

**DEVELOPMENT CO-OPERATION DIRECTORATE
DEVELOPMENT ASSISTANCE COMMITTEE**

CLARIFICATIONS TO THE STATISTICAL REPORTING DIRECTIVES ON IN-DONOR REFUGEE COSTS

These clarifications to the Reporting Directives on in-donor refugee costs have been adopted by the DAC at its High Level Meeting on 31 October 2017 (ad referendum for one member until 27 November 2017). In comparison with the version DCD/DAC(2017)35/REV1, the HLM agreed to revise the last sentence of paragraph 9.

The clarifications become effective immediately. Members are encouraged to start applying them to their calculations for reporting on 2017 ODA (2019 ODA at the latest).

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PROPOSALS FOR CLARIFYING THE REPORTING DIRECTIVES ON IN-DONOR REFUGEE COSTS

1. The DAC Temporary Working Group (TWG) on Refugees and Migration was established following a DAC High Level Meeting in February 2016.
2. The TWG was tasked with developing proposals for the clarification of the Statistical Reporting Directives with the aim of improving “the consistency, comparability, and transparency of members’ reporting of ODA-eligible in-donor refugee costs, by aligning their respective methods for calculating these costs”¹.
3. In October 2016, the Secretariat of the TWG circulated a survey questionnaire which sought to collect information on members’ rationales for including in-donor refugee costs in ODA, the categories included in reporting, the types of assistance provided and methodologies for calculating the costs. The Secretariat received responses from 26 countries (24 DAC members and 2 non-DAC members).
4. At its meeting on 19 December 2016, members of the TWG were invited to consider (i) a preliminary summary of the follow-up survey on members’ methodologies for calculating in-donor refugee costs and (ii) orientations for a proposal to clarify the Reporting Directives.² Members made comments at the meeting and the Secretariat received written comments from 7 countries after the meeting, which were integrated into draft proposals for clarifying the Reporting Directives on in-donor refugee costs.
5. At its meeting on 10 March 2017, the TWG was invited to consider draft proposals for clarifying the Reporting Directives on in-donor refugee costs. Members made comments at the meeting³ and 17 countries sent comments in writing.
6. The Secretariat adjusted the proposed five clarifications taking into account these comments, and identified ways for possible further alignment in future [see DCD/DAC/TWGMR(2017)2]. Fifteen members of the TWG provided feedback in writing on the updated proposals, which were also discussed at the 5th TWG meeting on 15 May 2017⁴. A revised version was issued [see DCD/DAC/TWGMR(2017)2/REV1] to reflect the discussion at this meeting. The Working Party on Development Finance Statistics (WP-STAT) discussed follow-up work on the reporting methodology at its meeting on 20-21 June 2017 and an update of the TWG work was also provided during a working lunch at the DAC Senior Level Meeting on 14 June 2017, allowing for an intermediary exchange of views between members on some elements of the proposal. A revised proposal, DCD/DAC/TWGMR(2017)2/REV2, adjusted on the basis of these discussions, was circulated to DAC members on 30 June and presented to the DAC on 10 July 2017; the adjustments touched upon the treatment of rejected asylum seekers (clarifications 2 and 5 and paragraph 24).

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1. Mandate from the February 2016 DAC High Level Meeting.
 2. For a summary of discussions see [DCD/DAC/TWGMR/M\(2016\)2](#).
 3. For a summary of discussions see [DCD/DAC/TWGMR/M\(2017\)1](#).
 4. For a summary of discussions see [DCD/DAC/TWGMR/M\(2017\)2](#).

7. At the July DAC meeting, all members noted their appreciation for the work of the Secretariat and the Co-Chairs (EU and Japan) and underlined the great progress achieved in clarifying the existing directives with the current proposal. However, members were unable to reach a consensus on a final draft. The most commonly raised concern related to the inclusion or exclusion of rejected asylum-seekers as well as the caveat that members reporting costs incurred for rejected asylum-seekers would report these costs separately. It was agreed that additional inputs on the proposal would be shared by members by 14 July. The Secretariat received comments from 13 members.

8. The Secretariat and DAC Chair continued consensus-building in the lead up to the DAC meeting on 29 September and in preparation for the High Level Meeting in October 2017. Based on comments received and discussions held, a revised version was issued on 2 October including adjustments to clarifications and complements to the explanatory notes [see DCD/DAC(2017)35]. Members discussed this proposal during the informal meeting of the DAC on 9 October. As agreed at this meeting, a revised version was issued [see DCD/DAC(2017)35/REV1] to include language that ensures transparency in our reporting (in Clarification 5). This final version of the clarifications to the Reporting Directives on in-donor refugee costs has been adopted by the DAC at its High Level Meeting on 31 October 2017 (ad referendum for one member until 27 November 2017). In comparison with the version DCD/DAC(2017)35/REV1, the HLM agreed to revise the last sentence of paragraph 9.

9. The Secretariat has made efforts to integrate members' comments in a pragmatic and inclusive manner, recognising that it is not possible to reflect the specificity of each member's experiences and practices within the body of these clarifications. Additional information is therefore provided in the Explanatory Notes. The current Reporting Directives are reproduced in the Box below. The clarifications will become effective upon their endorsement by the High Level Meeting scheduled on 30-31 October 2017. Members are encouraged to start applying them to their calculations for reporting on 2017 ODA (2019 ODA at the latest).

