

SAMPLE  
TRIPARTITE  
VOLUNTARY REPATRIATION  
AGREEMENT

[Not all of the provisions included in this example voluntary repatriation agreement apply to every voluntary repatriation operation; likewise certain situations may call for additional elements. In certain settings, bipartite memoranda of understanding or even quadripartite agreements are suitable alternatives to this tripartite model. The model is, therefore, intended to serve as a flexible reference point from which a number of acceptable alternatives can be drawn.]

The Government of (country of origin) and the Government of (country of asylum) and the Office of the United Nations High Commissioner for Refugees (UNHCR) hereinafter referred to as “the Parties”,

- (a) *Recognizing* that the right of all persons to leave and return to their country is a basic right, enshrined in Article 13(2) of the 1948 Universal Declaration of Human Rights and Article 12 of the 1966 International Covenant on Civil and Political Rights;
- (b) *Recalling* that the United Nations General Assembly Resolution 428(V) of 14 December 1950, which adopted the Statute of UNHCR, ascribes to the UNHCR the function of providing international protection to refugees and of seeking permanent solutions for the problem of refugees by, *inter alia*, facilitating their voluntary repatriation;
- (c) *Reaffirming* that voluntary repatriation, local integration and resettlement are the traditional durable solutions for refugees, and that all remain viable and important responses to refugee situations;
- (d) *Reiterating* that voluntary repatriation, as and when feasible, constitutes the preferred durable solution for the problems of refugees, and that the attainment of this solution requires that refugees will voluntarily return in and to conditions of safety and dignity;
- (e) *Reiterating* the essentially voluntary character of repatriation [as laid down in Article V paragraph 1 of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa];
- (f) *Noting* that Conclusions 18 (XXXI) - 1980, 40 (XXXVI) -1985, 74 (XLV) - 1994 and 101 (LV) -2004 of the Executive Committee of the United Nations constitute internationally accepted standards and principles governing the voluntary repatriation and reintegration of refugees;
- (g) *Recalling* that the (-Political Settlement- or -Peace Accord-) signed between.....and .....has laid the foundation for lasting peace, national unity, reconciliation and social and economic development in .....(country of origin);
- (h) *Welcoming* the (estimated number of) ..... refugees (and internally displaced populations) who spontaneously returned to ..... (country of origin) in .....(year);
- (i) *Resolving* to cooperate in order to facilitate the voluntary repatriation in safety and dignity of refugees and the reintegration of returnees;
- (j) *Recognizing* the need to establish a framework for such co-operation and for joint planning and implementation of coordinated programs for voluntary repatriation of refugees and reintegration of returnees with the support of the international community;
- (k) *Recognizing* the need to define the specific procedures and modalities for the voluntary repatriation of refugees to (country of origin) and their eventual reintegration with assistance of the international community through UNHCR as may be supported, where appropriate, by other United Nations agencies and intergovernmental and non-governmental organizations;

*Have agreed as follows:*

## I. GENERAL PRINCIPLES

### ARTICLE 1 DEFINITIONS

For the purpose of this Agreement,

1. the term "Refugee" shall mean any citizen or habitual resident of .....(country of origin), who is currently outside (country of origin) as a refugee in (country of asylum);
2. the term "Returnee" shall mean any Refugee who has voluntarily returned to (country of origin) since \_\_\_\_\_ and is now within the territory of (country of origin) regardless of whether the Refugee returned with the assistance of one or more of the Parties or returned spontaneously; and
3. the term "Commission" shall mean the Voluntary Repatriation Commission established by the Parties pursuant to Article 13 hereto.

### ARTICLE 2 VOLUNTARY CHARACTER OF RETURN

1. The Parties hereby reaffirm that the repatriation of Refugees shall only take place at their freely expressed wish based on their sufficient knowledge of the conditions within the country of origin and the area of return.
2. The Parties shall provide Refugees with sufficient, objective and accurate information on conditions within the country of origin and the area of return on which they may base their decision to return.
3. The Parties shall facilitate visits to areas of prospective return by groups of persons representative of the Refugee population to acquaint themselves with the situation prevailing in their intended areas of return and reporting thereon to Refugee communities. The Governments of (country of asylum and country of origin) shall ensure the safe conduct of such visits and participating Refugees and shall ensure that members of such groups are able and permitted to return to their place of refuge in (country of asylum) upon completion of the visit.
4. The status of those Refugees who decide not to avail themselves of the voluntary repatriation program under this Agreement shall continue to be governed by applicable international and national refugee law.

