

## INTRODUCTORY NOTE TO MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF RWANDA

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[April 13, 2022]

### Introduction

The Memorandum of Understanding (MOU) was signed in Kigali, Rwanda on April 13, 2022 by the United Kingdom's Secretary of State for the Home Department, Priti Patel, and the Rwandan Minister of Foreign Affairs and International Co-operation, Vincent Biruta. It is part of the UK Government's strategy to deal with asylum seekers, particularly those deemed to arrive "irregularly,"<sup>1</sup> under which Rwanda will take responsibility for those deported in return for payments from the United Kingdom, including an upfront payment of £120 million. The United Kingdom will also pay the processing and integration costs for each relocated person.<sup>2</sup>

The MOU came into effect on the day of signature and will remain in force for five years unless terminated earlier or later extended. That period will not begin so long as a court order prevents the lawful operation of the arrangement (paragraph 23). At the time of writing (July 2022), such an order had been declined and leave to appeal refused by the Supreme Court,<sup>3</sup> but the European Court of Human Rights had issued an interim measure under Rule 39 requiring that the applicant in the case should not be removed to Rwanda until three weeks after delivery of the final domestic decision in their judicial review proceedings.<sup>4</sup>

The MOU's long title states that it is to provide for "an asylum partnership to strengthen shared international commitments on the protection of refugees and migrants." The preamble, however, goes on to set out its other objectives, primarily of the United Kingdom, which include preventing and combatting "illegally facilitated and unlawful border migration" by, in effect, removing selected asylum seekers from the United Kingdom to Rwanda for the processing of their claims to protection. In this regard, the arrangement resembles that of Australia's policy and practice of offshore detention of so-called unauthorized boat arrivals.<sup>5</sup> No details have been given of the criteria relevant to selection of those for removal from the United Kingdom.

### Justification for the Arrangement

According to statements made by various members of the UK Government, the present problem arises from the inability of the United Kingdom (primarily the Home Office, responsible for asylum and protection decision-making) to deal with those who arrive "irregularly," mainly across the English Channel. Since it left the European Union, and despite the long-standing arrangements to control movement with France, the United Kingdom has been unable to rely on the Dublin system, which allowed the return of asylum seekers to other EU states through which they had passed. Rejecting the principle of free movement and adopting a high sovereigntist position has also made it difficult, if not impossible, for the government to secure readmission agreements with its former EU partners—hence, the Rwanda solution.

The United Kingdom has also adopted legislation, the *Nationality and Borders Act 2022*, under which it proposes a two-tier approach to refugee protection and asylum: full Refugee Convention and other rights for those refugees who arrive regularly, are screened, and are given a visa, via government schemes; and a second-class approach (time limited with, among other restrictions, no family reunion) for those who arrive "irregularly"—for example, by boat or truck or aircraft.

The preamble to the MOU claims that, while people continue to flee in need and search of "safety and economic opportunity," the organized large-scale movement "is overwhelming the existing international asylum system."

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The evidence for this is lacking (cf. the response to Ukraine),<sup>6</sup> even as the MOU acknowledges the need to provide “better international protection.” Unfortunately, there are gaps in the international system, which are in no small measure due to the refusal of states in 1951, or since, to accept refugees formally for admission or asylum, or to decide which states should decide on applications for protection.<sup>7</sup> These and other gaps continue to allow states to dispute their responsibility—using devices such as safe third country or first country of asylum—even as they declare that they remain bound by and will uphold the principle of *non-refoulement* (under which no state may return or send anyone to a country where they run the risk of persecution, torture, or other serious violation of human rights). In fact, the MOU refers just once to *non-refoulement* (see paragraph 25.5.1.3) and some five times to human rights.

The MOU declares the parties’ intention to develop “new ways” to deal with the migration challenge. At the same time, the parties reaffirm their commitment to enhance international protection by ensuring that refugees are not subject to penalties for irregular entry, and have their protection claims decided expeditiously and in accordance with “applicable international law and standards,” including the 1951 Convention/1967 Protocol, the 1984 UN Convention Against Torture, and the 1966 International Covenant on Civil and Political Rights.

### Organization and Relevance of the MOU

The MOU comprises some twenty-four “substantive” paragraphs and an annex dealing with data management and protection (paragraphs 25–31). In keeping with its status as a memorandum of understanding, the MOU formally declares that it “will not be binding in international law” (paragraph 1.6); that the “commitments” made by the parties “do not create or confer any rights on any individual nor shall compliance . . . be justiciable in any court of law” (paragraph 2.2); and that while “all reasonable efforts” will be made by the parties to resolve any dispute, there will be no recourse to an outside dispute resolution body (paragraph 22). This should not prevent the courts from having regard to the MOU in order to understand exactly what is in store for those proposed to be removed from the United Kingdom to Rwanda.

### Issues Arising, or Likely to Arise

The MOU’s internationally non-binding character has an upside, in that an MOU cannot change the international obligations of the participating states. This seems to be recognized with regard to the United Kingdom’s continuing responsibility for those transported, from screening through travel to the return of individuals where that is legally obligated.

It is generally recognized that states are obliged to respect, protect, and fulfil the human rights of everyone in their territory or over whom they exercise authority or control. In principle and in practice, this means the state where asylum is requested decides on the merits of the claim, but this is momentarily put aside in the arrangement. Paragraph 5.1 thus indicates that the United Kingdom is responsible for initial screening before relocation; paragraph 6.1 says that the United Kingdom will arrange for transport to Rwanda, and paragraph 6.2 that the United Kingdom “will assume responsibility for . . . safe transportation,” while paragraph 11.1 recognizes that the United Kingdom may in turn be “legally obliged” to facilitate an asylum seeker’s return (presumably when it emerges that a “mistake” has been made).

