



Law Council
OF AUSTRALIA

Australia's Humanitarian Program 2024–25

Department of Home Affairs

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About the Law Council of Australia

The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its Constituent Bodies on federal, national, and international issues; promotes and defends the rule of law; and promotes the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world. The Law Council was established in 1933, and represents its Constituent Bodies: 16 Australian State and Territory law societies and bar associations, and Law Firms Australia. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Law Society of the Australian Capital Territory
- New South Wales Bar Association
- Law Society of New South Wales
- Northern Territory Bar Association
- Law Society Northern Territory
- Bar Association of Queensland
- Queensland Law Society
- South Australian Bar Association
- Law Society of South Australia
- Tasmanian Bar
- Law Society of Tasmania
- The Victorian Bar Incorporated
- Law Institute of Victoria
- Western Australian Bar Association
- Law Society of Western Australia
- Law Firms Australia

Through this representation, the Law Council acts on behalf of more than 104,000 Australian lawyers.

The Law Council is governed by a Board of 23 Directors: one from each of the Constituent Bodies, and six elected Executive members. The Directors meet quarterly to set objectives, policy, and priorities for the Law Council. Between Directors' meetings, responsibility for the policies and governance of the Law Council is exercised by the Executive members, led by the President who normally serves a one-year term. The Board of Directors elects the Executive members.

The members of the Law Council Executive for 2024 are:

- Mr Greg McIntyre SC, President
- Ms Juliana Warner, President-elect
- Ms Tania Wolff, Treasurer
- Ms Elizabeth Carroll, Executive Member
- Ms Elizabeth Shearer, Executive Member
- Mr Lachlan Molesworth, Executive Member

The Chief Executive Officer of the Law Council is Dr James Popple. The Secretariat serves the Law Council nationally and is based in Canberra.

The Law Council's website is www.lawcouncil.au.

Acknowledgements

The Law Council thanks the Migration Law Committee of its Federal Dispute Resolution Section, the Law Institute of Victoria, and the Law Society of New South Wales for their input into this submission.

Executive summary

1. The Law Council thanks the Department of Home Affairs (**Department**) for the opportunity to make a submission in response to its *Discussion Paper—Australia’s Humanitarian Program 2024–25 (Discussion Paper)*.
2. The Law Council welcomes the overall vision set out in the Discussion Paper, and the Australian Government’s commitment to increase humanitarian protection generally, in line with global need. We also welcome the news in the Discussion Paper that the Humanitarian Program was delivered in full for the first time in several years in 2022–23.
3. While the additional funding in the 2024–25 Budget for settlement services (including specific funding allocations for those fleeing the wars in Ukraine and Gaza) is welcome,¹ more is needed to address global need. In the context of overall immigration spending and the proposal in the Discussion Paper to keep the overall size of the Humanitarian Program at 20,000 places, we believe more could be done to address the significant demand arising from current global crises.
4. In 2024–25, to show leadership in refugee resettlement and maintain the generosity of the Humanitarian Program in the face of growing global need, the Law Council recommends that:
 - the (offshore) refugee resettlement portion of the Humanitarian program be increased to keep pace with global resettlement needs;
 - the Humanitarian Program be adequately funded to ensure that all allocated visas are granted, to ensure timely processing, and to assist those who hold valid visas to enter Australia;
 - the Humanitarian Program be sufficiently flexible to adapt to changing global circumstances, including the conflicts in Sudan, Ukraine, and Palestine;
 - additional Humanitarian visa allocations be provided for Sudanese and Palestinian applicants in response to the ongoing humanitarian crisis in both jurisdictions, and to commence the processing of Protection (Subclass 866) Visas already submitted by Palestinian applicants;
 - resettlement figures and the Community Support Program be disaggregated from the general Humanitarian Program so that Australia’s contribution to addressing the global refugee crisis is not obscured;
 - the Skilled Refugee Labour Agreement Pilot be properly established and expanded, and
 - effective processes be introduced to improve the verification of identity documents for applicants remaining in Afghanistan (including those who have been involuntarily returned) and the expedient issuance of ImmiCards for those who do not hold valid passports or other travel documents.
5. In our view, these changes would significantly improve the Humanitarian Program for 2024–25. They would align the program better with global need, as well as with commitments made prior to the 2022 election and the Australian Government’s goal of ‘generous and flexible Humanitarian and Settlement Programs that meet Australia’s international protection obligations. They would also position Australia as a global leader in international resettlement efforts.’²

¹ See [Global Need in 2024-25](#) below for details.

² Discussion Paper, 3.

Background

6. The Law Council appreciates the Australian Government's annual consultations on the Humanitarian Program, and has provided submissions on the program dating back to 2017–18.³ We welcome the news in the Discussion Paper that the 2022–23 program was delivered in full for the first time since 2018–19, with 17,875 humanitarian visas granted.⁴ The Law Council has consistently advocated an increase in the program's size to at least 20,000 per annum consistent with the Report of the Expert Panel on Asylum Seekers published in 2012.⁵
7. The Law Council also welcomes the vision set out in the Discussion Paper, and the Australian Government's commitments at the 2023 Global Refugee Forum,⁶ including:
 - increasing the size of the Humanitarian Program;
 - supporting the establishment and growth of resettlement programs and complementary pathways in other countries;
 - gradually increasing community sponsorship and complementary places to 10,000 per year;
 - implementing the expanded Skilled Refugee Labour Agreement Pilot to deliver 500 primary visas by 2025, and
 - developing a refugee student settlement pathway with higher education and settlement sectors.
8. In our 2023–24 submission, we recommended that the Humanitarian Program should increase in line with global need.⁷ According to UNHCR's *Projected global resettlement needs 2025* report, resettlement needs continue to grow year by year. Approximately 2.9 million refugees are expected to need resettlement in 2025, including 776,500 in the Asia region alone.⁸ This represents an increase of 500,000 since 2024 and 900,000 since 2023.⁹ It also represents a 6 per cent increase in the Asia region on the 2024 projected figures.¹⁰
9. The Discussion Paper acknowledges the increase in 'scope, scale and complexity' of refugee-producing situations around the world, but does not propose any commensurate increase in the size of the Humanitarian Program for 2024–25. As a result, the program is relatively less generous with each passing year. This is also evident in the Refugee Council of Australia's resettlement statistics over time.¹¹

³ Law Council, Australia's Humanitarian Program – [Submission for 2017-18](#); [Submission for 2018-19](#); [Submission for 2021-22](#); [Submission for 2022-23](#); [Submission for 2023-24](#).

