

Southern African Development Community, African Regional Bodies

## Declaration on Refugee Protection by the South African Development Community

Legislation as at 1 January 1998

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Southern African Development Community

## **Declaration on Refugee Protection by the South African Development Community**

Published

**Not commenced**

*[This is the version of this document at 1 January 1998.]*

WE, the Heads of State or Government of:

The Republic of Angola

The Republic of Botswana

The Democratic Republic of Congo

The Kingdom of Lesotho

The Republic of Malawi

The Republic of Mauritius

The Republic of Mozambique

The Republic of Namibia

The Republic of Seychelles

The Republic of South Africa

The Kingdom of Swaziland

The United Republic of Tanzania

The Republic of Zambia

The Republic of Zimbabwe

### **A. RECALLING THAT**

- (i) Member States, at Windhoek, Namibia on 17 August 1992, committed themselves to establishing the Southern African Development Community (SADC) on the foundations laid down by the Southern African Development Co-ordination Conference (SADCC), as a vehicle for the attainment of the cherished ideals of economic well-being, the improvement of the standards and quality of life, freedom, social justice, peace and security for the peoples of Southern Africa, as well as a vehicle for development and integration of the Region;
- (ii) A Memorandum of Understanding between SADC and UNHCR was concluded on 25th July 1996 which enjoins the parties to co-operate in the area of refugees, forced population movements into and within the Region;

### **B. NOTING THAT**

- (i) For many years, SADC countries have hosted large numbers of refugees both from within and outside the Region, fleeing the effects of the policy of apartheid as well as external aggression, occupation, foreign domination and other events seriously disturbing public order in the countries of origin;

*Not commenced*

- (ii) While the resolution of long-standing conflicts in the Region and ongoing consolidation of Peace, national reconciliation and democratic governance, Declaration on Refugee Protection conditions have been and continue to be created for the return to their homes of large numbers of refugees, the Region continues to receive influxes of people in search of safety and security from within and into the Region;
- (iii) Refugees and internally displaced persons are symptoms of crisis which afflict many societies, in particular conflicts and civil strife, economic and social imbalances, ethnic and other forms of intolerance, lack of respect for human rights and good governance;

**C. CONCERNED ABOUT**

- (i) The security, social and economic burdens which the refugee phenomena has brought on the SADC countries that have generously provided and continue to provide asylum;
- (ii) The new problems facing SADC states such as the question of (urban refugees) and xenophobia linked thereto, irregular movement of asylum seekers and refugees, return of unsuccessful asylum seekers and the special plight of refugee children and women;

**D. BEARING IN MIND THAT**

- (i) The right to seek asylum and to enjoy it is a right enshrined in Article 14 of the Universal Declaration of Human Rights;
- (ii) Every individual, when persecuted, has the right to seek and obtain asylum in other countries under Article 12(3) of the African Charter of Human and Peoples Rights;

**E. FIRMLY BELIEVING THAT**

- (i) In addressing the needs of refugees and the challenges of refugee protection regard must be given to the African values and hospitality, human rights and relevant humanitarian principles of refugees protection enshrined in the 1951 Convention and its 1967 Protocol relating to the Status of Refugees as well as the 1969 OAU Convention Governing the Specific Aspects of Refugees problems in Africa;
- (ii) The 1969 OAU Convention governing the specific aspects of refugee problems in Africa has continuing validity as the regional foundation for providing protection and finding solutions for refugees in Africa;

**F. CONVINCED THAT**

- (i) The challenges of refugee protection can be more effectively addressed through Regional and international co-operation;
- (ii) Member States of SADC will benefit by harmonising and co-ordinating their refugee policies, laws and procedures;

**G. RECALLING IN THIS REGARD**

The General Assembly Resolution A/RES/50/118 of 16th February 1996 and other resolutions affirmed therein requesting the Secretary-General to promote co-operation between the organs, organisations and bodies of the United Nations System and the Southern African Development Community;

**H. EXPRESSING GRATITUDE**

To members of the international community, in particular the office of the United Nations High Commissioner for Refugees, for the assistance they continue to offer to refugees in the SADC Region;

**WE THEREFORE**

1

For purposes of being considered for assistance in urban area, an urban refugee/asylum-seeker is a person of urban background in the Country of origin and who is neither an irregular mover nor part of a prima-facie caseload, and, if of rural background, for whom in the country of asylum the option of rural settlement which offers an opportunity for self-sufficiency does not exist.

***Not commenced***

1. Reaffirm our commitment to the principles enshrined in the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa; the 1951 Convention Relating to the Status of refugees as amended by the 1967 Protocol thereto and, undertake to respect, and to give full effect at national level, the principles enshrined therein including the principle of non-refoulement and to observe international standards for refugee protection, being well aware of the humanitarian character of asylum.
2. Commit ourselves to address the root causes of refugee movement and internal displacement within SADC through *inter-alia* the establishment of a firm foundation for democratic institutions and good governance.
3. Seek to avert refugee flows from countries neighbouring the SADC Region through preventive diplomacy, facilitation of resolution of conflicts and reducing tensions, especially where these have potential to creating displacements of people and the flow of refugees in co-operation with the United Nations and OAU.
4. Call upon the international community, the United Nations, the UNHCR in particular, and other relevant organisations to support and assist host Governments in fulfilling their responsibilities towards refugees in a manner consistent with the principles of International refugee law on the one hand, taking into account legitimate national security, social and economic interests;
5. Undertake to put in place modalities to determine refugee status of persons seeking asylum in a fair and efficient manner, and to ensure that those who do not need or deserve international protection do not abuse the humanitarian institution of asylum;
6. Appeal to the international community and co-operating partners to assist in ensuring that the social and economic structures, community services, and the environment of host countries or communities are not unduly stretched as a result of having to host refugees;
7. Undertake to respond effectively to situations which may contribute to deterioration in security, law and order in the refugee-hosting areas through, *inter alia*, isolating and disarming individuals or groups among the refugee populations who may be armed and threatening the lives of innocent refugees, local citizens, and humanitarian personnel, or engaging in other criminal acts;
8. Further undertake to trace and impound for safe custody or destruction, dangerous weapons circulating or hidden, particularly in refugee-hosting areas;
9. Undertake to adopt measures, individually and collectively, to address the issues of xenophobia towards refugees, irregular movement, return of unsuccessful asylum seekers and (burden sharing) through, among other means, harmonisation of procedures and criteria for the protection and provision of material and social support to refugees within our individual countries;
10. Encourage voluntary repatriation of refugees to their countries of origin whenever feasible, as the best solution to the problem of refugees, in keeping with the 1969 OAU Convention, which calls upon Governments of asylum and Governments of origin to create conducive conditions for the return home of refugees in safety and dignity;
11. Call upon the international community to provide assistance for the rehabilitation and reconstruction of the social and economic infrastructures, including clearance of mines and other munitions, in the areas of return so that conditions for successful repatriation are created;
12. Call upon the Member States, in collaboration with the United Nations High Commissioner for Refugees, to provide durable solutions for those refugees for whom voluntary repatriation is not possible through local integration and resettlement;
13. Call upon members of the international community, and UNHCR in particular, to provide technical support to the governments in the SADC Region, including in capacity building and capacity sustaining.