In the interim, the United Kingdom will continue to be jointly responsible for the conduct of its agent, Rwanda, as it arranges reception and accommodation, processes claims for asylum and protection, and deals thereafter with recognized refugees and those not recognized.

What is not clear from the MOU is the substance and character of the standards that Rwanda will apply to the determination of refugee status or other protection. “Assurances” are given that individuals will have access to an interpreter, but given the fact that Rwanda’s experience with refugees has hitherto been spatially limited, it is unclear where interpreters in Farsi, Arabic, Dari, Pashtu, Albanian, or Vietnamese will be found. And while UK courts have been instrumental in advancing the application of the refugee definition to cover individuals and groups, including those at risk from non-state agents or by reason of gender or gender identity, Rwanda’s record on such issues is uncertain.

Paragraphs 15 and 21 provide for a Monitoring Committee to comprise “persons independent of both participants,” and for a Joint Committee composed of representatives of both participants to be established without delay after the MOU comes into effect; however, neither was in place at the time of writing.<sup>8</sup>

### Criticism

In addition to various court challenges, the MOU and the proposal to remove asylum seekers to Rwanda, a country where they have never been and with which they have no prior contact, have attracted considerable criticism from the United Nations, advocates, civil society, and politicians.<sup>9</sup>

In his April 2022 report, the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, noted the increased Franco-British cooperation over cross-Channel movements, but also criticized the Nationality and Borders Bill—which, if not amended, would impact negatively on the human rights of migrants and asylum seekers.<sup>10</sup> He recommended that states refrain from sending migrants and asylum seekers to a safe third country without first making an individualized assessment of the situation and protection needs of the individual, for otherwise they risk violating the principle of *non-refoulement* and the prohibition of collective expulsion.<sup>11</sup>

The most consistent critic of the United Kingdom–Rwanda MOU and the *Borders and Nationality Act 2022* has been the Office of the United Nations High Commissioner for Refugees (UNHCR). On June 8, 2022, the UNHCR published its analysis of the legality and appropriateness of the transfer arrangements under the MOU<sup>12</sup> and, given its long experience working with Rwanda and the United Kingdom on refugee issues, this deserves the most serious attention.

The UNHCR noted the point made above that the primary responsibility to provide protection falls on the state where asylum is requested.<sup>13</sup> In its view, the bilateral transfer arrangement does not contribute to burden- and responsibility-sharing, or enhance international cooperation or the protection space in any state. Moreover, Rwanda’s asylum system is “still nascent,” by comparison with that in the United Kingdom, which is “highly developed and well capacitated.”<sup>14</sup>

Specifically, the UNHCR called attention to the obligation of the United Kingdom to ensure that conditions in Rwanda satisfy international standards, and to engage in individual assessment regarding protection against *refoulement* and access to a fair and efficient procedure for the determination of refugee status. The United Kingdom’s own initial screening mechanism was not sufficiently robust in this regard,<sup>15</sup> and UNHCR had serious concerns that transferred asylum seekers would not have access to a fair and efficient procedure in Rwanda, which had hitherto primarily provided protection to refugees from neighboring countries on a prima facie basis.<sup>16</sup> It singled out, among many areas of concern, the arbitrary denial of access to the procedure, discriminatory access (likely to affect LGBTIQ+ applicants), lack of impartiality in the Refugee Status Determination (RSD) Committee and at the appeals level, lack of representation by a lawyer, no reasons given for negative decisions, and insufficient access to interpreters. Moreover, it noted that it had been “unable to systematically monitor the quality of decision-making and compliance with procedural standards,” and that it had “not been permitted to observe the RSD Committee and information on asylum cases is not shared systematically with UNHCR.”<sup>17</sup>

Overall, the UNHCR concluded that the arrangement “does not meet the requirements necessary to be considered a lawful and/or appropriate bilateral transfers arrangement” and that it “cannot be brought into line with international obligations through minor adjustments.”<sup>18</sup>

Although it has a supervisory function under the 1951 Convention/1967 Protocol, the UNHCR’s views are not binding; however, given the specificity and the detail of its critique, these views certainly need to be considered in good faith, both at the policy level and in forthcoming legal proceedings, and to be set against the otherwise copious but vague “assurances” that the parties make to one another.<sup>19</sup>

### Conclusion

In general, the UK Government does not tend to disclose MOUs on a regular basis, so why did it choose to do so in the present case? Doubtless, there was a public relations aspect to its policy to “develop new ways of addressing the irregular migration challenge,” and the government will have been aware not only of the controversy attaching to

proposals for the transfer of refugees and asylum seekers,<sup>20</sup> but also of its legality and compatibility with the object and purpose of the 1951 Convention/1967 Protocol and the regime of international protection. In reply to a private notice question in the House of Lords, the government replied that “the safety, security and dignity of and respect for those relocated is assured through the agreement and will be subject to monitoring. We comply fully with our legal and international obligations.”<sup>21</sup>

Whether that is in fact the case will depend on a forensic analysis that goes far beyond the level of mutual assurances given in a non-binding MOU.

