

TRIPARTITE MEMORANDUM OF UNDERSTANDING  
AMONG  
THE ROYAL THAI GOVERNMENT,  
THE SUPREME NATIONAL COUNCIL OF CAMBODIA  
AND  
THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES  
RELATING TO THE REPATRIATION OF  
CAMBODIAN REFUGEES AND DISPLACED PERSONS FROM THAILAND

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The Royal Thai Government (hereinafter referred to as the RTG), the Supreme National Council of Cambodia (hereinafter referred to as the SNC), and the Office of the United Nations High Commissioner for Refugees (hereinafter referred to as UNHCR), (see also the lexicon attached to this document)

RECALLING Security Council Resolution 668 (1990) of 20 September 1990 and General Assembly Resolution A/RES/45/3 of 16 October 1990 on the situation in Cambodia,

ACTING in accordance with the agreement on the Comprehensive Political Settlement of the Cambodia Conflict (hereinafter referred to as the Comprehensive Political Settlement) concluded on 23 October 1991 at the Paris International Conference on Cambodia, and guided in particular by the provisions in Annex 4 to the Comprehensive Political Settlement, entitled "Repatriation of Cambodian Refugees and Displaced Persons", (hereinafter referred to as Annex 4)

RESOLVED to cooperate in order to facilitate the return and reintegration of Cambodian refugees and displaced persons presently assisted by the United Nations (UN) in camps in Thailand,

GIVEN the responsibility entrusted to the UNHCR to act, under the Secretary General's authority, as the international lead agency for repatriation of the Cambodian refugees and displaced persons,

PROCEEDING from the assumption that following the Comprehensive Political Settlement and restoration of peace and security in Cambodia, the Cambodian refugees and displaced persons would return voluntarily in conditions of safety and dignity and will be assisted to resume normal productive lives in their homeland,

NOTING the desire of the Contracting Parties to work with each other to achieve full observance of the principles and safeguards governing repatriation provided in Annex 4,

CONSIDERING the need, therefore, to define general modalities of such cooperation for implementation of the repatriation in line with the guidelines provided in Annex 4,

NOTING the need to achieve the repatriation under this MOU before the date of the general election in Cambodia in order to maximize the participation of Cambodians in such an election,

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HAVE AGREED ON THE FOLLOWING PROVISIONS:

1. Voluntary Character of Repatriation

The Contracting Parties shall cooperate with one another to ensure that repatriation will be on a voluntary basis. Where the Contracting Parties agree that, with regard to the Cambodian refugees and displaced persons in the border camps in Thailand, the circumstances that create the status of genuine refugee have ceased to exist, this principle will no longer be relevant.

2. Residual caseload

In line with paragraph 1 in Annex 4, the Contracting Parties shall cooperate and use their best endeavours to ensure that there would be no residual problems in Thailand. To this end, the Contracting Parties will consult with each other with a view to finding acceptable solutions for any exceptional cases involving individuals who, due to the particularities of their situations, might not be able to return to Cambodia. A Comprehensive Plan of Action for such and other residual caseload will be concluded as soon as the Cambodian government elected under the UN auspices is established.

3. Freedom of Choice

The Contracting Parties shall prevent any attempt by any side to interfere with the exercise of free choice of destination in Cambodia. Organized movement inside Cambodia of any part of the returnees shall not be allowed without proper UN/SNC authorization and monitoring.

4. Control and Supervision of the Cambodian Administration in the Camps

The RTG, consistent with the exercise of its sovereignty, will allow UNHCR to participate in the control and supervision over the Cambodian administration in the camps in Thailand in order to achieve the objectives of paragraphs 1 and 3, including the prevention of clandestine organized returns. Such control and supervision would include enhanced and uninterrupted presence of DEPU and UNHCR in all camps. Such control and supervision will not affect the ongoing day-to-day administration of camps.

5. Conditions of Safety and Dignity

The Contracting Parties agree that the organized repatriation of Cambodian refugees and displaced persons under UN auspices shall take place only when there exist conditions conducive to the safe transportation and return in safety and dignity to places of final destination of the returnees.

6. Security Responsibility in Thailand

The RTG shall retain responsibility for safety and security for the Cambodian border population in Thailand. The RTG shall not allow armed elements in the border camps and shall not allow arms, ammunition and explosive devices among those returning in UN convoys while in Thailand. Personal belongings of the returnees will be properly screened in the staging areas for this purpose. The security of the convoys while in Thailand will be ensured by the RTG.

