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Refugees Act, 2017

Act 15 of 2017

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Refugees Act, 2017
 Contents

1. Short title and commencement 1

2. Interpretation 1

3. International Conventions and Protocol to be part of laws of Swaziland 2

4. Definition of refugee 2

5. National Refugee Advisory Committee 3

6. National Refugee Appeals Board 4

7. Commissioner and Deputy Commissioner for Refugees 4

8. Illegal entry and presence 4

9. Procedure for applying for refugee status 5

10. Members of family 5

11. Non-refoulement 6

12. Expulsion 6

13. Rights and duties 6

14. Reception areas and refugee settlements 7

15. Administration of refugee settlements 7

16. Permission to enter refugee settlement 7

17. Unaccompanied and separated children 8

18. Importation and movement of livestock 8

19. Restriction on firearms and ammunition 8

20. Cessation 8

21. Publication of rules 8

22. Instructions and orders 8

23. Offences 9

24. Regulations 9

25. Repeal and savings 9

Schedule I 9

Schedule 21

Annex 23

Schedule II 23

Schedule III 26

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Refugees Act, 2017 Act 15 of 2017

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AN ACT

ENTITLED

AN ACT to provide for the recognition, protection, assistance and control of refugees by giving effect to the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees and the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa; and to provide for matters incidental thereto.

ENACTED by the King and the Parliament of Swaziland.

1. Short title and commencement

- (1) This Act may be cited as the Refugees Act, 2017.
- (2) This Act shall come into force on a date as the Minister may, by notice published in the *Gazette*, determine.

2. Interpretation

In this Act, unless the context otherwise requires—

“**ammunition**” has the same meaning as in the Arms and Ammunition Act, [No. 24 of 1967](#);

“**Appeals Board**” means the National Refugee Appeals Board established under section [6](#);

“**applicant**” means a person who makes an application under section [8\(1\)](#);

“**authorised officer**” means the Principal Secretary, the Commissioner, an immigration officer, a settlement officer or a police officer;

“**Civil Service Commission**” means the Commission established under section 186(1) of the Constitution;

“**Commissioner**” means a person appointed under section [7](#) as Commissioner for Refugees;

“**Committee**” means the National Refugee Advisory Committee established under section [5](#);

“**Convention**” means the Convention Relating to the Status of Refugees, signed at Geneva on 28th July 1951, to which Swaziland is a party, as set out in Schedule I to this Act;

“**firearm**” has the same meaning as in the Arms and Ammunition Act, [No. 24 of 1967](#);

“**legal practitioner**” has the same meaning as in the Legal Practitioners Act, [No. 15 of 1964](#);

“**member of the refugee’s family**”, in relation to a refugee, means a spouse, minor child or any other person who is dependent on the refugee;

“**Minister**” means the Minister responsible for refugee affairs;

“**Organisation of African Unity Convention**” means the Convention Governing the Specific Aspects of Refugee Problems in Africa, signed at Addis Ababa on 10th September 1969, to which Swaziland is a Party, as set out in Schedule III to this Act;

“**Principal Secretary**” means the Principal Secretary in the Ministry responsible for refugee affairs;

“**Protocol**” means the Protocol Relating to the Status of Refugees, signed at the General Assembly of the United Nations on 31st January 1967, to which Swaziland is a Party, as set out in Schedule II to this Act;

“**public officer**” has the same meaning as in section 261 of the Constitution;

“**reception area**” means an area declared under section 14 of this Act as an area for reception of refugees;

“**refugee**” means any person falling within the definition of section 4 of this Act;

“**refugee settlement**” means a place established as a refugee settlement under section 14(2) of this Act;

“**refugee status determination officer**” means a competent officer with a responsibility for examining application for refugee status and making recommendations to the National Refugee Advisory Committee;

“**separated child**” means a child who is separated from both parents or from previous legal or customary caregivers but not necessarily from other relatives;

“**settlement officer**” means any person appointed as such under section 14(2) of this Act;

“**unaccompanied child**” means a child who has been separated from both parents and other relatives and who is not being cared for by an adult who by law or custom, is responsible for doing so;

3. International Conventions and Protocol to be part of laws of Swaziland

The Convention set out in Schedule I, the Protocol set out in Schedule II and the Organisation of African Unity Convention set out in Schedule III, to this Act, shall, subject to any necessary modification in compliance with the Constitution and other laws in force, have full force and effect in Swaziland and be part of the laws of Swaziland.

