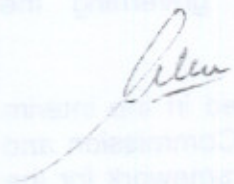


Republic of Sudan
Democratic Republic of Congo
United Nations High Commissioner for Refugees

PREAMBLE

**Tripartite Agreement SUDAN-DRC-UNHCR for the Voluntary
Repatriation of the Refugees from the Republic of Sudan living in
the Democratic Republic of Congo**



January 2006

**TRIPARTITE AGREEMENT SUDAN-DRC-UNHCR FOR THE VOLUNTARY
REPATRIATION OF SUDANESE REFUGEES FROM THE DEMOCRATIC
REPUBLIC OF CONGO TO THE REPUBLIC OF SUDAN**

PREAMBLE

The Government of the Democratic Republic of Congo, the Government of the Republic of the Sudan and the United Nations High Commissioner for Refugees (UNHCR), hereafter referred to as the "Contracting Parties".

- (a) **Recognizing** that the conclusion in Nairobi on 9th January 2005, by the Government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) of the Comprehensive Peace Agreement (CPA) offers a momentous opportunity for the attainment of peace, stability, democratic progress and for Sudanese refugees in the Democratic Republic of Congo to voluntarily return to their country of origin in safety and dignity;
- (b) **Recognizing** that the right of all citizens to leave and return to their country is a basic 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;
- (c) **Recalling** the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of 10 September 1969 and in particular Article V thereof concerning voluntary repatriation;
- (d) **Recalling** that the United Nations General Assembly Resolution 428(V) of 14 December 1950, which adopted the Statute of the United Nations High Commissioner for Refugees (UNHCR), ascribes to the High Commissioner the function of providing international protection to refugees and of seeking permanent solutions for the problems of refugees, *inter alia*, by promoting and facilitating their voluntary repatriation;
- (e) **Considering** that voluntary repatriation, where feasible, constitutes the best durable solution to the problems of refugees, and that Conclusion 18 (Session XXXI) and Conclusion 40 (Session XXXVI) of the Executive Committee of the High Commissioner's Programme set out internationally accepted principles and standards governing the voluntary repatriation of refugees;
- (f) **Bearing** in mind the importance of principles contained in the Interim Constitution as well as in the Joint Humanitarian Aid Commission and Sudan Relief and Rehabilitation Commission Policy Framework for the

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Return of Displaced Persons' in a Post-Conflict Sudan, signed between the Government of the Republic of Sudan and the Sudan People's Liberation Movement (SPLM) on 13 July 2004 and witnessed by the United Nations, concerning the voluntary repatriation and reintegration of Sudanese refugees and internally displaced persons;

- (g) **Recognizing** the need to define the specific procedures and modalities for the voluntary repatriation and reintegration in the Republic of Sudan of Sudanese refugees currently in the Democratic Republic of Congo with the assistance of the international community through UNHCR and, where appropriate, by other United Nations agencies and intergovernmental and non-governmental organizations;

Have agreed as follows:

I. GENERAL CLAUSES

Article 1

OBJECTIVE OF PRESENT AGREEMENT

The objective of the present agreement is to define the legal framework for the safe and dignified voluntary repatriation of the Sudanese refugees from the Republic Democratic of Congo and their re-integration in Sudan.

Article 2

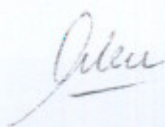
RIGHT TO RETURN

Any Sudanese refugee living in the Democratic Republic of Congo, who wishes to return to the Republic of the Sudan, has the right to do so without any pre-conditions.

Article 3

VOLUNTARY CHARACTER OF REPATRIATION

The Contracting Parties hereby reaffirm that the repatriation of Sudanese refugees in the Democratic Republic of Congo shall only take place at their freely expressed wish and no Sudanese refugee will be compelled to repatriate to his or her country of origin and/or place of habitual residence against her or his will.







Article 4

PROCESS VOLUNTARY REPATRIATION IN PHASED, HUMANE, SAFE AND DIGNIFIED RETURN

Clause 1: Making an Informed Decision

The Contracting Parties shall keep the Sudanese refugees in the Democratic Republic of Congo duly informed of the political, security and socio-economic conditions prevailing in the Republic of the Sudan, particularly Southern Sudan, so as to enable them to make informed decisions on their possible voluntary repatriation.

Clause 2: Orderly, phased, humane safe and dignified returns

The Contracting Parties will conduct the voluntary repatriation process in an orderly organized, phased, humane, safe and dignified manner as dictated by the presence in areas of return of conditions that are conducive for secure and sustainable returns as would be agreed upon by the Contracting Parties through the Tripartite Commission.

Clause 3: UNHCR responsibility to monitor the consequences of return

In keeping with its mandate, UNHCR shall be allowed unhindered access to all the returnees wherever they may be in Sudan to discharge its responsibilities to monitor the consequences of return, especially the physical, legal and material safety of the returnees, and make the necessary interventions accordingly.

Clause 4: Measures for groups with special needs

The Contracting Parties agree that special measures will be taken to ensure that vulnerable groups, including unaccompanied minors, separated children and elders, receive adequate protection, assistance and care throughout the repatriation process, in accordance with relevant international legal principles and standards.

