organization effective at the end of a financial year. Such notice must be in writing and must reach the Director General of the Organization at least four months before the end of the financial year. The financial obligations to the Organization of a Member State which has given notice of withdrawal shall include the entire financial year in which notice is given.

Article 4

1. If a Member State fails to meet its financial obligations to the Organization for two consecutive financial years, the Council may by a two-thirds majority vote suspend the voting rights and all or part of the services to which this Member State is entitled. The Council shall have the authority to restore such voting rights and services by a simple majority vote.
2. Any Member State may be suspended from membership by a two-thirds majority vote of the Council if it persistently violates the principles of this Constitution. The Council shall have the authority to restore such membership by a simple majority vote.

Chapter III—Organs

Article 5

There are established as the organs of the Organization:

- (a) the Council;
- (b) the Executive Committee;
- (c) the Administration.

Chapter IV—Council

Article 6

The functions of the Council, in addition to those mentioned in other provisions of this Constitution, shall be:

- (a) to determine the policies of the Organization;

- (b) to review the reports and to approve and direct the activities of the Executive Committee;
- (c) to review the reports and to approve and direct the activities of the Director General;
- (d) to review and approve the programme, the Budget, the expenditure and the accounts of the Organization;
- (e) to take any other appropriate action to further the purposes of the Organization.

Article 7

1. The Council shall be composed of representatives of the Member States.
2. Each Member State shall have one representative and such alternates and advisers as it may deem necessary.
3. Each Member State shall have one vote in the Council.

Article 8

The Council may admit, upon their application, non-member States and international organizations, governmental or non-governmental, concerned with migration, refugees or human resources as observers at its meetings under conditions which may be prescribed in its rules of procedure. No such observers shall have the right to vote.

Article 9

1. The Council shall meet in regular session once a year.
2. The Council shall meet in special session at the request of:
 - (a) one third of its members;
 - (b) the Executive Committee;
 - (c) the Director General or the Chairman of the Council in urgent circumstances.
3. The Council shall elect, at the beginning of each regular session, a Chairman and other officers for a one-year term.

Article 10

The Council may set up such sub-committees as may be required for the proper discharge of its functions.

Article 11

The Council shall adopt its own rules of procedure.

Chapter V—Executive Committee

Article 12

The functions of the Executive Committee shall be:

- (a) to examine and review the policies, programmes and activities of the Organization, the annual reports of the Director General and any special reports;

- (b) to examine any financial or budgetary questions falling within the competence of the Council;
- (c) to consider any matter specifically referred to it by the Council, including the revision of the Budget, and to take such action as may be deemed necessary thereon;
- (d) to advise the Director General on any matters which he may refer to it;
- (e) to make, between sessions of the Council, any urgent decisions on matters falling within the competence of the Council, which shall be submitted for approval by that body at its next session;
- (f) to present advice or proposals to the Council or the Director General on its own initiative;
- (g) to transmit reports and/or recommendations to the Council on the matters dealt with.

Article 13

1. The Executive Committee shall be composed of the representatives of nine Member States. This number may be increased by a two-thirds majority vote of the Council, provided it shall not exceed one third of the total membership of the Organization.
2. These Member States shall be elected by the Council for two years and shall be eligible for re-election.
3. Each member of the Executive Committee shall have one representative and such alternates and advisers as it may deem necessary.
4. Each member of the Executive Committee shall have one vote.

Article 14

1. The Executive Committee shall meet at least once a year. It shall meet, as necessary, in order to perform its functions, at the request of:
 - (a) its Chairman;
 - (b) the Council;
 - (c) the Director General after consultation with the Chairman of the Council;
 - (d) a majority of its members.
2. The Executive Committee shall elect a Chairman and a Vice-Chairman from among its members for a one-year term.

Article 15

The Executive Committee may, subject to review by the Council, set up such sub-committees as may be required for the proper discharge of its functions.

Article 16

The Executive Committee shall adopt its own rules of procedure.

Chapter VI—Administration

Article 17

The Administration shall comprise a Director General, a Deputy Director General and such staff as the Council may determine.