4. Definition of refugee

(1) For the purposes of this Act the term refugee means—

- (a) a person who—
 - (i) owing to a 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 the nationality of that person and is unable, or owing to such fear, is unwilling to avail oneself of the protection of that country; or
 - (ii) not having a nationality and being outside the country of the former habitual residence of that person, is unable or, owing to the fear referred to in subparagraph (i), is unwilling to return to that country;
- (b) a person, who owing to external aggression, occupation, foreign domination or events seriously disturbing public order in a part or the whole of the country of origin or nationality of that person, is compelled to leave the place of habitual residence of that person in order to seek refuge in another place outside the country of origin or nationality of that person; or
- (c) a person belonging to a class of persons determined by the Minister to be a refugee as provided in this Act.

(2) A person shall not be considered a refugee under this Act if there are serious reasons to believe that

- (a) the person 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; or
- (b) the person has committed a serious non-political crime outside Swaziland prior to the admission to Swaziland of that person as a refugee.

- (3) A person shall cease to be a refugee under this Act where—
- (a) the person has voluntarily re-availed oneself of the protection of the country of nationality of that person;
 - (b) having lost nationality, that person has voluntarily re-acquired that nationality;
 - (c) the person has acquired Swazi nationality or the nationality of some other country, and enjoys the protection of Swaziland or the protection of that other country;
 - (d) the person has voluntarily re-established oneself in the country which that person left or outside of which that person remained owing to fear of persecution;
 - (e) the person can no longer be recognized as a refugee because the circumstances in connection with which that person has been recognised as a refugee have ceased to exist;
 - (f) being a person who has no nationality that person is, because the circumstances in connection with which that person has been recognised as a refugee have ceased to exist and that person has been able to return to the country of the former habitual residence of that person.

5. National Refugee Advisory Committee

- (1) There is established a National Refugee Advisory Committee which consists of the following persons or their designated representatives, appointed by the Minister in writing—
- (a) the Commissioner for Refugees;
 - (b) the Principal Secretary in the Ministry responsible for Home Affairs;
 - (c) Principal Secretary in the Ministry responsible for foreign affairs and international co-operation;
 - (d) the Commissioner of Police;
 - (e) the Chief Immigration Officer;
 - (f) the Attorney-General;
 - (g) the Principal Secretary in the Deputy Prime Minister's Office;
 - (h) the Head of Secretariat of the Task Force for the Prevention of People Trafficking and People Smuggling;
 - (i) a representative of a non-governmental organisation with experience in refugee protection; and
 - (j) a representative of the United Nations High Commissioner for Refugees as an observer with no right to vote.
- (2) The Principal Secretary or the designated representative of the Principal Secretary shall be the chairperson and the Commissioner for Refugees shall be Secretary of the Committee.
- (3) Six members of the Committee shall constitute a quorum at a meeting of the Committee.
- (4) The functions of the Committee are to—
- (a) consider the recommendations submitted by the office of the Commissioner for Refugees and grant asylum or reject the application;
 - (b) advise the Minister on all matters pertaining to refugees; and
 - (c) exercise any other power and perform other duties that the Minister may assign to the Committee.

- (5) The Committee shall be independent in the discharge of the functions assigned to it under this Act.
- (6) An applicant who is aggrieved by a decision of the Committee may, within 21 days of the decision, lodge an appeal to the National Refugee Appeals Board through the office of the Commissioner for Refugees.
- (7) The Committee may, where the need arises, co-opt a person with expertise to assist it in the performance of its function under this Act.

6. National Refugee Appeals Board

- (1) There is established a National Refugee Appeals Board.
- (2) The Board shall consist of three members appointed by the Minister, in writing, with due regard to the suitability of a person to serve as a member by virtue of the experience, qualifications and expertise of that person.
- (3) At least one member of the Board shall be a person who qualifies to be appointed as a principal magistrate, and shall be the Chairperson of the Board.
- (4) The functions of the Board are to receive and determine appeals referred to it in terms of section 5(6).
- (5) The appellant shall be invited to appear before the Refugee Appeals Board.
- (6) The appeals board may consider new evidence submitted by the appellant when determining the appeal.
- (7) The Board shall be independent in the discharge of the functions assigned to it under this Act.