## ENDNOTES

- 1 “Irregularly”, when applied to asylum seekers, refugees and migrants, tends to be used indiscriminately by states, with little or no regard to the right to seek asylum recognized by Article 14(1) of the 1948 Universal Declaration of Human Rights and the entitlement of refugees under Article 31(1) of the 1951 Convention not to be penalized on account of their irregular entry or presence.
- 2 Melanie Gower and Patrick Butchard, *UK–Rwanda Migration and Economic Development Partnership*, House of Commons Library, Research Briefing (July 12, 2022), p. 5, <https://commonslibrary.parliament.uk/research-briefings/cbp-9568/>.
- 3 Press release, UK Supreme Court, Rwanda Permission to Appeal Application refused (June 14, 2022), <https://www.supremecourt.uk/news/rwanda-permission-to-appeal-application-refused.html>.
- 4 Press release, European Court of Human Rights, Further requests for interim measures in cases concerning asylum-seekers’ imminent removal from the UK to Rwanda, Press release ECHR 199 (2022) (June 15, 2022); see also submission by Siobhán Mullally, Special Rapporteur on Trafficking in Persons, especially women and children, in the case of *K.N. v United Kingdom*, App. No. 28744/22, <https://www.ohchr.org/en/special-procedures/sr-trafficking-in-persons/submissions-courts-and-other-bodies>. Although the UK Government has agreed to abide by the rulings, it has nevertheless heightened the rhetoric regarding future compliance with decisions of the European Court of Human Rights; see Cristina Gallardo, *UK courts could ignore interim ECHR decisions under new human rights plan*, POLITICO (June 21, 2022), <https://www.politico.eu/article/brexit-euro-justice-law-uk-courts-ignore-decisions-new-human-rights-plan>; Dominic Casciani, *Plan to reverse European Court Rwanda rulings*, BBC NEWS (June 22, 2022), <https://www.bbc.com/news/uk-politics-61887933>.
- 5 The “Australian model” appears to have influenced the decision to remove asylum seekers, even though much of the evidence relating to costs, efficacy and impact provided by the Australian High Commissioner to the UK Parliament was incorrect. It was later corrected in a submission from the Kaldor Centre for International Refugee Law, Faculty of Law & Justice, University of New South Wales; see Madeline Gleeson and Natasha Yacoub, *Cruel, costly and ineffective: The failure of offshore processing in Australia*, KALDOR CTR. INT’L REFUGEE L. POLICY BRIEF (Aug. 11, 2021), [https://www.kaldorcentre.unsw.edu.au/publication/policy-brief-11-cruel-costly-and-ineffective-failure-offshore-processing-australia?mc\\_cid=52d1273a18&mc\\_eid=9309b3b646](https://www.kaldorcentre.unsw.edu.au/publication/policy-brief-11-cruel-costly-and-ineffective-failure-offshore-processing-australia?mc_cid=52d1273a18&mc_eid=9309b3b646); see also, KALDOR CTR. INT’L REFUGEE L., *Offshore processing resources*, [https://www.kaldorcentre.unsw.edu.au/offshore-processing-resources?mc\\_cid=52d1273a18&mc\\_eid=9309b3b646](https://www.kaldorcentre.unsw.edu.au/offshore-processing-resources?mc_cid=52d1273a18&mc_eid=9309b3b646).
- 6 See, e.g., Global Detention Project, *The Ukraine Crisis Double Standards: Has Europe’s Response to Refugees Changed?* (Mar. 2, 2022), <https://reliefweb.int/report/ukraine/ukraine-crisis-double-standards-has-europe-s-response-refugees-changed>; UNHCR, *Ukraine Refugee Situation*, <https://data.unhcr.org/en/situations/ukraine>; Sasha Vakulina, *EU Commission deputy: Response to Ukraine refugees showed “Europe at its best,”* EURONEWS (May 24, 2022), <https://www.euronews.com/2022/05/24/eu-commission-deputy-response-to-ukraine-refugees-was-europe-at-its-best>.
- 7 The EU is an exception, with regard to the 1990 Dublin Convention, since converted into a Regulation. The EU continues to wrestle, however, with the challenges raised by the distribution of refugees and with mandatory resettlement.
- 8 It was reported that the Secretary of State for the Home Department was contemplating removals without the monitoring in place. See Jon Stone, *Priti Patel: Rwanda deportations to go ahead without promised watchdog to monitor conditions*, THE INDEPENDENT (June 10, 2022), <https://www.independent.co.uk/news/uk/politics/rwanda-deportations-priti-patel-home-office-b2098413.html>. The importance of monitoring the human rights situation at the EU’s external borders is clear from a recent study, which recommended a model that took account of the criteria of independence, an adequate mandate, funds and powers, transparency and publicity, as the essential basis for effective monitoring; see Markus Jaeger et al., *Feasibility Study on the setting up of a robust and independent human rights monitoring mechanism at the external borders of the European Union* (May 2022), <https://www.proasyl.de/en/material/feasibility-study-independent-human-rights-monitoring-mechanism-at-the-external-borders-of-the-eu/>.
- 9 See Gower and Butchard, *supra* note 2, pp. 30–44.
- 10 U.N. Human Rights Council, *Human rights violations at international borders: trends, prevention and accountability*, U.N. Doc. A/HRC/50/31 (Apr. 26, 2022), ¶¶ 30–31.
- 11 *Id.*, ¶¶ 70, 81.
- 12 UNHCR, *Analysis of the Legality and Appropriateness of the Transfer of Asylum-Seekers under the UK-Rwanda arrangement* (June 8, 2022), <https://www.refworld.org/docid/62a31cc24.html>.
- 13 *Id.*, ¶¶ 1–2.
- 14 *Id.*, ¶¶ 11–12.
- 15 *Id.*, ¶ 15 (relying on the findings of the Independent Chief Inspector of Borders and Immigration).

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- 16 *Id.*, ¶ 17.
- 17 *Id.* ¶ 18.
- 18 *Id.*, ¶¶ 23, 27.
- 19 MOU, Preamble and ¶¶ 2.1, 4, 10, 10.6, 29.2.
- 20 There have been various earlier proposals, some of which are listed in Gower and Butchard, *supra* note 2, pp. 9, 27–29.
- 21 See the lengthy exchange in 25 Apr. 2022, Parl Deb HL (2022) col. 15 (UK).