⁴ Discussion Paper, 7.

⁵ See eg Law Council, 2023-24 Submission (Attachment, p 1), referring to Air Chief Marshal Angus Houston AC, AFC (Ret'd), Paris Aristotle AM and Professor Michael L'Estrange AO, *Report of the Expert Panel on Asylum Seekers* (August 2012), accessed at <<https://apo.org.au/sites/default/files/resource-files/2012-08/apo-nid30608.pdf>>.

⁶ Discussion Paper, 3-4. See also Refugee Council, *Australian Government makes 23 pledges at 2023 Global Refugee Forum*: <<https://www.refugeecouncil.org.au/australian-government-pledges-at-the-2023-global-refugee-forum>>.

⁷ Law Council, Submission for 2023-24, 2.

⁸ UNHCR, *Projected global resettlement needs 2025*, <<https://www.unhcr.org/media/projected-global-resettlement-needs-2025>>, 5.

⁹ UNHCR, *Projected Global Resettlement Needs 2024*, <<https://reporting.unhcr.org/unhcr-projected-global-resettlement-needs-2024>>, 12.

¹⁰ Law Council, Submission for 2023-24, 2 and UNHCR, *Projected global resettlement needs 2025*, 5.

¹¹ Refugee Council of Australia, *Global Resettlement Statistics*: <<https://www.refugeecouncil.org.au/global-resettlement-statistics/5>>. NB Australia's delivery of the Humanitarian Program in 2023-24 could improve its ranking in the statistics on this page slightly.

10. According to the UNHCR, Australia resettled a total of 4,186 refugees in 2023, compared with 13,458 resettled in Canada and 61,644 resettled in the USA.¹² This is difficult to reconcile with departmental reports that 9,760 refugee category visas were granted in 2022–23, although different reporting periods may go some way to explaining the discrepancy.¹³ The desirability of more transparency in this regard is addressed below.
11. In its 2023 National Platform, the Australian Government indicated that it ‘believes Australia should show global leadership in refugee resettlement, and supports a generous, non-discriminatory Australian humanitarian program’.¹⁴ In addition, the Australian Government committed prior to the 2022 election to work towards increasing the size of the Humanitarian Program to 27,000.¹⁵
12. While Australia’s contribution to global resettlement remains generous compared to that of like-minded nations such as the UK, Germany and France, those nations receive more refugees by other means, and host many more in proportion to their populations.¹⁶

Recommendation

- **The overall size of the Humanitarian Program should increase in line with global need, as reflected in UNHCR statistics.**
- **The Humanitarian Program should be increased to 27,000 places, in line with the Australian Government’s pre-election commitment.**

Global Need in 2024–25

13. The Humanitarian Program should be both transparent and accountable given that the Australian Government works on the Program in collaboration with local communities and local community service and support organisations. In particular, there should be a fair, consistent and transparent approach to the way in which humanitarian intakes during emergencies are considered, whether this is in Ukraine, Afghanistan, Palestine, Myanmar or elsewhere.
14. In 2022–23, Australia’s Humanitarian Program prioritised resettlement from Afghanistan, Iraq and the Democratic Republic of Congo.¹⁷
15. The Law Council welcomes additional funding in the 2024–25 Budget for settlement services and specific funding allocations for those experiencing the wars in Ukraine and Gaza.¹⁸

¹² UNHCR, *Resettlement Data Finder*. <<https://rsq.unhcr.org/en/#DI4H>>.

¹³ DHA, *2022-23 Humanitarian Program Outcomes – Offshore*: <https://www.homeaffairs.gov.au/research-and-stats/files/australias-ohp-2022-23-glance.pdf>.

¹⁴ ALP National Platform 2023, <<https://www.alp.org.au/media/3569/2023-alp-national-platform.pdf>>, 133.

¹⁵ See ALP National Platform 2021: <<https://alp.org.au/media/2594/2021-alp-national-platform-final-endorsed-platform.pdf>>, 123. The commitment is ‘aspirational’ but should not be ignored.

¹⁶ Refugee Council of Australia, *Global Resettlement Statistics* (see Table: How many refugees do countries resettle, compared to their population?).

¹⁷ DHA, *2022-23 Humanitarian Program Outcomes – Offshore*: <https://www.homeaffairs.gov.au/research-and-stats/files/australias-ohp-2022-23-glance.pdf>.

¹⁸ Refugee Council of Australia, *The 2024-25 Federal Budget: What it means for refugees and people seeking humanitarian protection*: <<https://www.refugeecouncil.org.au/the-federal-budget-what-it-means-for-refugees-and-people-seeking-humanitarian-protection>>.

16. However, given that funding for the Humanitarian Program is only a small fraction of that spent on compliance and deterrence measures (including Operation Sovereign Borders and the immigration detention network),¹⁹ and the proposal to keep the overall size of the Humanitarian Program static, Australia could do more to address these emerging refugee-producing situations by expanding the offshore component.

Afghanistan

17. The Law Council continues to support the commitment to allocate 26,500 places for Afghan nationals in the four years to 2025–26.²⁰ Demand, as the Department knows, continues to outstrip supply in this regard, so an increased allocation in this space is appropriate. Furthermore, practitioners would like to see processing of all applications lodged by Afghan nationals prioritised to ensure that timely and sufficient humanitarian support is provided. The Australian Government should allow for an increase in the number of places throughout the year, should it become clear that places have been exhausted earlier than planned.
18. Practitioners have reported concerns regarding refusals of Humanitarian Visas for Afghan nationals, on the basis that there is no capacity to assist pursuant to subclauses 200.222, 201.222, 202.222 and 203.222 of Schedule 2 to the *Migration Regulations 1994* (Cth).²¹ Some such refusals have even been received in respect of applications for which the Department had not even issued an acknowledgment of application.²² We understand that such refusals may be due to the Department not having capacity to verify documents for people remaining in Afghanistan, or due to other practical difficulties with processing offshore applications. This is particularly concerning given that many applicants who remain in Afghanistan are in extremely precarious situations and require immediate humanitarian assistance—especially women, children, and certain ethnic minority groups—and are unable to travel to a third country prior to applying for a humanitarian visa application.
19. Practitioners have also raised concerns about arrangements in place to facilitate the entry into Australia of those who have been granted valid visas, but do not have the identity documents necessary for travel. Applicants have faced difficulty in contacting the Department for arrangements to obtain identity documents for travel, and, in some cases, visa holders have not been issued an ImmiCard to travel to Australia prior to the date they are required to enter Australia. The Department should ensure that effective processes are introduced to improve the verification process for identity documents for applicants remaining in Afghanistan, and the expedient granting of ImmiCards for those who do not hold a valid passport.
20. There are also growing concerns about the situation for Afghan refugees currently residing in Pakistan, given that the Pakistani authorities have commenced forcibly deporting Afghans who are without a valid Pakistani visa.²³ Practitioners have observed significant barriers faced by Australian Humanitarian visa holders seeking to obtain a Humanitarian Safe Passage Permit (**HSPP**) which permits them to leave

