



**UNHCR Note on the Impact of
Security Council Resolution 1624 (2005) on the Application of Exclusion Under
Article 1F of the 1951 Convention relating to the Status of Refugees**

1. UNSC Resolution 1624 (2005) of 14 September 2005¹ contains several clauses which make reference to exclusion from international refugee protection. In particular, it is stated that the protections afforded by the 1951 Convention relating to the Status Of Refugees and its 1967 Protocol shall not extend to any person with respect to whom there are serious reasons for considering that he has been guilty of acts contrary to the purposes and principles of the United Nations (PP 7) and that acts, methods and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations (PP 8). Moreover, States are called upon to adopt such measures as may be necessary and appropriate to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of a terrorist act or acts (OP 1(c)).

2. The combination of these provisions and the terminology used may indeed give rise to a risk that Resolution 1624 may be interpreted as permitting the exclusion from international refugee protection, on the basis of Article 1F(c) of the 1951 Convention, of any person found to have committed acts considered to be terrorist by the country concerned, without limitations as to the nature and seriousness of the acts.

3. We would note, however, that the provisions related to exclusion should be read in light of those clauses of Resolution 1624 which expressly refer to States' obligations under international law. The references to international refugee law, in particular, are much more specific than in earlier Security Council resolutions dealing with the subject of terrorism. Of particular note is the explicit mention, for the first time, of the right to seek and enjoy asylum as reflected in Article 14 of the Universal Declaration of Human Rights and the *non-refoulement* obligation of States under the 1951 Convention and the 1967 Protocol in PP 7.

4. In addition, both in the preamble and in the operative part of Resolution 1624, the Security Council stresses that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law and be adopted and carried out in accordance with international law, in particular international human rights law, refugee law and humanitarian law (see PP 2 and OP 4). Moreover, by mentioning the need for "credible and relevant information giving reasons for considering" that a person has been guilty of acts which give rise to a denial of safe haven (OP 1(c)), Resolution 1624 confirms that exclusion from international refugee protection requires an individual

¹ The text of this resolution is reproduced in Annex I.

assessment and a determination on the basis of reliable information that there are serious reasons for considering that the person concerned incurred individual responsibility for such acts. It is essential that procedures which may lead to the applicability of an exclusion clause offer adequate safeguards, including, in particular, the opportunity for the individual concerned to consider and comment on the evidence on which a decision to exclude may be based, availability of legal assistance, the right to appeal an exclusion decision to an independent body, and protection against removal of the individual concerned until exhaustion of all legal remedies against a decision to exclude (see UNHCR, *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, issued on 4 September 2003, at paragraphs 50–75, 98–100 and 107–111).

5. With regard to some more specific issues of concern, UNHCR would note the following.

6. While Resolution 1624 refers to “acts of terrorism” rather than “acts of international terrorism”, this is not the first time the term “international” has been omitted from UNSC resolutions (see, for example, Resolutions 1456 (2003) of 20 January 2003; 1535 (2004) of 26 March 2004; or 1566 (2004) of 8 October 2004). In UNSC Resolution 1373 (2001) of 28 September 2001, for example, the preamble states that acts of “international terrorism” constitute a threat to international peace and security, while the clauses related to asylum in OP 3(f) and (g) refer to “terrorist acts”. Similarly, General Assembly resolutions dealing with the subject have used both terms (e.g., GA Resolutions 49/60 of 9 December 1994; 51/210 of 17 December 1996; or, more recently, 59/46 of 2 December 2004).

7. It should be noted that the absence of the qualifier “international” does not as such broaden the scope of the kinds of conduct which may give rise to exclusion from international refugee protection under Article 1F of the 1951 Convention. Given that there is still no universally accepted definition of “terrorism”, the term act of “terrorism”, or even “international terrorism”, as such does not sufficiently determine the types of crimes which would fall within the scope of Article 1F of the 1951 Convention. The focus should therefore continue to be on the nature and impact of the acts themselves.

8. In many cases, the acts in question will meet the criteria for exclusion as “serious non-political crimes” within the meaning of Article 1F(b). In others, such acts may come within the scope of Article 1F(a), for example as crimes against humanity, while those crimes whose gravity and international impact is such that they are capable of affecting international peace, security and peaceful relations between States would be covered by Article 1F(c) of the 1951 Convention. Thus, the kinds of conduct listed in PP 8 of Resolution 1624 – i.e. “acts, methods and practices of terrorism” and “knowingly financing, planning and inciting terrorist acts” – qualify for exclusion under Article 1F(c), if distinguished by these larger characteristics.

9. PP 7 and OP 1(c) of Resolution 1624 are formulated in terms that replicate the wording of Article 1F(c) of the 1951 Convention. However, exclusion from international refugee protection on account of acts considered to be of a terrorist nature is not exhaustively governed by this exclusion clause, not least because of the continued absence

of a universally agreed definition. As noted above, crimes which may not have the characteristics required to have an impact on the international plane may well fall within of Article 1F(a) or, particularly, Article 1F(b). More detailed guidance on the scope of the exclusion clauses of Article 1F and, in particular, their applicability to acts considered to be of a terrorist nature, can be found at paragraphs 23–49 and 79–83 of UNHCR’s *Background Note on Exclusion*.