7. Commissioner and Deputy Commissioner for Refugees

- (1) There shall be a Commissioner and a Deputy Commissioner for Refugees both of whom shall be appointed by the Civil Service Commission.
- (2) The Commissioner shall be responsible for all issues pertaining to refugees and, in particular, shall —
 - (a) formulate and implement policies and programs on refugees; and
 - (b) generally safeguard the welfare of refugees in the country.
- (3) The Deputy Commissioner for Refugees shall assist the Commissioner in the performance of the duties of the Commissioner under this Act.
- (4) There shall be Refugee Status Determination Officers who shall interview and prepare recommendations on asylum applications for consideration by the National Refugee Advisory Committee.

8. Illegal entry and presence

- (1) Without conflicting anything contained in the immigration laws of the land, a person claiming to be a refugee, who has illegally entered or is illegally present in Swaziland, shall not be declared a prohibited immigrant, detained, imprisoned or penalised in any other way merely by reason of the illegal entry or presence of that person, pending a determination of the application of that person for recognition as a refugee.
- (2) A person to whom subsection (1) applies shall personally appear before the nearest authorised officer without delay, after the entry into Swaziland and the authorised officer shall refer that person to the office of the Commissioner for Refugees.

9. Procedure for applying for refugee status

- (1) A request for protection made to an authorized officer, either at the border or within the territory of Swaziland, shall be considered an asylum application and may be made verbally or in writing.
- (2) The Commissioner for Refugees shall issue to the person who makes an application under subsection (1) a document in the prescribed form showing that the person has made an application to be recognised as a refugee and that document shall remain valid until the person is granted or refused refugee status.
- (3) The application referred to in subsection (1) shall be submitted to the Commissioner for Refugees and the applicant shall be invited to appear before a Refugee Status Determination Officer for an interview.
- (4) Where an applicant who appears before the Refugee Status Determination Officer cannot understand the language used during the interview, the Commissioner for Refugees shall provide that applicant with an interpreter.
- (5) The office of the Commissioner shall ensure that, during the interview, adequate arrangements are made for asylum applicants with special needs.
- (6) A person who is invited to appear before the Refugee Status Determination Officer, who without a valid reason, fails to appear at two consecutive interviews shall become subject to the immigration laws.
- (7) The Office of the Commissioner for Refugees shall refer the recommendation of the National Refugee Status Determination Officer to the National Refugee Advisory Committee for consideration.
- (8) The Committee shall consider the recommendation submitted by the Refugee Status Determination Officer and make a final determination on the merits of the asylum claim within 180 days from the date the application is lodged with the authorized officer.
- (9) The Committee shall, through the Commissioner, inform each person whose application has been successful of that fact, and shall issue to that person an identity card attesting to the status of that person.
- (10) Where the Committee decides not to grant the application for refugee status, it shall inform the applicant of that decision and the reasons thereof through the office of the Commissioner for Refugees.
- (11) An applicant who is aggrieved by a decision of the Committee may, within 21 days of notification of the decision, appeal to the National Refugee Appeals Board.
- (12) Pending the conclusion of the appeal under subsection (11), the applicant shall be permitted to remain in the country under the provisions of this Act.
- (13) If the Appeals Board rejects the appeal, the Appeals Board shall give notice to the Minister who shall give the applicant notice to leave Swaziland in accordance with the provisions of the immigration laws or seek redress with the High Court.

10. Members of family

- (1) Where a person recognized as a refugee is the head of a family, that person's dependents shall be granted refugee status in accordance with the principles of family unity.
- (2) Where, subsequent to the recognition of the head of a family as a refugee, there is a change in the family status or ties resulting from marriage, divorce, legal separation, or death of the head of the family or attainment of the age of majority by a dependent, the members of that family shall continue to be recognised as refugees under this Act.

- (3) Where a person is recognized as a refugee, the Commissioner shall, in accordance with the principle of family unity, facilitate entry into the country for members of the family of that refugee.

11. Non-refoulement

A person shall not be refused entry into the country, be expelled, extradited or returned to any other country or be subject to any similar measure, if as a result of such refusal, expulsion, extradition, return or measure, such person is compelled to return to or remain in a country where—

- (a) that person may be subjected to persecution on account of the race, religion, nationality, membership of a particular social group or political opinion of that person; or
- (b) the life, physical safety or freedom of that person would be threatened on account of external aggression, occupation, foreign domination or events seriously disturbing public order in a part or the whole of that country.