¹⁹ Operation Sovereign Borders cost \$37.4m in 2023/24 and immigration detention spending for offshore detention alone was more than \$485m – see: <https://www.apf.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/Budget/review/s/2023-24/Defence> and <<https://www.unsw.edu.au/content/dam/pdfs/law/kaldor/resources/2024-05-factsheet/2024-05-cost-of-australia%27s-refugee-and-asylum-policy.pdf>>.

²⁰ Law Council, Submission for 2022-23, [21] and Submission for 2023-24 [7].

²¹ For instance, pursuant to subclause 200.222 (b) (iv) of Schedule 2 to the *Migration Regulations 1994* (Cth), the Minister may refuse to grant a Humanitarian Visa on the basis that the Australian community does not have capacity to provide for the permanent settlement of persons such as the applicant in Australia.

²² See further [Processing of Humanitarian Visa Applications](#) below.

²³ See Department of Home Affairs, *Afghanistan Update (as of 20 June 2024)*: <<https://www.homeaffairs.gov.au/help-and-support/afghanistan-update>>.

Pakistan, particularly as such visa holders are required to travel to Islamabad with only 24 hours' notice to attend a biometrics appointment, and must have valid and genuine passports or travel documents.²⁴ While mindful of the necessity of identity verification, the Department should remain conscious of practical difficulties faced in meeting these requirements, and be flexible to accommodate visa holders where appropriate.

Recommendations

- **The allocation of special visas should be increased for Afghan refugees, given high demand.**
- **The processing of visas for applicants from Afghanistan should be adequately resourced so that refusals on a 'lack of capacity' basis no longer occur.**
- **Effective processes should be introduced to improve the verification of identity documents for applicants remaining in Afghanistan (including those who have been involuntarily returned) and the expedient issuance of ImmiCards for those who do not hold valid passports or other travel documents.**

Sudan

21. In our submission on the 2023–24 Humanitarian Program, we recommended that a specific allocation be made for the Sudanese cohort, similar to the Afghan allocation.²⁵ The conflict in Sudan has since intensified and expanded, driving large numbers of people into refugee camps.²⁶
22. As an interim measure, the Law Council recommends that the Sudanese cohort receive similar support to that offered to the Ukrainian cohort,²⁷ including:
 - progressing visa applications by Sudanese nationals as a priority, particularly for those with strong connections to Australia;
 - offering Temporary Humanitarian Concern (Subclass 786) visas to eligible Sudanese nationals in Australia as at the beginning of the conflict on 15 April 2023; and
 - allowing access to work, study, Medicare, and special benefits for those unable to return.

Recommendation

- **The Australian Government should offer support to Sudanese applicants similar to that currently offered to Afghan and Ukrainian cohorts, given the scale and indeterminacy of the conflict in Sudan.**

²⁴ Australian High Commission in Islamabad, *Information about the situation in Pakistan*: <https://pakistan.embassy.gov.au/ISLM/pakgovt_illegalforeigners.html>.

²⁵ Law Council, 2023-24 Submission [20]

²⁶ MSF, *Conflict in Sudan* (last updated 16 April 2024 at time of writing): <<https://www.msf.org/conflict-sudan>>; also United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Sudan: One Year of Conflict - Key Facts and Figures* (15 April 2024): <<https://www.unocha.org/publications/report/sudan/sudan-one-year-conflict-key-facts-and-figures-15-april-2024>>.

²⁷ Department of Home Affairs, *Other pathways for Ukrainian nationals in Australia*: <<https://www.homeaffairs.gov.au/help-and-support/ukraine-visa-support/other-pathways-for-ukrainian-nationals-in-australia>>.

Palestine/Gaza

23. In view of the dire situation in Gaza, additional support should be offered to the Palestinian cohort. This support would include the Department commencing the processing of Protection (Subclass 866) Visas, which have been lodged by Palestinian applicants, rather than, as the Law Council understands is currently occurring, the Department holding those applications in abeyance.
24. Although the Budget announcement that Medicare entitlements will be extended to Palestinian Bridging Visa E holders was welcome,²⁸ the Palestinian cohort should receive additional supports (similar to those offered to the Ukrainian cohort), including:
- progressing visa applications by Palestinian nationals as a priority, particularly for those with strong connections to Australia;
 - offering Temporary Humanitarian Concern (Subclass 786) visas to eligible Palestinian nationals in Australia as at the beginning of the conflict on 7 October 2023; and
 - allowing access to work, study, Medicare, and special benefits for those unable to return.

Recommendation

- **The Australian Government should offer support to Palestinian applicants similar to that currently offered to the Afghan and Ukrainian cohorts, given the scale and unpredictability of the conflict in Gaza.**

Need for Flexibility

25. Evolving geopolitical instability requires the Humanitarian Program to be adaptable, particularly in response to conflict and instability.
26. The Law Council welcomes the commitment in the Discussion Paper to '[find] sustainable global solutions, including through growing [the] overall Program'.²⁹ The Discussion Paper also notes that '[t]he Program operates flexibly to respond effectively to evolving humanitarian situations and global resettlement needs'.³⁰
27. In line with the spirit of this commitment, the Australian Government should expand the refugee resettlement portion of the Humanitarian Program (by at least 10–20 per cent) to keep pace with global resettlement needs.

Recommendations

- **The Australian Government should, in line with its pre-election commitments, sentiments expressed in the Discussion Paper and with increasing global demand, increase the overall size of the Humanitarian Program—particularly the offshore component.**

²⁸ Australian Federal Budget 2024, Part 2, Page 139 (Budget Paper No.2).

