



OPERATIONAL GUIDANCE NOTE

ANGOLA

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1. Introduction

- 1.1** This document evaluates the general, political and human rights situation in Angola and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers must refer to the relevant Asylum Policy Instructions for further details of the policy on these areas.
- 1.2** This guidance must also be read in conjunction with any COI Service Angola Country of Origin Information at:
- http://www.homeoffice.gov.uk/rds/country_reports.html
- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the API on Article 8 ECHR. If, following consideration, a claim is to be refused, caseworkers should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

Source documents

- 1.4** A full list of source documents cited in footnotes is at the end of this note.

2. Country assessment

- 2.1** Angola gained independence from Portugal on 11 November 1975. Planned elections did not happen; instead, one of three nationalist groups, the Popular Movement for the Liberation of Angola (MPLA), declared themselves the government and imposed a one-party constitution to be guided by Marxist-Leninism. The other two nationalist movements,

the National Front for the Liberation of Angola (FNLA) and the National Union for the Total Independence of Angola (UNITA) retreated to their rural bases. The MPLA was backed by military hardware from the Soviet Union and Cuban troops. The FNLA and UNITA secured less help from the USA, apartheid South Africa and Mobutu's Zaire. Although the FNLA soon gave up the armed struggle, UNITA continued to fight a guerilla war which was to last until 2002. Throughout this long civil war, UNITA moved with impunity in the countryside while the MPLA controlled the towns. In 1998, the MPLA decided to pursue a final military offensive against UNITA. After 3 years of fighting government forces succeeded, firstly by killing UNITA's leader in February 2002 and subsequently, through the Luena Memorandum of Understanding of April 2002, to end the war by agreement with UNITA commanders.¹

- 2.2** Following the passage of new Election Laws in April 2005, Angolans had anticipated that elections would soon follow, no later than September 2006. However, voter registration only started in November 2006 to be completed in June 2007. The Government has since announced that Legislative elections will take place in 2008 and Presidential elections in 2009.² Incidents of politically motivated violence continue to be reported. In August 2005, at least two people were seriously wounded when MPLA-aligned local officials allegedly prevented UNITA from setting up offices in Balombo municipality in the eastern Benguela province. UNITA claimed that such incidents had taken place in Kuando Kubango, Moxico and Benguela provinces and it seemed to be getting worse. Police have taken action in some of these incidents.³
- 2.3** A fledgling civil society and an independent press developed for the first time in the early 1990s, but their activities remain concentrated largely in the capital, Luanda. Access to justice is severely limited for most Angolans. Although political parties are allowed to operate, there are continued reports of intimidation and harassment of opposition supporters. Human rights abuses were reported during a major military offensive against rebels in Cabinda in late 2002–2003. The removal of illegal diamond diggers, largely Congolese, in 2004 is reported to have showed little concern for human rights.⁴
- 2.4** The Ministry of Interior, through the Angolan National Police (ANP), is responsible for internal security. The internal intelligence service is directly answerable to the Office of the Presidency. The Armed Forces of Angola (FAA) is responsible for external security, but also has domestic responsibilities. For example, the FAA conducted counterinsurgency operations against the Front for the Liberation of the Enclave of Cabinda Armed Forces of Cabinda (FLEC FAC) in 2005. The civilian authorities maintained effective control of the security forces during 2005, but nonetheless there were reports that members of the security forces committed human rights abuses including unlawful killings, disappearances, torture and beatings, with impunity continuing to be a problem.⁵
- 2.5** The slow pace of post-war reconstruction and reconciliation continued in 2005. While important electoral legislation was approved by the national assembly, much remains to be done to create an environment in which free and fair elections can take place and to extend civil and political rights to all Angolans. It was reported that the Government continued to violate Angolans rights to freedom of expression, association, and assembly during 2005. Persistent delays remained in rebuilding roads, schools, and other infrastructure in the rural provinces. The reported lack of full transparency in the Government's use of ever-increasing oil revenues remained a further impediment to the enjoyment of human rights and reconstruction in Angola.⁶

¹ Home Office Country of Origin Information (COI) Service Key Documents February 2006 (paras 2.03 - 2.05) & Foreign and Commonwealth Office (FCO) Country Profile 2007

² FCO Country Profile 2007 & British Broadcasting Corporation (BBC) News 'New delay for Angolan elections' dated 21 December 2006

³ IRIN.NEWS.ORG. Angola: UNITA calls on govt to address acts of intimidation in provinces

⁴ COI Service Key Documents February 2006 (para 2.16) & FCO Country Profile 2007

⁵ U.S. Department of State report on Human Rights Practices (USSD) - 2005 (Introduction and Section 1)

⁶ Human Rights Watch (HRW 2007) World Report 2007: Angola & HRW World Report 2006: Angola

