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**ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION**



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**THE STATUS AND TREATMENT OF REFUGEES**

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## **THE STATUS AND TREATMENT OF REFUGEES**

### **I. BACKGROUND**

1. The item entitled “The Status and Treatment of Refugees” was placed on the agenda of AALCO upon a reference made by the Government of Arab Republic of Egypt in 1963. Since then it has been under consideration at its several annual sessions and inter-sessional meetings. From the very beginning, AALCO has been working closely with UNHCR. One of the fruitful outcomes of such collaborative arrangements was the adoption of AALCO’s “Principles on Status and Treatment of Refugees” at its Bangkok session in 1966. Although these principles have no binding force, it reflected the practice followed by the Asian and African States in dealing with matters concerning refugees.

2. An addendum to the Bangkok Principles elaborating rights of refugees to return was adopted at AALCO’s eleventh session held in Accra in 1970. Another addendum elaborating the Principles on burden sharing was adopted at the 26<sup>th</sup> session in Bangkok in 1987. At the AALCO’s 35<sup>th</sup> session held in Manila in 1996, a proposal put forward by UNHCR’s representative to commemorate the 30<sup>th</sup> anniversary of the adoption of the Bangkok Principles was welcomed by the AALCO Member States. It took four years to accomplish that objective. At the 40<sup>th</sup> session held in New Delhi (HQ) in 2001 vide Resolution 40/3, the Organization by acclamation adopted the Revised Text of the Bangkok Principles on Status and Treatment of Refugees, which marked an important phase in the work of the Organization.

3. Apart from the adoption of the Revised Text of the Bangkok Principles, two other important initiatives of AALCO related to the refugee item over the years were the preparation of a Model Legislation on Refugees and the concept of establishment of safety zones for internally displaced persons. It is a matter of great satisfaction that AALCO had always the benefit of active participation and assistance of UNHCR in developing its work programme on refugee matters. With a view to formalizing its long-established close relationship, a Memorandum of Understanding (MOU) was signed between the two Organizations on 23 May 2002. The MOU, besides providing for exchange of documentation and mutual representation also envisages undertaking jointly, preparation of studies and holding of seminars and workshops on topics of mutual interest and concern.

4. At the AALCO’s 43<sup>rd</sup> session held in Bali in 2004, the resolution adopted on the item (RES/43/S 3) appreciated the efforts of the Secretary-General in successfully holding a two-day seminar in cooperation with UNHCR on the topic “Strengthening Refugee Protection in Migratory Movements” on 17 and 18 October 2003 in New Delhi. The seminar discussion revolved around migration and refugee protection in the Asian African context, durable solutions and root causes, and international burden and responsibility sharing.

5. As a follow-up to the seminar, AALCO proposed an in-depth study on the topic of *“Statelessness: An Overview from the African, Asian and Middle Eastern Perspective”*.

## II. PURPOSE OF THE STUDY

6. The proposed study on Statelessness: An Overview from the African, Asian and Middle Eastern Perspective would seek to determine the magnitude and scope of the problem of statelessness in the African, Asian and Middle Eastern regions; determine any linkages between statelessness and migration, displacement, or trafficking; outline particular vulnerabilities for individuals including women and children; and identify approaches or best practices adopted by States to address such cases and to fill in any gaps.

7. One recent survey found that 59.4% of States queried globally had faces significant problems of statelessness.<sup>1</sup> Root causes of statelessness might include large-scale problems such as state succession, disputes between States concerning the legal identity of individuals, and denationalization, although more frequently problems arise in the context of gaps, oversights, and the adoption of different approaches to nationality determination. While differences in approaches to nationality may not be of particular concern *per se*, in cases where individuals fall through the cracks and become stateless, the results can be severe *both* for the individual and for the State.

8. For the individual, lack of nationality can lead to extreme hardship in personal security, establishing a place to work, maintaining family ties, and the sense of identity. For the State the situation can be particularly difficult if it results in the inability to identify persons on the State’s territory or inhibits onward movement or return of persons who entered based on the assumption of a nationality held elsewhere. In cases where the statelessness impacts a significant number of people, the sense of disenfranchisement, or general insecurity in human terms, can be a root cause of displacement and increased vulnerability to trafficking, cross-border migration, and conflicts. The problem can have particularly harsh consequences for women and children, for example in cases of mixed marriage, birth abroad, or inability to establish the identity and for the State from a humanitarian and human rights perspective, as well as in relation to security.

9. This study is intended to gather further information on the problem of statelessness generally, and to provide some recommendations where appropriate for establishing effective mechanisms and any associated problems of displacement.

10. *An outline of the study is annexed to the present document, (Annex I).* As it is a joint exercise between the AALCO and UNHCR, in a meeting between the Secretary-General and the Chief of Mission of UNHCR in New Delhi, it was decided that the study would be undertaken in two phases and presented to the Member States on the Occasion of the 50<sup>th</sup> Anniversary of AALCO in 2006. The details of the preparatory stages are

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<sup>1</sup> See the “Final Report Concerning the Questionnaire on Statelessness Pursuant to the Agenda for Protection”, Department of International Protection, UNHCR, March 2004.

ongoing between the two Organizations, and it is hoped that the task would be accomplished within the stipulated time frame.

