

**TRIPARTITE MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE GOVERNMENT OF THE KINGDOM OF SWEDEN**

**THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF AFGHANISTAN**

**AND THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)**

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**Tripartite Memorandum of Understanding (the MoU) between, the Government of the Islamic Republic of Afghanistan, the Government of the Kingdom of Sweden and the United Nations High Commissioner for Refugees (UNHCR)**

The Government of the Kingdom of Sweden, the Government of the Islamic Republic of Afghanistan and UNHCR, hereinafter referred to as "the Parties",

- (a) Recognizing that the right of all citizens to leave and to return to their country is a basic human right enshrined, *inter alia*, 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 Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions signed, under the auspices of the United Nations, in Bonn on 5 December 200j (the Bonn Agreement) has laid the foundation for achieving lasting peace, national unity, reconciliation and social and economic development in Afghanistan and noting the progress made towards this end;
- (c) Welcoming the fact that large numbers of Afghan citizens have already returned to their homeland and that many more are in the process of doing so bringing back valuable experiences and skills;
- (d) Resolved to cooperate in order to assist the voluntary, dignified, safe and orderly return to and successful reintegration in Afghanistan of Afghans now in Sweden;
- (e) Noting the desire of the Parties to work with each other to achieve full observance of international human rights and humanitarian standards;
- (f) Recognizing the need to establish a framework for such co-operation, to ensure proper planning as well as to agree on specific procedures and modalities of return and reintegration programmes, as may be supported, where appropriate, by other Intergovernmental and nongovernmental organizations;

**Have reached the following understandings:**

**PARAGRAPH 1  
Scope**

This MoU will cover any Afghan citizen, as defined in Afghan Law, who is staying in Sweden, irrespective of his or her legal status,

**PARAGRAPH 2  
Objectives**

With this MoU, the Parties wish to lay the basis for a closely coordinated, phased and humane process of assisted return of Afghans in Sweden which respects the primacy of voluntary return and which takes account of the conditions in Afghanistan, of the importance of safe, dignified and sustainable return, and of return programmes for Afghans from other host countries.

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**PARAGRAPH 3**  
**Modalities of Return**

The Parties hereby accept that the return of all Afghans will, subject to the proper operation of this paragraph, take place at their freely expressed wish, based on their knowledge of the situation in intended places of return and of any options for continued stay in Sweden:

- I Afghans holding a permanent residence permit in Sweden, will return to Afghanistan on the basis of their freely expressed wish in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.
- II Afghans with pending applications for asylum who decide of their own free will to return to Afghanistan can opt for voluntary return.
- III Afghans, who are found not to have protection needs or humanitarian reasons in accordance with the regulations in the Swedish Aliens Act could opt for voluntary return after a final negative decision on their asylum claim.

In compliance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and relevant national law of Sweden, alternatives to voluntary Return recognized as being acceptable under international law may be examined with regard to Afghans and who have no protection or compelling humanitarian needs justifying prolongation of their stay in Sweden, but who nevertheless, after the passage of reasonable time, continue to refuse to avail themselves of the Voluntary Return Programme set forth in this MoU. Prior to considering such alternatives for the persons concerned, all humanitarian aspects of their situation will be given fair consideration, during the asylum process in accordance with the Swedish Aliens Act, adequate notification will be provided, and they will be encouraged to opt for voluntary return. The Government of the Kingdom of Sweden will take into consideration the situation in Afghanistan when considering the application for asylum.

- IV. Return may include - based exclusively on decisions in accordance with Swedish legislation - alternatives to voluntary return of Afghans ordered to leave Sweden, as an option of last resort.

The return process of Afghans found through this process not to have protection or compelling humanitarian needs will be phased, orderly and humane and accomplished in manageable numbers.

**PARAGRAPH 4**  
**Re-admission**

The Government of the Islamic Republic of Afghanistan will readmit its nationals and will assist, where necessary, in determining the Afghan nationality of persons intending to benefit from assistance under this MoU, within the shortest possible time and in any case no later than within four months. The Government of the Islamic Republic of Afghanistan and the Government of the Kingdom of Sweden will cooperate closely in this respect in order also to avoid any cases of statelessness.

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**PARAGRAPH 5**  
**Commitments upon Return**

The Government of the Islamic Republic of Afghanistan will, together with other relevant bodies carry out the necessary measures to ensure that Afghans abroad can return without any fear of harassment, intimidation, persecution, discrimination prosecution or any punitive measures whatsoever. These safeguards do not preclude the right of the competent authorities of Afghanistan to prosecute individuals on account of war crimes and crimes against humanity, as defined in international instruments, or very serious common crimes involving death or severe bodily harm in accordance with established human rights standards.