- 2.6** Although peace has been achieved on the mainland, the problem of Cabinda remains to be resolved. Abuses against civilians by the Angolan military and political tension in the province of Cabinda remained causes for concern in 2005.⁷ A low level guerilla war has been conducted for over 30 years by rebel groups fighting for the independence of the Province. The Angolan Government has used alternately negotiations and military force to no avail.⁸ Cabindans have been subjected to persistent guerilla warfare as factions of the separatist movement, Front for the Liberation of the Cabinda Enclave (FLEC) who first fought for independence from Portugal. Since Angolan independence in 1975, FLEC has been fighting against the Angolan Government led by the MPLA. In late 2002, the armed conflict escalated following the deployment of some 30,000 government soldiers to Cabinda. By mid-2003 the Angolan Armed Forces had virtually destroyed the rebel group, but in the course of these military operations committed serious and widespread violations of international human rights and humanitarian law against the civilian population.⁹
- 2.7** While the Government repeatedly stated in 2005 that the armed conflict against FLEC in the oil-rich province of Cabinda had ended, it continued to maintain a massive military presence in the enclave. Fears of military escalation increased in July 2005 as local authorities reported that a new Angolan army offensive against FLEC in Cabinda was underway to crush the armed insurgency. The army has denied that it stepped up the military campaign, but abuses reportedly committed by armed forces personnel did not seem to subside during the year.¹⁰
- 2.8** Violations connected to the military continued to be reported in 2005, including the brutal murder in April 2005 of a three-year old girl and allegations that the army kidnapped and tortured members and sympathisers of Mpalabanda, a local human rights NGO, in July 2005. The commander of the armed forces in Cabinda claimed that justice in these cases has been served. Asked to comment on the acts of indiscipline committed by soldiers under his command in 2005, General Marques Banza admitted that “there might have been isolated cases of indiscipline here and there, and in those instances we have known how to mete out punishment.”¹¹
- 2.9** Reports that the Angolan Government is in discussion with oil companies to grant exploration rights for drilling on-shore, as opposed to off-shore where most of the oil is currently produced, could exacerbate tensions in Cabinda, and lead to a continued military presence to ensure unfettered access to these resources.¹²
- 2.10** On 1 August 2006, the Angolan Government signed a ceasefire agreement with Antonio Bento Bembe who acted on behalf of the Cabinda Forum for Dialogue (FCD), a representative body of Cabinda’s secessionist movements including civil society groups, the Catholic Church and FLEC. The peace deal involves a “special status” for the enclave, within the limits of Angola’s centralised constitution; the demilitarisation of the rebels; and an amnesty for crimes committed during the thirty year conflict. However, the agreement has not attracted the support of all the Cabindan factions and members of the FCD and FLEC have stated that Antonio Bento Bembe does not have the authority to represent Cabinda’s aspirations.¹³

3. Main categories of claims

⁷ HRW World Report 2006: Angola

⁸ COI Service Key Documents February 2006 (para 2.06) & FCO Country Profile 2007

⁹ HRW. Angola: Between War and Peace in Cabinda - A Human Rights Watch Briefing Paper (page 1)

¹⁰ HRW World Report 2006: Angola

¹¹ HRW World Report 2006: Angola

¹² HRW World Report 2006: Angola

¹³ HRW World Report 2007: Angola, FCO Country Profile 2007, BBC News ‘Angola signs deal with Cabindans’ dated 1 August 2006, IRINNEWS.ORG. Angola ‘Cabinda separatists divided over peace talks’ dated 14 July 2006, IRINNEWS.ORG. Angola ‘Rebels vow to fight on despite deal’ dated 1 August 2006 & IRINNEWS.ORG. Angola ‘Concern as Luanda pushes through Cabinda peace deal’ dated 3 October 2006

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Angola. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)
- 3.5** All APIs can be accessed via the IND website at:
<http://www.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/>
- 3.6 Members of FLEC**
- 3.6.1** Many claimants will apply for asylum based on ill-treatment amounting to persecution by the state authorities due to their membership or, involvement with, or perceived involvement with, the armed separatist group Front for the Liberation of the Cabinda Enclave (FLEC).
- 3.6.2 *Treatment.*** FLEC and its offshoots have been fighting a guerilla war since 1963 with the aim of securing Cabindan independence, originally from the Portuguese and then from the MPLA Government following Angolan independence in 1975. For much of the period from independence until late 2002, the armed conflict in Cabinda was a low intensity guerilla war, as FLEC had neither the manpower nor weaponry of a conventional army. The Angolan armed forces deployed approximately 30,000 soldiers to Cabinda, including an unknown number of special forces called commandos caçadores, in an attempt to defeat FLEC militarily.¹⁴
- 3.6.3** Reports compiled by Cabindan human rights activists in 2002 and 2003 alleged that Angolan forces committed widespread violations against captured combatants and civilians including the summary execution of suspected FLEC combatants or supporters; rape and forced marriage of women and girls; arbitrary detention; torture and other mistreatment; forced labor; and excessive restrictions on civilian access to agricultural areas, rivers and hunting grounds. The reports also attributed a small number of abuses, including hostage taking and summary executions of suspected government collaborators, to FLEC forces.

¹⁴ HRW. Angola: Between War and Peace in Cabinda - A Human Rights Watch Briefing Paper (pages 4 - 8)

Conflict levels reduced from mid-2003 and as a result there has reportedly been a decline in the number of human rights violations committed by the Angolan armed forces.¹⁵

