

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE SWISS GOVERNMENT
REPRESENTED BY
THE SWISS AGENCY FOR DEVELOPMENT AND COOPERATION,
DEPARTMENT OF HUMANITARIAN AID AND
SWISS HUMANITARIAN AID UNIT**

AND

**THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR
REFUGEES**

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**THE SWISS GOVERNMENT
REPRESENTED BY
THE SWISS AGENCY FOR DEVELOPMENT AND COOPERATION,
DEPARTMENT OF HUMANITARIAN AID AND
SWISS HUMANITARIAN AID UNIT,
("The Donor")**

AND

**THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR
REFUGEES
("UNHCR")**

Whereas the Donor and UNHCR have enjoyed a longstanding and mutually beneficial co-operation and collaboration under the terms of an initial Letter of Agreement established between the Swiss Federal Department of Foreign Affairs and UNHCR in 1981,

Whereas the Donor and UNHCR have decided to update this framework for co-operation and collaboration through a newly agreed Memorandum of Understanding,

Whereas the Donor and UNHCR have further agreed to co-operate in improving preparedness for and response to emergency, post-emergency and stabilised refugee or returnee situations,

Now therefore, the Donor and UNHCR, collectively also referred to as "the Parties", hereby agree as follows:

Article 1

OBJECTIVES

The objectives of this Memorandum of Understanding ("MoU") are:

- (a) To strengthen and enhance the capacity of UNHCR to launch and implement emergency programmes, and to maintain the high technical quality of its emergency, post-emergency and stabilised refugee or returnee operations by drawing upon the Donor's stand-by capacity of technical professionals with appropriate skill profiles to be deployed by the Donor to UNHCR operations;

- (b) To clarify the resources and technical expertise which the Donor can make available to UNHCR;
- (c) To complement and improve the operational and planning capacities of UNHCR;
- (d) To develop a co-operation framework which is operationally, economically and technically viable, as well as replicable for any emergency, post-emergency or stabilised operation;
- (e) To develop, for cases of extreme emergency, a framework for the rapid deployment of the Donor's professionals;
- (f) To diversify and strengthen the experience of the Donor's professionals; and, therewith,
- (g) To strengthen and enhance the Donor's partnership with UNHCR.

Article 2

GUIDING PRINCIPLES

- 2.1 The Donor, upon request by and following consultation with UNHCR, shall, within the limits of its operational and financial capabilities, deploy to UNHCR professionals (hereinafter referred to as "Experts"), funded in accordance with this MoU, to support UNHCR in its tasks according to its mandate. A list of the types of Experts of particular interest to UNHCR is attached to this MoU as Annex I.
- 2.2 For each deployment under this MoU, the Parties shall agree by an Exchange of Letters on the details of the deployment and the specific responsibilities of the Parties.
- 2.3 Experts, deployed under this MoU and funded by the Donor, will be considered as extra-budgetary in-kind contributions and will be listed as donations in the "Notes to the Financial Statements of the Voluntary Funds administered by UNHCR".
- 2.4 The rights and obligations of the Expert are strictly limited to the terms and conditions of this MoU unless otherwise agreed in writing.

Article 3

THE DEPLOYMENT OF EXPERTS

- 3.1 For the deployment of (an) Expert(s) under this MoU, UNHCR shall submit a written request to the Donor (hereinafter referred to as "the Request"), which shall include:

- An overview of the relevant UNHCR operation;
 - Detailed Terms of Reference including a description of the tasks to be fulfilled and/or functions to be assumed, specifying duties and qualifications required, and, for administrative purposes of the Donor, the corresponding grade level within UNHCR;
 - The number of Experts required;
 - The location of deployment;
 - The expected deployment date and the duration of the deployment; and
 - Other relevant information regarding the operation.
- 3.2 If the Donor intends to accept UNHCR's request, it shall identify in its database eligible candidates for the deployment and provide UNHCR with full *curricula vitae*, availability dates and any further information needed by the latter.
- 3.3 UNHCR reserves the right to approve or reject the proposed candidate(s) to be deployed.
- 3.4 The final selection of the candidate(s) shall be confirmed in writing, according to the sample "Letter of acceptance", attached to this MoU as Annex II.

