

**PRINCIPLES CONCERNING ADMISSION AND TREATMENT OF ALIENS**  
(Adopted by the Committee at its Fourth Session)

**Article I**

**Definition of the term Alien**

An alien is a person who is not a citizen or national of the State concerned.

**Note:** In a Commonwealth country the status of the nationals of other Commonwealth countries shall be governed by the provisions of its laws, regulations and orders.

**Article 2**

(1) The admission of aliens into a State shall be at the discretion of that State.

(2) A State may-

- (i) prescribe conditions for entry of aliens into its territory-
- (ii) except in special circumstances, refuse admission into its territory of aliens who do not possess travel documents to its satisfaction-,
- (iii) make a distinction between aliens seeking admission for temporary sojourn and aliens seeking admission for permanent residence in its territory; and
- (iv) restrict or prohibit temporarily the entry into its territory of all or any class of aliens in its national or public interest.

**Note:** (1) The Delegation of Japan is of the view that in sub-clause (iv) of Clause (2) of this Article the words "armed conflicts or national emergency" should be substituted in place of the words "national or public interest".

(2) The Delegation of Indonesia stated that his Delegation preferred Clause (2) of Article 2 as adopted by the Committee at its Third Session in Colombo.

**Article 3**

A State shall not refuse to an alien entry into its territory on the ground only of his race, religion, sex or colour.

**Article 4**

Admission into the territory of a State may be refused to an alien-

- (i) who is *in a condition* of vagabondage, beggary or vagrancy;
- (ii) who is of unsound mind or is mentally defective;
- (iii) who is suffering from a loathsome, incurable or contagious disease of a kind likely to be prejudicial to Public health;
- (iv) who is a stowaway, a habitual narcotic user, an unlawful dealer in opium or narcotics, a prostitute, a procurer or a person living on the earnings of prostitution:

- (v) who is an indigent person or a person who has no adequate means of supporting himself or has no 'Sufficient guarantee to support him at the place of his destination;
- (vi) who is reasonably suspected to have committed or is being tried or has been Prosecuted I for serious infractions of law abroad;
- (vii) who is reasonably believed to have I committed an extraditable offence abroad or is convicted of such an offence abroad:
- (viii) who has been expelled or deported from another State; and
- (ix) whose entry or presence is likely to affect prejudicially its national or public interest.

#### **Article 5**

A State may admit an alien seeking entry into its territory for the purpose of transit, tourism or study, on the condition that he is forbidden from making his residence in its territory permanent.

#### **Article 6**

A State shall have the right.t6 offer or provide asylum in its territory to political refugees or to political offenders on such conditions as the State may stipulate as being appropriate in the circumstances.

#### **Article 7**

(1) Subject to conditions imposed for his admission into the State, and subject also to the local laws, regulations and orders, an alien shall have the right-

- (i) to move freely throughout the territory of the State; and
- (ii) to reside in any part of the territory of the State,

(2) The State may, however, require an alien to comply with provisions as to registration or reporting or otherwise so as to regulate or restrict the right of movement and residence as it may consider appropriate in any special circumstances or in the national or public interest.

**Note:** The Delegation of Indonesia expressed preference for the text adopted at the Colombo Session in Clause (1) of this Article.

#### **Article 8**

Subject to local laws, regulations and orders, an alien shall have the right-

- (i) to freedom from arbitrary arrest;
- (ii) to freedom to profess and practise his own religion;
- (iii) to have protection of the executive and police authorities of the State;
- (iv) to have access to the courts of law; and
- (v) to have legal assistance.

- Note** (a) The Delegation of Ceylon was of the view that in Clause (ii) the expression "to freedom of religious belief and practice" should be substituted;
- (b) The Delegations of Burma and Indonesia suggested retention of Clause (2) of the Draft adopted at the Colombo Session which provides that "Aliens shall enjoy on a basis of equality with nationals protection of the local laws."

The Delegation of Iraq and Japan had no objection to the retention of this clause.

#### **Article 9**

A State may prohibit or regulate professional or business activities or any other employment of aliens within its territory.

**Note:** The Delegation of Iraq was of the view that the words "shall be free to" should be inserted in place of the word "may". The Delegation of Pakistan wished to keep its position open.

#### **Article 10**

An alien shall not be entitled to any political rights, including the right of suffrage, nor shall he be entitled to engage himself in Political activities, except as otherwise provided by local laws, regulations and orders.