11. Since the AALCO has been following the developments at the UNHCR, a brief review of current initiatives of that Organization has been set out briefly in the following part.

### **III. EXCOM 55<sup>TH</sup> SESSION**

12. Fifty-fifth session of the Executive Committee (ExCom)<sup>2</sup> of the UNHCR was held in Geneva, from 4 to 8 October 2004. The High Commissioner in its opening statement reviewed key UNHCR operations and focused, *inter alia*, on: the continuing protection needs of refugees; the physical safety and staff security; measures to mainstream gender issues; Convention Plus and related developments, including the Afghanistan Comprehensive Solutions Initiative and the European Prong.<sup>3</sup>

13. ExCom adopted three protection Conclusions, namely, on International Protection, International cooperation and Burden and Responsibility Sharing in Mass Influx Situations and Legal Safety Issues in the Context of Voluntary Repatriation of Refugees.

#### **A. General Conclusion on International Protection<sup>4</sup>**

14. This is a general Conclusion on international protection and it explicitly acknowledges the linkage between asylum issues and human rights. This Conclusion, *inter alia*, recognized the heavy burden of hosting large numbers of refugees, in particular on developing countries and countries in transition and reiterated its strong commitment to burden and responsibility sharing. It welcomed the significant achievements in voluntary repatriation over the course of past year. It further acknowledged the increasing complexities of the environment in which international protection is provided and the many challenges faced by States and UNHCR, making the environment less friendly to provide international protection to refugees. It acknowledged

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<sup>2</sup> UNHCR began activities in January 1951. The Executive Committee of the High Commissioner's Programme did not exist until 1958. The Executive Committee held its first session early in 1959. To become a member of the Executive Committee, states must fulfill the following requirements:- be a member of the United Nations or one of its specialized agencies- be elected by ECOSOC- represent the widest possible geographical basis- have a demonstrated interest in and devotion to the solution of the refugee problem. The number of members grew from 25 in 1959 to 66 in 2004. Formal sessions are held in Geneva, in autumn each year to review and approve agency's programmes and budgets and to advise on protection matters. The ExCom sets international standards with regard to the treatment of refugees and offers a forum for wide-ranging exchanges among Governments, the UNHCR and its partners. (Until 1967, there were two sessions yearly).

<sup>3</sup> UNHCR's one of the Convention Plus Initiatives focused on developing a common asylum system of the European Union. UNHCR has recently published details of alternative proposals for processing asylum seekers within the EU. Their proposal has three 'prongs': (i) A regional prong – to improve protection in the regions of origin; (ii) A national prong – to improve domestic asylum processing systems; (iii) an EU prong – establishing centres to process 'manifestly unfounded' asylum applicants entering Member States.

<sup>4</sup> No. 99 (LV) - 2004

the importance of adopting comprehensive approaches consistent with UNHCR's Convention Plus initiative with a view to strengthening international protection regime.

**B. Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations<sup>5</sup>**

15. The Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations is a significant conclusion, which reaffirmed certain core principles, which should apply in mass influx situations. It is hoped that this Conclusion would make a useful contribution to any further articulation of burden-sharing concepts in the Convention Plus context.

16. This Conclusion reaffirmed that respect by States for their protection responsibilities towards refugees is strengthened and that the refugee protection regime is enhanced through committed international cooperation in a spirit of solidarity and responsibility and burden sharing among all States.

17. Importantly, the Conclusion noted the ongoing problems faced by countries of asylum, particularly those in the developing world, in coping with the consequences of mass influx situations once they have stabilized and particularly if they become protracted; and recommended that the following elements could be considered as part of the international response, including any burden and responsibility sharing arrangements that have been developed:

- i. the evaluation, together with United Nations specialized agencies, non-governmental organizations and other relevant actors, of the impact of refugees on host country economies, society, environment and security, especially in protracted refugee situations;
- ii. the review and updating, on a regular basis, of any comprehensive approach that may have been developed to address the mass influx situation;
- iii. the advance pledging, where possible, of further financial or other assistance beyond the emergency phase until durable solutions are found;
- iv. the provision of support for national protection capacities of host States as needed, inter alia, to strengthen registration and documentation systems, and establish national legal frameworks and other mechanisms required to enable protection and assistance to be assured over time;
- v. the provision of financial and in-kind assistance in support of refugee populations and host communities to promote refugee self-reliance, as appropriate, thus

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<sup>5</sup> No. 100 (LV) - 2004

enhancing the sustainability of any future durable solution and relieving the burden on countries of first asylum;

- vi. the provision of financial and other forms of support, as appropriate, linked to broader economic developments and other concerns countries of first asylum may have in relation to providing protection to large numbers of asylum-seekers and refugees;
- vii. the encouragement of international financial institutions to consider to what extent the economic and social costs of hosting large numbers of refugees can be factored into the justification for their activities, including in the conditions of financial lending schemes and grant-based assistance;
- viii. the exploration by States, inter- and non-governmental organizations, as well as other actors of ways to improve primary education for refugees, achieve gender parity in education, and secure funding, including through the private sector, to expand secondary, vocational and tertiary education opportunities for refugees, especially adolescents.