Article 4

DURATION AND EXTENSION OF A DEPLOYMENT

- 4.1 Experts will normally be deployed for a period of up to six months. Shorter deployments of Experts may take place for special emergency assignments.
- 4.2 Extension of the Expert's deployment, or continuation of the same mission by another Expert ("replacement") may be requested by UNHCR. In such cases a written request for extension of the deployment or replacement of an Expert shall be made at least one month prior to the expiration date of the ongoing deployment.
- 4.3 The extension or replacement period shall be for a mutually agreed duration and commence immediately upon expiration of the first period of deployment, unless, in case of replacement, a period of overlap is required.
- 4.4 An extension or replacement will be effected by an Exchange of Letters according to the model, attached to this MoU as Annex III.

Article 5

STATUS AND OBLIGATIONS OF THE EXPERT

- 5.1 The Donor agrees to the status and obligations of the Expert set forth in this Article and in the Undertaking attached as Annex IV. The Donor shall ensure that

the Expert complies therewith and signs the Undertaking, which has to be forwarded to UNHCR, prior to deployment.

- 5.2 For the purpose of carrying out functions under the terms of this MoU, the Expert shall be accorded the status of "Expert on Mission for the United Nations" according to Article VI, sections 22 and 23, of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, and shall benefit from such privileges and immunities as are necessary for the independent exercise of his/her functions during the period of deployment with UNHCR, including time spent on travel to and from the location where he/she is deployed. Although the Expert, in terms of his/her status will not be considered as being a staff member or official of UNHCR or the United Nations, UNHCR will fully integrate the Expert in the team of its international staff in the area of deployment.
- 5.3 The Secretary-General of the United Nations shall have the right and the duty to waive the immunity of any Expert having been accorded the status of "Expert on Mission" under the present MoU in any case where, in his opinion, the immunity would impede the course of justice.
- 5.4 The Expert shall perform his/her functions under the authority, and in full compliance with the instructions of the respective UNHCR official charged with the implementation of the operation to which the Expert is deployed, and any person acting on his or her behalf. The Expert may be requested to carry out slightly different functions than those stated in the Terms of Reference drawn up under Article 3.1 of this MoU, if the situation in the field so requires.
- 5.5 The Expert will report to the UNHCR official charged with the implementation of the operation to which the Expert is deployed, and is subject to the overall supervision of the UNHCR Head of Country Office in the country of operation.
- 5.6 The Expert shall undertake to respect the impartiality and independence of UNHCR and shall neither seek nor accept instructions regarding the services performed under this MoU from any Government, including his/her own, or any other authority external to UNHCR, unless otherwise agreed between the Parties in writing.
- 5.7 The Expert shall refrain from any conduct that would adversely reflect on UNHCR and shall not engage in any activity that is incompatible with the aims and objectives of UNHCR.
- 5.8 The Expert shall comply with all rules, regulations, instructions, procedures or directives issued by UNHCR.
- 5.9 The Expert shall exercise the utmost discretion in all matters relating to his/her functions and shall not communicate, at any time, without the authorization of the UNHCR Head of Country Office in the country of operation, to the media or to any institution, person, Government or other authority external to UNHCR, any information that has not been made public, and which has become known to him/her by reason of his/her association with UNHCR. The Expert shall not use

any such information without the written authorization of the UNHCR Head of Country Office in the country of operation, and in any event, such information shall not be used for personal gain. These obligations do not lapse upon expiration of the present MoU.

