

MEMORANDUM BETWEEN THE GOVERNMENT AND THE UNITED STATES AND THE ROYAL GOVERNMENT OF CAMBODIA FOR THE ESTABLISHMENT AND OPERATION OF A UNITED STATES - CAMBODIA JOINT COMMISSION ON REPATRIATION

The government of the United States of America (United States) and the Royal Government of Cambodia (Cambodia):

Recognizing their mutual international obligations to accept the return of their nationals in an orderly, prompt, and humane manner;

Desiring to establish and advance the development of normal immigration relations, in accordance with general recognized principles of international law and practice;

Desiring to put into effect the principles adopted by both states in the Joint Statement made in Phnom Penh on April 27, 2000, and subsequently endorsed by order of the Royal Government of Cambodia on June 21, 2000; and

Desiring to further enhance cooperative and friendly relations between the two states on the basis of respect for each State's sovereignty, and on the basis of equality and mutual interest;

Hereby establish the following Principles and Objectives which are intended to govern the establishment and operation of a joint Commission on Repatriation:

Fundamental Principles

Each repatriation request should be considered and decided individually, on a case-by case basis, without preconditions.

The United States and Cambodia should act in a spirit of mutual cooperation in determining the nationality of an individual and in all other matters pertaining to repatriation.

The United States and Cambodia are committed to the primary objective of effecting the return of each other's nationals to their home State, taking into account the humanitarian and compassionate aspects of each case and the principles of internationally recognized human rights.

Nothing in the document imposes, or should be constructed to impose, any legal or financial obligations on either State.

Composition of the joint Commission and Scheduling of Meetings

The Joint Commission on Repatriation (Commission) should be comprised of four (4) members from the United States and four (4) from Cambodia, representing the ministries of immigration, foreign affairs, and justice, or their equivalent, of such State.

The Commission should meet twice each year, or as mutually agreed, at times and locations to be mutually determined

Procedures/Modalities for Considering Repatriation Requests

Each State should designate a Central Authority for the receipt and initial screening of repatriation requests and related matters.

The Commission should be the primary forum for the discussion and resolution of repatriation policy and individual repatriation requests refused by the Central Authority of the requested State.

Unless otherwise agreed, all repatriation requests shall be initially sent to the Central Authority of the requested State and should include a copy of the final order of removal issued by the competent authority of the requesting State; a copy of the individual's passport, if available, or other documentation evidencing the identity and the biographical history of the individual and his or her status as a national of the receiving State; a copy, if any, of any available record of the individual's criminal violations in the requesting State; two identical photographs of the individual and his or her fingerprints and medical history, if available; any additional information that the Central Authority of the requested State deems necessary.

4. Upon receiving and reviewing a repatriation request, the Central Authority of the requested State may request the assistance and resources of the Central Authority of the requesting State in conducting any additional interview of the individual and verifying any information contained in the request.

5. The Central Authority of the requested State should respond in writing to the Central Authority of the requesting State not later than 30 days from the date of receipt of the request, unless otherwise agreed. In all cases of refusal, the Central Authority of the requested State should state its reasons in writing and should refer the request to the Commission for consideration. The Commission shall consider all referred requests as its next scheduled meeting.

6. When the Central Authority of the requested State accepts a repatriation request, it should simultaneously issue a travel document, valid for at least 60 days, to permit the individual's return. The requesting State should expeditiously make the appropriate arrangements for the return of the individual to the requested State, and should inform the Central Authority of the requested State at least seven (7) business days in advance of the return itinerary and any special considerations, such as medical, law enforcement, or escort matters.

7. Unless otherwise agreed, all costs of repatriation, including air transportation and escort services, should be borne exclusively by the requesting State.

Signed at Phnom Penh on March 22, 2002, in duplicate, in both the English and Khmer languages with identical value.

FOR THE GOVERNMENT OF THE FOR THE ROYAL GOVERNMENT
UNITED STATES OF AMERICA OF CAMBODIA

Kent M. Wiedemann
Ambassador of the United States of America

Lt. Gen. Em Sam An
Secretary of Ministry of Interior

JOINT STATEMENT

On 26-27 April, 2000, officials of the Royal Government of Cambodia from the Ministries of Foreign Affairs and International Cooperation, Interior, and Justice met with officials of the United States Department of State, U.S. Department of Justice, and the U.S. Immigration and Naturalization Service, and agreed that the following general principles shall govern the repatriation of each other's nationals:

That, in accordance with applicable principles of international law, each state agrees that it shall accept its nationals who have not obtained another nationality;

That there should be an orderly, prompt, and transparent process for considering such returns;

That each such case must be considered on its individual merits without preconditions;

That the requesting state shall bear all costs associated with the returns of Cambodian Nationals;

That the final decision whether to accept the repatriation of particular individuals shall rest with the requested state;

That such repatriations shall take into account the humanitarian and compassionate aspects of each case, and that any such repatriation shall be conducted in an orderly, dignified manner, with due respect for human rights and the personal dignity of the individual who is being returned;

That the two Governments commit to cooperate, through appropriate channels, and in a timely fashion, in the determination of the nationality of individuals who the requesting state believes are nationals of the requested state.

That the requesting state shall promptly accept back individuals who have been repatriated to the requested state whenever it is subsequently determined that the repatriated individual is not in fact a national of the requested state.

April 27, 2000 in Phnom Penh