²⁹ Discussion Paper, 7.

³⁰ Ibid, 10 (Attachment A).

Other Features of the Humanitarian Program

Onshore and Offshore—Need for Distinction to be Made

28. As the Discussion Paper notes at Attachment A, the Humanitarian Program currently consists of two sub-programs: the onshore protection program and the offshore resettlement program. This results in two distinctly separate programs being managed under one numerical cap (currently 20,000). 15,875 offshore visas were granted, in comparison to 2000 onshore visas, under the 2022–23 Program.³¹ Australia is currently the only resettlement country in the world to manage its onshore protection and offshore resettlement schemes under the one program in this manner.³²
29. The onshore protection and offshore resettlement should be established as two separate programs because:
- the onshore protection allocation should be demand-driven, instead of being dictated, to a degree, by the number of offshore humanitarian visas granted. Despite the substantial increase in applications for onshore protection visas, the number of granted visas has remained consistently low,³³ and
 - separating out the programs may help address the current backlog in the decision-making process, especially for onshore protection applicants who are currently required to wait a substantial period until they are granted permanent visas. Applicants awaiting a decision on their onshore protection applications are often placed on insecure bridging visas, which often have conditions restricting their ability to work and gain access to support. This results in such applicants being extremely vulnerable to experiencing poverty, homelessness, and labour exploitation.³⁴

Recommendation

- **The Australian Government should separate out the offshore resettlement and onshore protection aspects of the Humanitarian Program for reasons of transparency and efficacy.**

³¹ Department of Home Affairs, '2022–23 Humanitarian Program Outcomes':

<<https://www.homeaffairs.gov.au/research-and-stats/files/australias-ohp-2022-23-glance.pdf>>.

³² Refugee Council of Australia, "How separating onshore refugee protection visas from offshore humanitarian resettlement will help address Australia's messy visa system" (June 2023):

<<https://www.refugeecouncil.org.au/wp-content/uploads/2023/03/Breaking-the-link-brief-202306-1.pdf>>.

³³ Department of Home Affairs, 'Onshore Humanitarian Program 2022–23: Delivery and outcomes for Permanent Protection Visa Program as at 30 June 2023' (30 June 2023):

<<https://www.homeaffairs.gov.au/research-and-stats/files/ohp-june-23.pdf>>.

³⁴ See eg Asylum Seeker Resource Centre, The Extent and Nature of Poverty in Australia – Submission to the Senate Community Affairs References Committee (March 2023): <<https://asrc.org.au/wp-content/uploads/2023/03/ASRC-Submission-The-extent-and-nature-of-poverty-in-Australia-2.pdf>>.

Complementary Pathways

30. The Law Council welcomes the Skilled Refugee Labour Agreement Pilot in the spirit of promoting complementary pathways generally, and more specifically because it removes many of the barriers that refugees and other forcibly-displaced people face when trying to access employer-sponsored skilled migration pathways.³⁵

Recommendation

- **The Skilled Refugee Labour Agreement Pilot should be properly established and expanded.**

Community Support Program

31. The Law Council supports the Government’s goal to increase places in the Community Support Program (**CSP**) and recognises the substantial increase in places to 1,400 in 2022–23, in comparison to 750 places in 2021–22.³⁶
32. However, numbers allocated to the CSP should be separate from places in the Program more generally. This is due to concerns that the placement of the CSP under the Program’s general allocation will have the effect of reducing places for individuals in the Refugee and Special Humanitarian Program categories who do not meet the criteria for the CSP allocation. This may undermine the intention of the Program in providing permanent settlement to those most in need.

Recommendation

- **Places under the CSP should be counted separately from the other Humanitarian Program allocations.**

Migration Regulations, Family Reunification and the Humanitarian Program

33. The Law Council welcomes the recent changes that permit eligible Subclass 785 Temporary Protection Visa (**TPV**) and Subclass 790 Safe Haven Enterprise Visa (**SHEV**) holders to apply for a permanent resident visa by way of a permanent Subclass 851 Resolution of Status (**RoS**) visa. Following these changes, those who now hold RoS visas may now be permitted to apply for family reunification by way of Partner, Child and Parent visa applications.
34. However, the fees for Partner, Child and Parent visa applications are prohibitively expensive (many costing thousands of dollars)³⁷ particularly for larger families and those unable to work. There should be a pathway for these RoS visa holders to proceed with family reunification by way of the Humanitarian Program. Regulation 2.07AM(5) of the *Migration Regulations 1994* (Cth) still prevents a person who arrived by boat from 13 August 2012 onwards from proposing family members for Humanitarian visas under the ‘split family provisions’, regardless of whether such a

³⁵ Refugee Council, *Resettlement and complementary pathways to Australia*:

<<https://www.refugeecouncil.org.au/resettlement-and-complementary-pathways-to-australia>>.

³⁶ Department of Home Affairs, *2022–23 Humanitarian Program Outcomes*:

<<https://www.homeaffairs.gov.au/research-and-stats/files/australias-ohp-2022-23-glance.pdf>>.

³⁷ Particularly after recent increases – see Department of Home Affairs, *Current Visa Pricing Table* (as of 20 June 2024): <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/fees-and-charges/current-visa-pricing>>.

person is now an Australian citizen or permanent resident.³⁸ We recommend that this exception be removed.

35. In addition, for Partner, Child and Parent visa applications lodged by RoS holders, the Department should consider introducing measures such as fee waivers, to provide support to those seeking family reunification on a case-by-case basis.

Recommendations

- **The exception in the *Migration Regulations 1994* (Cth) preventing family reunification via the Humanitarian Program should be removed.**
- **Fee waivers should be considered for Partner, Child and Parent visa applications lodged by RoS visa holders.**

Processing of Humanitarian Visa Applications

36. As in 2023–24, practitioners have raised concerns with the Law Council regarding a large number of Humanitarian Visa applications that have not been acknowledged by the Department since lodgement from August 2021, following the fall of Afghanistan to the Taliban.³⁹ This includes applications lodged by Afghan nationals and other cohorts. We understand that the Department has introduced a policy not to issue acknowledgments for Emergency Rescue (Subclass 203) visas. The Law Council is concerned about this decision, and generally also about the absence of acknowledgment receipts, noting the commitment on the Department’s website that Humanitarian Visa applications are ‘generally’ acknowledged in writing.⁴⁰
37. Without timely acknowledgments or correspondence, practitioners are finding it difficult to advise clients on when their applications will be acknowledged, the reason behind lengthy delays, the dates upon which the applications will be marked as received, and where they will be placed in the processing queue. Additionally, practitioners cannot keep the Department up to date on clients’ circumstances if they are not even sure their applications have been duly received (including if they have not been assigned a file number).
38. These communication challenges create further uncertainty for individuals in need of humanitarian assistance who are already vulnerable and distressed.