The Government of the Islamic Republic of Afghanistan recalls in this respect the guarantees contained in Decree No. 297, dated 13.03.1380 (3 June 2002) on the dignified return of Afghan refugees, which fully applies to Afghans returning from Sweden under this MoU.

**PARAGRAPH 6**  
**Freedom of Choice of Destination**

The Government of the Islamic Republic of Afghanistan accepts that Afghans returning from abroad will be free to settle in their former place of residence or any other place of their choice in Afghanistan.

**PARAGRAPH 7**  
**Juridical Status and Equivalency**

The Government of the Islamic Republic of Afghanistan accepts, in accordance with Afghan law, to recognize the legal status, including changes thereto, of Afghans returning from Sweden, including births, deaths, adoptions, marriages and divorces. The Government of the Islamic Republic of Afghanistan will also seek to recognize, as appropriate and in cooperation with the Swedish authorities, the equivalency of academic and vocational skills diplomas and certificates obtained by Afghans while in Sweden.

**PARAGRAPH 8**  
**UNHCR's Role**

The role of UNHCR in assisting, facilitating and monitoring the return of Afghans, in order to ensure that it is carried out in a manner consistent with its mandate and with the terms of this MoU, will be fully respected by the two other Parties. In close co-operation with its partners UNHCR will co-operate with the Swedish authorities on a programme for Afghans including the provision of Information, counseling and registration in Sweden.

**PARAGRAPH 9**  
**Information and Sensitization**

The Government of the Kingdom of Sweden, the Government of the Islamic Republic of Afghanistan and UNHCR will cooperate closely to ensure, with the assistance if necessary of other partners, that Afghans covered by this MoU are provided with objective and accurate information relevant to their return and reintegration in Afghanistan, to allow for decisions to return to be taken in full knowledge of the facts. To this effect, UNHCR will in co-operation with the Swedish authorities and partners provide information targeted at Afghans in Sweden.

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The Government of the Islamic Republic of Afghanistan will, with a view to creating conditions conducive to the reintegration of returnees in safety and with dignity, with the assistance of UNHCR and other relevant partners carry out all necessary measures to sensitize the population. .

#### **PARAGRAPH 10** **Counseling, Registration and Documentation**

In accordance with its mandated responsibility to ensure the voluntary character of the decision to return, UNHCR will, in consultation and co-operation with the Government of the Kingdom of Sweden, provide the most appropriate means for the counseling and registration of Afghans contemplating return, if necessary, with the assistance of other inter-governmental or nongovernmental organizations.

Duly completed Voluntary Return Forms (VRFs), issued in Sweden by the Swedish authorities in co-operation with UNHCR, signed by each adult male and female Afghan, will be recognized by the Parties as valid travel documents for the purpose of the return to their final destinations in Afghanistan of Afghans returning under this MoU. VRFs will be signed by a representative of UNHCR to attest to the voluntary character of the decision to return.

The Government of the Islamic Republic of Afghanistan will, in cases in which Afghans wishing to return do not hold documents establishing their identity, issue identity documents without delay through their diplomatic representations, after going through the legal procedures of the Afghan Government. The Government of the Kingdom of Sweden will contribute towards the costs of the issuance of identity documents to Afghans returning under this MoU.

For Afghans who have no protection or humanitarian needs justifying prolongation of their stay in Sweden and who nevertheless, after a passage of reasonable time following the communication of a final negative decision, continue to refuse to avail themselves to the Voluntary Return Program set forth in this MoU, the relevant Swedish authority will issue a valid travel document, EU Laissez-Passer.

#### **PARAGRAPH 11** **Preservation of Family Unity**

In accordance with the principle of family unity, the Government of the Kingdom of Sweden, in cooperation with the other Parties will, in cases where all members of a family, who are all Afghans covered by the MoU, decide to return to Afghanistan, make every effort to ensure that families are returned as units and that involuntary separation is avoided. Family reunification, shall in all cases, take place in accordance with the respective national *and* international laws.

In order to preserve the unity of the family, spouses and/or children of returning Afghans who are themselves not citizens of Afghanistan will be permitted to enter and remain in Afghanistan. This commitment will also apply to non-Afghan spouses as well as children of deceased Afghans who may wish to enter and remain in Afghanistan, in order to ensure preservation of family links. Accordingly, the Islamic Republic of Afghanistan will regularize the entry and stay in Afghanistan of such persons in accordance with the provisions under its national laws on the entry and stay of foreigners and will consider favorably their naturalization. Visas to this effect will be issued within the shortest possible time by the relevant diplomatic or consular representation of Afghanistan.

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**PARAGRAPH 12**  
**Special Measures for Vulnerable Groups**

The Parties will take special measures to ensure that vulnerable groups receive adequate protection, assistance and care throughout the Return and reintegration process. In particular, measures will be taken to ensure that unaccompanied minors are not returned prior to successful tracing of family members or without specific and adequate reception and care-taking arrangements having been put in place in Afghanistan.