Box. Text in current Reporting Directives, DCD/DAC(2016)3/FINAL

II.6 Refugees

Paragraph 92. A refugee is a person who is outside his/her home country because of a well-founded fear of persecution on account of his race, religion, nationality, social group or political opinion. Assistance to persons who have fled from their homes because of civil war or severe unrest may also be counted under this item.

Paragraph 93. Official sector expenditures for the sustenance of refugees in donor countries can be counted as ODA during the first twelve months of their stay³¹. This includes payments for refugees' transport to the host country and temporary sustenance (food, shelter and training); these expenditures should not be allocated geographically. However, this item also includes expenditures for voluntary resettlement of refugees in a developing country; these are allocated geographically according to the country of resettlement. Expenditures on deportation or other forcible measures to repatriate refugees should not be counted as ODA. Amounts spent to promote the integration of refugees into the economy of the donor country, or resettle them elsewhere than in a developing country, are also excluded.

31. Contributions by one donor to another donor to cover such expenditures should be recorded as ODA by the contributing country. The receiving country should reduce the expenditure reported under this item by the same amount.

PROPOSED CLARIFICATIONS

Clarification 1. Rationale for counting in-donor refugee costs as ODA

Refugee protection is a legal obligation for OECD member states, all of whom are States party to the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol. Assistance to refugees may be considered as humanitarian in nature and is provided with the aim of ensuring the dignity and human rights of beneficiary populations. Assistance to provide reception/protection to refugees originating from ODA-eligible countries, in the donor country (temporary sustenance for up to 12 months) is included in ODA to reflect the financial effort of hosting refugees and the sharing of responsibility with developing countries that host the vast majority of the world's refugees.

Clarification 2. Meaning of the term "refugees"

The term "refugees" covers asylum-seekers (or asylum applicants) and refugees with recognised status (including "quota" refugees or refugees under a resettlement programme).

For the purposes of calculating in-donor refugee costs in ODA, an asylum-seeker can be considered to fit within the definition of a refugee during the period while he/she is awaiting a decision on status until it is determined that he/she does not fulfil the refugee criteria, that is, the asylum claim is rejected.

For asylum-seekers who are ultimately rejected:

- costs incurred after the final rejection are *not* reportable as ODA, as the individual no longer fits within the definition of a refugee;
- any costs incurred up to the final rejection of an asylum claim or up to 12 months if the final decision is still pending (whichever comes first) *may* be reported as ODA¹.

People in-transit, irregular and regular migrants who have not declared their intent to seek asylum, are not refugees and related costs are not eligible as ODA.

1. To allow for comparisons of ODA data across the membership, members who exclude these costs may make explicit reference to their exclusion in their reporting data.

The following categories are considered to be covered under the term "refugees" for the purposes of DAC reporting and are not intended to have any legal implications for States party to this reporting exercise:

10. A **"refugee"** is a person who is outside his home country because of a well-founded fear of persecution on account of his race, religion, nationality, membership of a particular social group or political opinion. Under the expanded definition, a refugee may also be a person who is seeking asylum having fled a situation of armed conflict, civil war or events seriously disturbing public order.

11. A **"recognized refugee" or a "beneficiary of international protection"** is a person granted refugee status under the terms of the 1951 Refugee Convention/1967 Protocol or relevant regional or domestic legislation. Some countries support solutions for refugees through organised resettlement programmes (or "quota" refugees). These humanitarian programmes entail the transfer of refugees from developing countries to donor countries with the assistance of UNHCR. Upon arrival, the refugees are entitled to temporary sustenance pending longer-term integration efforts. In the event of a mass influx, which may result in transit or secondary movements, members may also formally recognise new arrivals as refugees on a *prima facie* basis (or as a group) on the basis of readily apparent, objective circumstances in the country of origin, in accordance with relevant national or regional legislation. Individuals recognised on a *prima facie* or **group basis** are also considered eligible for reporting under these Reporting Directives.

12. A person granted **"temporary protection" or "subsidiary protection"** is someone who has sought asylum from a region experiencing civil war or severe unrest and who has been accorded a temporary residence permit or temporary humanitarian permit.

13. An **"asylum-seeker" or "asylum applicant"** is a person who has applied for asylum and is awaiting a decision on status. Considering the declarative nature of refugee status⁵, asylum-seekers or asylum applicants are considered to fit within the definition provided by the Reporting Directives during the period while they are awaiting a decision on status. If individuals have previously been registered in another country by the relevant state authorities or by UNHCR as asylum-seekers/applicants or refugees, or have declared their intent to seek asylum, then they are considered to fall within this definition for the purposes of these Reporting Directives. The specific categories of **unaccompanied minors and separated children (UASC)** seeking asylum and individual applicants for **family reunification** are considered to fit within the definition of a refugee. The latter are considered to fit the definition based on their derivative status i.e. they are assumed to be vulnerable to acts of persecution due to their relation to the refugee.