Recommendations

- **The Department should review its communication and management processes for Humanitarian visas to ensure that acknowledgments are given in a timely manner.**
- **In particular, queries to shp.enquiries@homeaffairs.gov.au should be processed and responded to within a reasonable time frame.**

³⁸ The *Migration Regulations 1994* (Cth) still include a restriction that a proposer must not be an unauthorised maritime arrival who arrived after 13 August 2012 (see subregulation 202.211(2) for the criteria to be satisfied for the application for a subclass 202 visa and subregulation 2.07AM(5).

³⁹ Law Council, Submission for 2023-24, 7-9.

⁴⁰ Department of Home Affairs, *Afghanistan update*: <<https://www.homeaffairs.gov.au/help-and-support/afghanistan-update>>.



Australian Government

Department of Home Affairs

Discussion Paper

Australia's Humanitarian Program 2024-25

Introduction

The Government recognises the importance of engaging with the community to ensure continued support for Australia's Refugee and Humanitarian Program (the Program) and to provide greater transparency to the public. The Department of Home Affairs (the Department) publishes a Discussion Paper each year to inform the public and seek their views on the management and composition of the Program, including options for diversifying the offshore resettlement component and strengthening Humanitarian Program outcomes.

As part of the consultation process, the Government consults with a broad range of stakeholders including:

- state and territory governments and Commonwealth agencies;
- peak refugee and humanitarian organisations; and
- the United Nations High Commissioner for Refugees (UNHCR).

The 2023 consultation process informed the composition and policy settings for the 2023-24 Program. The Minister for Immigration, Citizenship and Multicultural Affairs, the Hon Andrew Giles MP, hosted three consultation meetings in May and June 2023, and the Department received over 40 written submissions in response to the [Humanitarian Program 2023-24 Discussion Paper](#). [The 2023-24 consultation summary](#) has been published on the Department's website.

This paper provides background information to **inform written submissions for the 2024-25 Humanitarian Program**. It includes an overview of the Program and information on its key features.

Planning for the management and composition of the 2024-25 Program will consider Australia's capacity to facilitate the successful entry and settlement of humanitarian entrants into our society, and expert advice to manage any impact to the Australian community.

When providing your submission, you are invited to give particular consideration to consider the following questions:

1. What is the ideal composition of Australia's 2024-25 Humanitarian Program and why? What do you think should be the proportion split between the Refugee and Special Humanitarian Program categories in the offshore component of the Humanitarian Program?
2. The Humanitarian Program continues to face significant pressure, with demand greatly exceeding available places. While priority is given to cohorts who are outside their home country and have the greatest resettlement need, are there other measures the government could take to increase transparency and avoid giving false hope (for example, through changes to application processes)?
3. How can the Humanitarian Program better respond to future resettlement crises?
4. Scalable complementary pathways for humanitarian entrants require significant financial and in-kind contributions from the private and community sectors. How can the Australian Government best incentivise these contributions and provide the enabling environment for complementary pathways to grow?
5. How can Australia best support the economic aspirations of humanitarian entrants to make strong contributions to Australia's economic prosperity?

If you would like to make a written submission on Australia's 2024-25 program, please email humanitarian.consultation@homeaffairs.gov.au. Submissions close at **5pm on Friday 7 June 2024**.

Australia's role as a resettlement country

This Government is committed to generous and flexible Humanitarian and Settlement Programs that meet Australia's international protection obligations, and position Australia as a global leader in international resettlement efforts. The Program demonstrates Australia's commitment to global resettlement efforts while providing ongoing economic and social benefits to Australia. It highlights the ways in which humanitarian entrants can enrich Australian society and boost the economy with their skills, talent and diverse cultural vibrancy.

Australia's settlement services for refugee and humanitarian entrants are internationally recognised for their expertise and breadth of support. Australia stands ready to support other countries to establish and grow their refugee resettlement programs, particularly on how to successfully settle refugees and humanitarian entrants.

Today Australia continues to contribute to responsibility sharing, growing meaningful refugee participation, and championing complementary pathways such as community sponsorship, labour mobility and family reunion opportunities, including through:

- Chairing the 2024 Consultations on Resettlement and Complementary Pathways (formerly known as the Annual Tripartite Consultations on Resettlement), the most important multilateral forum for UNHCR, States, private sector, academia, NGOs and refugees to discuss and advance global resettlement issues;
- Significant [pledges](#) put forward to the 2023 Global Refugee Forum (GRF) in Geneva on 13-15 December 2023;
- Core membership of the US Resettlement Diplomacy Network (RDN); and
- Founding membership and incoming Chair (from April 2024) of the Global Task Force on Refugee Labour Mobility (GTF).

Building on existing commitments from the inaugural GRF in 2019 to enhance refugee participation, the Government has established a Refugee Advisory Panel, the first of its kind in Australia.

The establishment of the Panel builds on Australia's proud tradition of championing meaningful refugee participation, and recognises the importance of lived experience in shaping national and international dialogue and policy around refugees.

Global Refugee Forum 2023 – Australian commitments

The 2023 Global Refugee Forum (GRF) was held from 13-15 December against a deepening global displacement crisis, with more than 114 million people displaced across the globe. At the GRF, Australia reaffirmed its commitment to the Global Compact on Refugees, including its support for refugees and host countries, enhancing refugee self-reliance, and expanding access to third country solutions through resettlement and complementary pathway places.

Australia pledged over \$250 million to support refugees and to sustain humanitarian assistance in protracted crises, including:

- \$235 million for Myanmar and Bangladesh (supporting displaced Rohingya and communities in need)
- \$20 million to support people in Afghanistan and neighbouring countries
- \$10 million to support people in Sudan and those displaced to neighbouring countries.

Australia committed to not only growing our own refugee resettlement and complementary pathways, but to supporting other States to establish and grow their own.