**PARAGRAPH 13**  
**International Access Before and After Return**

In order to be able to carry out effectively its international protection and assistance functions and to facilitate the implementation of this MoU, UNHCR will, in accordance with national legislation including data-protection, be permitted free and unhindered access to all Afghans in Sweden falling under the scope of this MoU. Likewise, UNHCR will be permitted free and unhindered access to all returnees wherever they may be located in Afghanistan, including at airports, in accordance with the Afghan law, and Afghans will be permitted free and unhindered access to UNHCR.

The Government of the Islamic Republic of Afghanistan will extend full cooperation to UNHCR staff 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 MoU and in Decree No. 297 of 13.03.1380 (3 June 2002).

In this context, the Government of the Islamic Republic of Afghanistan will inform UNHCR about any case of arrest, detention and penal proceedings involving returnees. It will make relevant legal documentation on such cases, if any, available upon request and permit UNHCR staff prompt and unhindered access to such returnees.

The access permitted to UNHCR under this paragraph will, as appropriate, extend to intergovernmental or non-governmental organizations with which UNHCR, in consultation with the respective Party, may enter into agreements for the implementation of one or more components of the voluntary return programme covered by this MoU.

**PARAGRAPH 14**  
**Safe Nature of Return Travel**

In implementing this MoU, the Government of the Kingdom of Sweden will retain responsibility for the safety of Afghans who return under the provisions of this MoU until their departure at a border-crossing point. The responsibility for the safety of the returnees and responsibility for their personal property during travel will rest with the carrier and, if applicable, the international organization implementing travel. The Government of the Islamic Republic of Afghanistan will be responsible for their safety within the territory of Afghanistan.

**PARAGRAPH 15**  
**Health Precautions**

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The Government of the Kingdom of Sweden will ensure that all Afghans returning under this MoU are provided, when considered necessary, with a basic medical examination and vaccinations prior to their return and given the opportunity of access in cases of emergency, to necessary medical care in Sweden.

**PARAGRAPH. 16**  
**Immigration and Customs Formalities**

To ensure the expeditious return of Afghans and their belongings, the Government of the Islamic Republic of Afghanistan and the Government of the Kingdom of Sweden will, in respect to such persons, simplify and streamline their respective immigration, customs, health and other formalities usually carried out at border crossing points.

The returnees' personal property, including household and electronic items, hard currency, and food, will be exempted from all customs duties, charges and tariffs, provided that such property is not prohibited for exportation under the relevant national laws and rules and not prohibited for importation under the relevant Afghan national laws and rules. Lists specifying such items will be submitted by the two respective Parties as soon as possible following the signing of the MoU.

**PARAGRAPH 17**  
**Airport Arrival and Transit Arrangements**

The Parties decide that the appropriate mode of return from Sweden to Afghanistan is by air and that arrival will take place at Kabul Airport. UNHCR and the organization implementing return travel will, if applicable, be permitted unhindered access to receive returnees at the airport. With the assistance of the other Parties and financial support provided by the Government of the Kingdom of Sweden, the Government of the Islamic Republic of Afghanistan will ensure that appropriate reception facilities are in place to receive returnees, particularly those belonging to vulnerable groups, in transit to their intended destination, to the extent this is considered necessary by the Parties.

Where necessary and appropriate, the Parties may seek the understanding and acceptance of neighboring countries to permit returnees to transit through their territory to reach their places of origins in Afghanistan by the most direct and safe route.

**PARAGRAPH 18**  
**Mine-Awareness**

The Parties will cooperate to ensure, with financial support provided by the Government of the Kingdom of Sweden, the provision of adequate mine awareness counseling to returning Afghans regarding risks of mines and unexploded ordinances.

**PARAGRAPH 19**  
**Return Transportation Assistance**

The Government of the Kingdom of Sweden will, according to the Swedish legislation, meet the costs of travel for Afghans covered by this MoU up to the final destination in Afghanistan and in accordance with Swedish regulations of their luggage - including administrative costs to arrange for travel.

In addition, in order to facilitate re-integration, the Government of the Kingdom of Sweden will also offer a return package to Afghans returning to Afghanistan under the provisions of this MoU. Allowances will be regulated by the Swedish return programmes.

**PARAGRAPH 20**

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## **Reintegration Assistance**

The Government of the Kingdom of Sweden will continue to consider favorably the provision of support to reconstruction and rehabilitation projects with a view to facilitating the re-establishment of livelihoods in Afghanistan of returnees taking into account the broader reconstruction needs of Afghanistan,

### **PARAGRAPH 21 Co-ordination Mechanisms**

In implementing this MoU, the Parties are committed to coordinating and consulting closely with each other. In this regard, relevant information except person-specific information related to the content of asylum-claims - will regularly be shared between the Parties, in particular between the respective diplomatic missions of the Government of the Kingdom of Sweden and the Government of the Islamic Republic of Afghanistan and with the respective UNHCR offices and other relevant partners in both countries.

