

**TRIPARTITE AGREEMENT**

**Between**

**THE GOVERNMENT OF THE REPUBLIC OF KENYA**

**And**

**THE GOVERNMENT OF THE REPUBLIC OF SUDAN**

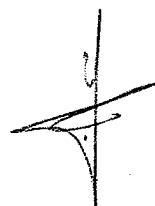
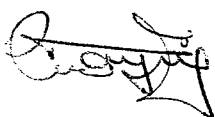
**And**

**THE UNITED NATIONS HIGH COMMISSIONER FOR  
REFUGEES**

**For the**

**VOLUNTARY REPATRIATION OF  
SUDANESE REFUGEES IN KENYA BACK TO THE  
SUDAN**

**12 January 2006  
Nairobi, Kenya**



## PREAMBLE

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

**Recognizing** that the conclusion 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 Kenya to voluntarily return to their country of origin in safety and dignity;

**Convinced** that voluntary repatriation is indeed the best durable solution to the problems of refugees as underscored in the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of 10 September 1969; and Conclusions 18 (Session XXXI) and 40 (Session XXXVI) of the Executive Committee of the High Commissioner's Programme (EXCOM); all of which set out internationally accepted principles and standards by which such repatriations are to be carried out;

**Reiterating** that every citizen has a basic right to leave and return to his or her country as 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;

**Bearing** in mind the importance of the letter and spirit of the principles contained in the Interim Constitution of Sudan, as well as the Joint Humanitarian Aid Commission and the Sudan Relief and Rehabilitation Commission Policy Framework for the 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, concerning the voluntary repatriation and reintegration of Sudanese refugees and internally displaced persons;

**Recalling** that the United Nations General Assembly Resolution 428(V) of 14 December 1950 which adopted the Statute of UNHCR entrusts upon the High Commissioner the responsibility of providing international protection to refugees and seeking permanent solutions for the problems of refugees, *inter alia*, through promoting and facilitating their voluntary repatriation;

**Mindful** of the need to define the legal and operational framework, procedures and modalities for the voluntary repatriation to and reintegration in Sudan of Sudanese refugees currently in Kenya with the assistance of the international community through UNHCR and, where appropriate, other United Nations agencies and intergovernmental and non-governmental organizations;

Hereby agree as follows:

## ARTICLE 1 INTERPRETATION

For purposes of this Agreement, the words and phrases which follow below in this Article shall have the meaning attached to them accordingly.

*“Child”* means a person under the age of 18 years.

*“Comprehensive Peace Agreement”* refers to the series of agreements and protocols negotiated between the Government of Sudan and the Sudan People’s Liberation Movement/Army, and formally signed in Nairobi on 9 January 2005, that outline a framework for peace.

*“Conclusions”* or *“EXCOM Conclusions”* refer to the “Decisions” and “Conclusions”, as they are called, adopted under the auspices of the Executive Committee of the Programme of UNHCR, known as “EXCOM” in short.

*“Exile”* refers to a Sudanese national who may be in Kenya for refugee-related reasons, but has not been formally recognized as a refugee by the Government of Kenya and/or UNHCR.

*“Government of Sudan”*, means the Government of the Republic of Sudan, including the authorities established in Southern Sudan pursuant to the Comprehensive Peace Agreement.

*“Family member”* means a spouse of a refugee or his or her child under the age of 18 years and not married, or any other close relative living with and/or dependent upon that refugee.

*“Habitual resident”* refers to a person who has lived or continues to live in a given location for a sustained period and, if not a citizen of the country concerned, is or should be treated in certain respects according to the same rights and obligations as the citizens thereof.

*“Implementing partner”* means an agency or other entity (governmental, non-governmental, inter-governmental, United Nations, or multi-lateral) with which UNHCR, either individually or together with other parties, has concluded an agreement for the implementation of one or another aspect of the refugee programme in Kenya or of the repatriation operation provided for in this Agreement.

*“Mandate of UNHCR”* refers to the Statute of UNHCR adopted by the United Nations General Assembly under its Resolution 428 (V) of 14 December 2005. The term also includes the protection and other responsibilities carried out by UNHCR for the benefit of persons of concern to it as refugees pursuant to the roles, functions and powers entrusted upon it under its Statute and other pertinent international treaties, resolutions or agreements.

*“Sudanese refugee”* or *“refugee”* means a person who is recognised by the Government of Kenya and/or UNHCR according to the refugee definitions provided for in international refugee law, most particularly the United Nations Convention Relating to the Status of Refugees adopted on 28 July 1951 and the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa adopted on 10 September 1969.

*“Refugees with special needs”* refers to refugees repatriating under the auspices of this Agreement who present special legal, security, medical, or social vulnerabilities or needs for which likewise special arrangements will have to be made during and upon return.

*“Return”* is used in this Agreement to mean the same thing as the voluntary repatriation back to their country of origin of Sudanese refugees in Kenya.

*“Returnee”* refers to a person who, having been a refugee in Kenya, is returning to Sudan under the auspices of this Agreement (or otherwise), or has already done so.

*“Residual caseload”* refers to those refugees who, upon the greater part of the repatriation operation provided for in this agreement having been completed, have not yet made the decision to repatriate to their country of origin and thus remain in Kenya.

*"Spontaneous repatriation"* means the decision by a refugee to return to the Sudan on his or her own without any assistance provided by UNHCR. It also covers the case where a refugee elects to return home outside the framework of the repatriation operation provided for in this Agreement, or to a place which UNHCR or the other Parties consider to be unsafe or insecure, and do not thus recommend return to.

*"Spouse"* means the husband or wife of a refugee, the marriage having been contracted under statutory law or the recognised customary law of the refugee concerned.

*"UNHCR staff"* as used in this Agreement includes members of staff of UNHCR employed under the Staff Regulations and Rules of the United Nations, and other experts or personnel contracted by it to perform services on its behalf.

*"Voluntary repatriation"* means the return from asylum of a refugee to his or her country of origin to resume the full national protection of that country as a result of a decision made voluntarily by that refugee.

## ARTICLE 2 OBJECTIVE OF PRESENT AGREEMENT

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

## ARTICLE 3 RIGHT OF RETURN

### **Clause 1: Right of return of registered refugees**

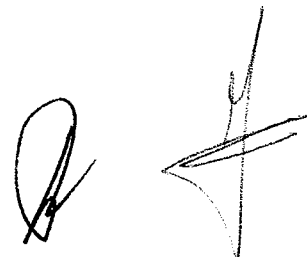
Any and every Sudanese refugee living in the Republic of Kenya, who wishes to return to the Republic of the Sudan, has the right to do so without any pre-conditions.

### **Clause 2: Sudanese exiles**

The opportunity to repatriate under the auspices of this Agreement shall be available to a Sudanese exile wishing to do so, provided that the Contracting Parties agree that it is appropriate to implement such repatriation under the auspices of the Agreement in view of the letter and spirit of its provisions.

## ARTICLE 4 VOLUNTARY CHARACTER OF REPATRIATION

The voluntary repatriation provided for in this Agreement shall take place only at the freely expressed decision of the refugees to do so. No refugee shall be compelled to repatriate against his or her will.

**ARTICLE 5**  
**GENERAL CONDITIONS APPLICABLE TO THE VOLUNTARY**  
**REPATRIATION**

*Clause 1: Enabling the refugees to make an informed decision*

Employing appropriate means, the Contracting Parties shall make available to the refugees information on the political, security and socio-economic conditions prevailing in Sudan, particularly Southern Sudan, so as to enable them to make informed decisions on whether to repatriate or not.

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

The voluntary repatriation operation provided for in this Agreement shall be conducted in an organized, orderly, phased, humane, safe and dignified manner, bearing in mind whether conditions in the relevant areas of return are judged to be conducive for the return of the refugees in an essentially secure and sustainable way.

*Clause 3: Spontaneous returns*


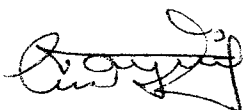
Nothing in this Agreement shall affect the right of any Sudanese refugee in Kenya to return to his country of origin on his or her own at any time and/or outside the framework of this Agreement. Sudanese refugees who thus repatriate spontaneously, or to areas not deemed by the Contracting Parties to be conducive for secure and sustainable returns, shall nevertheless be provided support to the extent feasible, and UNHCR shall have the right to monitor their physical, legal and material safety as provided for in Clause 4 of this Article.

*Clause 4: 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 5: Measures for returnees with special needs*

Special measures shall be taken to cater to the needs of vulnerable refugees repatriating under the auspices of this Agreement, including unaccompanied minors, separated children and elders. They shall receive adequate protection, assistance and care throughout the repatriation process in accordance with relevant international legal principles and accepted humanitarian standards.



**ARTICLE 6**  
**PRESERVATION OF FAMILY UNITY**

***Clause 1: Family unity and reunification***

Every effort shall be made to preserve the principle of family unity, with special consideration for the best interests of children, in implementing the repatriation. In this connection, refugees shall, as far as possible, be repatriated as family units. If, for any reason, a refugee family is obliged to break up or becomes separated in the process of repatriation, steps shall be taken on a priority basis to facilitate the reunification of the family members inside Sudan.

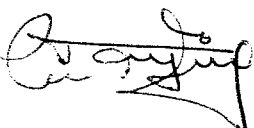
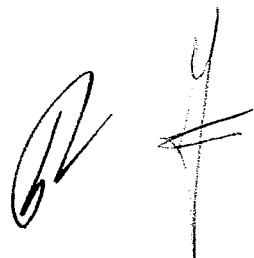
***Clause 2: Preservation of family units and links in case of different nationalities***

Every effort shall also be made to ensure that family unity is not disrupted because some of the family members, for instance spouses or children, may have Kenyan or other nationality. In such cases, the following principles shall apply:

- (a) Where one of the spouses is a citizen of Kenya, the family shall have the freedom to choose either to remain in Kenya or to move all together to Sudan.
- (b) In either case, those family members who are not citizens of the country in which the family has elected to remain or to move shall be issued with the relevant documents to assure their lawful residence in accordance with national laws.
- (c) If such family members later apply for the citizenship of that country through naturalisation or as otherwise provided for under the law, their applications shall be given especially favourable consideration and priority.
- (d) Applications for Kenyan citizenship by refugees remaining in Kenya after completion of the repatriation provided for in this Agreement shall be treated in the same way.

***Clause 3: Spouses, children and family members of deceased Sudanese refugees***

Surviving spouses, children and family members of Sudanese refugees who may have died while in asylum in Kenya shall have the right to return to and remain lawfully in the Republic of Sudan.

**ARTICLE 7**  
**RESPONSIBILITIES OF THE GOVERNMENT OF THE REPUBLIC OF**  
**KENYA**

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

The Government of the Republic of Kenya 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 Kenya 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 Kenya and UNHCR. Their status and treatment in Kenya shall also continue to be governed by the principles of international refugee law.

*Clause 3: Access to refugees by UNHCR to implement the repatriation*

UNHCR shall enjoy free and unhindered access to Sudanese refugees wherever they may be in Kenya 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 documents to certify legal status*

Prior to their departure from Kenya on voluntary repatriation, the Government of the Republic of Kenya 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 Kenya. If a family member who is a citizen of Kenya elects to move to Sudan in order to join his or her family there as provided for in Article 6, Clause 2, the Government shall issue him or her with the necessary travel documents without delay.

*Clause 5: Simplification of immigration, customs and health formalities*

In order to facilitate the repatriation of the refugees:

- (a) The Government of Kenya shall simplify immigration 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 Kenya 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, 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 Kenya of the repatriating refugees.

*Clause 6: Security arrangements*

The Government of the Republic of Kenya shall provide for the safety and security of the repatriating refugees, including security escorts for the repatriation convoys, staff of UNHCR and its implementing partners engaged in implementing the voluntary repatriation operation, and officials of the Government of Sudan visiting Kenya in connection therewith.

*Clause 7: Treatment of the refugees remaining in Kenya*

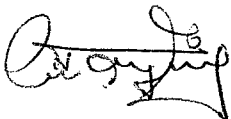
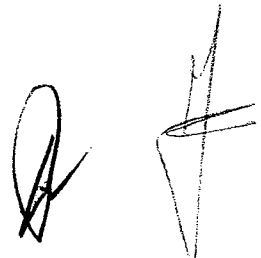
Pursuant to Clause 2 of Article 7, the Government of the Republic of Kenya shall ensure that those Sudanese refugees who do not opt to repatriate shall continue to enjoy asylum in Kenya in accordance with international refugee law and the relevant Kenyan laws.

**ARTICLE 8**

**RESPONSIBILITIES OF THE GOVERNMENT OF THE REPUBLIC OF SUDAN**

*Clause 1: Guarantees on returns*

The Government of the Republic of Sudan shall issue general amnesties, formal guarantees or public assurances to encourage the refugees to voluntarily repatriate. In particular, the refugees shall be assured that they can return without fear of harassment, intimidation, persecution, discrimination, prosecution or any punitive measures whatsoever on account of having left, or remained outside, Sudan. The benefits of amnesty or clemency laws already in force in the Sudan shall, to the extent applicable, be made available to the returnees. These benefits shall however not be claimed by any person guilty of crimes against humanity, genocide, aggression or any other crime subject to the jurisdiction of an international criminal tribunal or the International Criminal Court.



*Clause 2: Statelessness*

So as to avoid any potential instances of statelessness, the Government of the Republic of Sudan shall ensure that all Sudanese nationals and habitual residents outside the country wishing to exercise their right to return home shall be able to do so without any legal or other hindrance, and that any of their family members who are non-Sudanese should be able to join them as provided for in terms of Article 6 Clause 2 of this Agreement.

*Clause 3: Return in safety and dignity*

The Government of the Republic of Sudan shall ensure the safety, security and dignity of the returnees, including by reinforcing the relevant administrative, judicial and security structures and procedures to cater to their protection and legal needs.

*Clause 4: Arrival formalities*

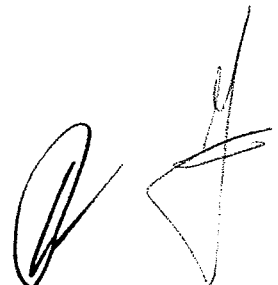
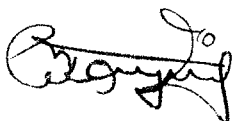
The Government of the Republic of Sudan shall simplify formalities for the refugees' return and facilitate the entry of their personal effects free from any customs and excise duties or taxes. Controls and inspections at the entry point will be carried out expeditiously, with due respect to the dignity and basic human rights of the returnees.

*Clause 5: Fostering conditions conducive for sustainable repatriation*

The Government of the Republic of Sudan shall also take steps to foster conditions which will help ensure that the repatriation takes place peacefully, that the returnees are able to reintegrate into their home communities in a sustainable manner, and that the returns contribute positively to national reconciliation and social progress. Among others, the Government shall work closely with UNHCR to create awareness on the returns among the local populations so that the returnees are received back positively and that there is no hostility or any other negative form of response to their return.

*Clause 6: Freedom of movement*

The Government of the Republic of Sudan shall take all necessary measures to allow returnees to settle in their areas of origin or any other part of the country of their choice. It shall also guarantee freedom of movement of the returnees as provided for in the country's Constitution, the laws of the Government of Southern Sudan or other legal instruments and in accordance with international human rights standards. Furthermore, the Government shall commit to take necessary action to protect both the returnees and the population at large from further displacement, including refraining from any measures of forced relocation.



***Clause 7: Land and other property rights***

To ensure that the repatriation contributes to durable peace and effective national reconciliation, the Government of Republic of the Sudan shall establish fair and accessible remedial and enforcement procedures to settle any claims that the returnees may make for restitution of lands or other property left behind when they were forced to flee, with due consideration for the equal ownership, inheritance and other pertinent rights of women and children, including orphaned heirs. The Government shall also ensure that the returnees shall be able to peacefully own and enjoy any lands or other property which they may acquire upon return home and that they receive due respect and protection of their rights according to the law, including applicable customary law.

***Clause 8: Recognition of personal status and equivalency***

The legality of births, adoptions, marriages or divorces which will have taken place while the refugees were in Kenya shall be duly recognised by the Government of the Republic of Sudan upon the return of the refugees concerned. Academic qualifications, vocational skills, diplomas and certificates similarly obtained by them shall also be so recognized, where applicable in light of equivalent or comparable Sudanese qualifications.

***Clause 9: Documentation***

The Government of the Republic of the Sudan shall issue to returnees all documents necessary for the exercise and enjoyment of their respective legal rights such as passports, personal identification documents, birth and marriage certificates and land deeds. The Government shall also facilitate the issuance of new documents or the replacement of those lost in the course of displacement without imposing unreasonable conditions, costs or delays. Spontaneous returnees shall be encouraged, upon return, to report to the Sudanese authorities to benefit from the provisions of this Clause.

***Clause 10: Access to returnees by UNHCR***

The Government of the Republic of Sudan shall facilitate all the activities of UNHCR relating to the repatriation operation provided for in this Agreement. It shall be allowed to accompany the returnees, conduct effective monitoring of their legal, physical and material situation and make the necessary interventions accordingly. The returnees shall likewise be granted free and unhindered access to UNHCR.

***Clause 11: Cooperation on reintegration of returnees***

In close collaboration with UNHCR, other stakeholders and players, the Government of the Republic of Sudan shall take all necessary measures to facilitate the reintegration of the returnees and their enjoyment of all the social, economic, civil, cultural and political rights provided for in the laws of the country, including fair and equal access to public services.

*Clause 12: Facilitating the activities of UNHCR and its implementing partners*

The Government of the Republic of Sudan shall allow UNHCR free and unhindered access to the returnees wherever they may be so that it can implement all aspects of the repatriation provided for in this Agreement. The Government shall further facilitate the movement into and within its territory of the staff of UNHCR and its implementing partners and ensure that vehicles, relief goods and equipment required for use in implementing the voluntary repatriation and reintegration of the returnees can be brought into and used in the country free of duty, customs or other charges.

*Clause 13: Security arrangements*

The Government of the Republic of Sudan shall ensure the safety and security of the returnees, including in transit areas and while proceeding to their final destinations. It shall also take measures to guarantee the safety and security of the staff of UNHCR and its implementing partners engaged in the voluntary repatriation and reintegration operation.

**ARTICLE 9**  
**RESPONSIBILITIES OF THE UNITED NATIONS HIGH COMMISSIONER**  
**FOR REFUGEES**

*Clause 1: Verification of voluntary character of repatriation*

In keeping with its mandate, UNHCR shall verify and assure the free and voluntary nature of the decisions made by the refugees to repatriate, and shall have free and unhindered access to the refugees so as to discharge these and other responsibilities as per this Agreement.

*Clause 2: Information and sensitization campaigns*

UNHCR, in collaboration with the Governments of Republic of Kenya and the Republic of Sudan, shall organize information campaigns and “go and see” or “come and inform” visits for the Sudanese refugees so that they can have factual, objective, accurate and up-to-date information to be able to make informed and objective decisions whether to repatriate or not. In order to facilitate “go and see” visits, the concerned refugees will be provided with travel documents to enable them to exit and re-enter Kenya, without necessarily losing their status as refugees in the Republic of Kenya.

*Clause 3: Arrangements for registration*

In collaboration with the Government of the Republic of Kenya and the Government of the Republic of Sudan, UNHCR shall devise the most appropriate means for registering the refugees who wish to voluntarily repatriate.

***Clause 4: Facilitation of safe and dignified repatriation***

UNHCR shall establish offices, deploy staff and mount activities along the main return routes and in areas of return to implement the repatriation in safety and dignity of the refugees and promote their reintegration.

***Clause 5: Special protection needs***

UNHCR shall take or contribute to measures to ensure that refugees with special needs, including women in all situations of vulnerability as well as unaccompanied and separated children, and elders, are protected and that their fundamental rights, in particular the principles of family unity and of physical safety and integrity, are respected.

***Clause 6: Funding for the repatriation***

UNHCR shall mobilise the funds for implementing the voluntary repatriation provided for in this Agreement, both by itself and in co-ordination with the other stakeholders, including United Nations agencies, intergovernmental and non governmental organisations. The Governments of Kenya and Sudan shall, respectively, work closely with and support UNHCR in its fund-raising efforts, including, particularly, in advocating with representatives of the international donor community and development partners.

***Clause 7: Repatriation and reintegration assistance***

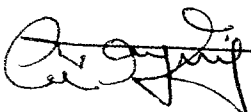
UNHCR will provide assistance to facilitate the voluntary repatriation and sustainable reintegration of the returnees. Such assistance will consist of organized transport to the place of intended destination of the returnees, as well as a reintegration package. The reintegration package will be provided to returnees upon arrival at their place of intended destination and in phases as required in the course of the reintegration process. Subject to the availability of resources, UNHCR may provide some form of community-based assistance in the places of intended destination of the returnees to benefit the entire community.

**ARTICLE 10**

**TRIPARTITE COMMISSION ON REPATRIATION**

***Clause 1: Establishment of Tripartite Commission on Repatriation***

A Tripartite Commission on Repatriation is hereby established. Under its auspices, the Contracting Parties shall together co-ordinate, plan, review, share information, monitor and make decisions pertinent to the successful and effective implementation of the voluntary repatriation. It shall ensure the implementation of the provisions of this Agreement, particularly those relating to returnees' security and assistance. It shall also keep the Contracting Parties informed of the progress being made, difficulties encountered and measures required to resolve those problems.

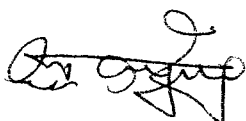
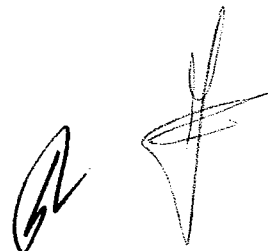



*Clause 2: Membership of the Tripartite Commission*

The Tripartite Commission shall be composed of one representative each, called "Head of Delegation", of the Contracting Parties, together with up to four advisors as each party may deem necessary. A contracting party may however, if it deems necessary, be represented by more members, provided that such party shall inform the others accordingly.

*Clause 3: Bureau of the Commission*

- (i) The Bureau of the Commission shall be made up of a Chairperson, Vice Chairperson and Secretary.
- (ii) The Chairperson shall be responsible, in consultation with the other Contracting parties, to call and decide on the date, venue and agenda of the meetings of the Commission. He or she shall chair and steward the proceedings of the meetings. The Chairperson shall also undertake such other initiatives and consultations necessary to advance the objectives and purposes of this Agreement.
- (iii) The Vice-Chairperson shall perform the functions of Chairperson in the absence of the latter, and otherwise support him or her in the fulfilment of the objectives of this Agreement and of the Commission.
- (iv) The Secretary of the Commission shall act as the Secretariat for the Tripartite Commission. The Secretary shall organise and support the meetings of the Commission, prepare and circulate the minutes, disseminate to the Parties relevant information on the progress of the repatriation operation as a whole, and carry out other practical logistical and co-ordination functions necessary for the work of the Commission.
- (v) The Chair and Vice-Chairpersons of the Commission shall alternate between Kenya and the Republic of Sudan depending on the venue of the meeting of the Commission. The hosting country shall designate the Chairperson, while the other shall designate the Vice-Chairperson. Both will then serve in their respective capacities until the next meeting of the Commission.
- (vi) It is hereby agreed that the first meeting of the Commission shall take place in Kenya. The first Chairperson of the Commission shall thus be designated by Kenya accordingly, while the Vice-Chairperson shall be designated by Sudan.
- (vii) UNHCR shall be the Secretary of the Commission. Its staff taking part in the meetings of the Commission in this capacity shall not be considered as part of UNHCR's members of the Commission as provided for in Clause 2 of this Article.
- (viii) The Commission shall adopt its own rules of procedure for the conduct of its business. It may invite or authorize any individual or organization involved in the repatriation operation to participate in its meetings as an observer.
- (ix) Deliberations of the Commission shall be reflected in reports which will be prepared by the Secretariat and transmitted to the Contracting Parties.
- (x) Each of the Contracting parties shall be responsible to meet the costs of their respective participation in the deliberations and other business of the Commission. Subject to the availability of funds, UNHCR shall consider meeting requests for financial assistance that may be made by the other

Contracting Parties. UNHCR shall meet the costs of running the Secretariat, including preparing and distributing reports, minutes and other relevant documents.

***Clause 4: Missions of the Tripartite Commission***

The Tripartite Commission may undertake missions to Kenya and Sudan. UNHCR shall coordinate and facilitate the organisation of such missions and shall work closely with the representatives of the Parties. For their part, the two Governments shall do all necessary to make the missions taking place on their respective territories successful. Among others, they will allow and facilitate those missions in freely and securely travelling to and visiting the refugee or returnee areas of interest to them and to be able to do their business accordingly.

***Clause 5: Information sharing in the Tripartite Commission***

To assist the Commission to fulfil its responsibilities, the Contracting Parties shall, on request, make available to it all information relating to their implementation of this Agreement in accordance with their respective policies and regulations for the release of such information.

***Clause 6: Establishment of Technical Working Committee on Voluntary Repatriation***

Should it deem it necessary, the Tripartite Commission may establish a Technical Working Committee on Voluntary Repatriation to assist it in discharging its responsibilities. In doing so, the Technical Working Committee shall elaborate operational plans to guide the implementation of the voluntary repatriation exercise.

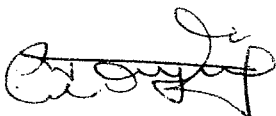
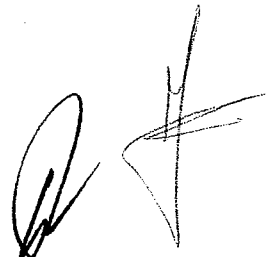
***Clause 7: Composition of the Committee***

The Technical Working Committee shall be composed of up to four representatives each of the Contracting Parties. The persons so appointed may or may not be members of the Tripartite Commission. The Technical Working Committee shall elect its own officials, establish its rules and procedures of work and may invite or authorize any individual or organization involved in the voluntary repatriation and/or reintegration programme to participate in its meetings in an observer capacity.

**ARTICLE 11**  
**COMMON PROVISIONS**

***Clause 1: Scope of application of this Agreement***

The assurances, guarantees and other corresponding provisions set out in this Agreement shall apply with equal force to those Sudanese refugees who return spontaneously from the Republic of Kenya, notwithstanding that they will not have returned under the auspices of this Agreement.

*Clause 2: Exemption of taxes for relief items*

All relief goods, materials, equipment and means of transport destined for use in the voluntary repatriation and reintegration programme provided for in this Agreement shall be exempt from all customs and excise duties and taxes.

*Clause 3: Documentation*

In lieu of other travel documents, the Contracting Parties agree that duly completed Voluntary Repatriation Forms (VRFs) shall be recognised as valid for use as identity and travel documents by the refugees in returning to Sudan under the auspices of this Agreement.

**ARTICLE 12**  
**FINAL PROVISIONS**

*Clause 1: Entry into Force*

This Agreement shall enter into force on the date of signature by the Contracting Parties.

*Clause 2: Validity and termination*

The Agreement shall remain in force until it is terminated by the mutual written agreement of the Contracting Parties. It shall also be terminated by one Contracting Party giving written notice to the other two, upon which the termination shall become effective at the end of ninety (90) days from the earlier of the dates on which the notice will have been received by the other two Contracting Parties.

*Clause 3: Amendments*

The present Agreement may be amended by the mutual written consent of the Contracting parties.

*Clause 4: Resolution of disputes*

Any question arising out of the interpretation or application of the present Agreement, or for which no provision is expressly made herein, shall be resolved amicably through negotiation and consultation between the Contracting Parties, or other agreed modes of settlement. Should all such efforts fail, the dispute or issue may be submitted to arbitration at the request of any of the Parties. In such a case, each Party shall appoint one arbitrator, and the three arbitrators thus selected shall together appoint a fourth, who shall be Chairperson. The four together shall establish the procedure for arbitration, and their awards shall contain a statement of the reasons upon which they are based. The Parties hereby agree that they shall accept such awards as the final adjudication of the dispute. The expenses of the arbitration shall be borne by the Parties as assessed by the arbitrators.

IN WITNESS WHEREOF, the authorized representatives of the Contracting Parties have hereby signed the present Agreement at Nairobi, Kenya, this 12<sup>th</sup> day of January 2006, in three originals in English, each being equally authentic.

For the Government  
of the Republic of Kenya:

Hon Gideon Konchella  
Minister for Immigration  
and Registration of Persons

Signature:.....

For the Government  
of the Republic of Sudan:

Hon Brigadier Aleu Ayieny Aleu  
State Minister of Interior

Signature:.....

For the United Nations High Commissioner for Refugees:

Mr Jean-Marie Fakhouri  
Director of Operations for the Sudan Situation

Signature:.....