- 5.10 The Expert shall confirm that he/she recognises the obligations set out in paragraphs 5.4 to 5.9 above by signing the Undertaking attached as Annex IV.
- 5.11 During the period of deployment, the Expert is not authorised to make any commitments on behalf of the Swiss Government.
- 5.12 Unsatisfactory performance or failure to conform to the duties and obligations under this MoU may lead to termination of the deployment, for cause, at the initiative of UNHCR. One month notice shall be given in such cases.
- 5.13 Any serious breach of the duties and obligations that, in the view of UNHCR, would justify separation before the end of the notice period mentioned in Article 5.12 above, will be immediately reported to the Donor, with a view to obtaining agreement on an immediate cessation of the deployment. UNHCR may decide to limit or bar access to UNHCR premises by the individual involved when the circumstances so warrant.

Article 6

RESPONSIBILITIES OF THE DONOR

- 6.1 The Donor shall employ the Expert according to its personnel regulations and shall pay all expenses in connection with the deployment of the Expert, including salary, international travel costs to and from the main entry point of the country to which the Expert is deployed, as well as medical evacuation costs, and other benefits to which the Expert is entitled, like rest and relief, except as otherwise provided in this MoU.
- 6.2 The Donor shall be responsible for an administrative pre-departure briefing on its personnel regulations and shall hold a debriefing with the Expert at the end of his/her deployment under this MoU.
- 6.3 The Donor shall ensure that the Expert is medically fit to travel and to perform the deployment, and has had the required inoculations for the country or countries to which he/she will travel.
- 6.4 The Donor shall ensure that during the entire period of the deployment, the Expert is covered by adequate medical and life insurance, as well as insurance coverage for service-incurred illness, injuries, disability or death. This insurance shall cover war-risk and other extraordinary risks. The Expert will not be covered by UNHCR's own medical, accident, or life insurance.

- 6.5 The Donor shall arrange all visa and travel procedures for the deployment. UNHCR shall, if requested by the Donor, assist in these procedures.

Article 7

RESPONSIBILITIES OF UNHCR

- 7.1 UNHCR will carry out the pre-departure operational and security briefing of the Expert.
- 7.2 UNHCR shall request the United Nations to issue to the Expert a United Nations certificate in accordance with section 26 of Article VII of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, prior to his/her deployment or upon arrival at his/her duty station. To this end, UNHCR will provide the relevant standard United Nations documentation to be completed and returned by the Expert.
- 7.3 Upon the Donor's request under Article 6.5 above, UNHCR will assist in visa and travel procedures.
- 7.4 Costs incurred (not including any allowances) by the Experts undertaking official travel in the discharge of their functions shall be paid by the UNHCR.
- 7.5 UNHCR Headquarters will inform its relevant field offices and personnel of the expected arrival of the Expert.
- 7.6 The Expert will benefit from the same back-up support as UNHCR provides to its international staff exercising similar functions in the office of deployment. This includes access to transport and communication equipment, working space and other working facilities necessary for the Expert to operate according to his/her Terms of Reference. UNHCR Headquarters will instruct its relevant Field Office to ensure that the necessary UNHCR equipment and infrastructure is available upon arrival of the Expert at the duty station as for UNHCR staff.
- 7.7 The Expert will have the same working hours as UNHCR staff. UNHCR shall permit the Expert the same rest and relief as it accords to its own staff. The costs thereof will be borne by the Donor (Article 6.1). The Expert shall not be entitled to any annual leave during the first three months of his/her deployment. After that period an agreement regarding leave will be reached on an *ad hoc* basis between UNHCR and the Donor.
- 7.8 In case of accident or serious illness of the Expert, UNHCR, as soon as it becomes aware of the situation, shall take all necessary steps to ensure that the Expert benefits from locally available medical treatment. In case of illness it is the primary responsibility of the Expert to inform the Donor, in case of accident that of UNHCR. The emergency telephone numbers of the Donor are the following: + 41-79-211 61 35 and + 41-333-333-333. Should a medical

evacuation be required, UNHCR has to immediately contact the Donor to consult about the course of action to be taken.