Article 18

1. The Director General and the Deputy Director General shall be elected by a two-thirds majority vote of the Council and may be re-elected. Their term of office shall normally be five years but may, in exceptional cases, be less if a two-thirds majority of the Council so decides. They shall serve under contracts approved by the Council, which shall be signed on behalf of the Organization by the Chairman of the Council.
2. The Director General shall be responsible to the Council and the Executive Committee. The Director General shall discharge the administrative and executive functions of the Organization in accordance with this Constitution and the policies and decisions of the Council and the Executive Committee and the rules and regulations established by them. The Director General shall formulate proposals for appropriate action by the Council.

Article 19

The Director General shall appoint the staff of the Administration in accordance with the staff regulations adopted by the Council.

Article 20

1. In the performance of their duties, the Director General, the Deputy Director General and the staff shall neither seek nor receive instructions from any State or from any authority external to the Organization. They shall refrain from any action which might reflect adversely on their position as international officials.
2. Each Member State undertakes to respect the exclusively international character of the responsibilities of the Director General, the Deputy Director General and the staff and not to seek to influence them in the discharge of their responsibilities.
3. Efficiency, competence and integrity shall be the necessary considerations in the recruitment and employment of the staff which, except in special circumstances, shall be recruited among the nationals of the Member States of the Organization, taking into account the principle of equitable geographical distribution.

Article 21

The Director General shall be present, or be represented by the Deputy Director General or another designated official, at all sessions of the Council, the Executive Committee and any sub-committees. The Director General or the designated representative may participate in the discussions but shall have no vote.

Article 22

At the regular session of the Council following the end of each financial year, the Director General shall make to the Council, through the Executive Committee, a report on the work of the Organization, giving a full account of its activities during that year.

Chapter VII—Headquarters

Article 23

1. The Organization shall have its Headquarters in Geneva. The Council may, by a two-thirds majority vote, change its location.
2. The meetings of the Council and the Executive Committee shall be held in Geneva, unless two-thirds of the members of the Council or the Executive Committee respectively have agreed to meet elsewhere.

Chapter VIII—Finance

Article 24

The Director General shall submit to the Council, through the Executive Committee, an annual budget covering the administrative and operational requirements and the anticipated resources of the Organization, such supplementary estimates as may be required and the annual or special accounting statements of the Organization.

Article 25

1. The requirements of the Organization shall be financed:
 - (a) as to the Administrative part of the Budget, by cash contributions from Member States, which shall be due at the beginning of the financial year to which they relate and shall be paid promptly;
 - (b) as to the Operational part of the Budget, by contributions in cash, in kind or in services from Member States, other States, international organizations, governmental or non-governmental, other legal entities or individuals, which shall be paid as early as possible and in full prior to the expiration of the financial year to which they relate.
2. Member States shall contribute to the Administrative part of the Budget of the Organization at a rate agreed to by the Council and by the Member State concerned.
3. Contributions to the operational expenditure of the Organization shall be voluntary and any contributor to the Operational part of the Budget may stipulate with the Organization terms and conditions, consistent with the purposes and functions of the Organization, under which its contributions may be used.
4. (a) All Headquarters administrative expenditure and all other administrative expenditure except that incurred in pursuance of the functions outlined in paragraph 1 (c) and (d) of Article 1 shall be attributed to the Administrative part of the Budget;

(b) all operational expenditure and such administrative expenditure as is incurred in pursuance of the functions outlined in paragraph 1 (c) and (d) of Article 1 shall be attributed to the Operational part of the Budget.

5. The Council shall ensure that the management is conducted in an efficient and economical manner.

Article 26

The financial regulations shall be established by the Council.

Chapter IX—Legal Status

Article 27

The Organization shall possess full juridical personality. It shall enjoy such legal capacity, as may be necessary for the exercise of its functions and the fulfilment of its purposes, and in particular the capacity, in accordance with the laws of the State: (a) to contract; (b) to acquire and dispose of immovable and movable property; (c) to receive and disburse private and public funds; (d) to institute legal proceedings.

Article 28

1. The Organization shall enjoy such privileges and immunities as are necessary for the exercise of its functions and the fulfilment of its purposes.
2. Representatives of Member States, the Director General, the Deputy Director General and the staff of the Administration shall likewise enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.
3. These privileges and immunities shall be defined in agreements between the Organization and the States concerned or through other measures taken by these States.

