

AGREEMENT ON THE ESTABLISHMENT OF A COMMISSION
FOR THE PROMOTION OF VOLUNTARY REPATRIATION OF ANGOLAN REFUGEES
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF ANGOLA
THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA
AND
THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

The Government of the Republic of Angola, the Government of the Republic of Namibia (hereinafter referred to as the "Contracting States") and the Office of the United Nations High Commissioner for Refugees. (hereinafter referred to as the "High Commissioner"),

Recognizing that voluntary repatriation, where feasible, constitutes the best durable solution for refugee problems, and that the attainment of this solution requires that refugees shall be repatriated in conditions of safety and dignity,

Recalling that the Eicesse Accords of 31 May 1991, complemented by the Lusaka Protocol of 20 November 1994, have laid the foundations for national reconstruction and reconciliation based on peace, stability, democracy and social and economic development in Angola.

Considering that the Amnesty Law No. 24/91 of 12 July 1991 provides a formal guarantee under which Angolan refugees may return to Angola in conditions of safety and security, and that they will not be subject to any judicial, legislative or administrative measures for acts or offenses allegedly committed before or during their exile, as specified under that legislation.

Noting that the Amnesty Law No. 18/94 of 10 November 1994 applies to all crimes against state security and all other related crimes committed by Angolan citizens in the context of the military conflict following the general elections, during the period from 1st October 1992 to the signing of the Lusaka Protocol.

Recognizing that the promotion of the voluntary return of Angolan refugees in Namibia requires adequate measures to be taken for the preparation of an orderly repatriation.

HEREBY AGREE AS FOLLOWS:

ARTICLE I

ESTABLISHMENT AND COMPOSITION OF A REPATRIATION COMMISSION

1. A Commission for the promotion of voluntary repatriation of Angolan refugees in Namibia is hereby established.
2. The Commission shall be composed of three members, designated by each of the Contracting States and the High Commissioner.

3. Where a member of the Commission is unable to attend to any business of the Commission, the party represented by that member on the Commission shall designate a substitute.
4. Any member of the Commission may, when attending any meeting or other business of the Commission, be accompanied by such number of advisors as the party represented by that member may deem necessary.
5. The Commission may, whenever it considers it necessary or appropriate, invite or allow any relevant person, organization or entity to participate in its deliberations in an advisory or observer capacity.

ARTICLE 2

ROLE AND FUNCTIONS OF THE COMMISSION

1. In its endeavours to promote the voluntary repatriation of Angolan refugees in Namibia, the Commission shall visit refugee settlements and inform them of any matters relevant to the repatriation.
2. The Commission shall consider and advise the Contracting States and the High Commissioner on such actions or measures as may be taken in order to promote and implement voluntary repatriation.
3. The Commission shall also advise the Contracting States and the High Commissioner on any problems or hindrances that might arise in the course of promoting voluntary repatriation as well as on the ways or actions necessary to overcome such obstacles.

ARTICLE 3

MEETINGS OF THE COMMISSION

1. The Commission shall meet at least once in every three months.
2. The Commission may adopt its own Rules of Procedure.
3. Meetings of the Commission may be convened at the request of any of the Parties to this Agreement.
4. Meetings of the Commission shall be held in either of the Contracting States or at any other venue as agreed between the members.
5. Meetings of the Commission shall be summarized in reports for the attention of the Contracting States and the High Commissioner.

ARTICLE 4

EXCHANGE OF VISITS

The members of the Commission may undertake visits to Angola and Namibia, for the purpose of fulfilling their functions under this Agreement.

ARTICLE 5

VOLUNTARY CHARACTER OF REPATRIATION

The Contracting States and the High Commissioner reiterate that the voluntary character of repatriation shall be adhered to. Accordingly, the status of those refugees who do not make the decision to repatriate shall continue to be governed by the relevant international protection principles.

ARTICLE 6

CONDITIONS FOR REPATRIATION

The Contracting States and the High Commissioner shall undertake all necessary initiatives to create conditions for the safe transportation and return of the refugees to places of final destination in conditions of safety and dignity.

ARTICLE 7

ACCESS TO REFUGEES AND RETURNEES

In order to carry out its protection and assistance functions, the High Commissioner, as well as all other agencies collaborating with it in the repatriation and reintegration operation, shall be granted free and unhindered access to Angolan refugees in Namibia and returnees in Angola.

ARTICLE 8

BORDER CROSSING POINTS

The Contracting States and the High Commissioner shall agree on designated border crossing points for organized voluntary repatriation movements. Such agreement may be modified whenever operational requirements so demand.