12. Expulsion

- (1) The Minister may order the expulsion of a refugee on the grounds of national security or public order and such refugee shall not be expelled to a country which the refugee may not be returned to, in terms of section 11.
- (2) The Minister shall, where the Minister intends to make an order for the expulsion of a refugee, inform or cause the refugee to be so informed, and that refugee may make representations within such time as the Minister may determine, against the expulsion order on the grounds that the refugee did not act contrary to national security or public order, or that the refugee's expulsion would be contrary to section 11.
- (3) A refugee who wishes to make representations against the expulsion order shall make the representation, in writing, with or without the assistance of a legal practitioner.
- (4) The Minister may, appoint a board consisting of three persons for the purpose of inquiring into the subject matter of any representations submitted under subsection (3), and may direct as to where and when such inquiry shall be made.
- (5) One member of the board appointed under subsection (4) shall be a legal practitioner with at least experience of five years, who shall be the chairperson of the board.
- (6) The inquiry referred to in subsection (4) shall be conducted in the presence of the refugee and shall be in public unless for good reason the board determines otherwise.
- (7) A refugee may be represented by a legal practitioner before the board.
- (8) In inquiring into the subject matter of the representations, the board shall be governed by the provisions of this Act.
- (9) At the close of an inquiry under this section, the board shall make a full report in writing to the Minister, on all matters brought before the board during the inquiry, and the recommendation of the board.
- (10) Upon considering the report of the Board, the Minister may rescind or vary the terms of the expulsion order and shall ensure that, before the expulsion order is executed, the refugee is given reasonable time within which to seek legal admission to another country.

13. Rights and duties

- (1) A person who is recognised as a refugee in Swaziland, shall be subject to the laws in force in Swaziland.

- (2) A refugee shall be entitled to the rights and subject to the responsibilities and duties defined in articles 2 to 34 of the 1951 Convention, and those defined in the Organisation of the African Unity Convention.
- (3) A refugee shall endeavor to learn the language and customs of Swaziland in order to be fully integrated into the Swazi society.

14. Reception areas and refugee settlements

- (1) The Minister may, by legal notice published in the *Gazette*, declare any part of Swaziland to be an area for the reception of refugees.
- (2) The Minister may establish in any reception area a refugee settlement for refugees or any category of refugees, and may appoint a settlement officer to be in charge of such settlement.

15. Administration of refugee settlements

- (1) The Minister may make rules, or issue or cause to be issued, directives for the administration of refugee settlements and, without prejudice to the generality of the foregoing, such rules or directives may make provision in respect of all or any of the following matters—
 - (a) the organisation, safety, discipline and administration of such settlements;
 - (b) the reception, treatment, health and well-being of refugees in a refugee settlement; and
 - (c) the powers of settlement officers in respect of such settlements.
- (2) A settlement officer may give such orders or directives, either orally or in writing to a refugee as may be necessary or expedient for the following purposes—
 - (a) to ensure that a refugee settlement is administered in an orderly and efficient manner;
 - (b) to ensure the performance of any work or duty necessary for the maintenance of essential services in a refugee settlement or for the general welfare of refugees in a refugee settlement;
 - (c) to ensure that all proper precautions are taken to preserve the health and well-being of the refugees in a refugee settlement; and
 - (d) to preserve orderly conduct and discipline in a refugee settlement.
- (3) Without prejudice to subsections (1) and (2), a settlement officer shall ensure that women, children and refugees with special needs are protected from any abuse including sexual abuse.
- (4) A refugee commits an offence where the refugee—
 - (a) in a refugee settlement, disobeys any rules or directives made by the Minister or order or directive of a settlement officer, made or given under subsection (1) or (2); or
 - (b) in a refugee settlement behaves in a manner prejudicial to good order and discipline, and shall be liable, on conviction, to the penalties specified in section 23.
- (4) A refugee who obstructs an authorised officer in the exercise of the powers of that authorised officer under this Act commits an offence.

16. Permission to enter refugee settlement

- (1) A person, other than a refugee required to reside or residing in, or a person employed in a refugee settlement, shall not enter or be within such settlement, except with the general or special permission of the Principal Secretary or the Commissioner.