- 3.6.4** While the Government repeatedly stated in 2005 that the armed conflict against FLEC in Cabinda had ended, it continued to maintain a massive military presence in the enclave. Fears of military escalation increased in July 2005 as local authorities reported that a new Angolan army offensive against FLEC in Cabinda was underway to crush the armed insurgency. The army has denied that it stepped up the military campaign, but abuses reportedly committed by armed forces personnel did not seem to subside during the year.¹⁶
- 3.6.5** On 1 August 2006, the Angolan Government signed a ceasefire agreement with Antonio Bento Bembe who acted on behalf of the Cabinda Forum for Dialogue (FCD), a representative body of Cabinda's secessionist movements including civil society groups, the Catholic Church and FLEC. The peace deal involves a "special status" for the enclave, within the limits of Angola's centralised constitution; the demilitarisation of the rebels; and an amnesty for crimes committed during the thirty year conflict. However, the agreement has not attracted the support of all the Cabindan factions and members of the FCD and FLEC have stated that Antonio Bento Bembe does not have the authority to represent Cabinda's aspirations. There is little information on whether human rights violations have continued since the ceasefire agreement was signed, but in October 2006 the United Nations Office (OHCHR) in Luanda reported that the Government has made it clear that it would crack down on those who don't accept the peace deal.¹⁷
- 3.6.6** **Sufficiency of protection.** As this category of claimants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.6.7** **Internal relocation.** As this category of claimants' fear is of ill-treatment/persecution by the state authorities, relocation to a different area of the country would not place them beyond the reach of their would be persecutors.
- 3.6.8** **Caselaw.**

FP (Angola) CG [2003] UKIAT 00204. The IAT found that the appellant who originated from Cabinda and had connections to FLEC could not safely return to Luanda and duly allowed the appellant's appeal.

- 3.6.9** **Conclusion.** The Angolan Government has signed a ceasefire agreement with Antonio Bento Bembe, but there is evidence that the agreement has not attracted the support of all the Cabindan factions, particularly senior members of the FCD and FLEC. At present, there is little corroborated information on whether human rights violations have continued in Cabinda since the peace deal was signed in August 2006. As such, if it is accepted that the claimant is a member of FLEC or has adduced genuine experience of ill-treatment on account of being associated with a member of FLEC then there is a real risk that they are likely to encounter ill-treatment amounting to persecution by the state authorities. The grant of asylum in such cases is therefore likely to be appropriate. However, caseworkers should note that members of FLEC have been responsible for serious human rights abuses some of which amount to war crimes and crimes against humanity. If it is accepted that a claimant was an active operational member or combatant for FLEC and the evidence suggests that he has been involved in such actions, then caseworkers should consider whether one of the Exclusion clauses is applicable. Caseworkers should refer all such cases within this category to a Senior Caseworker in the first instance.

¹⁵ HRW. Angola: Between War and Peace in Cabinda (pages 6 & 7)

¹⁶ HRW World Report 2006: Angola

¹⁷ HRW World Report 2007: Angola, FCO Country Profile 2007, British Broadcasting Corporation (BBC) News 'Angola signs deal with Cabindans' dated 1 August 2006, IRINNEWS.ORG. Angola 'Cabinda separatists divided over peace talks' dated 14 July 2006, IRINNEWS.ORG. Angola 'Rebels vow to fight on despite deal' dated 1 August 2006, IRINNEWS.ORG. Angola 'Concern as Luanda pushes through Cabinda peace deal' dated 3 October 2006

3.7 Cabindans

3.7.1 Many claimants will apply for asylum based on ill-treatment amounting to persecution at the hands of the state authorities due to them originating from, and/or belonging to an ethnic group that is indigenous to the disputed Cabinda enclave.

3.7.2 *Treatment.* The Angolan province of Cabinda has a population of around 250,000. It is separated from the country's other seventeen provinces by a narrow strip of the Democratic Republic of Congo. There are two main ethnic groups in Cabinda; the Bakongo and the Mayombe. The Bakongo are in the majority, while the Mayombe has a small minority in the province and usually live in the mountain forests of eastern Cabinda. Cabindan separatists (FLEC - see 3.6 above) claim the enclave has its own distinct and separate identity. However, the extensive mixing and intermarriage in Cabinda over the years has made it increasingly difficult to establish who is a true Cabindan.¹⁸

3.7.3 Following the end of the armed conflict between the MPLA and UNITA in the contiguous part of Angola in 2002, the fighting and attendant violations against the civilian population shifted to Cabinda.¹⁹ By August 2004, the human rights situation in Cabinda had improved due to a decrease in military operations, but there were reports that the Angolan armed forces continued to commit violations against civilians with almost complete impunity. This reportedly included extrajudicial executions, arbitrary arrests and detention, torture and other mistreatment, sexual violence, and the denial of civilians' freedom of movement. There was little evidence of human rights abuses committed by FLEC factions against civilians over the same period, probably because of FLEC's weakened capacity.²⁰

3.7.4 The FAA and the Angolan National Police in Cabinda have reportedly failed to investigate or prosecute abuses against civilians in which the FAA has been implicated, in some cases simply transferring the alleged perpetrators, including officers and the perpetrators' unit, elsewhere in Cabinda or to another province. The deployment of some 30,000 FAA troops in close proximity to the civilian population in Cabinda and the prevailing sense of impunity have fostered a climate in which human rights violations remain common.²¹ Abuses against civilians by the Angolan military in Cabinda and impunity remained causes for concern in 2005. It was reported that the military was responsible for the murder of a three-year old girl in April 2005 and there were also allegations that the army kidnapped and tortured members and sympathisers of Mpalabanda, a local human rights NGO, in July 2005. The commander of the armed forces in Cabinda claimed, however, that justice in these cases has been served. Asked to comment on the acts of indiscipline committed by soldiers under his command in 2005, General Marques Banza admitted that "there might have been isolated cases of indiscipline here and there, and in those instances we have known how to mete out punishment."²²