- In addition to increasing Australia's Humanitarian Program to 20,000 places, the highest core intake in over a decade, we pledged to grow skills-based pathways.
- We pledged to work with a range of non-government organisations to gradually increase community sponsored and other complementary places to 10,000 per year, in addition to the core humanitarian intake.
- We are also championing machine-readable refugee travel documents and will invest in training initiatives that build skills sought after in the global labour market.

Other pledges made by Australia at the GRF will support access to legal services, use of alternatives to immigration detention, and foster mental health and psychosocial well-being of refugees.

The Humanitarian Program

The Humanitarian Program (the Program) has a long history of providing resettlement for refugees and others who are displaced as a result of conflict, persecution and human rights abuses. The Program's intake is drawn from a range of nationalities, ethnic and religious groups, reflecting global displacement arising from conflict and persecution. It operates flexibly to respond effectively to evolving humanitarian emergencies, such as Afghanistan, and global resettlement needs. The principles guiding the Program are that:

- we prioritise those caseloads most in need of global resettlement in line with guidance and referrals from UNHCR;
- we are global and non-discriminatory; and
- we target vulnerable cohorts within refugee populations.

To ensure Australia continues to play its part, the Government will work closely with both the international and domestic community, particularly the UNHCR, as we deliver Australia's humanitarian intake. Consistent with the approach adopted by the UNHCR, Australia will prioritise those cohorts who have the greatest resettlement need. This will focus on people who are outside their home country and are:

- assessed as refugees by the UNHCR and referred to Australia for resettlement;
- applicants proposed by a close family member in Australia; and
- vulnerable cohorts within refugee populations, including women and children, ethnic minorities, LGBTQI+ and other identified minority groups with family links in Australia.

All Program applications are assessed on an individual basis, with applicants required to demonstrate their humanitarian need. Visa grants are subject to rigorous assessment, including health, character and security checks, which are conducted before individuals are granted a visa.

There are two components within the Program: the offshore component, focussing on providing permanent resettlement in Australia to refugees and people in humanitarian need outside their home country (and outside Australia); and the onshore component which is reserved for people who arrive in Australia lawfully, seek Australia's protection and are found to engage Australia's *non-refoulement* (non-return) obligations.

Offshore Component

The offshore component of the Humanitarian Program has three parts:

- Refugee category;
- Special Humanitarian Program (SHP) category; and

- Community Support Program (CSP).

Refugee Category

The Refugee category assists people who are subject to persecution in their home country and for whom resettlement in Australia is the best durable solution. Australia works closely with the UNHCR, which refers many of the successful applicants for resettlement in Australia under this category. The Refugee category has four subclasses:

- Refugee visa (subclass 200) – generally for people who have fled persecution and are living outside their home country.
- In-country Special Humanitarian visa (subclass 201) – this visa is used in very limited circumstances, as the UNHCR is not mandated to refer people for resettlement who remain in their home country, even if the UNHCR has a presence in that country. Australia is also unable to progress visa applications for people who are in their home country where there is a volatile security situation and/or where Australia has no official presence.
- Emergency Rescue visa (subclass 203) – only a small number of visas are granted under this subclass for people outside their home country, who are in urgent need of protection because there is an imminent threat to their life and security. Applications are usually only granted to those referred by the UNHCR for consideration.
- Woman at Risk visa (subclass 204) – for women and their dependents subject to persecution in their home country or registered as being ‘of concern’ to the UNHCR and without the protection of a male relative.

Special Humanitarian Program (SHP) Category

The SHP category (subclass 202) is for people outside their home country, subject to substantial discrimination amounting to a gross violation of human rights, and with family or community ties to Australia.

Applications for SHP visas must be accompanied by a proposal from an eligible Australian citizen or permanent resident, an eligible New Zealand citizen, or an organisation operating in Australia. If the SHP application is successful, proposers must pay for the applicants’ travel to Australia and provide initial accommodation and orientation in Australia.

The limited number of SHP places available and the high demand for places mean that not everyone is accepted. Priority is given to applicants outside their home country who have close family members in Australia.

Community Support Program (CSP)

The CSP is designed to provide a model of private sponsorship for refugees that complements existing Refugee and SHP categories. It enables communities and businesses, as well as families and individuals, to propose humanitarian visa applicants with employment prospects and to support new humanitarian arrivals.

The CSP is intended to harness community support for refugees, including the willingness of the Australian business community to support refugees in practical ways through employment and financial assistance, and increase the chances of strong integration and settlement outcomes.

Like other streams under the offshore Humanitarian Program, priority of CSP is given to applicants who fall within the Government’s global, regional and settlement priorities.

Onshore Component

The onshore component of the Humanitarian Program is reserved for people who arrive lawfully in Australia and are found to engage Australia's protection obligations because they are either found to be a refugee or meet the complementary protection criteria under the *Migration Act 1958* (the Act).

People found to engage Australia's protection obligations must also satisfy health, character and security requirements for the grant of a Protection visa.

Protection visa applications are individually assessed in accordance with the Act. The relevant provisions in the Act are based upon Australia's interpretation of its *non-refoulement* obligations (obligation not to return) in the *1951 Convention relating to the status of Refugees* and its *1967 Protocol* (the Refugee Convention), the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, and the *1966 International Covenant on Civil and Political Rights*.

On 5 October 2023, the Government announced a \$160 million package of investments in the Protection visa system to ensure it continues to serve its intended purpose: to provide protection to those who are in genuine need and are found meet Australia's protection obligations. This includes funding to significantly reduce the time taken to process a Protection visa, and to boost free legal assistance for prospective applicants.

Snapshot of major humanitarian resettlement groups over time


The 2024-25 Program will maintain our long-term commitment to a generous and flexible program while also taking account of the challenges associated with effectively responding to the global humanitarian crises.

| | |
|-------------------|--|
| Post World War II | <ul style="list-style-type: none">• Eastern Europe and Central Europe• The Balkans and Baltic states |
| 1960s and 1970s | <ul style="list-style-type: none">• Europe• Central and South America• Lebanon |
| 1980s and 1990s | <ul style="list-style-type: none">• Eastern Europe• Latin America• Middle East, Asia and Africa |
| Recent Arrivals | <ul style="list-style-type: none">• Middle East and Afghanistan• Central Africa• Horn of Africa• Asia |

For further statistical information on the Program, see: <https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/live/humanitarian-program>.