5. Refugee status is declarative. A person is a refugee within the meaning of the 1951 Convention as soon as he fulfils the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is formally determined. Recognition of his refugee status does not therefore make him a refugee but declares him to be one. He does not become a refugee because of recognition, but is recognized because he is a refugee (Source: Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, Chapter 1, Para. 28, HCR/IP/4/Eng/REV.1 Reedited, Geneva, January 1992, UNHCR 1979).

The recognition of refugee status is a declaratory act (Source: Para. 21, Directive 2011/95/EU of the European Parliament and of the Council on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted).

The following categories are **not** considered to be covered under the term "refugees" for the purposes of DAC reporting:

14. A **“rejected asylum-seeker”** is a person determined not to meet the Refugee Convention definition or extended definition of a refugee once the asylum procedure has been concluded.

15. **“In-transit refugees”** is not an internationally or regionally-recognised legal category.⁶ The term is a popular reference that has been used in various contexts to refer to both regular and irregular migrants, whose movements may be voluntary or forced. Often it is applied to secondary movers who are deemed to be “in-transit” because they travel through multiple countries until they have reached their country of destination, where they may or may not apply for legal status (for example as an economic migrant or a refugee). See also paragraph 11.

Clarification 3. Twelve-month rule

Costs incurred in the donor country for basic assistance to asylum seekers and refugees from developing countries are reportable as ODA up to 12 months. Beyond 12 months, financial contributions are made to individuals considered resident in the country and are excluded from the scope of statistics on international flows.

The 12-month rule applies from the date of the application for asylum, or, alternatively, the date of entry into a country through a resettlement programme, or the date of entry into a country upon the acceptance of an application for family reunification.

6. For example, the *EU Directive on Common Standards and Procedures in Member States for Returning Illegally Staying Third-Country Nationals* (2008/115/EC) make reference to illegal third country nationals.

Clarification 4. Eligibility of specific cost items

Members are reminded that although provisions to refugees are a legal obligation, only some of these provisions can be counted towards ODA based on the Reporting Directives and their Clarifications¹.

Comprehensive list of ODA-eligible expenditures for refugees (as defined in paragraphs 10-13), up to twelve months:

i) All direct expenses for temporary sustenance (food, shelter, and training) prior and post recognition of refugee status. Post-recognition, care should be taken to only include expenses for sustenance that can still be qualified as temporary, and to exclude those of a more permanent nature that promote the integration of refugees into the economy of the donor country.

- **Food** and other essential temporary sustenance provisions such as clothing.
- **Shelter** i.e. temporary accommodation facilities (e.g. reception centres, containers, tent camps). In respect of buildings, only the costs of maintenance and upkeep may be reported as ODA. The cost of renting temporary accommodation facilities is eligible. (All construction costs are excluded, see list of non-eligible items below).
- **Training**
 - Early childhood education, primary and secondary education for children (this includes school costs but excludes vocational training), as part of temporary sustenance.
 - Language training and other *ad-hoc* basic training for refugees e.g. basic life skills for youth and adults (literacy and numeracy training).
- **Other:**
 - Basic health care and psycho-social support for persons with specific needs e.g. unaccompanied minors, persons with disabilities, survivors of violence and torture.
 - Cash “pocket money” to cover subsistence costs.
 - Assistance in the asylum procedure: translation of documents, legal and administrative counselling, interpretation services.

Government subsidies to municipalities for covering the eligible costs listed above may be reported as ODA. Contributions by one donor to another donor to cover the eligible costs listed above should be recorded as ODA by the contributing country. The receiving country should not include this amount in its ODA figure.

ii) Voluntary repatriation of refugees to a developing country during first twelve months.

iii) Transport to the host country in the case of resettlement programmes and transport within the host country.

iv) Rescue of refugees at sea when it is the main purpose of the operation. Only the additional costs² related to the operation may be counted.

v) Administrative costs: Only overhead costs attached to the direct provision of temporary sustenance to refugees are eligible. This includes costs of personnel assigned to provide the above-listed services to refugees, but does not include costs of personnel who are not involved in the direct execution of these services, e.g. management, human resources, information technology.

1. Options for collecting data on in-donor refugee costs beyond ODA will be proposed for discussion at the WP-STAT.

2. For clarification on the concept of additional costs, see paragraph 97 of DCD/DAC(2016)3/FINAL.

Non-ODA eligible costs include:

- Promotion of the integration of refugees into the economy of the donor country: tertiary education, vocational/professional training, skills development, job programmes, wage subsidies, municipalities' costs for integrating and settling refugees (including through government subsidies for covering such costs).
- Construction costs (costs of building accommodation centres for refugees).
- Processing of asylum applications.
- Policing and border patrol at entry points, transit routes or accommodation centres.
- Security screening.
- Costs for border, air and coast guard patrols whose main purpose is the control and protection of borders, when rescue of refugees is not the primary intention of this activity.
- Counter-trafficking operations and costs for detention.
- Costs incurred for asylum-seekers undergoing “short”, “accelerated” or “fast-track” procedures in detention centres, airport holding facilities or any facility in which the right to freedom of movement is denied.
- Voluntary repatriation of refugees to a developing country after first twelve months.
- Costs for return of rejected asylum-seekers.
- Resettlement of refugees to another donor country.
- Forcible measures to repatriate refugees.