18. The Conclusion further recommended that where a plan of action or arrangement has been adopted, an effective review mechanism should be included whereby its implementation could be evaluated.

### **C. Conclusion on Legal Safety Issues in the Context of Voluntary Repatriation of Refugees<sup>6</sup>**

19. The Conclusion concerning legal safety issues in the context of voluntary repatriation breaks some new grounds, in particular as regards property rights of returning refugees. This Conclusion recalled its Conclusion No. 18 (XXXI) and Conclusion No. 40 (XXXVI) on voluntary repatriation. Further, the Conclusion recognized the usefulness of States, as countries of asylum or countries of origin, and UNHCR concluding, where appropriate, tripartite agreements to facilitate voluntary repatriation efforts.

20. The Conclusion noted the desirability of incorporating appropriate legal protection for returning refugees in peace agreements as a measure to build confidence and support of their promotion in practice.

22. Further, the Conclusion acknowledged the importance of promoting age and gender-sensitive approach in all aspects of refugee return process. It also strongly urged the countries of origin to ensure that returning refugees do not face a risk of persecution, discrimination or detention due to their departure from the country or on account of their status as refugees or their political opinion, race, ethnic origin, religious belief or membership of a particular social group.

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<sup>6</sup> No. 101 (LV) - 2004

23. Notably, the Conclusion recognizes the right of all the returning refugees to have restored to them or be compensated for any housing, land or property of which there were deprived in an illegal, discriminatory or arbitrary manner before or during the exile. Further, it noted the importance of ensuring nationality and urged countries of origin to ensure that there was no exclusion of returning refugees from nationality and that statelessness is thus avoided.

24. The Conclusion recommended that in consultation with refugee communities consideration be given to addressing the specific needs of returning refugees – including women, children, older people and other persons with special concerns – in order to ensure that they receive adequate protection, assistance and care throughout the repatriation and initial integration process.

#### **IV. GLOBAL CONSULTATIONS**

25. As part of the commemoration of the 50<sup>th</sup> anniversary of the 1951 Convention, the UNHCR took an important initiative in December 2000, termed as Global Consultations involving governments, intergovernmental and non-governmental organizations and experts and focused attention on matters concerning promotion of the implementation of the 1951 Convention as well as protection problems that are not adequately or clearly covered by the Convention. Following 18 months of discussions, UNHCR and States Parties adopted a joint Agenda for Protection.

##### **A. Agenda for Protection**

26. The Agenda for Protection is intended to serve as a guide for concrete action to improve the protection of refugees and asylum seekers around the world. The agenda consists of two sections: the Declaration of States Parties and a Programme of Action.

27. The Declaration of States Parties was adopted unanimously by the States Parties to the 1951 Convention and/or its 1967 Protocol at the Ministerial Meeting of States Parties, organized jointly by Switzerland and UNHCR on 12-13 December 2001. This Declaration recognizes the enduring importance of the 1951 Convention and 1967 Protocol, reaffirms political commitment to upholding the values and principles they embody, and urges all States to consider ways to strengthen their implementation. It also affirms the need for closer cooperation between States Parties and UNHCR to facilitate UNHCR's duty of supervising the application of these instruments.

28. The Programme of Action, the other constituent of Agenda for Protection, identifies specific objectives and activities grouped according to six inter-related goals. These are:

##### **a. Strengthening Implementation of the 1951 Convention and 1967 Protocol.**



29. As the Convention and Protocol are the cornerstones of the international refugee protection regime, their implementation is considered to be the first step in improving protection of refugees and asylum seekers. The Programme of Action suggests that this can be done in myriad ways including, by working towards universal accession to the convention and Protocol, by improving domestic asylum procedures of States and bringing them in uniformity with other States. It also requires to offer other forms of protection to those who need it but may not be qualified under the 1951 Convention definition.

**b. Protecting Refugees within Broader Migration Movements.**

30. Apart from the movement of refugees there are other categories of people who move from one country to another. These include economic and other categories of migrants. However, there are limited ways through which migrants can move from one country to another and many persons who are not refugees try to enter countries as asylum seekers. Therefore, protection of refugees within broader migration movements can be achieved by encouraging States to develop migration management policies that do not jeopardize refugee protection and that promote a more positive environment for asylum by reducing strains on asylum seekers. The task also seeks UNHCR and International Organization for Migration, other intergovernmental agencies and States to collect more data on the nexus between asylum and migration. The Programme of Action further aims to better understand “push” and “pull” migration factors, i.e., factors that drive people out of their home countries and lure them to other countries. It further calls for combating human trafficking and smuggling and encourages States to accede to the 2000 United Nations Convention against Transnational Organized Crime and its Protocols.