Humanitarian Crisis Response

Australia's visa and resettlement responses to international humanitarian crises are part of coordinated Whole-of-Government efforts and support broader international responses. Each humanitarian crisis is different, and the Government response is based on the circumstances of the crisis, and the relevant needs of people who are impacted.



We are committed to responding flexibly to changing international humanitarian needs, including providing appropriate support for the travel and resettlement of refugees and others requiring Australia's protection.

However, Australia's Humanitarian Program continues to face significant pressure. Demand for places under the Program is unprecedented, following record levels of forced displacement, and is expected to continue due to ongoing global instability. Australia has limited capacity for humanitarian resettlement and cannot resettle all who apply for a Refugee and Humanitarian visa.

Program size

As refugee situations around the world increase in scope, scale and complexity, Australia is committed to finding sustainable global solutions, including through growing our overall Program.

Australia's 2022-23 Humanitarian Program was delivered in full, with 15,875 visas granted in the Offshore program (including the 4,125 additional places allocated to Afghan nationals) and 2,000 visas granted in the Onshore (Protection visa) program.

- A total of 17,875 Humanitarian visas were granted, marking the first time Australia's Humanitarian Program has been fully delivered since 2018-19.
- 2022-23 also saw the highest number of Community Support Program (CSP) visa grants since the program's inception in 2018.

A total of 20,000 places in Australia's 2023-24 Humanitarian Program is the highest the core Program intake has been since 2012-2013. Program statistics and reporting for the 2023-24 Program will be published on the Department's website when available.

The Government will maintain a program of 20,000 places in 2024-25 to ensure we deliver on our global resettlement commitments, and continue to benefit from the significant contributions of humanitarian entrants, who enrich Australian society and boost the economy with their skills, talent and diverse cultural vibrancy.

Complementary pathways

In line with our commitments under the Global Compact on Refugees and Global Refugee Forum pledges, Australia is piloting ways to provide complementary pathways for refugees and other displaced people.

Skilled Refugee Labour Agreement Pilot

Designed and delivered in collaboration with Talent Beyond Boundaries (TBB), the Skilled Refugee Labour Agreement Pilot (the Pilot) is a practical example of how businesses in Australia can harness refugee talent to address skills shortages, while providing complementary pathways for refugees to find safety and stability in Australia.

The Pilot will run until 30 June 2025, with an allocation of 500 primary places (plus the members of each candidate's family unit).

- Since the Pilot started in 2021, as at 10 April 2024, 93 skilled refugees/displaced people have been granted permanent residence in Australia, along with 138 of their family members.

Through concessions to standard skilled visa eligibility requirements, the Pilot significantly reduces barriers faced by skilled refugees and displaced people when trying to access skilled visas.

This provides real opportunities for people to resume their careers and rebuild their lives, while also providing Australian employers and communities highly sought after skills that boost our economy and enrich our society.

The Pilot is a skilled program, meaning that:

- allocated permanent places are drawn from the skilled stream of the Department's permanent Migration Program, not from Australia's Humanitarian Program; and
- sponsoring employers provide settlement support, with input and coordination from TBB. Some Pilot candidates have been also supported by community sponsor groups.

Future complementary pathways

Increasing Australia's refugee and humanitarian intake through complementary pathways will require a whole of society approach that looks beyond traditional approaches, with the community and private sectors playing a greater role, including through funding and in-kind contributions.

Strengthening complementary pathways will be key to supporting future growth in Australia's overall humanitarian intake, including through engaging a range of stakeholders to gradually increase community sponsored and other complementary places to 10,000 per year, in addition to the core humanitarian intake.

Settlement

Australia has a long and proud tradition of resettling migrants and refugees and vulnerable people in humanitarian need. The Humanitarian Settlement Program (HSP) supports humanitarian entrants integrate into Australian life by building the skills and knowledge they need to become self-reliant and active members of the community. These services are delivered in each state and territory by contracted service providers on a fee-for-service basis.

HSP clients receive a package of support tailored to their individual needs, strengths and goals. Support generally includes airport reception, short term accommodation, a package of basic household goods, assistance to find long-term accommodation in the private rental market, access to mainstream and specialist support services, and support to connect with the local community. Clients also participate in an orientation program to develop their understanding of Australian values, laws and systems and acquire the life skills needed for independence.

Humanitarian Integration and Settlement Program (HISP)

The Government is reforming the way settlement services have been delivered over the past few years. The new Humanitarian Integration and Settlement Program (HISP) will build on existing settlement services provided through the HSP but with some enhancements that will provide more flexibility for providers to deliver support to clients, based on the needs, strengths and aspirations of clients, facilitated through a mixed funding model to provide flexibility to service providers to tailor settlement services to their clients' needs.


The HISP was proposed following an extensive consultation process that included feedback from peak settlement organisations, settlement service providers, refugee and humanitarian organisations, and people with lived refugee experience. It also followed a Request for Information (RFI) process in late 2023 that sought feedback from the settlement sector, and other interested parties, on delivery model options and costings for the provision of settlement services for refugee and humanitarian entrants.

The HISP will provide a greater focus on the provision of good settlement outcomes in areas critical to the successful settlement of refugee and humanitarian entrants, as outlined in the [Refugee and Humanitarian Entrant Settlement and Integration Outcomes Framework](#) (Framework).

The development of the HISP was informed by the Framework, which was announced on 16 October 2023 by the Minister for Immigration, Citizenship and Multicultural Affairs, the Hon Andrew Giles MP, and builds on the strong foundation of Australia's world-class settlement services.

The Framework will help to:

- improve our settlement services

- 
- enhance positive settlement outcomes for refugees and humanitarian entrants
 - guide government agencies delivering settlement services from planning through to programs and evaluation.

The Framework comprises eleven interrelated domains and two underpinning principles. These outline a structured approach to good settlement and integration outcomes. Each domain and principle reflects an area critical to successful settlement and integration. Preliminary indicators have been developed to measure progress against the domains outlined in the Framework.

Community Refugee Integration and Settlement Pilot (CRISP)

The Government is also trialling an alternative approach to the settlement of refugees, by providing a formal opportunity for community members to welcome refugees into Australia and directly support their settlement journey and integration into communities. The pilot aims to settle up to 1500 refugees.

The CRISP provides a dedicated settlement pathway for un-linked refugees: those without existing family links in Australia, referred to Australia by the UNHCR.