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THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF  
THE REPUBLIC OF RWANDA\*  
[April 13, 2022]



**MEMORANDUM OF UNDERSTANDING**

**Between**

**The Government of the United Kingdom of Great Britain and Northern Ireland**

**And The Government of the Republic of Rwanda**

For the Provision of an Asylum Partnership Arrangement to strengthen shared international commitments on the protection of refugees and migrants

The Government of the United Kingdom of Great Britain and Northern Ireland (the “United Kingdom”) and the Government of the Republic of Rwanda (“Rwanda”), together the Participants and in singular the Participant,

WISHING to continue the excellent bilateral relations between both countries,

APPRECIATING the deep economic, social and historical ties between the Participants,

Desiring to facilitate co-operation between the Participants in order to contribute to the prevention and combating of illegally facilitated and unlawful cross border migration by establishing a bilateral asylum partnership in which Rwanda commits to receive asylum seekers from the United Kingdom, to consider their claims for asylum, giving effect to their rights under international law through the Rwanda domestic asylum system and arranging for the settlement in Rwanda of those recognised as refugees or otherwise requiring protection,

CONSIDERING that for many years, Rwanda has willingly been hosting and giving shelter to hundreds of thousands of refugees, offering adequate systems of refugee protection, consistent with the principles of international solidarity that underpin the international refugee protection system, and committed to the notion that cooperation and burden-sharing with respect to refugee status claimants can be enhanced. Rwanda has made significant commitments to the protection and assistance of refugees including by signing the MoU with the African Union (AU) and UNHCR establishing the Emergency Transit Mechanism (ETM) aiming to provide life-saving protection, assistance and long-term solutions to extremely vulnerable refugees trapped in detention in Libya, through temporary evacuation to Rwanda,

CONSIDERING that the United Kingdom has a long proud history of providing protection to those who need it, in accordance with international obligations. The United Kingdom has resettled 25,000 vulnerable people from the Syrian conflict since 2015 and has committed to resettle 20,000 people from Afghanistan in addition to those who were employed by the United Kingdom. Furthermore, the UK opened safe and legal pathways for British National (Overseas) passports in Hong Kong, former Government and military employees in Afghanistan and uncapped humanitarian schemes in response to conflict in Ukraine. As like-minded partners, the United Kingdom and Rwanda will work together to promote a new fair and humane asylum system, deter illegal migration and create safe and legal routes for those fleeing persecution,

CONSIDERING that migrants and refugees make perilous journeys across borders and even oceans in search of safety and economic opportunity, running away from armed conflicts, famine, climate change and other hardships they have encountered in their home countries and that mass movement of irregular migrants organised by people smugglers is overwhelming the existing international asylum system,

\*This text was reproduced and reformatted from the text available at the UK Government website (visited August 19, 2022), <https://www.gov.uk/government/publications/memorandum-of-understanding-mou-between-the-uk-and-rwanda/memorandum-of-understanding-between-the-government-of-the-united-kingdom-of-great-britain-and-northern-ireland-and-the-government-of-the-republic-of-r>.

ACKNOWLEDGING the need to provide better international protection for refugees and underlying the importance of effective and functioning systems which provide protection and a durable solution to those in need whilst preventing abuse,

WISHING to develop new ways of addressing the irregular migration challenge, including bridging gaps in human capital, in order to counter the business model of the human smugglers, protect the most vulnerable, manage flows of asylum seekers and refugees and promote durable solutions,

REAFFIRMING the commitment to strengthen and deepen bilateral cooperation to enhance the international protection of refugees by promoting responsibility sharing by ensuring that refugees are not subject to penalties on account of their illegal entry or presence, and ensuring the expeditious determination of claims to refugee status and asylum, and that the relevant criteria are interpreted reflecting the applicable international law and standards,

Having regard to the Participants' commitment to upholding fundamental human rights and freedoms without discrimination, as guaranteed by the Participants' national legislation, by their strong histories of implementing the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees and by their other respective international legal obligations,

DESIRING to facilitate the transfer of asylum seekers and to provide assurance that their claims will be dealt with in accordance with international standards

HAVE DECIDED as follows:

## **1 Introduction, Definitions and Interpretations**

1.1 In this Arrangement:

- a. The "Arrangement" means this Memorandum of Understanding.
- b. "Asylum seeker" means a person seeking to be recognised as a refugee in accordance with the Refugee Convention or otherwise claiming protection on humanitarian or human rights grounds.
- c. "Record" means all recorded information held including oral, visual, electronic, or documentary form.
- d. "Information" means data collected for the purposes of administering or enforcing the Participants respective border, customs, immigration and citizenship laws; or to aid collaborative efforts in the interest of public protection and includes but is not limited to Personal Information. Information may be in oral, visual, electronic or documentary form.
- e. "Joint Committee" means the committee formed under [Paragraph 25] of this Arrangement.
- f. "Month" means a calendar month.
- g. "Refugee Convention" means the 1951 Convention in Relation to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.
- h. "Relocate" means the removal of an asylum seeker from the United Kingdom to Rwanda under this Arrangement.
- i. "Travel document" means the Relocated Person's passport, if they physically hold one, or the document issued to each individual by the United Kingdom and approved by Rwanda for the purpose of travel to Rwanda in accordance with this Arrangement.
- j. "Relocated Individual" means an asylum seeker who is being or has been removed from the United Kingdom and that the Participants have agreed is to be relocated to Rwanda.
- k. "Year" means a full calendar year.