- (2) Without prejudice to the generality of subsection (1), full access to any reception area or refugee settlement shall be granted to representatives of the United Nations High Commissioner for Refugees.

17. Unaccompanied and separated children

The office of the Commissioner for Refugees shall ensure that the special needs of unaccompanied and separated children are taken into consideration and that the proper safeguards are in place to ensure legal oversight and respect for the best interest of the child.

18. Importation and movement of livestock

The importation, transfer or movement of livestock belonging to a refugee into, from or within, Swaziland, shall be subject to the provisions of the law in force governing such matters in Swaziland.

19. Restriction on firearms and ammunition

- (1) A refugee, while in Swaziland, shall not acquire or be in possession of any firearm or ammunition.
- (2) A refugee who brings a firearm or ammunition into Swaziland shall immediately surrender such firearm or ammunition to an authorised officer.
- (3) An authorised officer may, by order in writing, direct that any refugee shall, within such time as may be specified in the order, surrender to an authorised officer any weapon, instrument or tool so specified which is capable of being used as a weapon and which is in or comes into the possession of the refugee, unless the possessor has written authorisation signed by an authorised officer to retain it.

20. Cessation

- (1) Section 4(3) of this Act does not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail oneself of the protection of the country of nationality or former habitual residence of that refugee.
- (2) Where a person to whom this section applies is unwilling to be resettled, and that person has been resident in Swaziland for a period of at least ten years, that person may apply for Swazi citizenship by registration as contemplated in section 45 of the Constitution.
- (3) The person referred to in subsection (2) shall only be registered as a citizen of Swaziland if the application is supported by a Chief after consultation with bandlancane or supported by three reputable citizens.

21. Publication of rules

- (1) Any rules, orders or directives made under this Act shall be published in such manner as the authority making them considers appropriate in order to bring them to the notice of the persons to whom they apply.
- (2) Any order or directive made or given under this Act which is applied or directed to a particular person shall, if in writing, be served on or if not in writing be communicated to the person verbally.

22. Instructions and orders

- (1) The Minister shall issue to an authorised officer appropriate instructions with a view to ensuring that persons claiming to be refugees are enabled to present their applications for recognition as refugees.
- (2) The Minister may make any other order, consistent with this Act, to govern and regulate the entry and residence of refugees and any matters related to such entry or residence.

23. Offences

Unless otherwise provided for in this Act, any person who contravenes this Act commits an offence and shall, on conviction, be liable to imprisonment for a period not exceeding three months or to a fine not exceeding E1,000.00 or both.

24. Regulations

- (1) The Minister may make regulations for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, the Minister may make regulations—
 - (a) concerning procedures governing the operation of the Committee in processing applications for refugee status; and
 - (b) concerning procedures governing the operation of the Appeals Board in processing appeals for refugee status;

25. Repeal and savings

- (1) The Refugees Control Order, No. 5 of 1978, is repealed.
- (2) Notwithstanding the repeal under subsection (1), a person who was granted refugee status under the Refugees Control Order, 1978, shall continue to enjoy that status as if it was granted under this Act.
- (3) Any application for refugee status which was made under the Refugee Control Order, 1978, and which is still pending on the date of commencement of this Act shall be heard as if it was made under this Act.

Schedule I

Convention Relating to the Status of Refugees, 189 U.N.T.S. 150, entered into force on April 22, 1954

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 endeavored 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 the 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 SecretaryGeneral 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 reacquired 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 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 1 – 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, trademarks, 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 States, 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 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, 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 benefit 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 endeavors 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 homework, 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 refugees 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 court 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 judgement 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 thereafter 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 reopened 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 I 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.

Schedule

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.

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 readmitted 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.

Annex

Forms

[Editorial note: The forms have not been reproduced.]

Schedule II

The Protocol was taken note of with approval by the Economic and Social Council in resolution 1186 (XLI) of 18 November 1966 and was taken note of by the General Assembly in resolution 2198 (XXI) of 16 December 1966. In the same resolution the General Assembly requested the Secretary-General to transmit the text of the Protocol to the States mentioned in article 5 thereof, with a view to enabling them to accede to the Protocol.

ENTRY INTO FORCE: 4 October 1967, in accordance with article 8

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 1 – General provisions

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 “... as 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 I B (I) (a) of the Convention, shall, unless extended under article I B (2) thereof, apply also under the present Protocol.