Clarification 5. Methodology for assessing costs.

It is recognised that costs included in ODA will generally reflect an estimate, and not real costs attached to individual asylum-seekers or refugees. The approach followed should be conservative, and determined in collaboration with the authorities responsible for ODA programmes (see paragraph 22).

Principles to follow:

- The model used for assessing costs should be shared with the Secretariat for validation.
- Direct costs attributable to ODA-eligible services to refugees are reportable. Members should refrain from using imputations (see paragraph 53).
- Ideally, reporting should be based on costs for individual asylum-seekers or refugees. If domestic monitoring systems do not allow for this, the reporting can be based on a methodology that estimates the ODA-eligible share of annual expenditures. If annual expenditures are used:
 - The calculation period for asylum-seeker/refugee stay is considered starting 1st January and ending at 31st of December.
 - Caution should be exercised to avoid over-estimating the costs e.g. not counting the costs for the same person for 12 months as an asylum-seeker and another 12 months as a refugee granted status.
 - Estimates needed for the calculation (e.g. number of asylum-seekers originating from ODA recipient countries, average time on support) may be based on either past observed data or on well-founded expectations based on recent developments. To proceed with calculating costs related to rejected asylum seekers, their share can be calculated based on:
 - real data (when the procedure on asylum decision takes less than a year, the actual share is known at the time for reporting on ODA) or
 - an estimate based on statistics from previous years (e.g. past 3 years) on refugees intake (when the procedure takes more than a year, the ultimate decision on status is still not known at the time of reporting ODA) or
 - well-founded expectations based on recent development.
 - Members may base their reporting on the first instance rejection, where a final decision on status is anticipated to occur after a 12-month period, and this facilitates the establishment of a conservative estimate.

Estimates need to be updated regularly on an annual basis.

- To encourage consistency and future alignment of members' reporting practices, members will strive to provide disaggregated statistics¹ of expenditures reported as in-donor refugee costs broken down by:
 - Type of expenditures: i) temporary sustenance, ii) voluntary repatriation, iii) transport, iv) rescue at sea and v) overhead costs attached to the direct provision of temporary sustenance . Reported expenditures should conform to the comprehensive list of ODA-eligible expenditures for refugees (as outlined in Clarification 4) up to twelve months.
 - Category of refugees: i) asylum-seekers – ultimately accepted (costs prior to recognition), ii) asylum-seekers – ultimately rejected (costs prior to rejection), and

iii) recognised refugees (costs after recognition or after date of entry into a country through a resettlement programme). Reported expenditures should conform to the meaning of the term "refugee" and eligible costs (as outlined in Clarification 2) up to twelve months.

For transparency purposes, the Secretariat will present these data to the DAC in an annual report which will subsequently be published on the DAC statistics website.

1. The Secretariat will facilitate a peer-learning process under the guidance of the Working Party on Development Finance Statistics (WP-STAT). WP-STAT will also support members to further refine their reporting methodologies so as to facilitate more accurate reporting of actual expenditures and the collection of disaggregated data in order to enhance the quality of DAC analysis. The Secretariat will monitor reporting data on in-donor refugee costs and present its recommendations to members at the end of 2019.

EXPLANATORY NOTES

Clarification 1 | Rationale for counting in-donor refugee costs as ODA

16. At the DAC High Level Meeting in February 2016, participants noted that the refugee crisis had significantly impacted on several members' ODA volumes which, together with poor comparability of members' reporting, may endanger the credibility of ODA. The HLM noted that DAC members had a shared interest in improving the consistency in reporting in-donor refugee costs: the Directives must be interpreted in a consistent way.

17. The current Reporting Directives provide no explicit rationale for counting in-donor refugee costs as ODA which prompted a discussion on this topic at the TWG. Some members urged that the rationale for in-donor refugee costs recognize the imperative of refugee protection and the need to demonstrate responsibility sharing, particularly with developing countries, who host the vast majority of the world's refugees. Some members emphasised the need to acknowledge that refugee protection is an obligation for OECD member states, all of whom are States party to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The Refugee Convention/Protocol include obligations to provide refugees the same treatment as nationals with regard to basic education, public relief and assistance, social security, and access to courts, and as favourable treatment as possible and not less favourable than that accorded to other aliens as regards public housing, among other rights.

18. Many members saw in-donor refugee costs as a form of humanitarian aid. Contributions to specific refugee organisations such as UNHCR are ODA-eligible, and members have commented that support to refugees in developing countries is categorised as humanitarian aid; this in turn suggests that the provision of such support to refugees originating from ODA-eligible countries should be eligible regardless of whether the refugees physically remain in developing countries or seek protection in donor countries. Some members have also suggested presenting the rationale of in-donor refugee costs as directly assisting developing countries experiencing humanitarian crises, or contributing to their economic development and welfare (considering that support for refugees in donor countries temporarily relieves countries in crisis and their neighbours of the presence of some refugees). However, some TWG members requested that the humanitarian aid rationale be nuanced, so as not to broaden eligibility and possibly count, as ODA, support to developing country nationals that do not meet the definition of a refugee but for whom assistance could be considered of a humanitarian nature (such as victims of natural disasters, trafficking, homeless persons etc.).