ARTICLE 9

SIMPLIFICATION OF BORDER PROCEDURES

The Contracting States shall simplify and streamline their exit and entry border procedures in relation to returnees, and the latter's property shall be exempted from customs duties and tariffs, provided that such property is not prohibited for exportation from Namibia or importation into Angola as specified in a Schedule List to be agreed upon by the Contracting States.

ARTICLE 10

REPATRIATION PROGRAMME

1. The Commission shall consider plans which shall provide inter alia for:
 - (a) meetings with the refugees for the purpose of explaining to them the concept of voluntary repatriation, and to provide them with all information relevant to their repatriation and reintegration in Angola;
 - (b) visits by representatives of refugees to Angola to inform themselves of the situation there in order to facilitate the refugees' decision to repatriate;
 - (c) registration of all refugees electing to repatriate under UNHCR's auspices in the Voluntary Repatriation Forms;
 - (d) adoption of the Voluntary Repatriation Form as a valid travel document for exit and entry formalities;
 - (e) arrangements for the transportation, transit accommodation and any other measures required for the orderly departure of the refugees from Namibia and their reception in Angola;
 - (f) tracing of family members or relatives of repatriating refugees, and facilitation of their reunion;
 - (g) adoption of special measures to ensure that vulnerable groups among the refugee population receive adequate protection, assistance and care throughout the repatriation and reintegration process;
 - (h) any other relevant information which the Commission may wish to include for consideration by the parties to this Agreement.
2. The Commission shall adopt simple and practical mechanisms for the identification and the voluntary repatriation of Angolan refugees.
3. The High Commissioner shall endeavour to obtain from the international community the necessary resources required for the implementation of the voluntary repatriation programme.

ARTICLE 11

MOVEMENT AND SECURITY OF UNHCR STAFF AND PERSONNEL

1. The Contracting States shall facilitate the movement of the High Commissioner's staff and personnel of its implementing partners into, within and outside of their territory at designated border crossing points. In particular, they shall ensure that such staff and personnel are issued with two-ways cross-border travel authorizations for the duration of the repatriation operation.
2. The Contracting States shall take all appropriate steps to ensure the security and safety of the High Commissioner's staff and all other personnel engaged in the repatriation operation provided for under this Agreement.

ARTICLE 12

RELIEF GOODS, MATERIAL AND EQUIPMENT

1. The Contracting States shall exempt from the relevant taxes, duties and levies all relief goods, materials and equipment destined for use in the repatriation and reintegration operation. The clearance and handling of such resources upon importation shall be expedited.
2. The Contracting States shall authorize the High Commissioner to use UN radio equipment, frequencies and networks and shall, whenever operational requirements arise, facilitate the allocation of other frequencies.

ARTICLE 13

RESOLUTION OF DISPUTES

Any question arising in connection with the application or the interpretation of this Agreement shall in the first instance be resolved amicably through negotiations and consultations among the members of the Commission, failing which the Commission shall refer such matter to the Contracting States and the High Commissioner, who shall likewise mutually resolve the same through consultations and negotiations.

ARTICLE 14

ENTRY INTO FORCE

This Agreement shall enter into force upon signature by the Contracting States and the High Commissioner.

ARTICLE 15

TERMINATION

This Agreement shall be valid until terminated upon the completion of the repatriation exercise, or upon written notice being given by any party to this Agreement of its intention to do so. In such a case termination of the Agreement shall become effective after the expiration of ninety days from the date of service of notice, unless any other party to this Agreement has a valid objection to the termination. Such objection shall then be considered and resolved in accordance with Article 13. The termination shall not affect the validity of any part of the repatriation programme and plans which have become operational prior to the date of such termination.

DONE at..... this day of..... in two originals, in the English and Portuguese languages respectively, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE REPUBLIC OF ANGOLA

FOR THE GOVERNMENT
OF THE REPUBLIC OF
NAMIBIA

Name:.....

Name:.....

Title:.....

Title:.....

Signature:.....

Signature:.....

FOR THE UNITED NATIONS
HIGH COMMISSIONER FOR REFUGEES

Name:.....

Title:.....

Signature:.....

MEMORANDUM OF UNDERSTANDING BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF ANGOLA AND
THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES
FOR THE VOLUNTARY REPATRIATION AND REINTEGRATION
OF ANGOLAN REFUGEES

The Government of the Republic of Angola (hereinafter referred to as "the Government" and the United Nations High Commissioner for Refugees (hereinafter referred to as "the High Commissioner" or "UNHCR").