1.2 References to the singular include the plural, and vice versa.

1.3 References in this Arrangement to Paragraphs are references to the clauses and sub-clauses of this Arrangement.

1.4 The headings in this Arrangement are for ease of reference only and will not affect the interpretation or construction of the Arrangement.

1.5 Any references to policy bulletins, enactments, orders, statutes, rules, regulations or other similar instruments will be construed as a reference to the policy bulletin, enactment, order, statute, rules, regulation or instrument as amended or replaced by any subsequent policy bulletin, enactment, order, statute, rules, regulation, or instrument.

1.6 This Arrangement will not be binding in International law.

## **2 Objectives**

2.1 The objective of this Arrangement is to create a mechanism for the relocation of asylum seekers whose claims are not being considered by the United Kingdom, to Rwanda, which will process their claims and settle or remove (as appropriate) individuals after their claim is decided, in accordance with Rwanda domestic law, the Refugee Convention, current international standards, including in accordance with international human rights law and including the assurances given under this Arrangement.

2.2 For the avoidance of doubt, the commitments set out in this Memorandum are made by the United Kingdom to Rwanda and vice versa and do not create or confer any right on any individual, nor shall compliance with this Arrangement be justiciable in any court of law by third-parties or individuals.

## **PART 1 – TRANSFER ARRANGEMENTS**

### **3 Details of relocation arrangements**

3.1 The United Kingdom will determine the timing of a request for relocation of individuals under these arrangements and the number of requests for relocation to be made during the term of this Arrangement. The United Kingdom will not be obliged to make any request for relocation under this Arrangement.

3.2 All transfer requests by the United Kingdom will require approval by Rwanda prior to any relocation.

3.3 The Participants will make arrangements for the process of request and approval of individuals for relocation by Rwanda, taking into account Rwanda's capacity to receive them, and in relation to all administrative needs associated with their transfer.

3.4 In line with national legislation, Rwanda will ensure timely issuance of any authorisations required for the overflight of their territory and the landing in Rwanda of commercial aircrafts or chartered flights transporting Relocated Individuals.

## **PART 2 – RESPONSIBILITIES OF THE PARTICIPANTS**

### **4 Assurances**

4.1 The Participants assure one another that the understandings reached in this Arrangement will be met in respect of all Relocated Individuals.

### **5 Reception in the United Kingdom**

5.1 In order to expedite the process of relocation to Rwanda in a timely manner, the United Kingdom will be responsible for the initial screening of asylum seekers, before relocation to Rwanda occurs in accordance with this Arrangement. This process will start without delay after the prospective relocated person arrives in the United Kingdom and has come to the attention of the United Kingdom.



5.2 Upon requesting the transfer of an individual, the United Kingdom will provide Rwanda with the name, sex and date of birth of the individual, their nationality and a copy of their travel document if they have one. Additionally, the United Kingdom will provide details of:

5.2.1 any special needs that they may have that will need to be accommodated in Rwanda;

5.2.2 any health issues it is necessary for Rwanda to know before receiving an individual (with the consent of the Relocated Individual);

5.2.3 any security issues known to the United Kingdom.

5.2.4 any available biodata and subject to satisfactory establishment of data sharing process, biometric data of the Relocated Individual

5.2.5. Any such available additional information as may be requested by Rwanda and agreed to by the United Kingdom

5.3 Nothing obliges Rwanda to approve the transfer of a Relocated Individual in the case where some of the information requested under 5.2 was not provided.

5.4 Nothing in 5.2 obliges the United Kingdom to disclose information if it would be contrary to domestic laws or the United Kingdom's international obligations, to do so. Relocations to Rwanda

## **6 Relocations to Rwanda**

6.1 The United Kingdom will arrange the Relocated Individual's transport to Rwanda and will ensure that all the necessary authorisations have been obtained from the relevant authorities of the United Kingdom, any countries of transit and Rwanda in relation to the traffic of commercial or chartered flights or other means of transport.

6.2 The United Kingdom will assume responsibility for the safe transportation of Relocated Individuals to Rwanda by aircraft, including the provision of escorts as necessary.

6.3 The United Kingdom will share the travel document details of the Relocated Individuals transported to Rwanda by aircraft as soon as possible after departure of the aircraft.

## **7 Arrival**

7.1 Rwanda will give access to its territory to the Relocated Individuals, in accordance with its international commitments and Rwandan asylum and immigration laws.

7.2 Upon disembarkation of Relocated Individuals in Rwanda, Rwanda will check the details of the arrivals against the list of travel document numbers provided by the United Kingdom and provide the United Kingdom with written confirmation of their arrival.

## **8 Reception arrangements and Accommodation**

8.1 Upon arrival, Rwanda will provide each Relocated Individual with accommodation that is adequate to ensure the health, security and wellbeing of the Relocated Individual and support that is adequate to ensure the health, security and wellbeing of the Relocated Individual.

8.2 A Relocated Individual will be free to come and go, to and from accommodation that has been provided, at all times, in accordance with Rwandan laws and regulations as applicable to all residing in Rwanda.

## **9 Asylum processing arrangement**

9.1 Rwanda will ensure that:

9.1.1 at all times it will treat each Relocated Individual, and process their claim for asylum, in accordance with the Refugee Convention, Rwandan immigration laws and international and Rwandan standards, including under international and Rwandan human rights law, and including, but not limited to ensuring their protection from inhuman and degrading treatment and refoulement;

9.1.2 each Relocated Individual will have access to an interpreter and to procedural or legal assistance, at every stage of their asylum claim, including if they wish to appeal a decision made on their case; and

9.1.3 if a Relocated Individual's claim for asylum is refused, that Relocated Individual will have access to independent and impartial due process of appeal in accordance with Rwandan laws.