Clause 5: Spontaneous returns

Should there be refugees, who repatriate spontaneously to areas not deemed by the Contracting Parties to be conducive for secure and sustainable returns, they shall, nevertheless whenever possible, supported and their physical, legal and material safety monitored by UNHCR.

Article 5



PRESERVATION OF FAMILY UNITY

Clause 1: Repatriation of Family Units and Reunification

In accordance with the principle of family unity, the Contracting Parties shall make every effort to ensure that refugee families are allowed to repatriate as units. Whenever necessary, a mechanism, to the extent practicable, shall be established to facilitate their reunification in the Republic of the Sudan.

Clause 2: Preservation of Family Units and Links

In order to preserve the unity of the family, with due consideration to the best interest of children, the Contracting Parties agree to grant families in which the spouses and/or children hold different nationalities, i.e. the nationality of the Republic of the Sudan and the nationality of the Democratic Republic of Congo, the option to choose their place of residence.

Family members of repatriating Sudanese refugees, who are themselves not citizens of the Republic of the Sudan, shall be allowed to lawfully enter and remain in Sudan in accordance with national laws.

In order to preserve family links, the principle established shall also apply to non-Sudanese spouses as well as children of deceased refugees from the Republic of the Sudan, who may wish to enter and remain in the Republic of the Sudan to preserve family links.

Sudanese refugees whose spouses and/or children are citizens of the Democratic Republic of Congo shall be permitted to remain in the Democratic Republic of Congo as legal residents, and shall be favourably considered for naturalization in accordance with the laws applicable in the Democratic Republic of Congo.

Article 6

RESPONSIBILITIES OF THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF CONGO

Clause 1: Assuring the voluntary character of the decision to repatriate

The Government of the Democratic Republic of Congo shall work closely with the United Nations High Commissioner for Refugees and, as appropriate, with the Government of Sudan, to guarantee that decisions made by any Sudanese refugee in the Democratic Republic of Congo to repatriate shall be solely voluntary, including ensuring that they have access to vital information on the situation prevailing inside their country of origin and other relevant developments

and that no refugee is compelled or otherwise unduly induced to return against his or her will.

Clause 2: Status of refugees who do not make the decision to repatriate

Refugees who, for the time being, do not make the decision to return to the Sudan under the present Agreement or in any other manner, shall continue to be recognised as refugees by both the Government of Democratic Republic of Congo and UNHCR. Their status and treatment in the Democratic Republic of Congo shall also continue to be governed by the principles of international refugee law.

Clause 3: Access to Refugees by UNHCR

UNHCR shall enjoy free and unhindered access to Sudanese refugees wherever they may be in the Democratic Republic of Congo so as to implement the voluntary repatriation programme provided for in this Agreement. Sudanese refugees and eligible exiles wishing to avail themselves of the opportunity to return to their country of origin under the auspices of this programme shall likewise have free and unhindered access to UNHCR accordingly.

Clause 4: Issuance of Documentation

Prior to their departure from the Democratic Republic of Congo on voluntary repatriation, the Government of the Democratic Republic of Congo shall issue to Sudanese refugees requiring them certificates or other legal documents attesting to birth, marriage, divorce, adoption, death or other legal status accrued by or affecting them or their family members while in the Democratic Republic of Congo. If a family member who is a citizen of the Democratic Republic of Congo elects to move to Sudan in order to join his or her family there as provided for in Article 6, Clause 2, the Government of the Democratic Republic of Congo shall issue him or her with the necessary travel documents without delay.

Clause 5: Departure Formalities

In order to facilitate the repatriation of the refugees:

- (a) The Government of the Democratic Republic of Congo shall simplify emigration formalities and consider practical emigration and customs arrangements that will facilitate the processing of large numbers of departures and make it easy for the refugees to exit the Democratic Republic of Congo and enter their country of origin.
- (b) In particular, for those refugees who may not hold passports, travel documents or visas as may otherwise be required by the law,

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- Voluntary Repatriation Forms (VRFs) issued to them by UNHCR shall be accepted as valid documents for purposes of exit formalities.
- (c) The personal property and effects of returning refugees, including clothing, roofing materials and livestock if any, shall be exempted from customs and excise duties or taxes which would otherwise apply. This provision shall not apply to property which is clearly of commercial nature or quantity and personal effects and goods banned by law from exportation.
 - (d) Health formalities and requirements will also be simplified to the extent feasible in accordance with the law in the interest of facilitating easy exit from Democratic Republic of Congo of the repatriating refugees.

Clause 6: Security Arrangements

The Government of the Democratic Republic of Congo undertakes the responsibility for ensuring the safety and security of the repatriating refugees returning to their country of origin, including in transit areas and during transport movements within its borders. The Government of the Democratic Republic of Congo will take all necessary measures to ensure the safety and security of the Republic of the Sudan government officials, staff and personnel of the United Nations High Commissioner for Refugees and its recognised implementing partners engaged in the voluntary repatriation operation.

Clause 7: Treatment of the Remaining Refugee Population

The Government of the Democratic Republic of Congo shall ensure that those Sudanese refugees who do not opt to repatriate, continue to enjoy asylum in the Democratic Republic of Congo in accordance with recognized international and regional conventions on refugees and relevant national laws of the Democratic Republic of Congo.