### ARTICLE 3 REPATRIATION IN SAFETY AND WITH DIGNITY

1. The Parties agree that the voluntary repatriation and reintegration programs shall assist Refugees to return to their final destination in (country of origin), and assist Returnees to reintegrate there, each in safety and dignity.
2. Whereas the Government of (country of asylum) retains responsibility for the safety and security of repatriating Refugees while on the territory of (country of asylum) including in camps, staging areas and during convoy movements

*en route*, the Government of (country of origin) shall be responsible for the security of Refugees once within the territory of (country of origin) and Returnees during the period of their reintegration.

3. The Government of (country of origin) agrees that it will simplify identification, border crossing and entry requirements for returning Refugees, including the import of personal belongings and shall inform the Commission of all current procedures and any subsequent amendments.

#### ARTICLE 4 FREEDOM OF CHOICE OF DESTINATION

The Parties agree that Refugees shall be free to return to, and settle in, their former places of residence or any other place of their choice, unless otherwise restricted for reasons acceptable to international law governing freedom of movement and residence of citizens within their own country. Any such restrictions shall be informed to the Commission, and to refugees considering return to (country of origin).

#### ARTICLE 5 FAMILY UNITY

1. In accordance with the principle of family unity, UNHCR, in cooperation with the other Parties, shall make every effort to ensure that Refugee families return as units and that involuntary separation is prevented. Where such efforts fail, mechanisms shall be established for their reunification.
2. In order to preserve the unity of the family, spouses and/or children of Returnees who are themselves not (country of origin) citizens shall be allowed to enter and remain lawfully in (country of origin). This principle shall also apply to children of deceased Refugees who may wish to enter and remain lawfully in (country of origin) to preserve family links.

#### ARTICLE 6 ASSURANCES UPON RETURN

1. The Government of (country of origin) shall take the necessary measures to ensure that Returnees can return without any fear of harassment, persecution, discrimination, prosecution or any punitive measures whatsoever on account of their having left, or remained outside of (country of origin).
2. The Returnees shall fully benefit from the relevant provisions of any amnesty or clemency in force in (country of origin).
3. The Government of (country of origin) shall, with a view to creating conditions conducive to the reintegration of Returnees, take all necessary measures to sensitize and prepare the population residing in areas of return.
4. UNHCR shall provide technical advice and support to national reconciliation initiatives established by the Government of (country of origin).

ARTICLE 7  
LEGAL STATUS AND DOCUMENTATION

1. The Government of (country of asylum) shall ensure the issuance of documentation in certification of changes of legal or civil status including deaths, adoptions, marriage and divorce. The Government of (country of asylum) shall ensure children born on its territory are issued birth certificates prior to their voluntary repatriation.
2. The Government of (country of origin) shall recognize the legal and civil status, including changes thereto during displacement, of Returnees including births, deaths, adoptions, marriage and divorce.
3. The Government of (country of origin) shall also accord recognition, as appropriate and in accordance with the applicable national laws, to the equivalency of academic and vocational skills, diplomas and certificates obtained by Returnees during displacement. Replacement or equivalency documents certifying legal status or equivalency of academic and vocational skills, diplomas and certificates of Returnees shall be provided by the Government of (country of origin) at [no/reduced costs].
4. The Government of (country of origin) will, as appropriate and in accordance with the applicable national laws, undertake all possible measures to provide vocational, professional and other related schooling opportunities aimed at equivalency of academic and vocational skills, diplomas and certificates for Returnees.

ARTICLE 8  
ACCESS TO LAND AND  
MECHANISMS FOR THE RESTITUTION OF HOUSING, LAND AND PROPERTY

1. The Government of (country of origin) shall, to the maximum of its available resources, ensure that Returnees have access to land for settlement and use, in accordance with the relevant national laws.
2. The Government of (country of origin) shall facilitate, in accordance with international law and principles, and applicable national law, the restitution and/or compensation for housing, land and/or property in (country of origin) of which Refugees and Returnees were deprived in an arbitrary or illegal manner immediately prior to, or during, displacement. In accordance with international law and principles, this right of restitution is not conditional on return of the Refugee to (country of origin).

ARTICLE 9  
INTERNATIONAL ACCESS

1. The Governments of (country of origin) and (country of asylum) shall fully respect UNHCR's supervisory role, including regarding the voluntariness of individual repatriation of Refugees, the reintegration of Returnees, and the safety and dignity of each.
2. In order to carry out effectively its international protection and assistance functions and to facilitate the implementation of this agreement, the

Governments of (country of origin) and (asylum) shall grant UNHCR free and unhindered access to all Refugees and Returnees, and similarly shall grant Refugees and Returnees to UNHCR, wherever each may be located.