Recognizing that the right of all citizens to leave and return to their country is enshrined. inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to which the Republic of Angola is a party;

Considering that the Mandate of the High Commissioner entrusts the Office to provide international protection to refugees and to seek permanent solutions for the problems of refugees. inter alia, by promoting and facilitating their voluntary repatriation to their country of origin,

Recognizing that voluntary repatriation, where feasible, constitutes the preferred durable solution for refugee problems, and that the attainment of this solution requires that refugees shall be repatriated in conditions of safety and dignity.

Recalling that the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, to which the Government of the Republic of Angola is a signatory, sets out in Article V generally accepted principles governing voluntary repatriation.

Recalling that the Bicesse Accords of 31 May 1991, complemented by the Lusaka Protocol of 20 November 1994, have laid the foundations for national reconstruction and reconciliation based on peace, stability, democracy and social and economic development in Angola.

Considering that the Amnesty Law No.24/91 of 12 July 1991 provides a formal guarantee under which Angolan refugees may return peacefully to Angola in conditions of safety and security, and that they will not be subject to any judicial, legislative or administrative measures for acts or offences allegedly committed before or during their exile, as specified under that legislation.

Noting that the Amnesty Law No. 18/94 of 10 November 1994 applies to all crimes against state security and all other related crimes committed by Angolan citizens in the context of the military conflict following the general elections, during the period from 1st October 1992 to the signing of the Lusaka Protocol,

Recognizing that special measures and arrangements are necessary within Angola for the safe and orderly repatriation and reintegration of Angolan refugees.

HEREBY AGREE AS FOLLOWS:

ARTICLE I

DEFINITIONS

For the purpose of this Memorandum of Understanding:

- i the term "refugee" shall mean an Angolan citizen, as defined in the Law on Nationality No. 13/91 of 11 May 1991, who is living outside Angola as refugee, in the sense defined in Article I of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa:
- ii the term "returnee" shall mean any refugee, as defined in sub-section (i) of this Article, who has voluntarily returned to Angola pursuant to this Memorandum:
- iii the term "Government" shall mean the Government of the Republic of Angola:

iv the term "UNHCR" or "High Commissioner" shall mean the United Nations High Commissioner for Refugees.

ARTICLE 2

OBJECTIVES OF THE PRESENT MEMORANDUM OF UNDERSTANDING

1. The present Memorandum of Understanding shall provide for such measures, arrangements and matters as are necessary within Angola to facilitate the orderly return and reintegration, in conditions of safety and dignity, of Angolan refugees.
2. The present Memorandum of Understanding shall not be construed as derogating from or replacing any present or future agreements between the Government, the relevant countries of asylum and the UNHCR on similar or related matters.

ARTICLE 3

ESTABLISHMENT OF A COMMITTEE FOR REPATRIATION

1. The Government shall, where necessary in consultation with other relevant parties, establish a Committee for Repatriation. The Committee shall support and facilitate the activities of the High Commissioner and of other relevant agencies pursuant to this Memorandum of Understanding. In particular, it shall promote appropriate confidence-building measures and activities, in or outside of Angola with a view to encouraging Angolan refugees to return.
2. The Committee shall also agree upon such measures and arrangements as are necessary to facilitate the individual voluntary repatriation of Angolan refugees from countries other than those neighbouring Angola.

3. The Committee shall adopt its own Rules and Procedure.

ARTICLE 4

TREATMENT OF THE RETURNEES

1. The returnees shall have the right to return to their former places of residence or to any other place of their choice within Angola. They shall not be subject to any form of legal process, persecution, discrimination or punishment on account of their religion, ethnic origin or political affiliation, or for having left the country as refugees.

2. The returnees shall, to the extent applicable, benefit from the relevant provisions of any amnesty or clemency laws in force in Angola.

3. The Government shall ensure that returnees have access to land for settlement and use, in accordance with relevant Angolan laws.

4. The Government shall provide appropriate assistance to returnees who attempt to recover their lost property, in accordance with relevant Angolan laws.

ARTICLE 5

ACCESS TO THE RETURNEES

In fulfillment of its mandate, UNHCR shall have free and unhindered access to the returnees in Angola to monitor their well-being and the consequences of their return, bearing in mind the amnesty laws adopted by the Government and other guarantees or assurances for the return of the refugees in conditions of safety and security.

ARTICLE 6

SPONTANEOUS RETURN

Provisions governing the voluntary repatriation of Angolan refugees and the treatment of returnees under this Memorandum, shall apply also to those refugees who may elect to return to Angola on their own, without seeking the assistance of UNHCR.

ARTICLE 7

VISITS BY REFUGEE REPRESENTATIVES

To encourage voluntary repatriation, the government and UNHCR shall, whenever necessary and appropriate, facilitate visits by refugee representatives to Angola in order to gather information on conditions prevailing in their intended areas of return.