Article 2 – Co-operation of the National Authorities

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 3 – 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 4 – 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 5 – 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 6 – 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 1, 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 1, 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 1, 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 8 – Entry into protocol

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 9 – 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 10 – 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 11 – 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 5 above.

Schedule III

Convention Governing the Specific Aspects of Refugee Problems in Africa

Preamble

We, the Heads of State and Government assembled in the city of Addis Ababa, from 6-10 September 1969,

1. Noting with concern the constantly increasing numbers of refugees in Africa and desirous of finding ways and means of alleviating their misery and suffering as well as providing them with a better life and future,
2. Recognizing the need for and essentially humanitarian approach towards solving the problems of refugees,
3. Aware, however, that refugee problems are a source of friction among many Member States, and desirous of eliminating the source of such discord,
4. Anxious to make a distinction between a refugee who seeks a peaceful and normal life and a person fleeing his country for the sole purpose of fomenting subversion from outside,
5. Determined that the activities of such subversive elements should be discouraged, in accordance with the Declaration on the Problem of Subversion and Resolution on the Problem of Refugees adopted at Accra in 1965,
6. Bearing in mind that the Charter of the United Nations and the Universal Declaration of Human Rights have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,
7. Recalling Resolution 2312 (XXII) of 14 December 1967 of the United Nations General Assembly, relating to the Declaration on Territorial Asylum,
8. Convinced that all the problems of our continent must be solved in the spirit of the Charter of the Organization of African Unity and in the African context,
9. Recognizing that the United Nations Convention of 28 July 1951, as modified by the Protocol of 31 January 1967, constitutes the basic and universal instrument relating to the status of refugees and reflects the deep concern of States for refugees and their desire to establish common standards for their treatment,
10. Recalling Resolutions 26 and 104 of the OAU Assemblies of Heads of State and Government, calling upon Member States of the Organization who had not already done so to accede to the United Nations Convention of 1951 and to the Protocol of 1967 relating to the Status of Refugees, and meanwhile to apply their provisions to refugees in Africa,
11. Convinced that the efficiency of the measures recommended by the present Convention to solve the problem of refugees in Africa necessitates close and continuous collaboration between the Organization of African Unity and the Office of the United Nations High Commissioner for Refugees,

Have agreed as follows:

Article 1 – Definition of the term “refugee”

1. For the purposes of this Convention, the term “refugee” shall mean every person who, 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.
2. The term “refugee” shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.
 3. In the case of a person who has several nationalities, the term “a country of which he is a national” 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 which he is a national 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.
 4. This Convention shall cease to apply to any refugee 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 reacquired 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 was recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality, or, (f) he has committed a serious nonpolitical crime outside his country of refuge after his admission to that country as a refugee, or, (g) he has seriously infringed the purposes and objectives of this Convention.
 5. The provisions of this Convention shall not apply to any person with respect to whom the country of asylum has 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 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 Organization of African Unity;
 - (d) he has been guilty of acts contrary to the purposes and principles of the United Nations.
 6. For the purposes of this Convention, the Contracting State of Asylum shall determine whether an applicant is a refugee.

Article 2 – Asylum

1. Member States of the OAU shall use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality.
2. The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.
3. No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article 1, paragraphs 1 and 2.
4. Where a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the OAU, and such other Member States shall in the spirit of African solidarity and international cooperation take appropriate measures to lighten the burden of the Member State granting asylum.
5. Where a refugee has not received the right to reside in any country of asylum, he may be granted temporary residence in any country of asylum in which he first presented himself as a refugee pending arrangement for his resettlement in accordance with the preceding paragraph.

6. For reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin.

Article 3 – Prohibition of subversive activities

1. Every refugee has duties to the country in which he finds himself, which require in particular that he conforms with its laws and regulations as well as with measures taken for the maintenance of public order. He shall also abstain from any subversive activities against any Member State of the OAU.
2. Signatory States undertake to prohibit refugees residing in their respective territories from attacking any State Member of the OAU, by any activity likely to cause tension between Member States, and in particular by use of arms, through the press, or by radio.

Article 4 – Non-discrimination

Member States undertake to apply the provisions of this Convention to all refugees without discrimination as to race, religion, nationality, membership of a particular social group or political opinions.