7.9 At the end of the Expert's deployment, UNHCR will arrange for the Expert to debrief, at the duty station and/or at UNHCR Headquarters, on the following topics:

- The UNHCR operation in the period of deployment;
- The Terms of Reference;
- Living conditions, including health aspects, stress management and the security situation; and
- Specific conditions related to the Expert's performance and the appraisal thereof.

Article 8

RESPONSIBILITIES OF BOTH PARTIES

- 8.1 In consultation with the Donor, a systematic and comprehensive advance training programme for candidates, whose names are kept in the Donor's database (see Article 3.2 above) will be initiated by UNHCR in order to expedite the candidates' capacity to integrate and operate rapidly in any operation to which they might be deployed as Experts under this MoU. UNHCR shall also be responsible for providing necessary briefing and training within the country of deployment.
- 8.2 The advance training programme and, when necessary, individual briefings, shall include, *inter alia*:
- Information on UNHCR's mandate, mission statement, policies and structure;
 - An introduction to the relevant operation: history, present situation and perspectives;
 - The Terms of Reference: objectives, tasks, working environment and conditions, and appraisal;
 - A briefing on living conditions, including general principles of health promotion and disease-prevention measures;
 - Guidelines and conduct relating to security arrangements and personal security.
- 8.3 With a view to ensuring more in-depth, mutual exchange of operational knowledge between the personnel of the Parties, the Donor will include UNHCR staff in orientation and training activities provided to its own personnel.

Article 9

SECURITY

- 9.1 The Donor agrees that the Expert is subject to, and has to respect the authority of the UNHCR Field Safety Adviser and the United Nations Security Co-ordinator (“UNSECOORD”) in security matters and will follow the relevant security instructions pertaining to the operation, taking no undue risks *in situ*.
- 9.2 The Donor will advise the Expert that he/she is not authorised to carry and/or use any weapon, or to directly engage the services of armed guards/personnel.
- 9.3 In case of security-related emergencies and evacuation initiated by the UNHCR Field Safety Adviser or UNSECOORD, the Expert will be treated and behave in the same manner as UNHCR internationally recruited staff.
- 9.4 UNHCR will request the competent national and local authorities that the same protection and physical security measures are in place for the Expert as for UNHCR staff.
- 9.5 In particular, security briefings and materials shall be provided to the Expert by UNHCR, both during briefings at Headquarters and in the field. The Expert must at all time be fully informed and kept continuously updated on the security situation in the field and must be actively involved in relevant security related matters by the UNHCR Staff Security Officer or UNSECOORD.
- 9.6 Following prior consultation with UNHCR, the Donor reserves the right to withdraw the Expert if it concludes, contrary to the UNHCR assessment of a given situation, that the security of the Expert is no longer guaranteed.
- 9.7. If the Expert considers that his/her security is no longer guaranteed, following prior consultation with the head of the field office to which the Expert has been deployed, the Expert may himself/herself take the decision to pull out from the operation to which he/she is deployed. In such a case the Expert shall immediately inform the Donor. It is understood that, if the Expert takes such a decision unilaterally, he/she will lose his/her status as expert on mission for the United Nations within the meaning of paragraph 5.2 of this MoU. Following his/her departure from the area of deployment, UNHCR shall be released from any responsibility towards the Expert or the Donor under the present MoU.

Article 10

EVALUATION OF THE PERFORMANCE OF THE EXPERT

- 10.1. The Performance Evaluation Form for the Experts, attached to this MoU as Annex V, will be completed jointly at the end of the deployment and will form the basis for a joint evaluation of the mission and of the results and achievements of the Expert.

- 10.2 The evaluation report shall be a critical assessment of the performance of the Expert during the deployment, in order to give to the Donor the capacity to use its resources most effectively.

