

Title	Memorandum of Understanding between the United Nations High Commissioner for Refugees and the International Organization for Migration
Publisher	UN High Commissioner for Refugees
Publication Date	15 May 1997
Cite as	UN High Commissioner for Refugees, <i>Memorandum of Understanding between the United Nations High Commissioner for Refugees and the International Organization for Migration</i> , 15 May 1997. Online. UNHCR Refworld, available at: http://www.unhcr.org/refworld/docid/3ae6b31a70.html [accessed 19 March 2009]

Memorandum of Understanding between the United Nations High Commissioner for Refugees and the International Organization for Migration

I. INTRODUCTION

1. This Memorandum of Understanding (MOU) between the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) is aimed at facilitating systematic, predictable, cooperative action between the two organizations. It seeks to build on the recognized expertise of each organization and to establish operational modalities of cooperation.

2. IOM and UNHCR agree that their joint and separate actions on behalf of persons of concern to both organizations shall be based upon principles contained in the mandates of both organizations; in UNHCR's case, from the Office's Statute, international instruments governing the rights of refugees and relevant General Assembly resolutions, and in IOM's case, the mandate given to it by its Member States in its Constitution as amended in 1989. UNHCR also acts in accordance with decisions and conclusions adopted by the Executive Committee of the High Commissioner's Programme and IOM, likewise, with those of its Council.

3. Underlying this MOU is the recognition and acknowledgement of the afore mentioned mandates and responsibilities. In so far as migratory flows include movements of refugees and displaced persons, the actions of the two organizations, while determined by their respective mandates, will thus be planned and carried out in a context of complementarity.

II. SCOPE

4. This MOU covers activities in favour of the following beneficiaries:
- (i) refugees;
 - (ii) migrants;
 - (iii) asylum-seekers and rejected asylum-seekers;
 - (iv) returnees;
 - (v) internally displaced persons;
 - (vi) local populations in the country of origin, especially those in conflict or post-conflict situations or affected by the presence of internally displaced persons or returnees; or in the country of asylum, affected by the presence of refugees.
5. This MOU can be expanded upon in separate agreements between the two organizations, as and when required, to cover specific operational situations. In each instance, related planning and proposed initiatives, whenever appropriate and feasible, shall be the subject of a field-level Letter of Understanding which reflects the particular circumstances. Such Letters of Understanding should set out, inter alia, the specific institutional framework for cooperation; the agreed activities of each agency; the intended linkages between the activities of both organizations and funding arrangements.

III. ORGANIZATIONAL MANDATES AND RESPONSIBILITIES IN RELATION TO VARIOUS GROUPS

6. The roles and responsibilities of IOM and UNHCR in relation to the groups listed in (4) above, while distinct, are sometimes interrelated.

(i) Refugees

7. According to the Statute of its Office and subsequent General Assembly resolutions, UNHCR is mandated to provide international protection and humanitarian assistance to refugees as well as to promote durable solutions to their problems. Following requests by the General Assembly and endorsement by the international community, the Office's competence covers all persons outside their country of origin for reasons of feared persecution, armed conflict, generalized violence, foreign aggression

or other circumstances which have seriously disturbed public order and who, as a result, require international protection.

8. IOM has received from its Member States a mandate to ensure orderly processes of migration, including the organized transfer of refugees. Services which can be provided include, inter alia, **pre-screening**, counselling, documentation, medical processing, training, transport, reception and integration.

(ii) Migrants

9. According to its Constitution, IOM is committed to the principle that humane and orderly migration benefits migrants and society; it acts to assist in meeting the operational challenges of migration, to advance understanding of migration issues, to encourage social and economic development through migration and to work towards effective respect for the human dignity and well-being of migrants.

10. UNHCR's general interest in the field of migration stems from the recognition that there can be links between involuntary displacement and many migratory movements.

(iii) Asylum- Seekers and Rejected Asylum-Seekers

11. The term "asylum-seeker" refers to an individual whose refugee status has not yet been determined by the authorities but whose claim to asylum entitles him/her to a certain protective status to be determined through full and fair procedures, since she/he could be a refugee. It also refers to large-scale influxes of mixed groups which make an individual refugee status determination impractical. UNHCR is mandated to promote the right of all refugees, whether individually or as part of mass movements, to seek asylum and avail themselves of it, at least on a temporary basis until a solution is found, and in accordance with basic humanitarian standards of treatment.