**c. Sharing Burdens and Responsibilities more Equitably and Building Capacities to Receive and Protect Refugees.**

31. With a view to achieving this goal, the Programme of Action calls upon UNHCR to work with States, particularly first-asylum States, to develop specific burden-sharing agreements that would be applied in response to mass influxes and to resolve protracted refugee situations. The High Commissioner has termed this initiative and other related efforts “Convention Plus”<sup>7</sup>, since the intention is to build on the 1951 Convention by

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<sup>7</sup> Convention Plus is an initiative announced by the High Commissioner for Refugees, Ruud Lubbers, in September 2002, following the conclusion of UNHCR's Global Consultations on International Protection. Its basic premise is that while the Refugee Convention remains an essential framework of refugee rights it “does not alone suffice”. There is a need to clarify the apportioning of responsibilities and to promote a better sharing of responsibilities by States, notably in the context of mass influxes and mixed migratory flows, as well as for durable solutions. Convention Plus seeks to create a basis on which States might negotiate “special agreements” to address issues which are said not to be adequately covered by the Refugee Convention. Convention Plus does not seek to revise the Refugee Convention but to build on it through the adoption of non-binding agreements between States. Subject to content they may in some cases be legally binding. In terms of content, Convention Plus seeks to develop comprehensive plans of action to ensure more effective and predictable responses to mass influx, to secure development assistance as a way of addressing burden-sharing arrangements, to bring about multilateral commitments for resettlement, and

developing special agreements and multilateral arrangements to improve responsibility-sharing. States are also encouraged to make greater use of resettlement, both as a protection and burden-sharing tool, particularly in mass-influx situations.

**d. Addressing Security-Related Concerns more Effectively.**

32. Security problems confronting refugees can take many forms. The breakdown in social and cultural structures and norms; the separation from and loss of family members and community support; and impunity for perpetrators of crimes and violence make refugees, particularly women and children, vulnerable. Refugee women and girls are often subject to specific forms of abuse, such as rape, abduction, trafficking, or demands for sexual favors in exchange for offers of protection, documents or assistance. To address security-related concerns more effectively, four objectives, together with accompanying activities, have been identified. They are:

1. The resourcing of States for securing the safety of refugees and for the separation of armed elements from refugee populations.
2. Keeping the Secretary-General and the Security Council seized with the issue.
3. Prevention of military recruitment of refugees, including refugee children.
4. Prevention of age-based and sexual and gender-based violence.

**e. Redoubling the Search for Durable Solutions.**

33. The Programme of Action encourages countries of origin, host States, UNHCR, humanitarian partners and refugees to integrate voluntary repatriation, local integration and resettlement into a comprehensive approach to finding durable solutions, particularly for protracted refugee situations. The Programme of Action recognizes that voluntary repatriation in conditions of safety and dignity remains the preferred solution for refugees. Resettlement is also considered as a vital tool for protection and also as an instrument of international solidarity and burden sharing. Local integration is considered to have proven instrumental in resolving the plight of particular refugees or groups of refugees. In this regard eight objectives have been identified. They are:

1. Realization of comprehensive durable solutions strategies, especially for protracted refugee situations
2. Improved conditions of voluntary repatriation
3. Strengthened cooperation to make repatriation sustainable
4. Local integration having its proper place as part of a comprehensive strategy for durable solutions
5. Expansion of resettlement opportunities

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to find clarity on roles and responsibilities of states in the context of irregular and secondary movements. Convention Plus draws, as the legal basis for the special agreements that it proposes, on paragraph 2(b) of General Assembly Resolution 428(V) of 14 Dec 1950, and paragraph 8(b) of the UNHCR Statute. Their purpose is "the execution of any measures calculated to improve the situation of refugees falling within the competence of the Office and to reduce the number requiring protection".

6. More efficient use of resettlement both as a protection tool and as a durable solution
7. Achievement of self-reliance for refugees
8. Rehabilitation of refugees-impacted areas in former host countries.

**f. Meeting the Protection Needs of Refugee Women and Refugee Children.**

34. The Programme of Action seeks States, UNHCR and other protection partners to ensure that refugee women participate equally in decision-making processes that affect their lives. It also envisages application of gender-sensitive approach while developing, implementing and evaluating programmes designed to assist refugees. It is observed that the international community and UNHCR have developed a wealth of international norms, policies and guidelines to improve the protection and care of refugee women and refugee children.<sup>8</sup> However it is felt that there is a gap in the application and implementation. Thus, it is suggested that UNHCR will make sure that its Guidelines on Gender-related Persecution, Guidelines on the Protection of Refugee Women and Guidelines on how to prevent and respond to sexual and gender-based violence are widely disseminated and implemented. It is further encouraged to ratify the 1979 Convention on the Elimination of All Forms of Discrimination against Women and its 1999 Optional Protocol and the 1989 Convention on the Rights of the Child and its 2000 Optional Protocols on the Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography.

**V. GENERAL COMMENTS**

35. The UN Secretary-General in his report to the General Assembly on the work of Organisation, 2004 noted that during the past year, the refugee population has decreased significantly. For the second consecutive year the figure has decreased by nearly 1 million persons, falling overall 20 percent, from 12.1 million at the beginning of 2002 to 9.7 million at present.<sup>9</sup> It may be noted that despite the progress that has been made, new and lingering conflicts around the world continue to present many challenges for the humanitarian community, for instance the situation in the regions of Darfur and Chad. These conflicts give rise to regional security concerns due to cross-border incursions and the presence of armed groups in the border areas.