9.1.4 If a Relocated Individual does not apply for asylum, Rwanda will assess the individual's residence status on other grounds in accordance with Rwandan immigration laws.

## **10 Assurances as to treatment post asylum decision**

10.1 For those recognised as refugees by Rwanda, Rwanda will grant the Relocated Individual refugee status and provide the same level of support and accommodation as a Relocated Individual seeking asylum, integration into society and freedom of movement in accordance with the Refugee Convention. Those recognised as refugees will be treated in accordance with the Refugee Convention and international and Rwandan standards.

10.2 For those who are not recognised as refugees Rwanda will consider whether the Relocated Individual has another humanitarian protections need, such that return to their country of origin would result in a real risk of their being subject to inhuman, degrading treatment or torture or a real risk to their life. Where such a protection need exists, Rwanda will provide treatment consistent with that offered to those recognised as refugees (as per paragraph 10.1) and permission to remain in Rwanda. Such persons will be afforded equivalent rights and treatment to those recognised as refugees and will be treated in accordance with international and Rwandan standards.

10.3 For those Relocated Individuals who are neither recognised as refugees nor to have protection need in accordance with paragraph 10.2, Rwanda will:

10.3.1 offer an opportunity for the Relocated Individual to apply for permission to remain in Rwanda on any other basis in accordance with its domestic immigration laws and ensure the Relocated Individual is provided with the relevant information needed to make such an application;

10.3.2 provide adequate support and accommodation for the Relocated Individual's health and security until such a time as their status is regularised or they leave or are removed from Rwanda.

10.4 For those Relocated Individuals who are neither recognised as refugees nor to have a protection need or other basis upon which to remain in Rwanda, Rwanda will only remove such a person to a country in which they have a right to reside. If there is no prospect of such removal occurring for any reason Rwanda will regularise that person's immigration status in Rwanda.

10.5 Relocated individuals who have been refused asylum and do not have a humanitarian protection need will have the same rights as other individuals making an application under Rwandan immigration laws.

10.6 Implementation of the assurances in [paragraphs 8-10] will be monitored by the Joint Committee and the Monitoring Committee established under this Arrangement.

## **11 Return of Relocated Individuals to the United Kingdom**

11.1 Following a request made by the United Kingdom, Rwanda will take all reasonable steps in accordance with international human rights standards to make a Relocated Individual available for return to the United Kingdom should the United Kingdom be legally obliged to facilitate that person's return.

## **12 Provision of information for the purpose of legal proceedings**

12.1 Rwanda will provide the United Kingdom with any Information that it holds, upon request of the United Kingdom and without undue delay, for the purpose of defending a legal claim brought in a United Kingdom court in connection with a transfer or proposed transfer of one or more person under this Arrangement.

12.2 Nothing in paragraph 12.1 will oblige Rwanda to provide information if to do so would be contrary to its domestic law.

### **13 Access for inspection, monitoring and provision of legal services**

13.1 The joint committee will determine the process for access to facilitate and ensure that the Monitoring Committee formed in accordance with paragraph 15 has unfettered access to the following for the purposes of completing their assessments and reports:

13.1.1 the locations they are required to inspect under their terms of reference, save that a relocated person may refuse them entry to their private accommodation if they do not wish it to be inspected,

13.1.2 relevant officials, employees and agents of both Participants for interview,

13.1.3 any other person they may wish to interview who is willing to be interviewed,

13.1.4 the records held in relation to Relocated Individuals at all stages of the relocation process from the initial screening by the United Kingdom up to and including the asylum process as well as records of decisions taken about them,

13.1.5 records of grants and refusals of refugee status and of appeals raised against refusals of refugee status and their outcome,

13.1.6 records of any procedures that directly impact Relocated Individuals, and

13.1.7 records of all complaints made by Relocated Individuals and the outcomes.

13.2 The Monitoring Committee will be granted such access at any time they wish to make an inspection without delay. There will be no requirement for the Monitoring Committee to provide prior notice of their visit.

13.3 A person (or persons) providing a Relocated Individual with legal assistance or legal advice will have unfettered access to the Relocated Individual, including in their accommodation.

13.4 Both participants will deploy a liaison officer in their respective diplomatic missions for a better coordination of this Arrangement.

13.5 In order to facilitate co-ordination under this arrangement, respective liaison officers deployed by Rwanda and the United Kingdom under paragraph 13.4 will be allowed in the operational process in both the United Kingdom and Rwanda, including the screening of asylum seekers.

### **14 Modern slavery**

14.1 Rwanda will have regard to information provided about a Relocated Individual relating to any special needs that may arise as a result of their being a victim of modern slavery and human trafficking, and will take all necessary steps to ensure these needs are accommodated.

### **15 Monitoring Committee**

15.1 The Participants will make arrangements for the formation of a Monitoring Committee.

15.2 The Monitoring Committee will be comprised of persons independent of both Participants.

15.3 The Monitoring Committee's terms of reference shall include information regarding:

15.3.1 who is to form the Monitoring Committee;

15.3.2 how they will monitor the entire relocation process from the beginning including the initial screening and information provided by the United Kingdom

15.3.3 how often they will report on conditions in Rwanda and this will include the ability to make unannounced visits to accommodation, asylum processing centres and any other locations where documents relating to Relocated Individuals or their claims and appeals is held;

15.3.4 what conditions they will report upon and these will include reception conditions, accommodation, processing of asylum claims, treatment and support of Relocated Individuals at all times whilst they remain in Rwanda and the Participants' implementation of the understandings set out in this Arrangement.