3.7.5 On 1 August 2006, the Angolan Government signed a ceasefire agreement with Antonio Bento Bembe who acted on behalf of the Cabinda Forum for Dialogue (FCD), a representative body of Cabinda's secessionist movements including civil society groups, the Catholic Church and FLEC. The peace deal involves a "special status" for the enclave, within the limits of Angola's centralised constitution; the demilitarisation of the rebels; and an amnesty for crimes committed during the thirty year conflict. However, the agreement has not attracted the support of all the Cabindan factions and members of the FCD and FLEC have stated that Antonio Bento Bembe does not have the authority to represent Cabinda's aspirations. There is little information on whether human rights violations have continued in

¹⁸ IRIN.NEWS.ORG: IRIN Web Special on Cabinda & Minorities at Risk. Data: Assessment for Cabinda in Angola

¹⁹ HRW. Angola: Between War and Peace in Cabinda (page 6)

²⁰ HRW. Angola: Between War and Peace in Cabinda (page 1)

²¹ HRW. Angola: Between War and Peace in Cabinda (page 1)

²² HRW World Report 2006: Angola & USSD 2005 (Introduction, Section 1 & Section 2)

Cabinda since the ceasefire agreement was signed, but in October 2006 the United Nations Office (OHCHR) in Luanda reported that the Government has made it clear that it would crack down on those who don't accept the peace deal.²³

3.7.6 Sufficiency of protection. As this category of claimants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.7.7 Internal relocation. As this category of claimants' fear is of ill-treatment/persecution by the state authorities, relocation to a different area of the country would not place them beyond the reach of their would be persecutors.

3.7.8 Conclusion. The Angolan Government has signed a ceasefire agreement with Antonio Bento Bembe, but there is evidence that the agreement has not attracted the support of all the Cabindan factions, particularly senior members of the FCD and FLEC. Though the situation in Cabinda has reportedly started to improve, there is little information on whether the Government has withdrawn any of its 30,000 FAA personnel from Cabinda since the peace deal was signed or whether the civilian population there remains subject to serious human rights abuses as a result of the military presence. As such, if it is accepted that the claimant belongs to an ethnic group that is indigenous to the Cabinda enclave then it is likely they will be able to demonstrate that they are at real risk of ill-treatment amounting to persecution by the state authorities. The grant of asylum in such cases is therefore likely to be appropriate.

3.8 Members of UNITA

3.8.1 Some claimants will apply for asylum based on ill-treatment amounting to persecution at the hands of the state authorities due to their membership of, involvement with, or perceived involvement with, the main political opposition group National Union for the Total Independence of Angola (UNITA).

3.8.2 Treatment. Between the declaration of independence in November 1975 and April 2002, UNITA and the MPLA continued a bitter conflict for control of the country. During the conflict, UNITA comprised at least two major groups; in addition to which there were also known sympathisers. The main distinction was between the military wing, led by Jonas Savimbi, and those who formed the parliamentary wing UNITA-Renovada (UNITA-R). During the reconciliation process in 2002-3, which saw UNITA's transition to an unarmed political opposition group, UNITA-R ceased to exist.²⁴ The demobilisation of UNITA ex-combatants was successfully completed on 30 July 2002. Following the cessation of the civil war, there were no reports that UNITA committed human rights abuses. In October 2004, the disarmament and re-integration of more than 97,000 former UNITA rebel fighters was fully completed with most ex-combatants receiving five months' salary, demobilisation kits and discretionary payments.²⁵

3.8.3 In May 2004, UNITA and the other opposition parties, suspended their participation in the Constitutional Affairs Commission of the National Assembly until such time as President dos Santos agreed to consult the country's political forces with a view to approving an electoral timetable.²⁶ In January 2005, UNITA, dropped its demand that general elections take place September 2006 and also its preference for a presidential election to take place in 2005.²⁷

²³ HRW World Report 2007: Angola, FCO Country Profile 2007, British Broadcasting Corporation (BBC) News 'Angola signs deal with Cabindans' dated 1 August 2006, IRINNEWS.ORG. Angola 'Cabinda separatists divided over peace talks' dated 14 July 2006, IRINNEWS.ORG. Angola 'Rebels vow to fight on despite deal' dated 1 August 2006, IRINNEWS.ORG. Angola 'Concern as Luanda pushes through Cabinda peace deal' dated 3 October 2006

²⁴ Europa Publications Ltd. Regional Surveys of the World - Africa: South of the Sahara 2005 (34th Edition), Angola & USSD 2004 (Section 3)

²⁵ Republic of Angola Embassy in the United Kingdom: Newsletter No. 99 October 2004

²⁶ FCO letter dated 26 August 2004

²⁷ Action for Southern Africa (ACTSA). Angola Peace Monitor: Issue number 4, volume XI

3.8.4 The return of demobilised UNITA soldiers to their home provinces has in some cases resulted in violence directed against them. Such violence reportedly prompted around 2,000 former UNITA soldiers to leave a municipality in Moxico province in mid-July 2004 when local residents protested against the return of a former UNITA general who had been involved in war atrocities. UNITA raised concerns in 2004 over increased incidents of intimidation of its members by individuals allegedly belonging to MPLA militia groups. During 2003-4, UNITA complained repeatedly about persecutions, intimidations and violence perpetrated against its officials in various provinces and municipalities in the interior of the country. During a meeting on 15 July 2004, MPLA and UNITA agreed to coordinate efforts to curb such acts. A common mission from both parties would visit affected areas in order to investigate alleged incidents.²⁸

3.8.5 In 2005, there were some reports of politically motivated violence between supporters of the MPLA and UNITA. In March 2005, one person was reportedly killed and 28 others were wounded in clashes between MPLA and UNITA supporters in the southern town of Mavinga, when UNITA members tried to raise their flag to commemorate the 39th anniversary of the organisations foundation.²⁹

3.8.6 *Sufficiency of protection.* As this category of claimants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.8.7 *Internal relocation.* As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

3.8.8 *Caselaw.*

M (Angola) [2003] UKIAT 00010. The IAT found that the risk to family members of UNITA supporters is "now below the Article 3 ECHR and Refugee Convention standard" (para 9).