Chapter X—Miscellaneous Provisions

Article 29

1. Except as otherwise expressly provided in this Constitution or rules made by the Council or the Executive Committee, all decisions of the Council, the Executive Committee and all sub-committees shall be taken by a simple majority vote.
2. Majorities provided for in this Constitution or rules made by the Council or the Executive Committee shall refer to members present and voting.
3. No vote shall be valid unless a majority of the members of the Council, the Executive Committee or the sub-committee concerned are present.

Article 30

1. Texts of proposed amendments to this Constitution shall be communicated by the Director General to Governments of Member States at least three months in advance of their consideration by the Council.
2. Amendments shall come into force when adopted by two-thirds of the members of the Council and accepted by two-thirds of the Member States in accordance with their respective constitutional processes, provided, however, that amendments involving new obligations for Members shall come into force in respect of a particular Member only when that Member accepts such amendments.

Article 31

Any dispute concerning the interpretation or application of this Constitution which is not settled by negotiation or by a two-thirds majority vote of the Council shall be referred to the International Court of Justice in conformity with the Statute of the Court, unless the Member States concerned agree on another mode of settlement within a reasonable period of time.

Article 32

Subject to approval by two-thirds of the members of the Council, the Organization may take over from any other international organization or agency the purposes and activities of which lie within the purposes of the Organization such activities, resources and obligations as may be determined by international agreement or by mutually acceptable arrangements entered into between the competent authorities of the respective organizations.

Article 33

The Council may, by a three-quarters majority vote of its members, decide to dissolve the Organization.

Article 34⁸

This Constitution shall come into force, for those Governments Members of the Intergovernmental Committee for European Migration which have accepted it in accordance with their respective constitutional processes, on the day of the first meeting of that Committee after:

- (a) at least two-thirds of the Members of the Committee, and
- (b) a number of Members whose contributions represent at least 75 per cent of the Administrative part of the Budget, shall have communicated to the Director their acceptance of this Constitution.

⁸ Articles 34 and 35 were implemented at the time of the entry into force of the Constitution on 30 November 1954.

Article 35

Those Governments Members of the Intergovernmental Committee for European Migration which have not by the date of coming into force of this Constitution communicated to the Director their acceptance of this Constitution may remain Members of the Committee for a period of one year from that date if they contribute to the administrative requirements of the Committee in accordance with paragraph 2 of Article 25, and they shall retain during that period the right to accept the Constitution.

Article 36

The English, French and Spanish texts of this Constitution shall be regarded as equally authentic.

10. 2001 Declaration of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees⁹

Preamble

We, representatives of States Parties to the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol, assembled in the first meeting of States Parties in Geneva on 12 and 13 December 2001 at the invitation of the Government of Switzerland and the United Nations High Commissioner for Refugees (UNHCR),

1. Cognizant of the fact that the year 2001 marks the 50th anniversary of the 1951 Geneva Convention relating to the Status of Refugees,
2. Recognizing the enduring importance of the 1951 Convention, as the primary refugee protection instrument which, as amended by its 1967 Protocol, sets out rights, including human rights, and minimum standards of treatment that apply to persons falling within its scope,
3. Recognizing the importance of other human rights and regional refugee protection instruments, including the 1969 Organisation of African Unity (OAU) Convention governing the Specific Aspects of the Refugee Problem in Africa and the 1984 Cartagena Declaration, and recognizing also the importance of the common European asylum system developed since the 1999 Tampere European Council Conclusions, as well as the Programme of Action of the 1996 Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Countries of the Commonwealth of Independent States and Relevant Neighbouring States,

⁹ Adopted on 13 December 2001 in Geneva at the Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees: UN doc. HCR/MMSP/2001/09, 16 January 2002.

