

No. 27626

**UNITED NATIONS
(UNITED NATIONS HIGH
COMMISSIONER FOR REFUGEES)
and
NICARAGUA**

**Agreement on the establishment of a United Nations High
Commissioner for Refugees field office in Nicaragua.
Signed at Managua on 1 November 1990**

Authentic text: Spanish.

Registered ex officio on 1 November 1990.

**ORGANISATION DES NATIONS UNIES
(HAUT COMMISSARIAT
DES NATIONS UNIES POUR LES RÉFUGIÉS)
et
NICARAGUA**

**Accord relatif à l'établissement d'un Office du Haut Com-
missariat des Nations Unies pour les réfugiés au Nicara-
gua. Signé à Managua le 1^{er} novembre 1990**

Texte authentique : espagnol.

Enregistré d'office le 1^{er} novembre 1990.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES AND THE GOVERNMENT OF NICARAGUA

Whereas the Office of the United Nations High Commissioner for Refugees was established by the United Nations General Assembly in Resolution 319 (IV) of 3 December 1949,²

Whereas the Statute of the Office of the United Nations High Commissioner for Refugees, adopted by the United Nations General Assembly in its resolution 428 (V) of 14 December 1950,³ provides, *inter alia*, that the High Commissioner, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the Statute and of seeking permanent solutions for the problem of refugees by assisting governments and, subject to the approval of the governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities,

Whereas the Office of the United Nations High Commissioner for Refugees, a subsidiary organ established by the General Assembly pursuant to Article 22 of the Charter of the United Nations, is an integral part of the United Nations whose status, privileges and immunities are governed by the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946,⁴

Whereas the Office of the United Nations High Commissioner for Refugees and the Government of Nicaragua wish to establish the terms and conditions under which the Office, within its mandate, shall be represented in the country,

Now therefore, the Office of the United Nations High Commissioner for Refugees and the Government of Nicaragua, in a spirit of friendly cooperation, have entered into this Agreement.

Article I

DEFINITIONS

For the purpose of this Agreement the following definitions shall apply:

(a) “UNHCR” means the Office of the United Nations High Commissioner for Refugees,

(b) “High Commissioner” means the United Nations High Commissioner for Refugees or the officials to whom the High Commissioner has delegated authority to act on his behalf,

¹ Came into force on 1 November 1980 by signature, in accordance with article XVII (1).

² United Nations, *Official Records of the General Assembly, Fourth Session, (A/1251)*, p. 36.

³ *Ibid.*, *Fifth Session, Supplement No. 20 (A/1775)*, p. 46.

⁴ United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1, p. 18).

(c) “Government” means the Government of Nicaragua,

(d) “Host country” or “country” mean Nicaragua,

(e) “Parties” means UNHCR and the Government,

(f) “Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946,

(g) “UNHCR Office” means all the offices and premises, installations and facilities occupied or maintained in the country,

(h) “UNHCR Representative” means the UNHCR official in charge of the UNHCR office in the country,

(i) “UNHCR officials” means all members of the staff of UNHCR employed under the Staff Regulations and Rules of the United Nations, with the exception of persons who are recruited locally and assigned to hourly rates as provided in General Assembly resolution 76 (I),

(j) “Experts on mission” means individuals who are not UNHCR officials but are performing services on behalf of UNHCR and are undertaking temporary missions for UNHCR.

(k) “Persons performing services on behalf of UNHCR” means natural and juridical persons and their employees, other than nationals of the host country, retained by UNHCR to execute or assist in the carrying out of its programmes,

(l) “UNHCR personnel” means UNHCR officials, experts on mission and persons performing services on behalf of UNHCR.

Article II

PURPOSE OF THIS AGREEMENT

This Agreement embodies the basic conditions under which UNHCR shall, within its mandate, cooperate with the Government, open offices in the country, and carry out its international protection and humanitarian assistance functions in favour of refugees and other persons of its concern in the host country.