3.8.9 *Conclusion.* In light of the ending of the civil war between the MPLA and UNITA in April 2002, UNITA's peaceful transition from armed opposition group to a major political party and the successful completion in 2004 of the disarmament and reintegration programme for ex-combatants, there is no evidence that members of, or ex-combatants from UNITA are at real risk of ill-treatment amounting to persecution by the state authorities. Though there have been delays to the agreement of an electoral timetable and occasional reports of localised disputes about the re-integration of ex-combatants in a few provinces, there is no evidence that the treatment suffered by former UNITA members amounts to persecution within the terms of the 1951 Convention. A grant of asylum will not therefore generally be appropriate for claims that cite persecution on account of membership of, or association with, UNITA. Applications under this category are likely to be clearly unfounded and as such should be certified.

3.8.10 Caseworkers should note that members of UNITA have been responsible for serious human rights abuses some of which amount to war crimes and crimes against humanity. If it is accepted that a claimant was an active operational member or combatant for UNITA and the evidence suggests that he has been involved in such actions, then caseworkers should consider whether one of the Exclusion clauses is applicable. Caseworkers should refer all such cases within this category to a Senior Caseworker in the first instance.

3.9 General country situation

3.9.1 Some claimants will apply for asylum based on ill-treatment amounting to persecution due to the general political, human rights and/or humanitarian situation in Angola. (excluding Cabinda which is covered in 3.6 and 3.7 above).

²⁸ Global IDP Database. Profile of Internal Displacement: Angola (pages 7, 49 - 53, 93 & 94) & FCO letter dated 26 August 2004

²⁹ Amnesty International Report 2006. Africa: Angola

- 3.9.2 Treatment.** The political situation in Angola has improved since the end of the civil war in 2002 and the Government's announcement that national elections will be held is a positive step towards Angola's reconstruction after twenty-seven years of civil war. In 2005, the Government was increasingly open to civil society and opposition participation in political processes, especially during the debate and passage of the package of electoral laws. However, much remains to be done to create an environment in which free and fair elections can take place and to extend civil and political rights to all Angolans.³⁰
- 3.9.3** The Government's human rights record, however, remained poor during 2005 and there were reports of unlawful killings, disappearances, torture, beatings, and abuse of persons. Other human rights violations reported also included arbitrary arrest, detention and lengthy pre-trial detention, restrictions on freedom of speech, the press, and assembly, and violence and discrimination against women and children. The appointment of a human rights ombudsman was at least an important step in ensuring citizen's ability to seek redress by reporting human rights concerns directly to an independent governmental body.³¹
- 3.9.4** Cereal production has grown since the end of the civil war and the number of people needing food aid has fallen. Still, persistent delays remain in rebuilding roads, schools, and other infrastructure in the rural provinces. The lack of resources, conflict over land rights, and rising frustration among ex-combatants due to the slow pace of reintegration have reportedly contributed to increased political tension throughout Angola. The paucity of development and reconstruction funding flowing to rural areas, especially areas that heavily support the opposition also reportedly increased the perception that the central government is corrupt and uninterested in reconciliation.³²
- 3.9.5** The UNHCR advised in January 2004 that in view of the changed situation in Angola following the end of the civil war it is no longer advising against involuntary return of rejected asylum seekers to Angola, except for return to Cabinda Province. The UNHCR reinforced its position with regard to the return of Cabindans in January 2005. With regard to the remainder of Angola, the UNHCR did however ask governments to carefully assess the risk to individuals upon return. The UNHCR judged that there may well be persons who, while not having a demonstrated need for international protection, would be particularly vulnerable upon return. This would include, for example, separated children, unaccompanied elderly people, and people with physical disabilities or in need of specialised or ongoing medical care.³³
- 3.9.6 Sufficiency of protection.** In light of the nature of this category of claims, the availability of sufficient protection from the state authorities is not relevant.
- 3.9.7 Internal relocation.** In light of the nature of this category of claims, the availability of an internal relocation option is not relevant.
- 3.9.8 Caselaw.**

2003] UKIAT 00049 M (Angola). No breach of Articles 3 or 8 to return a young single female with no connections to Luanda. The IAT found that while accepting the appellant's situation will be grim as there is a real likelihood she would become internally displaced given she has no connections with Luanda, the UNHCR has not said categorically that returns of those who do not have connections should not take place; its position is that returns should be avoided and based on the evidence, the conditions the appellant would face would not be of such severity as to reach the threshold of a breach of Article 3 (para 6.6)

³⁰ HRW World Report 2007: Angola, HRW World Report 2006: Angola & USSD 2005 (Introduction)

³¹ HRW World Report 2006: Angola & USSD 2005 (Introduction)

³² HRW World Report 2007: Angola, HRW World Report 2006: Angola & United Nations News Service: 'Security in Angola improves, food production grows but challenges remain - UN'

³³ The United Nations High Commissioner for Refugees (UNHCR) Position on Return of Rejected Asylum Seekers to Angola (January 2004) & The UNHCR: Return of failed asylum seekers to Angola (January 2005)

AA (Angola) CG [2002] UKIAT 01518. The appellant was a single woman with a young child. She was from Luanda and some of her family were still resident there. IAT find that there would be no breach of her human rights to be returned to Luanda.