12. In regard to persons not in need of international protection, IOM and UNHCR are willing to support States, under certain conditions, in their efforts to return or arrange the onward migration of such categories of persons. Such returns are not only part of a viable migration policy but can contribute to maintaining the institution of asylum. Among these conditions are the following: that such returns do not involve measures conflicting with the humanitarian concerns of either organization; that they take into account the best interests of the individuals concerned; and that the return

is recognized as being primarily a bilateral matter between the countries concerned.

(iv) Returnees

13. UNHCR's mandate concerning returning refugees includes substantive involvement to ensure return takes place in conditions of safety and dignity and to provide assistance to returnees in the country of origin. The duration and scope of UNHCR's activities in favour of returnees are limited and vary according to the specifics of each voluntary repatriation operation. It is recognized by the international community that UNHCR has a legitimate concern for the consequences of return. UNHCR's involvement may also be determined by specific tripartite or bilateral agreements with respective countries outlining the framework of voluntary repatriation operations.

14. IOM has responsibility for providing migration services in case of voluntary repatriation. As for other groups of returning migrants, IOM is committed to ensuring the successful reintegration of returning refugees into their society through programmes which link skills to social and economic development and opportunities, and create employment possibilities in the country of origin.

15. UNHCR and IOM will coordinate with each other to ensure complementarity of activities for returnees.

(v) Internally displaced persons

16. For IOM, internally displaced persons (IDPs) are people who have been forced to flee their homes as a result of armed conflicts, widespread violence, natural disasters or violations of human rights and who remain within the territory of their own country. Internal displacements are a form of migration, hence IOM's involvement on behalf of IDPs, as part of its concern for displaced persons which is explicitly included in its Constitution. IOM deals with internal migration, inter alia, in view of the close interdependence between the problems of internal migration and those of international migration.

17. UNHCR's involvement is selective, applying to persons displaced internally for reasons that would make them of concern to UNHCR had they crossed an international boundary. In line with relevant General Assembly resolutions, UNHCR's involvement is based on a specific request from the Secretary-General or a competent principal organ of the United Nations, the

consent of the State or other entities concerned, the Office's particular expertise and experience in protection and solutions, and the availability of adequate resources.

(vi) Affected local populations

18. The involvement of UNHCR and IOM with affected local populations is selective. It is normally focused on those groups living within areas directly affected by refugee influxes, returning populations or internally displaced persons of concern to either organization.

19. UNHCR and IOM will coordinate with each other to ensure complementarity of activities for affected local populations.

IV. TYPES OF COOPERATIVE ACTIVITIES

20. UNHCR and IOM have a long-standing partnership, have forged models of cooperation in many areas and promote integrated policies and comprehensive approaches to particular situations of displacement. Recent activities in the countries of eastern and central Europe and the CIS provide new opportunities for innovative approaches, as exemplified in the CIS Conference process by the first Joint Operational Strategy ever developed by the two organizations. This cooperation is based on the mandates and expertise of the two organizations and a recognition of mutual interest and concern in a wide range of categories of people.

(i) Prevention

21. IOM and UNHCR will cooperate, whenever appropriate and feasible, in the identification of concrete activities which may contribute to early warning, monitoring and prevention of situations leading to displacement.

(ii) Contingency planning

22. Both UNHCR and IOM contribute to coordinated United Nations emergency contingency planning, normally undertaken in full cooperation with national authorities. Within this framework, UNHCR will invite IOM to participate in planning for possible refugee influxes. During such planning activities, IOM will review with national counterparts and UNHCR ways in which its ongoing country operations may quickly be adjusted to enable IOM to provide emergency assistance in pre-identified sectors.

23. To further improve the effectiveness of a collaborative response to emergencies, both organizations shall seek ways of enhancing the development and the maintenance of emergency response capacities, for example, emergency staff training and rosters, standby arrangements, material stockpiles, or development of telecommunications networks.