Article III

CO-OPERATION BETWEEN THE GOVERNMENT AND UNHCR

1. Cooperation between the Government and UNHCR in the field of international protection of and humanitarian assistance to refugees and other persons of concern to UNHCR shall be carried out on the basis of the Statute of UNHCR, of other relevant decisions and resolutions relating to UNHCR adopted by United Nations organs and of article 35 of the Convention relating to the Status of Refugees of 1951¹ and article 2 of the Protocol relating to the status of Refugees of 1967.²

2. The UNHCR office shall maintain consultations and cooperation with the Government with respect to the preparation and review of projects for refugees.

¹United Nations, *Treaty Series*, vol. 189, p. 137.

²*Ibid.*, vol. 606, p. 267.

3. For any UNHCR-funded projects to be implemented by the Government, the terms and conditions, including the commitment of the Government and the High Commissioner with respect to the furnishing of funds, supplies, equipment and services or other assistance for refugees, shall be set forth in project agreements to be signed by the Government and UNHCR.

4. The Government shall at all times grant UNHCR personnel unimpeded access to refugees and other persons of concern to UNHCR and to the sites of UNHCR projects in order to monitor all phases of their implementation.

Article IV

UNHCR OFFICE

1. The Government welcomes that UNHCR establish and maintain an office or offices in the country for providing international protection and humanitarian assistance to refugees and other persons of concern to UNHCR.

2. UNHCR may designate, with the consent of the Government, the UNHCR office in the country to serve as a Regional/Area office and the Government shall be notified in writing of the number and level of the officials assigned to it.

3. The UNHCR office will exercise functions as assigned by the High Commissioner, in relation to his mandate for refugees and other persons of his concern, including the establishment and maintenance of relations between UNHCR and other governmental or non-governmental organizations functioning in the country.

Article V

UNHCR PERSONNEL

1. UNHCR may assign to the office in the country such officials or other personnel as UNHCR deems necessary for carrying out its international protection and humanitarian assistance functions.

2. The Government shall be informed of the category of the officials and other personnel to be assigned to the UNHCR office in the country and of changes in the status of such individuals at the time those changes occur.

3. UNHCR may designate officials to visit the country for purposes of consulting and cooperating with the corresponding officials of the Government or other parties involved in refugee work in connection with: (a) the review, preparation, monitoring and evaluation of international protection and humanitarian assistance programmes; (b) the shipment, receipt, distribution or use of the supplies, equipment and other materials furnished by UNHCR; (c) seeking permanent solutions for the problem of refugees; and (d) any other matters relating to the application of this Agreement.

Article VI

FACILITIES FOR IMPLEMENTATION OF UNHCR HUMANITARIAN PROGRAMMES

1. The Government of Nicaragua shall provide such cooperation and facilities as may be necessary to the officials, experts on mission and persons performing services on behalf of UNHCR for the speedy and efficient execution of UNHCR

humanitarian programmes. Such measures shall include the authorization to operate, free of licence fees, UNHCR radio and other telecommunications equipment.

2. The Government, in agreement with UNHCR, shall collaborate with officials in finding appropriate office premises and shall put them at the disposal of UNHCR at a nominal rent.

3. The Government shall ensure that the UNHCR office is at all times supplied with the necessary public services.

4. The Government shall take the necessary measures, when required, to ensure the security and protection of the premises of the UNHCR office and its personnel.

Article VII

PRIVILEGES AND IMMUNITIES

1. The Government shall apply to UNHCR, its property, funds and assets, and to its officials and experts on mission the relevant provisions of the Convention on the Privileges and Immunities of the United Nations to which the Government became a party on 29 November 1947.

2. Without prejudice to paragraph 1 of this article, the Government shall in particular extend to UNHCR the privileges, immunities, rights and facilities provided in articles VIII to XV of this Agreement.

Article VIII

UNHCR OFFICE, PROPERTY, FUNDS, AND ASSETS

1. UNHCR, its property, funds, and assets, wherever located and by whomsoever held, shall be immune from every form of legal process, except insofar as in any particular case it has expressly waived its immunity; it being understood that this waiver shall not extend to any measure of execution.

2. The premises of the UNHCR office shall be inviolable. The property, funds and assets of UNHCR, whenever situated and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action in conformity with the preceding article.

3. The archives of UNHCR, and in general all documents belonging to or held by it, shall be inviolable.

4. The funds, assets, income and other property of UNHCR shall be exempt from:

(a) Any form of direct taxation, provided that UNHCR will not claim exemption from charges for public utility services;

(b) Customs duties and prohibitions and restrictions on articles imported or exported by UNHCR for its official use, provided that articles imported under such exemption will not be sold in the country except under conditions agreed upon with the Government.