3.9.9 Conclusion. The civil war in Angola has now ended and former adversaries have successfully disarmed and reintegrated into a peaceful society (see also 3.8 above). With the exception of the Cabinda enclave, the country has stabilised considerably since 2002 with some progress towards national elections. There is no indication that a return to a prolonged armed conflict or the humanitarian crisis it perpetuated will re-emerge. Individual claimants who cite the general political, human rights and/or humanitarian situation in Angola will not be able to demonstrate conditions amounting to persecution within the terms of the 1951 Convention. The grant of asylum in such cases is therefore not appropriate and applications based solely on the general country situation are likely to be clearly unfounded and as such should be certified.

3.9.10 Though governments are advised to carefully assess the risk to individuals upon return, the UNHCR is no longer advising against involuntary return of rejected asylum seekers to Angola, except for return to Cabinda Province. It is not likely that a claimant citing the general country situation would generally be able to demonstrate that their return would be in breach of ECHR. General lawlessness, poverty and lack of resources are not sufficient to amount to a breach of ECHR. The grant of Humanitarian Protection or Discretionary Leave in such cases is therefore not appropriate and applications based solely on the general country situation are likely to be clearly unfounded and as such should be certified.

3.10 Prison conditions

3.10.1 Claimants may claim that they cannot return to Angola due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Angola are so poor as to amount to torture or inhuman treatment or punishment.

3.10.2 The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.

3.10.3 Consideration. Prison conditions in Angola are harsh and life-threatening. During 2005, human rights activists reported that prison officials routinely beat and tortured detainees. It was also reported that in 2005, the national prison system continued to hold approximately five times the number of prisoners for which it was designed. Prisons were severely overcrowded, particularly outside the Luanda prison system. In some provinces warehouses and other buildings were used as prison facilities during 2005.³⁴

3.10.4 On 6 December 2004, local media reported that between 8 to 16 prisoners died due to asphyxiation in an overcrowded police station cell in Mussendi, Lunda-Norte. The detainees, some of whom were from the Democratic Republic of Congo, were being held as part of Operacao Brilhante. In protests following these deaths, police reportedly killed two individuals. The National Police Commander publicly admitted wrongdoing, ordered the arrest of the local commander and several officers, and stated that an investigation was underway. In June 2005, two of the four policemen charged with the December 2004 asphyxiation deaths were sentenced to seven months' imprisonment.³⁵

3.10.5 Many prisons, lacking adequate financial support from the Government, are reportedly unable to supply prisoners with basic sanitary facilities, adequate food, and health care. Prisoners depend on families, friends, or international relief organisations for basic support.

³⁴ USSD 2005 (Introduction & Section 1)

³⁵ USSD 2005 (Section 1) & USSD 2004 (Section 1)

There were unconfirmed reports in 2005 that prisoners died of malnutrition and disease, especially in provincial prisons. According to the Association for Justice, Peace and Democracy (AJPD), a man died in pre-trial custody after his arrest in September.³⁶

- 3.10.6** Female prisoners are held separately from male prisoners; however, there were reports in 2005 that prison guards sexually abused female prisoners. Juveniles, often incarcerated for petty theft, are housed with adults and also reportedly suffered abuse by guards and inmates during 2005. Pre-trial detainees frequently are housed directly with sentenced inmates, and prisoners serving short term sentences often are held with inmates serving long term or life sentences for violent crimes. Unlike in the previous year, the Government permitted foreign diplomatic personnel and local and international human rights observers to visit prisons during 2005.³⁷
- 3.10.7** Conditions of detention in Cabinda vary, but in 2004 Human Rights Watch reported that the FAA frequently detained persons without regard to minimal international standards for the treatment of prisoners. According to Human Rights Watch, some detainees were held in basic shelters, where they received minimal food and water. The most egregious conditions of detention were pits dug in the ground. The Human Rights Watch report of December 2004 noted that an FAA commander did not deny the existence of such pits, but maintained they were used only to detain FAA soldiers as an internal disciplinary measure. According to Human Rights Watch, detention in these pits, in which detainees reportedly often had to defecate and urinate where they were held, constitutes cruel, inhuman or degrading treatment in violation of international law. During the rainy season, detainees remained in the pits which partially filled up with water. The water took a day or two to drain away. The Human Rights Watch report also recorded how the FAA subjected several male detainees to other forms of torture including: tying a detainees' elbows together behind their backs and by their hands, causing loss of circulation and short-term damage; tying two pieces of steel against their heads and then squeezing the two pieces tightly; and tying a rope around a detainee's chest followed by five soldiers pulling the rope at each end. Detainees were also reportedly subjected to humiliating and degrading treatment, including threatening to rape and cut off one detainee's genitalia.³⁸
- 3.10.8 Conclusion.** Whilst prison conditions in Angola are poor with severe overcrowding, unsanitary conditions, and a lack of health and medical care being particular problems, conditions are unlikely to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Angola a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.
- 3.10.9** Prison conditions in Cabinda are severe and taking into account the extremely primitive accommodation and the level of inhuman and degrading treatment that prisoners are likely to encounter, conditions in prisons and detention facilities in Cabinda are likely to reach the Article 3 threshold. Where caseworkers believe that an individual is likely to face imprisonment on return to Cabinda they should also consider whether the claimant's actions means they fall to be excluded by virtue of Article 1F of the Refugee Convention. Where caseworkers consider that this may be the case they should contact a senior caseworker for further guidance. Where individual claimants are able to demonstrate a real risk of imprisonment on return to Cabinda and exclusion is not justified, a grant of HP will be appropriate.

