



REGIONAL CONFERENCE ON MIGRATION (RCM)

Workshop
Dignified, Safe, and Orderly Return of Migrants

**GUIDELINES FOR THE SIGNING OF MULTI AND/OR BILATERAL AGREEMENTS
BETWEEN MEMBER COUNTRIES OF THE REGIONAL CONFERENCE ON
MIGRATION (RCM) REGARDING THE REPATRIATION
OF REGIONAL MIGRANTS BY LAND**

Regional Consultation Group on Migration (RCGM)

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Article 1 Background

1.1 Introduction

This document has been prepared in response to the mandate formulated by the Vice Ministers during the VIII Meeting of the Regional Conference on Migration (RCM), held in Cancún on May 29-30, 2003, wherein they agreed to:

“Approve the preparation by Mexico and Guatemala, in collaboration with the IOM, of a general framework proposal for the execution of the Program for the Dignified, Safe, and Orderly Return of Regional Migrants By Land, which is to be (discussed) in El Salvador, within a period of two months.”

The preceding represents the most recent effort of the RCM concerning the assisted voluntary return of regional migrants. This process began in October of 1996, when the Regional Consultation Group on Migration (RCGM) proposed to the RCM the topic of international cooperation for the return of migrants, including aspects related to the basic needs of migrants held in custody.

Subsequently, in March of 1997, the Second RCM Meeting, held in Panama City, agreed to hold a seminar regarding the return of regional and inter-regional migrants. Said agreement was reiterated in January of 1999, during the Fourth RCM Meeting. Finally, in response to that petition, in May of 1999 a “Seminar on Migration, Return, and Reinsertion” was held in Honduras. In March of 2000, during the Fifth RCM Meeting, held in Washington, D.C., the Vice Ministers received with satisfaction the results of that seminar.

The Central American Commission of Directors General of Migration (OCAM), whose member countries also belong to the RCM, during its XIII Meeting (San José, Costa Rica, October of 1999), agreed to “Present to the IOM, at the next meeting of the RCGM, a request from the Technical Secretariat of the OCAM, for the preparation of a regional program for the attention and assisted return of intra-regional migrants by land, assuring dignified, safe, and orderly conditions, and full respect for the human rights of migrants.” The IOM prepared the requested proposal, taking into consideration the problems identified by the countries of the region at the various negotiation forums. The OCAM has also reiterated at several of its meetings (XVIII in San Salvador, March of 2002; XIX in Montelimar, Nicaragua, October of 2002; XX in La Ceiba, Honduras, April of 2003; and XXI in Petén, Guatemala, October of 2003), that the dignified, safe, and orderly return of migrants should be dealt with from a regional and multilateral perspective, and thus OCAM has asked the RCM to make efforts towards the development of a program that reflects such characteristics.

For purposes of making progress in this matter, the Plan of Action submitted at the Seventh RCM Meeting in Antigua, Guatemala (May of 2002), under the topic of “Migratory Policies and

Management,” contained as Objective #6 “Reinforce the coordination efforts among governments and international bodies concerning the processes for the return of migrants of irregular status,” and as Objective #7 “Develop a regional strategy and focus to facilitate the return of migrants of irregular status.”

Therefore, the RCM’s Guidelines for the Repatriation of Regional Migrants by Land shall orient the negotiation of multi and/or bilateral mechanisms between the Conference Member Countries, based on each country’s domestic legislation. Said mechanisms may take into consideration the Guidelines set forth below:

1.2 Target Population

The target population for these Guidelines are those Central American migrants and victims of trafficking who are returned from Mexico and between Central American countries to their countries of origin. These guidelines are applicable to the countries of Mexico and Central America.

1.3 International Law Framework and Safeguard Clauses

No provision contained in these Guidelines shall affect the rights, obligations, and responsibilities of the Member Countries and other persons with respect to international law, including international humanitarian law, international human rights norms, and international law concerning refugees (particularly when applicable to the *1951 Convention on the Condition of Refugees and its 1967 Protocol*, and the principle of *non-refoulement*, or non-expulsion), nor shall any such provision affect any of the rights granted to migrants by the laws of the country making delivery.

These Guidelines are understood to be consistent with the domestic law and policies of each Member Country.

Those Member Countries that are Signatory Parties to the *1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* shall take special care in observing the pertinent provisions of said Convention that are applicable to these Guidelines.

Article 2 Logistical and Operative Aspects of the Return Process

In order to guarantee the dignified, safe, and orderly return of migrants, the multi and/or bilateral mechanisms may specify the logistical and operative aspects described below:

2.1 Prior Activities

2.1.1 Verification of Nationality

Within the capabilities of each delivering country, the return of migrants shall be preceded by the verification of each migrant’s nationality.

2.1.2 Evaluation of the Needs for Assistance

During the return process, individual needs in areas such as meals, medical and psychological attention, and personal hygiene products, shall be considered. Likewise, the needs for differentiated assistance during the return process shall be determined in cases of high risk or vulnerability, with such assistance to be provided in accordance with the mechanisms identified in Section 2.2.8 herein.

2.2 Activities during the Return Process

2.2.1 Conditions of Repatriation

The authorities of the Member Country in whose territory migrants have been detained due to their lack of necessary documentation, shall undertake to repatriate the latter to their country of origin or permanent residence in a dignified, orderly, and safe manner, in strict observance of the migrant's human rights. The return of residents shall be defined in the corresponding multi and/or bilateral mechanisms.

2.2.2 Points of Repatriation

The repatriation of migrants shall take place exclusively at those border crossings identified for such purposes by those Member Countries who share common borders. Said border crossing points shall be specified in lists to be incorporated as annexes to the multi and/or bilateral arrangements or mechanisms.