(c) Customs duties and prohibitions and restrictions in respect of the import and export of its publications.

5. Any materials imported or exported by UNHCR or by national or international bodies duly accredited by UNHCR to act on its behalf in connection with humanitarian assistance for refugees shall be exempt from all customs duties and prohibitions and restrictions.

6. UNHCR shall not be subject to any financial controls, regulations or moratoria and may freely:

(a) Acquire from authorized commercial agencies, hold and use negotiable currencies, maintain foreign-currency accounts, and acquire through authorized institutions, hold and use funds, securities and gold;

(b) Bring funds, securities, foreign currencies and gold into the host country from any other country, use them within the host country or transfer them to other countries,

7. UNHCR shall enjoy the prevailing legal rate of exchange by mutual agreement with the Government.

Article IX

COMMUNICATION FACILITIES

1. UNHCR shall enjoy, in respect of its official communications, treatment not less favourable than that accorded by the Government to any other Government, including its diplomatic missions, or to other intergovernmental international organizations in the matter of priorities, tariffs and charges on mail, cablegrams, telephone, telephoto, telegraph telefax and other communications, as well as rates for information to the press and radio.

2. The Government shall secure the inviolability of the official communications and correspondence of UNHCR and shall not apply any censorship to its communications and correspondence. Such inviolability, without limitation by reason of this enumeration, shall extend to publications, photographs, slides, films and sound recordings.

3. UNHCR shall have the right to use codes and to dispatch and receive correspondence and other materials by courier or in sealed bags which shall have the same privileges and immunities as diplomatic couriers and bags.

4. UNHCR shall have the right to operate radio and other telecommunications equipment, on United Nations registered frequencies and those allocated by the Government, between its offices within and outside the country, and in particular with UNHCR Headquarters in Geneva.

5. It is understood that these provisions shall be implemented by mutual agreement between UNHCR and the Government of Nicaragua.

Article X

UNHCR OFFICIALS

1. The UNHCR Representative, Deputy Representative and other senior officials, as may be agreed between the Government and the UNHCR, shall enjoy, while

in the country, in respect of themselves, their spouses and dependent relatives, the privileges and immunities, exemptions and facilities normally accorded to diplomatic envoys. For this purpose the Ministry of Foreign Affairs shall include their names in the Diplomatic List.

2. UNHCR officials, while in the country, shall enjoy the following facilities, privileges and immunities:

(a) Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) Immunity from inspection and seizure of their official baggage;

(c) Immunity from any military service obligations or any other obligatory service;

(d) Exemption, with respect to themselves, their spouses, their relatives dependent on them and other members of their households, from immigration restrictions and alien registration;

(e) Exemption from taxation in respect of the salaries and all other remuneration paid to them by UNHCR;

(f) Exemption from any form of taxation on income derived by them from sources outside the country;

(g) Prompt clearance and issuance, without cost, of visas, licences or permits, if required and free movement within, to or from the country to the extent necessary for the carrying out of UNHCR international protection and humanitarian assistance programmes;

(h) Freedom to hold or maintain within the country, foreign exchange, foreign currency accounts and movable property and the right upon termination of employment with UNHCR to take out of the host country their funds for the lawful possession of which they can show good cause;

(i) The same protection and repatriation facilities with respect to themselves, their spouses and relatives dependent on them and other members of their households as are accorded in time of international crisis to diplomatic envoys;

(j) The right to import for personal use, free of duty and other levies, prohibitions and restrictions on imports:

(i) Their furniture and personal effects in one or more separate shipments and thereafter to import necessary additions to the same, including motor vehicles, according to the regulations applicable in the country to diplomatic representatives accredited in the country and/or resident members of international organizations;

(ii) Reasonable quantities of certain articles for personal use or consumption by agreement with the authorities of the country.

3. UNHCR officials who are nationals of or permanent residents in the host country shall enjoy those privileges and immunities provided for in the Convention of 13 February 1946.