Article 5 – Voluntary repatriation

1. The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will.
2. The country of asylum, in collaboration with the country of origin, shall make adequate arrangements for the safe return of refugees who request repatriation.
3. The country of origin, on receiving back refugees, shall facilitate their resettlement and grant them the full rights and privileges of nationals of the country, and subject them to the same obligations.
4. Refugees who voluntarily return to their country shall in no way be penalized for having left it for any of the reasons giving rise to refugee situations. Whenever necessary, an appeal shall be made through national information media and through the Administrative Secretary-General of the OAU, inviting refugees to return home and giving assurance that the new circumstances prevailing in their country of origin will enable them to return without risk and to take up a normal and peaceful life without fear of being disturbed or punished, and that the text of such appeal should be given to refugees and clearly explained to them by their country of asylum.
5. Refugees who freely decide to return to their homeland, as a result of such assurances or on their own initiative, shall be given every possible assistance by the country of asylum, the country of origin, voluntary agencies and international and intergovernmental organizations, to facilitate their return.

Article 6 – Travel documents

1. Subject to Article III, Member States shall issue to refugees lawfully staying in their territories travel documents in accordance with the United Nations Convention relating to the Status of Refugees and the Schedule and Annex thereto, for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require. Member States may issue such a travel document to any other refugee in their territory.
2. Where an African country of second asylum accepts a refugee from a country of first asylum, the country of first asylum may be dispensed from issuing a document with a return clause.
3. Travel documents issued to refugees under previous international agreements by States Parties thereto shall be recognized and treated by Member States in the same way as if they had been issued to refugees pursuant to this Article.

Article 7 – Co-operation of the national authorities with the Organization of African Unity

In order to enable the Administrative Secretary-General of the Organization of African Unity to make reports to the competent organs of the Organization of African Unity, Member States undertake to provide the Secretariat 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 8 – Cooperation with the Office of the United Nations High Commissioner for Refugees

1. Member States shall co-operate with the Office of the United Nations High Commissioner for Refugees.
2. The present Convention shall be the effective regional complement in Africa of the 1951 United Nations Convention on the Status of Refugees.

Article 9 – Settlement of disputes

Any dispute between States signatories to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the Commission for Mediation, Conciliation and Arbitration of the Organization of African Unity, at the request of any one of the Parties to the dispute.

Article 10 – Signature and ratification

1. This Convention is open for signature and accession by all Member States of the Organization of African Unity and shall be ratified by signatory States in accordance with their respective constitutional processes. The instruments of ratification shall be deposited with the Administrative Secretary-General of the Organization of African Unity.
2. The original instrument, done if possible in African languages, and in English and French, all texts being equally authentic, shall be deposited with the Administrative Secretary-General of the Organization of African Unity.
3. Any independent African State, Member of the Organization of African Unity, may at any time notify the Administrative Secretary-General of the Organization of African Unity of its accession to this Convention.

Article 11 – Entry into force

This Convention shall come into force upon deposit of instruments of ratification by one third of the Member States of the Organization of African Unity.

Article 12 – Amendment

This Convention may be amended or revised if any member State makes a written request to the Administrative Secretary-General to that effect, provided however that the proposed amendment shall not be submitted to the Assembly of Heads of State and Government for consideration until all Member States have been duly notified of it and a period of one year has elapsed. Such an amendment shall not be effective unless approved by at least two thirds of the Member States Parties to the present Convention.

Article 13 – Denunciation

1. Any Member State Party to this Convention may denounce its provisions by a written notification to the Administrative Secretary-General.
2. At the end of one year from the date of such notification, if not withdrawn, the Convention shall cease to apply with respect to the denouncing State.

Article 14

Upon entry into force of this Convention, the Administrative Secretary-General of the OAU shall register it with the Secretary-General of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

Article 15 – Notifications by the Administrative Secretary-General of the Organization of African Unity

The Administrative Secretary-General of the Organization of African Unity shall inform all Members of the Organization: (a) of signatures, ratifications and accessions in accordance with Article X; (b) of entry into force, in accordance with Article XI; (c) of requests for amendments submitted under the terms of Article XII; (d) of denunciations, in accordance with Article XIII.

IN WITNESS WHEREOF WE, the Heads of African State and Government, have signed this Convention.

DONE in the City of Addis Ababa this 10th day of September 1969.