Article 11

INFORMATION

- 11.1 UNHCR will inform the Donor of any major problem arising during the deployment and affecting the Expert.
- 11.2 UNHCR shall provide the Donor with all relevant information and documentation on the concerned operation, which the Donor may reasonably request, unless such information cannot be shared for reasons of confidentiality.
- 11.3 The Expert shall submit, through the head of the field office to which he/she is deployed, to the Donor a brief monthly report, in the format set out in Annex VI. The head of the field office shall immediately forward the report to the Donor and a copy of it shall be submitted to UNHCR Headquarters.
- 11.4 In order to ensure that the Donor is given full credit for the value of the deployments, the Donor will provide the UNHCR Donor Relations and Resource Mobilisation Service (hereinafter referred to as "UNHCR/DRRM") with detailed information regarding the financial value of these deployments at the end of each calendar year.

Article 12

CHANNELS OF COMMUNICATION

- 12.1 On the side of UNHCR, the focal point of contact with the Donor regarding each specific deployment will be the administrative unit that has initiated the deployment by submitting a Request under Article 3.1 above.
- 12.2 For the purpose of overall co-ordination, UNHCR/DRRM and the Donor's Multilateral Affairs and Special Assignments Department of the Swiss Humanitarian Aid Unit will be copied on all communications between the officers in charge of both Parties, as referred to in Article 12.1 above.

*Article 13***LIABILITIES**

- 13.1 UNHCR will not accept liability for claims for compensation in respect of illness, injury, disability or death, which may be suffered by the Expert arising out of the deployment or during the Expert's participation in the activities which are the subject of the present MoU, except where such illness, injury, disability or death results directly from the gross negligence of the officials or staff of UNHCR, in which case any amounts payable by UNHCR shall be reduced by amounts of any coverage under the insurance referred to under Article 6.4 above.
- 13.2 The Donor shall defend and hold harmless UNHCR and its employees in case of any claims or liabilities arising in connection with the execution of the functions of an Expert under this MoU and for any claim brought by third parties for damages, injury or death as a result of any act or omission by an Expert during the course of his/her deployment, including while on travel status, except where such damages, injury or death results directly from the gross negligence of the officials or staff of UNHCR, in which case any amounts payable by UNHCR shall be reduced by amounts of any coverage under the insurance referred to under Article 6.4 above.
- 13.3 The Donor will reimburse UNHCR for financial loss or for damage to UNHCR-owned equipment or property caused by an Expert if such loss or damage (a) occurred outside the performance of services with UNHCR, or (b) arose or resulted from gross negligence or wilful misconduct or violation or reckless disregard of applicable rules and policies by the Expert.

*Article 14***PRIVILEGES AND IMMUNITIES**

Nothing in or relating to this MoU shall be deemed a waiver, expressed or implied, of any of the privileges and immunities of UNHCR, the United Nations, or the Donor.

*Article 15***SETTLEMENT OF DISPUTES**

Any dispute between the Donor and UNHCR arising out of this MoU shall be settled by mutual agreement between the Parties.

Article 16

VALIDITY, REVIEW AND AMENDMENT

- 16.1 This MoU shall enter into force upon signature by both Parties and shall remain in force for a period of two years starting with the first deployment. It can be renewed subject to mutual written consent.
- 16.2 An annual review of this MoU shall take place within the broader context of annual bilateral consultations between the Donor and UNHCR, organised by the UNHCR Donor Relations and Resource Mobilisation Service.
- 16.3 This MoU may be amended by mutual written consent of the Parties.
- 16.4 Following mutual consultation, each Party may decide to terminate this MoU, giving three months advance notice in writing.

In witness whereof, the undersigned, being duly authorised thereto, have signed the present Memorandum of Understanding in the English language in two originals.

Geneva, 30 September 2002

Geneva, 30 September 2002

Swiss Agency for Development and Cooperation
Department of Humanitarian Aid and

The Office of the United Nations
High Commissioner for Refugees