19. Other TWG members saw in-donor refugee costs more as a contribution to global welfare than a developmental expenditure (donor assistance to incoming refugees is designed to meet their welfare needs, and not to promote the development of their countries of origin), and noted that the majority of costs related to refugees born by members are a result of domestic policies and laws that are separate from members' development co-operation policies, as evidenced by the fact that they come from domestic budgets for social security, employment, education, etc.

20. Several members have stressed that in-donor refugee costs is an exceptional item in ODA reporting, and a conservative approach to reporting on this item is essential to protect limited resources available for ODA, highlighting the need to exercise caution, so as not to inflate ODA and to protect the integrity of the concept. This approach very much reflects multiple discussions on the

inclusion of in-donor refugee costs in ODA in the 1980's⁷, during which time, eligibility of costs was limited to costs incurred in the country of first asylum, temporary sustenance (amounts spent to promote the integration of refugees into the economy of the donor country are excluded) and expenditures during the first year of stay. A number of members have decided not to report on in-donor refugee costs in their ODA.

21. Clarification 1 reflects the outcome of the TWG discussions described above. It presents the rationale for including in-donor refugee costs in ODA as a reflection of the financial effort of hosting refugees and the sharing of responsibility with developing countries; the humanitarian nature of these expenditures is also referenced.

22. The TWG also discussed that it could be legitimate to request, as for all other ODA components, that an explicit link to development co-operation policy be demonstrated⁸. Also, in order to limit the diversion of ODA resources away from developing countries, the authorities responsible for reporting ODA figures could “have their say” on the ODA amount reported for in-donor refugee costs: they should be involved in the determination of the refugee costs included in ODA and be able to respond to questions on the calculation and estimates used. This would help avoid situations where different line ministries (e.g. education, health) determine and “impose” the amounts to impute to the development co-operation budget for the sustenance of refugees.

23. Members agree that given the political dimension of this item, and for the sake of transparency, it should always be presented separately.⁹

Clarification 2 | Meaning of the term “refugees”

24. The definition of “refugee” in the Reporting Directives is derived from international legal normative standards. All members of the DAC are signatories to the 1951 Geneva Convention and their procedures are further governed by regional legislation. The option of reporting expenditures on refugees in donor countries was introduced in DAC statistics in the early 1980s and covered the costs of hosting refugees as defined by the 1951 Geneva Convention. In 2000 [DCD/DAC(2000)10] the definition was expanded in line with the extended refugee definition under UNHCR’s mandate¹⁰ and regional resolutions and treaties¹¹.

7. See [DCD/DAC/STAT\(2005\)13](#).

8. As a parallel, indirect (“imputed”) costs of tuition in donor countries are eligible for inclusion in ODA if the presence of students reflects the implementation of a conscious policy of development co-operation by the host country, that is, if as a minimum these costs are specifically recognised in official budgets, and there is an appropriate degree of involvement by the authorities responsible for ODA programmes in the formulation of policy on the intake and tuition of students, bearing special national factors in mind. See Reporting Directives, paragraph 89.

9. See latest press release on 2016 ODA figures: <http://www.oecd.org/dac/financing-sustainable-development/development-aid-rises-again-in-2016-but-flows-to-poorest-countries-dip.htm>.

10. UNHCR also has the competence to provide international protection to refugees who come within the extended refugee definition under UNHCR’s mandate because they are outside their country of origin or habitual residence and unable or unwilling to return there owing to serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order.

11. Countries in the Americas and Africa experiencing large-scale displacement as the result of armed conflicts found that the 1951 Convention definition did not go far enough in addressing the protection needs of their populations. Consequently, both Article 3 of the Cartagena Declaration and Article 1(2) of the 1969 OAU Convention extend refugee status to an individual who “owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part

25. Members have operationalised the definition of a refugee in different ways in their ODA reporting: some count costs only after a decision on asylum has been made and refugee status has been established while others count costs only for the period while asylum-seekers are awaiting decision on their status and stop counting costs once the asylum-seekers get refugee status or get rejected; yet others count costs for both the period while asylum-seekers are awaiting decision and the period after decision. There is therefore a need to provide clarification on the meaning of the term “refugees” to facilitate the alignment of members’ practices in line with the TWG mandate¹².

26. During TWG discussions on this topic, members' views differed on the eligibility of costs incurred for the temporary sustenance of asylum-seekers who ultimately get rejected. Some see rejected asylum-seekers by definition falling outside the boundaries of the Directives and note that the inclusion of these costs could significantly inflate members’ ODA figures. Others insist on their eligibility as they consider the support provided to asylum-seekers until the decision is reached as humanitarian aid and judge that *ex-post* deduction would not be practicable.