Article XI

LOCALLY RECRUITED PERSONNEL

1. Persons recruited locally and assigned to hourly rates to perform services for UNHCR shall enjoy, solely in relation to their functions, immunity from legal process in respect of words spoken or written and act performed by them in their official capacity.

2. The terms and conditions of employment for locally recruited personnel shall be in accordance with national legislation and relevant United Nations resolutions, Regulations and Rules.

Article XII

EXPERTS ON MISSION

1. Experts performing missions for UNHCR shall be accorded such facilities, privileges and immunities as are necessary for the independent exercise of their functions. In particular they shall be accorded:

- (a) Immunity from personal arrest or detention;
- (b) Immunity from legal process of every kind in respect of words spoken or written and official acts done by them in the course of the performance of their mission;
- (c) Inviolability for all official papers and documents;
- (d) For the purpose of their official communications, the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (f) The same immunities and facilities, including immunity from inspection and seizure in respect of their personal baggage, as are accorded to diplomatic envoys.

Article XIII

PERSONS PERFORMING SERVICES ON BEHALF OF UNHCR

1. Except as the Parties may otherwise agree, the Government shall grant to all persons performing services on behalf of UNHCR, other than nationals of the host country employed locally, the privileges and immunities specified in article V, section 18, of the Convention. In addition, they shall be granted:

- (a) Prompt clearance and issuance, without cost, of visas, licences or permits necessary for the effective exercise of their functions;
- (b) Free movement within, to or from the country, to the extent necessary for the implementation of the UNHCR humanitarian programmes.

Article XIV

NOTIFICATION

1. UNHCR shall notify the Government of the names of UNHCR officials, experts on mission and other persons performing services on behalf of UNHCR, and of changes in the status of such individuals at the time those changes occur.
2. UNHCR officials, experts on mission and other persons performing services on behalf of UNHCR shall be provided with a special identity card certifying their status under this Agreement.

Article XV

WAIVER OF IMMUNITY

Privileges and immunities are granted to UNHCR personnel in the interests of the United Nations and UNHCR and not for the personal benefit of the individuals concerned. The Secretary-General of the United Nations may waive the immunity of any UNHCR personnel in any case where, in his opinion, the immunity would impede the course of justice in the host country and can be waived without prejudice to the interests of the United Nations and UNHCR.

Article XVI

SETTLEMENT OF DISPUTES

Any dispute between UNHCR and the Government arising out of the interpretation of this Agreement or relating to it shall be settled by negotiation or any other agreed mode of settlement, and failing an agreement between the Parties, the dispute shall be submitted to the International Court of Justice without prejudice to any out-of-court settlement.

In the event of a dispute between UNHCR and the host country, concerning legal questions, an advisory opinion shall be requested for any question of law that may arise, pursuant to Article 96 of the Charter and to Article 65 of the Statute of the Court. The opinion of the Court shall be accepted by the Parties as binding.

Article XVII

GENERAL PROVISIONS

1. This Agreement shall enter into force on the date of its signature by both Parties and shall continue in force until terminated under paragraph 5 of this article.
2. This Agreement shall be interpreted in the light of its primary purpose, which is to enable UNHCR to carry out its international mandate for refugees fully and efficiently and to attain its humanitarian objectives in the country.
3. Any relevant matter for which no provisions is made in this Agreement shall be settled by the Parties in keeping with the relevant resolutions and decisions of the appropriate organs of the United Nations. Each Party shall give full and sympathetic consideration to any proposal advanced by the other Party under this paragraph.

4. Consultations with a view to amending this Agreement may be held at the request of the Government or UNHCR. Amendments shall be made by joint written agreement.

5. This Agreement shall cease to be in force six months after either of the Contracting Parties gives notice in writing to the other of its decision to terminate the Agreement, except as regards the normal cessation of the activities of UNHCR in the country and the disposal of its property in the country.

IN WITNESS WHEREOF the undersigned, being duly appointed representatives of the United Nations High Commissioner for Refugees and the Government, respectively, have on behalf of the Parties signed two texts of this Agreement in Spanish, both equally valid and authentic, which shall take effect at the time of their signature.

DONE at Managua this first day of November 1990

For the Office of the United Nations
Commissioner for Refugees:

[SERGE DUCASSE]

For the Government
of Nicaragua:

[ENRIQUE DREYFUS]