3. The Government of (country of origin) shall, in particular, extend full cooperation to UNHCR to allow them to monitor the treatment of Returnees in accordance with humanitarian and human rights standards, including the implementation of the commitments contained in this Agreement.
4. In order to enable UNHCR and its partners to carry out its monitoring functions in accordance with paragraphs 2. and 3. of this Article, the Government of (country of origin) shall inform UNHCR, in accordance with national and international law, of all cases of arrest, detention and legal proceedings involving Returnees and shall provide UNHCR with the relevant legal documentation on these cases as well as grant UNHCR free access to Returnees under arrest or in detention.
5. Intergovernmental or non-governmental organizations implementing humanitarian assistance programs on behalf of UNHCR shall have free and unhindered access to Refugees and Returnees in the context of this Agreement, as appropriate and in prior consultation with the Parties.
6. UNHCR and its partners may, whenever required for the purpose of a more effective discharge of responsibilities under this Agreement, establish Field Offices at locations to be agreed with the Government concerned.

## II. VOLUNTARY REPATRIATION COMMISSION

### ARTICLE 10

#### ESTABLISHMENT OF A VOLUNTARY REPATRIATION COMMISSION

The Parties hereby establish a Commission for the Voluntary Repatriation of Refugees to (country of origin) and the reintegration of Returnees there.

### ARTICLE 11

#### COMPOSITION OF THE COMMISSION

1. The Commission shall comprise of three members; each of the Parties shall designate a member.
2. Any member of the Commission may be accompanied to its meeting by advisers.
3. Where a member is unable to attend to any business of the Commission, that member shall designate a substitute.
4. The Commission may, whenever deemed necessary or appropriate, and subject to agreement by its members, invite relevant persons or organizations to participate in its deliberations in an advisory or observer capacity.

ARTICLE 12  
ROLE, FUNCTION AND POWERS OF THE COMMISSION

1. The principal objective of this Commission shall be to further the voluntary repatriation of Refugees to, and the reintegration of Returnees in, (country of origin), each in conditions of safety and dignity. The Commission shall determine the policies and advise the Parties on the measures to achieve this objective.
2. The Commission may constitute working groups and committees to deal with various specific aspects of voluntary repatriation of Refugees to (country of origin) and the reintegration of Returnees.
3. Chairmanship of the Meetings will be mutually agreed upon.
4. The Commission shall make its decisions on the basis of mutual agreement of the Members.
5. The Commission shall adopt its own Rules of Procedure as necessary.

ARTICLE 13  
MEETING OF THE COMMISSION

Meetings of the Commission will be convened at regular intervals to be agreed upon. Furthermore, meetings may also be convened at the request of any of the Parties, and at such venue as may be agreed upon.

ARTICLE 14  
LIAISON OFFICERS

In support of and complementary to the work of the Commission the Parties shall designate Liaison Officers at their respective diplomatic representations or offices in (capital of country of origin) and (capital of country of asylum) with powers to deal with operational issues on an *ad hoc* basis.

III. ADDITIONAL ROLES OF THE PARTIES

ARTICLE 15  
REGISTRATION AND DOCUMENTATION

1. In accordance with UNHCR's mandate to ensure the voluntary character of the decision to return, UNHCR shall undertake, in consultation with other Parties, registration of Refugees wishing to go back home, and the verification of the voluntariness of their decision to return.
2. Duly completed voluntary repatriation forms, the format of which shall be mutually agreed upon, shall be recognized by the Parties as valid identity documents in (country of origin and country of asylum) and as travel documents for the purpose of return to areas of final destination in (country of origin), each for a period of [6/12/24/?] months after issuance.

3. The Government of (country of origin) may extend the validity of the voluntary repatriation form as identity document for purposes additional to the return to areas of final destination. The Government of (country of Origin) shall ensure Returnees have access to national identity documentation, [at no/reduced cost], as appropriate and in accordance with the applicable national laws.

#### ARTICLE 16 INDIVIDUALS WITH SPECIFIC NEEDS

1. The Parties shall take special measures to ensure that individuals or groups requiring special attention, such as Refugees and Returnees who are disabled, elderly or ill, receive adequate protection, assistance, and care throughout all stages of the repatriation and reintegration process.
2. In particular, the Parties shall undertake measures to ensure that unaccompanied or separated children are not returned prior to adequate tracing of family members or without specific and adequate reception and care-taking arrangements in place in (country of origin). No unaccompanied or separated children shall be repatriated by one or more of the Parties unless a formal best interests of the child determination has concluded the appropriateness of this durable solution.