³⁶ USSD 2005(Section 1)

³⁷ USSD 2005 (Section 1)

³⁸ HRW. Angola: Between War and Peace in Cabinda (pages 16 &17)

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the API on Article 8 ECHR.

4.2 With particular reference to Angola the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave and the API on Article 8 ECHR.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.

4.3.2 Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

4.4.1 Claimants may claim they cannot return to Angola due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

4.4.2 Angola has made limited progress in improving the country's weakened health system since the civil war ended in 2002. The Angolan Government, with the support of the international community has launched a massive effort to reconstruct the health system, but the availability of free of charge medical care is limited and in 2005 it was reported that less than 30 per cent of the population had access to adequate medical care.³⁹ In 2004, the United Nations noted that there were 1,032 health units working in Angola, divided into 8 national hospitals, 64 provincial hospitals, 201 health centres, 759 medical posts and 70 family planning rooms.⁴⁰ Nevertheless, many diseases including tuberculosis and malaria are prevalent in many parts of the country and government capacity to provide adequate medical care and mental health care is reportedly undermined by continued underfunding and limited human resources.⁴¹

4.4.3 Although HIV prevalence rates in Angola are dwarfed by those of neighbouring countries in Southern Africa, UNAIDS estimated adult prevalence at 3.7 per cent at the end of 2006. There is also evidence of a growing number of HIV-positive pregnant women in Angola and a fear that prevalence rates could rapidly increase once transportation routes reopen.⁴² Anti-retroviral therapy for HIV/AIDS sufferers is available without charge, though availability in the

³⁹ IRIN.NEWS.ORG. Angola: Limited progress in improving health delivery & Medical Sans Frontiers (MSF). International Activity Report 2005: Angola

⁴⁰ United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Combined fourth and fifth periodic reports of States parties: Angola (page 39)

⁴¹ IRIN.NEWS.ORG. Angola: Limited progress in improving health delivery & MSF. International Activity Report 2005: Angola

⁴² IRIN.NEWS.ORG. Angola: Plight of children still desperate, UNICEF head, MSF. International Activity Report 2005: Angola & UNAIDS: Joint United Nations Programme on HIV/AIDS. Uniting the world against AIDS: Angola

Cabindan enclave is limited. Still, the Government has implemented a progressive national strategy to fight HIV/AIDS and has established a National AIDS Commission led by the President. In June 2005, the National Assembly also approved the HIV/AIDS law establishing the responsibilities of the Government to adopt measures of prevention, control, treatment and investigation. In addition, the United Nations Children's Fund (UNICEF) and the Swedish Government agreed on a US \$4.3 million initiative aimed at boosting Angola's national strategy against HIV/AIDS in December 2005.⁴³

- 4.4.4** Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.

- 5.2** In its position paper of January 2004, the UNHCR no longer advised States against involuntary returns of rejected asylum seekers to Angola, except Cabinda. The UNHCR reinforced its advice for Cabinda in a supplementary position paper of January 2005.⁴⁴ The UNHCR's papers provide broad assessments of the current situation and we do not dispute that they present accurate overviews of the general humanitarian situation and the social and security problems in Angola. However, asylum and human rights claims are not decided on the basis of the general situation - they are based on the circumstances of the particular individual and the risk to that individual. We do not therefore accept the UNHCR's conclusion, based on their overview of the general situation in Cabinda that all persons presenting themselves as asylum seekers from Cabinda are, irrespective of their individual circumstances, automatically in need of some form of international protection.

- 5.3** Angolan nationals may return voluntarily to any region of Angola at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Angola. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Angolan nationals wishing to avail themselves of this opportunity for assisted return to Angola should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

6. List of source documents

- Home Office Country of Origin Information (COI) Service Key Documents 1/2006: Angola (dated February 2006). http://www.homeoffice.gov.uk/rds/country_reports.html
- Human Rights Watch World Report 2007: Angola. <http://hrw.org/englishwr2k7/docs/2007/01/11/angola14696.htm>

⁴³ IRIN.NEWS.ORG. Angola: Cabinda slowly waking up to HIV/AIDS, IRIN.NEWS.ORG. Angola: Swedish/UNICEF anti-AIDS agreement signed & UNAIDS: Joint United Nations Programme on HIV/AIDS. Uniting the world against AIDS: Angola

⁴⁴ The United Nations High Commissioner for Refugees (UNHCR) Position on Return of Rejected Asylum Seekers to Angola (January 2004) & The UNHCR: Return of failed asylum seekers to Angola (January 2005)