## **16 Resettlement of vulnerable Refugees**

16.1 The Participants will make arrangements for the United Kingdom to resettle a portion of Rwanda's most vulnerable refugees in the United Kingdom, recognising both Participants' commitment towards providing better international protection for refugees.

## **17 Continuation of responsibilities**

17.1 In respect of Relocated Individuals who have been relocated to Rwanda under this Arrangement, Rwanda will continue to comply with its obligations under the domestic law of Rwanda, International law and this Arrangement once it ceases to have effect.

## **PART 3 – DATA MANAGEMENT AND PROTECTION**

### **18 General**

18.1 Pursuant to this Arrangement, the Participants will securely share Information, including personal Information, for the purposes of being able to accurately identify a Relocated Individual and take decisions about that individual for the purpose of the objective set out in Paragraph 2 and in accordance with their respective laws and international law.

18.2 In sharing information for these purposes, the Participants commit to adhere to the principles set out in Annex A of this Arrangement.

## **PART 4 – FINANCIAL ARRANGEMENTS**

### **19 Financial arrangements**

19.1 The Participants will make financial arrangements in support of the relocation of individuals under this Memorandum of Understanding.

## **PART 5 – OTHER ARRANGEMENTS**

### **20 Amendments to the Arrangement**

20.1 This Arrangement may be amended by the written consent of both Participants.

20.2 In particular, the Participants commit to review the category of person eligible for relocation under these arrangements and to make any amendments considered by both Participants to be necessary to ensure that the arrangements continue to support the objectives specified in this Arrangement.

### **21 Joint Committee**

21.1 A Joint Committee composed of the representatives of both Participants will be established without delay after this Arrangement comes into effect and will be co-chaired by a representative of each Participant of appropriate seniority.

21.2 The role of the Joint Committee will be to:

21.2.1 monitor and review the application and implementation of this Arrangement and to make non-binding recommendations in respect thereof; and

21.2.2 provide a forum for the Participants to exchange information, discuss best practice including relevant guidance from external stakeholders, and resolve issues of a technical or administrative character.

21.3 The Joint Committee will meet upon its formation, at the request of either Participant, and in any event no less than once every 6 months, unless the co-chairs decide otherwise. The co-chairs will set the Joint Committee's schedule of meetings and agenda by mutual consent.

21.4 The co-chairs may set terms of reference for the Joint Committee, which will include the secretariat function as well as such other tasks as may be required.

21.5 The co-chairs will set terms of reference for the Monitoring Committee in addition to but not contrary to those provided in paragraph 15 of this agreement.

## **22 Disputes**

22.1 The Participants will make all reasonable efforts to resolve between them all disputes concerning this Arrangement. Neither Participant will have recourse to a dispute resolution body outside of this.

## **23 Duration and Effect**

23.1 This Arrangement will last 5 years. It may be renewed upon request one year from the end of the period.

23.2 In the event that an order issued by a court of the United Kingdom or Rwanda prevents the lawful operation or implementation of the transfer arrangements under this Arrangement, the period during which the transfer arrangements cannot be implemented lawfully will not count towards the 5-year period in paragraph 23.1.

23.3 For the purposes of calculating the period during which transfer provisions cannot operate lawfully –

23.3.1 The period will start on the date on which the relevant order has effect in law;

23.3.2 The period will end on the date on which the relevant order ceases to have effect in law.

23.4 During the period referred to in Paragraph 23.3.1 and Paragraph 23.3.2 the terms of this arrangement will continue to apply in relation to anyone who has been transferred in accordance with its provisions.

23.5 This arrangement will cease to have effect upon agreement by both participants.

## **24 Coming into effect**

This Arrangement will come into effect upon signature by both Participants.

## **ANNEX A – DATA MANAGEMENT AND PROTECTION**

### **25 General**

25.1 A Participant may initiate the sharing of Information by requesting Information from the other Participant or by providing the other Participant with Information because it is relevant to the purpose set out in Paragraph [18.1].

25.2 The Participants will initiate the sharing of all Information in writing. If it is not reasonably practicable to initiate the sharing of Information in writing, the initiating Participant will confirm the sharing in writing as soon as possible after the request is made or the Information is provided.

25.3 If a Participant determines that sharing Information under this Arrangement may be inconsistent with its laws or international obligations or may prejudice or cause harm to its national sovereignty, national security, public policy, or other national interest, it may decline to provide all or part of the Information or offer to provide all or part of the Information subject to such terms and conditions as it may specify.

25.4 When a Participant declines or postpones the provision of Information, that Participant, whenever possible and appropriate to do so, will communicate in writing to the other Participant the reasons for declining or postponing the sharing of Information as soon as possible.

25.5 The Participants will not share Information if the sharing, use or further disclosure of the Information may:

25.5.1 cause the Information to become known to any government, authority or person of a third country from which the subject of the Information is seeking or has been granted protection –

25.5.1.1 under the Refugee Convention,

25.5.1.2 against torture in accordance with the 1984 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the “1984 Convention Against Torture”),

25.5.1.3 under the implied non-refoulement obligations in the 1966 International Covenant on Civil or Political Rights (the ‘1966 ICCPR’) and its second optional protocol aiming at the abolition of the death penalty, or

25.5.1.4 under either Participant’s laws implementing the relevant Conventions or Protocol;

25.5.2 by virtue of that government, authority or person becoming aware of such Information, cause the subject of the Information to become eligible for the protections set out above; or

25.5.3 cause the subject of the Information and/or the subject’s family to be placed at risk of serious harm, including refoulement, persecution, arbitrary deprivation of life or the application of the death penalty, torture or other cruel, inhuman or degrading treatment or punishment contemplated under the Refugee Convention, the 1984 Convention Against Torture or the 1966 ICCPR.