Department of International Protection
Protection Policy and Legal Advice Section
9 December 2005

ANNEX I

Resolution 1624 (2005)

Adopted by the Security Council at its 5261st meeting, on 14 September 2005

The Security Council,

Reaffirming its resolutions 1267 (1999) of 15 October 1999, 1373 (2001) of 28 September 2001, 1535 (2004) of 26 March 2004, 1540 (2004) of 28 April 2004, 1566 (2004) of 8 October 2004, and 1617 (2005) of 29 July 2005, the declaration annexed to its resolution 1456 (2003) of 20 January 2003, as well as its other resolutions concerning threats to international peace and security caused by acts of terrorism,

Reaffirming also the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations, and also *stressing* that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights law, refugee law, and humanitarian law,

Condemning in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and security, and *reaffirming* the primary responsibility of the Security Council for the maintenance of international peace and security under the Charter of the United Nations,

Condemning also in the strongest terms the incitement of terrorist acts and *repudiating* attempts at the justification or glorification (*apologie*) of terrorist acts that may incite further terrorist acts,

Deeply concerned that incitement of terrorist acts motivated by extremism and intolerance poses a serious and growing danger to the enjoyment of human rights, threatens the social and economic development of all States, undermines global stability and prosperity, and must be addressed urgently and proactively by the United Nations and all States, and *emphasizing* the need to take all necessary and appropriate measures in accordance with international law at the national and international level to protect the right to life,

Recalling the right to freedom of expression reflected in Article 19 of the Universal Declaration of Human Rights adopted by the General Assembly in 1948 (“the Universal Declaration”), and recalling also the right to freedom of expression in Article 19 of the International Covenant on Civil and Political Rights adopted by the General Assembly in 1966 (“ICCPR”) and that any restrictions thereon shall only be such as are provided by law and are necessary on the grounds set out in paragraph 3 of Article 19 of the ICCPR,

Recalling in addition the right to seek and enjoy asylum reflected in Article 14 of the Universal Declaration and the non-refoulement obligation of States under the Convention relating to the Status of Refugees adopted on 28 July 1951, together with its Protocol adopted on 31 January 1967 (“the Refugees Convention and its Protocol”), and also *recalling* that the protections afforded by the

Refugees Convention and its Protocol shall not extend to any person with respect to whom there are serious reasons for considering that he has been guilty of acts contrary to the purposes and principles of the United Nations,

Reaffirming that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations,

Deeply concerned by the increasing number of victims, especially among civilians of diverse nationalities and beliefs, caused by terrorism motivated by intolerance or extremism in various regions of the world, *reaffirming* its profound solidarity with the victims of terrorism and their families, and *stressing* the importance of assisting victims of terrorism and providing them and their families with support to cope with their loss and grief,

Recognizing the essential role of the United Nations in the global effort to combat terrorism and *welcoming* the Secretary-General's identification of elements of a counter-terrorism strategy to be considered and developed by the General Assembly without delay with a view to adopting and implementing a strategy to promote comprehensive, coordinated and consistent responses at the national, regional and international level to counter terrorism,

Stressing its call upon all States to become party, as a matter of urgency, to the international counter-terrorism Conventions and Protocols whether or not they are party to regional Conventions on the matter, and to give priority consideration to signing the International Convention for the Suppression of Nuclear Terrorism adopted by the General Assembly on 13 April 2005,

Re-emphasizing that continuing international efforts to enhance dialogue and broaden understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures, and addressing unresolved regional conflicts and the full range of global issues, including development issues, will contribute to strengthening the international fight against terrorism,

Stressing the importance of the role of the media, civil and religious society, the business community and educational institutions in those efforts to enhance dialogue and broaden understanding, and in promoting tolerance and coexistence, and in fostering an environment which is not conducive to incitement of terrorism,

Recognizing the importance that, in an increasingly globalized world, States act cooperatively to prevent terrorists from exploiting sophisticated technology, communications and resources to incite support for criminal acts,

Recalling that all States must cooperate fully in the fight against terrorism, in accordance with their obligations under international law, in order to find, deny safe haven and bring to justice, on the basis of the principle of extradite or prosecute, any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens,

1. *Calls upon* all States to adopt such measures as may be necessary and appropriate and in accordance with their obligations under international law to:

(a) Prohibit by law incitement to commit a terrorist act or acts;

(b) Prevent such conduct;

(c) Deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct;

2. *Calls upon* all States to cooperate, inter alia, to strengthen the security of their international borders, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures with a view to preventing those guilty of the conduct in paragraph 1 (a) from entering their territory;

3. *Calls upon* all States to continue international efforts to enhance dialogue and broaden understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures, and to take all measures as may be necessary and appropriate and in accordance with their obligations under international law to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent the subversion of educational, cultural, and religious institutions by terrorists and their supporters;

4. *Stresses* that States must ensure that any measures taken to implement paragraphs 1, 2 and 3 of this resolution comply with all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law;

5. *Calls upon* all States to report to the Counter-Terrorism Committee, as part of their ongoing dialogue, on the steps they have taken to implement this resolution;

6. *Directs* the Counter-Terrorism Committee to:

(a) Include in its dialogue with Member States their efforts to implement this resolution;

(b) Work with Member States to help build capacity, including through spreading best legal practice and promoting exchange of information in this regard;

(c) Report back to the Council in twelve months on the implementation of this resolution.

7. *Decides* to remain actively seized of the matter.