36. The UN Convention relating to the Status of Refugees of 1951 and the Protocol of 1967 still remain to be the parent and guiding instruments to protect the interests of refugees. In order that the refugees receive humane treatment, it cannot be overemphasized that the Convention needs universal ratification and application. It is evidenced from the latest figures of ratifications from “*States Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol*”, as of December

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<sup>8</sup> For eg. *An Independent Evaluation of the Impact of UNHCR's Activities in Meeting the Rights and Protection Needs of Refugee Children*, EPAU/2002/02 (May 2002) and *UNHCR Policy of Refugee Women and Guidelines on Their Protection: An Assessment of Ten Years of Implementation* (May 2002).

<sup>9</sup> Report of the Secretary-General on the Work of the Organisation, A/59/1.

2004,<sup>10</sup> that out of 47 Member States of AALCO, 20 are parties to the 1951 Convention and the 1967 Protocol, of which 13 Member States are from Africa and 7 are from Asia.<sup>11</sup> Thus, it can be observed that even today more number of African countries are party to the said instruments, despite having the regional 1969 OAU (AU) Convention for refugees. The Asian countries, though by experience have always hospitably treated the refugee influxes, however are urged to consider ratifying the UN instruments for the protection of refugees, in absence of having a regional Convention to safeguard the interests of refugees.

37. The “Convention Plus”, an important initiative of UNHCR launched last year, aims at strengthening the Convention relating to the Status of Refugees through the use of special multilateral agreements. The objective is to ensure that refugees receive a higher standard of protection as close to home as possible and to increase the level of State involvement as an effective system of international burden sharing. The agreements will focus on three priority areas: resettlement as a tool of protection, a durable solution and a tangible form of burden-sharing; more effective targeting of development assistance to support durable solutions for refugees; and clarification of the responsibilities of States in the event of secondary movements of refugees and asylum-seekers from an initial country of refuge to another country.

38. International cooperation and burden sharing are more relevant today than ever before. The costs of granting prolonged asylum are difficult to quantify, since they are not only economic but also include adverse effects on the environment as well as on the social infrastructure. In light of the above more equitable burden sharing is indispensable in support of developing countries that host more than seven out of ten refugees worldwide and in order to maintain or improve protection standards in practice. Accession to 1951 Convention, the two Conventions on Statelessness and international human rights instruments will provide guidance for national law, policies and practices on the treatment of refugees and thereby strengthen burden sharing.

39. Increased burden sharing figured prominently in the “Agenda for Protection,” the programme of action for States, UNHCR and UNHCR’s Executive Committee endorsed it last year as well as this year. Burden and responsibility sharing through concrete financial or other support to improve protection and to solve refugee problems lies at the heart of the Convention Plus initiative of the UN High Commissioner for Refugees. It may be noted that the adoption of the Revised Text of Bangkok Principles on Status and Treatment of Refugees, at its New Delhi (HQ) session in 2001 was a significant milestone in AALCO’s long journey in the field of international law. The concept of burden sharing issues prominently as a solution to solving the refugee problem. The normative development of refugee concepts like burden sharing, durable solutions, refoulement etc. are now reasonably advanced and have found recognition in many international, regional and national refugee laws instruments. Thus, AALCO and UNHCR can continue to play a vital role in developing the normative framework of international protection for refugees.

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<sup>10</sup> Please see the attached Annex II.

<sup>11</sup> Please see the attached Annex III.

40. Also on the protection front, violence against refugees and internally displaced women and children continues to be a major concern. An increase in sexual and gender-based violence as a tool of war has been manifested in various contemporary conflict situations. UNHCR has revised its “Sexual and Gender-Based Violence against refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response.” The Guidelines endeavors to ensure that better prevention and response mechanisms are put in place.

41. The recent Tsunami disaster which has effected people around 12 countries ranging from Indonesia to Kenya, has seen the effective humanitarian assistance being rendered to its victims in more ways than one by the UNHCR, a task for the internally displaced, which is not the official mandate of the Organization, but it has proved its real presence for the hapless and homeless, by capitalizing on its expertise in emergencies to play an unprecedented role in natural disaster relief.

42. The proposed study on Statelessness: An Overview from the African, Asian and Middle Eastern Perspective which is being jointly taken up by the AALCO and UNHCR would be a step forward in strengthening the long standing ties between both the Organizations, which got a further boost from the MOU signed on 23 May 2002. It needs to be reiterated that the MOU provides a solid basis to elaborate such cooperative arrangements.

## **Annex I**

### ***OUTLINE OF THE PROPOSED STUDY ON “STATELESSNESS: AN OVERVIEW FROM THE AFRICAN, ASIAN AND MIDDLE EASTERN PERSPECTIVE”***

#### **Introduction**

- Forward with introductory comments from AALCO and UNHCR
- Introduction to the problem of statelessness and an outline of the object and purpose of the study.