27. Members who do not agree to the reporting of costs for the period prior to the rejection of a claim underscore that a final rejection implies that the individual did not, at any point during his or her claim, fit within the definition of refugee as outlined in the 1951 Geneva Convention or other relevant legislation. This interpretation is not found to contradict the principle of declarative status, which states that a person does not become a refugee because of recognition, but is recognised because he is a refugee. In this regard, Clarification 2 promotes comparison of reporting practices and instructs that members excluding all costs related to rejected asylum-seekers from their ODA will make explicit reference to their exclusion in their statistics. It was also suggested that some costs that might not be eligible for reporting under the current Statistical Reporting Directives could potentially be reported under the new measure of Total Official Support for Sustainable Development (TOSSD), thus ensuring that countries are formally recognised for their efforts to support incoming asylum-seekers. However, some members were cautious about the feasibility of this approach.

28. Members also requested clarification on the term “in-transit refugee”. It was noted that there is no such category as an “in-transit” refugee and information was provided about the distinction between asylum-seekers or refugees who move on from the first country of asylum versus irregular migrants who do not intend to apply for asylum.

29. Some members noted that assistance provided to irregular migrants was humanitarian in nature and should therefore be reported as in-donor costs. It is clarified that the reference to “humanitarian assistance” in the proposed clarifications seeks to provide a rationale for counting in-donor refugee costs as ODA. It does not, however, expand the categories of persons eligible for reporting within the Statistical Reporting Directives. Various forms of humanitarian or social assistance may be provided to a wide range of vulnerable groups in DAC member countries including victims of natural disasters, trafficking, homeless persons and others. Being a recipient of humanitarian assistance does not, however, automatically denote eligibility under the in-donor refugee category.

30. Some members noted that the concept of “declarative status” should be extended to “in-transit refugees”, that is, an assumption should be made that, at some point in the future, irregular

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.” The European Council Resolution on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis of 21 September, 1995, states that Member States should, where possible, continue to give temporary refuge to people whose lives or health are under threat as a result of armed conflict or civil war.

12. See [DCD/DAC\(2016\)23/FINAL](#).

migrants might choose to seek asylum. It is however noted that the concept of “declarative” status does not apply to individuals who have not declared their intent to seek asylum, as there is no immediate presumption of fear of persecution either on an individual or group basis in the absence of an asylum claim. The Reporting Directives make reference to refugees, not to regular or irregular migrants. Noting that the TWG does not have the mandate to introduce new reporting categories, costs incurred for irregular migrants cannot be reported as in-donor refugee costs. However, it is noted that expenditures for individuals who formally express the intent to seek asylum in one donor country but subsequently move on to another donor country can be included in reporting. Individuals recognised on a *prima facie* or group basis are also considered eligible for reporting under the Statistical Reporting Directives.

31. Some members requested further clarification on the inclusion of individual applicants for family reunification as an eligible reporting category. While the 1951 Refugee Convention does not specifically address family reunification and family unity, subsequent developments in international law, including related treaties and agreements, State practice, and *opinio juris*, indicate that individual applicants for family reunification should be considered to fit the definition of a refugee.¹³ UNHCR¹⁴ notes that members of refugees' families may apply for derivative status in accordance with their right to family unity. At its most basic, derivative status means that once one member of the family – “the principal applicant” – is recognised as a refugee, the rest of the accompanying family members may also benefit from the same status.¹⁵

Clarification 3 | Twelve-month rule

32. There are frequent requests to explain the origin of the twelve-month rule and sometimes suggestions that expenditures beyond the twelve-month period should be counted as ODA, given that the protracted nature of current crises responsible for massive migration flows. There is therefore a need to provide a definitive justification to the rule, and explain why it cannot be changed. This is in line with the TWG mandate.

33. A number of members claimed that the 12-month period could be used as a good proxy for determining the boundary between temporary (eligible) and integration (not eligible) costs. Others highlighted that not all assistance provided in the first year is eligible (a significant portion of expenditures for refugees granted status will relate to items contributing to integration and should be excluded), and that assistance may not be required for a full year. The 12-month period therefore cannot be used as the unique parameter to determine eligibility of costs, and clarification 3 should be read in association with clarification 4 on the eligibility of cost items. The fact that some members include costs for a longer period than others does not affect comparability, but simply reflects the reality of their eligible assistance.

13 . The Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons recommends that Member States “take the necessary measures for the protection of the refugee’s family, especially with a view to (...) [E]nsuring that the unity of the refugee’s family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country.” The EU Qualification Directive (2011/95/EU) further states that “family members, merely due to their relation to the refugee, will normally be vulnerable to acts of persecution in such a manner that could be the basis for refugee status”.

14 . See UNHCR’s Procedural Standards for Refugee Status Determination Under UNHCR’s Mandate.

15 . However, persons who are excluded from obtaining refugee status are also excluded from obtaining derivative status. Family members who are nationals of the host country or of another country (other than the principal applicant’s country of origin) are not eligible for derivative status, unless they fulfil the refugee criteria themselves.