(iii) Institutional capacity-building

24. IOM and UNHCR have a shared interest in States having sufficient institutional capacity to enable them to fulfil international legal commitments and be in a position to manage movements of people. Cooperation and coordination therefore are and will continue to be paramount. UNHCR and IOM will continue to work closely in legal and other areas relevant to capacity building so as to improve the ability of Governments to respond to crises.

(iv) Internally displaced persons (IDPs)

25. Operational cooperation must be decided on a case-by-case basis. Smooth consultation mechanisms need to be established to ensure that overlap is minimized, and complementarity of efforts and expertise maximized, in all situations. Even in situations where either UNHCR or IOM assumes primary responsibility for IDPs, consultations between both organizations on specific forms of cooperation will take place.

(v) In-country processing for organized departure

26. In some instances, persons with a well-founded fear of persecution find themselves, for any number of reasons, unable to leave their country and seek asylum and international protection elsewhere. IOM has traditionally assisted persons facing persecution or other hardship in their countries of origin or habitual residence to migrate directly to other countries willing to receive them on humanitarian or other grounds. UNHCR has, on some occasions, participated in such operations.

27. Such in-country processing is, in certain circumstances, a unique means of providing rapid humanitarian solutions for a significant number of persons. Nevertheless, the availability of direct departure mechanisms should be seen as a complement to, but not a replacement for, access to protection in other countries.

28. When circumstances indicate the desirability of IOM instituting direct departure mechanisms for persons having a well-founded fear of

persecution in their countries of origin or habitual residence, there should be consultations between IOM and UNHCR. Once such departure mechanisms have been created, consultations should continue and should focus on the sharing of information with the aim, inter alia, of ensuring that the plight of persons in particularly vulnerable circumstances is brought to the early attention of the organization best placed to assist.

(vi) Rejected asylum-seekers

29. The term rejected asylum-seekers, sometimes referred to by IOM as unsuccessful asylum-seekers, is understood to mean people who, after due consideration of their claims to asylum in fair procedures, are found not to qualify for refugee status, nor to be in need of international protection and who are not authorized to stay in the country concerned. IOM and UNHCR take the view that the return and readmission of such persons should only be considered when the asylum-seeker has exhausted all possibilities to be allowed to stay. Exchange of information between IOM and UNHCR is viewed as particularly important with regard to the satisfactory completion of the asylum procedures, the evaluation of the conditions prevailing in the country of return, and the follow up of the persons concerned, where applicable. These consultative mechanisms may also be used to cover situations of other specific groups of non-refugees for whom international return assistance or onward migration services may be appropriate. The nature and extent of the involvement of each organization will be determined by their respective mandates, the specific situation, and operational expertise and capacity.

(vii) Voluntary repatriation of refugees

30. UNHCR and IOM have for many years cooperated closely in voluntary repatriation programmes for refugees, in accordance with each agency's respective mandate. IOM recognizes UNHCR's lead role in these activities, which flows essentially from its refugee protection mandate. At the same time, through its Constitution, IOM has a mandate to provide migration services to refugees who voluntarily repatriate. These services on behalf of refugees -- which IOM also provides independently for other categories of persons -- are mainly in the field of logistical assistance, such as documentation, medical services, transportation and reception.

(viii) Reintegration

31. UNHCR will inform IOM concerning expected repatriation operations at an early stage of planning and negotiations for each operation or whenever large-scale spontaneous movements are expected. In preparation for the voluntary return of refugees to their country of origin, UNHCR and the relevant government authorities, in consultation with other organizations, will agree on complementary initiatives focused on the areas of return, which will ensure the effective reintegration of the people, the availability of essential services, and the inclusion of these areas and their populations in longer-term national development programmes. Building upon IOM's experience in longer-term reintegration, the two organizations will increase their cooperation in this field with special emphasis on rehabilitation and reintegration.

(ix) Resettlement

32. Resettlement is one of the three durable solutions to be implemented by UNHCR for the international protection of refugees. IOM is active in resettlement to help ensure orderly migration of people in need of assistance, in particular through the handling of pre-departure and transport arrangements. IOM and UNHCR collaborate on a number of specific assistance measures for refugees in need of resettlement in a third country and will continue to do so in, for example, the provision of language training and cultural orientation which can help lay the basis for successful integration.