#### **Chapter I: Sample Overview of Nationality Laws and Best Practices.**

- Nationality Laws, which define statelessness.
- Nationality laws with provisions to avoid statelessness.
- Provisions to secure nationality for children.
- Special provisions to avoid statelessness for women.
- Procedural guarantees to prevent inadvertent loss of nationality.
- Provisions, which reduce statelessness through access to naturalization.

#### **Chapter II: Regional Approaches and Comparative Analysis: Throughout AALCO Regions**

- *Jus soli, jus sanguinis*, and combined approaches to acquisition.
- Approaches to nationality in the context of marriage or changes in civil status.
- Perspectives on multiple nationalities.
- Approaches to changes in nationality through naturalization.
- Nationality determination and its impact on migration.

#### **CHAPTER III; Trafficking in Persons and the Problem of Statelessness.**

- Risk of statelessness in the context of trafficking.
- Various mechanisms States use to promote nationality determination- Legal customary approaches.
- Particular problems faced by women and children.
- Re-establishing legal identity.
- Regional approaches to trafficking addressing statelessness.

#### **CHAPTER IV: Statelessness and displacement.**

- Case Study: The Great Lakes.

#### **CHAPTER V: Nationality, Statelessness and Migration**

- Case Study: South Asia.

#### **CHAPTER VI: Statelessness and Refugee Flows**

- Case Study: South East Asia.

#### **CHAPTER VII: SUMMARY**

- Observation of Best Practices.
- Regional Themes.
- Gaps in Approaches
- Recommendations for Follow-up.

## Annex II

### III. States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol

Date of entry into force:  
22 April 1954 (Convention)  
4 October 1967 (Protocol)

***As of 1 December 2004***

Total number of States Parties to the 1951 Convention:	142
Total number of States Parties to the 1967 Protocol:	142
States Parties to both the Convention and Protocol:	139
States Parties to one or both of these instruments:	145

***States Parties to the 1951 Convention only:***

Madagascar, Monaco, Saint Kitts and Nevis

***States Parties to the 1967 Protocol only:***

Cape Verde, United States of America, Venezuela

The Convention was adopted by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, held at Geneva from 2 to 25 July 1951. The Conference was convened pursuant to resolution 429 (V)<sup>1</sup>, adopted by the General Assembly of the United Nations on 14 December 1950.

The dates indicated are the dates of deposit of the instrument of ratification or accession by the respective States Parties with the Secretary-General of the United Nations in New York. In accordance with article 43(2), the Convention enters into force on the ninetieth day after the date of deposit. The Protocol enters into force on the date of deposit (article VIII (2)). Exceptions are indicated below.

***Most recent ratification:***

Saint Vincent and the Grenadines	03 Nov 1993	a	03 Nov 2003	a
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Country	Convention	Protocol
Albania	18 Aug 1992 a	18 Aug 1992 a
Algeria	21 Feb 1963 s	08 Nov 1967 a
Angola	23 Jun 1981 a	23 Jun 1981 a
Antigua and Barbuda	07 Sep 1995 a	07 Sep 1995 a
Argentina	15 Nov 1961 a	06 Dec 1967 a
Armenia	06 Jul 1993 a	06 Jul 1993 a
Australia	22 Jan 1954 a	13 Dec 1973 a
Austria	01 Nov 1954 r	05 Sep 1973 a
Azerbaijan	12 Feb 1993 a	12 Feb 1993 a
Bahamas	15 Sep 1993 a	15 Sep 1993 a



Belarus	23 Aug 2001	a	23 Aug 2001	a
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**UNHCR, United Nations High Commissioner for Refugees**

Belgium	22 Jul 1953	r	08 Apr 1969	a
Belize	27 Jun 1990	a	27 Jun 1990	a
Benin	04 Apr 1962	s	06 Jul 1970	a
Bolivia	09 Feb 1982	a	09 Feb 1982	a
Bosnia and Herzegovina	01 Sep 1993	s	01 Sep 1993	s
Botswana	06 Jan 1969	a	06 Jan 1969	a
Brazil	16 Nov 1960	r	07 Apr 1972	a
Bulgaria	12 May 1993	a	12 May 1993	a
Burkina Faso	18 Jun 1980	a	18 Jun 1980	a
Burundi	19 Jul 1963	a	15 Mar 1971	a
Cambodia	15 Oct 1992	a	15 Oct 1992	a
Cameroon	23 Oct 1961	s	19 Sep 1967	a
Canada	04 Jun 1969	a	04 Jun 1969	a
Cape Verde (P)			09 Jul 1987	a
Central African Republic	04 Sep 1962	s	30 Aug 1967	a
Chad	19 Aug 1981	a	19 Aug 1981	a
Chile	28 Jan 1972	a	27 Apr 1972	a
China	24 Sep 1982	a	24 Sep 1982	a
Colombia	10 Oct 1961	r	04 Mar 1980	a
Congo	15 Oct 1962	s	10 Jul 1970	a
Congo, Democratic Republic of	19 July 1965	a	13 Jan 1975	a
Costa Rica	28 Mar 1978	a	28 Mar 1978	a
Côte d'Ivoire	08 Dec 1961	s	16 Feb 1970	a
Croatia	12 Oct 1992	s	12 Oct 1992	s
Cyprus	16 May 1963	s	09 Jul 1968	a
Czech Republic	11 May 1993	s	11 May 1993	s
Denmark	04 Dec 1952	r	29 Jan 1968	a
Djibouti	09 Aug 1977	s	09 Aug 1977	s
Dominica	17 Feb 1994	a	17 Feb 1994	a
Dominican Republic	04 Jan 1978	a	04 Jan 1978	a
Ecuador	17 Aug 1955	a	06 Mar 1969	a
Egypt	22 May 1981	a	22 May 1981	a
El Salvador	28 Apr 1983	a	28 Apr 1983	a
Equatorial Guinea	07 Feb 1986	a	07 Feb 1986	a
Estonia	10 Apr 1997	a	10 Apr 1997	a
Ethiopia	10 Nov 1969	a	10.Nov 1969	a
Fiji	12 Jun 1972	s	12 Jun 1972	s
Finland	10 Oct 1968	a	10 Oct 1968	a
France	23 Jun 1954	r	03 Feb 1971	a
Gabon	27 Apr 1964	a	28 Aug 1973	a
Gambia	07 Sep 1966	s	29 Sep 1967	a
Georgia	09 Aug 1999	a	09 Aug 1999	a
Germany	01 Dec 1953	r	05 Nov 1969	a