7. Security Responsibility in Cambodia

The SNC acting through the existing administrative structures in Cambodia shall be responsible for the safety and security of returnees inside Cambodia. This task will be performed under the control and supervision of the UNTAC.

8. Assurances upon Return

The SNC shall issue public assurances and ensure that persons returning to Cambodia will not be subject to persecution, prosecution or punitive or discriminatory measures on account of their departure from Cambodia, their status as refugees and displaced persons, or without prejudice to relevant provisions of international law, their political affiliation and activities subsequent to their departure.

9. Spontaneous Return

All the assurances and guarantees provided in Annex 4 to the Comprehensive Political Settlement shall apply to spontaneous returnees as well.

10. Juridical Status and Equivalency

All juridical status of Cambodian refugees and displaced persons e.g. births, deaths, adoptions, marriage, divorce, which occurred in Thailand shall be recognized in Cambodia. Furthermore, the SNC will also seek to accord recognition, as appropriate, to the equivalency of school and training certificates. As feasible, existing training and vocational programmes will continue to be available for persons in the

border camps prior to their departure, and measures will be taken to facilitate the successful reintegration into Cambodia of those with special skills and training.

11. Registration and Documentation

UNHCR, in consultation with the RTG, shall conduct a registration of the population in the border camps and will provide to returnees documents which will be recognized by the Contracting Parties as valid identity documents, reflecting the juridical status described in paragraph 10, and as travel documents for the purpose of return to their destination of choice in Cambodia.

12. Preservation of Family Unity and Measures for Vulnerable Persons

In accordance with the fundamental principle of preserving family unity, UNHCR, in cooperation with the other Contracting Parties, shall take measures to ensure that families shall be repatriated as units. Where this is not possible, a mechanism will be established for their reunification in Cambodia. Measures will be taken for the identification of and extra care for unaccompanied minors and other vulnerable persons during the repatriation process.

13. Right of Access

UNHCR and other relevant international agencies which are authorized by the RTG to co-operate with UNHCR in Thailand will, in accordance with Annex 4, be granted full access to all Cambodian refugees and displaced persons with a view to undertaking census, tracing, medical

assistance, food delivery/distribution and other activities vital to the discharge of their mandates and operational and monitoring responsibilities. The same access will be provided in Cambodia.

14. Public Information

In order to encourage the expeditious return of Cambodian refugees and displaced persons, the Contracting Parties will take steps to create conditions for an information campaign in refugee and displaced persons' sites. UNHCR will, in accordance with Annex 4, devise and implement such a campaign so as to ensure that all relevant information regarding repatriation will be disseminated among the population so that their decision to return will be taken in full knowledge of facts. Furthermore, in order to achieve the smooth reintegration of returnees in safety and dignity, the SNC, in cooperation with local authorities and appropriate agencies in Cambodia, shall take all necessary steps to prepare the local population in places of reception for repatriation of refugees and displaced persons.

15. Advance Party

The Contracting Parties will facilitate, as appropriate, advance parties of representatives from a cross section of the refugee and displaced person population to visit Cambodia to see for themselves arrangements made for their return. These representatives will then be permitted to return to the border camps in Thailand to report the findings to their groups.

16. Logistical Arrangements for Transport

To facilitate the smooth transport of persons and their personal belongings, UNHCR may enter into arrangements with appropriate Thai transport companies to organize convoys of buses (for passengers) and trucks (for personal belongings) directly from designated departure staging areas in border camps in Thailand to designated reception centres in Cambodia. The RTG and the SNC acting through existing administrative structures in Cambodia will issue permits for bus and transport companies to operate from Thailand to these reception centres inside Cambodia. Departure staging areas in Thailand are primarily foreseen in Site 2, Site B, Site 8 as well as Khao I Dang. Reception centres in Cambodia shall be established inter alia in designated areas close to Phnom Penh, Pursat, Battambang (two centres), Sisophon and Siem Riep. Separate logistical arrangements will be put in place by UNHCR for movement of persons and goods from the reception centres in Cambodia to final destinations.

17. Designated Border Crossing Points

Organized repatriation by bus and truck under UNHCR auspices shall take place by road at Klong Luk/Poipet crossing. Any other route shall be agreed to in writing by the Contracting Parties. The RTG and the SNC acting through existing administrative structures in Cambodia may agree to provide access to and facilitate the use by UNHCR, for repatriation purposes, of existing logistical facilities in their respective countries.



18. Transfer of Criminals

The Contracting Parties agree that Cambodian refugees and displaced persons who have committed serious non-political offences in the camps shall be transferred to Cambodia and shall cooperate with each other to ensure appropriate arrangements for their transport and hand-over.