33. Specific medical examination and documentation requirements exist in most countries that accept refugees for resettlement. IOM traditionally has either directly performed such examinations or screened the documentation prepared by other medical authorities. UNHCR and IOM will look to expand their long-standing collaboration in the medical field in recognition of the special needs of the resettlement process.

(x) Information activities

34. IOM and UNHCR have run separate and joint information activities with the aim of providing people of concern to either/both organizations sufficient information for them to be able to make well-founded decisions about their future, both in terms of prevention and repatriation. In view of the need for accurate information, this type of operation will be expanded.

35. UNHCR and IOM will share relevant information of interest to the media, NGOs and the public about people of joint concern. IOM and UNHCR

will cooperate, at both Headquarters and field level, to promote public awareness of the situation of persons of concern to each organization to address their needs. Where appropriate and feasible, this cooperation may take the form of joint or coordinated development of public information materials and activities. Whenever IOM and UNHCR cooperate in joint activities or programmes, such cooperation will be acknowledged and highlighted in public information materials and statements to the media made by representatives of either organization. Each agency shall designate focal points at Headquarters for regular consultations in this respect.

V. GENERAL PROVISIONS

(i) Resource mobilization

36. Each organization is responsible for mobilizing the resources necessary to discharge the responsibilities set out herein. Should sufficient resources not be available for immediate action by one organization, the other shall be consulted. To ensure efficient use of resources and avoid duplication, UNHCR and IOM may prepare joint presentation documents and undertake joint financial resource mobilization for certain special operations. Both organizations will continue to participate in United Nations consolidated inter-agency appeal processes.

(ii) Staffing

37. In so far as possible, and within the context of their constituent instruments and decisions of their respective competent bodies, IOM and UNHCR shall assist each other in the training and secondment of various categories of staff. Both organizations shall, where possible, facilitate the employment of spouses.

(iii) Monitoring and evaluation

38. In regard to joint projects, there is a need for agreed monitoring procedures which will provide the respective managements with a means to control the project activities and, where necessary, to undertake timely corrective measures and to maximize outcomes for the intended beneficiaries. Similarly, guidelines and specific methodologies will be established for the evaluation of joint projects and the assessment of their continuing relevance, effectiveness, efficiency and impact against their objectives.

(iv) Phase-out and handover

39. Prior to the agreed conclusion of any activities pursuant to this MOU or to a field-level Letter of Understanding, or where either UNHCR or IOM expects that resources will be insufficient for the purposes intended, a mutually agreeable plan for phase-out shall be prepared.

40. Each agency shall be responsible for any outstanding obligations or liabilities that it may have incurred. Assets, inventory or resources, if any, that remain after the conclusion of the activity under this MOU shall, if agreements with donors so permit, be considered for free handover to the agency with a continuing presence or related operations in the area, to national institutions, or to suitable NGOs or other institutions responsible for the beneficiary population contemplated by the activity.

VI. FINAL CLAUSES

41. This MOU between IOM and UNHCR has been drawn up taking into consideration the broad provisions of the Cooperation Agreement between the United Nations and IOM of 25 June 1996.

42. Nothing in this MOU shall affect the relations of either signatory to its Governing Body, nor the contractual relationship and administrative supervision of UNHCR and IOM to their operational partners.

43. The implementation of this MOU will be in compliance with the respective administrative and financial rules and procedures of IOM and UNHCR and be subject to the availability of funds.

44. This MOU will enter into force upon its signature by both parties and shall be of indefinite duration.

45. This MOU may be terminated by either party upon 90 days' written notice.

46. This MOU may be modified at any time by mutual consent of the parties.

47. The Executive Heads of both organizations will meet when necessary to discuss policy issues, and will nominate senior officials to meet regularly, at least annually to review strategic and implementation issues of particular interest to both organizations and to propose possible courses of action to address them. This MOU, itself, shall be reviewed at regular intervals by a joint Task Force established for this purpose.

SIGNED FOR	
United Nations High Commissioner for Refugees	International Organization for Migration
(signed)	(signed)
Sadako Ogata	James N. Purcell Jr.
High Commissioner for Refugees	Director General IOM
Geneva, 15 May 1997	