Ghana	18 Mar 1963	a	30 Aug 1968	a
Greece	05 Apr 1960	r	07 Aug 1968	a
Guatemala	22 Sep 1983	a	22 Sep 1983	a
Guinea	28 Dec 1965	s	16 May 1968	a
Guinea-Bissau	11 Feb 1976	a	11 Feb 1976	a
Haiti	25 Sep 1984	a	25 Sep 1984	a

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Holy See	15 Mar 1956	r	08 Jun 1967	a
Honduras	23 Mar 1992	a	23 Mar 1992	a
Hungary	14 Mar 1989	a	14 Mar 1989	a
Iceland	30 Nov 1955	a	26 Apr 1968	a
Iran, Islamic Republic of	28 Jul 1976	a	28 Jul 1976	a
Ireland	29 Nov 1956	a	06 Nov 1968	a
Israel	01 Oct 1954	r	14 Jun 1968	a
Italy	15 Nov 1954	r	26 Jan 1972	a
Jamaica	30 Jul 1964	s	30 Oct 1980	a
Japan	03 Oct 1981	a	01 Jan 1982	a
Kazakhstan	15 Jan 1999	a	15 Jan 1999	a
Kenya	16 May 1966	a	13 Nov 1981	a
Kyrgyzstan	08 Oct 1996	a	08 Oct 1996	a
Korea, Republic of	03 Dec 1992	a	03 Dec 1992	a
Latvia	31 Jul 1997	a	31 Jul 1997	a
Lesotho	14 May 1981	a	14 May 1981	a
Liberia	15 Oct 1964	a	27 Feb 1980	a
Liechtenstein	08 Mar 1957	r	20 May 1968	a
Lithuania	28 Apr 1997	a	28 Apr 1997	a
Luxembourg	23 Jul 1953	r	22 Apr 1971	a
Macedonia, The Former Yugoslav Republic of	18 Jan 1994	s	18 Jan 1994	s
Madagascar (C)	18 Dec 1967	a		
Malawi	10 Dec 1987	a	10 Dec 1987	a
Mali	02 Feb 1973	s	02 Feb 1973	a
Malta	17 Jun 1971	a	15 Sep 1971	a
Mauritania	05 May 1987	a	05 May 1987	a
Mexico	07 June 2000	a	07 June 2000	a
Moldova, Republic of	31 Jan 2002	a	31 Jan 2002	a
Monaco (C)	18 May 1954	a		
Morocco	07 Nov 1956	s	20 Apr 1971	a
Mozambique	16 Dec 1983	a	01 May 1989	a
Namibia	17 Feb 1995	a	17 Feb 1995	a
Netherlands	03 May 1956	r	29 Nov 1968	a
New Zealand	30 Jun 1960	a	06 Aug 1973	a
Nicaragua	28 Mar 1980	a	28 Mar 1980	a
Niger	25 Aug 1961	s	02 Feb 1970	a
Nigeria	23 Oct 1967	a	02 May 1968	a
Norway	23 Mar 1953	r	28 Nov 1967	a

Panama	02 Aug 1978	a	02 Aug 1978	a
Papua New Guinea	17 Jul 1986	a	17 Jul 1986	a
Paraguay	01 Apr 1970	a	01 Apr 1970	a
Peru	21 Dec 1964	a	15 Sep 1983	a
Philippines	22 Jul 1981	a	22 Jul 1981	a
Poland	27 Sep 1991	a	27 Sep 1991	a
Portugal	22 Dec 1960	a	13 Jul 1976	a
Romania	07 Aug 1991	a	07 Aug 1991	a
Russian Federation	02 Feb 1993	a	02 Feb 1993	a
Rwanda	03 Jan 1980	a	03 Jan 1980	a
Saint Kitts and Nevis (C)	01 Feb 2002	a		