4. Acknowledging the continuing relevance and resilience of this international regime of rights and principles, including at its core the principle of *non-refoulement*, whose applicability is embedded in customary international law,
5. Commending the positive and constructive role played by refugee-hosting countries and recognizing at the same time the heavy burden borne by some, particularly developing countries and countries with economies in transition, as well as the protracted nature of many refugee situations and the absence of timely and safe solutions,
6. Taking note of complex features of the evolving environment in which refugee protection has to be provided, including the nature of armed conflict, ongoing violations of human rights and international humanitarian law, current patterns of displacement, mixed population flows, the high costs of hosting large numbers of refugees and asylum-seekers and of maintaining asylum systems, the growth of associated trafficking and smuggling of persons, the problems of safeguarding asylum systems against abuse and of excluding and returning those not entitled to or in need of international protection, as well as the lack of resolution of long-standing refugee situations,
7. Reaffirming that the 1951 Convention, as amended by the 1967 Protocol, has a central place in the international refugee protection regime, and believing also that this regime should be developed further, as appropriate, in a way that complements and strengthens the 1951 Convention and its Protocol,
8. Stressing that respect by States for their protection responsibilities towards refugees is strengthened by international solidarity involving all members of the international community and that the refugee protection regime is enhanced through committed international cooperation in a spirit of solidarity and effective responsibility and burden-sharing among all States,

Operative Paragraphs

1. Solemnly reaffirm our commitment to implement our obligations under the 1951 Convention and/or its 1967 Protocol fully and effectively in accordance with the object and purpose of these instruments;
2. Reaffirm our continued commitment, in recognition of the social and humanitarian nature of the problem of refugees, to upholding the values and principles embodied in these instruments, which are consistent with Article 14 of the Universal Declaration of Human Rights, and which require respect for the rights and freedoms of refugees, international cooperation to resolve their plight, and action to address the causes of refugee movements, as well as to prevent them, *inter alia*, through the promotion of peace, stability and dialogue, from becoming a source of tension between States;
3. Recognize the importance of promoting universal adherence to the 1951 Convention and/or its 1967 Protocol, while acknowledging that there are countries of asylum which have not yet acceded to these instruments and which do continue generously to host large numbers of refugees;
4. Encourage all States that have not yet done so to accede to the 1951 Convention and/or its 1967 Protocol, as far as possible without reservation;
5. Also encourage States Parties maintaining the geographical limitation or other reservations to consider withdrawing them;

6. Call upon all States, consistent with applicable international standards, to take or continue to take measures to strengthen asylum and render protection more effective including through the adoption and implementation of national refugee legislation and procedures for the determination of refugee status and for the treatment of asylum-seekers and refugees, giving special attention to vulnerable groups and individuals with special needs, including women, children and the elderly;
7. Call upon States to continue their efforts aimed at ensuring the integrity of the asylum institution, *inter alia*, by means of carefully applying Articles 1F and 33 (2) of the 1951 Convention, in particular in light of new threats and challenges;
8. Reaffirm the fundamental importance of UNHCR as the multilateral institution with the mandate to provide international protection to refugees and to promote durable solutions, and recall our obligations as State Parties to cooperate with UNHCR in the exercise of its functions;
9. Urge all States to consider ways that may be required to strengthen the implementation of the 1951 Convention and/or 1967 Protocol and to ensure closer cooperation between States parties and UNHCR to facilitate UNHCR's duty of supervising the application of the provisions of these instruments;
10. Urge all States to respond promptly, predictably and adequately to funding appeals issued by UNHCR so as to ensure that the needs of persons under the mandate of the Office of the High Commissioner are fully met;
11. Recognize the valuable contributions made by many non-governmental organizations to the well-being of asylum-seekers and refugees in their reception, counselling and care, in finding durable solutions based on full respect of refugees, and in assisting States and UNHCR to maintain the integrity of the international refugee protection regime, notably through advocacy, as well as public awareness and information activities aimed at combating racism, racial discrimination, xenophobia and related intolerance, and gaining public support for refugees;
12. Commit ourselves to providing, within the framework of international solidarity and burden-sharing, better refugee protection through comprehensive strategies, notably regionally and internationally, in order to build capacity, in particular in developing countries and countries with economies in transition, especially those which are hosting large-scale influxes or protracted refugee situations, and to strengthening response mechanisms, so as to ensure that refugees have access to safer and better conditions of stay and timely solutions to their problems;
13. Recognize that prevention is the best way to avoid refugee situations and emphasize that the ultimate goal of international protection is to achieve a durable solution for refugees, consistent with the principle of *non-refoulement*, and commend States that continue to facilitate these solutions, notably voluntary repatriation and, where appropriate and feasible, local integration and resettlement, while recognizing that voluntary repatriation in conditions of safety and dignity remains the preferred solution for refugees;
14. Extend our gratitude to the Government and people of Switzerland for generously hosting the Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees.