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MEMORANDUM OF UNDERSTANDING BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

AND THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

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ON THE VOLUNTARY REPATRIATION AND REINTEGRATION

OF SOUTH AFRICAN RETURNEES

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Nations

and other concerned parties are

to the promotion of

committed to creating conditions conducive

the voluntary repatriation of South African returnees in

complete safety and dignity

that the Government has previously published its official

guidelines to be applied in the processing of:

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-repatriation as well as :formalities, including those
t et to the provision of indemnity and -mmunities, tc be
that the Government has already
measures which in fact constitute
repatriation o: -
dimension;
that UNHCR, within g
Ofgice, has been entrusted L
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that the Co"e:nment has LHVLCed t
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reintegration of South Airican re
to return home as civilians;
with Lts Statute
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taken a series of
amnesty having
excluding only
the Statute of its
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and Mandate UNHCR shall
respect in a strictly

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that nothing contained in this Memorandum shall derogate from, or in any way affect the right of, any South African to leave or return to his or her country, on his or her own, or with the assistance of any other entity;
that nothing in this Memorandum of Understanding or carried out under its terms, is to be construed as derogating from the sovereignty of the Republic of South Africa;
that nothing contained in this Memorandum of Understanding, or which may be done on the basis thereof, shall be construed as constituting recognition in any way, on the part of UNHCR, of any state of affairs not recognised by the United Nations, or as constituting a derogation from any relevant United Nations' resolutions.

Hereby agree as follows

1 . DEFINITIONS

For the purpose of this Memorandum of Understanding, its Annexures and any other Supplementary agreements hereto, the following definitions shall apply:

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(a) UNHCR means the United Nations High Commissioner for Refugees established pursuant to the General Assembly

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Resolutien'319(IV) of 3 December 1949.

Hi h Commissioner means for the time bein

g,
appointed by the UnLtded Nations General Assembly to serve
as xecutive of UNHCR or the officials to whom
act on

UNHCR Mandate means the international protection and
assistance role Of the Office Visea-Vis refugees and/or
returnees.

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Returnee means any South Afri -

exile who return(s) voluntarily to

unarmed civilian2pnder the terms and arrangements of this
Memorandum.

Memorandum means the Memorandum of Understanding entered

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e into between the "VEZFEEKC and tue LJHCH on
..... 1991.

(1) Implementing pa:tner(s) means a goverumental, inter-
governmental or non-governmental counterpart to which
llegatea bv the UNHCR through a

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implementation is d

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common law offences wnich, in the aoolication of the
relevanF guidelenes, LS regarded as a political offence.
, The guidel;nes f3" ccfinLng political offences for the
2. Any voluntary repatriat;on operathn carrLed out under
the LUSPLCES of eke "NLCn soall be open and avaLlable to
all South Lj::;n returnees, irrespeCtLve of tneLr
e racial, :elig;ous, eccial o: pOLLtLCDl aff;liat;on, wh
wisu :o rptuzj :3 :ne:: country ind :naL: 23(3 :Lac:
undeY conditions of complete saiet', ireedom and digniey
and in accorda0ce with the provisions of this Agreement.

3 (a) The Government is willing, in the interest of the process of reconciliation and in order to expedite the rate of repatriation, to grant amnesty to returnees in respect of political offences they may have committed before 12:00 on 8 October 1990 and 67/94

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forzsindemnity in terms of the
which qualify

However, cognisance is taken
guidelines'published.

persons could have left

' the possibility that

South "frica after 8 October 1990, for political
reasons without travel documents. Their position
will be considered if and when information regarding
such cases is submittedto the Government.

excluded for reasons

(b) Accordingly, M

of having committed'an ofcence falling outside the
ambit of the definition of -

shall after clearance by the Government,

return to South Africa without risk of arrest,

detention, imprisonment or iegal proceedihgs,

whether civil or criminal, in respect of the

political offences referred to in paragraph 3(a)

above

The parties hereto shall cc-o;e:a:e en the :a5_s cf the
isions:

following princptples and prov

in the exercise of its mandate,

(a) The UNHCR shall,

cess to the returnees

enjoy free and unhindered ac

Africa.

wherever they may be located in South

enjoy complete freedom of

(b) The returnees will

will

in South Africa and, in this context,

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movement

t have the right to return to the areas where they lived immediately prior to leaving South Africa or to a comparable area of their choice.

(c) The returnees, Whether South African nationals or not, shall, subject to the provisions of paragraph 3 above, be subject to the laws of South Africa. It is understood, however, that any persons who, under South African law may be considered as having lost in

their South African citizenship shall, upon return, be treated as South African citizens.

(d) The UNHCR shall, in consultation with the Government, plan, organise and facilitate the implementation of all the phases of the repatriation material and technical resources.

(e) The UNHCR may, in consultation with the Government, enter into agreements with implementing partner(s)

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g for the implementation of one or more sectors of the repatriation operation.

It is understood that, once indemnity has been

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granted, the tempo of repatriation will be determined by the returnees themselves.

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The parties shall, by means of exchanges of Notes,
(9)

establish the administrative, procedural and other
mechanisms necessary for UNHCR to fulfil its mandate
and discharge its functions in terms of this
Memorandum of Understanding.

(n) The procedures for readmission, reception and
shall be in accordance

be determined in a separate Agreement between the

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3. n. annexes A and 3 e0

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Understanding. Any relevant matter or question

not provided for in this Memorandum of Understanding

shall be resolved and/or agreed upon amicably and through
consultation between the parties hereto.

6. This Memorandum of Understanding Shall enter into force
lives of

upon signature by the duly authorised Representative:-

the UNHCR and shall remain in force

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the Government and

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period of twelve months, provided that this period

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for

may be extended or curtailed by agreement between the parties hereto.

7. Any dispute between the Government and the UNHCR arising out of this Memorandum of Understanding shall be resolved through consultations between them.

For the Government of the For the United Nations

High Commissioner for

Republic of South Africa

Refugees

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ANNEXURE A

Procedures for Readmission, Reception and Reintegration
of South African Returnees who Acquired to the UNL
for Voluntary Repatriation to the Republic of South Africa
Memorandum of Understanding, the
hereby agree on the following procedures, which, u
may be reviewed,
hereto as required.

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Pre-departure Arrangements

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strlctly voluntary cuaracte: o; tne decision LO
applicaut, or en
tne case of children below the age 0e 18, their
parent(s), next of kin or guardian(s), duly completes the
Voluntary Repatriation
original and e;;copies of the

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ication Form (VRAF) (Schedule A).

2. The UNHCR shall inform the potential returnees, in
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appropriate ways, of the conditions governing their return, their reception and integration and particularly the principles stipulated in the Memorandum of Understanding.

3. The VRAE for the purposes of this repatriation operation, shall be completed by the applicants for purposes of being granted indemnity under the provisions of paragraph of the Memorandum of Understanding.

b.)

NHCR will transmit the duly completed and verified

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processed as soon as _

notified promptly thereafter.

6. The Government will advise the UNHCR in writing whether a returnee has been granted indemnity. Where indemnity has been refused, the Government may furnish information as

to why it has not been granted. The WNHCR shall advise
such person accordingly.
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10.

Government

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h finally refusing an application for indemnity, the
will take into consideration the
recommendation of existing advisory bodies established
for that purpose and to which the UNHCR may make
representations on behalf of returnees.

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Travel documents will be issued by South African
authorities and delivered to the UNHCR for transmission
to those persons cleared for return. The Government may,
however, accept a duly authenticated VRAF as a valid
travel document for the purposes of the returnees
in accordance with the terms of this

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travelling back to South Africa
Memorandum of Understanding.
The UNHCR, or its implementing partner (

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for the returnees to travel to South Africa:
travel purposes,

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Medical clearance of the returnees for
in accordance with the requirements of the World Health
Organisation, shall be accomplished in the country on
departure and a certificate established for inspection by
the Government on their arrival in South Africa.