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Saint Vincent and the Grenadines	03 Nov 1993	a	03 Nov 2003	a
Samoa	21 Sep 1988	a	29 Nov 1994	a
Sao Tome and Principe	01 Feb 1978	a	01 Feb 1978	a
Senegal	02 May 1963	s	03 Oct 1967	a
Serbia and Montenegro ***	12 Mar 2001	s	12 Mar 2001	s
Seychelles	23 Apr 1980	a	23 Apr 1980	a
Sierra Leone	22 May 1981	a	22 May 1981	a
Slovakia	04 Feb 1993	s	04 Feb 1993	s
Slovenia	06 Jul 1992	s	06 Jul 1992	s
Solomon Islands	28 Feb 1995	a	12 Apr 1995	a
Somalia	10 Oct 1978	a	10 Oct 1978	a
South Africa	12 Jan 1996	a	12 Jan 1996	a
Spain	14 Aug 1978	a	14 Aug 1978	a
Sudan	22 Feb 1974	a	23 May 1974	a
Suriname	29 Nov 1978	s	29 Nov 1978	s
Swaziland	14 Feb 2000	a	28 Jan 1969	a
Sweden	26 Oct 1954	r	04 Oct 1967	a
Switzerland	21 Jan 1955	r	20 May 1968	a
Tajikistan	07 Dec 1993	a	07 Dec 1993	a
Tanzania, United Republic of	12 May 1964	a	04 Sep 1968	a
Timor-Leste	07 May 2003	a	07 May 2003	a
Togo	27 Feb 1962	s	01 Dec 1969	a
Trinidad and Tobago	10 Nov 2000	a	10 Nov 2000	a
Tunisia	24 Oct 1957	s	16 Oct 1968	a
Turkey	30 Mar 1962	r	31 Jul 1968	a
Turkmenistan	02 Mar 1998	a	2 Mar 1998	a
Tuvalu	07 Mar 1986	s	07 Mar 1986	s
Uganda	27 Sep 1976	a	27 Sep 1976	a
Ukraine	10 Jun 2002	a	04 Apr 2002	a
United Kingdom of Great Britain and Northern Ireland	11 Mar 1954	r	04 Sep 1968	a
United States of America (P)			01 Nov 1968	a
Uruguay	22 Sep 1970	a	22 Sep 1970	a

Venezuela (P)			19 Sep 1986	a
Yemen	18 Jan 1980	a	18 Jan 1980	a
Zambia	24 Sep 1969	s	24 Sep 1969	a
Zimbabwe	25 Aug 1981	a	25 Aug 1981	a

***Limitations:***

Article 1 B(1) of the 1951 Convention provides: “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 purposes of its obligations under this Convention.”

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The following States adopted alternative (a), the geographical limitation: Congo, Madagascar, Monaco, Turkey. Turkey expressly maintained its declaration of geographical limitation upon acceding to the 1967 Protocol. Madagascar and Monaco have not yet adhered to the Protocol.

All other States Parties ratified, acceded or succeeded to the Convention without a geographical limitation by selecting option (b), ‘events occurring in Europe or elsewhere before 1 January 1951’.

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**Notes:**

\* Ratification (r), Accession (a), Succession (s)

\*\* (C) denotes States Parties to the 1951 Convention only; (P) denotes States Parties to the 1967 Protocol only.

\*\*\* As of 4 February 2003, following the adoption and promulgation of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia, the official name of “The Federal Republic of Yugoslavia” has been changed to “Serbia and Montenegro”.

### Annex III

#### AALCO Member States parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol

Country	1951 Convention	1967 Protocol
Botswana	06 Jan 1969 a	06 Jan 1969 a
China	24 Sep 1982 a	24 Sep 1982 a
Cyprus	16 May 1963 s	09 Jul 1968 a
Egypt, Arab Republic of	22 May 1981 a	22 May 1981 a
Gambia	07 Sep 1966 s	29 Sep 1967 a
Ghana	18 Mar 1963 a	30 Aug 1968 a
Iran, Islamic Republic of	28 Jul 1976 a	28 Jul 1976 a
Japan	03 Oct 1981 a	01 Jan 1982 a
Kenya	16 May 1966 a	13 Nov 1981 a
Nigeria	23 Oct 1967 a	02 May 1968 a
Philippines	22 Jul 1981 a	22 Jul 1981 a
Senegal	02 May 1963 s	03 Oct 1967 a
Sierra Leone	22 May 1981 a	22 May 1981 a
Somalia	10 Oct 1978 a	10 Oct 1978 a
South Africa	12 Jan 1996 a	12 Jan 1996 a
Sudan	22 Feb 1974 a	23 May 1974 a
Tanzania, United Republic of	12 May 1964 a	04 Sep 1968 a
Turkey	30 Mar 1962 r	31 Jul 1968 a
Uganda	27 Sep 1976 a	27 Sep 1976 a
Yemen	18 Jan 1980 a	18 Jan 1980 a