- Human Rights Watch World Report 2006: Angola
<http://hrw.org/english/docs/2006/01/18/angola12306.htm>
- Action for Southern Africa (ACTSA). Angola Peace Monitor Issue No. 4, Vol. XI, dated 26 January 2005.
- Europa Publications Ltd. Regional Surveys of the World - Africa: South of the Sahara 2005 (34th Edition), Angola.
- Foreign and Commonwealth Office (FCO) Country Profile 2007 (Last reviewed on 5 January 2007).
<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1019501109024>
- www.unhcr.org. Global IDP Database. Profile of Internal Displacement: Angola. Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council (as of 1 October 2004).
<http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=RSDCOI&id=3ae6a6200>
- U.S. Department of State report on Human Rights Practices (USSD) – 2005 (Released on 8 March 2006). <http://www.state.gov/g/drl/rls/hrrpt/2005/61553.htm>
- U.S. Department of State report on Human Rights Practices (USSD) – 2004 (Released on 28 February 2005). <http://www.state.gov/g/drl/rls/hrrpt/2004/41587.htm>
- Human Rights Watch. Angola: Between War and Peace in Cabinda - A Human Rights Watch Briefing Paper (dated December 2004).
hrw.org/backgrounder/africa/angola/2004/1204/cabinda122104.pdf
- WWW.ReliefWeb.int. United Nations News Service: 'Security in Angola improves, food production grows but challenges remain – UN' dated 9 August 2004.
<http://www.reliefweb.int/w/rwb.nsf/6686f45896f15dbc852567ae00530132/a8fcbeffff21255585256eeb005721e2?OpenDocument>
- Medical Sans Frontiers. International Activity Report 2005: Angola.
<http://www.doctorswithoutborders.org/publications/ar/i2005/angola.cfm>
- United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Combined fourth and fifth periodic reports of States parties: Angola (page 39).
<http://www.un.org/womenwatch/daw/cedaw/reports.htm>
- www.aegis.com. United Nations Integrated Information Networks (IRIN.NEWS.ORG). Angola: 'Swedish/UNICEF anti-AIDS agreement signed' dated 15 December 2005.
<http://www.aegis.com/news/IRIN/2005/IR051241.html>
- UNAIDS: Joint United Nations Programme on HIV/AIDS. Uniting the world against AIDS: Angola. http://www.unaids.org/en/Regions_Countries/Countries/angola.asp
- United Nations Integrated Information Networks (IRIN.NEWS.ORG). IRIN Web Special on Cabinda. <http://www.irinnews.org/webspecials/cabinda/default.asp>
- United Nations Integrated Information Networks (IRIN.NEWS.ORG). Angola: 'Concern as Luanda pushes through Cabinda peace deal' dated 3 October 2006.
http://www.irinnews.org/report.asp?ReportID=55817&SelectRegion=Southern_Africa&SelectCountry=ANGOLA
- United Nations Integrated Information Networks (IRIN.NEWS.ORG). Angola: 'Rebels vow to fight on despite deal' dated 1 August 2006.

http://www.irinnews.org/report.asp?ReportID=54930&SelectRegion=Southern_Africa&SelectCountry=ANGOLA

- United Nations Integrated Information Networks (IRIN.NEWS.ORG). Angola: 'Cabinda separatists divided over peace talks' dated 14 July 2006.
http://www.irinnews.org/report.asp?ReportID=54621&SelectRegion=Southern_Africa&SelectCountry=ANGOLA
- United Nations Integrated Regional Information Networks (IRIN.NEWS.ORG). Angola: 'UNITA calls on govt to address acts of intimidation in provinces' dated 7 September 2005.
www.irinnews.org/report.asp?ReportID=48949&SelectRegion=Southern_Africa&SelectCountry=ANGOLA
- United Nations Integrated Information Networks (IRIN.NEWS.ORG). Angola: 'Plight of children still desperate, UNICEF head' dated 15 June 2005.
http://www.irinnews.org/report.asp?ReportID=47658&SelectRegion=Southern_Africa&SelectCountry=ANGOLA
- United Nations Integrated Information Networks (IRIN.NEWS.ORG). Angola: 'Limited progress in improving health delivery' dated 7 June 2005.
http://www.irinnews.org/report.asp?ReportID=47511&SelectRegion=Southern_Africa&SelectCountry=ANGOLA
- United Nations Integrated Information Networks (IRIN.NEWS.ORG). Angola: 'Cabinda slowly waking up to HIV/AIDS' dated 26 October 2004.
<http://www.plusnews.org/pnprint.asp?ReportID=4070>
- The United Nations High Commissioner for Refugees (UNHCR) Position on Return of Rejected Asylum Seekers to Angola (dated 10 January 2004).
<http://www.unhcr.org/cgi-bin/texis/vtx/publ/openssl.pdf?tbl=RSDLEGAL&id=4020db6c4&page=publ>
- The United Nations High Commissioner for Refugees (UNHCR). Return of failed asylum seekers to Angola (dated 1 January 2005).
- British Broadcasting Corporation (BBC) News 'New delay for Angolan elections' dated 21 December 2006. <http://news.bbc.co.uk/1/hi/world/africa/6201093.stm>
- British Broadcasting Corporation (BBC) News 'Angola signs deal with Cabindans' dated 1 August 2006. <http://news.bbc.co.uk/1/hi/world/africa/5236230.stm>
- Amnesty International Report 2006. Africa: Angola
<http://web.amnesty.org/report2006/ago-summary-eng>
- Minorities at Risk. Data: Assessment for Cabinda in Angola.
<http://www.cidcm.umd.edu/inscr/mar/assessment.asp?groupId=54003>

**Asylum and Appeals Policy Directorate
18 January 2007**