2.2.3 Schedules

The repatriation of regional migrants shall take place during those days and time periods agreed upon between Member Countries that share borders, with such scheduling to favor the harmonization of schedules at the agreed-upon border crossing points. The days and time periods agreed upon between Member Countries with common borders must be indicated on the lists referred to in Item 2.2.2.

The schedule for the repatriation of persons who require special security measures shall be set forth in the mechanisms established, except when the Member Countries have signed a specific agreement for dealing with such cases.

2.2.4 Notification

The migration authorities of the recipient Country must be notified in advance of any repatriations to be performed during daytime hours, by telephone, by fax, and where possible by e-mail, with the required advance notification period to be established in the corresponding agreement.

The corresponding migration authorities must be notified in advance of any repatriations to be performed outside of daytime hours, either by telephone or by fax.

The Member Countries shall indicate, on the lists referred to in Item 2.2.2, the telephone and fax numbers for the migration authorities at the reception points of each Country, for purposes of giving notice of repatriations that are to take place, along with the names of the officials authorized to receive such notifications and give confirmation of same. The information referred to in this paragraph shall be periodically updated.

2.2.5 Transportation and Transfer

The organization of the return process must be carried out in a coordinated, orderly, and safe manner, through to the border crossing points of the delivering country.

The transfer of migrants shall take place at the border crossing point agreed upon by the delivering country and the recipient country in the applicable multi and/or bilateral mechanisms. The recipient country shall then ensure that the migrants are transferred to the location closest to their respective communities of origin.

The countries shall provide assistance to cover meal expenses along the way.

2.2.6 Delivery and Reception of Migrants

Reception shall take place by way of lists that contain the following data for each repatriated person:

- a) Name
- b) Nationality
- c) Sex
- d) Date of birth
- e) Place of origin within the recipient country
- f) Date and place of detention

The immigration authorities of the country making delivery of the migrants shall prepare a list for each repatriated group to be turned over to the authorities of the recipient country, and the latter authorities shall affix their official seal on a copy of said list as proof of receipt.

In the case of migrants who have been subject to criminal proceedings in the country making delivery, the countries involved, in accordance with their respective domestic legislation, shall include in the data lists the following additional information:

- a) Type of offense committed
- b) Name of the consular authority to whom notice has been given, in accordance with Article 36 of the Vienna Convention on Consular Relations, along with the date of said notice
- c) Where feasible, certification or copy of the sentence received and the date of same
- d) Period of incarceration
- e) Release Order (in the event the person was incarcerated)

The country making delivery shall acknowledge the right of the recipient country to refuse entry to those persons who are not citizens of the latter country. Those persons denied entry shall remain under the custody of the former country's migration authorities.

The migration officials of the recipient country, in accordance with their capacity, shall verify the health status of the repatriated persons.

In the event objective evidence exists of mistreatment or a violation of the human rights of any migrant, the authorities of the recipient country shall immediately notify and inform the authorities of the delivering country concerning the details of the case.

2.2.7 Number of Persons Repatriated per Procedure

The countries involved in the return of migrants shall agree upon the number of persons to be returned, in accordance with the administrative capacity at their respective border crossing points.

2.2.8 Schedules and Mechanisms for Differentiated Attention

Whenever possible, the transfer of returned persons shall take place during daytime hours. Underage persons unaccompanied by adults, women with infants, and other vulnerable persons, such as the elderly and the sick, shall be returned during the daytime portion of the schedule corresponding to each location.

Underage persons unaccompanied by adults, as well as disabled persons, may only be repatriated at those border crossing points agreed upon for such purposes, in which case the delivering country shall give the recipient country sufficient advance notice, in order to allow the latter country to notify its domestic institutions that are responsible for the protection and care of said vulnerable groups.

The repatriation of regional migrants shall take place in observance of the principle of family unity. The country making delivery shall avoid separating members of the same family during detention proceedings, and shall ensure that all such family members are repatriated in the same group, during daytime hours.

2.2.9 Repatriation of Deceased Migrants

Wherever feasible, the countries shall agree upon special mechanisms to facilitate the swift and economical repatriation of deceased migrants.

2.3 Shelters; Transitory Attention Centers

The countries involved shall, in their respective mechanisms, agree upon the logistical aspects regarding the shelters, attention centers, and reinsertion programs that the return cases may merit.

The countries may consider participation by civil society organizations in any of the aspects covered by the return process mechanisms, as the case may be.

Article 3 Information System

The Program should implement an information system for recording and processing updated, timely, and reliable data concerning those persons returned by land. In order to facilitate this process, the countries involved may benefit from existing data recording systems, such as the Statistical Information System for Mesoamerican Migration (SIEMMES).

Article 4 Institutional Strengthening

For purposes of continuous improvement of the return process mechanisms, the countries involved may establish training programs for migration officials and representatives of other related agencies.

Such training may cover the relevant aspects concerning human rights, attention to migrants in transit, attention to persons in highly vulnerable situations, crisis management, and migration administration.

Article 5 Financing

The countries involved shall agree upon the manner of financing the aspects covered in the applicable mechanisms. In the event financing is obtained by way of international cooperation, the countries shall entrust to the International Organization for Migration (IOM) the administration of the resources obtained through international economic collaboration, in order to guarantee the transparency, security, and continuity of the mechanisms for repatriation by land.

Article 6 International Technical Cooperation

For purposes of the design and implementation of multi and/or bilateral mechanisms, cooperation may be obtained from the IOM and other organizations specialized in the various subject areas covered by said mechanisms.

Article 7 Monitoring and Evaluation Mechanisms

In order to ensure the effective and transparent execution of the multi and/or bilateral mechanisms established, the countries involved shall agree upon such monitoring, evaluation, and follow-up modalities as may be deemed proper, with statistical records being given priority.