Refugees arriving through the CRISP are helped to settle by a group of trained community volunteers, rather than government-funded settlement service providers. Supporters provide a range of practical and in-kind settlement and integration support, including help with finding housing, work and learning English.

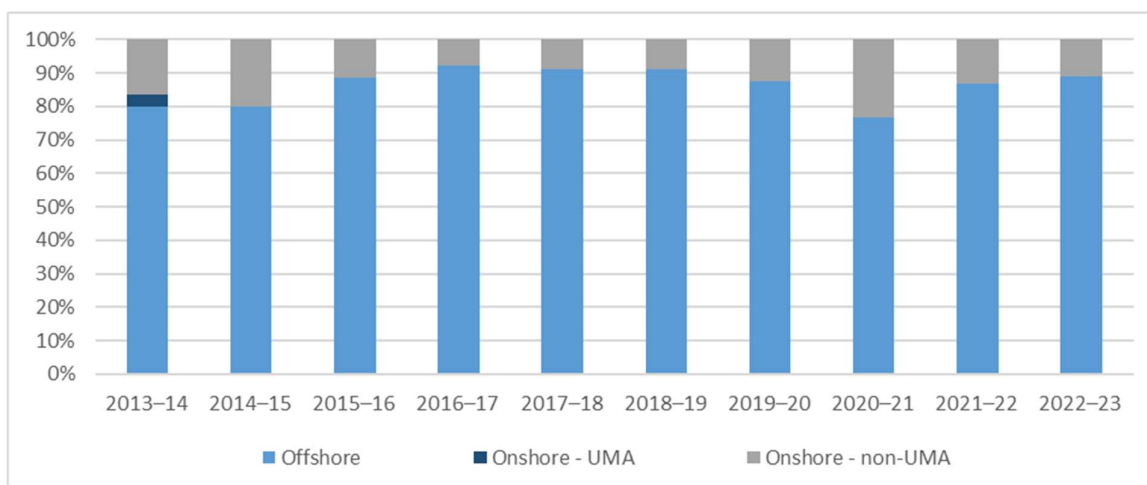
As at 10 April 2024, 408 refugees have been settled under the pilot.

ATTACHMENT A

Onshore/offshore balance within the Humanitarian Program

The Humanitarian Program has two main components: offshore resettlement (for people outside Australia) and onshore protection (for people in Australia). The Program operates to balance the needs of onshore protection seekers, with providing permanent resettlement options to those most in need outside Australia. Prior to September 2013, the onshore component of the Program also included permanent visa grants to those who arrived unlawfully in Australia and are granted a Protection visa. Since that time, the onshore component has been reserved for people who arrive lawfully and Unauthorised Maritime Arrivals (UMAs) or Unauthorised Air Arrivals in Australia are not included within the Program.

Figure 1 – Onshore/offshore (permanent) balance within the program 2013–14 to 2022–23



A Flexible Program

The Program operates flexibly to respond effectively to evolving humanitarian situations and global resettlement needs. The table and figures below illustrate the composition of the Program over past years, which has remained relatively stable, reflecting the protracted nature of many conflicts and displacement situations. The Middle East, Asia and Africa have been priority regions throughout this period. The Americas were included as a priority region from 2018–19.

Table 1 – Top nationalities for applicants granted visas within the offshore component 2017–18 to 2022–23

| Rank | 2017–18 | 2018–19 | 2019–20 | 2020–21 | 2021–22 | 2022–23 |
|------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1 | Iraq | Iraq | Iraq | Iraq | Afghanistan | Afghanistan |
| 2 | Syria | Congo (DRC) | Congo (DRC) | Myanmar | Iraq | Iraq |
| 3 | Myanmar | Myanmar | Syria | Afghanistan | Myanmar | Myanmar |
| 4 | Congo (DRC) | Syria | Myanmar | Syria | Syria | Congo (DRC) |
| 5 | Afghanistan | Afghanistan | Afghanistan | Eritrea | Congo (DRC) | Syria |
| 6 | Eritrea | Ethiopia | Eritrea | Pakistan | Pakistan | Ethiopia |
| 7 | Ethiopia | Eritrea | Ethiopia | Iran | Eritrea | Venezuela |
| 8 | Bhutan | Iran | CAR | Congo (DRC) | Ethiopia | Iran |
| 9 | Iran | Bhutan | Iran | Stateless | CAR | CAR |
| 10 | Tibet | Tibet | Stateless | Venezuela | Iran | Pakistan |

Notes:

1. Visas counted include subclasses 200 (Refugee), 201 (In-Country Special Humanitarian Program), 202 (Global Special Humanitarian Program), 203 (Emergency Rescue) and 204 (Woman at Risk).
2. Statistics up to 2018–19 are based on country of birth as declared by the applicant. From 2019–20, they are based on citizenship as declared by the applicant. The declared country of birth or citizenship of the principal visa applicants is applied to secondary visa applicants.
3. Congo (DRC) refers to the Democratic Republic of Congo.
4. CAR refers to Central African Republic.

Table 2 – Top nationalities for applicants granted visas within the onshore component (Protection Visa) 2017–18 to 2022–23

| Rank | 2017-2018 | 2018-2019 | 2019-2020 | 2020-2021 | 2021-2022 | 2022-2023 |
|------|------------------|------------------|------------------|-----------------|------------------|------------------|
| 1 | Iraq | Iran | Türkiye | Iran | Iran | Myanmar |
| 2 | Pakistan | Iraq | Iran | Pakistan | China (Exc. SAR) | China (Exc. SAR) |
| 3 | Libya | Pakistan | Pakistan | Türkiye | Pakistan | Pakistan |
| 4 | Malaysia | Türkiye | Iraq | China (Exc SAR) | Afghanistan | Papua New Guinea |
| 5 | China (Exc. SAR) | Malaysia | Saudi Arabia | Iraq | Türkiye | Iran |
| 6 | Iran | Libya | China (Exc. SAR) | Afghanistan | Papua New Guinea | Afghanistan |
| 7 | Syria | China (Exc. SAR) | Afghanistan | Yemen | Yemen | Iraq |
| 8 | Bangladesh | Syria | Venezuela | Malaysia | Venezuela | Ethiopia |
| 9 | Egypt | Afghanistan | Papua New Guinea | Venezuela | Ethiopia | Venezuela |
| 10 | Ethiopia | India | Yemen | Nigeria | Egypt | Malaysia |