#### **Article 11**

Subject to local laws, regulations, and orders and subject also to the condition, imposed for his admission into the State, an alien shall have the right to acquire, hold and dispose of property.

**Note:** The Delegation Of Indonesia, whilst accepting the provisions of this Article, stated that according to "the new laws of Indonesia aliens cannot acquire title to property though *they* can hold property.

#### **Article 12**

(1) The State shall, however, have the right to acquire, expropriate or nationalise the property of an alien. Compensation shall be paid for such acquisition, expropriation or nationalisation in accordance with local laws, regulations and orders.

(2) The State shall also have the right to dispose of or otherwise lawfully deal with the property of an alien under orders of expulsion or deportation.

- Note:** (i) The Delegation Of Japan did not accept the provisions of this article. According to its view "just compensation" should be paid for all acquisition, nationalisation or expropriation and not "compensation in accordance with local laws, regulations, and orders." The Delegation could not accept the provisions of Clause (2) as such a provision would be contrary to the laws of Japan.
- (ii) The Delegation of Indonesia reserved its position on Clause (2) of this Article.
- (iii) The Delegation of Pakistan stated that though it accepted the provisions of this Article, the view of the Delegation was that acquisition, nationalisation or expropriation should be in the national interest or for a public purpose.

### Article 13

(1) An alien shall be liable to payment of taxes and duties in accordance with the laws and regulations of the State.

(2) An alien shall not be subjected to forced loans which are unjust or discriminatory.

**Note:** (i) Clause (1) of this Article was accepted by all Delegations except that of Japan. The Delegation of Japan wished a proviso to that clause to be inserted to read as follows:

"Provided that the State shall not discriminate between aliens and nationals in levying the taxes and duties."

(ii) Clause (2) was accepted by the Delegations of Burma, India, Indonesia and Iraq.

The Delegate of Ceylon wished the word " or discriminatory" to be deleted. The Delegate of Japan wished the clause to be drafted, as "An alien shall not be subject to forced loans," The Delegation of Pakistan suggested the following draft: "An alien shall not be subjected to loans in violation of the laws, regulations and orders applicable to him." The Delegation of the United Arab Republic was of the view that the draft should be as follows: "An alien shall not be subjected to forced loans."

### Article 14

(1) Aliens may be required to perform police, fire-brigade or militia duty for the protection of life and property in cases of emergency or imminent need.

(2) Aliens shall not be compelled to enlist themselves in the armed forces of the State.

(3) Aliens may, however, voluntarily enlist themselves in the, armed-forces of the State with the express consent of their home State which may be withdrawn at any time.

(4) Aliens may voluntarily enlist themselves in the police or fire-brigade service on the same conditions as nationals.

**Note:** The Delegation of Indonesia reserved its position on the whole article.

The Delegation of Iraq reserved its position on Clause (3) of this article.

The Delegation of Japan wished Clause (3) of this article to be deleted.

### Article 15

(1) A State shall have the right in accordance with its local laws regulations and orders to impose such restrictions as it may deem necessary on an alien leaving its territory.

(2) Such restrictions on an alien leaving, the State may include any exit visa or tax clearance certificate to be procured by the alien from the authorities concerned.

(3) Subject to the local laws, regulations and order s a State shall permit an alien leaving its territory to take his personal effects with him.

**Note:** (i) The Delegate of Pakistan reserved his position on Clause (3).

(ii) The Delegates of Ceylon and United Arab Republic wished the following clause to be retained in this article:

"An Alien who has fulfilled all his local obligations in the State of residence, shall not be Prevented from departing from the State of residence."

#### **Article 16**

(1) A State shall have the right to order expulsion or deportation of an undesirable alien in accordance with its local laws, regulations and orders.

(2) The State shall, unless the circumstances warrant otherwise, allow an alien under orders of expulsion or deportation reasonable time to wind up his personal and other affairs.

(3) If an alien under orders of expulsion or deportation fails to leave the State within the time allowed, or, after leaving the State, returns to the State without its permission, he may, be expelled or deported by force, besides being subjected to arrest, detention and punishment in accordance with local laws, regulations and orders.

#### **Article 17**

A State shall not refuse to receive its nationals expelled or deported from the territory of another State.

**Note:** The Delegation of Pakistan suggested the addition of the word "normally" before the word "refuse".

#### **Article 18**

Where the provisions of a treaty or convention between any of the signatory States conflict with the principles set forth herein, the provisions of such treaty or convention shall prevail as between those States.