#### ARTICLE 17 SPONTANEOUS REPATRIATION

The Parties hereby recognize that all assurances, guarantees, benefits and other provisions set out in this Agreement that govern the voluntary repatriation of Refugees and the reintegration of Returnees shall also apply to those Refugees and Returnees who return to (country of origin) using their own means.

#### ARTICLE 18 DESIGNATED BORDER CROSSING POINTS AND TRANSIT ARRANGEMENTS

The Parties shall agree on border crossing points and related transit arrangements for organized voluntary repatriation movements. Such arrangements may be modified as mutually agreed by the Parties to better suit operational requirements.

**Comment:** Para 1 deals with general access for UNHCR, para 2 specifically with returnee access for UNHCR, should para 4 not also deal with access to refugees for UNHCR

#### ARTICLE 19 MOVEMENT AND SECURITY OF INTERNATIONAL STAFF AND UNHCR RESOURCES

1. The Governments of (country of origin/asylum) shall facilitate the free movement of staff and personnel of UNHCR and of its partners as well as vehicles, relief goods and equipment used in operations within (country of origin/asylum) in the repatriation and reintegration process provided for under this Agreement.

2. The Governments of (country of origin/asylum) shall take all appropriate steps to ensure the security and safety of personnel engaged in this process.

#### ARTICLE 20

#### FUNDRAISING, TAX EXEMPTION AND USE OF COMMUNICATION EQUIPMENT

1. The Parties shall endeavor to obtain from the international community the resources required to carry out the repatriation operation. The Parties shall also endeavor to obtain the resources required to implement reintegration, rehabilitation and reconstruction activities in (country of origin), in accordance with internationally-agreed development goals and related national planning efforts. (Country of origin) shall make appropriate arrangements to include the needs of Returnees in national reconstruction and development plans.
2. The Governments of (country of origin/asylum) shall exempt from all taxes, duties and levies all relief goods, materials, equipment, vehicles of UN agencies meant for official use in all stages of the repatriation and reintegration process. The Parties shall expedite the clearance and handling of such items.
3. The Governments of (country of origin/asylum) shall authorize UNHCR to use UN communications equipment, including satellite communication networks, designated frequencies and networks for cross-border and internal communication between offices, vehicles and staff and may, whenever operational requirements make this necessary, facilitate the allocation of other frequencies. The relevant written authorizations for equipment, frequencies and cross-border networks shall be issued to UNHCR in accordance with national laws and regulations.

#### IV. FINAL PROVISIONS

#### ARTICLE 21

#### VALIDITY OF OTHER AGREEMENTS

1. This Agreement shall not affect the validity of any other existing agreements or arrangements of cooperation between the Parties. To the extent necessary, possible or applicable, such agreements or arrangements may be relied upon and applied to assist the achievement of the objective of this Agreement, namely the voluntary, safe and dignified repatriation and reintegration of Refugees and Returnees in (country of origin).
2. Nothing in this Agreement shall be deemed a waiver, express or implied, of the privileges or immunities enjoyed by UNHCR and its staff.

#### ARTICLE 22

#### RESOLUTION OF DISPUTES

1. Any question arising out of the interpretation or application of this Agreement or for which no provision expressly made herein, shall be resolved amicably through consultations between the Parties. In the case of material differences

between the various language versions of this Agreement, the \_\_\_\_\_ language version shall control.

ARTICLE 23  
AMENDMENT

1. The present Agreement may be amended in writing by agreement of the Parties

ARTICLE 24  
TERMINATION

1. This Agreement shall remain in force until it is terminated by agreement of the Parties or upon the issuance of written notice of termination by one signatory to the other signatories, which notice shall become effective at the end of ninety (90) days from the date of issuance, excepting expressly the obligations of Articles -- through -- inclusive, which reflect international law and principle independent of this Agreement and which thus continue.

In witness whereof, the authorized representatives of the Parties have hereby signed the present Agreement.

Done at .....on this .....day of 20... in three originals, in .... language(s).

\_\_\_\_\_  
For the Government of (country of origin)

\_\_\_\_\_  
For the Government of (country of asylum)

\_\_\_\_\_  
For the Office of the United Nations High Commissioner for Refugees (UNHCR)