ARTICLE 8

NON-ANGOLAN SPOUSES AND CHILDREN

1. In order to preserve the unity of the family, the spouses of returnees and/or children who may themselves not be citizens of Angola shall be allowed to enter and reside in Angola as part of such returnees' families. Accordingly, the Government shall regularize their residence in Angola in accordance with the provisions of its immigration or other relevant laws.

2. The principle established herein shall also apply to non-Angolan spouses and/or children of deceased Angolan refugees who may wish to enter and reside in Angola in order to preserve their family links.

ARTICLE 9

TRACING AND REUNION OF FAMILY MEMBERS

The Government shall cooperate with UNHCR, as well as with other relevant organizations, in tracing the family members or relatives of the returnees who might need such assistance, and in facilitating their reunion.

ARTICLE 10

SPECIAL MEASURES FOR VULNERABLE GROUPS

The government and UNHCR shall take special measures to ensure that vulnerable groups among the refugee population receive adequate protection, assistance and care throughout the repatriation and reintegration process.

ARTICLE 11

WAIVER OF IMMIGRATION, CUSTOMS AND HEALTH FORMALITIES

To facilitate the expeditious return of the large number of Angolan refugees, the Government shall, subject to any laws prohibiting the import of any goods into Angola, waive its normal immigration, customs, duties, taxes and health formalities at the designated border crossing points for Angolan refugees returning under the repatriation operation provided for in this Memorandum and their personal property.

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ARTICLE 12

TRANSIT CENTRES

1. Whenever required, the Government shall make available to UNHCR suitable land or facilities for use as transit centres.
2. The Government shall, in consultation with UNHCR, provide the necessary security at the transit centres, ensuring that the freedom, security and dignity of the returnees are maintained.
3. Officials of the Government or any other interested parties may, in consultation with UNHCR, be allowed into the transit centres.

ARTICLE 13

UNHCR FIELD OFFICES

For the purpose of a more effective discharge of its responsibilities under this Memorandum, UNHCR may, whenever necessary and in consultation with the Government, establish Field Offices at or near entry points, reception or transit centres or places of final destination.

ARTICLE 14

UNHCR'S ROLE IN REHABILITATION

UNHCR shall, consistent with its Mandate and in co-ordination with the relevant United Nations agencies, promote the rehabilitation of essential services in major areas of return so as to create conditions that will encourage return of refugees and facilitate their effective reintegration.

ARTICLE 15

MOVEMENT AND SECURITY OF UNHCR STAFF AND PERSONNEL

1. The Government shall facilitate the movement of UNHCR staff and personnel of its implementing partners into, within and out of Angola at agreed border crossing points. In particular, it shall ensure that such staff and personnel are issued with two-ways cross-border travel authorizations for the duration of the repatriation operation.
2. The Government, where necessary in co-operation with other relevant parties, shall take all appropriate steps to ensure the security and safety of UNHCR staff and all other personnel engaged in the repatriation operation provided for under this Memorandum.

ARTICLE 16

RELIEF GOODS, MATERIAL AND EQUIPMENT

1. The Government shall exempt from the relevant taxes, duties and levies all relief goods, materials and equipment destined for use in the repatriation and reintegration operation. The clearance and handling of such resources upon importation into Angola shall be expedited.
2. The government shall authorize UNHCR to use UN radio equipment, frequencies and networks and shall, whenever operational requirements arise, facilitate the allocation of other frequencies.

ARTICLE 17

CONTINUED VALIDITY OF OTHER AGREEMENTS

The present memorandum shall not affect the validity of any existing agreements, arrangements or mechanisms of cooperation between the Government of Angola and UNHCR. To the extent necessary or applicable, such agreements, arrangements or mechanisms may be relied upon to facilitate the repatriation and reintegration operation of Angolan refugees.

ARTICLE 18

RESOLUTION OF DISPUTES

Any question arising out of the interpretation or application of this Memorandum, or for which no provision is made herein, shall be resolved amicably through consultations between the Contracting Parties.

ARTICLE 19

ENTRY INTO FORCE

This Memorandum of Understanding shall enter into force upon signature.

ARTICLE 20

TERMINATION

This Memorandum of Understanding shall remain in force until it is

DONE at Luanda, this 14 day of JUNE 1995 in two originals, in the English and Portuguese languages respectively, both texts being equally authentic.

FOR THE GOVERNMENT
OF THE REPUBLIC OF ANGOLA

FOR THE UNITED NATIONS
HIGH COMMISSIONER FOR REFUGEES

Name: Helvécio Correia

Name: Kamel Arjane

Title: EMBAIXADOR

Title: Director C.R.B.A

Signature: [Signature]

Signature: [Signature]

DIRECTOR-GERENTE