25.6 The Participants will use their best endeavours to share Information in a timely manner recognising that providing Information within reasonable timeframes is critical in ensuring informed decision making by the Participants.

25.7 The Participants will maintain a record of all data processing activities.

## **26 Information to be Shared**

26.1 Prior to transfer, the United Kingdom will provide Rwanda with the Information necessary for Rwanda to respond to the transfer request.

## **27 Use and disclosure of Information**

27.1 The Participants will not use, disclose or store any Information shared pursuant to this Arrangement for any purpose, except:

27.1.1 for the purpose specified in paragraph 18.1 to this Arrangement; and

27.1.2 as required or authorised by or under their law.

27.2 The Participants may, for the purpose identified in paragraph 18.1 and subject to the limitations on sharing information included in Paragraph 27.1 and 27.4 disclose Information received under this Arrangement to the Participants’ other domestic authorities responsible for pursuing the same purpose as they carry out their official duties as required by and/or permissible under their law.

27.3 The Participants may, subject to the limitations on sharing information included in Paragraph 27.1 and 27.4, disclose information received for the purpose identified in paragraph 18.1 of this Arrangement to the government of a third country for the purposes of verifying identity, establishing the provenance of identity documents, or removing a an individual whose asylum application/ claim has been refused to a third country.

27.4 For onward disclosure of Information for the purposes listed pursuant to Paragraph 18.1 and subject to the limitations on sharing information included in Paragraph 27.6, the Participant disclosing the information will:

27.4.1 ensure that authorities to whom it discloses Information commit to apply a similar level of protection to the information, and limit its use and disclosure, in accordance with this Arrangement; and

27.4.2 obtain prior approval in writing from the other Participant. In the exceptional case when advance notice is not practicable, the Participant disclosing the Information will notify the other Participant as soon as possible after the disclosure.

27.5 The Participants will ensure that security classification and any restrictions, conditions or special handling instructions are adequately marked on all Information shared pursuant to this Arrangement. In any particular case, the Participant providing the information may, by way of protective marking or otherwise, apply additional restrictions, conditions or special handling instructions to Information shared pursuant to this Arrangement. The Participant



providing the Information may decline to provide all or part of the Information if the Participant requesting the Information is unable to comply with the restrictions, conditions or special handling instructions.

27.6 To prevent the unauthorised disclosure, copying, use, modification or disposal of Information received under this Arrangement, each Participant will restrict access to the Information to those who need it in the course of carrying out their official duties and for the purpose set out in paragraph 18.1 and use recognised security mechanisms such as passwords, encryption, or other reasonable safeguards to prevent unauthorised access.

27.7 Each Participant will ensure that all persons authorised to have access to Information received under this Arrangement are appropriately trained on the handling and usage restrictions which apply to this Information and intend to safeguard the Information in a manner consistent with this Arrangement.

27.8 Each Participant will notify the other Participant of any accidental or unauthorised access, use, disclosure, modification or disposal of Information received under this Arrangement within 24 hours of becoming aware of the security or privacy breach and, where possible, provide all necessary details of the accidental or unauthorised access, use, disclosure, modification or disposal of that Information as soon as practicable.

27.9 Each Participant will notify the other by telephone or in writing in the event of a situation that disrupts the intended transfer of Information between them within 24 hours of becoming aware of the situation, where possible.

## **28 Accuracy of Information**

28.1 The Participants will provide to each other the most current and accurate Information available. In the event that either Participant becomes aware that Information being relied upon is inaccurate, it will notify the other Participant immediately and provide correcting Information, where available.

28.2 When a Participant receives correcting Information, that Participant will correct, annotate or dispose of inaccurate Information, and any Information derived from it, in accordance with its laws. That Participant will also notify the other Participant, in writing that it has disposed of or corrected the Information.

## **29 Right of Access and Rectification**

29.1 When Information is shared in relation to an individual or group of individuals, the Participants will make a notation on the subject's case record that the sharing has occurred. Additionally, the Participant receiving the Information will mark any Information retained as having been received from the providing Participant under the authority of this Arrangement.

29.2 Each Participant assures that it has in place a system by which individuals may request information about themselves that was shared under this Arrangement and its Annexes, and, where that information is disclosable to the individual, may request a correction or a notation that a request for correction was made. Any disclosure of information received under this Arrangement to the individual about whom the Information pertains is subject to the provisions of Paragraph 18.1.

29.3 Each Participant confirms that it has a system in place through which individuals may seek redress or to challenge a decision not to disclose Information to the individual about whom the Information pertains.

## **30 Retention and Disposal of Information**

30.1 Each Participant will retain Information shared pursuant to this Arrangement in accordance with the terms of this Arrangement and its domestic laws.

30.2 Each Participant will assess the continued relevance of the Information received under this Arrangement and to dispose of the Information securely when it is no longer relevant in accordance with its domestic laws.

## **31 Transactions, Performance and Management Reporting**

31.1 The Participants will maintain records of Information shared under this Arrangement and develop performance management measures that include, but are not limited to, the number and severity of any security or privacy breaches as well as a summary of the actions taken. The Participants may keep other records in accordance with their respective domestic laws and retention policies and guidance.

**Signed in Kigali, 13 April 2022**

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**The Government of the United Kingdom of Great Britain and Northern Ireland**

The Rt Hon Priti Patel MP  
Secretary of State for the Home Department

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**The Government of the Republic of Rwanda**

Vincent Biruta  
Minister for Foreign Affairs and International Co-Operation

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