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ill. Subject 'to the provisions of paragraph 4(a) of the Memorandum of Understanding, any dispute arising as to the citizenship _or nationality of any returnee shall be resolved upon such person's arrival in South Africa. If he or she is not able to establish his or her claim to South African citizenship or nationality to the

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satisfaction of the Government, after having had every

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evidence, he or

D)
opportunity to provide all the relevant
she shall be dealt with in accordance with the
immigration laws of the Republic of South Africa

. 12. In this connection, the UNKCR undertakes to arrange the

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return of any person whom it transported to South Africa
under its auspices and who has failed to prove his or her
to

citizenship, or to establish any

right to remain in South
Africa, to his or her country of nationality: of habitual
residence

13. Spouses and children of returnees who are themselves
citizens of other countries shall, in order to preserve
the

family unity, be permitted to enter and remain

!
Temporary Residence Permits.

Africa on the basis of

Similarly, surviving non-South African spouses and/or
children of South African Citizens who may have died
while abroad shall, on a humanitarian basis, be permitted
to enter and remain in South Africa in order to preserve
their family links with that country.

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 17.
 Mechanisms for tracing of family members and for family reunification will be established. A Table 30-; (Schedule 8) shall be completed at the time of registration by the prospective returnee requesting assistance in tracing family members or family reunification.
 Reception, Transit and Movement to Final Destination in South Africa
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 South Africa through entry points designated by the Government in consultation with the UNHCR. Reception centres may be provided by the Government or other local entities, free of charge, at agreed places for purposes of temporarily accommodating and assisting the returnees en route to their proceeding to final destinations.
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 The UNHCR may, whenever necessary and in consultation with Government, establish field offices at or near entry points.
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access to such entry points or
and shall, in consul ation with the
essary security, provided that any
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freedom, security and dignity of the returnees.

The entry points and reception facilities established

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guardian(s

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of return. Parent(5), next uE XL u G: qua

be encouraged to take immediate custody of such minOIS.

The UNHCR staff, 5% staff of its implementing partner(s)

may, in consultation with the Government, speak to the
parent(s), next of kin or guardian(s) oi Such minors in
inter alia, to assess whether the family may be in

need of humanitarian material assistance.

The Government, the UNHCR and implementing partner(s) shall consult on the situation of any returning mine: or vulnerable person such as the aged and the sick, whose e.

family fails, or is not in a position to take him or her A- .

view LO findLng an appropriate place of

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back, with

integration, bearing in mind the best interests of the

returnee. The failure or inability to take him or her

back by his or her family. will not prejudice the

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readmission o: the relevant person into South Af_ic

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under the arrangements established in this Memorandum of Understanding.

(a) the extension of all its statutory responsibilities, within the terms of the Memorandum of Understanding, throughout the process;

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(b) transportation to the returnee's final destination;

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(c) immediate assistance, which may take the form of a grant of or for food, basic domestic utensils and

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temporary shelter for each family, over a period to be agreed, and/or a one-time cash grant to cover

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Arrangements may also be made to assist individual returnees considered to be destitute.

23. Reintegration assistance will address the needs of individuals upon assessment of their occupation and socio-economic background as well as their place of reintegration and aim at their productive employment. It is agreed that diplomas, certificates or degrees

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24. It
acquired by returnees while abroad may be considered as valid by the competent authorities for the purposes of in the

in Africa, without inconsistency

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of technicality. To facilitate

of any unskilled returnees, notably the youth, into the economy, on-the-job training and apprenticeships may be promoted by the UNHCR and implementing partner(s) in

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consultation with the appropriate competent authorities.

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25. Special measures may be taken by the parties to assure the social security and welfare of returnees considered as vulnerable such as the physically or mentally

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its implementing partner(s)