34. In situations where a member maintains separate systems through which people apply for asylum and apply for asylum support, the twelve-month period can be considered to commence from the date of start of support, where this allows for reporting real costs for individuals. Support provided after the final rejection of the individual claim is not reportable as ODA

35. The original focus of the Directives [see *DAC/STAT/M(80)2*, paragraph 3] intended that only costs incurred for the first twelve-months of stay *in the country of first asylum* be reported as ODA. It is recognised that current displacement dynamics, which often include secondary displacement and multiple asylum applications, may have implications on reporting for second countries of asylum, which also bear a share of responsibility for newly-arrived individuals. **Members are however urged, as far as possible, to follow a conservative approach, in line with the original intentions of the Reporting Directives.**

Clarification 4 | Eligibility of specific cost items

36. The current rules give indications on the eligibility or non-eligibility of certain expenditures: “Official sector expenditures for the **sustenance** of refugees in donor countries can be counted as ODA [...] This includes payments for **refugees’ transport to the host country and temporary sustenance (food, shelter and training)** [...] this item also includes expenditures for **voluntary resettlement of refugees in a developing country** [...] Expenditures on **deportation or other forcible measures to repatriate refugees** should not be counted as ODA. Amounts spent to **promote the integration of refugees into the economy of the donor country**, or to **resettle them elsewhere than in a developing country**, are also excluded.”

37. Members have different interpretations of what cost items are eligible under the current Directives, including in relation to administrative costs. Apart from essential temporary sustenance provisions such as food, clothing, accommodation, the type of assistance programmes included by members in their ODA differ e.g. professional training and resettling refugees in municipalities, administrative costs and police, interpretation and counselling.

38. There is therefore a need to provide clarification on the meaning of the terminology used in the Directives such as “temporary sustenance (food, shelter and training)” and “amounts spent to promote the integration of refugees in the economy of the donor country” and on the treatment of administrative costs, to facilitate the alignment of members’ practices. This is the purpose of clarification 4 and is in line with the TWG mandate.

39. Members expressed diverging views on several cost items discussed in the framework of the TWG. The Secretariat has adjusted its proposal to take these comments into account, and provides below a rationale for the proposed treatment of different costs.

Treatment of administrative costs

40. Administrative costs are not mentioned in the current specific instructions on in-donor refugee costs (paragraphs 92 and 93 of the Directives). Members’ views differ on whether this means that administrative costs incurred in relation to refugees are not reportable as ODA or whether they are reportable in line with the general rules on administrative costs provided in the Directives (paragraphs 77-82). Given the divergence in views and the specificity of the in-donor refugee costs item which is driven by domestic policies rather than development co-operation policies, the Secretariat recommends a compromise and conservative approach whereby only overhead costs attached to the direct provision of temporary sustenance to refugees are eligible. This includes costs of personnel assigned to provide eligible services to refugees (see list of eligible services in Clarification 4), but does not include costs of personnel (technical staff or other) who are not involved in the direct

execution of these services (e.g. management, human resources, information technology) or the associated infrastructure provided for these personnel.

41. The only provisions that can be counted towards ODA under the Directives refer to expenditures for the temporary sustenance of refugees (food, shelter, training). Costs related to activities which are a function of the management of migratory flows and frontier control, for example the registration and processing of individual applications for asylum, are thus excluded, as they do not constitute temporary sustenance and therefore do not fit within the definition of ODA. Activities linked to the asylum procedure, which provide a direct benefit to the asylum seekers, such as translation of documents, legal and administrative counselling, and interpretation services, can be reported. Construction costs in the donor country are excluded from ODA in any case.

Training

42. With reference to “training”, members are referred to Article 22 of the 1951 Geneva Convention, which states that “Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education (...) 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.” The provision of basic primary education (including early childhood education, primary education, and literacy and numeracy skills) for refugee children is a key component of humanitarian assistance and can therefore be reported as ODA in so far as these items are provided for the purposes of temporary sustenance and can be said to primarily benefit developing countries.

43. Several members insisted on including secondary education (with the exception of vocational training) in the list of ODA-eligible items. This could be construed as a more permissive interpretation of temporary sustenance and should be backed by a strong development narrative. Vocational training is considered to be an activity which promotes the integration of refugees into the domestic economy and is excluded from ODA.

44. Several members currently report on language costs. Members discussed whether language costs could be considered within the parameters of “training” in the context of temporary sustenance, or whether language training constitutes a service that contributes to the integration of refugees. For the purposes of these clarifications, it is understood that costs for basic language skills courses, which are provided with the intent of enhancing the capacity of refugees and asylum-seekers to access services which are necessary for their temporary sustenance e.g. health care and basic education, are included in the list of ODA-eligible items. Costs for language courses which are provided as a component of national integration policies should not be reported.

Rescue at sea

45. Most countries (only a few exceptions) do not report costs of **rescue-at-sea**. Given the numbers of refugees, asylum-seekers and migrants arriving by sea, however, members noted that some further discussion and/or clarification of whether or not these costs qualify for reporting was needed. To determine eligibility of rescue-at-sea, the main purpose of the maritime activity involved needs to be considered. If the main purpose for official vessels to patrol the waters is protecting borders, expenses incurred for rescue-at-sea should not be counted as ODA, as this is only a secondary activity (which is in any case a duty to coastal states). If the main purpose of the patrol is to identify potential needs for rescuing refugees at sea, costs may be counted as ODA.