19. Facilitation of Movement of Staff

The RTG and the SNC acting through existing administrative structures in Cambodia will facilitate the movement of UNHCR staff and personnel of other agencies referred to in paragraph 13, cooperating with UNHCR in the repatriation operation within Thailand and Cambodia and across the agreed designated border points. This will include facilitation of use of air space and authorized airports and airstrips for relief flights. In particular, the Contracting Parties will issue advance two-way cross-border travel authorizations for the duration of the repatriation operation to such personnel. The same authorizations will be issued to Cambodians working under UN auspices for the purpose of assisting the escort of the bus convoys into Cambodia.

20. Procurement of goods and services in Thailand and Cambodia

Without detriment to the UN financial regulations on competitive bidding, priority will be given by UNHCR to ordering goods and services in Thailand and in Cambodia. The RTG and the SNC acting through existing administrative structures in Cambodia will facilitate the procurement of such goods and services.

21. Waiver of Immigration, Customs and Health Formalities

For the purpose of expediting the mass repatriation operation, the RTG and the SNC acting through existing administrative structures in Cambodia will, subject to import and export restriction and prohibition, waive normal immigration, customs and health formalities at designated border crossing points for:

(a) repatriants returning under the UN programme and their belongings;

(b) personnel involved in UN repatriation operations and their accompanied belongings upon exiting or returning to Thailand;

(c) relief goods and commodities, and means of transport destined for use in the repatriation operation.

22. Expedition Clearance and Waiver of Taxes

The RTG and the SNC acting through existing administrative structures in Cambodia, and in conformity with their law and regulations, will expedite clearance and handling of all goods to be imported for use in the repatriation and shall exempt such goods from all Government taxes and duties.

23. Radio Communication

Given the need to have good communication links between UNHCR field offices in Thailand and Cambodia and between vehicles escorting convoys of repatriants, the RTG and the SNC acting through existing administrative structures in Cambodia hereby authorize UNHCR to use

UN frequencies in the establishment of a cross-border radio network in UNHCR field offices and vehicles, including hand-held radios. Appropriate written authorizations for equipment, frequencies and networks will be issued to UNHCR.

24. Security of UN Staff and Property

The RTG and the SNC acting through existing administrative structures in Cambodia will ensure that all staff involved in the repatriation are given the necessary protection, and UN goods and vehicles are given safe passage within Thailand and Cambodia.

25. Restoration of Border Camp Sites

UNHCR, in collaboration with the Office of the Secretary-General, will seek donors' support in order to assist the RTG in the restoration of the Cambodian population camp sites to the condition prior to the establishment of camps after the completion of the repatriation.

26. Coordination

The Contracting Parties shall agree to establish an appropriate mechanism for consultation and coordination in order to facilitate the implementation of the provisions of this agreement which require joint action.

27. Coordination in Cambodia

The SNC, with a view to dealing with pending problems and questions arising in the implementation of the repatriation of the refugees and

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displaced persons following their arrival in Cambodia, shall utilize, through the convening of regular meetings, as appropriate, the SNC Working Group on Repatriation established through the decision of the SNC on 17-19 July 1991.

28. Settlement of Differences

Any differences in interpretation and/or implementation of this Memorandum of Understanding shall be amicably resolved through consultations.

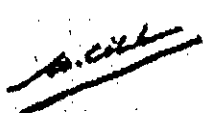
29. Entry into Force

This Memorandum of Understanding shall enter into force from the date of signature by all Contracting Parties concerned.

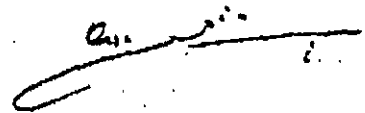
IN WITNESS WHEREOF, the authorized representatives of the RTG, the SNC and UNHCR have here below signed this Memorandum of Understanding:

Done at Phnom-Penh on November 21, 1991 in triplicate in the English language.

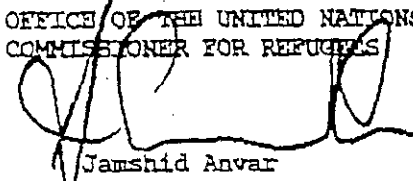
FOR THE SUPREME NATIONAL COUNCIL  
OF CAMBODIA

  
H.R.H. Samdech Preah Norodom Sihanouk  
President of the Supreme National Council

FOR THE ROYAL THAI GOVERNMENT

  
Arsa Sarasin  
Minister of Foreign Affairs

FOR THE OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR REFUGEES

  
Jamshid Anvar  
Director of the Regional Bureau for Asia and Oceania