Designated representatives of the Parties will form a Working Group to monitor and discuss the implementation of this MoU. The Working Group will meet when necessary. The Working Group may, whenever it considers it useful and appropriate, invite representatives of relevant organizations to participate in its deliberations in an advisory capacity. Decisions of the Working Group will be based on the mutual consent of the designated representatives or their designated alternates,

### **PARAGRAPH 22 Personnel**

The Government of the Kingdom of Sweden and the Government of the Islamic Republic of Afghanistan will facilitate the entry and stay, through issuance of visas as necessary, in accordance with their applicable national immigration laws, of their officials and personnel as well as of UNHCR staff and of staff of organizations assisting UNHCR in facilitating the implementation of the MoU.

### **PARAGRAPH 23 Continued Validity of other Agreements**

This MoU will not affect the validity of or derogate from any existing instruments, agreements, arrangements or mechanisms of cooperation between the Parties. To the extent necessary or applicable, such instruments agreements, arrangements or mechanisms may be relied upon and applied as if they formed part of this MoU to assist in the pursuit of the objectives of this MoU, namely the return and reintegration of Afghans.

### **PARAGRAPH 24 Resolution of disputes**

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Any question arising out of the interpretation or application of this MoU. or for which no provision is expressly made herein will be resolved amicably through consultations between the Parties.

In particular, the Parties accept to address possible questions of statelessness with a view to avoid its occurrence and to seek solutions to address the hardships entailed for those affected,

**PARAGRAPH 25  
Coming Into effect**

This MoU will come into effect upon signature by the Parties.

**PARAGRAPH 26  
Amendment**

This MoU may be amended by mutual consent in writing between the Parties.

**PARAGRAPH 27  
Termination**

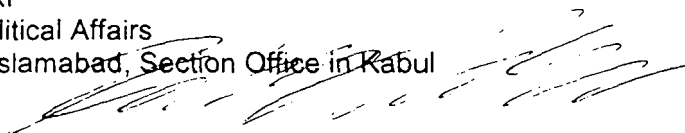
This MoU will be valid until 31 December 2008.

In witness, whereof, the representatives of the Parties have signed this MoU.

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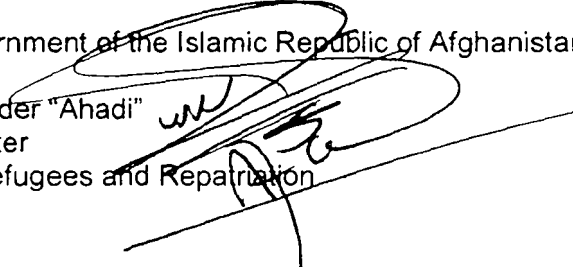
For the Government of the Kingdom of Sweden

Mr. Robert Peszkowski  
Second Secretary, Political Affairs  
Embassy of Sweden Islamabad, Section Office in Kabul



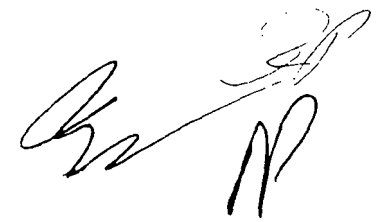
For the Government of the Islamic Republic of Afghanistan

Mr. Abdul Qader "Ahadi"  
Deputy Minister  
Ministry of Refugees and Repatriation



For the United Nations High Commissioner for Refugees (UNHCR)

Ms. Aurvasi Patel  
Senior Protection Officer,  
UNHCR Representation Kabul



## Annex

Paragraph 19 of this MoU refers to return programmes available for Afghan nationals returning from Sweden to Afghanistan.

First there is one repatriation programme for persons who have been granted residence permit and have decided themselves to return. Such persons can apply for an allowance to move back to their native country. The allowance covers travel expenses from Sweden plus a cash amount to facilitate resettling. The cash amount is maximum 10 000 Swedish Crowns (SEK) for each adult and 5 000 Swedish Crowns (SEK) for each child under 18 years of age. The maximum allowance for one family is 40 000 Swedish Crowns (SEK).

Secondly there is a programme for persons whose application for residence permit has been rejected and who intend to return voluntarily to their country of origin. In order to facilitate their return, such persons will be able to apply, as of 1 August 2007, for a special allowance. The allowance amounts to 20 000 Swedish Crowns (SEK) per adult and 10 000 Swedish Crowns (SEK) per child, with a maximum limit per family of 50 000 Swedish Crowns (SEK).

The exchange rate between Swedish Crowns (SEK) and United States Dollar (USD) is approximately at present: 100 SEK= 14,30 USD

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