46. With reference to rescue-at-sea, it is also important to note that Masters have an obligation to render assistance, and Member States have a complementary legal obligation to coordinate and co-operate so that persons rescued at sea are disembarked in a place of safety as soon as possible. This is a longstanding maritime tradition as well as an obligation enshrined in international law based on

two essential texts: the 1974 International Convention for the Safety of Life at Sea and the 1982 United Nations Convention on the Law of the Sea. It is important that members make the distinction between activities undertaken for the purposes of meeting their international legal obligations, and the specific costs incurred for these activities, only some of which may be considered eligible for reporting under the DAC Statistical Reporting Directives.

Voluntary repatriation of refugees

47. Expenditures for voluntary repatriation of asylum-seekers and refugees within the first twelve months are eligible¹⁶; they cover support for making travel arrangements and paying for the return journey to the country of origin. Costs for forced returns are excluded. The following voluntary repatriation costs are **not** eligible: costs for the return of rejected asylum-seekers, in line with Clarification 2 which states that costs incurred after the final rejection are not reportable as ODA¹⁷; costs for returning regular or irregular migrants; costs for voluntary repatriation of refugees after the first twelve months.

48. A few members also questioned the ineligibility of these costs given the potential positive impact on development of these repatriations, and the likelihood that they occur after 12 months of stay in a donor country. However, as previously noted, beyond 12 months, refugees are considered residents and support is no longer “cross border”, even for voluntary repatriation¹⁸. Note that costs incurred in the country of origin for the sustainable reintegration of refugees and migrants returning to their country of origin (allowances/ material assistance provided upon arrival in the country of origin) represent cross-border flows to developing countries and fall outside the scope of in-donor refugee costs.

Transport within the host country

49. The costs of transport within the host country for the purposes of transferring asylum-seekers or refugees from the point of entry to the relevant admissions, processing or reception site or centre may be reported. Transport for coercive purposes is not included.

16. The Directives also note (paragraph 93) that "expenditures for voluntary resettlement of refugees in a developing country" are reportable as in-donor refugee costs. However, it is almost never the case in practice that people are resettled to developing countries [by definition resettlement is to a third country, repatriation or return is to country of origin, see the Glossary of definitions [DCD/DAC/TWGMR\(2016\)5](#)].

17. Where there is decision to reject the asylum claim on the first instance, but a decision on appeal is pending, costs for voluntary repatriation of the individual concerned are reportable as ODA (within the first twelve months).

18. UNHCR defines Voluntary Repatriation in relation to the international human right of return: “Everyone has the right to leave any country, including his own, and to return to his country.” Universal Declaration of Human Rights (1948) established in Article 13 (2). The right of refugee to return to their home country also stands in relation to the principle of non-refoulement (1951 Convention Relating to the status of Refugees Article 33) providing that no one shall expel or return (“refouler”) a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom. The fact that repatriation must be voluntary implies that the subjective fear should have ceased (UNHCR, 1996, Handbook Voluntary Repatriation: International Protection).

Clarification 5 | Methodology for assessing costs

50. The current rules give no indication on the methodology for assessing costs. Members use different methods with complex calculations and several estimates. It is therefore useful to provide clarification on the general principles to follow when calculating the in-donor refugee costs, in order to improve consistency and comparability, in line with the TWG mandate.

51. Members agreed with the transparency principle: they should continue to share with the Secretariat a detailed description of their methods and estimates which should allow the Secretariat or any data user to verify the final figure included in ODA reporting. Actual data points and calculations should be shared on the OECD website (including the number of refugees and the per capita costs). Members have also proposed that the Secretariat should be responsible for validating the treatment of in-donor refugee costs against the Directives.

52. The main cost items (costs incurred in the pre-recognition phase, post-recognition phase, and administrative costs) could also be reported as separate transactions in the CRS. The granularity of reporting on in-donor refugee costs will be the subject of discussions at the WP-STAT.

53. Several members commented on the need to maintain the possibility for assessing costs using imputations. However, making use of imputations implies that refugees benefit from the services available to all citizens, which raises the question of whether these costs have a permanent rather than temporary nature in which case they can be seen to promote integration of refugees and should be excluded from ODA. The clarification therefore recommends members refrain from using imputations. This provision does not, however, intend to exclude costs of a temporary nature provided through national systems, to the extent that the reporting member is able to provide a clearly defined estimate of the number of refugees / asylum-seekers benefiting from a particular service for up to 12 months.

54. Members have highlighted that there is a trade-off between flexibility (to reflect different country contexts) and consistency and comparability of approaches. They mentioned the difficulty in technically mainstreaming this item in ODA and normalising the cost accounting methods across the membership, as national contexts and refugee support systems diverge greatly between donors. The Secretariat has therefore not attempted to develop more detailed instructions for clarification 5 but its role in validating the methods used by members is expected to contribute to further alignment.

55. The WP-STAT will discuss the reporting procedures for in-donor refugee costs, including the granularity in CRS reporting, the method validation process by the Secretariat and several methodological aspects (e.g. the use of imputations). See also footnote 1 in Clarification 5.